

§ 85.1414

40 CFR Ch. I (7–1–08 Edition)

(b) If the equipment certifier requests an opportunity to respond to the preliminary determination, the certifier and other parties interested in the MOD Director's decision whether to decertify the equipment shall, within 15 days of the date of the request, submit written presentations, including the relevant information and data, to the MOD Director. The MOD Director, in his or her discretion, may provide an opportunity for oral presentations.

(1) Any interested party may request additional time to respond to the information submitted by the equipment certifier. The MOD Director upon a showing of good cause by the interested party may grant an extension of time to reply up to 30 days.

(2) The equipment certifier may have an extension of up to 30 days to reply to information submitted by interested parties. Notification of intent to reply shall be submitted to the MOD Director within 10 days of the date information from interested parties is submitted to the MOD Director.

(c) If an equipment certifier has disputed the allegations of the preliminary decisions, the MOD Director shall, after reviewing any additional information, notify the equipment certifier of his or her decision whether the equipment may continue to be sold as certified. This notification shall include an explanation upon which the decision was made and the effective date for decertification, where appropriate.

(d) Within 20 days from the date of a decision made pursuant to paragraph (c) of this section, any adversely affected party may appeal the decision to the Office Director.

(1) A petition for appeal to the Office Director must state all of the reasons why the decision of the MOD Director should be reversed.

(2) The Office Director may, in his or her discretion, allow additional oral or written testimony.

(3) If no appeal is filed with the Office Director within the permitted time period, the decision of the MOD Director shall be final.

(e) If a final decision is made to decertify equipment under paragraph (d) of this section, the certifier of such

equipment shall notify his immediate customers that, as of the date of the final determination, the equipment in question has been decertified. The equipment certifier shall offer to replace decertified equipment in the customer's inventory with certified replacement equipment or, if unable to do so, shall at the customer's request repurchase such inventory at a reasonable price. The immediate customers must stop selling the equipment once the certifier has notified the customer that the equipment has been decertified.

(f) Notwithstanding the requirements of paragraph (e) of this section, equipment purchased by an urban bus operator prior to decertification, shall be considered certified pursuant to this subpart.

§ 85.1414 Alternative test procedures.

As a part of the certification process, as set forth in § 85.1406, a certifier may request that the Agency approve an alternative test procedure, other than the heavy-duty engine Federal test procedure, to show compliance with the 25 percent reduction in particulate matter emissions as noted in § 85.1403(b)(2)(i). The alternative test may be a chassis-based test, but the alternative test shall be representative of in-use urban bus operation. The requestor shall supply relevant technical support to substantiate its claim of representativeness. Upon an acceptable showing that an alternative test is representative of in-use urban bus operation, the Agency shall determine whether to set such alternative test procedures through rulemaking. The provisions of the certification process apply to such a request for alternative procedures.

EFFECTIVE DATE NOTE: Information collection requirements in § 85.1414 have not been approved by the Office of Management and Budget (OMB) and are not effective until OMB has approved them.

§ 85.1415 Treatment of confidential information.

(a) Any certifier 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.