

as the Administrator deems appropriate, and shall be enforced in the same manner as standards prescribed under section [202].”⁶ Section 206 specifies requirements for motor vehicles and motor vehicle engine compliance testing and certification. Section 207 requires manufacturers to warrant compliance by motor vehicles and motor vehicle engines in actual use. Section 208 requires recordkeeping by manufacturers of new motor vehicles or new motor vehicle engines and authorizes EPA to collect information and require reports. Finally, section 209 preempts states or any political subdivisions from enforcing standards relating to control of emissions, certification, inspection, or any other approval relating to the control of emissions of new motor vehicles or new motor vehicle engines, unless specifically authorized to do so by EPA. Section 209 also preempts states or any political subdivision from enforcing any standard or other requirement relating to the control of emissions from new nonroad engines or new nonroad vehicles.

Pursuant to this authority, EPA is in today's action promulgating regulations that require manufacturers of new small SI engines to obtain certification and that subject them to Selective Enforcement Auditing. Any manufacturer of a new small SI engine is responsible for obtaining from the Administrator a certificate of conformity covering any engine introduced into commerce in the United States.

The Agency is also finalizing general enforcement provisions and certain prohibited acts similar to those established for on-highway vehicles under sections 203, 204, 205, and 208 of the CAA. Section 203 specifies prohibited acts; section 204 provides for federal court injunctions of violations of section 203(a); section 205 provides for assessment of civil penalties for violations of section 203; and section 208 provides the Agency with information collection authority. The general enforcement language of section 213(d) provides the Agency's authority for applying sections 203, 204, 205, 206, and 208 of the CAA to new small SI engines and equipment.

As applied to nonroad engines, vehicles, and equipment under section 213(d), Phase 1 prohibited acts include, but are not limited to:

- An engine manufacturer's introduction into commerce of new small SI engines that are not covered by a certificate of conformity issued by EPA,

- The introduction into commerce of new small SI equipment and vehicles that do not incorporate the appropriate nonhandheld or handheld certified nonroad engine,

- Tampering with emission control devices or elements of design installed on or in a small SI engine, and

- Failure to provide information to the Agency if requested.

The Agency is also establishing regulations, under the authority of section 205 of the Act, which set forth the maximum statutory penalties for violating the prohibitions.

The Agency is promulgating general information collection provisions similar to current on-highway provisions under section 208 of the Act which include, but are not limited to, the manufacturer's responsibility to provide information to EPA, perform testing if requested by EPA, and maintain records. In addition, emission system defect reporting regulations require manufacturers to report to EPA specific emission system-related defects that affect a given class or category of engines. Agency enforcement personnel are authorized to gain entry and access to various facilities under section 208 and today's action includes these entry and access provisions.

This rule's information requirements are similar to those set forth in the nonroad large CI rule,⁷ but are reduced from the on-highway program requirements.

The Agency is authorized under section 217 of the CAA to establish fees to recover compliance program costs associated with sections 206 and 207. In the future EPA will propose to establish fees for this nonroad compliance program, after determining associated costs of the compliance program.

C. Program Description

This section describes several features of EPA's Phase 1 small SI engine and vehicle and equipment compliance program. Some specific issues related to the program which require in-depth discussion are highlighted in section IV. of this preamble (“Public Participation”); all issues commented upon are addressed in detail in the Response to Comments document, located in the docket. In particular, the Response to Comments document should be consulted for more information dealing with issues that are not discussed under the Public Participation section of this document but that have seen a significant change in EPA position between the NPRM and the final rule (specifically, the selection

of the worst-case emitter, the voluntary in-use testing program, the absence of a cap on noise, and the catalyst durability requirements).

1. Applicability

This rule applies to new nonroad SI engines that have a gross power output rated at or below 19 kW and are manufactured during or after the 1997 model year, for use in the United States. The scope of this rule encompasses a broad range of small SI engine applications, including farm and construction equipment, which individual states are preempted from regulating under section 209(e)(1) of the CAA. New engines that are covered by this rule are used in a large and varied assortment of vehicles and equipment including lawnmowers, string trimmers, edgers, chain saws, commercial turf equipment, small construction equipment, and lawn and garden tractors.

2. Scope: Exemptions and Exclusions

Pursuant to section 203(b)(1) of the CAA, the Agency is promulgating exemptions and exclusions from this new small SI engine regulation similar to those existing for on-highway engines and nonroad large CI engines. Nonroad engines used solely for competition or combat are excluded from regulation in accordance with the CAA. Exemptions have been established for purposes of research, investigations, studies, demonstrations, training, or for reasons of national security. Such exemptions may be obtained either categorically, that is without application to the Administrator, or by submitting a written application to the Administrator. Export exemptions and manufacturer-owned engine exemptions will be granted without application. Testing exemptions, display exemptions, and national security exemptions must be obtained by application.

The rule also explicitly limits its coverage such that it does not extend to the small SI engines described below:

(1) Engines used to propel marine vessels, as defined in the General Provisions of the United States Code, 1 U.S.C. 3 (1992); this definition of “vessel” includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water⁸;

(2) Engines used in underground mining or engines used in underground mining equipment and regulated by the Mining Safety and Health

⁸The Agency proposed appropriate methods of regulating emissions from these engines separately; the NPRM was published on November 9, 1994 at 59 FR 55930.

⁶42 U.S.C. 7547(d).

⁷59 FR 31306 (June 17, 1994).