§ 7525. Motor vehicle and motor vehicle engine compliance testing and certification

(a) Testing and issuance of certificate of conformity

(1) The Administrator shall test, or require to be tested in such manner as he deems appropriate, any new motor vehicle or new motor vehicle engine submitted by a manufacturer to determine whether such vehicle or engine conforms with the regulations prescribed under section 7521 of this title. If such vehicle or engine conforms to such regulations, the Administrator shall issue a certificate of conformity upon such terms, and for such period (not in excess of one year), as he may prescribe. In the case of any original equipment manufacturer (as defined by the Administrator in regulations promulgated before November 15, 1990) of vehicles or vehicle engines whose projected sales in the United States for any model year (as determined by the Administrator) will not exceed 300, the Administrator shall not require, for purposes of determining compliance with regulations under section 7521 of this title for the useful life of the vehicle or engine, operation of any vehicle or engine manufactured during such model year for more than 5,000 miles or 160 hours, respectively, unless the Administrator, by regulation, prescribes otherwise. The Administrator shall apply any adjustment factors that the Administrator deems appropriate to assure that each vehicle or engine will comply during its useful life (as determined under section 7521 (d) of this title) with the regulations prescribed under section 7521 of this title.

(2) The Administrator shall test any emission control system incorporated in a motor vehicle or motor vehicle engine submitted to him by any person, in order to determine whether such system enables such vehicle or engine to conform to the standards required to be prescribed under section 7521 (b) of this title. If the Administrator finds on the basis of such tests that such vehicle or engine conforms to such standards, the Administrator shall issue a verification of compliance with emission standards for such system when incorporated in vehicles of a class of which the tested vehicle is representative. He shall inform manufacturers and the National Academy of Sciences, and make available to the public, the results of such tests. Tests under this paragraph shall be conducted under such terms and conditions (including requirements for preliminary testing by qualified independent laboratories) as the Administrator may prescribe by regulations.

(3) (A) A certificate of conformity may be issued under this section only if the Administrator determines that the manufacturer (or in the case of a vehicle or engine for import, any person) has established to the satisfaction of the Administrator that any emission control device, system, or element of design installed on, or incorporated in, such vehicle or engine conforms to applicable requirements of section 7521 (a)(4) of this title.

(B) The Administrator may conduct such tests and may require the manufacturer (or any such person) to conduct such tests and provide such information as is necessary to carry out subparagraph (A) of this paragraph. Such requirements shall include a requirement for prompt reporting of the emission of any unregulated pollutant from a system, device, or element of design if such pollutant was not emitted, or was emitted in significantly lesser amounts, from the vehicle or engine without use of the system, device, or element of design.

(4) (A) Not later than 12 months after November 15, 1990, the Administrator shall revise the regulations promulgated under this subsection to add test procedures capable of determining whether model year 1994 and later model year light-duty vehicles and light-duty trucks, when properly maintained and used, will pass the inspection methods and procedures established under section 7541 (b) of this title for that model year, under conditions reasonably likely to be encountered in the conduct of inspection and maintenance programs, but which
those programs cannot reasonably influence or control. The conditions shall include fuel characteristics, ambient temperature, and short (30 minutes or less) waiting periods before tests are conducted. The Administrator shall not grant a certificate of conformity under this subsection for any 1994 or later model year vehicle or engine that the Administrator concludes cannot pass the test procedures established under this paragraph.

(B) From time to time, the Administrator may revise the regulations promulgated under subparagraph (A), as the Administrator deems appropriate.

(b) Testing procedures; hearing; judicial review; additional evidence

(1) In order to determine whether new motor vehicles or new motor vehicle engines being manufactured by a manufacturer do in fact conform with the regulations with respect to which the certificate of conformity was issued, the Administrator is authorized to test such vehicles or engines. Such tests may be conducted by the Administrator directly or, in accordance with conditions specified by the Administrator, by the manufacturer.

(2) (A) (i) If, based on tests conducted under paragraph (1) on a sample of new vehicles or engines covered by a certificate of conformity, the Administrator determines that all or part of the vehicles or engines so covered do not conform with the regulations with respect to which the certificate of conformity was issued and with the requirements of section 7521 (a)(4) of this title, he may suspend or revoke such certificate in whole or in part, and shall so notify the manufacturer. Such suspension or revocation shall apply in the case of any new motor vehicles or new motor vehicle engines manufactured after the date of such notification (or manufactured before such date if still in the hands of the manufacturer), and shall apply until such time as the Administrator finds that vehicles and engines manufactured by the manufacturer do conform to such regulations and requirements. If, during any period of suspension or revocation, the Administrator finds that a vehicle or engine actually conforms to such regulations and requirements, he shall issue a certificate of conformity applicable to such vehicle or engine.

