

§ 91.208

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(iii) The manufacturer has set its FEL using good engineering judgment, pursuant to the provisions of § 91.118(h)(1)(ii) and (h)(2).

[64 FR 15239, Mar. 30, 1999, as amended at 65 FR 24314, Apr. 25, 2000; 70 FR 40451, July 13, 2005]

§ 91.208 Certification.

(a) In the application for certification a manufacturer must:

(1) Submit a statement that the engines for which certification is requested will not, to the best of the manufacturer's belief, cause the manufacturer to be in noncompliance under § 91.207(b) when all credits are calculated for all the manufacturer's engine families.

(2) Declare an FEL for each engine family for HC plus NO_x. The FEL must have the same number of significant digits as the emission standard.

(3) Indicate the projected number of credits generated/needed for this family; the projected applicable production/sales volume, by quarter; and the values required to calculate credits as given in § 91.207.

(4) Submit calculations in accordance with § 91.207 of projected emission credits (positive or negative) based on quarterly production projections for each family.

(5)(i) If the engine family is projected to have negative emission credits, state specifically the source (manufacturer/engine family or reserved) of the credits necessary to offset the credit deficit according to quarterly projected production.

(ii) If the engine family is projected to generate credits, state specifically (manufacturer/engine family or reserved) where the quarterly projected credits will be applied.

(b) All certificates issued are conditional upon manufacturer compliance with the provisions of this subpart both during and after the model year of production.

(c) Failure to comply with all provisions of this subpart will be considered to be a failure to satisfy the conditions upon which the certificate was issued, and the certificate may be deemed void *ab initio* pursuant to § 91.123.

(d) The manufacturer bears the burden of establishing to the satisfaction

of the Administrator that the conditions upon which the certificate was issued were satisfied or waived.

(e) Projected credits based on information supplied in the certification application may be used to obtain a certificate of conformity. However, any such credits may be revoked based on review of end-of-year reports, follow-up audits, and any other verification steps deemed appropriate by the Administrator.

§ 91.209 Maintenance of records.

(a) The manufacturer must establish, maintain, and retain the following adequately organized and indexed records for each engine produced:

- (1) EPA engine family,
- (2) Engine identification number,
- (3) Engine model year and build date,
- (4) Power rating,
- (5) Purchaser and destination, and
- (6) Assembly plant.

(b) The manufacturer must establish, maintain, and retain the following adequately organized and indexed records for each engine family:

- (1) EPA engine family identification code,
- (2) Family Emission Limit (FEL) or FELs where FEL changes have been implemented during the model year,
- (3) Power rating for each configuration tested,
- (4) Projected sales volume for the model year, and
- (5) Actual sales volume for the model year for each FEL where FEL changes have been implemented during the model year.

(c) Any manufacturer producing an engine family participating in trading reserved credits must maintain the following records on a quarterly basis for each such engine family:

- (1) The engine family,
- (2) The actual quarterly and cumulative applicable production/sales volume,
- (3) The values required to calculate credits as given in § 91.207,
- (4) The resulting type and number of credits generated/required,
- (5) How and where credit surpluses are dispersed, and
- (6) How and through what means credit deficits are met.

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(d) The manufacturer must retain all records required to be maintained under this section for a period of eight years from the due date for the end-of-model year report. Records may be retained as hard copy or reduced to microfilm, ADP diskettes, and so forth, depending on the manufacturer's record retention procedure; provided, that in every case all information contained in the hard copy is retained.

(e) Nothing in this section limits the Administrator's discretion in requiring the manufacturer to retain additional records or submit information not specifically required by this section.

(f) Pursuant to a request made by the Administrator, the manufacturer must submit to the Administrator the information that the manufacturer is required to retain.

(g) EPA may void *ab initio* a certificate of conformity for an engine family for which the manufacturer fails to retain the records required in this section or to provide such information to the Administrator upon request pursuant to §91.123.

§91.210 End-of-year and final reports.

(a) End-of-year and final reports must indicate the engine family, the actual sales volume, the values required to calculate credits as given in §91.207, and the number of credits generated/required. Manufacturers must also submit how and where credit surpluses were dispersed (or are to be banked) and/or how and through what means credit deficits were met. Copies of contracts related to credit trading must be included or supplied by the broker, if applicable. The report must include a calculation of credit balances to show that the credit summation is equal to or greater than zero.

(b) The sales volume for end-of-year and final reports must be based on the location of the point of first retail sale (for example, retail customer or dealer) also called the final product purchase location.

(c)(1) End-of-year reports must be submitted within 90 days of the end of the model year to: Manager, Engine Compliance Programs Group (6403-J), US Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

(2) Final reports must be submitted within 270 days of the end of the model year to: Manager, Engine Compliance Programs Group (6403-J), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

(d) Failure by a manufacturer to submit any end-of-year or final reports in the specified time for all engines is a violation of §91.1103(a)(2) and section 213(d) of the Clean Air Act for each engine.

(e) A manufacturer generating credits for banking only who fails to submit end-of-year reports in the applicable specified time period (90 days after the end of the model year) may not use the credits until such reports are received and reviewed by EPA. Use of projected credits pending EPA review is not permitted in these circumstances.

(f) Errors discovered by EPA or the manufacturer in the end-of-year report, including errors in credit calculation, may be corrected in the final report up to 270 days from the end of the model year.

(g) If EPA or the manufacturer determines that a reporting error occurred on an end-of-year or final report previously submitted to EPA under this section, the manufacturer's credits and credit calculations must be recalculated. Erroneous positive credits will be void except as provided in paragraph (h) of this section. Erroneous negative credit balances may be adjusted by EPA.

(h) If within 270 days of the end of the model year, EPA review determines a reporting error in the manufacturer's favor (that is, resulting in an increased credit balance) or if the manufacturer discovers such an error within 270 days of the end of the model year, EPA shall restore the credits for use by the manufacturer.

§91.211 Notice of opportunity for hearing.

Any voiding of the certificate under §§91.203(f), 91.206(d), 91.207(d), 91.208(c), or §91.209(g) shall be made only after the manufacturer concerned is offered an opportunity for a hearing conducted in accordance with §§91.512, 91.513 and 91.514 and, if a manufacturer requests