

Environmental Protection Agency

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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 remanufacturer or the party in charge of the facility(ies) in question to conduct the activities authorized in this section.

(e) A manufacturer or remanufacturer is responsible for locating its foreign testing, manufacturing, and remanufacturing 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.

EFFECTIVE DATE NOTE: At 63 FR 19060, Apr. 16, 1998, §92.504 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 92.505 Sample selection for testing.

(a) At the start of each model year, the manufacturer or remanufacturer will begin to randomly select locomotives or locomotive engines from each engine family for production line testing at a rate of one percent. Each locomotive or locomotive engine will be selected from the end of the production line. Testing shall be performed throughout the entire model year to the extent possible.

(1) The required sample size for an engine family is the lesser of five tests per model year or one percent of projected annual production, with a minimum sample size for an engine family of one test per model year provided that no engine tested fails to meet applicable emission standards.

(2) Manufacturers and remanufacturers may elect to test additional locomotives or locomotive engines. All additional locomotives or locomotive en-

gines must be tested in accordance with the applicable test procedures of this part.

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

(c) No quality control, testing, or assembly procedures will be used on any test locomotive or locomotive 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 locomotives or locomotive engines of that family, except with the approval of the Administrator.

§ 92.506 Test procedures.

(a)(1) For locomotives and locomotive 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 or remanufacturer, prescribe test procedures other than those specified in paragraph (a)(1) of this section for any locomotive or locomotive 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 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 mileage locomotive or a low hour engine under §92.9), the manufacturer or remanufacturer shall use the test procedures used in certification for production line testing.

(b)(1) The manufacturer or remanufacturer may not adjust, repair, prepare, modify, or perform any emission test on, any test locomotive or locomotive engine unless this adjustment, repair, preparation, modification and/or test is documented in the manufacturer's or remanufacturer's locomotive or engine assembly and inspection procedures and is actually performed by

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the manufacturer or remanufacturer 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) Any adjustable locomotive or locomotive engine parameter must be set to values or positions that are within the range recommended to the ultimate purchaser.

(3) The Administrator may adjust or require to be adjusted any engine parameter which the Administrator has determined to be subject to adjustment for certification and production line testing, to any setting within the specified adjustable range of that parameter, as determined by the Administrator, prior to the performance of any test.

(c) *Service Accumulation/Green Engine factor.* The manufacturer or remanufacturer shall accumulate service on the locomotives and locomotive engines to be tested up to 300 hours of operation. In lieu of conducting such service accumulation, the manufacturer or remanufacturer may establish a Green Engine factor for each regulated pollutant for each engine family to be used in calculating emissions test results. The manufacturer or remanufacturer shall obtain the approval of the Administrator prior to using a Green Engine factor.

(d) The manufacturer or remanufacturer may not perform any maintenance on test locomotives or locomotive engines after selection for testing.

(e) If a locomotive or locomotive engine is shipped to a facility other than the production facility for production line testing, and an adjustment or repair is necessary because of such shipment, the locomotive or locomotive engine manufacturer or remanufacturer must perform the necessary adjustment or repair only after the initial test of the locomotive or locomotive engine, except where the Administrator has determined that the test would be impossible to perform or would permanently damage the locomotive engine.

(f) If a locomotive or locomotive engine cannot complete the service accumulation, if applicable, or an emission

test, because of a malfunction, the manufacturer or remanufacturer may request that the Administrator authorize either the repair of that locomotive or locomotive engine or its deletion from the test sequence.

(g) *Retesting.* (1) If a locomotive or locomotive engine manufacturer or remanufacturer determines that any production line emission test of a locomotive or locomotive engine is invalid, the locomotive or locomotive engine must be retested in accordance with the requirements of this subpart. Emission results from all tests must be reported to EPA, including test results the manufacturer or remanufacturer determines are invalid. The locomotive or locomotive engine manufacturer or remanufacturer must also include a detailed explanation of the reasons for invalidating any test in the quarterly report required in § 92.508(e). In the event a retest is performed, a request may be made to the Administrator, within ten days of the end of the production quarter, for permission to substitute the after-repair test results for the original test results. The Administrator will either affirm or deny the request by the locomotive or locomotive engine manufacturer or remanufacturer within ten working days from receipt of the request.

[63 FR 18998, Apr. 16, 1998, as amended at 65 FR 73331, Dec. 29, 1999]

§ 92.507 Sequence of testing.

If one or more locomotives or locomotive engines fail a production line test, then the manufacturer or remanufacturer must test two additional locomotives or locomotive engines from the next fifteen produced in that engine family, for each locomotive or locomotive engine that fails.

§ 92.508 Calculation and reporting of test results.

(a) Manufacturers and remanufacturers shall calculate initial test results using the applicable test procedure specified in § 92.506(a). These results must also include the green engine factor, if applicable. The manufacturer or remanufacturer shall round these results, in accordance with ASTM E29-93a (incorporated by reference at § 92.5),