(ii) If, based on tests conducted under paragraph (1) on any new vehicle or engine, the Administrator determines that such vehicle or engine does not conform with such regulations and requirements, he may suspend or revoke such certificate insofar as it applies to such vehicle or engine until such time as he finds such vehicle or engine actually so conforms with such regulations and requirements, and he shall so notify the manufacturer.

(B) (i) At the request of any manufacturer the Administrator shall grant such manufacturer a hearing as to whether the tests have been properly conducted or any sampling methods have been properly applied, and make a determination on the record with respect to any suspension or revocation under subparagraph (A); but suspension or revocation under subparagraph (A) shall not be stayed by reason of such hearing.

(ii) In any case of actual controversy as to the validity of any determination under clause (i), the manufacturer may at any time prior to the 60th day after such determination is made file a petition with the United States court of appeals for the circuit wherein such manufacturer resides or has his principal place of business for a judicial review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or other officer designated by him for that purpose. The Administrator thereupon shall file in the court the record of the proceedings on which the Administrator based his determination, as provided in section 2112 of title 28.

(iii) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence
in rebuttal thereof) to be taken before the Administrator, in such manner and upon such
terms and conditions as the court may deem proper. The Administrator may modify his
findings as to the facts, or make new findings, by reason of the additional evidence so
taken and he shall file such modified or new findings, and his recommendation, if any,
for the modification or setting aside of his original determination, with the return of such
additional evidence.

(iv) Upon the filing of the petition referred to in clause (ii), the court shall have
jurisdiction to review the order in accordance with chapter 7 of title 5 and to grant
appropriate relief as provided in such chapter.

(c) Inspection
For purposes of enforcement of this section, officers or employees duly designated by the
Administrator, upon presenting appropriate credentials to the manufacturer or person in charge, are
authorized

(1) to enter, at reasonable times, any plant or other establishment of such manufacturer, for the
purpose of conducting tests of vehicles or engines in the hands of the manufacturer, or
(2) to inspect, at reasonable times, records, files, papers, processes, controls, and facilities used by
such manufacturer in conducting tests under regulations of the Administrator. Each such inspection
shall be commenced and completed with reasonable promptness.

(d) Rules and regulations
The Administrator shall by regulation establish methods and procedures for making tests under this
section.

(e) Publication of test results
The Administrator shall make available to the public the results of his tests of any motor vehicle or
motor vehicle engine submitted by a manufacturer under subsection (a) of this section as promptly as
possible after December 31, 1970, and at the beginning of each model year which begins thereafter.
Such results shall be described in such nontechnical manner as will reasonably disclose to prospective
ultimate purchasers of new motor vehicles and new motor vehicle engines the comparative performance
of the vehicles and engines tested in meeting the standards prescribed under section 7521 of this title.

(f) High altitude regulations
All light duty vehicles and engines manufactured during or after model year 1984 and all light-duty
trucks manufactured during or after model year 1995 shall comply with the requirements of section
7521 of this title regardless of the altitude at which they are sold.

(g) Nonconformance penalty

(1) In the case of any class or category of heavy-duty vehicles or engines to which a standard
promulgated under section 7521 (a) of this title applies, except as provided in paragraph (2),
a certificate of conformity shall be issued under subsection (a) of this section and shall not
be suspended or revoked under subsection (b) of this section for such vehicles or engines
manufactured by a manufacturer notwithstanding the failure of such vehicles or engines to meet
such standard if such manufacturer pays a nonconformance penalty as provided under regulations
promulgated by the Administrator after notice and opportunity for public hearing. In the case of
motorcycles to which such a standard applies, such a certificate may be issued notwithstanding
such failure if the manufacturer pays such a penalty.

(2) No certificate of conformity may be issued under paragraph (1) with respect to any class or
category of vehicle or engine if the degree by which the manufacturer fails to meet any standard
promulgated under section 7521 (a) of this title with respect to such class or category exceeds the
percentage determined under regulations promulgated by the Administrator to be practicable. Such
regulations shall require such testing of vehicles or engines being produced as may be necessary
to determine the percentage of the classes or categories of vehicles or engines which are not in
compliance with the regulations with respect to which a certificate of conformity was issued and shall be promulgated not later than one year after August 7, 1977.

