

of less than 7,500 must complete emission testing at a minimum rate of one engine per 24-hour period, including each voided test and each smoke test.

(3) The Administrator may approve a lower daily rate of emission testing based upon a request by a manufacturer accompanied by a satisfactory justification.

(h) The manufacturer must perform test engine selection, shipping, preparation, service accumulation, and testing in such a manner as to assure that the audit is performed in an expeditious manner.

(i) *Retesting.* (1) The manufacturer may retest any engines tested during a Selective Enforcement Audit once a fail decision for the audit has been reached in accordance with § 89.510(e).

(2) The Administrator may approve retesting at other times based upon a request by the manufacturer accompanied by a satisfactory justification.

(3) The manufacturer may retest each engine a total of three times. The manufacturer must test each engine or vehicle the same number of times. The manufacturer may accumulate additional service before conducting a retest, subject to the provisions of paragraph (c) of this section.

(j) A manufacturer must test engines with the test procedure specified in subpart E of this part to demonstrate compliance with the exhaust emission standard (or applicable FEL) for oxides of nitrogen. If alternate procedures were used in certification pursuant to § 89.114, then those alternate procedures must be used.

[59 FR 31335, June 17, 1994. Redesignated at 63 FR 56996, Oct. 23, 1998]

**§ 89.509 Calculation and reporting of test results.**

(a) Initial test results are calculated following the applicable test procedure specified in § 89.508(a). The manufacturer rounds these results, in accordance with ASTM E29-93a, to the number of decimal places contained in the applicable emission standard expressed to one additional significant figure. This procedure has been incorporated by reference. See § 89.6.

(b) Final test results are calculated by summing the initial test results derived in paragraph (a) of this section

for each test engine, dividing by the number of tests conducted on the engine, and rounding in accordance with the procedure specified in paragraph (a) of this section to the same number of decimal places contained in the applicable standard expressed to one additional significant figure.

(c) Within five working days after completion of testing of all engines pursuant to a test order, the manufacturer must submit to the Administrator a report which includes the following information:

(1) The location and description of the manufacturer's exhaust emission test facilities which were utilized to conduct testing reported pursuant to this section;

(2) The applicable standards and/or FEL against which the engines were tested;

(3) A description of the engine and its associated emission-related component selection method used;

(4) For each test conducted;

(i) Test engine description, including:

(A) Configuration and engine family identification;

(B) Year, make, and build date;

(C) Engine identification number; and

(D) Number of hours of service accumulated on engine prior to testing;

(ii) Location where service accumulation was conducted and description of accumulation procedure and schedule;

(iii) Test number, date, test procedure used, initial test results before and after rounding, and final test results for all exhaust emission tests, whether valid or invalid, and the reason for invalidation, if applicable;

(iv) A complete description of any modification, repair, preparation, maintenance, and/or testing which was performed on the test engine and has not been reported pursuant to any other paragraph of this subpart and will not be performed on all other production engines;

(v) Where an engine was deleted from the test sequence by authorization of the Administrator, the reason for the deletion;

(vi) Any other information the Administrator may request relevant to the determination as to whether the new engines being manufactured by the

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manufacturer do in fact conform with the regulations with respect to which the certificate of conformity was issued; and

(5) The following statement and endorsement:

This report is submitted pursuant to sections 213 and 208 of the Clean Air Act. This Selective Enforcement Audit was conducted in complete conformance with all applicable regulations under 40 CFR part 89 *et seq.* and the conditions of the test order. No emission-related changes to production processes or quality control procedures for the engine family tested have been made between receipt of the test order and conclusion of the audit. All data and information reported herein is, to the best of (Company Name) knowledge, true and accurate. I am aware of the penalties associated with violations of the Clean Air Act and the regulations thereunder. (Authorized Company Representative.)

[59 FR 31335, June 17, 1994. Redesignated and amended at 63 FR 56996, 57020, Oct. 23, 1998]

### **§ 89.510 Compliance with acceptable quality level and passing and failing criteria for selective enforcement audits.**

(a) The prescribed acceptable quality level is 40 percent.

(b) A failed engine is one whose final test results pursuant to § 89.509(b), for one or more of the applicable pollutants, exceed the applicable emission standard or family emission level.

(c) The manufacturer must test engines comprising the test sample until a pass decision is reached for all pollutants or a fail decision is reached for one pollutant. A pass decision is reached when the cumulative number of failed engines, as defined in paragraph (b) of this section, for each pollutant is less than or equal to the pass decision number, as defined in paragraph (d) of this section, appropriate to the cumulative number of engines tested. A fail decision is reached when the cumulative number of failed engines for one or more pollutants is greater than or equal to the fail decision number, as defined in paragraph (d) of this section, appropriate to the cumulative number of engines tested.

(d) The pass and fail decision numbers associated with the cumulative number of engines tested are determined by using the tables in appendix A to this subpart, “Sampling Plans for

Selective Enforcement Auditing of Nonroad Engines,” appropriate to the projected sales as made by the manufacturer in its report to EPA under § 89.505(c)(1). In the tables in appendix A to this subpart, sampling plan “stage” refers to the cumulative number of engines tested. Once a pass or fail decision has been made for a particular pollutant, the number of engines with final test results exceeding the emission standard for that pollutant shall not be considered any further for the purposes of the audit.

(e) Passing or failing of an SEA occurs when the decision is made on the last engine required to make a decision under paragraph (c) of this section.

(f) The Administrator may terminate testing earlier than required in paragraph (c) of this section.

[59 FR 31335, June 17, 1994. Redesignated at 63 FR 56996, Oct. 23, 1998]

### **§ 89.511 Suspension and revocation of certificates of conformity.**

(a) The certificate of conformity is suspended with respect to any engine failing pursuant to paragraph (b) of § 89.510 effective from the time that testing of that engine is completed.

(b) The Administrator may suspend the certificate of conformity for a family which does not pass an SEA, pursuant to paragraph § 89.510(c), based on the first test or all tests conducted on each engine. This suspension will not occur before ten days after failure of the audit, unless the manufacturer requests an earlier suspension.

(c) If the results of testing pursuant to these regulations indicate that engines of a particular family produced at one plant of a manufacturer do not conform to the regulations with respect to which the certificate of conformity was issued, the Administrator may suspend the certificate of conformity with respect to that family for engines manufactured by the manufacturer at all other plants.

(d) Notwithstanding the fact that engines described in the application may be covered by a certificate of conformity, the Administrator may suspend such certificate immediately in whole or in part if the Administrator finds any one of the following infractions to be substantial: