

pollutant may not be considered any further for purposes of the audit.

(2) CST criteria only. For CST testing pursuant to subpart O, a pass or fail decision is determined according to the pass/fail criteria described in paragraph (c)(1) of this section, except that for each vehicle, the CST in its entirety is considered one pollutant.

(d) Passing or failing of an SEA audit occurs when the decision is made on the last vehicle required to make a decision under paragraph (c) of this section.

(e) The Administrator may terminate testing earlier than required in paragraph (c) of this section.

[59 FR 16304, Apr. 6, 1994]

**§ 86.612-84 Suspension and revocation of certificates of conformity.**

(a) The certificate of conformity is suspended with respect to any vehicle failing pursuant to paragraph (b) of § 86.610 effective from the time that testing of that vehicle is completed.

(b) The Administrator may suspend the certificate of conformity for a configuration which does not pass a Selective Enforcement Audit pursuant to paragraph § 86.610(c) based on the first test, or all tests, conducted on each vehicle. This suspension will not occur before ten days after failure to pass the audit.

(c) If the results of vehicle testing pursuant to these regulations indicate the vehicles of a particular configuration produced at more than one plant do not conform to the regulations with respect to which the certificate of conformity was issued, the Administrator may suspend the certificate of conformity with respect to that configuration for vehicles manufactured by the manufacturer in other plants of the manufacturer.

(d) The Administrator will notify the manufacturer in writing of any suspension or revocation of a certificate of conformity in whole or in part: Except, That the certificate of conformity is immediately suspended with respect to any vehicle failing pursuant to § 86.610(a) and as provided for in paragraph (a) of this section.

(e) The Administrator may revoke a certificate of conformity for a configuration when the certificate has been

suspended pursuant to paragraph (b) or (c) of this section if the proposed remedy for the nonconformity, as reported by the manufacturer to the Administrator, is one requiring a design change(s) to the engine and/or emission control system as described in the Application for Certification of the affected configuration.

(f) Once a certificate has been suspended for a failed vehicle as provided for in paragraph (a) of this section, the manufacturer must take the following actions:

(1) Before the certificate is reinstated for that failed vehicle,

(i) Remedy the nonconformity, and

(ii) Demonstrate that the vehicle's final deteriorated test results conform to the applicable emission standards or family particulate emission limits, as defined in part 86 by retesting the vehicle in accordance with these regulations.

(2) Submit a written report to the Administrator within thirty days after successful completion of testing on the failed vehicle, which contains a description of the remedy and test results for the vehicle in addition to other information that may be required by this regulation.

(g) Once a certificate has been suspended pursuant to paragraph (b) or (c) of this section, the manufacturer must take the following actions before the Administrator will consider reinstating such certificate:

(1) Submit a written report to the Administrator which identifies the reason for the noncompliance of the vehicles, describes the proposed remedy, including a description of any proposed quality control and/or quality assurance measures to be taken by the manufacturer to prevent the future occurrence of the problem, and states the date on which the remedies will be implemented, and

(2) Demonstrate that the vehicle configuration for which the certificate of conformity has been suspended does in fact comply with these regulations by testing vehicles selected from normal production runs of that vehicle configuration, at the plant(s) or the facilities specified by the Administrator, in accordance with the conditions specified in the initial test order; *except,*

that if the Administrator has not revoked the certificate pursuant to paragraph (e) of this section and if the manufacturer elects to continue testing individual vehicles after suspension of a certificate, the certificate is reinstated for any vehicle actually determined to have its final deteriorated test results in conformance with the applicable standards through testing in accordance with the applicable test procedures.

(h) Once a certificate for a failed configuration has been revoked under paragraph (e) of this section and the manufacturer desires to introduce into commerce a modified version of that configuration, the following actions will be taken before the Administrator may issue a certificate for the new configuration:

(1) If the Administrator determines that the proposed change(s) in vehicle design may have an effect on emission performance deterioration and/or fuel economy, he shall notify the manufacturer within 5 working days after receipt of the report in paragraph (g) of this section whether subsequent testing under this subpart will be sufficient to evaluate the proposed change(s) or whether additional testing will be required; and

(2) After implementing the change(s) intended to remedy the nonconformity, the manufacturer shall demonstrate that the modified vehicle configuration does in fact conform with these regulations by testing vehicles selected from normal production runs of that modified vehicle configuration in accordance with the conditions specified in the initial test order. The Administrator shall consider this testing to satisfy the testing requirements of § 86.079-32 or § 86.079-33 if the Administrator had so notified the manufacturer. If the subsequent testing results in passing of the audit, the Administrator shall reissue or amend the certificate, if necessary, to include that configuration: *Provided*, That the manufacturer has satisfied the testing requirements specified in paragraph (h)(1) of this section. If the subsequent audit is failed, the revocation remains in effect. Any design change approvals under this subpart are limited to the

modification of the configuration specified by the test order.

(i) A manufacturer may at any time subsequent to an initial suspension of a certificate of conformity with respect to a test vehicle pursuant to paragraph (a) of this section, but not later than fifteen (15) days or such other period as may be allowed by the Administrator after notification of the Administrator's decision to suspend or revoke a certificate of conformity in whole or in part pursuant to paragraph (b), (c) or (e) of this section, request that the Administrator grant such manufacturer a hearing as to whether the tests have been properly conducted or any sampling methods have been properly applied.

(j) After the Administrator suspends or revokes a certificate of conformity pursuant to this section or notifies a manufacturer of his intent to suspend, revoke or void a certificate of conformity under paragraph (d) of § 86.084-30, and prior to the commencement of a hearing under § 86.614, if the manufacturer demonstrates to the Administrator's satisfaction that the decision to suspend, revoke or void the certificate was based on erroneous information, the Administrator shall reinstate the certificate.

(k) To permit a manufacturer to avoid storing non-test vehicles when conducting an audit of a configuration subsequent to suspension or revocation of the certificate of conformity for that configuration, resulting from failure of the initial audit of that configuration, he may request that the Administrator conditionally reinstate the certificate for that configuration. The Administrator may reinstate the certificate subject to the condition that the manufacturer consents to recall all vehicles of that configuration produced from the time the certificate is conditionally reinstated if the configuration fails the subsequent audit and to remedy any nonconformity at no expense to the owner.

[41 FR 31483, July 28, 1976, as amended at 43 FR 4553, Feb. 2, 1978; 49 FR 48484, Dec. 12, 1984. Redesignated at 54 FR 2123, Jan. 19, 1989]