

We are proposing to extend to CI engines that operate on unrefined natural gas the same provisions we have adopted for similar SI engines. Such engines are sometimes used to operate pumps at oil fields where unrefined natural gas is a readily available and inexpensive fuel source. This provision would allow manufacturers greater flexibility with respect to engine adjustment to address variability in fuel properties.

In addition, we are proposing to require that manufacturers label uncertified engines that they import for stationary applications. Because these engines look the same as or very similar to regulated nonroad engines, it can be difficult to distinguish the two without labels. These labels will also help manufacturers and others who import these engines to avoid potential problems with customs inspections.

Another labeling issue relates to the primary emission control information label that engine manufacturers put on every certified engine they produce. The current regulations require equipment manufacturers to put a duplicate label on the equipment if the engine is installed in a way that obscures the label on the engine. We are proposing to clarify this requirement for duplicate labels to ensure that labels are accessible without creating a supply of duplicate labels that are not authentic and used appropriately. Specifically, we are proposing to require engine manufacturers to supply duplicate labels to equipment manufacturers that request them and keep records to show how many labels they supply. Similarly, we are proposing to require equipment manufacturers to request from engine manufacturers a specific number of duplicate labels, with a description of which engine and equipment models are involved and why the duplicate labels are necessary. Equipment manufacturers would need to destroy any excess labels and keep records to show the disposition of all the labels they receive. We request comment on these provisions. In addition, we request comment on an alternative approach to labeling equipment. If equipment manufacturers were required to add a label to each piece of equipment with basic information related to the engine's emission controls, the information would be most accessible in all situations. Such a label would need to at least identify the engine manufacturer, engine family and serial number, manufactured date, power rating, and any important engine specifications. This would make it easier for us to verify that engines are meeting requirements and it would be

easier for U.S. Customs (Bureau of Customs and Border Protection) to clear imported equipment with certified engines. Note that some equipment manufacturers have already been voluntarily attaching such labels or plates to their equipment. We request comment on a uniform requirement to apply labels to equipment using nonroad diesel engines to uniquely identify the installed engine.

We are also clarifying the general requirement that all engines subject to this final rule may not cause or contribute to an unreasonable risk to public health, welfare, or safety, especially with respect to noxious or toxic emissions that may increase as a result of emission-control technologies. The proposed regulatory language, which addresses the same general concept as the existing § 89.106, implements sections 202(a)(4) and 206(a)(3) of the Act and clarifies that the purpose of this requirement is to prevent control technologies that would cause unreasonable risks, rather than to prevent trace emissions of any noxious compounds. This requirement prevents the use of emission-control technologies that produce high levels of pollutants for which we have not set emission standards, but nevertheless pose a risk to the public.

In the part 89 regulations we use the same definition for "aircraft" as is used in 40 CFR part 87. The definition, which is used to exclude aircraft engines from the part 89 regulations, states that aircraft means "any airplane a U.S. airworthiness certificate or equivalent foreign airworthiness certificate has issued." We are proposing to use this same definition for the new part 1039 regulations. We believe that this definition encompasses all vehicles that are capable of sustained air travel above treetop heights using compression ignition engines. We request comment on whether there are any aircraft that do not meet this definition, and use compression-ignition engines, but that should not be regulated under part 1039.

Finally, we are not revising at this time the regulation on preemption of state and local controls currently found in Part 89. This regulation will continue in effect. We are, however, considering whether we should clarify the binding regulatory nature of this language, consistent with the decision of the court in *Engine Manufacturers Association v. EPA*, 88 F.3d 1075 (D.C. Cir. 1996).

VIII. Nonroad Diesel Fuel Program: Compliance and Enforcement Provisions

Section IV above describes the proposed program for the reduction of sulfur in nonroad, locomotive and marine (NRLM) diesel fuel. In general, this proposal would require refiners and importers to meet a 500 ppm sulfur standard for nonroad, locomotive, and marine diesel fuel starting June 1, 2007 and to meet a 15 ppm standard for nonroad diesel fuel beginning June 1, 2010. Locomotive and marine diesel fuel would remain subject to the 500 ppm standard. Among other provisions, Section IV also describes a temporary non-highway distillate baseline percentage method to differentiate volumes of diesel fuel subject to the NRLM standards and volumes of diesel fuel subject to the highway fuel standards; provisions to identify unregulated fuel such as heating oil; provisions for diesel fuel credit generation and use; and special provisions for small refiners, refiners seeking hardship relief, and parties supplying diesel fuel to Alaska and U.S. territories.

As with earlier fuel programs, we have developed a comprehensive set of compliance and enforcement provisions designed to promote effective and efficient implementation of this fuel program and thus to achieve the full environmental potential of the program. The proposed compliance provisions are designed to ensure that nonroad, locomotive, and marine diesel fuel sulfur content requirements are met throughout the distribution system, from the refiner or importer through the end user, subject to certain provisions applicable during the early transition years. Several of these provisions are described in Section IV above, and others are summarized in this section. The full details of all proposed provisions are found in the regulatory language associated with today's notice.

The proposed compliance and enforcement provisions discussed in this section fall into several broad categories:

- Fuel uses covered and not covered under the proposed program;
- Provisions not described in Section IV applicable to refiners and importers;
- Provisions not described in Section IV applicable to parties downstream of the refinery or importer;
- Special provisions regarding additives, kerosene, and the use of motor oil in fuel;
- Fuel testing and sampling requirements;
- Records required to be kept (including those applying under the