(3) The regulations promulgated under paragraph (1) shall, not later than one year after August 7, 1977, provide for nonconformance penalties in amounts determined under a formula established by the Administrator. Such penalties under such formula—

(A) may vary from pollutant-to-pollutant;
(B) may vary by class or category or vehicle or engine;
(C) shall take into account the extent to which actual emissions of any air pollutant exceed allowable emissions under the standards promulgated under section 7521 of this title;
(D) shall be increased periodically in order to create incentives for the development of production vehicles or engines which achieve the required degree of emission reduction; and
(E) shall remove any competitive disadvantage to manufacturers whose engines or vehicles achieve the required degree of emission reduction (including any such disadvantage arising from the application of paragraph (4)).

(4) In any case in which a certificate of conformity has been issued under this subsection, any warranty required under section 7541 (b)(2) of this title and any action under section 7541 (c) of this title shall be required to be effective only for the emission levels which the Administrator determines that such certificate was issued and not for the emission levels required under the applicable standard.

(5) The authorities of section 7542 (a) of this title shall apply, subject to the conditions of section 7542 (b) ² of this title, for purposes of this subsection.

(h) Review and revision of regulations

Within 18 months after November 15, 1990, the Administrator shall review and revise as necessary the regulations under subsection ³(a) and (b) of this section regarding the testing of motor vehicles and motor vehicle engines to insure that vehicles are tested under circumstances which reflect the actual current driving conditions under which motor vehicles are used, including conditions relating to fuel, temperature, acceleration, and altitude.

Footnotes

1 So in original. Probably should be “light-duty”.
2 See References in Text note below.
3 So in original. Probably should be “subsections”.


References in Text

Section 7542 of this title, referred to in subsec. (g)(5), was amended generally by Pub. L. 101–549, title II, § 211, Nov. 15, 1990, 104 Stat. 2487, and provisions formerly contained in section 7542 (b) of this title are contained in section 7542 (c).

Codification

Section was formerly classified to section 1857f–5 of this title.

Prior Provisions

A prior section 206 of act July 14, 1955, related to testing of motor vehicles and motor vehicle engines and was classified to section 1857f–5 of this title, prior to repeal by Pub. L. 91–604.
Amendments

1990—Subsec. (a)(1). Pub. L. 101–549, § 208(b), inserted new third sentence and struck out former third sentence which read as follows: “In the case of any manufacturer of vehicles or vehicle engines whose projected sales in the United States for any model year (as determined by the Administrator) will not exceed three hundred, the regulations prescribed by the Administrator concerning testing by the manufacturer for purposes of determining compliance with regulations under section 7521 of this title for the useful life of the vehicle or engine shall not require operation of any vehicle or engine manufactured during such model year for more than five thousand miles or one hundred and sixty hours, respectively, but the Administrator shall apply such adjustment factors as he deems appropriate to assure that each such vehicle or engine will comply during its useful life (as determined under section 7521 (d) of this title) with the regulations prescribed under section 7521 of this title.”


Subsec. (f). Pub. L. 101–549, § 230(8), struck out par. (1) designation before “All light duty vehicles”, inserted reference to all light-duty trucks manufactured during or after model year 1995, and struck out par. (2) which required the Administrator to report to Congress by Oct. 1, 1978, on the economic impact and technological feasibility of the requirements of former par. (1).


Subsec. (a)(3). Pub. L. 95–95, § 214(b), added par. (3).

Subsec. (b)(2)(A)(i). Pub. L. 95–95, § 214(c)(1), (2), substituted “certificate of conformity was issued and with the requirements of section 7521 (a)(4) of this title, he may suspend” for “certificate of conformity was issued, he may suspend” and “such regulations and requirements” for “such regulations”.

Subsec. (b)(2)(A)(ii). Pub. L. 95–95, § 214(c)(2), substituted “such regulations and requirements” for “such regulations”.


Subsec. (g). Pub. L. 95–95, § 224(e), added subsec. (g).

Subsec. (g)(3)(D). Pub. L. 95–190 inserted “shall” before “be”.

Effective Date of 1977 Amendment

Amendment by Pub. L. 95–95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95–95, set out as a note under section 7401 of this title.

Effective Date

Section 8(b) of Pub. L. 91–604 provided that: “The amendments made by this section [enacting this section and section 7541 of this title] shall not apply to vehicles or engines imported into the United States before the sixtieth day after the date of enactment of this Act [Dec. 31, 1970].”

Modification or Rescission of Rules, Regulations, Orders, Determinations, Contracts, Certifications, Authorizations, Delegations, and Other Actions

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of this Act [Dec. 31, 1970].”