

**§ 86.605-98**

**40 CFR Ch. I (7-1-03 Edition)**

request which are complete for introduction into commerce.

(d) Nothing in this section shall limit the Administrator's discretion to require the manufacturer to retain additional records or submit information not specifically required by this section.

(e) All reports, submissions, notifications and requests for approvals made under this subpart shall be addressed to:

Director, Manufacturers Operations Division  
EN-340, U.S. Environmental Protection Agency,  
1200 Pennsylvania Ave., NW.,  
Washington, DC 20460.

[41 FR 31483, July 28, 1976, as amended at 44 FR 61962, Oct. 29, 1979; 49 FR 48481, Dec. 12, 1984. Redesignated at 54 FR 2123, Jan. 19, 1989]

**§ 86.605-98 Maintenance of records; submittal of information.**

Section 86.605-98 includes text that specifies requirements that differ from § 86.605-88. Where a paragraph in § 86.605-88 is identical and applicable to § 86.605-98, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.605-88." Where a corresponding paragraph of § 86.605-88 is not applicable, this is indicated by the statement "[Reserved]."

(a) through (a)(1)(i)(D) [Reserved]. For guidance see § 86.605-88.

(E) Refueling Enclosure (Refueling SHED).

- (1) Total internal volume.
- (2) Capacity of mixing blower.
- (3) Location of refueling access ports.
- (4) Enclosure barometric pressure and ambient temperature.
- (5) Soak area temperature records.
- (F) Fuel Dispenser for Refueling.
  - (1) Fuel dispensing rate.
  - (2) Manufacturer and model of fuel nozzle.
  - (3) Dispensed fuel temperature.
  - (4) Dispensed fuel volume.

(a)(1)(ii) through (e) [Reserved]. For guidance see § 86.605-88.

(2) [Reserved]

[59 FR 16301, Apr. 6, 1994]

**§ 86.606-84 Entry and access.**

(a) In order to allow the Administrator to determine whether a manufacturer is complying with the provi-

sions of this subpart and a test order issued thereunder, EPA Enforcement Officers may enter during normal operating hours upon presentation of credentials any of the following:

(1) Any facility where any vehicle to be introduced into commerce or any emission-related component is or has been manufactured, assembled, or stored;

(2) Any facility where any tests conducted pursuant to a test order or any procedures or activities connected with such tests are or were performed;

(3) Any facility where any vehicle which is being, was, or is to be tested is present; and

(4) Any facility where any record or other document relating to any of the above is located.

(b) Upon admission to any facility referred to in paragraph (a) of this section, EPA Enforcement Officers may:

(1) Inspect and monitor any part or aspect of vehicle manufacturer, assembly, storage, testing and other procedures, and the facilities in which these procedures are conducted;

(2) Inspect and monitor any part or aspect of vehicle test procedures or activities, including, but not limited to, vehicle selection, preparation, mileage accumulation, preconditioning, emission tests, and maintenance; and verify calibration of test equipment;

(3) Inspect and make copies of any records or documents related to the assembly, storage, selection and testing of a vehicle in compliance with a test order; and

(4) Inspect and photograph any part or aspect of any vehicle and any component used in its assembly that is reasonably related to the purpose of the entry.

(c) EPA Enforcement Officers may obtain reasonable assistance without cost from those in charge of a facility to help them perform any function listed in this subpart and may request the recipient of a test order to arrange with those in charge of a facility operated for its benefit to furnish reasonable assistance without cost to EPA whether or not the recipient controls the facility.

(d) EPA Enforcement Officers may seek a warrant or court order authorizing the EPA Enforcement Officers to

conduct activities related to entry and access as authorized in this section. EPA Enforcement Officers may proceed *ex parte* to obtain a warrant whether or not the Enforcement Officers first sought permission from the recipient of the test order or the party in charge of the facilities in question to conduct those activities related to entry and access.

(e) A recipient of a test order shall permit EPA Enforcement Officers who present a warrant or court order as described in paragraph (d) of this section to conduct activities related to entry and access as authorized in this section and as described in the warrant or court order. A recipient of a test order shall cause those in charge of its facility or a facility operated for its benefit to permit EPA Enforcement Officers to conduct these activities related to entry and access pursuant to a warrant or court order whether or not the recipient controls the facility. In the absence of such a warrant or court order, EPA Enforcement Officers may conduct those activities related to entry and access only upon the consent of either 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:

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

(2) Where 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, vehicle assembly is occurring, or testing, repair, mileage accumulation, production or compilation of records, or any other procedure or activity related to testing, or to vehicle manufacture or assembly, is being conducted in a facility.

(4) *Reasonable assistance* includes, but is not limited to, providing clerical, copying, interpreting and translating services and, at the request of an EPA Enforcement Officer, making available personnel of the facility being inspected during their working hours to provide information relevant to the Enforcement Officer's activities authorized in this section. Any employee whom a manufacturer has instructed to appear at the request of an Enforcement Officer may be accompanied, represented, and advised by counsel.

[41 FR 31483, July 28, 1976, as amended at 49 FR 48481, Dec. 12, 1984. Redesignated at 54 FR 2123, Jan. 19, 1989]

#### § 86.607-84 Sample selection.

(a) 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 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. Special order vehicles are exempt from sample selection unless a test sample cannot be completed otherwise.

(b) The manufacturer shall have assembled the test vehicles of the configuration selected for testing using its normal mass production processes for 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