

(g) A manufacturer is responsible for locating its foreign testing and manufacturing facilities in jurisdictions in which local foreign law does not prohibit EPA Enforcement Officers from conducting the entry and access activities specified in this section. EPA will not attempt to make any inspections which it has been informed that local foreign law prohibits.

(h) For purposes of this section, the following definitions are applicable:

(1) *Presentation of Credentials* means display of the document designating a person as an EPA Enforcement Officer.

(2) Where engine or vehicle storage areas or facilities are concerned, *operating hours* means all times during which personnel other than custodial personnel are at work in the vicinity of the area or facility and have access to it.

(3) Where facilities or areas other than those covered by paragraph (h)(2) of this section are concerned, *operating hours* means all times during which an assembly line is in operation, engine or vehicle assembly is taking place, testing, repair, service accumulation, production or compilation of records is taking place, or any other procedure or activity related to engine or vehicle manufacture, assembly or testing is being carried out in a facility.

(4) *Reasonable assistance* includes, but is not limited to, clerical, copying, interpreting and translating services, and the making available on an EPA Enforcement Officer's request of personnel of the facility being inspected during their working hours to inform the EPA Enforcement Officer of how the facility operates and to answer his or her questions. Any employee whom an EPA Enforcement Officer requests the manufacturer to cause to appear for questioning will be entitled to be accompanied, represented and advised by counsel.

[45 FR 63772, Sept. 25, 1980, as amended at 48 FR 52208, Nov. 16, 1983]

§ 86.1007-84 Sample selection.

(a) Engines or vehicles comprising a test sample which are required to be tested, pursuant to a test order issued in accordance with this subpart, will be selected at the location and in the manner specified in the test order. If a

manufacturer determines that the test engines or vehicles cannot be selected in the manner specified in the test order, an alternative selection procedure may be employed: *Provided*, That the manufacturer requests approval of the alternative procedure in advance of the start of test sample selection and that the Administrator approves the procedure.

(b) The manufacturer shall have assembled the test engines or vehicles of the configuration selected for testing using its normal mass production process for engines or vehicles to be distributed into commerce. During the audit, the manufacturer shall inform the Administrator of any change(s) implemented in its production processes, including quality control, which may reasonably be expected to affect the emissions of the vehicles or engines selected, between the time the manufacturer is notified of a test order and the time the manufacturer finishes selecting test vehicles or engines. In the case of heavy-duty engines, if the test engines are selected at a location where they do not have their operational and emission control systems installed, the test order will specify the manner and location for selection of components to complete assembly of the engines. The manufacturer shall assemble these components onto the test engines using normal assembly and quality control procedures as documented by the manufacturer.

(c) No quality control, testing, or assembly procedures will be used on the completed test engine or vehicle or any portion thereof, including parts and subassemblies, that has not been or will not be used during the production and assembly of all other engines or vehicles of that configuration, except, that the Administrator may approve a modification in the normal assembly procedures pursuant to paragraph (b) of this section.

(d) The test order may specify that EPA Enforcement Officers, rather than the manufacturer, will select the test engines or vehicles according to the method specified in the test order.

(e) The order in which test engines or vehicles are selected determines the order in which test results are to be

used in applying the sampling plan in accordance with § 86.1010–84.

(f) The manufacturer shall keep on hand all untested engines or vehicles, if any, comprising the test sample until such time as a pass or fail decision is reached in accordance with § 86.1010–84(d). The manufacturer may ship any tested engine or vehicle which has not failed in accordance with § 86.1010–84(b). However, once the manufacturer ships any test engine or vehicle, it relinquishes the prerogative to conduct retests as provided in § 86.1008–84(i).

[45 FR 63772, Sept. 25, 1980, as amended at 48 FR 52208, Nov. 16, 1983]

§ 86.1008–2001 Test procedures.

(a)(1)(i) For heavy-duty engines, the prescribed test procedure is the Federal Test Procedure as described in subparts N, I, and P of this part. The Administrator, may on the basis of a written application by a manufacturer, approve optional test procedures other than those in subparts N, I, and P of this part for any heavy-duty vehicle which is not susceptible to satisfactory testing using the procedures in subparts N, I, and P of this part.

(ii) For heavy-duty vehicles the prescribed test procedures are the Fuel Dispensing Spitback Test as described in § 86.1246–96 (for HDVs with a GVW of less than 14,000 pounds (6,400 kilograms)); this test for fuel spitback is conducted as a stand alone test, thus all references to the test sequence described in figure M96–1 of subpart M of this part can be ignored. Further, the Administrator may, on the basis of a written application by a manufacturer, approve optional test procedures other than those in subpart M of this part for any heavy-duty vehicle which is not susceptible to satisfactory testing using the procedures in subpart M of this part.

(iii) During the testing of heavy-duty diesel engines, the manufacturer shall decide for each engine, prior to the start of the initial cold cycle, whether the measurement of background particulate is required for the cold and hot cycles to be valid. The manufacturer may choose to have different requirements for the cold and hot cycles. If a manufacturer chooses to require the measurement of background particu-

late, failure to measure background particulate shall void the test cycle regardless of the test results. If a test cycle is void, the manufacturer shall retest using the same validity requirements of the initial test.

(2) For light-duty trucks, the prescribed test procedures are the Federal Test Procedure as described in subpart B and/or subpart R of this part, whichever is applicable, the idle CO test procedure as described in subpart P of this part, the cold temperature CO test procedure as described in subpart C of this part, and the Certification Short Test procedure as described in subpart O of this part. For purposes of Selective Enforcement Audit Testing, the manufacturer shall not be required to perform any of the test procedures in subpart B of this part relating to evaporative emission testing, other than refueling emissions testing, except as specified in paragraph (a)(3) of this section. The Administrator may select and prescribe the sequence of any CSTs. Further, the Administrator may, on the basis of a written application by a manufacturer, approve optional test procedures other than those in subparts B, C, P, O, and R of this part for any motor vehicle which is not susceptible to satisfactory testing using the procedures in subparts B, C, P, O, and R of this part.

(3) When testing light-duty trucks, the following exceptions to the test procedures in subpart B and/or subpart R of this part are applicable to Selective Enforcement Audit testing:

(i) For mileage accumulation, the manufacturer may use test fuel meeting the specifications for mileage and service accumulation fuels of § 86.113, or, for vehicles certified to the National LEV standards, the specifications of § 86.1771. Otherwise, the manufacturer may use fuels other than those specified in this section only with the advance approval of the Administrator.

(ii) The manufacturer may measure the temperature of the test fuel at other than the approximate mid-volume of the fuel tank, as specified in § 86.131–96(a) with only a single temperature sensor, and may drain the test fuel from other than the lowest point of the tank, as specified in § 86.131–96(b)