

**§ 205.55-5 Labeling-exterior. [Reserved]**

**§ 205.56 Testing by the Administrator.**

(a)(1) The Administrator may require that any vehicles to be tested pursuant to the Act be submitted to him, at such place and time as he may reasonably designate and in such quantity and for such time as he may reasonably require for the purpose of conducting tests in accordance with test procedures described in §205.54 to determine whether such vehicles or a manufacturer's test facility conform to applicable regulations. It is a condition of the requirements under this section that the manner in which the Administrator conducts such tests, the EPA test facility itself, and the test procedures he employs shall be based upon good engineering practice and meet or exceed the requirements of §205.54 of the regulations.

(2) The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment of the type required by these regulations shall be made available by the manufacturer for test operations. The Administrator may conduct such tests with his own equipment, which shall equal or exceed the performance specifications of the instrumentation or equipment specified by the Administrator in these regulations.

(3) The manufacturer may observe tests conducted by the Administrator pursuant to this section on vehicles produced by such manufacturer and may copy the data accumulated from such tests. The manufacturer may inspect any such vehicles before and after testing by the Administrator.

(b)(1) If, based on tests conducted by the Administrator or other relevant information, the Administrator determines that the test facility does not meet the requirements of §205.54-1 (a) and (b) he will notify the manufacturer in writing of his determination and the reasons therefor.

(2) The manufacturer may at any time within 15 days after receipt of a notice issued under paragraph (b)(1) of this section request a hearing conducted in accordance with 5 U.S.C. 554 on the issue of whether his test facility

was in conformance. Such notice will not take effect until 15 days after receipt by the manufacturer, or if a hearing is requested under this paragraph, until adjudication by the hearing examiner.

(3) After any notification issued under paragraph (b)(1) of this section has taken effect, no data thereafter derived from such test facility will be acceptable for purposes of this part.

(4) The manufacturer may request in writing that the Administrator reconsider his determination under paragraph (b)(1) of this section based on data or information which indicates that changes have been made to the test facility and such changes have resolved the reasons for disqualification.

(5) The Administrator will notify the manufacturer of his determination and an explanation of the reasons underlying it with regard to the requalification of the test facility within 10 working days after receipt of the manufacturer's request for reconsideration pursuant to paragraph (b)(4) of this section.

(c)(1) The Administrator will assume all reasonable costs associated with shipment of vehicles to the place designated pursuant to paragraph (a) of this section except with respect to:

(i) [Reserved]

(ii) Testing of a reasonable number of vehicles for purposes of selective enforcement auditing under §205.57 or testing of smaller numbers of vehicles, if the manufacturer has failed to establish that there is a correlation between its test facility and the EPA test facility or the Administrator has reason to believe, and provides the manufacturer a statement of such reasons, that the vehicles to be tested would fail to meet the standard prescribed in this subpart if tested at the EPA test facility, but would meet such standard if tested at the manufacturer's test facility;

(iii) Any testing performed during a period when a notice of nonconformance of the manufacturer's test facility issued pursuant to paragraph (b) of this section is in effect;

(iv) Any testing performed at place other than the manufacturer's facility as a result of the manufacturer's failure to permit the Administrator to