

in place of a mandatory program to develop meaningful data. EPA agrees that this type of a program is more appropriate for Phase 1 and will allow manufacturers to become familiar with an in-use testing program. Because the Agency has chosen not to promulgate an in-use standard or useful life period within this rule, it has decided that a mandatory in-use testing program conducted by manufacturers is unnecessary at this time.

#### 17. Labeling

The engine manufacturer is responsible for proper labeling of engines from each engine family. Manufacturers must label every engine covered by this rulemaking, but they are not required to supply unique numbers for each engine. The label indicates that the engine can meet the standards appropriate to its class.

The Agency has decided that an engine label that meets the labeling requirements for engines sold in the state of California will be accepted as meeting federal labeling requirements, provided the label states that it meets federal standards.

This action also requires that equipment and vehicle manufacturers apply a supplemental label to the equipment or vehicle if the engine label is obscured.

#### 18. Importation Restrictions

Nonconforming small SI engines, vehicles, and equipment will generally not be permitted to be imported for purposes of resale, except as specifically permitted by this action. This rule provides certain exemptions for various reasons, including repairs and alterations, testing, pre-certification, display, national security, and hardship. In addition, nonconforming small SI engines that are exempted from importation restrictions include engines greater than 20 original production years old, engines used solely in competition, and certain engines proven to be identical, in all material respects, to their corresponding United States certified versions.

Today's action will permit individuals to import on a single occasion up to three nonconforming small SI engines, vehicles, or equipment items for personal use (and not for purposes of resale). After an individual's limit of three, or after the first importation, additional small SI engines, vehicles, or equipment will not be permitted to be imported under this rule unless otherwise provided under another exemption or exclusion.

The Agency has also decided not to establish an independent commercial

importers (ICI) program for small SI engines.

#### 19. Defect Reporting and Voluntary Recall

The Agency is adopting the proposed emission defect reporting regulations which require a manufacturer to report emission-related defects that affect a given class or category of small SI engines whenever it identifies the existence of a specific emission-related defect in twenty-five or more engines in a single engine family manufactured in the same model year. However, no report need be filed with EPA if the defect is corrected prior to the sale of the affected engines to the ultimate purchaser.

The Agency requires that individual manufacturers establish voluntary recall programs, when appropriate. It has established limited guidelines for engine manufacturers to follow when undertaking such a program.

#### 20. Emission Defect Warranty Requirements

The emission defect warranty will be provided by engine manufacturers for the first two years of engine use, which is harmonious with the two-year warranty period set forth in California's lawn and garden regulations. The warranty requirements are consistent with emission defect warranty policies developed for on-highway vehicles, located in section 207(a) of the Act. Manufacturers of new nonroad engines must warrant to the ultimate purchaser and each subsequent purchaser that such engine was (1) designed, built, and equipped so as to conform at the time of sale with applicable regulations under section 213 of the Act, and (2) free from defects in materials and workmanship which cause such engine to fail to conform with applicable regulations for its warranty period.

#### 21. Prohibited Acts; Tampering

The Agency is adopting provisions that will prohibit introducing engines into commerce in the United States which are not covered by a certificate of conformity issued by EPA. Additionally it will be a prohibited act to use a regulated but uncertified nonroad engine in nonroad vehicles or equipment. It is also a prohibited act for any person to tamper with any emission-related component or system installed on or in a small SI engine. The Agency has applied the existing policies developed for on-highway tampering to engines included in this rule. (See Office of Enforcement and General

Counsel; Mobile Source Enforcement Memorandum No. 1A, June 25, 1974.<sup>9</sup>)

Adjustments outside of manufacturer's suggested parameters, installation of replacement parts, or installation of add-on parts might not necessarily be considered to be tampering so long as regulated emissions do not increase and engine durability is not adversely impacted as a result of such adjustments, replacement parts, or add-on parts. For example, a manufacturer may install conversion kits so that engines are capable of utilizing alternative fuels if testing has been conducted according to the procedures specified in subpart E of part 90 to ensure that regulated emissions will not increase as a result of the conversion and use of alternative fuels. A manufacturer is not required to send documentation that emissions do not increase to EPA, but should be able to provide such documentation upon request. EPA's tampering enforcement policy memorandum cited above addresses these issues and should be used as a reference to determine whether they constitute tampering or are allowable under the provisions of this rule.

#### 22. Catalyst Durability

Although EPA has not established full emission control system durability demonstration requirements in the rulemaking, it expects manufacturers to design such systems to be durable; that is, to be effective in realizing emission reduction benefits under normal in-use operating conditions not only when the engines are new, but also during operation in-use, over time. While full emission control system durability demonstration requirements are expected to be included in the Phase 2 regulations for small SI engines, EPA has concerns that certain emission control components, namely catalysts, warrant separate consideration.

Therefore, EPA is adopting durability demonstration requirements for catalysts in this rule. If catalysts are used in an engine family to meet the emission standards of this regulation, the engine manufacturer must affirm that the durability of the catalysts has been confirmed on the basis of the evaluation procedure that is specified in this rulemaking. The requirements adopted by EPA differ in some ways from the proposal (regarding thermal stress testing requirements, exhaust gas composition for testing of three-way catalysts, and deterioration limits) that are discussed in more detail in the Response to Comments.

<sup>9</sup> EPA Air Docket #A-93-25, item II-B-01.