

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