(ii) The supplemental sheet shall contain all of the information specified in paragraph (c) of this section.

[45 FR 78461, Nov. 25, 1980, as amended at 54 FR 32593, Aug. 8, 1989]

§ 85.2120 Maintenance and submittal of records.

(a) For each certified aftermarket part, the aftermarket part manufacturer must establish, maintain and retain for 5 years the following adequately organized and indexed records:

(1) Detailed production drawings showing all dimensions, tolerances, performance requirements and material specifications and any other information necessary to completely describe the part;

(2) A description of the testing program, including all production part sampling techniques used to verify compliance of the certified aftermarket part with the applicable Emission-Critical Parameters and durability requirements;

(3) All data obtained during testing of the part and subsequent analyses based on that data, including the milege and the vehicle or engine configuration determinants if emission testing is utilized as the basis for certification;

(4) All information used in determining those vehicles for which the part is represented as being equivalent from an emissions standpoint to the original equipment part;

(5) A description of the quality control plan used to monitor production and assure compliance of the part with the applicable certification requirements;

(6) All data taken in implementing the quality control plan, and any subsequent analyses of that data;

(7) A description of all the methodology, analysis, testing and/or sampling techniques used to ascertain the emission critical parameter specifications of the originial equipment part; and

(8) All in-service data, analyses performed by the manufacturer and correspondence with vendors, distributors, consumers, retail outlets or vehicle manufacturers regarding any design, production or in-service problems associated with 25 or more of any certified part.

(b) The records required to be maintained in paragraph (a) of this section shall be made available to the Agency upon the written request of the MOD Director.

(c) For parts certified only for vehicles with less than 5 years of emission performance warranty coverage remaining, records must be kept for 3 years or until they determine that approximately 80% of the applicable vehicles are outside the warranty period, whichever occurs second.

(d) This section shall expire 5 years from the effective date of this regulation unless renewed prior to that date.

[45 FR 78461, Nov. 25, 1980]

§ 85.2121 Decertification.

(a) The MOD Director may notify an aftermarket part manufacturer that the Agency has made a preliminary determination that one or more parts should be decertified.

(1) Such a preliminary determination may be made if there is reason to believe that the part manufactured has failed to comply with §§ 85.2112 through 85.2122. Information upon which such a determination will be made includes but is not limited to the following.

(i) Tests required to be performed to demonstrate compliance of the part with the applicable Emission-Critical Parameters

(A) Were not performed on the part(s), or

(B) Were insufficient to demonstrate compliance;

(ii) The part was certified on the basis of emission tests, and

(A) The procedures used in such tests were not in substantial compliance with a portion or portions of the Federal Test Procedure which were not waived pursuant to § 85.2114(d);

(B) The emission results were not in compliance with the requirements of § 85.2114(d); or

(C) The procedures used for part aging for durability demonstration were not in substantial compliance with the durability cycle required by § 85.2114.

(iii) Use of the certified part is causing vehicle emissions to exceed emission requirements for any regulated pollutant;

(iv) Use of the certified part causes or contributes to an unreasonable risk to public health, welfare or safety or severely degrades drivability operation or function;

(v) The part has been modified in a manner requiring recertification pursuant to § 85.2118; or

(vi) The manufacturer of such parts has not established, maintained or retained the records required pursuant to § 85.2120 or fails to make the records available to the MOD Director upon written request pursuant to § 85.2120.

(vii) Documentation required to support the type of durability demonstration used for a part under § 85.2114:

(A) Were not submitted for the part, or

(B) Were insufficient to justify a claim of durability exemption status.

(viii) The aftermarket part manufacturer failed to pay a lost arbitration settlement within 30 days of the arbitrator's decision or within 30 days after completion of judicial review, if any.

(2) Notice of a preliminary determination to decertify shall contain:

(i) A description of the noncomplying part(s);

(ii) The basis for the MOD Director's preliminary decision; and

(iii) The date by which the manufacturer must

(A) Terminate the sale of the part as a certified part, or

(B) Make the necessary change (if so recommended by the Agency), and

(C) Request an opportunity in writing to dispute the allegations of the preliminary decertification.

(b) If the aftermarket part manufacturer requests an opportunity to respond to the preliminary determination, the manufacturer and other parties interested in the MOD Director's decision whether to decertify a part may, within 15 days of the date of the request, submit written presentations, including the relevant information and data, to the MOD Director. The MOD Director, in his or her discretion, may provide an opportunity for oral presentations.

(1) Any interested party may request additional time to respond to the information submitted by the part manufacturer. The MOD Director upon a showing of good cause by the interested party may grant an extension of time to reply up to 30 days.

(2) The part manufacturer may have an extension of up to 30 days to reply to information submitted by interested parties. Notification of intent to reply shall be submitted to the MOD Director within 10 days of the date information from interested parties is submitted to the MOD Director.

