

emissions testing pursuant to the requirements of this section.

(1) Manufacturers and remanufacturers shall test one locomotive engine family each year for which it has received a certificate of conformity from EPA. Where a manufacturer holds certificates of conformity for both freshly manufactured and remanufactured locomotive engine families, the Administrator may require the manufacturer to test one freshly manufactured engine family and one remanufactured engine family. The Administrator may require a manufacturer or remanufacturer to test additional engine families if he/she has reason to believe that locomotives in an engine family do not comply with emission standards in use.

(2) For engine families of less than 10 locomotives per year, no in-use testing will be required, unless the Administrator has reason to believe that those engine families are not complying with the applicable emission standards in use.

(b) Locomotive manufacturers or remanufacturers shall perform emission testing of a sample of in-use locomotives from an engine family, as specified in § 92.605. Manufacturers or remanufacturers shall submit data from this in-use testing to EPA. EPA will use these data, and any other data available to EPA, to determine the compliance status of classes of locomotives, including for purposes of subpart H of this part, and whether remedial action is appropriate.

§ 92.604 In-use test procedure.

(a) Testing conducted under this subpart shall be conducted on locomotives; testing under this subpart shall not be conducted using an engine that is not installed in a locomotive at the time of testing.

(b) Locomotives tested under this subpart shall be tested using the locomotive test procedures outlined in subpart B of this part, except as provided in this section.

(c) The test procedures used for in-use testing shall be consistent with the test procedures used for certification, except for cases in which certification testing was not conducted with locomotive, but with a development engine, or other engine. In such cases, the Ad-

ministrator shall require deviations from the certification test procedures as appropriate, including requiring that the test be conducted on a locomotive. The Administrator may allow or require other alternate procedures, with advance approval. For all testing conducted under this subpart, emission rates shall be calculated in accordance with the provisions of subpart B of this part that apply to locomotive testing.

(d) Any adjustable locomotive or locomotive engine parameter must be set to values or positions that are within the range specified in the certificate of conformity. If so directed by the Administrator, the manufacturer or remanufacturer will set these parameters to values specified by the Administrator.

(e) The Administrator may waive portions or requirements of the applicable test procedure, if any, that are not necessary to determine in-use compliance.

§ 92.605 General testing requirements.

(a) *Number of locomotives to be tested.* The manufacturer or remanufacturer shall test in-use locomotives, from an engine family selected by EPA, which have accumulated between one-half and three-quarters of the engine family's useful life. The number of locomotives to be tested by a manufacturer or remanufacturer will be determined by the following method:

(1) A minimum of 2 locomotives per engine family per year for each engine family that reaches the minimum age specified above provided that no locomotive tested fails to meet any applicable standard. For each failing locomotive, two more locomotives shall be tested until the total number of locomotives tested equals 10, except as provided in paragraph (a)(2) of this section.

(2) If an engine family has not changed from one year to the next and has certified using carry over emission data and has been previously tested under paragraph (a)(1) of this section (and EPA has not ordered or begun to negotiate remedial action of that family), then only one locomotive per engine family per year must be tested. If such locomotive fails to meet applicable standards for any pollutant, testing

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for that engine family must be conducted as outlined under paragraph (a)(1) of this section.

(b) At the discretion of the Administrator, a locomotive or locomotive engine manufacturer or remanufacturer may test more locomotives than the minima described above or may concede failure before locomotive number 10.

(c) The Administrator will consider failure rates, average emission levels and the existence of any defects among other factors in determining whether to pursue remedial action. The Administrator may order a recall pursuant to subpart H of this part before testing reaches the tenth locomotive.

(d) *Collection of in-use locomotives.* The locomotive manufacturer or remanufacturer shall procure in-use locomotives which have been operated for between one-half and three-quarters of the locomotive's useful life for testing under this subpart. The manufacturer or remanufacturer shall complete testing required by this section for any engine family before useful life of the locomotives in the engine family passes.

§92.606 Maintenance, procurement and testing of in-use locomotives.

(a) A test locomotive must have a maintenance history that is representative of actual in-use conditions, and identical or equivalent to the manufacturer's or remanufacturer's recommended emission-related maintenance requirements.

(1) In procuring in-use locomotives for in-use testing, a manufacturer or remanufacturer shall question the end users regarding the accumulated usage, maintenance, operating conditions, and storage of the test locomotives.

(2) The selection of test locomotives is made by the manufacturer or remanufacturer, and is subject to EPA approval. Information used by the manufacturer or remanufacturer to procure locomotives for in-use testing shall be maintained as required in §92.215.

(b) The manufacturer or remanufacturer may perform minimal set-to-spec maintenance on a test locomotive prior to conducting in-use testing. Maintenance may include only that which is listed in the owner's instructions for

locomotives with the amount of service and age of the acquired test locomotive. Documentation of all maintenance and adjustments shall be maintained and retained.

(c) Results of one valid emission test using the test procedure outlined in subpart B of this part is required for each in-use locomotive.

(d) If in-use testing results show that an in-use locomotive fails to comply with any applicable emission standards, the manufacturer or remanufacturer shall determine the reason for noncompliance. The manufacturer or remanufacturer must report all determinations for noncompliance in its quarterly in-use test result report pursuant to §92.607(a)(11).

EFFECTIVE DATE NOTE: At 63 FR 19066, Apr. 16, 1998, §92.606 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.

§92.607 In-use test program reporting requirements.

(a) The manufacturer or remanufacturer shall submit to the Administrator within three (3) months of completion of testing all emission testing results generated from the in-use testing program. The following information must be reported for each locomotive tested:

- (1) Engine family, and configuration;
- (2) Locomotive and engine models;
- (3) Locomotive and engine serial numbers;
- (4) Date of manufacture and/or remanufacture(s), as applicable;
- (5) Megawatt-hours of use (or miles, as applicable);
- (6) Date and time of each test attempt;
- (7) Results (if any) of each test attempt;
- (8) Results of all emission testing;
- (9) Summary of all maintenance and/or adjustments performed;
- (10) Summary of all modifications and/or repairs;
- (11) Determinations of noncompliance; and
- (12) The following signed statement and endorsement by an authorized representative of the manufacturer or remanufacturer: