

The Agency has recently adopted a new approach to regulatory flexibility: for purposes of EPA's implementation of the Act, any impact is a significant impact, and any number of small entities is a substantial number.²² Thus, EPA will consider regulatory options for every regulation subject to the Act that can reasonably be expected to have an impact on small entities. In light of this new approach, EPA has determined that this rule will have a significant effect on a substantial number of small entities. As a result, EPA tailored this rule to minimize the cost burdens imposed on smaller engine manufacturers. (See "Small Entities" in the Response to Comments for more discussion and comments.)

The regulations contain certification requirements for new engines, Selective Enforcement Auditing provisions for the testing of production engines, and prohibitions on incorrect engine use for equipment manufacturers. For example, the SEA program is structured such that manufacturers with lower annual production volumes have a decreased testing burden. Even though consideration was given to small entities in developing the requirements of this rule, it has recently come to EPA's attention that there may be a few businesses that are so small that even the reduced requirements could threaten their livelihood. In light of this, the Agency is currently considering exemptions or flexible requirements for small entities for all of its nonroad rules.

List of Subjects in 40 CFR Parts 9 and 90

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Incorporation by reference, Labeling, Nonroad source pollution, Reporting and recordkeeping requirements.

Dated: May 30, 1995.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 9—[AMENDED]

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33

U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1321, 1326, 1330, 1334, 1345(d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992(k), 7401–7671(q), 7542, 9601–9657, 11023, 11048.

2. Section 9.1 is amended by adding new entries and a new heading to the table to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

40 CFR citation	OMB control No.
<i>Control of Emissions From New and In-use Nonroad Engines</i>	
90.107–90.108	2060–0338
90.113	2060–0338
90.115–90.124	2060–0338
90.126	2060–0338
90.304–90.329	2060–0338
90.404–90.427	2060–0338
90.505–90.509	2060–0295
90.511–90.512	2060–0295
90.604	2060–0294
90.611–90.613	2060–0294
90.800	2060–0048
90.802–90.804	2060–0048
90.806	2060–0048
90.903	2060–0124
90.905–90.906	2060–0007

3. Part 90 is added to read as follows:

PART 90—CONTROL OF EMISSIONS FROM NONROAD SPARK-IGNITION ENGINES

Subpart A—General

Sec.

- 90.1 Applicability.
- 90.2 Effective dates.
- 90.3 Definitions.
- 90.4 Treatment of confidential information.
- 90.5 Acronyms and abbreviations.
- 90.6 Table and figure numbering; position.
- 90.7 Reference materials.

Subpart B—Emission Standards and Certification Provisions

- 90.101 Applicability.
- 90.102 Definitions.
- 90.103 Exhaust emission standards.
- 90.104 Compliance with emission standards.
- 90.105 Useful life period.
- 90.106 Certificate of conformity.
- 90.107 Application for certification.
- 90.108 Certification.
- 90.109 Requirement of certification—closed crankcase.
- 90.110 Requirement of certification—prohibited controls.
- 90.111 Requirement of certification—prohibition of defeat devices.
- 90.112 Requirement of certification—adjustable parameters.
- 90.113 In-use testing programs.

- 90.114 Requirement of certification—engine information label.
- 90.115 Requirement of certification—supplying production engines upon request.
- 90.116 Certification procedure—determining engine displacement, engine class, and engine families.
- 90.117 Certification procedure—test engine selection.
- 90.118 Certification procedure—service accumulation.
- 90.119 Certification procedure—testing.
- 90.120 Certification procedure—use of special test procedures.
- 90.121 Certification procedure—recordkeeping.
- 90.122 Amending the application and certificate of conformity.
- 90.123 Denial, revocation of certificate of conformity.
- 90.124 Request for hearing.
- 90.125 Hearing procedures.
- 90.126 Right of entry and access.

Subpart C—[Reserved]

Subpart D—Emission Test Equipment Provisions

- 90.301 Applicability.
- 90.302 Definitions.
- 90.303 Symbols, acronyms, abbreviations.
- 90.304 Test equipment overview.
- 90.305 Dynamometer specifications and calibration accuracy.
- 90.306 Dynamometer torque cell calibration.
- 90.307 Engine cooling system.
- 90.308 Lubricating oil and test fuels.
- 90.309 Engine intake air temperature measurement.
- 90.310 Engine intake air humidity measurement.
- 90.311 Test conditions.
- 90.312 Analytical gases.
- 90.313 Analyzers required.
- 90.314 Analyzer accuracy and specifications.
- 90.315 Analyzer initial calibration.
- 90.316 Hydrocarbon analyzer calibration.
- 90.317 Carbon monoxide analyzer calibration.
- 90.318 Oxides of nitrogen analyzer calibration.
- 90.319 NO_x converter check.
- 90.320 Carbon dioxide analyzer calibration.
- 90.321 NDIR analyzer calibration.
- 90.322 Calibration of other equipment.
- 90.323 Analyzer bench checks.
- 90.324 Analyzer leakage check.
- 90.325 Analyzer interference checks.
- 90.326 Pre-and post-test analyzer calibration.
- 90.327 Sampling system requirements.
- 90.328 Measurement equipment accuracy/calibration frequency table.
- 90.329 Catalyst thermal stress test.

Appendix A to Subpart D—Tables

Appendix B to Subpart D—Figures

Subpart E—Gaseous Exhaust Test Procedures

- 90.401 Applicability.
- 90.402 Definitions.
- 90.403 Symbols, acronyms, and abbreviations.

²² Habicht, F. Henry II, Deputy Administrator, Internal EPA Memorandum, "Revised Guidelines for Implementing the Regulatory Flexibility Act," April 9, 1992.