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shall be those that were used in the certification of the production vehicle. Manufacturers may calculate this product immediately after the 4,000-mile test of the vehicle. If the product exceeds the applicable standards, the manufacturer may, with the approval of the Administrator, discontinue the vehicle and substitute a new vehicle. The manufacturer may continue the original vehicle, but the data will not be acceptable if line crossing occurs.

(b)(1)-(2) [Reserved]

(3) Since emission control efficiency generally decreases with the accumulation of mileage on the vehicle, deterioration factors will be used in combination with emission data vehicle test results as the basis for determining compliance with the standards (or family emission limits, as appropriate).

(4)(i) Paragraph (b)(4) of this section describes the procedure for determining compliance of a new vehicle with exhaust emission standards (or family emission limits, as appropriate), based on deterioration factors. If the manufacturer certifies under the Standard Self-Approval Program as specified in § 86.094-13(f), the manufacturer supplies the deterioration factors. If the manufacturer certifies under the Alternative Service Accumulation Durability Program as specified in § 86.094-13(e), the applicable procedure for the determination of deterioration factors for light-duty trucks is the same as that described in paragraph (a)(4) of this section for light-duty vehicles.

(ii) [Reserved]

[58 FR 4025, Jan. 12, 1993, as amended at 75 FR 22978, Apr. 30, 2010]

### § 86.094-30 Certification.

(a)(1)(i) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.091-7(c) and any other pertinent data or information, the Administrator determines that a test vehicle(s) (or test engine(s)) meets the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) (or engine(s)) except in cases covered by paragraphs (a) (1) (ii) and (c) of this section.

(ii) *Gasoline-fueled and methanol-fueled heavy-duty vehicles.* If, after a review of the statement(s) of compliance submitted by the manufacturer under § 86.094-23(b)(4) and any other pertinent data or information, the Administrator determines that the requirements of the Act and this subpart have been met, he will issue one certificate of conformity per manufacturer with respect to the evaporative emission family(ies) covered by paragraph (c) of this section.

(2) Such certificate will be issued for such period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary or appropriate to assure that any new motor vehicle (or new motor vehicle engine) covered by the certificate will meet the requirements of the Act and of this part.

(3) [Reserved]

(4)(i)-(ii) [Reserved]

(iii) A manufacturer shall be deemed to have reason to believe that a light-duty vehicle that has been exempted from compliance with emission standards at high-altitude, or a light-duty truck which is not configured to meet high-altitude requirements, will not be sold to an ultimate purchaser for principal use at a designated high-altitude location if the manufacturer has informed its dealers and field representatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraph (a)(4)(iii) (A) or (B), and paragraph (a)(4)(iii)(C) of this section:

(A) Requiring dealers in designated high-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; requiring dealers in counties contiguous to designated high-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude

requirements will not be used principally at a designated high-altitude location; and for each sale or delivery of fleets of ten or more such vehicles in a high-altitude location or in counties contiguous to high-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of low-altitude vehicles by high-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser for principal use at a designated high-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a State or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser residing in a designated high-altitude location, or based on information obtained pursuant to paragraph (a)(4)(iii) of this section that a dealer may have improperly sold or delivered a significant number

of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet high-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

(iv) [Reserved]

(A) Requiring dealers in designated low-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location; requiring dealers in counties contiguous to designated low-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated low-altitude location, that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location; and for each sale or delivery of fleets of ten or more such vehicles in a low-altitude location or in counties contiguous to low-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated low-altitude location, that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated high-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles

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and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of high-altitude vehicles by low-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to meet the low-altitude requirements to an ultimate purchaser for principal use at a designated low-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a state or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the low-altitude requirements to an ultimate purchaser residing in a designated low-altitude location, or based on information obtained pursuant to paragraph (a)(4)(iv) of this section that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet low-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

(5)(i) For the purpose of paragraph (a) of this section, a “designated high-altitude location” is any county which has substantially all of its area located above 1,219 meters (4,000 feet) and:

(A) Requested and extension past the attainment date of December 31, 1982, for compliance with either the National Ambient Air Quality Standards for carbon monoxide or ozone, as indicated in part 52 (Approval and Promulgation of Implementation Plans) of this title; or

(B) Is in the same state as a county designated as a high-altitude location according to paragraph (a)(5)(i)(A) of this section.

