maintenance interval, based on industry data and any other information available to EPA. Designations of emission-related maintenance items, along with their identification as critical or non-critical, and establishment of technologically necessary maintenance intervals, will be announced in the Federal Register.

(iii) Any manufacturer may request a hearing on the Administrator’s determinations in paragraph (b)(7) of this section. The request shall be in writing and shall include a statement specifying the manufacturer’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 shall provide the manufacturer a hearing in accordance with §86.078–6 with respect to such issue.

(c) Non-emission-related scheduled maintenance which is reasonable and technologically necessary (e.g., oil change, oil filter change, fuel filter change, air filter change, cooling system maintenance, adjustment of idle speed, governor, engine bolt torque, valve lash, injector lash, timing, adjustment of air pump drive belt tension, lubrication of the exhaust manifold heat control valve, lubrication of carburetor choke linkage, retorquing carburetor mounting bolts, etc.) may be performed on durability data vehicles at the least frequent intervals recommended by the manufacturer to the ultimate purchaser, (e.g., not at the intervals recommended for severe service).

(d) [Reserved]

(e) Maintenance on emission data vehicles and engines. (1) Adjustment of engine idle speed on emission data vehicles may be performed once before the low-mileage/low-hour emission test point. Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on emission data vehicles shall be performed only with the advance approval of the Administrator.

(2)–(3) [Reserved]

(4) Repairs to vehicle components of an emission data vehicle other than the engine, emission control system, or fuel system, shall be performed only as a result of part failure, vehicle system malfunction, or with the advance approval of the Administrator.

(f) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets and:

(1) Are used in conjunction with scheduled maintenance on such components; or

(2) Are used subsequent to the identification of a vehicle or engine malfunction, as provided in paragraph (d)(2) of this section for durability data vehicles or in paragraph (e)(1) of this section for emission data vehicles; or

(3) Unless specifically authorized by the Administrator.

(g) [Reserved]

(h) All test data, maintenance reports, and required engineering reports shall be compiled and provided to the Administrator in accordance with §86.090–23.


§ 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) [Reserved]

(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)–(5) [Reserved]

(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) [Reserved]

(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.

(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)–(ii) [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)(ii) 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 family of the same engine displacement-exhaust emission control 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) (1) 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) [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 of the items listed in paragraph (c)(i)(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 conducted 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) [Reserved]
(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 offered an opportunity for a hearing conducted in accordance with §86.1014.

§ 86.095–35 Labeling.

(a) The manufacturer of any motor vehicle (or motor vehicle engine) subject to the applicable emission standards (and family emission limits, as appropriate) of this subpart, shall, at the time of manufacture, affix a permanent legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles (or engines) available for sale to the public and covered by a Certificate of Conformity under §86.091–30(a).

(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.

(3) A statement that the vehicles or engines described in the manufacturer’s application for certification are not equipped with auxiliary emission control devices which can be classified as a defeat device as defined in §86.092–2.

(4) A statement of compliance with section 206(a)(3) of the Clean Air Act (42 U.S.C. 7525(a)(3)).

(5) A statement that, based on the manufacturer’s engineering evaluation and/or emission testing, the light-duty vehicles and light-duty trucks comply with emission standards at high altitude unless exempt under §86.094–8(h) or §86.094–9(h).

(6) [Reserved]

(c)(11)(ii)(D)(7)–(c)(15) [Reserved]

§ 86.095–35 Labeling.

(a) The manufacturer of any motor vehicle (or motor vehicle engine) subject to the applicable emission standards (and family emission limits, as appropriate) of this subpart, shall, at the time of manufacture, affix a permanent legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles (or engines) available for sale to the public and covered by a Certificate of Conformity under §86.091–30(a).

(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.”

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(4) A statement of compliance with section 206(a)(3) of the Clean Air Act (42 U.S.C. 7525(a)(3)).

(5) A statement that, based on the manufacturer’s engineering evaluation and/or emission testing, the light-duty vehicles and light-duty trucks comply with emission standards at high altitude unless exempt under §86.094–8(h) or §86.094–9(h).

(6) [Reserved]

(c)(11)(ii)(D)(7)–(c)(15) [Reserved]