

the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. The manufacturer may request a hearing on the Administrator's determination.

(ii) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any vehicles represented by a test vehicle(s) determined not in compliance with applicable standards:

(A) Request a hearing.

(B) Delete from the application for certification the vehicles represented by the failing test vehicle. (Vehicles so deleted may be included in a later request for certification under paragraph (b)(2)(iii) of this section.) The Administrator will then select in place of each failing vehicle an alternate vehicle chosen in accordance with selection criteria employed in selecting the vehicle that failed, or

(C) Repair the test vehicle and demonstrate by testing that it meets applicable standards. Another vehicle which is in all material respects the same as the first vehicle, as repaired, shall then be operated and tested in accordance with applicable test procedures.

(iii) If the manufacturer does not request a hearing or present the required data under subparagraph (2) of this paragraph, the Administrator will deny certification.

(b) New motorcycles produced by a manufacturer whose projected sales in the United States is less than 10,000 units (for the model year in which certification is sought) are covered by the following:

(1) The manufacturer shall submit to the Administrator an application for certification containing the following:

(i) A brief description of the vehicles to be covered by the certificate (the manufacturer's sales data book or advertising including specifications will satisfy this requirement for most manufacturers).

(ii) A statement signed by the authorized representative of the manufacturer stating: "The vehicles described herein have been tested in accordance with the provisions of subpart E, part 86, title 40, of the Code of Federal Regulations, and on the basis of these 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 Administrator. Total sales of vehicles subject to this subpart will be limited to less than 10,000 units."

(2) If, after a review of the statement the Administrator determines that the requirements of this subpart have been met, he will issue a certificate of conformity with respect to the described vehicles except in cases covered by § 86.442.

(3) Such certificate will be issued for such a period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motorcycle covered by the certificate will meet the requirements of the Act and of this subpart.

(4) The certificate will cover all vehicles described by the manufacturer.

(5)(i) If, after a review of the statements and descriptions submitted by the manufacturer, the Administrator determines that the applicable requirements have not been met, he will notify the manufacturer in writing, setting forth the basis for his determination. The manufacturer may request a hearing on the Administrator's determination.

(ii) If the manufacturer does not request a hearing or present the required information the Administrator will deny certification.

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**§ 86.438-78 Amendments to the application.**

(a) The manufacturer shall inform the Administrator by way of amendment to the application of any proposed changes to vehicles in production or additional vehicles to be produced. The Administrator will, if appropriate, select a new test vehicle. Except as provided in § 86.439, no changes may be instituted until approved by the Administrator.

(b) The Administrator may allow reduced testing.