

Environmental Protection Agency

§ 94.506

Radiation or the Assistant Administrator for Enforcement and Compliance Assurance, and served on the manufacturer, a manufacturer may be compelled to cause the personal appearance of any employee at such a facility before an EPA enforcement officer. Any such employee who has been instructed by the manufacturer to appear will be entitled to be accompanied, represented, and advised by counsel.

(d) EPA enforcement officers are authorized to seek a warrant or court order authorizing the EPA enforcement officers to conduct the activities authorized in this section, as appropriate, to execute the functions specified in this section. EPA enforcement officers may proceed *ex parte* to obtain a warrant or court order whether or not the EPA enforcement officers first attempted to seek permission from the manufacturer or the party in charge of the facility(ies) in question to conduct the activities authorized in this section.

(e) A manufacturer is responsible for locating its foreign testing and manufacturing facilities in jurisdictions where local law does not prohibit an EPA enforcement officer(s) from conducting the activities specified in this section. EPA will not attempt to make any inspections which it has been informed local foreign law prohibits.

§ 94.505 Sample selection for testing.

(a) At the start of each model year, the manufacturer will begin to select engines from each Category 1 and Category 2 engine family for production line testing. Each engine will be selected from the end of the production line. Testing shall be performed throughout the entire model year to the extent possible. Engines selected shall cover the broadest range of production possible.

(1)(i) The required sample size for Category 1 engine manufacturers is one percent of projected annual U.S.-directed production for all Category 1 engine families, provided that no engine tested fails to meet applicable emission standards. Test engines shall include a proportional sample from each engine family. The required sample size is zero if a manufacturer's projected annual

production for all Category 1 engine families is less than 100.

(ii) The required sample size for a Category 2 engine family is one percent of projected annual U.S.-directed production for that engine family, with a minimum sample size of one test per model year provided that no engine tested fails to meet applicable emission standards.

(2) Manufacturers may elect to test additional engines. All additional engines must be tested in accordance with the applicable test procedures of this part.

(3) The Administrator may reject any engines selected by the manufacturer if he/she determines that such engines are not representative of actual production.

(b) The manufacturer must assemble the test engines using the same mass production process that will be used for engines to be introduced into commerce.

(c) No quality control, testing, or assembly procedures will be used on any test engine or any portion thereof, including parts and subassemblies, that have not been or will not be used during the production and assembly of all other engines of that family, except with the approval of the Administrator.

[64 FR 73331, Dec. 29, 1999, as amended at 68 FR 9787, Feb. 28, 2003]

§ 94.506 Test procedures.

(a)(1) For engines subject to the provisions of this subpart, the prescribed test procedures are those procedures described in Subpart B of this part, except as provided in this section.

(2) The Administrator may, on the basis of a written application by a manufacturer, prescribe test procedures other than those specified in paragraph (a)(1) of this section for any engine he/she determines is not susceptible to satisfactory testing using procedures specified in paragraph (a)(1) of this section.

(3) If test procedures other than those in Subpart B of this part were used in certification of the engine family being tested under this subpart (other than alternate test procedures necessary for testing of a development engine instead of a low hour engine