

## Environmental Protection Agency

## § 89.703

new certificates or to deem the ICI ineligible to perform modification/testing under § 89.609, that the Administrator grant such ICI a hearing:

(A) As to whether the tests, if applicable, have been properly conducted,

(B) As to any substantial factual issue raised by the Administrator's proposed action.

(iv) If, after the Administrator notifies an ICI of the intent to suspend or revoke the ICI's certificate of conformity or to deem the ICI ineligible to apply for new certificates or to deem the ICI ineligible to perform modification/testing under § 89.609 and prior to any final suspension or revocation, the ICI demonstrates to the Administrator's satisfaction that the decision to initiate suspension or revocation of the certificate of conformity or eligibility to perform modification/testing under § 89.609 was based on erroneous information, the Administrator will withdraw the notice of intent.

(4) Hearings on suspensions and revocations of certificates of conformity or of eligibility to apply for new certificates or of eligibility to perform modification/testing under § 89.609 will be held in accordance with the following:

(i) The procedures prescribed by this section will apply whenever an ICI requests a hearing pursuant to paragraph (e)(3)(iii) of this section.

(ii) Hearings under paragraph (e)(3)(iii) will be held in accordance with the procedures outlined in § 86.614 of this chapter, where applicable, provided that where § 86.612 is referred to in § 86.614: § 86.612(a) is replaced by § 89.612(e)(2); and § 86.612(i) is replaced by § 89.612(e)(3)(iii).

(5) When a hearing is requested under this section and it clearly appears from the data or other information contained in the request for a hearing, or submitted at the hearing, that no genuine and substantial question of fact exists with respect to the issue of whether the ICI failed to comply with this subpart, the Administrator will enter an order denying the request for a hearing, or terminating the hearing, and suspending or revoking the certificate of conformity and/or deeming the ICI ineligible to apply for new certifi-

cates or to perform modification/testing under § 89.609.

(6) In lieu of requesting a hearing under paragraph (e)(3)(iii) of this section, an ICI may respond in writing to EPA's charges in the notice of intent to suspend or revoke. An ICI's written response must be received by EPA within 30 days of the date of EPA's notice of intent. No final decision to suspend or revoke will be made before that time.

[59 FR 31335, June 17, 1994. Redesignated at 63 FR 56996, Oct. 23, 1998]

### § 89.613 Treatment of confidential information.

The provisions for treatment of confidential information as described in § 89.7 apply.

[59 FR 31335, June 17, 1994. Redesignated at 63 FR 56996, Oct. 23, 1998]

## Subpart H—Recall Regulations

### § 89.701 Applicability.

The requirements of subpart H are applicable to all nonroad engines subject to the provisions of subpart A of part 89.

### § 89.702 Definitions.

The definitions in subpart A of this part apply to this subpart.

### § 89.703 Applicability of part 85, subpart S.

(a) Nonroad engines subject to provisions of subpart B of this part are subject to recall regulations specified in part 85, subpart S of this title, except for the items set forth in this section.

(b) Reference to section 214 of the Clean Air Act in § 85.1801 is replaced by reference to section 216 of the Clean Air Act.

(c) Reference to section 202 of the Act in § 85.1802(a) is replaced by reference to section 213 of the Act.

(d) Reference to "family particulate emission limits as defined in Part 86 promulgated under section 202 of the Act" in § 85.1803(a) and § 85.1805(a)(1) is replaced by reference to family emission limits as defined in part 89 promulgated under section 213 of the Act.