

(3) A description of the method by which the manufacturer will notify engine owners and, if applicable, the method by which the manufacturer will determine the names and addresses of engine owners;

(4) A description of the proper maintenance or use, if any, upon which the manufacturer conditions eligibility for repair under the recall plan, an explanation of the manufacturer's reasons for imposing any such conditions, and a description of the proof to be required of an engine owner to demonstrate compliance with any such conditions;

(5) A description of the procedure to be followed by engine owners to obtain correction of the nonconformity. This may include designation of the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor to remedy the defect, and the designation of facilities at which the defect can be remedied;

(6) A description of the class of persons other than dealers and authorized warranty agents of the manufacturer who will remedy the defect;

(7) When applicable, three copies of any letters of notification to be sent engine owners;

(8) A description of the system by which the manufacturer will assure that an adequate supply of parts is available to perform the repair under the plan, and that the supply remains both adequate and responsive to owner demand;

(9) Three copies of all necessary instructions to be sent to those persons who are to perform the repair under the recall plan;

(10) A description of the impact of the proposed changes on fuel consumption, performance, and safety of each class or category of engines to be recalled;

(11) A sample of any label to be applied to engines which participated in the voluntary recall campaign.

(b) The manufacturer must submit at least one report on the progress of the recall campaign. Such report must be submitted no later than 18 months from the date notification was begun and include the following information:

(1) The methods used to notify both engine owners, dealers and other individuals involved in the recall campaign;

(2) The number of engines known or estimated to be affected by the emission-related defect and an explanation of the means by which this number was determined;

(3) The number of engines actually receiving repair under the plan; and

(4) The number of engines determined to be ineligible for remedial action due to a failure to properly maintain or use such engines.

#### **§ 90.805 Reports, voluntary recall plan filing, record retention.**

(a) Send the defect report, voluntary recall plan, and the voluntary recall progress report to: Director, Manufacturers Operations Division, Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460.

(b) Retain the information gathered by the manufacturer to compile the reports for not less than five years from the date of the manufacture of the engines. The manufacturer must make this information available to duly authorized officials of the EPA upon request.

#### **§ 90.806 Responsibility under other legal provisions preserved.**

The filing of any report under the provisions of this subpart does not affect a manufacturer's responsibility to file reports or applications, obtain approval, or give notice under any provision of law.

#### **§ 90.807 Disclaimer of production warranty applicability.**

(a) The act of filing an Emission Defect Information Report is inconclusive as to the existence of a defect subject to the warranty provided by subpart L of this part.

(b) A manufacturer may include on each page of its Emission Defect Information Report a disclaimer stating that the filing of a Defect Information Report pursuant to these regulations is not conclusive as to the applicability of the warranty provided by subpart L of this part.

### **Subpart J—Exclusion and Exemption of Nonroad Engines from Regulations**

#### **§ 90.901 Applicability.**

The requirements of subpart J are applicable to all nonroad engines and vehicles subject to the provisions of subpart A of part 90.

#### **§ 90.902 Definitions.**

The definitions in subpart A of this part apply to this subpart. The following definitions also apply to this subpart:

*Exemption* means exemption from the prohibitions of § 90.1003.

*Export exemption* means an exemption granted under § 90.1004(b) for the purpose of exporting new nonroad engines.

*National security exemption* means an exemption granted under § 90.1004(b) for the purpose of national security.

*Manufacturer-owned nonroad engine* means an uncertified nonroad engine

owned and controlled by a nonroad engine manufacturer and used in a manner not involving lease or sale by itself or in a vehicle employed from year to year in the ordinary course of business for product development, production method assessment, and market promotion purposes.

*Testing exemption* means an exemption granted under § 90.1004(b) for the purpose of research, investigations, studies, demonstrations or training, but not including national security.

#### **§ 90.903 Exclusions, application of section 216(10) of the Act.**

(a) For the purpose of determining the applicability of section 216(10) of the Act, an internal combustion engine (including the fuel system) that is not used in a motor vehicle is deemed a nonroad engine, if it meets the definition in subpart A of this part. For the purpose of determining the applicability of section 216(11) of the Act, a vehicle powered by a nonroad engine is deemed a nonroad vehicle, if it meets the definition in subpart A of this part. Nonroad engines and nonroad vehicles do not include features ordinarily associated with military combat such as armor and/or weaponry.

(b) EPA will maintain a list of nonroad engines that have been determined to be excluded because they are used solely for competition or for combat. This list will be available to the public and may be obtained by writing to the following address: Chief, Manufacturers Programs Branch, Manufacturers Operations Division (6405-J), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

(c) Upon written request, EPA will make written determinations as to whether certain engines are or are not nonroad engines. Engines that are determined not to be nonroad engines are excluded from regulations under this part.

#### **§ 90.904 Who may request an exemption.**

(a) Any person may request a testing exemption under § 90.905.

(b) Any nonroad engine manufacturer may request a national security exemption under § 90.908.

(c) For nonroad engine manufacturers, nonroad engines manufactured for export purposes are exempt without application, subject to the provisions of § 90.909.

(d) For eligible manufacturers, as determined by § 90.906, manufacturer-owned nonroad engines are exempt without application, subject to the provisions of § 90.906.