(ii) The designated high-altitude locations defined in paragraph (a)(5)(i) of this section are listed below:

STATE OF COLORADO

Adams	Jefferson
Alamosa	Kit Carson
Arapahoe	Lake
Archuleta	La Plata
Boulder	Larimer
Chaffee	Las Animas
Cheyenne	Lincoln
Clear Creek	Mesa
Conejos	Mineral
Costilla	Moffat
Crowley	Montezuma
Custer	Montrose
Delta	Morgan
Denver	Otero
Dolores	Ouray
Douglas	Park
Eagle	Pitkin
Elbert	Pueblo
El Paso	Rio Blanco
Fremont	Rio Grande
Garfield	Routt
Gilpin	Saguache
Grand	San Juan
Gunnison	San Miguel
Hinsdale	Summit
Huerfano	Teller
Jackson	Washington
	Weld

STATE OF NEVADA

Carson City	Lincoln
Douglas	Lyon
Elko	Mineral
Esmeralda	Nye
Eureka	Pershing
Humboldt	Storey
Lander	Washoe
	White Pine

STATE OF NEW MEXICO

Bernalillo	Mora
Catron	Otero
Colfax	Rio Arriba
Curry	Roosevelt
De Baca	Sandoval
Grant	San Juan
Guadalupe	San Miguel
Harding	Santa Fe
Hidalgo	Sierra
Lincoln	Socorro
Los Alamos	Taos
Luna	Torrance
McKinley	Union
	Valencia

STATE OF UTAH

Beaver	Daggett
Box Elder	Davis
Cache	Duchesne
Carbon	Emery

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Garfield	San Juan
Grand	Sanpete
Iron	Sevier
Juab	Summit
Kane	Tooele
Millard	Uintah
Morgan	Utah
Piute	Wasatch
Rich	Wayne
Salt Lake	Weber

Fremont	Park
Goshen	Platte
Hot Springs	Sublette
Johnson	Sweetwater
Laramie	Teton
Lincoln	Uinta
Natrona	Washakie
Niobrara	Weston

(iii) For the purpose of paragraph (a) of this section, a “designated low-altitude location” is any county which has substantially all of its area located below 1,219 meters (4,000 feet).

(iv) The designated low-altitude locations so defined include all counties in the United States which are not listed in either paragraph (a)(5)(ii) of this section or in the list below:

STATE OF ARIZONA	
Apache	Navajo
Cochise	Yavapai
Coconino	

STATE OF IDAHO	
Bannock	Franklin
Bear Lake	Fremont
Bingham	Jefferson
Blaine	Lemhi
Bonneville	Madison
Butte	Minidoka
Camas	Oneida
Caribou	Power
Cassia	Treton
Clark	Valley
Custer	

STATE OF MONTANA	
Beaverhead	Meagher
Deer Lodge	Park
Gallatin	Powell
Jefferson	Silver Bow
Judith Basin	Wheatland
Madison	

STATE OF NEBRASKA	
Banner	Kimball
Cheyenne	Sioux

STATE OF OREGON	
Harney	Lake
Klamath	

STATE OF TEXAS	
Jeff Davis	Parmer
Hudspeth	

STATE OF WYOMING	
Albany	Carbon
Campbell	Converse

(6) Catalyst-equipped vehicles, otherwise covered by a certificate, which are driven outside the United States, Canada, and Mexico will be presumed to have been operated on leaded gasoline resulting in deactivation of the catalysts. If these vehicles are imported or offered for importation without retrofit of the catalyst, they will be considered not to be within the coverage of the certificate unless included in a catalyst control program operated by a manufacturer or a United States Government agency and approved by the Administrator.

(7) For incomplete light-duty trucks, a certificate covers only those new motor vehicles which, when completed by having the primary load-carrying device or container attached, conform to the maximum curb weight and frontal area limitations described in the application for certification as required in §86.094-21(d).

(8) For heavy-duty engines, a certificate covers only those new motor vehicle engines installed in heavy-duty vehicles which conform to the minimum gross vehicle weight rating, curb weight, or frontal area limitations for heavy-duty vehicles described in §86.082-2.

(9) For incomplete gasoline-fueled and methanol-fueled heavy-duty vehicles a certificate covers only those new motor vehicles which, when completed, conform to the nominal maximum fuel tank capacity limitations as described in the application for certification as required in §86.094-21(e).

