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the manufacturer or the party in charge of the facility(ies) in question.

(f) It is not a violation of this part or the Clean Air Act for any person to refuse to permit an EPA enforcement officer(s) to conduct the activities authorized in this section if the officer(s) appears without a warrant or court order.

(g) 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 entry and access activities specified in this section. EPA will not attempt to make any inspections which it has been informed local foreign law prohibits.

§ 90.706 Engine sample selection.

(a) At the start of each model year, the small SI engine manufacturer will begin to randomly select engines from each engine family for production line testing at a rate of one percent of the projected production of that family. Each engine will be selected from the end of the assembly line.

(1) *For newly certified engine families:* After two engines are tested, the manufacturer will calculate the required sample size for the model year for each pollutant (HC+NO_x(NMHC+NO_x) and CO) according to the Sample Size Equation in paragraph (b) of this section.

(2) *For carry-over engine families:* After one engine is tested, the manufacturer will combine the test with the last test result from the previous model year and then calculate the required sample size for the model year for each pollutant according to the Sample Size Equation in paragraph (b) of this section.

(b)(1) Manufacturers will calculate the required sample size for the model year for each pollutant for each engine family using the Sample Size Equation in this paragraph. N is calculated for each pollutant from each test result. The higher of the two values for the number N indicates the number of tests required for the model year for an engine family. N is recalculated for each pollutant after each test. Test results used to calculate the variables in the following Sample Size Equation must be final deteriorated test results as specified in § 90.709(c).

$$N = \left[\frac{(t_{95} \times \sigma)}{(x - FEL)} \right]^2 + 1$$

Where:

- N = required sample size for the model year.
- t₉₅ = 95% confidence coefficient. It is dependent on the actual number of tests completed, n, as specified in the table in paragraph (b)(2) of this section. It defines one-tail, 95% confidence intervals.
- σ = actual test sample standard deviation calculated from the following equation:

$$\sigma = \sqrt{\frac{\sum (X_i - x)^2}{n - 1}}$$

- x_i = emission test result for an individual engine.
- x = mean of emission test results of the actual sample.
- FEL = Family Emission Limit or standard if no FEL.
- n = The actual number of tests completed in an engine family.

(2) The following table specifies the Actual Number of Tests (n) & 1-tail Confidence Coefficients (t₉₅):

n	t ₉₅	n	t ₉₅	n	t ₉₅
2	6.31	12	1.80	22	1.72
3	2.92	13	1.78	23	1.72
4	2.35	14	1.77	24	1.71
5	2.13	15	1.76	25	1.71
6	2.02	16	1.75	26	1.71
7	1.94	17	1.75	27	1.71
8	1.90	18	1.74	28	1.70
9	1.86	19	1.73	29	1.70
10	1.83	20	1.73	30	1.70
11	1.81	21	1.72	∞	1.645

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(3) A manufacturer must distribute the testing of the remaining number of engines needed to meet the required sample size N , evenly throughout the remainder of the model year.

(4) After each new test, the required sample size, N , is recalculated using updated sample means, sample standard deviations and the appropriate 95% confidence coefficient.

(5) A manufacturer must continue testing and updating each engine family's sample size calculations according to paragraphs (b)(1) through (b)(4) of this section until a decision is made to stop testing as described in paragraph (b)(6) of this section or a noncompliance decision is made pursuant to § 90.710(b).

(6) If, at any time throughout the model year, the calculated required sample size, N , for an engine family is less than or equal to the actual sample size, n , and the sample mean, x , for HC + NO_x (NMHC+NO_x) and CO is less than or equal to the FEL or standard if no FEL, the manufacturer may stop testing that engine family.

(7) If, at any time throughout the model year, the sample mean, x , for HC + NO_x (NMHC+NO_x) or CO is greater than the FEL or standard if no FEL, the manufacturer must continue testing that engine family at the appropriate maximum sampling rate.

(8) The maximum required sample size for an engine family (regardless of the required sample size, N , as calculated in paragraph (b)(1) of this section) is the lesser of thirty tests per model year or one percent of projected annual production for that engine family for that model year.

(9) Manufacturers may elect to test additional engines. Additional engines, whether tested in accordance with the testing procedures specified in § 90.707 or not, may not be included in the Sample Size and Cumulative Sum equation calculations as defined in paragraph (b)(1) of this section and § 90.708(a), respectively. However, such additional test results may be used as appropriate to "bracket" or define the boundaries of the production duration of any emission nonconformity determined under this subpart. Such additional test data must be identified and

provided to EPA with the submittal of the official CumSum results.

(c) The manufacturer must produce and assemble the test engines using its normal production and assembly process for engines to be distributed into commerce.

(d) No quality control, testing, or assembly procedures shall 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, unless the Administrator approves the modification in production or assembly procedures in advance.

[64 FR 15245, Mar. 30, 1999; 64 FR 34313, June 25, 1999; 64 FR 35256, June 30, 1999; 64 FR 36423, July 6, 1999; 70 FR 40450, July 13, 2005]

§ 90.707 Test procedures.

(a)(1) For small SI engines subject to the provisions of this subpart, the prescribed test procedures are specified in subpart E of this part.

(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 small SI engine the Administrator determines is not susceptible to satisfactory testing using procedures specified in paragraph (a)(1) of this section.

(b)(1) The manufacturer may not adjust, repair, prepare, or modify any test engine and may not perform any emission test on any test engine unless this adjustment, repair, preparation, modification and/or test is documented in the manufacturer's engine assembly and inspection procedures and is actually performed by the manufacturer on every production line engine or unless this adjustment, repair, preparation, modification and/or test is required or permitted under this subpart or is approved in advance by the Administrator.

(2) The Administrator may adjust or cause to be adjusted any engine parameter which the Administrator has determined to be subject to adjustment for certification, Production Line Testing and Selective Enforcement Audit