

§ 86.1850-01

40 CFR Ch. I (7-1-10 Edition)

employee who has been instructed by the manufacturer to appear will be entitled to be accompanied, represented, and advised by counsel.

§ 86.1850-01 Denial, suspension or revocation of certificate of conformity.

(a) If, after review of the manufacturer's application, request for certification, information obtained from any inspection, such other information as the Administrator may require, and any other pertinent data or information, the Administrator determines that one or more test vehicles do not meet applicable requirements or standards of the Act or of this part, the Administrator will notify the manufacturer in writing, setting forth the basis for the determination. The manufacturer may request a hearing on the Administrator's determination.

(b) Notwithstanding the fact that the vehicles described in the application may comply with all other requirements of this subpart, the Administrator may deny issuance of, suspend, or revoke a previously issued certificate of conformity if the Administrator finds any one of the following infractions to be substantial:

(1) The manufacturer submits false or incomplete information.

(2) The manufacturer denies an EPA enforcement officer or EPA authorized representative the opportunity to conduct authorized inspections as required under § 86.1849-01.

(3) The manufacturer renders inaccurate any test data which it submits, or fails to make a good engineering judgment in accordance with § 86.1851-01(c)(1).

(4) The manufacturer denies an EPA enforcement officer or EPA authorized representative reasonable assistance as required in § 86.1849-01.

(5) The manufacturer fails to provide the records required in § 86.1844-01 to the Administrator within the deadline set forth in the request for such information.

(6) The manufacturer fails to comply with all conditions under which the certificate of conformity was granted as specified in § 86.1848-01.

(7) The manufacturer otherwise circumvents the intent of the Act or of this part.

(c) 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, or that any failure to satisfy a condition is not substantial.

(d) If a manufacturer knowingly commits an infraction specified in paragraphs (b)(1) through (b)(7) of this section, knowingly commits any fraudulent act which results in the issuance of a certificate of conformity, or fails to comply with the conditions specified in § 86.1843-01, the Administrator may deem such certificate void ab initio.

(e) When the Administrator denies, suspends, revokes, or voids ab initio a certificate, EPA will provide the manufacturer a written determination. The manufacturer may request a hearing under § 86.1853-01 on the Administrator's decision.

(f) Any suspension or revocation of a certificate of conformity shall extend no further than to forbid the introduction into commerce of vehicles previously covered by the certificate which are still in the possession of the manufacturer, except in cases of such fraud or other misconduct that makes the certification void ab initio.

§ 86.1851-01 Application of good engineering judgment to manufacturers' decisions.

(a) The manufacturer shall exercise good engineering judgment in making all decisions called for under this subpart, including but not limited to selections, categorizations, determinations, and applications of the requirements of the subpart.

(b) Upon written request by the Administrator, the manufacturer shall provide within 15 working days (or such longer period as may be allowed by the Administrator) a written description of the engineering judgment in question.

(c) The Administrator may reject any such decision by a manufacturer if it is not based on good engineering judgment, or is otherwise inconsistent with the requirements of this subpart.

(d) If the Administrator rejects a decision by a manufacturer with respect to the exercise of good engineering