(10)-(11) [Reserved]

(12) For all light-duty vehicles certified to standards under §86.094-8 or to which standards under §86.708-94 are applicable, the provisions of paragraphs (a)(12) (i) through (iii) of this section apply.

(i) All certificates issued are conditional upon the manufacturer complying with all provisions of §§86.094-8 and 86.708-94 both during and after model year production.

(ii) Failure to meet the required implementation schedule sales percentages as specified in §§ 86.094-8 and § 86.708-94 will be considered to be a failure to satisfy the conditions upon which the certificate(s) was issued and the vehicles sold in violation of the implementation schedule shall not be covered by the certificate.

(iii) The manufacturer shall bear the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was issued were satisfied.

(13) [Reserved]

(14) For all light-duty vehicles and light-duty trucks certified with an Alternative Service Accumulation Durability Program under § 86.094-13(e), paragraphs (a)(14) (i) through (iii) of this section apply.

(i) All certificates issued are conditional upon the manufacturer performing the in-use verification program pursuant to the agreement described in § 86.094-13(e)(8).

(ii) Failure to fully comply with all the terms of the in-use verification program pursuant to the agreement described in § 86.094-13(e)(8) will be considered a failure to satisfy the conditions upon which the certificate was issued. A vehicle or truck will be considered to be covered by the certificate only if the manufacturer fulfills the conditions upon which the certificate is issued.

(iii) The manufacturer shall bear the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was issued were satisfied.

(b)(1) The Administrator will determine whether a vehicle (or engine) covered by the application complies with applicable standards (or family emission limits, as appropriate) by observing the following relationships: in paragraphs (b)(1) (i) through (iv) of this section:

(i) *Light-duty vehicles.* (A) The durability data vehicle(s) selected under § 86.094-24(c)(1)(i) shall represent all vehicles of the same engine system combination.

(B) The emission data vehicle(s) selected under § 86.094-24(b)(1) (ii) through (iv) shall represent all vehicles of the same engine-system combination as applicable.

(C) The emission data vehicle(s) selected under § 86.094-24(b)(1)(vii) (A) and (B) shall represent all vehicles of the same evaporative control system within the evaporative family.

(ii) *Light-duty trucks.* (A) The emission data vehicle(s) selected under § 86.094-24(b)(1)(ii), shall represent all vehicles of the same engine-system combination as applicable.

(B) [Reserved]

(C) The emission data vehicle(s) selected under § 86.094-24(b)(1) (v) shall represent all vehicles of the same enginesystem combination as applicable.

(D) [Reserved]

(iii) *Heavy-duty engines.* (A) An Otto-cycle emission data test engine selected under § 86.094-24(b)(2)(iv) shall represent all engines in the same family of the same engine displacement-exhaust emission control system combination.

(B) An Otto-cycle emission data test engine selected under § 86.094-24(b)(2)(iii) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(C) A diesel emission data test engine selected under § 86.094-24(b)(3)(ii) shall represent all engines in the same engine-system combination.

(D) A diesel emission data test engine selected under § 86.094-24(b)(3)(iii) shall represent all engines of that emission control system at the rated fuel delivery of the test engine.

(iv) Gasoline-fueled and methanol-fueled heavy-duty vehicles. A statement of compliance submitted under § 86.094-23(b)(4) (i) or (ii) shall represent all vehicles in the same evaporative emission family-evaporative emission control system combination.

(2) [Reserved]

(3) If after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to § 86.091-29, data or information derived from any inspection carried out under § 86.094-7(d) or any other pertinent data or information, the Administrator determines that one or more test vehicles (or test engines) of the certification

test fleet do not meet applicable standards (or family emission limits, as appropriate), he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078-6 with respect to such issue.

(4) For light-duty vehicles and light-duty trucks the manufacturer may, at its option, proceed with any of the following alternatives with respect to an emission data vehicle determined not in compliance with all applicable standards (or family emission limits, as appropriate) for which it was tested:

(i) Request a hearing under § 86.078-6; or

(ii) [Reserved]

(A) If the failed vehicle was tested for compliance with exhaust emission standards (or family emission limits, as appropriate) only: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission data vehicle to be tested for exhaust emission compliance only; or

(B) [Reserved]

(5) For heavy-duty engines the manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine (s) determined not in compliance with applicable standards (or family emission limit, as appropriate):

(i) Request a hearing under § 86.078-6; or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under § 86.079-32.) The Administrator may then select

in place of each failing engine an alternate engine chosen in accordance with selection criteria employed in selecting the engine that failed; or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards. Another engine which is in all material respect the same as the first engine, as modified, may then be operated and tested in accordance with applicable test procedures.

