

§ 86.1007-84

40 CFR Ch. I (7-1-00 Edition)

and access as authorized in this section only upon the consent of the recipient of the test order or the party in charge of the facilities in question.

(f) It is not a violation of this part or the Clean Air Act for any person to refuse to permit EPA Enforcement Officers to conduct activities related to entry and access as authorized in this section without a warrant or court order.

(g) A manufacturer is responsible for locating its foreign testing and manufacturing facilities in jurisdictions in which local foreign law does not prohibit EPA Enforcement Officers from conducting the entry and access activities specified in this section. EPA will not attempt to make any inspections which it has been informed that local foreign law prohibits.

(h) For purposes of this section, the following definitions are applicable:

(1) *Presentation of Credentials* means display of the document designating a person as an EPA Enforcement Officer.

(2) Where engine or vehicle storage areas or facilities are concerned, *operating hours* means all times during which personnel other than custodial personnel are at work in the vicinity of the area or facility and have access to it.

(3) Where facilities or areas other than those covered by paragraph (h)(2) of this section are concerned, *operating hours* means all times during which an assembly line is in operation, engine or vehicle assembly is taking place, testing, repair, service accumulation, production or compilation of records is taking place, or any other procedure or activity related to engine or vehicle manufacture, assembly or testing is being carried out in a facility.

(4) *Reasonable assistance* includes, but is not limited to, clerical, copying, interpreting and translating services, and the making available on an EPA Enforcement Officer's request of personnel of the facility being inspected during their working hours to inform the EPA Enforcement Officer of how the facility operates and to answer his or her questions. Any employee whom an EPA Enforcement Officer requests the manufacturer to cause to appear for questioning will be entitled to be

accompanied, represented and advised by counsel.

[45 FR 63772, Sept. 25, 1980, as amended at 48 FR 52208, Nov. 16, 1983]

§ 86.1007-84 Sample selection.

(a) Engines or vehicles comprising a test sample which are required to be tested, pursuant to a test order issued in accordance with this subpart, will be selected at the location and in the manner specified in the test order. If a manufacturer determines that the test engines or vehicles cannot be selected in the manner specified in the test order, an alternative selection procedure may be employed: *Provided*, That the manufacturer requests approval of the alternative procedure in advance of the start of test sample selection and that the Administrator approves the procedure.

(b) The manufacturer shall have assembled the test engines or vehicles of the configuration selected for testing using its normal mass production process for engines or vehicles to be distributed into commerce. During the audit, the manufacturer shall inform the Administrator of any change(s) implemented in its production processes, including quality control, which may reasonably be expected to affect the emissions of the vehicles or engines selected, between the time the manufacturer is notified of a test order and the time the manufacturer finishes selecting test vehicles or engines. In the case of heavy-duty engines, if the test engines are selected at a location where they do not have their operational and emission control systems installed, the test order will specify the manner and location for selection of components to complete assembly of the engines. The manufacturer shall assemble these components onto the test engines using normal assembly and quality control procedures as documented by the manufacturer.

(c) No quality control, testing, or assembly procedures will be used on the completed test engine or vehicle or any portion thereof, including parts and subassemblies, that has not been or will not be used during the production and assembly of all other engines or vehicles of that configuration, except, that the Administrator may approve a

modification in the normal assembly procedures pursuant to paragraph (b) of this section.

(d) The test order may specify that EPA Enforcement Officers, rather than the manufacturer, will select the test engines or vehicles according to the method specified in the test order.

(e) The order in which test engines or vehicles are selected determines the order in which test results are to be used in applying the sampling plan in accordance with § 86.1010-84.

(f) The manufacturer shall keep on hand all untested engines or vehicles, if any, comprising the test sample until such time as a pass or fail decision is reached in accordance with § 86.1010-84(d). The manufacturer may ship any tested engine or vehicle which has not failed in accordance with § 86.1010-84(b). However, once the manufacturer ships any test engine or vehicle, it relinquishes the prerogative to conduct retests as provided in § 86.1008-84(i).

[45 FR 63772, Sept. 25, 1980, as amended at 48 FR 52208, Nov. 16, 1983]

§ 86.1008-90 Test procedures.

(a)(1)(i) For heavy-duty engines, the prescribed test procedure is the Federal Test Procedure, as described in subparts N, I, and P of this part.

(ii) For heavy-duty vehicles with a GVW of less than 14,000 pounds (6,400 kilograms), the prescribed test procedure is the Fuel Dispensing Spitback Test as described in 86.1246-96 of this part. The test for fuel spitback is conducted as a stand-alone test, thus all references to the test sequence described in figure M96-1 of subpart M of this part can be ignored.

(iii) During the testing of heavy-duty diesel engines, the manufacturer shall decide for each engine, prior to the start of the initial cold cycle, whether the measurement of background particulate is required for the cold and hot cycles to be valid. The manufacturer may choose to have different requirements for the cold and hot cycles. If a manufacturer chooses to require the measurement of background particulate, failure to measure background particulate shall void the test cycle regardless of the test results. If a test cycle is void, the manufacturer shall

retest using the same validity requirements of the initial test.

(2) For light-duty trucks, the prescribed test procedure is the Federal Test Procedure as described in subparts B, P, and/or C of this part. The manufacturer shall not perform the evaporative emission test procedures contained in subpart B of this part. The Administrator may, based on advance application by a manufacturer, approve optional test procedures for use in Selective Enforcement Audit testing.

(3) When testing light-duty trucks the following exceptions to the test procedures in subpart B are applicable:

(i) For mileage accumulation, the manufacturer may use test fuel meeting the specifications of mileage and service accumulation fuels of § 86.113. Otherwise, the manufacturer may use fuels other than those specified in this section only with the advance approval of the Administrator.

(ii) The manufacturer may measure the temperature of the test fuel at other than the approximate mid-volume of the fuel tank, as specified in § 86.131-96(a) with only a single temperature sensor, and may drain the test fuel from other than the lowest point of the tank, as specified in § 86.131-96(b), provided an equivalent method is used. Equivalency documentation shall be maintained by the manufacturers and shall be made available to the Administrator upon request.

(iii) The manufacturer may perform additional preconditioning on SEA test vehicles other than the preconditioning specified in § 86.132 only if the additional preconditioning had been performed on certification test vehicles of the same configuration.

(iv) If the Administrator elects to use the evaporative canister preconditioning procedure described in § 86.132-96(k), the manufacturer shall perform the heat build procedure 11 to 34 hours following vehicle preconditioning rather than according to the time period specified in § 86.133-90(a). All references in § 86.133-90 to an evaporative emission enclosure (SHED) and analyzing for HC during the heat build can be ignored.

(v) The manufacturer may substitute slave tires for the drive wheel tires on the vehicle as specified in paragraph (e)