

upper limit for a vehicle or engine configuration for which an NCP has not been previously assessed, or below the associated upper limit for a vehicle or engine configuration for which an NCP has been previously assessed, regardless of the previous compliance level. In that event, the manufacturer will be offered a qualified certificate of conformity allowing for the introduction into commerce of the engine or vehicle configuration resulting from the running change, *Provided, That*:

(1) The manufacturer must submit a written report to the Administrator outlining the reason for the running change and the date the manufacturer will begin PCA testing;

(2) The manufacturer must agree:

(i) To pay the NCP amount calculated as a result of PCA testing on each engine or vehicle, unless the manufacturer successfully challenges the Administrator's determination of compliance level or penalty calculation or both under § 86.1115-87(c);

(ii) To recall any engines or vehicles introduced into commerce, without invoking the procedural requirements of section 207(c) of the Clean Air Act, if the engine or vehicle configuration exceeds the upper limit as determined by the PCA;

(3) The selection of engines or vehicles for PCA testing must be initiated no later than five (5) days after the start of assembly line production of the engine or vehicle configuration resulting from the running change unless that period is extended by the Administrator; and

(4) If the compliance level is determined to be below the applicable emission standard, a previously assessed NCP will be terminated, an NCP will not be established as a result of the PCA testing, and all qualifications will be removed from the qualified certificate of conformity.

(e) The following requirements are applicable to each PCA under this subpart.

(1) The manufacturer shall make the following documents available to EPA Enforcement Officers upon request;

(i) A properly filed and current application for certification, following the format prescribed by the EPA for the appropriate model year; and

(ii) A copy of the shop manual and dealer service bulletins for the configurations being tested.

(2) Only one mechanic at a time per engine or vehicle shall make authorized checks, adjustments, or repairs, unless a particular check, adjustment, or repair requires a second mechanic as indicated in the shop manual or dealer service bulletins.

(3) A mechanic shall not perform any check, adjustment, or repair without an Enforcement Officer present unless otherwise authorized.

(4) The manufacturer shall utilize only those tools and test equipment utilized by its dealers or those dealers using its engines when performing authorized checks, adjustments, or repairs.

[50 FR 35388, Aug. 30, 1985, as amended at 58 FR 68540, Dec. 28, 1993]

§ 86.1107-87 Testing by the Administrator.

(a) The Administrator may require that engines or vehicles of a specified configuration be selected in a manner consistent with the requirements of § 86.1110-87 and submitted to him at such place as he may designate for the purpose of conducting emission tests in accordance with § 86.1111-87 to determine whether engines or vehicles manufactured by the manufacturer conform with the regulations of this subpart.

(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 the Administrator determines that 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 manufacturer's test facility is inappropriate for conducting the tests required by this subpart and the reasons therefore; and

(2) Reinstate any manufacturer's data only 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 that these changes have resolved the reasons for disqualification.

§ 86.1108-87 Maintenance of records.

(a) The manufacturer of any new gasoline-fueled or diesel heavy-duty engine or heavy-duty vehicle 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 § 86.1111-87, pursuant to PCA testing under this subpart, specifically;

(i) If testing heavy-duty gasoline engines, the equipment requirements specified in 40 CFR part 1065, subparts B and C;

(ii) If testing heavy-duty diesel engines, the equipment requirements specified in 40 CFR part 1065, subparts B and C;

(iii) If testing light-duty gasoline-fueled trucks, the equipment requirements specified in §§ 86.106 (excluding all references to particulate emission testing) and 86.1506-84 of this part; and

(iv) If testing light-duty diesel trucks, the equipment requirements specified in § 86.106 (excluding all references to evaporative emission testing) of this part.

(2) *Individual records.* These records pertain to each Production Compliance Audit conducted pursuant to this subpart.

(i) The date, time, and location of each test;

(ii) The number of hours of service accumulated on the engine or the number of miles on the vehicle when the test began and ended;

(iii) The names of all supervisory personnel involved in the conduct of the Production Compliance Audit;

(iv) A record and description of any repair performed, giving the date and time of the repair, the reason for it, the person authorizing it, and the names of all personnel involved in the supervision and performance of the repair;

(v) The date when the engine or vehicle was shipped from the assembly plant or associated storage facility and when it was received at the testing facility;

(vi) A complete record of all emission tests performed pursuant to this subpart (except tests performed by EPA directly), including all individual worksheets and/or other documentation relating to each test, or exact copies thereof, specifically—

(A) If testing heavy-duty gasoline engines, the record requirements specified in 40 CFR 1065.695;

(B) If testing heavy-duty diesel engines, the record requirements specified in 40 CFR 1065.695;

(C) If testing light-duty gasoline fueled trucks, the record requirements specified in §§ 86.142 (excluding all references to diesel vehicles) and 86.1542-84; and

(D) If the testing light-duty diesel trucks, the record requirements specified in § 86.142; and

(vii) A brief description of any significant Production Compliance Audit events commencing with the test engine or vehicle selection process, but not described by any subparagraph under paragraph (a)(2) of this section, including such extraordinary events as engine damage during shipment or vehicle accident.

(3) The manufacturer shall record the test equipment description, pursuant to paragraph (a)(1) of this section, for