treatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

Subpart D—Latex Rubber Subcategory

§ 428.40 Applicability; description of the latex rubber subcategory.

The provisions of this subpart are applicable to discharges of pollutants resulting from the manufacture of latex rubber.

§ 428.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "oil and grease" shall mean those components of waste water amenable to measurement by the method described in Methods for Chemical Analysis of Water and Wastes, 1971, Environmental Protection Agency, Analytical Quality Control Laboratory, page 217.

§ 428.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) and factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	10.27	6.85
BOD5	.51	.34
TSS	.82	.55
Oil and grease	.21	.14
pH	Within the range 6.0 to 9.0.	
	English units (lb/1,000 lb of product)	
COD	10.27	6.85
BOD5	.51	.34
TSS	.82	.55
Oil and grease	.21	.14
pH	Within the range 6.0 to 9.0.	

§ 428.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	2.66	1.78
BOD5	.11	.07
TSS	.21	.14
Oil and grease	.11	.07
pH	Within the range 6.0 to 9.0.	
	English units (lb/1,000 lb of product)	
COD	2.66	1.78
BOD5	.11	.07
TSS	.21	.14
Oil and grease	.11	.07
pH	Within the range 6.0 to 9.0.	

§ 428.44 [Reserved]

§ 428.45 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new point source subject to the provisions of this subpart: the limitations shall be as specified for § 428.42.

§ 428.46 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the latex rubber subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows: "In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 428.45; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

[FR Doc.74-3715 Filed 2-20-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 428]

RUBBER PROCESSING POINT SOURCE CATEGORY

Application of Effluent Limitations Guidelines

Notice is hereby given pursuant to sections 301, 304 and 307(b) of the Federal Water Pollution Control Act, as amended (the Act) (33 U.S.C. 1251, 1311, 1314 and 1317(b)); 86 Stat. 816 et seq.; Pub. L. 92–500, that the proposed regulation set forth below concerns the application of effluent limitations guidelines for existing sources to pretreatment standards for incompatible pollutants. The proposal will amend 40 CFR Part 428—Rubber Processing Point Source Category, establishing for each subcategory therein the extent of application of effluent limitations guidelines to existing sources which discharge to publicly owned treatment works. The regulation is intended to be complementary to the general regulation for pretreatment standards set forth at 40 CFR 128. The general regulation was proposed July 19, 1973 (38 FR 19236), and published in final form on November 8, 1973 (38 FR 30982).

The proposed regulation is also intended to supplement a final regulation being simultaneously promulgated by the Environmental Protection Agency (EPA or Agency) which provides effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the tire and inner tube plants subcategory, emulsion crumbs rubber subcategory, solution crumb rubber subcategory, latex rubber subcategory, subcategories of the rubber processing point source category. The latter regulation applies to the portion of a discharge which is directed to the navigable waters. The regulation proposed below applies to users of publicly owned treatment works which fall within the description of the point source category to which the guidelines and standards (40 CFR 428) promulgated simultaneously apply. However, the proposed regulation applies to the introduction of incompatible pollutants which are directed into a publicly owned treatment works, rather than to discharges of pollutants to navigable waters.

The general pretreatment standard divides pollutants discharged by users of publicly owned treatment works into two broad categories: "compatible" and "incompatible." Compatible pollutants are generally not subject to pretreatment standards. (See 40 CFR 128.110 (State or local law) and 40 CFR 128.131 (Prohibited wastes) for requirements which may be applicable to compatible pollutants.) Incompatible pollutants are subject to pretreatment standards as provided in 40 CFR 128.133, which provides as follows:

> In addition to the prohibitions set forth in § 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry not subject to section 307(c) of the Act shall be, for sources within the corresponding industrial or commercial category, that established by a promulgated effluent limitations guideline defining best practicable control technology currently available pursuant to sections 301(b) and 304(b) of the Act: *Provided*, That if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant: *And provided further*, That when the effluent limitations guideline for each industry is promulgated, a separate provision will be proposed concerning the application of such guidelines to pretreatment.

