

violation of that provision. A corporation is presumed liable for any violations of this subpart that are committed by any of its subsidiaries, affiliates or parents that are substantially owned by it or substantially under its control.

(iii) Any person who violates a provision of this paragraph (j) shall be subject to a civil penalty of not more than \$ 31,500 per day for each violation. This maximum penalty is shown for calendar year 2002. Maximum penalty limits for later years may be set higher based on the Consumer Price Index, as specified in 40 CFR part 19. In addition, such person shall be liable for all other remedies set forth in Title II of the Clean Air Act, remedies pertaining to provisions of Title II of the Clean Air Act, or other applicable provisions of law.

(iv) Manufacturers will not have any emissions warranty, in-use compliance, defect reporting or recall liability for service on a heavy-duty engine that is not undertaken by the manufacturer, for any damage caused by their own tools in the hands of independent service providers, or for the use and misuse of third party tools.

[74 FR 8408, Feb. 24, 2009, as amended at 75 FR 22978, Apr. 30, 2010]

#### § 86.078-3 Abbreviations.

The abbreviations in this section apply to this subpart and also to subparts B, D, H, I, J, N, O and P of this part and have the following meanings:

accel.—acceleration.  
 AECD—Auxiliary emission control device.  
 API—American Petroleum Institute.  
 ASTM—American Society for Testing and Materials.  
 BHP—Brake horsepower.  
 BSCO—Brake specific carbon monoxide.  
 BSHC—Brake specific hydrocarbons.  
 BSNO<sub>x</sub>—Brake specific oxides of nitrogen.  
 C—Celsius.  
 cfh—cubic feet per hour.  
 CFV—Critical flow venturi.  
 CFV-CVS—Critical flow venturi—constant volume sampler.  
 CH<sub>4</sub>—methane.  
 CL—Chemiluminescence.  
 CO<sub>2</sub>—carbon dioxide.  
 CO—Carbon monoxide.  
 conc.—concentration.  
 cfm—cubic feet per minute.  
 CT—Closed throttle.  
 cu. in.—cubic inch(es).

CVS—Constant volume sampler.  
 decel.—deceleration.  
 EP—End point.  
 evap.—evaporative.  
 F—Fahrenheit.  
 FID—Flame ionization detector.  
 FL—Full load.  
 ft.—feet.  
 g—gram(s).  
 gal.—U.S. gallon(s).  
 GVW—Gross vehicle weight.  
 GVWR—Gross vehicle weight rating.  
 h—hour(s).  
 H<sub>2</sub>O—water.  
 HC—hydrocarbon(s).  
 HFID—Heated flame ionization detector.  
 Hg—mercury.  
 hi—high.  
 hp.—horsepower.  
 IBP—Initial boiling point.  
 ID—Internal diameter.  
 in.—inch(es).  
 K—kelvin.  
 kg—kilogram(s).  
 km—kilometer(s).  
 kPa—kilopascal(s).  
 lb.—pound(s).  
 lb.-ft.—pound-feet.  
 m—meter(s).  
 max.—maximum.  
 mg—milligram(s).  
 mi.—mile(s).  
 min.—minute(s).  
 ml—milliliter(s).  
 mm—millimeter(s).  
 mph—miles per hour.  
 mv—millivolt(s).  
 N<sub>2</sub>—nitrogen.  
 NDIR—Nondispersive infrared.  
 NO—nitric oxide.  
 NO<sub>2</sub>—nitrogen dioxide.  
 N<sub>2</sub>O—nitrous oxide.  
 NO<sub>x</sub>—oxides of nitrogen.  
 No.—Number.  
 O<sub>2</sub>—oxygen.  
 Pb—lead.  
 pct.—percent.  
 PDP-CVS—Positive displacement pump—constant volume sampler.  
 ppm—parts per million by volume.  
 ppm C—parts per million, carbon.  
 psi—pounds per square inch.  
 psig—pounds per square inch gauge.  
 PTA—Part throttle acceleration.  
 PTD—Part throttle deceleration.  
 R—Rankin.  
 rpm—revolutions per minute.  
 RVP—Reid vapor pressure.  
 s—second(s).  
 SAE—Society of Automotive Engineers.  
 SI—International system of units.  
 sp.—speed.  
 TEL—Tetraethyl lead.  
 TML—Tetramethyl lead.  
 UDDS—Urban dynamometer driving schedule.  
 V—volt(s).

vs.—versus.  
 W—watt(s).  
 WF—Weighting factor.  
 WOT—Wide open throttle.  
 wt.—weight.  
 ′—feet.  
 ″—inch(es).  
 °—degree(s).  
 Σ—summation.

[42 FR 32907, June 28, 1977, as amended at 45 FR 4149, Jan. 21, 1980; 74 FR 56373, Oct. 30, 2009]

**§ 86.078-6 Hearings on certification.**

(a)(1) After granting a request for a hearing under § 86.084-22, § 86.084-30(b), or § 86.084-30(c), the Administrator shall designate a Presiding Officer for the hearing.

(2) The General Counsel will represent the Environmental Protection Agency in any hearing under this section.

(3) If a time and place for the hearing have not been fixed by the Administrator under § 86.084.22, § 86.084-30(b), or § 86.084-30(c), the hearing shall be held as soon as practicable at a time and place fixed by the Administrator or by the Presiding Officer.

(4) In the case of any hearing requested pursuant to § 86.078-30(c)(5)(i), the Administrator may in his discretion direct that all argument and presentation of evidence be concluded within such fixed period not less than 30 days as he may establish from the date that the first written offer of a hearing is made to the manufacturer. To expedite proceedings, the Administrator may direct that the decision of the Presiding Officer (who may, but need not be the Administrator himself) shall be the final EPA decision.

(b)(1) Upon his appointment pursuant to paragraph (a) of this section, the Presiding Officer will establish a hearing file. The file shall consist of the notice issued by the Administrator under § 86.084-22, § 86.084-30(b), or § 86.084-30(c) together with any accompanying material, the request for a hearing and the supporting data submitted therewith, and all documents relating to the request for certification and all documents submitted therewith, and correspondence and other data material to the hearing.

(2) The hearing file will be available for inspection by the applicant at the office of the Presiding Officer.

(c) An applicant may appear in person, or may be represented by counsel or by any other duly authorized representative.

(d)(1) The Presiding Officer upon the request of any party, or in his discretion, may arrange for a prehearing conference at a time and place specified by him to consider the following:

- (i) Simplification of the issues;
- (ii) Stipulations, admissions of fact, and the introduction of documents;
- (iii) Limitation of the number of expert witnesses;
- (iv) Possibility of agreement disposing of all or any of the issues in dispute;
- (v) Such other matters as may aid in the disposition of the hearing, including such additional tests as may be agreed upon by the parties.

(2) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

(e)(1) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial and repetitious evidence.

(2) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to the provisions of title 18 U.S.C. 1001 which imposes penalties for knowingly making false statements or representations, or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(3) Any witness may be examined or cross-examined by the Presiding Officer, the parties, or their representatives.

(4) Hearings shall be reported verbatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(5) All written statements, charts, tabulations, and similar data offered in evidence at the hearings shall, upon a showing satisfactory to the Presiding Officer of their authenticity, relevancy, and materiality, be received in