

### § 90.3

### 40 CFR Ch. I (7–1–03 Edition)

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.

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

*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.

*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 en-

gine 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 control of any such person in connection with the distribution of such engines. Engine manufacturer does not include any dealer with respect to new nonroad engines received by such person in commerce.

*EPA enforcement officer* means any officer, employee, or authorized representative of the U.S. Environmental Protection Agency so designated in writing by the Administrator (or by his or her designee).

*Equipment manufacturer* means a manufacturer of equipment using engines covered by the provisions of this Part who does not also manufacture engines covered by the provisions of this Part.

*Exhaust emissions* means matter emitted into the atmosphere from any opening downstream from the exhaust port of a nonroad engine.

*Family Emission Limit* or *FEL* means an emission level that is declared by the manufacturer to serve in lieu of an emission standard for the purposes of certification, production line testing, and Selective Enforcement Auditing for engines participating in the averaging, banking and trading program. A

declared FEL will also serve in lieu of an emission standard where the manufacturer elects to perform voluntary in-use testing under this part. An FEL must be expressed to the same number of decimal places as the applicable emission standard.

*Fuel system* means all components involved in the transport, metering, and mixture of the fuel from the fuel tank to the combustion chamber(s) including the following: fuel tank, fuel tank cap, fuel pump, fuel lines, oil injection metering system, carburetor or fuel injection components, and all fuel system vents.

*Gross power* means the power measured at the crankshaft or its equivalent, the engine being equipped only with the standard accessories (such as oil pumps, coolant pumps, and so forth) necessary for its operation on the test bed.

*Handheld equipment engine* means a nonroad engine that meets the requirements specified in § 90.103(a)(2)(1) through (v).

*HC+NO<sub>x</sub>* means total hydrocarbons plus oxides of nitrogen.

*Hobby engines* means engines used in reduced-scale models of vehicles that are not capable of transporting a person (for example, model airplanes).

*Marine engine* means an engine that someone installs or intends to install on a marine vessel. There are two kinds of marine engines:

(1) *Propulsion marine engine* means a marine engine that moves a vessel through the water or directs the vessel's movement.

(2) *Auxiliary marine engine* means a marine engine not used for propulsion.

*Marine vessel* means a vehicle that is capable of operation in water but is not capable of operation out of water. Amphibious vehicles are not marine vessels.

*Model year (MY)* means the manufacturer's annual new model production period which includes January 1 of the calendar year, ends no later than December 31 of the calendar year, and does not begin earlier than January 2 of the previous calendar year. Where a manufacturer has no annual new model production period, model year means calendar year.

*New*, for the purposes of this part, means a nonroad engine or nonroad vehicle the equitable or legal title to which has never been transferred to an ultimate purchaser. Where the equitable or legal title to the engine or vehicle is not transferred to an ultimate purchaser until after the engine or vehicle is placed into service, then the engine or vehicle will no longer be new after it is placed into service. A nonroad engine or vehicle is placed into service when it is used for its functional purposes. With respect to imported nonroad engines or nonroad vehicles, the term "new" means an engine or vehicle that is not covered by a certificate of conformity issued under this part at the time of importation, and that is manufactured after the effective date of a regulation issued under this part which is applicable to such engine or vehicle (or which would be applicable to such engine or vehicle had it been manufactured for importation into the United States).

*New Class I engine family* means any group of engines that employ a design that is different from engine families that the engine manufacturer has previously certified, and does not include any engine family certified on the basis of carryover data or any engine family that differs from another engine family solely as a result of a running change.

*NMHC+NO<sub>x</sub>* means nonmethane hydrocarbons plus oxides of nitrogen.

*Nonroad engine* means:

(1) Except as discussed in paragraph (2) of this definition, any internal combustion engine:

(i) In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes, and bulldozers); or

(ii) In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

(iii) That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited

### § 90.3

### 40 CFR Ch. I (7-1-03 Edition)

to, wheels, skids, carrying handles, dolly, trailer, or platform.

(2) An internal combustion engine is not a nonroad engine if:

(i) The engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under section 202 of the Act; or

(ii) The engine is regulated by a federal New Source Performance Standard promulgated under section 111 of the Act; or

(iii) The engine otherwise included in paragraph (1)(iii) of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location approximately three months (or more) each year. This paragraph does not apply to an engine after the engine is removed from the location.

*Nonroad vehicle* means a vehicle that is powered by a nonroad engine as defined in this section and that is not a motor vehicle or a vehicle used solely for competition. Nonroad vehicle also includes equipment that is powered by nonroad engines.

*Nonroad vehicle manufacturer* means any person engaged in the manufacturing or assembling of new nonroad vehicles or importing such vehicles for resale, or who acts for and is under the control of any such person in connection with the distribution of such vehicles. A nonroad vehicle manufacturer does not include any dealer with respect to new nonroad vehicles received by such person in commerce.