The regulation proposed below is intended to implement that portion of § 128.133, above, requiring that a separate provision be made stating the application to pretreatment standards of effluent limitations guidelines based upon best practicable control technology currently available.

Questions were raised during the public comment period on the proposed general pretreatment standard (40 CFR 128) about the propriety of applying a standard based upon best practicable control technology currently available to all plants subject to pretreatment standards. In general, EPA believes the analysis supporting the effluent limitations guidelines is appropriate to support the application of those standards to users of publicly owned treatment works. However, to ensure that those standards are appropriate in all cases, EPA now seeks additional comments focusing upon the application of effluent limitations guidelines to users of publicly owned treatment works.

Sections 428.15, 428.25, 428.35, 428.45, and 428.55 of the proposed regulation for point sources within the tire and inner tube plants, emulsion crumb rubber, solution crumb rubber and latex rubber subcategories (October 11, 1973; 38 FR 28219), contained the proposed pretreatment standard for new sources. The regulation promulgated simultaneously herewith contains §§ 428.16, 428.26, 428.36, and 428.46 which state the applicability of standards of performance for purposes of pretreatment standard for new sources.

A preliminary Development Document was made available to the public at approximately the time of publication of the notice of proposed rulemaking and the final Development Document entitled "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Tire and Synthetic Segment of the Rubber Processing Point Source Category" is now being published. The economic analysis report entitled "Economic Analysis of Proposed Effluent Guidelines, Rubber Industry", (September 1973) was made available at the time of proposal. Copies of the final Development Document and economic analysis report will continue to be maintained for inspection and copying during the comment period at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street SW., Washington, D.C. Copies will also be available for inspection at EPA regional offices and at State water pollution control agency offices. Copies of the Development Document may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402. Copies of the economic analysis report will be available for purchase through the National Technical Information Service, Springfield, Virginia 22151.

On June 14, 1973, the Agency published procedures designed to insure that, when certain major standards, regulations, and guidelines are proposed, an explanation of their basis, purpose and environmental effects is made available to the public. (38 FR 15653) The procedures are applicable to major standards, regulations and guidelines which are proposed on or after December 31, 1973, and which either prescribe national standards of environmental quality or require national emission, effluent or performance standards or limitations.

The Agency determined to implement these procedures in order to insure that the public was provided with background information to assist it in commenting on the merits of a proposed action. In brief, the procedures call for the Agency to make public the information available to it delineating the major environmental effects of a proposed action, to discuss the pertinent nonenvironmental factors affecting the decision, and to explain the viable options available to it and the reasons for the option selected.

The procedures contemplate publication of this information in the Federal Register, where this is practicable. They provide, however, that where such publication is impracticable because of the length of these materials, the material may be made available in an alternate format.

The Development Document referred to above contains information available to the Agency concerning the major environmental effects of the regulation proposed below. The information includes: (1) The identification of pollutants present in waste waters resulting from rubber processing, the characteristics of these pollutants, and the degree of pollutant reduction obtainable through implementation of the proposed standard; and (2) the anticipated effects on other aspects of the environment (including air, subsurface waters, solid waste disposal and land use, and noise) of the treatment technologies available to meet the standard proposed.

The Development Document and the economic analysis report referred to above also contain information available to the Agency regarding the estimated cost and energy consumption implications of those treatment technologies and the potential effects of those costs on the price and production of tires and inner tubes and synthetic rubbers. The two reports exceed, in the aggregate, 100 pages in length and contain a substantial number of charts, diagrams and tables. It is clearly impracticable to publish the material contained in these documents in the FEDERAL REGISTER. To the extent possible, significant aspects of the material have been presented in summary form in the preamble to the proposed regulation containing effluent limitations guidelines, new source performance standards and pretreatment standards for new sources within the rubber processing category (38 FR 28219; October 11, 1973). Additional discussion is contained in the analysis of public comments on the proposed regulation and the Agency's response to those comments. This discussion appears in the preamble to the promulgated regulation (40 CFR Part 428) which currently is being published in the Rules and Regulations section of the FEDERAL REGISTER.

