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SOURCE: 60 FR 34598, July 3, 1995, unless otherwise noted.

Subpart A—General

§ 90.1 Applicability.

(a) This part applies to new nonroad spark-ignition engines and vehicles with gross power output at or below 19 kilowatts (kW) used for any purpose, unless we exclude them under paragraph (d) of this section.

(b) In certain cases, the regulations in this part 90 also apply to new en-

gines with a gross power output above 19 kW that would otherwise be covered by 40 CFR part 1048 or 1051. See 40 CFR 1048.615 or 1051.145(a)(3) for provisions related to this allowance.

(c) In certain cases, the regulations in this part 90 apply to new engines below 50 cc used in motorcycles that are motor vehicles. See 40 CFR 86.447-2006 for provisions related to this allowance.

(d) The following nonroad engines and vehicles are not subject to the provisions of this part:

(1) Engines certified to meet the requirements of 40 CFR part 1051 (*e.g.*, engines used in snowmobiles). This part nevertheless applies to engines used in recreational vehicles if the manufacturer uses the provisions of 40 CFR 1051.145(a)(3) to exempt them from the requirements of 40 CFR part 1051. Compliance with the provisions of this part is a required condition of that exemption.

(2) Engines used in highway motorcycles. See 40 CFR part 86, subpart E.

(3) Propulsion marine engines. See 40 CFR part 91. This part applies with respect to auxiliary marine engines.

(4) Engines used in aircraft. See 40 CFR part 87.

(5) Engines certified to meet the requirements of 40 CFR part 1048, subject to the provisions of § 90.913.

(6) Hobby engines.

(7) Engines that are used exclusively in emergency and rescue equipment where no certified engines are available to power the equipment safely and practically, but not including generators, alternators, compressors or pumps used to provide remote power to a rescue tool. The equipment manufacturer bears the responsibility to ascertain on an annual basis and maintain documentation available to the Administrator that no appropriate certified engine is available from any source.

(e) Engines subject to the provisions of this subpart are also subject to the provisions found in subparts B through N of this part, except that Subparts C, H, M and N of this part apply only to Phase 2 engines as defined in this subpart.

(f) Certain text in this part is identified as pertaining to Phase 1 or Phase 2 engines. Such text pertains only to

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engines of the specified Phase. If no indication of Phase is given, the text pertains to all engines, regardless of Phase.

(g) This part also applies to engines under 50 cc used in motorcycles that are motor vehicles if the manufacturer uses the provisions of 40 CFR 86.447–2006 to meet the emission standards in this part instead of the requirements of 40 CFR part 86. In this case, compliance with the provisions of this part is a required condition of that exemption.

[67 FR 68339, Nov. 8, 2002, as amended at 69 FR 2441, Jan. 15, 2004; 70 FR 40448, July 13, 2005]

§ 90.2 Effective dates.

(a) This subpart applies to nonroad spark-ignition engines at or below 19 kW effective with the 1997 model year.

(b) Notwithstanding paragraph (a) of this section, this subpart applies to class V engines, as specified in § 90.116(b)(5), that are preempted from regulation in California by section 209(e)(1)(A) of the Act, effective January 1, 1998.

(c) Notwithstanding paragraphs (a) and (b) of this section, engines used in recreational vehicles with engine rated speed greater than or equal to 5,000 rpm and with no installed speed governor are not subject to the provisions of this part through the 2005 model year. Starting with the 2006 model year, all the requirements of this part apply to engines used in these vehicles if they are not included in the scope of 40 CFR part 1051.

[60 FR 34598, July 3, 1995, as amended at 67 FR 68339, Nov. 8, 2002]

§ 90.3 Definitions.

The following definitions apply to part 90. All terms not defined herein have the meaning given them in the Act.

Act means the Clean Air Act, as amended, 42 U.S.C. 7401 et seq.

Adjustable parameter means any device, system, or element of design which is physically capable of being adjusted (including those which are difficult to access) and which, if adjusted, may affect emissions or engine performance during emission testing or normal in-use operation.

Administrator means the Administrator of the Environmental Protection Agency or his or her authorized representative.

Aftertreatment means the passage of exhaust gases through a device or system such as a catalyst whose purpose is to chemically alter the gases prior to their release to the atmosphere.

Aircraft means any vehicle capable of sustained air travel above treetop heights.

Amphibious vehicle means a vehicle with wheels or tracks that is designed primarily for operation on land and secondarily for operation in water.

Auxiliary emission control device (AECD) means any element of design that senses temperature, vehicle speed, engine RPM, transmission gear, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system.

Certification means, with respect to new nonroad engines, obtaining a certificate of conformity for an engine family complying with the nonroad engine emission standards and requirements specified in this part.

DF or *df* means deterioration factor.

Eligible production or *U.S. production* means Phase 2 engines produced for purposes of being used in the United States, and includes any engine exported and subsequently imported in a new piece of equipment, but excludes any engine introduced into commerce, by itself or in a piece of equipment, for use in a state that has established its own emission requirements applicable to such engines pursuant to a waiver granted by EPA under section 209(e) of the Clean Air Act.

Emission control system means any device, system, or element of design which controls or reduces the emission of substances from an engine.

Engine as used in this part, refers to nonroad engine.

Engine family means a group of engines, as specified in § 90.116.

Engine manufacturer means any person engaged in the manufacturing or assembling of new nonroad engines or the importing of such engines for resale, or who acts for and is under the