§ 92.207 Special test procedures.

(a) Establishment of special test procedures by EPA. The Administrator may, on the basis of written application by a manufacturer or remanufacturer, establish special test procedures other than those set forth in this part, for any locomotive or locomotive engine that the Administrator determines is not susceptible to satisfactory testing under the specified test procedures set forth in subpart B of this part.

(b) Use of alternate test procedures by manufacturer or remanufacturer. (1) A manufacturer or remanufacturer may elect to use an alternate test procedure provided that it is equivalent to the specified procedures with respect to the demonstration of compliance, its use is approved in advance by the Administrator, and the basis for the equivalence with the specified test procedures is fully described in the manufacturer’s or remanufacturer’s application.

(2) The Administrator may reject data generated under alternate test procedures which do not correlate with data generated under the specified procedures.

§ 92.208 Certification.

(a) This paragraph (a) applies to manufacturers of new locomotives and new locomotive engines. If, after a review of the application for certification, test reports and data acquired from a freshly manufactured locomotive or locomotive engine or from a development data engine, and any other information required or obtained by EPA, the Administrator determines that the application is complete and that the engine family meets the requirements of the Act and this part, he/she will issue a certificate of conformity with respect to such engine family except as provided by paragraph (c)(3) of this section. The certificate of conformity is valid for each engine family starting with the indicated effective date, but it is not valid for any production after December 31 of the model year for which it is issued (except as specified in §92.12). The certificate of conformity
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(b) This paragraph (b) applies to re-
manufacturers of locomotives and loco-
motive engines. If, after a review of the application for certification, test re-
ports and data acquired from a re-
manufactured locomotive or loco-
motive engine or from a development
data engine, and any other information
required or obtained by EPA, the Ad-
ministrator determines that the engine
family meets the requirements of the
Act and of this subpart, he/she will
issue a certificate of conformity with
respect to such engine family except as
provided by paragraph (c)(3) of this sec-
tion. The certificate of conformity is
valid for each engine family from the
date of issuance by EPA until 31 De-
cember of the model year or calendar
year for which it is issued and upon
such terms and conditions as the Ad-
ministrator deems necessary or appro-
priate to assure that the production lo-
comotives or engines covered by the
certificate will meet the requirements
of the Act and of this part.

(c) This paragraph (c) applies to man-
ufacturers and remanufacturers of lo-
comotives and locomotive engines.

(1) The manufacturer or remanufac-
turer shall bear the burden of estab-
lishing to the satisfaction of the Ad-
ministrator that the conditions upon
which the certificates were issued were
satisfied or excused.

(2) The Administrator will determine
whether the test data included in the
application represents all locomotives
or locomotive engines of the engine
family.

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

(i) The manufacturer or remanufac-
turer submits false or incomplete in-
formation in its application for certifi-
cation thereof;

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

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

(A) A locomotive or locomotive en-
gine which is scheduled to undergo
emissions testing, or which is under-
going emissions testing, or which has
undergone emissions testing; or

(B) Any components used or consid-
ered for use in the construction, modi-
fication or buildup of any locomotive
or locomotive engine which is sched-
uled to undergo emissions testing, or
which is undergoing emissions testing,
or which has undergone emissions test-
ing for purposes of emissions certifi-
cation; or

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

(D) Any step in the construction of a
locomotive or locomotive engine,
where such step may reasonably be ex-
pected to have an effect on emissions;

(E) Any records, documents, reports
or histories required by this part to be
kept concerning any of the items listed
in paragraphs (c)(3)(iii)(A) through (D).

(iv) Any EPA Enforcement Officer is
denied “reasonable assistance” (as de-
defined in §92.215).

(4) In any case in which a manufac-
turer or remanufacturer knowingly
 submits false or inaccurate informa-
tion 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 cer-
tificate of conformity, the Adminis-
trator may deem such certificate void

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section, and in which the Administrator has presented to the manufacturer or remanufacturer involved reasonable evidence that a violation of §92.215 in fact occurred, the manufacturer or remanufacturer, if it wishes to contend that, even though the violation occurred, the locomotive or locomotive engine in question was not involved in the violation to a degree that would warrant withholding, denial, revocation or suspension of certification under paragraph (c)(3) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any revocation, suspension, or voiding of certification under paragraph (c)(3) of this section shall:

(i) Be made only after the manufacturer or remanufacturer concerned has been offered an opportunity for a hearing conducted in accordance with §92.216; and

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

(7) The manufacturer or remanufacturer may request, within 30 days of receiving notification, that any determinations made by the Administrator under paragraph (c)(3) of this section to withhold or deny certification be reviewed in a hearing conducted in accordance with §92.216. The request shall be in writing, signed by an authorized representative of the manufacturer or remanufacturer as applicable, and shall include a statement specifying the manufacturer’s or remanufacturer’s objections to the Administrator’s determinations, and data in support of such objections. If, after review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he/she will grant the request with respect to such issue.

(e) Within 30 days following receipt of notification of the Administrator’s determinations made under paragraph (d) of this section, the manufacturer or remanufacturer may request a hearing on the Administrator’s determinations. The request shall be in writing, signed by an authorized representative of the manufacturer or remanufacturer as applicable, and shall include a statement specifying the manufacturer’s or remanufacturer’s objections to the Administrator’s determinations, and data in support of such objections.

§ 92.209 Certification with multiple manufacturers or remanufacturers.

(a) Where there are multiple persons meeting the definition of manufacturer or remanufacturer, each such person must comply with the requirements of this part that apply to manufacturers or remanufacturers. However, if one person complies with a requirement, then all such persons will be deemed to have complied with that specific requirement.

(b) Where more than one entity meets the definition of manufacturer