

(d) Except as provided in paragraph (e) of this section, the certificate of conformity must be obtained from the Administrator prior to selling, offering for sale, introducing into commerce, or importing into the United States the new engine. Engines produced prior to the effective date of a certificate of conformity may also be covered by the certificate, once it is effective, if the following conditions are met:

(1) The engines conform in all respects to the engines described in the application for the certificate of conformity.

(2) The engines are not sold, offered for sale, introduced into commerce, or delivered for introduction into commerce prior to the effective date of the certificate of conformity.

(3) EPA is notified prior to the beginning of production when such production will start, and EPA is provided a full opportunity to inspect and/or test the engines during and after their production. EPA must have the opportunity to conduct SEA production line testing as if the vehicles had been produced after the effective date of the certificate.

(e) Engines that are certified by EPA prior to January 2, 1996 for model year 1997 may be delivered for introduction into commerce prior to January 2, 1996 once a certificate of conformity has been issued.

(f) Engines imported by an original equipment manufacturer after December 31 of the calendar year for which the model year is named are still covered by the certificate of conformity as long as the production of the engine was completed before December 31 of that year.

[60 FR 34598, July 3, 1995, as amended at 64 FR 15238, Mar. 30, 1999]

§ 90.107 Application for certification.

(a) For each engine family, the engine manufacturer must submit to the Administrator a completed application for a certificate of conformity.

(b) The application must be approved and signed by the authorized representative of the manufacturer.

(c) The application must be updated and corrected by amendment as provided in § 90.122 to accurately reflect the manufacturer's production.

(d) *Required content.* Each application must include the following information:

(1) A description of the basic engine design including, but not limited to, the engine family specifications;

(2) An explanation of how the emission control system operates, including a detailed description of all emission control system components (Detailed component calibrations are not required to be included; they must be provided if requested, however.), each auxiliary emission control device (AECD), and all fuel system components to be installed on any production or test engine(s);

(3) Proposed test engine(s) selection and the rationale for the test engine(s) selection;

(4) Special or alternate test procedures, if applicable;

(5) The service accumulation period necessary to break in the test engine(s) and stabilize emission levels;

(6) A description of all adjustable operating parameters including the following:

(i) The nominal or recommended setting and the associated production tolerances;

(ii) The intended physically adjustable range;

(iii) The limits or stops used to establish adjustable ranges;

(iv) Production tolerances of the limits or stops used to establish each physically adjustable range;

(v) Information relating to why the physical limits or stops used to establish the physically adjustable range of each parameter, or any other means used to inhibit adjustment, are effective in preventing adjustment of parameters to settings outside the manufacturer's intended physically adjustable ranges on in-use engines; and

(vi) Information relating to altitude kits to be certified, including: a description of the altitude kit; appropriate part numbers; the altitude ranges at which the kits must be installed on or removed from the engine for proper emissions and engine performance; statements to be included in the owner's manual for the engine/equipment combination (and other maintenance related literature) that: declare the altitude ranges at which

the kit must be installed or removed; and state that the operation of the engine/equipment at an altitude that differs from that at which it was certified, for extended periods of time, may increase emissions; and a statement that an engine with the altitude kit installed will meet each emission standard throughout its useful life (the rationale for this assessment must be documented and retained by the manufacturer, and provided to the Administrator upon request);

(7) The proposed engine information label;

(8) All test data obtained by the manufacturer on each test engine;

(9) A statement that the test engine(s), as described in the manufacturer's application for certification, has been tested in accordance with the applicable test procedures, utilizing the fuels and equipment required under subparts D and E of this part, and that on the basis of such tests the engine(s) conforms to the requirements of this part;

(10) An unconditional statement certifying that all engines in the engine family comply with all requirements of this part and the Clean Air Act;

(11) This paragraph (d)(11) is applicable only to Phase 2 engines.

(i) Engine manufacturers participating in the averaging, banking and trading program as described in subpart C of this part shall declare the applicable Family Emission Limit (FEL) for HC+NO_x (NMHC+NO_x).

(ii) Provide the applicable useful life as determined under § 90.105.

(e)(1) In addition to the information specified in paragraph (d) of this section, manufacturers of two-stroke lawnmower engines must submit with their application for a certificate of conformity:

(i) For model year 1997, information establishing the highest number of two-stroke lawnmower engines produced in a single annual production period from 1992 through 1994. This number will be known as the production baseline.

(ii) For model years 1998 through 2002, information documenting the previous year's production and projected production for the current year.

(2) In model year 1997, two-stroke lawnmower engine manufacturers may produce up to 100 percent of their production baseline established under paragraph (e)(1)(i) of this section.

