

DRAFT

Supporting Statement

for

Information Collection Request

Nonconformance Penalties for Heavy-Duty Engines
and Heavy-Duty Vehicles, Including Light-Duty
Trucks; Reporting and Recordkeeping Requirements

EPA Number 1285.06
OMB No.2060-0132

42 USC 7525G,7601 and
CAA 206(g),208,301

July 2005

Certification & Compliance Division
Office of Transportation and Air Quality
Office of Air and Radiation
U.S. Environmental Protection Agency

Part A SUBMISSION

1. Identification of the Information Collection

1(a) Title and Number of the Information Collection

Nonconformance Penalties for Heavy-Duty Engines and Heavy-Duty Vehicles, Including Light-Duty Trucks, Reporting and Recordkeeping Requirements; EPA ICR Number 1285.06, OMB Control Number 2060-0132.

1(b) Short Characterization

Nonconformance penalties (NCP) provisions allow a manufacturer to introduce into commerce heavy-duty engines (HDEs) or heavy-duty vehicles (HDVs), including light-duty trucks (LDTs), which fail to conform with certain emission standards, upon payment of a monetary penalty.

The information collection activities for the NCP program include the collection of periodic reports and other information which the manufacturer creates and submits to the Certification and Compliance Division (CCD), Office of Transportation and Air Quality (OTAQ), Office of Air and Radiation (OAR), of the U.S. Environmental Protection Agency (EPA). CCD uses this information to ensure that manufacturers are in compliance with the regulations of the Clean Air Act (Act) and paying the appropriate penalties. The information submitted in the manufacturers' NCP reports is stored in CCD's computer tracking system to ensure accurate accounting of NCP payments.

Since nonconformance penalties and associated PCAs are an option elected by manufacturers, EPA cannot be certain how many engine families manufacturers will request to be included in the NCP program each year. Likewise, we cannot be certain of the number of PCAs that will be conducted each model year. However, EPA estimates for ICR purposes, that six engine families will be included in the NCP program each model year.¹

This information is collected by the Engine Programs Group (EPG) in CCD. Besides CCD, this information could be used by the Office of Enforcement and Compliance Assurance (OECA) and the Department of

¹In recent years, participation in the NCP program has included only one manufacturer and only one family each year. The projection of six participating engine families each year is a result of the more stringent emission standards that are being implemented in upcoming model years and the expected increased use of NCPs by manufacturers.

Justice for enforcement purposes. Non Confidential Business Information(CBI) information is also disclosed in a public database and over the Internet. It is used by trade associations, environmental groups, and the public. The information is usually submitted in an electronic format, and it is stored in EPG's certification database.

2. Need for and Use of the Collection

2(a) Need/Authority for the collection

Under Title II of the Clean Air Act, (42 USC 7521 et seq.), EPA is charged with issuing certificates of conformity for those vehicles and engines that comply with applicable emission standards. Such certificates must be issued before vehicles or engines are legally introduced into commerce. To ensure compliance with these statutes, EPA reviews product information and manufacturers' test results; EPA also tests some vehicles and engines to confirm manufacturers' results.

EPA's emission certification programs are statutorily mandated; the agency does not have discretion to cease these functions. Under Section 206(g)(1) of the Act as amended (42 USC 7525):

In the case of any class or category of heavy-duty vehicles or engines to which a standard promulgated under section 202(a) of this Act applies, except as provided in paragraph (2), a certificate of conformity shall be issued under subsection (a) and shall not be suspended or revoked under subsection (b) for such vehicle or engines manufactured by a manufacturer notwithstanding the failure of such vehicles or engines to meet such standard if such manufacturer pays a nonconformance penalty as provided under regulations promulgated by the Administrator after notice and opportunity for public hearing.

2(b) Practical Utility/Users of the Data

EPA uses the data to ensure manufacturers are complying with the regulations and that appropriate nonconformance penalties are being paid by the participants.

The information will be received and used by EPG, CCD, OTAQ, OAR. Non-confidential portions of the information submitted to EPG are available to and used by manufacturers, engine users, environmental groups, members of the public and state and local government organizations.

3. Nonduplication, Consultations and Other Collection Criteria

3(a) Nonduplication

The information requested under this ICR is required by statute. Because of its specialized (and sometimes confidential) nature, and the fact that it must be submitted to EPA prior to the start of

production, the information collected is not available from any other source.

3(b) Public Notice Required Prior to ICR Submission to OMB

An announcement of the public comment period for this ICR renewal was published in the Federal Register on May 31, 2005 (70 FR 30943). No comments were received. A copy of the FR notice can be found in Appendix A.

3(c) Consultations

Under the existing ICR, only one manufacturer has elected to participate in the NCP program. Given this low level of activity, EPA did not attempt to contact potential respondents, and chose instead to use the burden estimates provided by the respondents under the existing ICR.

3(d) Effects of Less Frequent Collection

The CAA states that emission certification must be done on a yearly basis (CAA 206(a)(1)), coinciding with the industry's "model year." Major product changes typically occur at the start of a model year. For these reasons, a collection frequency of less than a model year is not possible. However, EPA only requires the collection of PCA information when a manufacturer elects to pay a nonconformance penalty and conduct a PCA. EPA requires that the NCP payment and associated report be submitted quarterly to EPA. If the payment and accompanying report were submitted less frequently, a nonconforming manufacturer could gain a competitive advantage over a conforming manufacturer by having the use of the penalty funds. The Act requires EPA to remove such an advantage.

3(e) General Guidelines

EPA requires a manufacturer that elects to pay an NCP to conduct a Production Compliance Audit (PCA) on those engines or vehicles. Selection of engines or vehicles for PCA testing must be initiated no later than 5 days after the start of assembly line production of the specified engine family. The manufacturer must agree to pay the NCP calculated as a result of PCA testing. The manufacturer must agree to recall any engines or vehicles introduced into commerce if the compliance level of the engine or vehicle exceeds the upper limit as determined by the PCA.

Manufacturers are required to establish, maintain and retain specific records under the regulation pertaining to all equipment used to test engines or vehicles, individual test results, information and test data, and a complete record of all emission tests performed. Required records shall be maintained by the manufacturer for a period of six years. The six-year recordkeeping requirement stems from the CAA mandate that manufacturers recall engines failing to meet emission standards throughout their useful lives. Records may be retained as hard copy or reduced to microfilm, ADP film, etc., depending on the manufacturer's record retention

procedure, provided that in every case all the information contained in the hard copy is retained.

Manufacturers are required to submit confidential business information such as sales data and certain sensitive technical descriptions (Please see section 4(b)(i) for reference). This information is kept confidential in accordance with the Freedom of Information Act, EPA regulations at 40 CFR Part 2, and class determinations issued by EPA's Office of General Counsel. Also, nonproprietary information submitted by manufacturers is held as confidential until the specific vehicle or engine to which it pertains is available for purchase.

No other general guideline is exceeded by this information collection.

3(f) Confidentiality

Manufacturers are allowed to assert a claim of confidentiality over information provided to EPA. Confidentiality is provided in accordance with the Freedom of Information Act and EPA regulations at 40 CFR Part 2. For further detail, refer to section 3(e).

3(g) Sensitive Questions

No sensitive questions are asked in this information collection.

4. Respondents and Information Requested

4(a) Respondents/NAICS Codes

The respondents are manufacturers or importers of large onhighway heavy duty engines. The following North American Industry Classification System (NAICS) codes are associated with this information collection:

333618	Other Engine Equipment Manufacturing
333120	Construction Machinery Manufacturing
333924	Industrial Truck, Tractor, Trailer, and Stacker Machinery Manufacturing
336111	Automobile Manufacturing
336112	Light Truck and Utility Vehicle Manufacturing
336120	Heavy Duty Truck Manufacturing
336211	Motor Vehicle Body Manufacturing
336992	Military Armored Vehicle, Tank, and Tank Component Manufacturing
336312	Gasoline Engine and Engine Parts Manufacturing
336322	Other Motor Vehicle Electrical and Electronic Equipment Manufacturing

4(b) Information Requested

All manufacturers electing to pay an NCP must describe their product(s) and supply test data to verify compliance. This

information is organized by "engine family" groups expected to have similar emission characteristics. Manufacturers must also retain needed records.

The burden for a given engine family is reduced after the model's first production year, because data and information from previous years can be "carried over" when no significant changes have occurred. For instance, an engine family certified in model year 2005 can be certified in the 2006 model year by "carry over" of data and paperwork from the 2005 model year if no significant changes have occurred to the engine family between model years. Allowing manufacturers to carry over data and paperwork saves manufacturers the burden of duplication of data and paperwork which would occur in the absence of such provisions. Carry over reduces the need to conduct a PCA for each engine family on an annual basis as PCA data may be carried over to subsequent model years when appropriate.

(i) Data Items

The data items in the Tables A to C are required under this information collection.