The options available to the Agency in establishing the level of pollutant reduction obtainable through the best practicable control technology currently available, and the reasons for the particular level of reduction selected are discussed in the documents described above. In applying the effluent limitations guidelines to pretreatment standards for the introduction of incompatible pollutants into municipal systems by existing sources in the tire and inner tube plants, emulsion crumb rubber, solution crumb, rubber and latex rubber subcategories the Agency has, essentially, three options. The first is to declare that the guidelines do not apply. The second is to apply the guidelines unchanged. The third is to modify the guidelines to reflect: (1) differences between direct dischargers and plants utilizing municipal systems which affect the practicability of the latter employing the technology available to achieve the effluent limitations guidelines; or (2) characteristics of the relevant pollutants which require higher levels of reduction (or permit less stringent levels) in order to insure that the pollutants do not interfere with the treatment works or pass through them untreated.

As described in the Development Document the process waste waters from plants in the tire and inner tube plants subcategory contain suspended solids, oil and grease and pH. The process waste water from plants in the emulsion crumb rubber, solution crumb rubber and latex rubber subcategories contain BOD5, COD, suspended solids, oil and grease and pH. Accordingly, it is the opinion of the EPA that because the suspended solids, and pH discharged by tire and inner tube plants are recognized as compatible pollutants and because the relatively low concentration of oil and grease discharged by such plants are compatible with adequately designed public treatment works, the first option is appropriate and discharge of these pollutants without pretreatment should be allowed. For plants in the emulsion crumb, solution crumb and latex rubber subcategories, BOD5, suspended solids, and pH are recognized as compatible pollutants, as well as oil and grease which is present in low concentration and is compatible with adequately designed public treatment works. However, the COD contained in the process waste waters is not compatible if introduced into a publicly owned treatment works untreated because it may obstruct the flow in sewers or interfere with the proper operation of the treatment works. Therefore, it is the opinion of the EPA that the guildlines should apply except that BOD5, suspended solids, oil and grease as found in discharges from this industry segment, and pH are recognized as compatible pollutants and discharge of these pollutants without pretreatment should be allowed.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman. Comments on all aspects of the proposed regulations are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which is available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data is essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing pretreatment standards for existing sources, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301, 304 and 307(b) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street SW., Washington, D.C. 20460. The EPA information regulation, 40 CFR 2, provides that a reasonable fee may be charged for copying.

In consideration of the foregoing, it is hereby proposed that 40 CFR 428 be amended to add §§ 428.14, 428.24, 428.34, and 428.44. All comments received on or by March 25, 1974 will be considered.

Dated: February 8, 1974.

RUSSELL E. TRAIN,
Administrator.

PART 428—RUBBER PROCESSING POINT SOURCE CATEGORY

40 CFR Part 428 is proposed to be amended as follows:

§ 428.14 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in 40 CFR 428.12 above shall not apply and, subject to the provisions of 40 CFR 128 concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

§ 428.24 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines for chemical oxygen demand set forth in 40 CFR 428.22 above shall apply and, subject to the provisions of 40 CFR 128 concerning pretreatment, process waste water from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

§ 428.34 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines for chemical oxygen demand set forth in 40 CFR 428.32 above shall apply and, subject to the provisions of 40 CFR 128 concerning pretreatment, process waste water from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

§ 428.44 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines for chemical oxygen demand set forth in 40 CFR 428.42 above shall apply and, subject to the provisions of 40 CFR 128 concerning pretreatment, process waste water from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

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PART III

ENVIRONMENTAL PROTECTION AGENCY

■

LOW-NOISE-EMISSION PRODUCTS

CERTIFICATION PROCEDURES

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER G—NOISE ABATEMENT PROGRAMS

PART 203—LOW-NOISE-EMISSION PRODUCTS

Certification Procedures

The Environmental Protection Agency hereby establishes a new Part 203 of Title 40 of the Code of Federal Regulations (40 CFR 203.1 through 203.8).

