

decision of the Presiding Officer as provided in paragraph (s) of this section.

(3) If, under this subsection, judgment is rendered on less than all issues or claims in the proceeding, the Presiding Officer shall determine what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. He shall thereupon issue an order specifying the facts which appear without substantial controversy, and the issues and claims upon which the hearing will proceed.

(z) *Conclusion of hearing.* (1) If, after the expiration of the period for taking an appeal as provided for by paragraphs (t) and (u) of this section, no appeal has been taken from the Presiding Officer's decision, and after the expiration of the period for review by the Environmental Appeals Board on its own motion as provided for by paragraph (v) of this section, the Environmental Appeals Board does not move to review such decision, the hearing is considered ended at the expiration of all periods allowed for the appeal and review.

(2) If an appeal of the Presiding Officer's decision is taken pursuant to paragraphs (t) and (u) of this section, or if, in the absence of this appeal, the Environmental Appeals Board moves to review the decision of the Presiding Officer pursuant to paragraph (v) of this section, the hearing is considered ended upon rendering of a final decision by the Environmental Appeals Board.

(aa) *Judicial review.* (1) The Administrator shall designate the General Counsel, Environmental Protection Agency as the officer upon whom copy of any petition for judicial review must be served. This officer shall be responsible for filing in the court the record of which the order of the Environmental Appeals Board is based.

(2) Before forwarding the record to the court, the Agency shall advise the petitioner of costs of preparing it and as soon as payment to cover fees is made, shall forward the record to the court.

[45 FR 63772, Sept. 25, 1980, as amended at 50 FR 35387, Aug. 30, 1985; 57 FR 5332, Feb. 13, 1992]

§ 86.1014-97 Hearings on suspension, revocation and voiding of certificates of conformity.

Section 86.1014-97 includes text that specifies requirements that differ from those specified in § 86.1014-84. Where a paragraph in § 86.1014-84 is identical and applicable to § 86.1014-97, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.1014-84".

(a) through (c)(2)(ii) introductory text [Reserved]. For guidance see § 86.1014-84.

(c)(2)(ii)(A) Whether tests have been properly conducted, specifically, whether the tests were conducted in accordance with applicable regulations and whether test equipment was properly calibrated and functioning; and

(c)(2)(ii) (B) through (aa) [Reserved]. For guidance see § 86.1014-84.

[62 FR 31241, June 6, 1997]

§ 86.1015 Treatment of confidential information.

(a) Any manufacturer may assert that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment as provided by 40 CFR part 2, subpart B.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA.

(c) To assert that information submitted pursuant to this subpart is confidential, a manufacturer must indicate clearly the items of information claimed confidential by marking, circling, bracketing, stamping, or otherwise specifying the confidential information. Furthermore, EPA requests, but does not require, that the submitter also provide a second copy of its submittal from which all confidential information has been deleted. If a need arises to publicly release nonconfidential information, EPA will assume that the submitter has accurately deleted the confidential information from this second copy.

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Environmental Appeals Board only to the extent and by

means of the procedures set forth in part 2, subpart B, of this chapter.

(e) Information provided without a claim of confidentiality at the time of submission may be made available to the public by EPA without further notice to the submitter, in accordance with 40 CFR 2.204(c)(2)(i)(A).

[50 FR 34798, Aug. 27, 1985, as amended at 57 FR 5333, Feb. 13, 1992; 57 FR 30657, July 10, 1992]

Subpart L—Nonconformance Penalties for Gasoline-Fueled and Diesel Heavy-Duty Engines and Heavy-Duty Vehicles, Including Light-Duty Trucks

SOURCE: 50 FR 35388, Aug. 30, 1985, unless otherwise noted.

§ 86.1101-87 Applicability.

(a) The provisions of this subpart are applicable for 1987 and later model year gasoline-fueled and diesel heavy-duty engines and heavy-duty vehicles. These vehicles include light-duty trucks rated in excess of 6,000 pounds gross vehicle weight.

(b) References in this subpart to engine families and emission control systems shall be deemed to apply to durability groups and test groups as applicable for manufacturers certifying new light-duty trucks and Otto-cycle complete heavy-duty vehicles under the provisions of subpart S of this part.

[65 FR 59957, Oct. 6, 2000]

§ 86.1102-87 Definitions.

(a) The definitions in this section apply to this subpart.

(b) As used in this subpart, all terms not defined herein have the meaning given them in the Act.

Compliance level means the deteriorated pollutant emissions level at the 60th percentile point for a population of heavy-duty engines or heavy-duty vehicles subject to Production Compliance Audit testing pursuant to the requirements of this subpart. A compliance level for a population can only be determined for a pollutant for which an upper limit has been established in this subpart.

Configuration means a subdivision, if any, of a heavy-duty engine family for

which a separate projected sales figure is listed in the manufacturer's Application for Certification and which can be described on the basis of emission control system, governed speed, injector size, engine calibration, or other parameters which may be designated by the Administrator, or a subclassification of light-duty truck engine family emission control system combination on the basis of engine code, inertia weight class, transmission type and gear ratios, rear axle ratio, or other parameters which may be designated by the Administrator.

NCP means a nonconformance penalty as described in section 206(g) of the Clean Air Act and in this subpart.

PCA means Production Compliance Audit as described in § 86.1106-87 of this subpart.

Subclass means a classification of heavy-duty engines of heavy-duty vehicles based on such factors as gross vehicle weight rating, fuel usage (gasoline-, diesel-, and methanol-fueled), vehicle usage, engine horsepower or additional criteria that the Administrator shall apply. Subclasses include, but are not limited to:

- (i) Light-duty gasoline-fueled Otto cycle trucks (6,001-8,500 lb. GVW)
- (ii) Light-duty methanol-fueled Otto cycle trucks (6,001-8,500 lb. GVW)
- (iii) Light-duty petroleum-fueled diesel trucks (6,001-8,500 lb. GVW)
- (iv) Light-duty methanol-fueled diesel trucks (6,001-8,500 lb. GVW)
- (v) Light heavy-duty gasoline-fueled Otto cycle engines (for use in vehicles of 8,501-14,000 lb. GVW)
- (vi) Light heavy-duty methanol-fueled Otto cycle engines (for use in vehicles of 8,501-14,000 lb. GVW)
- (vii) Heavy heavy-duty gasoline-fueled Otto cycle engines (for use in vehicles of 14,001 lb and above GVW)
- (viii) Heavy heavy-duty methanol-fueled Otto cycle engines (for use in vehicles of 14,001 lb. and above GVW)
- (ix) Light heavy-duty petroleum-fueled diesel engines (see § 86.085-2(a)(1))
- (x) Light heavy-duty methanol-fueled diesel engines (see § 86.085-2(a)(1))
- (xi) Medium heavy-duty petroleum-fueled diesel engines (see § 86.085-2(a)(2))