(6) If the manufacturer does not request a hearing or present the required data under paragraphs (b) (4) or (5) of this section (as applicable) of this section, the Administrator will deny certification.

(c)(1) Notwithstanding the fact that any certification vehicle(s) (or certification engine(s)) may comply with other provisions of this subpart, the Administrator may withhold or deny the issuance of a certificate of conformity (or suspend or revoke any such certificate which has been issued) with respect to any such vehicle(s) (or engine(s)) if:

(i) The manufacturer submits false or incomplete information in his application for certification thereof;

(ii) The manufacturer renders inaccurate any test data which he submits pertaining thereto or otherwise circumvents the intent of the Act, or of this part with respect to such vehicle (or engine);

(iii) Any EPA Enforcement Officer is denied access on the terms specified in § 86.091-7(d) to any facility or portion thereof which contains any of the following:

(A) The vehicle (or engine);

(B) Any components used or considered for use in its modification or buildup into a certification vehicle (or certification engine);

(C) Any production vehicle (or production engine) which is or will be claimed by the manufacturer to be covered by the certificate;

(D) Any step in the construction of a vehicle (or engine) described in paragraph (c)(iii)(C) of this section;

(E) Any records, documents, reports, or histories required by this part to be kept concerning any of the above; or

(iv) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 86.091-7(d) in examining any

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of the items listed in paragraph (c)(1)(iii) of this section.

(2) The sanctions of withholding, denying, revoking, or suspending of a certificate may be imposed for the reasons in paragraphs (c)(1) (i), (ii), (iii), or (iv) of this section only when the infraction is substantial.

(3) In any case in which a manufacturer knowingly submits false or inaccurate information or knowingly renders inaccurate or invalid any test data or commits any other fraudulent acts and such acts contribute substantially to the Administrator's decision to issue a certificate of conformity, the Administrator may deem such certificate void *ab initio*.

(4) In any case in which certification of a vehicle (or engine) is proposed to be withheld, denied, revoked, or suspended under paragraph (c)(1) (iii) or (iv) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.091-7(d) in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle (or engine) in question was not involved in the violation to a degree that would warrant withholding, denial, revocation, or suspension of certification under either paragraph (c)(1) (iii) or (iv) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(5) Any revocation or suspension of certification under paragraph (c)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.078-6 hereof; and

(ii) Extend no further than to forbid the introduction into commerce of vehicles (or engines) previously covered by the certification which are still in the hands of the manufacturer, except in cases of such fraud or other misconduct as makes the certification invalid *ab initio*.

(6) The manufacturer may request in the form and manner specified in paragraph (b)(3) of this section that any determination made by the Administrator under paragraph (c)(1) of this section to withhold or deny certification be reviewed in a hearing con-

ducted in accordance with § 86.078-6. If the Administrator finds, after a review of the request and supporting data, that the request raises a substantial factual issue, he will grant the request with respect to such issue.

(d)(1) For light-duty vehicles. Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.603; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.603; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.609; or

(iv) The manufacturer renders inaccurate any test data which he submits pursuant to § 86.609; or

(v) Any EPA Enforcement Officer is denied the opportunity to conduct activities related to entry and access as authorized in § 86.606 of this part and in a warrant or court order presented to the manufacturer or the party in charge of a facility in question; or

(vi) EPA Enforcement Officers are unable to conduct activities related to entry and access or to obtain "reasonable assistance" as authorized in § 86.606 of this part because a manufacturer has located its facility in a foreign jurisdiction where local law prohibits those activities; or

(vii) The manufacturer refuses to or in fact does not comply with § 86.604(a), § 86.605, § 86.607, § 86.608, or § 86.610.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraph (d)(1) (i), (ii), or (vii) of this section where the refusal is caused by conditions and circumstances outside the control of the manufacturer which render it impossible to comply with those requirements.