Section 15 of the Noise Control Act of 1972, Public Law 92–574, 86 Stat. 1234, established a process under which the Federal Government will give preference in its purchasing to products whose noise emissions are significantly lower than those required by the Federal noise source emission standards, promulgated pursuant to section 6 of the act.

The process involves three steps. First, EPA will determine upon receipt of a properly filed certification application whether a class or model of product is a low-noise-emission product. Second, EPA will decide whether the low-noise-emission product is suitable for use as a substitute for a type of product at that time in use by agencies of the Federal Government. If the product is found suitable, the Administrator will issue a certificate for that product, effective for a period of one year from the date of issuance. Third, the Administrator of the General Services Administration will determine whether the certified product has procurement costs which are no more than 125 percent of the retail price of the least expensive type of product for which they are certified substitutes. If the low-noise-emission product meets this final requirement, it should be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of the products for which it is a suitable substitute. The Administrator of GSA will promulgate separate procedures prescribing the circumstances under which the various Federal agencies will be required to purchase certified low-noise-emission products.

Section 15(b)(3) of the act also provides that the Administrator may establish a Low-Noise-Emission Product Advisory Committee. The regulations proposed on May 2, 1973, provided for such a committee to be composed of the Administrator of the Environmental Protection Agency or his designee, representatives of Federal agencies, and private individuals. The regulations herein omit reference to an advisory committee since the Administrator has decided to defer establishing the committee until a later date.

The notice of proposed rule making (NPRM) was issued in the FEDERAL REGISTER on May 2, 1973, in volume 38, number 84, page 10821. Comments were invited to be submitted to EPA on July 2, 1973, for consideration prior to issuing the regulation.

The definition of retail price in the Noise Control Act of 1972 caused considerable difficulty with the Federal agencies that have commented upon this regulation. Since the term "retail price" is not actually used in this regulation, EPA decided that it was unnecessary to define the term for purposes of its regulation. The General Services Administration has responsibility under the act to administer the retail price determinations.

It was suggested that the definition of the term "product" should be included as defined in section 3(3)(b)(iii) of the act. This suggestion has been adopted and appears in § 203.15(5).

Another comment questions whether EPA possesses the expertise to make suitable substitute decisions. Section 203.5(a) has been modified to specify that the Administrator will consult with the appropriate Federal agencies before making suitable substitute decisions.

Another comment recommended that the regulations should provide procedures prescribing the circumstances and method under which agencies other than the General Services Administration will be required to purchase certified low-noise-emission products. Since the General Services Administration has primary responsibility for administering government purchases, EPA believes that the GSA should prescribe the circumstances and methods under which all agencies will be required to purchase certified low-noise-emission products. However, the language of § 203.6(b) has been modified to indicate that GSA will act in coordination with other Federal agencies.

It was also suggested that any procurement of $10,000 or less should be exempt from the operation of the act. This suggestion was rejected since the Administrator does not have authority, under section 15 of the act, to exempt procurement below a specified dollar amount.

It was recommended, that reimbursement procedures for purchase of Low-Noise-Emission Products (LNEP) by Federal agencies be included in the regulation. Each Federal agency planning to make LNEP purchases should include a request for additional funds authorized in section 15(g) for these purchases in their budget submission to the Office of Management and Budget.

One comment recommended that § 203.2 should be modified to indicate that the Administrator will request the submission only of information relative to the requirements of Federal procurement specifications. This suggestion was rejected because EPA believes that the Administrator has implicit authority to request the submission of all information necessary to make a reasoned decision, especially where purchase specifications do not exist.