A. Maintenance of records

Table A

Information Item	On Highway
Description of Test Equipment	86. 1108(a)(1)
Date and location of each test	86. 1108(a)(2)(i)
Service mileage/hour accumulation	86. 1108(a)(2)(ii)
Personnel contacts	86. 1108(a)(2)(iii)
Repair descriptions and records	86. 1108(a)(2)(iv)
Date engine or vehicle shipped and received	86. 1108(a)(2)(v)
Emission test records	86. 1108(a)(2)(vi)
Description of extraordinary events during PCA	86. 1108(a)(2)(vii)
Records Retention (6 years)	86. 1108(b)

Table B
Production Compliance Auditing

Test engine sample selection	86. 1110-87
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Test procedure for PCA testing	86. 1111-87(a)(1)
Service Accumulation	86. 1111-87(c)
Shipment to test facility	86. 1111-87(e)
Determination of Compliance Level	86. 1112-87(a)

Table C

Calculation and Payment of Penalty

Each manufacturer is required to submit the following information:

NCP Calculation	89.1113-87(a)
Quarterly Penalty Payment	86.1113-87(g)(1)
Quarterly Information Reporting	86.1113-87(g)(1)

(ii) Respondent Activities

The type of activities a manufacturer would conduct to participate in the nonconformance penalty program for a specified engine family are as follows:

- review the regulations
- test engines for production compliance audit
- gather emission data
- Conduct Performance Compliance Audit (PCA)
- submit the PCA data/report
- retain and maintain records
- submit quarterly production reports and NCP payments

5. The Information Collected--Agency Activities, Collection Methodology, and Information Management

5(a) Agency Activities

A significant portion of EPA's NCP activity is spent reviewing the application, verifying that the correct engines have been selected and appropriately tested, determining the applicable compliance level and corresponding nonconformance penalty, ensuring applicable fees are paid, storing the data and answering manufacturers' questions. A part of the NCP process involves determining if "carry over" of data from a previous model year is appropriate or if new testing will be required. The agency also analyzes requests for confidentiality and provides appropriate protection.

5(b) Collection Methodology and Management

EPA currently makes extensive use of computers in evaluating information from vehicle and engine manufacturers. Most manufacturers use the electronic format provided by EPA to submit their NCP applications and PCA data. Once the diskette containing the

application is received, the application is entered into the Database and reviewed for completeness. If the manufacturer chooses to submit the application and/or PCA data in hard copy, EPA enters the information in our database. The certification reviewer analyses the application to ensure compliance with the CAA and applicable regulations. Non confidential parts of the application can be accessed by the public by contacting the EPG or through the "Engine Certification Information Center" at <http://www.epa.gov/otaq/certdata.htm>.

The quarterly report can be submitted in hard copy form or electronically via computer disk or email.

5(c) Small Entity Flexibility

There is no small entity flexibility specific to the NCP requirements. However, small on-highway engine manufacturers may use optional procedures outlined in 86.098-14 to demonstrate compliance with the general standards and specific emission requirements.

The information being requested is considered to be the minimum needed to effectively conduct and maintain integrity of the NCP program.

5(d) Collection Schedule

Required data must be submitted for each engine family on a yearly basis for each "model year" that a manufacturer intends to build (or import) an engine model. Taking these considerations into account, manufacturers normally submit information on an annual basis and submit their applications at their earliest convenience.

Nonconformance penalties must be paid by specified quarterly due dates or according to such schedule as the Administrator may approve based on a manufacturer request. The manufacturer must submit corporate identification, identification and quantity of engines or vehicles subject to the NCP, certificate identification number and date, NCP payment calculations, and a statement of compliance with requirements and endorsement.

6. Estimating the Burden and Cost of the Collection

Refer to Tables D and E for details.

6(a) Estimating Respondent Burden

Under the existing ICR, only one manufacturer has elected to participate in the NCP program. Given this low level of activity, EPA did not attempt to contact potential respondents, and chose instead to use the burden estimates provided by the respondents under the existing ICR.

6(b) Estimating Respondent Costs

(i) Estimating Labor Costs

To estimate labor costs, EPA used the mean hourly wage estimates developed by the Bureau of Labor Statistics (BLS) for Transportation Equipment Manufacturing (NAICS Subsector 336) and adjusted the rates to account for overhead. The mean hourly rate estimated by BLS for management occupations (SOC 11-0000) is \$45.24, resulting in a rate of \$95.00 after adding overhead/benefits at 110%. The mean hourly rate for Secretaries, Except Legal, Medical, and Executive (SOC 43-6014) is \$13.83, resulting in a rate of \$29.04 after adding overhead/benefits at 110%. These estimates are taken from the "May 2004 National Industry-Specific Occupational Employment and Wage Estimates, NAICS 336300 - Motor Vehicle Parts Manufacturing" table (http://www.bls.gov/oes/current/naics4_336300.htm).

