

23. No Cap on Noise

While EPA proposed that noise produced by new small SI engines would not be allowed to increase over current levels as a result of the proposed emission standards, it has decided not to promulgate such a requirement. Although EPA continues to believe noise control is important, without standards and test procedures, such a requirement is not enforceable. The Agency expects that the types of modifications to current engine design that will be performed to assure compliance with emission standards will not impact noise levels. However, EPA may regulate engine noise if it becomes aware that noise levels do actually increase subsequent to promulgation of this rulemaking.

24. No Averaging, Banking, and Trading Program

This rule does not extend averaging, banking, and trading, nor any of the elements of such a program, to the certification program for the engines subject to this regulation. Averaging, banking, and trading are being discussed as options for Phase 2.

IV. Public Participation and Comment

The Agency received submissions during the comment period for the NPRM from thirty-three commenters. Copies of all of the written comments submitted to EPA, as well as records of all oral comments received during the comment period, can be obtained from the docket for this rule (see **ADDRESSES**).

This section responds to certain comments received from the public on major issues. The docket also contains a "Response to Comments" document that provides a more detailed summary of the comments, including many issues not covered in this preamble because they were minor or less contentious issues, and EPA's rationale for its responses.

A. Model Year Definition and Effective Date

This rule will become effective beginning with the 1997 model year. The Agency proposed an effective date of August 1, 1996 for implementation of this rulemaking. Regarding the definition of model year, EPA requested comment on three options: (1) a model year beginning August 1 and ending July 31 of the succeeding year, (2) a model year like that in the on-highway program, beginning January 2 of one year and ending December 31 of the succeeding year, and (3) a model year like that in the on-highway program, but beginning August 1 and ending July 31 of the second succeeding year.

Several states, associations of state and local air officials, and an environmental association supported an effective date of January 1, 1996. They noted that delayed implementation of this rule decreases the value of a phased approach to small engine regulation by eroding the near-term benefits of a program intended largely to provide near-term benefits. A state, an environmental association, and associations of state and local air officials that are participants in the regulatory negotiation for the second phase of small engine regulation stated that their agreement to participate in the negotiated rulemaking was based partly on a January 1, 1996 effective date for the Phase 1 rulemaking.

Several states and a manufacturer supported the proposed effective date of August 1, 1996. One state argued that manufacturers have had ample notice of the fact that they would be regulated, and that to delay would reward parties that have not devoted resources in good faith to develop cleaner engines. Another state commented that it would have to adopt California's regulation for SI engines under 25 horsepower to get the SIP credits it needs if the federal rule's effective date is delayed.

Several manufacturers and industry associations supported an August 1, 1997 effective date, citing lead time considerations. An association pointed out that the interval between promulgation of the final rule in May 1995 and the effective date of August 1, 1996 would provide only one year of lead time prior to implementation, which it considered to be insufficient for engine manufacturers to retool to achieve emission compliance for implementation of nationwide standards.

Another industry association and a manufacturer commented that an August effective date does not coincide with the production cycle for all engines covered by this rule; many operate on a calendar year basis. That association supported setting an effective date two years after California's regulations become effective (e.g., January 1, 1997) for products that are not preempted in California and an effective date two years after this Phase 1 rule takes effect (e.g., January 1, 1999) for products that are preempted in California. The association cited lead time concerns, particularly in regard to products that are preempted from regulation in California. One manufacturer supported a January 1998 effective date for engines used in products that are preempted from regulation in California, arguing that the additional lead time is critical to prevent disruptions in supply since

most attention has been focused on engine development for non-preempted products.

Comments on the definition of model year were received from manufacturers and industry, state and local air officials, and an environmental association. All comments supported the on-highway model year definition.

The Agency has decided upon a model year 1997 effective date and has adopted the on-highway model year definition. The 1997 model year will run from January 2, 1996 to December 31, 1997.

The Agency acknowledges industry's need for sufficient lead time. It also acknowledges the need of states to realize reductions of air pollutant emissions, and to adhere to schedules mandated in the CAA for reasonable further progress toward VOC reductions from 1990 levels and for attainment of the National Ambient Air Quality Standard for ozone. The model year 1997 effective date provides additional lead time for those manufacturers that take advantage of the flexibility allowed by the model year definition; it also allows early introduction of complying products by manufacturers that are in a position to produce complying products earlier in the model year rather than later.

The Agency is allowing additional lead time for Class V engines covered by this rule that are used in farm and construction equipment or vehicles which CAA section 209(e)(1)(A) preempts from state regulation. The effective date for such Class V engines is January 1, 1998.

Under the final rule, the model year includes January 1 of the calendar year for which it is designated and does not include a January 1 of any other calendar year. The maximum duration of a model year is one calendar year plus 364 days. A certificate of conformity is issued for each engine family introduced into commerce for a single model year. The annual production period within a model year for any specific model within an engine family begins either: (1) when such engine is first produced, or (2) on January 2 of the calendar year preceding the year for which the model year is designated, whichever date is later. The annual production period ends either: (1) when the last such engine is produced, or (2) on December 31 of the calendar year for which the model year is named, whichever date is sooner.

Introducing a specific model year engine into commerce prior to or after the model year for which the certificate is issued and in effect is a prohibited act. However, in recognition of the fact