A request was made that the definition of "Low-Noise-Emission Product Determination" in § 203.1(a)(5) be modified by deleting the reference to a specific low-noise-emission product criterion. This suggestion was rejected because the agency believes that manufacturers should be given notice regarding the amount of reduction that will be necessary to qualify as a low-noise-emission product.

It was also suggested that § 203.4(a)(2) be amended by eliminating the parenthetical reference to the issuance of low-noise-emission product criterion. This suggestion has been adopted.

In addition to these major comments, there were others that required minor clarification of the regulations.

The regulations prescribe procedures for the certification of low-noise-emission products. They do not contain the low-noise-emission criterion nor do they contain the specific data requirements necessary for deciding whether the product is a "suitable substitute". These will be published at a later date.

This regulation is issued under the authority of section 15 of the Noise Control Act of 1972 (Public Law 92–574, 86 Stat. 1234, and will take effect 30 days after promulgation (____________, 1974).

Dated: February 13, 1974.

RUSSELL E. TRAIN,
Administrator, Environmental Protection Agency.

Part 203 of Title 40 is added to read as follows:

AUTHORITY: Section 15, Noise Control Act, 1972, Public Law 92–574, 86 Stat. 1234.

§ 203.1 Definitions.

(a) As used in this part, any term not defined herein shall have the meaning gven it in the Noise Control Act of 1972 (Public Law 92–574).

(1) "Act" means the Noise Control Act of 1972 (Public Law 92–574).

(2) "Federal Government" includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

(3) "Administrator" means the Administrator of the Environmental Protection Agency.

(4) "Product" means any manufactured article or goods or component thereof; except that such term does not include—

(i) any aircraft, aircraft engine, propellor or appliance, as such terms are defined in Section 101 of the Federal Aviation Act of 1958; or

(ii)(*a*) any military weapons or equipment which are designed for combat use; (*b*) any rockets or equipment which are designed for research, experimental or developmental work to be performed by the National Aeronautics and Space Administration; or (*c*) to the extent provided by regulations of the Administrator, any other machinery or equipment designed for use in experimental work done by or for the Federal Government.

(5) "Low-Noise-Emission Product Determination" means the Administrator's determination whether or not a product, for which a properly filed application has been received, meets the low-noise-emission product criterion.

(6) "Suitable Substitute Decision" means the Administrator's decision whether a product which the Administrator has determined to be a low-noise-emission product is a suitable substitute for a product or products presently being purchased by the Federal Government.

§ 203.2 **Application for certification.**

(a) Any person desiring certification of a class or model of product under section 15 of the act shall submit to the Administrator an application for certification. The application shall be completed upon such forms as the Administrator may deem appropriate and shall contain:

(1) A description of the product, including its power source, if any; and

(2) Information pertaining to the test facility for the product establishing that the test facility meets all requirements which EPA may prescribe; and

(3) All noise emission data from the test of the product; and

(4) Data required by the Administrator relative, but not limited to, the following characteristics;

(i) Safety;

(ii) Performance Characteristics;

(iii) Reliability of product and reliability of low-noise-emission features;

(iv) Maintenance;

(v) Operating Costs;

(vi) Conformance with Federal Agency Purchase Specifications; and

(5) Such other information as the Administrator may request.

(b) Specific data requirements relative to (a) (4) of this section will be published separately from the low-noise-emission criterion for that product or class of products.

(c) The Administrator will, immediately upon receipt of the application for certification, publish in the FEDERAL REGISTER a notice of the receipt of the application. The notice will request written comments and documents from interested parties in support of, or in opposition to, certification of the class or model of product under consideration.

§ 203.3 **Test procedures.**

(a) The applicant shall test or cause his product to be tested in accordance with procedures contained in the regulations issued pursuant to section 6 of the act unless otherwise specified.

(b) The Administrator may conduct whatever investigation is necessary, including actual inspection of the product at a place designated by him.