Using these standard BLS labor rates rather than the rates developed in the existing ICR in consultation with the affected industry results in a substantial reduction in overall labor costs. The estimate of burden hours, however, remains the same.

In estimating respondent burden for the NCP program, time was allocated for regulation review, training, records maintenance, quarterly reporting and production compliance auditing. Performing the PCA includes hours for engine selection, engine service accumulation to stabilize new engine performance, engine testing, engine reallocation within the manufacturer's distribution system, preparation of the PCA report and maintenance of PCA testing records.

(ii) Estimating Capital and Operations and Maintenance Costs

Operation and Maintenance costs associated with all programs covered by this information collection include diskettes, photocopying, postage expenses and fuel costs related to PCA mileage accumulation and testing for selected test engines.

There are no capital costs associated with this collection. Related capital costs for engine manufacturers for test equipment, computers and facilities are covered under the certification program which already exists. EPA does not expect any additional capital costs related to this NCP collection.

(iii) Capital/Start

There are no capital or start up costs associated with the renewal of this ICR. (See 6(b)(iii) for details.)

(iv) Annualizing Capital Costs

There are no capital costs associated with the renewal of this ICR. (See 6(b)(iii) for details.)

6(c) Estimating Agency Burden

Government cost is based on GS-13 salary for professional engineers (\$35.83/hr) and on GS-7 salary for clerical support (\$16.99/hr). The hourly rates were obtained from the Office of Personal Management. Agency time is allocated for review of the NCP application, review of the PCA data, determination of the emission

compliance level and review of the quarterly reports and NCP fee calculation.

6(d) Estimating the Respondent Universe and Total Burden and Costs

EPA anticipates receiving 6 requests for separate engine families to participate in the NCP program annually. Two manufacturers are expected to participate annually. Currently, only one manufacturer participates with a single engine family annually. On an annual basis it is expected that three of the engine families will be new families that require a PCA. Three of the families will be carryover families that can utilize the results of the PCA performed previously.

6(e) Bottom Line Burden Hours and Cost Tables

(i) Respondent Tally

Table D
Total Estimated Respondent Burden And Cost Summary

Activity	Annual Total							
	Responses	Activities	Mgr. Hours @ \$95.00	Sec. Hours @ \$29.04	Hours	Labor Costs	Capital Costs	O&M Costs
Regulation ¹ Review	2	1	30	--	30	2850	0	0
Personnel Training	2	1	44	--	44	4180	0	0
Maintain NCP Records	6	1	--	42	42	1219. 68	0	600
Quarterly Reports	24	1	112	224	336	17144 .96	0	480
PCA ² Arrangements	3	1	54	--	54	5130	0	0
Service Accumulation	3	1	30	--	30	2850	0	16200
Conduct PCA	3	1	300	186	486	33901 .44	0	540
Engine Reallocation	3	1	36	--	36	3420	0	0
PCA Report	3	1	40	62	102	5600. 48	0	60

¹Two highway heavy duty diesel highway engine manufacturers submit approximately six engine NCP family/applications per year.

²Three PCAs are conducted on an annual basis. Arrangements include engine identification, selection, and shipment to test facility.

Maintain PCA Records	3	1	--	18	18	522.72	0	300
Total (for 3 years)	52	10	646	532	1178	76818.68	0	18180

(ii) The Agency Tally

Table E
Total Estimated Agency Burden And Cost Summary

Activity	Annual Total					
	Responses	Activities	Hours	Labor Costs	Capital Costs	O&M Costs
Application Review	6	1	24	1376	0	0
PCA Review & Compliance Level Determination	3	2	60	3440	0	0
Quarterly Report & Fee Payment Review	24	2	192	11006	0	0
Total	33	5	276	15822	0	0

6(f) Reasons for Change in Burden

The burden hours remain the same as those in the existing ICR. There is a very slight increase in labor costs, due to the use of current wage rates for this ICR.

6(g) Burden Statement

For the two participating highway engine manufacturers, the burden associated with requesting NCP certificates of conformity for their annual production is estimated to average 1,178 hours total. This equals 589 hours per respondent for three engine families each. The associated burden on a per engine family basis is 196 hours.

These estimates include time to review applicable regulations and guidance documents, train personnel, generate and gather the necessary PCA information, submit applications and reports, and maintain records.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review

the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID No. OAR-2005-0120, which is available for public viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Office for EPA. Please include the EPA Docket ID No. OAR-2005-0120 and OMB control number (2060-0132) in any correspondence.

Part B of the Supporting Statement

This part is not applicable.