(c) If a part manufacturer has disputed the allegations of the preliminary decisions, the MOD Director shall, after reviewing any additional information, notify the aftermarket part manufacturer of his or her decision whether the part may continue to be sold as certified. This notification shall include an explanation upon which the decision was made and the effective date for decertification, where appropriate.

(d) Within 20 days from the date of a decision made pursuant to paragraph (c) of this section, any adversely affected party may appeal the decision to the Office Director.

(1) A petition for appeal to the Office Director must state all of the reasons why the decision of the MOD Director should be reversed.

(2) The Office Director may, in his or her discretion, allow additional oral or written testimony.

(3) If no appeal is filed with the Office Director within the permitted time period, the decision of the MOD Director shall be final.

(e) If a final decision is made to decertify a part under paragraph (d) of this section, the manufacturer of such part shall notify his immediate customers (other than retail customers) that, as of the date of the final determination, the part in question has been decertified. The part manufacturer shall offer to replace decertified parts in the customer's inventory with certified replacement parts or, if unable to do so, shall at the customer's request repurchase such inventory at a reasonable price.

(f) Notwithstanding the requirements of paragraph (e) of this section, a part

purchased by a vehicle owner as certified, shall be considered certified pursuant to this subpart.

[45 FR 78462, Nov. 25, 1980, as amended at 54 FR 32593, Aug. 8, 1989]

§ 85.2122 Emission-critical parameters.

(a) The following parts may be certified in accordance with § 85.2114(b):

(1) *Carburetor Vacuum Break (Choke Pull-Off).* (i) The emission-critical parameters for carburetor vacuum breaks are:

(A) Diaphragm Displacement.

(B) Timed Delay.

(C) Modulated Stem Displacement.

(D) Modulated Stem Displacement Force.

(E) Vacuum Leakage.

(ii) For the purposes of this paragraph:

(A) "Diaphragm Displacement" means the distance through which the center of the diaphragm moves when activated. In the case of a non-modulated stem, diaphragm displacement corresponds to stem displacement.

(B) "Timed Delay" means a delayed diaphragm displacement controlled to occur within a given time period.

(C) "Modulated Stem Displacement" means the distance through which the modulated stem may move when actuated independent of diaphragm displacement.

(D) "Modulated Stem Displacement Force" means the amount of force required at start and finish of a modulated stem displacement.

(E) "Vacuum Leakage" means leakage into the vacuum cavity of a vacuum break.

(F) "Vacuum Break" ("Choke Pull-off") means a vacuum-operated device to open the carburetor choke plate a predetermined amount on cold start.

(G) "Modulated Stem" means a stem attached to the vacuum break diaphragm in such a manner as to allow stem displacement independent of diaphragm displacement.

(H) "Vacuum Purge System" means a vacuum system with a controlled air flow to purge the vacuum system of undesirable manifold vapors.

(2) *Carburetor Choke Thermostats.* (i) The emission-critical parameters for all Choke Thermostats are:

(A) Thermal Deflection Rate.

(B) Mechanical Torque Rate.

(C) Index Mark Position.

(ii) The emission-critical parameters for Electrically-Heated Choke Thermostats are:

(A) Those parameters set forth in paragraph (a)(2)(i) of this section

(B) Time to rotate coil tang when electrically energized

(C) Electrical circuit resistance

(D) Electrical switching temperature

(iii) For the purpose of this paragraph:

(A) "Choke" means a device to restrict air flow into a carburetor in order to enrich the air/fuel mixture delivered to the engine by the carburetor during cold-engine start and cold-engine operation.

(B) "Thermostat" means a temperature-actuated device.

(C) "Electrically-heated Choke" means a device which contains a means for applying heat to the thermostatic coil by electrical current.

(D) "Thermostatic Coil" means a spiral-wound coil of thermally-sensitive material which provides rotary force (torque) and/or displacement as a function of applied temperature.

(E) "Thermostatic Switch" means an element of thermally-sensitive material which acts to open or close an electrical circuit as a function of temperature.

(F) "Mechanical Torque Rate" means a term applied to a thermostatic coil, defined as the torque accumulation per angular degree of deflection of a thermostatic coil.

(G) "Thermal Deflection Rate" means the angular degrees of rotation per degree of temperature change of the thermostatic coil.

(H) "Index or Index Mark" means a mark on a choke thermostat housing, located in a fixed relationship to the thermostatic coil tang position to aid in assembly and service adjustment of the choke.

(I) "PTC Type Choke Heaters" means a positive termperature coefficient resistant ceramic disc capable of providing heat to the thermostatic coil when electrically energized.

(3) *Carburetor Accelerator Pumps.* (i) The emission-critical parameter for accelerator pumps (plungers or diaphragms) is the average volume of fuel