*Operating hours* means:

(1) For engine storage areas or facilities, all times during which personnel other than custodial personnel are at work in the vicinity of the storage area or facility and have access to it.

(2) For all other areas or facilities, all times during which an assembly line is in operation or all times during which testing, maintenance, service accumulation, production or compilation of records, or any other procedure or activity related to certification testing, to translation of designs from the test stage to the production stage, or to engine manufacture or assembly is being carried out in a facility.

*Overhead valve engine* means an otto-cycle, four stroke engine in which the intake and exhaust valves are located above the combustion chamber within the cylinder head. Such engines are sometimes referred to as "valve-in-head" engines.

*Phase 1 engine* means any handheld or nonhandheld engine, that was produced under a certificate of conformity issued under the regulations in this part to the standard levels defined for Phase 1.

*Phase 2 engine* means any handheld and nonhandheld engine that was produced under a certificate of conformity under the regulations in this part to the standards defined for Phase 2 engines.

*Presentation of credentials* means the display of the document designating a person as an EPA enforcement officer or EPA authorized representative.

*Recreational* means, for purposes of this part, relating to a vehicle intended by the vehicle manufacturer to be operated primarily for pleasure.

*Round, rounded or rounding* means, unless otherwise specified, that numbers will be rounded according to ASTM-E29-93a, which is incorporated by reference in this part pursuant to § 90.7.

*Scheduled maintenance* means any adjustment, repair, removal, disassembly, cleaning, or replacement of components or systems required by the manufacturer to be performed on a periodic basis to prevent part failure or vehicle or engine malfunction, or those actions anticipated as necessary to correct an

overt indication of malfunction or failure for which periodic maintenance is not appropriate.

*Side valve engine* means an otto-cycle, four stroke engine in which the intake and exhaust valves are located to the side of the cylinder, not within the cylinder head. Such engines are sometimes referred to as "L-head" engines.

*Small volume engine family* means any handheld engine family or any nonhandheld engine family whose eligible production in a given model year are projected at the time of certification to be no more than 5,000 engines.

*Small volume engine manufacturer* means, for nonhandheld engines, any engine manufacturer whose total eligible production of nonhandheld engines are projected at the time of certification of a given model year to be no more than 10,000 nonhandheld engines. For handheld engines, the term *small volume engine manufacturer* means any engine manufacturer whose total eligible production of handheld engines are projected at the time of certification of a given model year to be no more than 25,000 handheld engines.

*Small volume equipment manufacturer* means, for nonhandheld equipment, any equipment manufacturer whose production of nonhandheld equipment subject to regulation under this part or powered by engines regulated under this part, does not exceed 5,000 pieces for a given model year or annual production period excluding that equipment intended for introduction into commerce for use in a state that has established its own emission requirements applicable to such equipment or engines in such equipment, pursuant to a waiver granted by EPA under section 209(e) of the Clean Air Act. For handheld equipment, the term *small volume equipment manufacturer* has the same meaning except that it is limited to 25,000 pieces of handheld equipment rather than 5,000 pieces of nonhandheld equipment.

*Small volume equipment model* means, for nonhandheld equipment, any unique model of equipment whose production subject to regulations under this part or powered by engines regulated under this part, does not exceed 500 pieces for a given model year or an-

nual production period excluding that equipment intended for introduction into commerce for use in a state that has established its own emission requirements applicable to such equipment or engines in such equipment, pursuant to a waiver granted by EPA under section 209(e) of the Clean Air Act. For handheld equipment, the term *small volume equipment model* has the same meaning except that it is limited to 5,000 pieces of handheld equipment, rather than 500 pieces of nonhandheld equipment.

*Test engine* means the engine or group of engines that a manufacturer uses during certification to determine compliance with emission standards.

*Ultimate purchaser* means, with respect to any new nonroad engine or new nonroad vehicle, the first person who in good faith purchases such new nonroad engine or vehicle for purposes other than resale.

*United States* means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, and the Trust Territory of the Pacific Islands.

*Used solely for competition* means exhibiting features that are not easily removed and that would render its use other than in competition unsafe, impractical, or highly unlikely.

*Warranty period* means the period of time the engine or part is covered by the warranty provisions.

[60 FR 34598, July 3, 1995, as amended at 64 FR 15235, Mar. 30, 1999; 65 FR 24305, Apr. 25, 2000; 67 FR 68339, Nov. 8, 2002]

#### § 90.4 Treatment of confidential information.

(a) Any manufacturer may assert that some or all of the information submitted pursuant to this part is entitled to confidential treatment as provided by part 2, subpart B of this chapter.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA.

(c) To assert that information submitted pursuant to this subpart is confidential, a manufacturer must indicate clearly the items of information