

(3) When the annual limit has been met, the Administrator may issue additional test orders for those configurations for which evidence exists indicating noncompliance. An SEA test order issued on this basis will include a statement as to the reason for its issuance.

[54 FR 14559, Apr. 11, 1989]

**§ 86.1003-97 Test orders.**

Section 86.1003-97 includes text that specifies requirements that differ from those specified in § 86.1003-90. Where a paragraph in § 86.1003-90 is identical and applicable to § 86.1003-97, this may be indicated by specifying the corresponding paragraph and the statement “[Reserved]. For guidance see § 86.1003-90.”

(a) through (f) [Reserved]. For guidance see § 86.1003-90.

(g) In the event evidence exists indicating an engine family is in noncompliance, the Administrator may, in addition to other powers provided by this section, issue a test order specifying the engine family the manufacturer is required to test.

[62 FR 31238, June 6, 1997]

**§ 86.1003-2001 Test orders.**

Section 86.1003-2001 includes text that specifies requirements that differ from § 86.1003-88. Where a paragraph in § 86.1003-88 is identical and applicable to § 86.1003-2001, this may be indicated by specifying the corresponding paragraph and the statement “[Reserved]. For guidance see § 86.1003-88.” Where a corresponding paragraph of § 86.1003-88 is not applicable, this is indicated by the statement “[Reserved].”

(a) through (c)(1)(ii) [Reserved]. For guidance see § 86.1003-88.

(c)(1)(iii) Heavy-duty vehicle manufacturers will be required to select a minimum of four vehicles per day unless an alternate selection procedure is approved pursuant to § 86.1007-84(a) or unless total production of the specified configuration is less than four vehicles per day. If total production of the specified configuration is less than four vehicles per day, the manufacturer will select the actual number of vehicles produced per day.

(2) The test order may include alternative configurations to be selected for testing in the event that engines or vehicles of the specified configuration are not available for testing because those engines or vehicles are not being manufactured during the specified time, or not being stored at the specified assembly plant or associated storage facilities.

(3) If the specified configuration is not being manufactured at a rate of at least four vehicles per day, in the case of light-duty truck manufacturers, two heavy-duty engines or heavy-duty vehicles, in the case of heavy-duty vehicle and heavy-duty engine manufacturers specified in § 86.1008-2001(g)(1), or one engine or heavy-duty vehicle per day, in the case of heavy-duty vehicle or engine manufacturers specified in § 86.1008-2001(g)(2), over the expected duration of the audit, the Assistant Administrator or a designated representative may select engines or vehicles of an alternate configuration for testing.

(4) In addition, the test order may include other directions or information essential to the administration of the required testing.

(d) A manufacturer may submit a list of engine families and, if applicable, evaporative/refueling families and the corresponding assembly plants or associated storage facilities from which the manufacturer prefers to have engines or vehicles selected for testing in response to a test order. In order that a manufacturer's preferred location be considered for inclusion in a test order for a configuration of a particular engine family and/or evaporative/refueling family, the list must be submitted prior to issuance of the test order. Notwithstanding the fact that a manufacturer has submitted the above list, the Administrator may, upon making the determination that evidence exists indicating noncompliance at other than the manufacturer's preferred plant, order testing at such other plant where vehicles of the configuration specified in the test order are assembled.

(e) Upon receipt of a test order, a manufacturer shall proceed in accordance with the provisions of this subpart.

**§ 86.1004-84**

**40 CFR Ch. I (7-1-04 Edition)**

(f)(1) During a given model year, the Administrator shall not issue to a manufacturer more Selective Enforcement Auditing (SEA) test orders than the annual limit determined by the following:

(i) For manufacturers of heavy-duty engines or vehicles, either gasoline-fueled or diesel, the number determined by dividing the projected sales bound for the United States market for that year, as made by the manufacturer in its Application for Certification, by 30,000 and rounded to the nearest whole number, unless the projected sales are less than 15,000, in which case the number is one;

(f)(1)(ii) through (f)(3) [Reserved]. For guidance see § 86.1003-88.

(g) In the event evidence exists indicating an engine family is in non-compliance, the Administrator may, in addition to other powers provided by this section, issue a test order specifying the engine family the manufacturer is required to test.

[59 FR 16305, Apr. 6, 1994, as amended at 62 FR 31238, June 6, 1997]

**§ 86.1004-84 Testing by the Administrator.**

(a) The Administrator may require by test order that engines or vehicles of a specified configuration be selected in a manner consistent with the requirements of § 86.1007-84 and submitted to him at such place as he may designate for the purpose of conducting emission tests. These tests will be conducted in accordance with § 86.1008-84 of these regulations to determine whether engines or vehicles manufactured by the manufacturer conform with the regulations with respect to which the certificate of conformity was issued.

(b)(1) Whenever the Administrator conducts a test on a test engine or vehicle or the Administrator and manufacturer each conduct a test on the same test engine or vehicle, the results of the Administrator's test will comprise the official data for that engine or vehicle.

(2) Whenever the manufacturer conducts all tests on a test engine or vehicle, the manufacturer's test data will be accepted as the official data: *Provided*, That if the Administrator makes a determination based on testing under

paragraph (a) of this section that there is a substantial lack of agreement between the manufacturer's test results and the Administrator's test results, no manufacturer's test data from the manufacturer's test facility will be accepted for purposes of this subpart.

(c) If testing conducted under paragraph (a) of this section demonstrates a lack of agreement under paragraph (b)(2) of this section, the Administrator shall:

(1) Notify the manufacturer in writing of his determination that the test facility is inappropriate for conducting the tests required by this subpart and the reasons therefor; and

(2) Reinstate any manufacturer's data upon a showing by the manufacturer that the data acquired under paragraph (a) of this section was erroneous and the manufacturer's data was correct.

(d) The manufacturer may request in writing that the Administrator reconsider his determination in paragraph (b)(2) of this section based on data or information which indicates that changes have been made to the test facility and these changes have resolved the reasons for disqualification.

**§ 86.1005-90 Maintenance of records; submittal of information.**

(a) The manufacturer of any new petroleum-fueled or methanol-fueled heavy-duty engine or light-duty truck subject to any of the provisions of this subpart shall establish, maintain, and retain the following adequately organized and indexed records:

(1) *General records.* A description of all equipment used to test engines or vehicles in accordance with § 86.1008 pursuant to a test order issued under this subpart, specifically:

(i) If testing heavy-duty gasoline-fueled or methanol-fueled Otto-cycle engines, the equipment requirements specified in §§ 86.1306 and 86.1506 of this part;

(ii) If testing heavy-duty petroleum-fueled or methanol-fueled diesel engines, the equipment requirements specified in §§ 86.1306-84, 86.884-8, and 86.884-9 of this part;

(iii) If testing gasoline-fueled or methanol-fueled Ottocycle light-duty trucks, the equipment requirements