(3) The sanction of suspending a certificate may be imposed for the reasons in paragraph (d)(1) (iii), (iv), or (v) of

this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1)(v) of this section and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.606 in fact occurred, if the manufacturer wishes to contend that, although the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to a degree that would warrant suspension of certification under paragraph (d)(1)(v) of this section, the manufacturer shall have the burden of establishing the contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.614; and

(ii) Not apply to vehicles no longer in the hands of the manufacturer.

(7) Any voiding of a certificate of conformity under paragraph (d)(4) of this section will be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.614.

(8) Any voiding of the certificate under § 86.091-30(a)(10) will be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.614.

(e) *For light-duty trucks and heavy-duty engines.* (1) Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of

conformity in whole or in part with respect to such vehicle or engine configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.1003; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.1003; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.1009; or

(iv) The manufacturer renders inaccurate any test data submitted pursuant to § 86.1009; or

(v) Any EPA Enforcement Officer is denied the opportunity to conduct activities related to entry and access as authorized in § 86.1006 of this part and in a warrant or court order presented to the manufacturer or the party in charge of a facility in question; or

(vi) EPA Enforcement Officers are unable to conduct activities related to entry and access as authorized in § 86.1006 of this part because a manufacturer has located a facility in a foreign jurisdiction where local law prohibits those activities; or

(vii) The manufacturer refuses to or in fact does not comply with the requirements of §§ 86.1004(a), 86.1005, 86.1007, 86.1008, 86.1010, 86.1011, or 86.1013.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraph (e)(1) (i), (ii), or (vii) of this section where such refusal or denial is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturers to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanction of suspending a certificate may be imposed for the reasons outlined in paragraph (e)(1) (iii), (iv), or (v) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a light-duty truck or heavy-duty engine is proposed to be suspended under paragraph (e)(1)(v) of this section and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of §86.1006 in fact occurred, if the manufacturer wishes to contend that, although the violation occurred, the vehicle or engine configuration or engine family in question was not involved in the violation to a degree that would warrant suspension of certification under paragraph (e)(1)(v) of this section, he shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (e)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with §86.1014; and

(ii) Not apply to vehicles or engines no longer in the hands of the manufacturer.

(7) Any voiding of a certificate of conformity under paragraph (e)(4) of this section shall be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with §86.1014.

(8) Any voiding of the certificate under paragraph (a) (10) or (11) of this section will be made only after the manufacturer concerned has been of-

fered an opportunity for a hearing conducted in accordance with §86.1014.

[58 FR 4028, Jan. 12, 1993, as amended at 58 FR 9487, Feb. 19, 1993; 60 FR 15247, Mar. 23, 1995; 75 FR 22979, Apr. 30, 2010]

**§ 86.095–14 Small-volume manufacturers certification procedures.**

(a)–(c)(11)(ii)(B)(15) [Reserved]

(c)(11)(ii)(B)(16) A description of vehicle adjustments or modifications required by §§86.094–8(j) and 86.094–9(j), if any, to assure that light-duty vehicles and light-duty trucks covered by a certificate of conformity conform to the regulations while being operated at any altitude locations, and a statement of the altitude at which the adjustments or modifications apply.

(17) A description of the light-duty vehicles and light-duty trucks which are exempted from the high altitude emission standards.

(18) Proof that the manufacturer has obtained or entered an agreement to purchase, when applicable, the insurance policy required by the §85.1510(b) of this chapter. The manufacturer may submit a copy of the insurance policy or purchase agreement as proof that the manufacturer has obtained or entered an agreement to purchase the insurance policy.

(C) The results of all emission tests the manufacturer performs to demonstrate compliance with the applicable standards.

(D)(1) The following statement signed by the authorized representative of the manufacturer: "The vehicles (or engines) described herein have been tested in accordance with (list of the applicable subparts A, B, D, I, M, N, or P) of part 86, title 40, Code of Federal Regulations, and on the basis of those tests are in conformance with that subpart. All of the data and records required by that subpart are on file and are available for inspection by the EPA Administrator. We project the total U.S. sales of vehicles (engines) subject to this subpart (including all vehicles and engines imported under the provisions of 40 CFR 85.1505 and 40 CFR 85.1509) to be fewer than 10,000 units."

(2) A statement as required by and contained in §86.094–14(c)(5) signed by the authorized representative of the manufacturer.