(3) In model year 1998, two-stroke lawnmower engine manufacturers may produce up to 75 percent of their production baseline.

(4) From model years 1999 through 2002, two-stroke lawnmower engine manufacturers may produce up to 50 percent of their production baseline.

(5) In model year 2003, two-stroke lawnmower engine manufacturers must meet class I or II standards specified in § 90.103(a). If in model year 2003 those standards have been superseded by Phase 2 standards, two-stroke lawnmower engine manufacturers must meet the Phase 2 standards that are equivalent to the class I or II standards.

(f) At the Administrator's request, the manufacturer must supply such additional information as may be required to evaluate the application including, but not limited to, projected nonroad engine production.

(g)(1) The Administrator may modify the information submission requirements of paragraph (d) of this section, provided that all of the information specified therein is maintained by the engine manufacturer as required by § 90.121, and amended, updated, or corrected as necessary.

(2) For the purposes of this paragraph, § 90.121(a)(1) includes all information specified in paragraph (d) of this section whether or not such information is actually submitted to the Administrator for any particular model year.

(3) The Administrator may review an engine manufacturer's records at any time. At the Administrator's discretion, this review may take place either at the manufacturer's facility or at another facility designated by the Administrator.

(h)(1) The Administrator may, upon receipt of a written request from an equipment manufacturer, accompanied by sufficient documentation, permit two stroke engines produced for nonhandheld equipment other than lawnmowers to meet the standards specified in § 90.103(a)(3) under the

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schedule outlined in paragraph (e) of this section. The equipment manufacturer must demonstrate to the satisfaction of the Administrator that:

(i) Four stroke engines for such equipment are not available with suitable physical or performance characteristics; and

(ii) The equipment can not be converted to use four stroke engines without substantial redesign for which additional lead time is necessary to avoid economic hardship.

(2) The Administrator may waive the phase-in percentages of paragraphs (e)(3) and (e)(4) of this section for engines used in low volume nonhandheld equipment other than lawnmowers where the equipment manufacturer demonstrates to the satisfaction of the Administrator that compliance with the production cap is not economically feasible.

[60 FR 34598, July 3, 1995, as amended at 61 FR 20742, May 8, 1996; 62 FR 42643, Aug. 7, 1997; 64 FR 15238, Mar. 30, 1999; 65 FR 24307, Apr. 25, 2000]

§ 90.108 Certification.

(a) If, after a review of the manufacturer's submitted application, information obtained from any inspection, and such other information as the Administrator may require, the Administrator determines that the application is complete and that the engine family meets the requirements of this part and the Clean Air Act, the Administrator shall issue a certificate of conformity.

(b) The Administrator shall give a written explanation when certification is denied. The manufacturer may request a hearing on a denial. (See § 90.124 for procedure.)

(c) For certificates issued for engine families included in the averaging, banking and trading program as described in subpart C of this part:

(1) Failure to comply with all applicable averaging, banking and trading provisions in this part will be considered to be a failure to comply with the terms and conditions upon which the certificate was issued, and the certificate may be determined to be void *ab initio*.

(2) The manufacturer shall bear the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was granted were satisfied or waived.

(d) The Administrator may, upon request by a manufacturer, waive any requirement of this part otherwise necessary for the issuance of a certificate. The Administrator may set such conditions in a certificate as he or she deems appropriate to assure that the waived requirements are either satisfied or are demonstrated, for the subject engines, to be inappropriate, irrelevant or met by the application of a different requirement under this chapter. The Administrator may indicate on such conditional certificates that failure to meet these conditions may result in suspension or revocation or the voiding *ab initio* of the certificate.

[60 FR 34598, July 3, 1995, as amended at 64 FR 15238, Mar. 30, 1999]

§ 90.109 Requirement of certification—closed crankcase.

(a) An engine's crankcase must be closed.

(b) For purposes of this section, "crankcase" means the housing for the crankshaft and other related internal parts.

(c) Notwithstanding paragraph (a) of this section, the Administrator will allow open crankcases for engines used exclusively to power snowthrowers based upon a manufacturer's demonstration that all applicable emission standards will be met by the engine for the combination of emissions from the crankcase, and exhaust emissions measured using the procedures in subpart E of this part. This demonstration may be made based upon best engineering judgment. Upon request of the Administrator, the manufacturer must provide an explanation of any procedure or methodology used to determine that the total CO emissions from the crankcase and the exhaust are below the applicable standard for CO.

[60 FR 34598, July 3, 1995, as amended at 61 FR 58301, Nov. 13, 1996]