

## Environmental Protection Agency

## § 94.309

banking, and trading program must establish, maintain, and retain the following adequately organized and indexed records for each such engine produced:

(1) EPA engine family and configuration;

(2) Engine identification number;

(3) Engine calendar year and build date;

(4) Rated power;

(5) Purchaser and destination; and

(6) Assembly plant.

(b) The manufacturer of any engine family that is certified under the averaging, banking, and trading program must establish, maintain, and retain the following adequately organized and indexed records for each such family:

(1) Model year and EPA engine family;

(2) Family Emission Limit(s) (FEL);

(3) Rated power for each configuration;

(4) Projected applicable production/sales volume for the calendar year;

(5) Actual applicable production/sales volume for the calendar year; and

(6) Useful life.

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

(1) The model year and engine family;

(2) The actual quarterly and cumulative applicable production/sales volume;

(3) The values required to calculate credits as given in §94.305;

(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.

(d) The manufacturer must retain all records required to be maintained under this section for a period of 8 years from the due date for the end-of-calendar 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.

### §94.309 Reports.

(a) Manufacturers must submit the certification information as required under §94.306, and end-of-year reports each year as part of their participation in certification averaging, banking, and trading programs.

(b) Quarterly reports. All entities involved in credit trades must submit quarterly reports. The reports shall include the source or recipient of the credits, the amount of credits involved plus remaining balances, details regarding the pollutant, and model year as well as the information prescribed in §94.308(c). Copies of contracts related to credit trading must be included or supplied by the buyer, seller, and broker, as applicable.

(c) End-of-year reports must include the information prescribed in §94.308(b). The report shall include a calculation of credit balances for each family to show that the summation of the manufacturer's use of credits results in a credit balance equal to or greater than zero. The report shall be consistent in detail with the information submitted under §94.306 and show how credit surpluses were dispersed and how credit shortfalls were met on a family specific basis. The end-of-year report shall incorporate any information reflected in previous quarterly reports.

(d) The applicable production/sales volume for quarterly and end-of-year reports must be based on the location of either the point of first retail sale by the manufacturer or the point at which the engine is placed into service, whichever occurs first. This is called the final product purchase location.

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(e) Each quarterly and end-of-year report submitted shall include a statement certifying to the accuracy and authenticity of the material reported therein.

(f) Requirements for submission. (1) Quarterly reports must be submitted within 90 days of the end of the calendar quarter to the Designated Officer.

(2) End-of-year reports must be submitted within 120 days of the end of the calendar year to the Designated Officer.

(3) Failure by a manufacturer participating in the averaging, banking, or trading program to submit any quarterly or end-of-year reports in the specified time for all engines is a violation of sections 203(a)(1) and 213 of the Clean Air Act for each engine.

(4) A manufacturer generating credits for banking only who fails to submit end-of-year reports in the applicable specified time period (120 days after the end of the calendar year) may not use or trade the credits until such reports are received and reviewed by EPA. Use of projected credits pending EPA review is not permitted in these circumstances.

(g) Reporting errors. (1) Errors discovered by EPA or the manufacturer in the end-of-year report, including errors in credit calculation, may be corrected 180-days subsequent to submission of the end-of-year report. Errors discovered by EPA after 180-days shall be correctable if, as a result of the correction, the manufacturer's credits are reduced. Errors in the manufacturer's favor are not corrected if discovered after the 180-day correction period allowed.

(2) If EPA or the manufacturer determines that a reporting error occurred on an end-of-year report previously submitted to EPA under this section, the manufacturer's credits and credit calculations will be recalculated. Erroneous positive credits will be void. Erroneous negative credit balances may be corrected by EPA.

(3) If EPA review of a manufacturer's end-of-year report indicates a credit shortfall, the manufacturer will be permitted to purchase the necessary credits to bring the credit balance to zero. These credits must be supplied at the

ratio of 1.1 credits for each 1.0 credit needed. If sufficient credits are not available to bring the credit balance to zero for the family(ies) involved, EPA may void the certificate(s) for that family(ies) *ab initio*. In addition, all engines within an engine family for which there are insufficient credits will be considered to have violated the conditions of the certificate of conformity and therefore are not covered by that certificate.

(4) If within 180 days of receipt of the manufacturer's end-of-year report, 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 180 days of EPA receipt of the end-of-year report, the credits are restored for use by the manufacturer.

### § 94.310 Notice of opportunity for hearing.

Any voiding of the certificate under this subpart will be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 94.216 and, if a manufacturer requests such a hearing, will be made only after an initial decision by the Presiding Officer.

## Subpart E—Emission-related Defect Reporting Requirements, Voluntary Emission Recall Program

### § 94.401 Applicability.

The requirements of this subpart are applicable to manufacturers of engines subject to the provisions of Subpart A of this part. The requirement to report emission-related defects affecting a given class or category of engines applies for eight years from the end of the year in which such engines were manufactured.

### § 94.402 Definitions.

The definitions of Subpart A of this part apply to this subpart.