§ 203.4 **Low-noise-emission product determination.**

(a) The Administrator will, within ninety (90) days after receipt of a properly filed application for certification, determine whether such product is a low-noise-emission product. In doing so, he will determine if the product:

(1) Is one for which a noise source emission standard has been promulgated under section 6 of the act; and

(2) Emits levels of noise in amounts significantly below the levels specified in noise emission standards under regulations under section 6 of the act applicable to that product or class of products;

(3) Is labeled in accordance with regulations issued pursuant to section 8 of the act.

(b) The Administrator will, upon making the determination whether a product is a low-noise-emission product, publish in the FEDERAL REGISTER notice of his determination, and the reasons therefor.

(c) The notice of determination that a product is a low-noise-emission product shall be revocable whenever a change in the low-noise-emission product criterion for that product occurs between determination and decision. Notice of any revocation will be published in the FEDERAL REGISTER, together with a statement of the reasons therefor.

(d) The notice of determination that a product is a low-noise-emission product shall expire upon publication in the FEDERAL REGISTER of the Administrator's notice of a decision that a product will not be certified.

§ 203.5 **Suitable substitute decision.**

(a) If the Administrator determines that a product is a low-noise-emission product, then within one hundred and eighty (180) days of such determination, in consultation with the appropriate Federal agencies, the Administrator will decide whether such product is a suitable substitute for any class or model or product being purchased by the Federal Government for use by its agencies. Such decision will be based upon the data obtained under § 203.2 of this part, the Administrator's evaluation of the data, comments of interested parties, and, as the Administrator deems appropriate, an actual inspection or test of the product at such places and times as the Administrator may designate.

(b) In order to compare the data for any class or model of product with any class or model of product presently being purchased by the Federal Government for which the applicant seeks to have its product substituted, the Administrator will enter into appropriate agreements with other Government agencies to gather the necessary data regarding such class or model.

(c) Immediately upon making the decision as to whether a product determined to be a low-noise-emission product is a suitable substitute for any product or class of products being purchased by the Federal Government for its use, the Administrator shall publish in the FEDERAL REGISTER notice of such decision and the reasons therefor.

(d) If the Administrator decides that the product is a suitable substitute for products being purchased by the Federal Government, he will issue a certificate that the product is a suitable substitute for a product or class of products presently being purchased by the Federal Government and will specify with particularity the product or class of products for which the certified product is a suitable substitute.

(e) Any certification made under this section shall be effective for a period of one year from date of issuance.

§ 203.6 **Contracts for low-noise-emission products.**

(a) Data relied upon by the Administrator in determining that a product is a certified low-noise-emission product will be incorporated by reference in any contract for the procurement of such product.

(b) A determination of price to the Government of any certified low-noise-emission product will be made by the Administrator of General Services in coordination with the appropriate Federal agencies in accordance with such procedures as he may prescribe and with subsection c(1) of section 15 of the act.

§ 203.7 **Post-certification testing.**

The Administrator will, from time to time, as he deems appropriate, test the emissions of noise from certified low-noise-emission products purchased by the Federal Government. If at any time he finds that the noise emission levels exceed the levels on which certification was based, the Administrator shall give the suppliers of such product written notice of this finding, publish such findings in the FEDERAL REGISTER and give the supplier an opportunity to make necessary repairs, adjustments or replacements. If no repairs, adjustments or replacements are made within a period to be set by the Administrator, he may order the supplier to show cause why the product involved should be eligible for recertification.

§ 203.8 **Recertification.**

(a) A product for which a certificate has been issued may be recertified for the following year upon reapplication to the Administrator for this purpose upon such forms as the Administrator may deem appropriate.

(b) If the applicant supplies information establishing that:

(1) The data previously submitted continues to describe his product for purpose of certification;

(2) The low-noise-emission product criterion and "suitable substitute" criteria are to be the same during the period recertification is desired; and

(3) No notice has been issued under § 203.7,

then recertification will be made within 30 days after receipt of an appropriate recertification application by the Administrator.

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