

**Subpart F—Selective Enforcement Auditing****§ 90.501 Applicability.**

The requirements of subpart F shall be applicable to all nonroad engines and vehicles subject to the provisions of subpart A of part 90.

**§ 90.502 Definitions.**

The definitions in subpart A of this part apply to this subpart. The following definitions shall also apply to this subpart.

*Acceptable quality level (AQL)* means the maximum percentage of failing engines that can be considered a satisfactory process average for sampling inspections.

*Configuration* means any subclassification of an engine family which can be described on the basis of gross power, emission control system, governed speed, fuel system, engine calibration, and other parameters as designated by the Administrator.

*Inspection criteria* means the pass and fail numbers associated with a particular sampling plan.

*Test engine* means an engine in a test sample.

*Test sample* means the collection of engines selected from the population of an engine family for emission testing.

**§ 90.503 Test orders.**

(a) The Administrator shall require any testing under this subpart by means of a test order addressed to the manufacturer.

(b) The test order will be signed by the Assistant Administrator for Air and Radiation or his or her designee. The test order will be delivered in person by an EPA enforcement officer or EPA authorized representative to a company representative or sent by registered mail, return receipt requested, to the manufacturer's representative who signed the application for certification submitted by the manufacturer, pursuant to the requirements of the applicable section of subpart B of this part. Upon receipt of a test order, the manufacturer shall comply with all of the provisions of this subpart and instructions in the test order.

(c) *Information included in test order.*

(1) The test order will specify the engine family to be selected for testing, the manufacturer's engine assembly plant or associated storage facility or port facility (for imported engines) from which the engines must be selected, the time and location at which engines must be selected, and the procedure by which engines of the specified family must be selected. The test order may specify the configuration to be audited and/or the

number of engines to be selected per day. Engine manufacturers will be required to select a minimum of four engines per day unless an alternate selection procedure is approved pursuant to § 90.507(a), or unless total production of the specified configuration is less than four engines per day. If total production of the specified configuration is less than four engines per day, the manufacturer will select the actual number of engines produced per day.

(2) The test order may include alternate families to be selected for testing at the Administrator's discretion in the event that engines of the specified family are not available for testing because those engines are not being manufactured during the specified time, or are not being stored at the specified assembly plant, associated storage facilities or port of entry.

(3) If the specified family is not being manufactured at a rate of at least two engines per day in the case of manufacturers specified in § 90.508(g)(1), or one engine per day in the case of manufacturers specified in § 90.508(g)(2), over the expected duration of the audit, the Assistant Administrator or his or her designated representative may select engines of the alternate family for testing.

(4) In addition, the test order may include other directions or information essential to the administration of the required testing.

(d) A manufacturer may submit a list of engine families and the corresponding assembly plants, associated storage facilities, or (in the case of imported engines) port facilities from which the manufacturer prefers to have engines selected for testing in response to a test order. In order that a manufacturer's preferred location be considered for inclusion in a test order for a particular engine family, the list must be submitted prior to issuance of the test order. Notwithstanding the fact that a manufacturer has submitted the list, the Administrator may order selection at other than a preferred location.

(e) Upon receipt of a test order, a manufacturer shall proceed in accordance with the provisions of this subpart.

(f)(1) During a given model year, the Administrator shall not issue to a manufacturer more Selective Enforcement Auditing (SEA) test orders than an annual limit determined by the following:

(i) for manufacturers with a projected annual production of less than 100,000 engines bound for the United States

market for that model year, the number is two;

(ii) for manufacturers with a projected annual production of 100,000 or more engines bound for the United States market for that model year, by dividing the manufacturer's total number of certified engine families by five and rounding to the nearest whole number, unless the number of engine families is less than eight, in which case the number is two.

(2) If a manufacturer submits to EPA in writing prior to or during the model year a reliable sales projection update or adds engine families or deletes engine families from its production, that information will be used for recalculating the manufacturer's annual limit of SEA test orders.

(3) Any SEA test order for which the family fails under § 90.510 or for which testing is not completed will not be counted against the annual limit.

(4) When the annual limit has been met, the Administrator may issue additional test orders to test those families for which evidence exists indicating noncompliance. An SEA test order issued on this basis will include a statement as to the reason for its issuance.

**§ 90.504 Testing by the Administrator.**

(a) The Administrator may require by test order under § 90.503 that engines of a specified family be selected in a manner consistent with the requirements of § 90.507 and submitted to the Administrator at the place designated for the purpose of conducting emission tests. These tests will be conducted in accordance with § 90.508 to determine whether engines manufactured by the manufacturer conform with the regulations with respect to which the certificate of conformity was issued.

(b) *Designating official data.* (1) Whenever the Administrator conducts a test on a test engine or the Administrator and manufacturer each conduct a test on the same test engine, the results of the Administrator's test will comprise the official data for that engine.

(2) Whenever the manufacturer conducts all tests on a test engine, the manufacturer's test data will be accepted as the official data, provided that if the Administrator makes a determination based on testing conducted under paragraph (a) of this section that there is a substantial lack of agreement between the manufacturer's test results and the Administrator's test results, no manufacturer's test data from the manufacturer's test facility will be accepted for purposes of this subpart.