

**§90.514**

**40 CFR Ch. I (7-1-10 Edition)**

of public hearing in the FEDERAL REGISTER or by such other means as the Administrator finds appropriate to provide notice to the public.

(e) *Filing and service.* (1) An original and two copies of all documents or papers required or permitted to be filed pursuant to this section and §90.512(c) must be filed with the Hearing Clerk of the Agency. Filing is considered timely if mailed, as determined by the postmark, to the Hearing Clerk within the time allowed by this section and §90.512(b). If filing is to be accomplished by mailing, the documents must be sent to the address set forth in the notice of public hearing referred to in paragraph (d)(4) of this section.

(2) To the maximum extent possible, testimony will be presented in written form. Copies of written testimony will be served upon all parties as soon as practicable prior to the start of the hearing. A certificate of service will be provided on or accompany each document or paper filed with the Hearing Clerk. Documents to be served upon the Director of the Manufacturers Operations Division must be sent by registered mail to: Director, Manufacturers Operations Division, U.S. Environmental Protection Agency, 6405-J, 401 M St., SW., Washington, DC 20460. Service by registered mail is complete upon mailing.

(f) *Computation of time.* (1) In computing any period of time prescribed or allowed by this section, except as otherwise provided, the day of the act or event from which the designated period of time begins to run is not included. Saturdays, Sundays, and federal legal holidays are included in computing the period allowed for the filing of any document or paper, except that when the period expires on a Saturday, Sunday, or federal legal holiday, the period is extended to include the next following business day.

(2) A prescribed period of time within which a party is required or permitted to do an act is computed from the time of service, except that when service is accomplished by mail, three days will be added to the prescribed period.

(g) *Consolidation.* The Administrator or the Presiding Officer in his or her discretion may consolidate two or more proceedings to be held under this

section for the purpose of resolving one or more issues whenever it appears that consolidation will expedite or simplify consideration of these issues. Consolidation does not affect the right of any party to raise issues that could have been raised if consolidation had not occurred.

(h) *Hearing date.* To the extent possible, hearings under §90.512 will be scheduled to commence within 14 days of receipt of the application in §90.512.

**§90.514 Hearing procedures.**

The procedures provided in §86.1014-84 (i) to (s) apply for hearings requested pursuant to §90.512, suspension, revocation, or voiding of a certificate of conformity.

**§90.515 Appeal of hearing decision.**

The procedures provided in §86.1014-84 (t) to (aa) apply for appeals filed with respect to hearings held pursuant to §90.514.

**§90.516 Treatment of confidential information.**

The provisions for treatment of confidential information described in §90.4 apply to this subpart.

APPENDIX A TO SUBPART F OF PART 90—  
SAMPLING PLANS FOR SELECTIVE ENFORCEMENT AUDITING OF SMALL NONROAD ENGINES

TABLE 1—SAMPLING PLAN CODE LETTER

Annual engine family sales	Code letter
50-99 .....	A
100-299 .....	B
300-499 .....	C
500 or greater .....	D

TABLE 2—SAMPLE PLAN FOR CODE LETTER "A"  
[Sample inspection criteria]

Stage	Pass No.	Fail No.	Stage	Pass No.	Fail No.1
1 .....	(1)	(2)	16	6	11
2 .....	(1)	(2)	17	7	12
3 .....	(1)	(2)	18	7	12
4 .....	0	(2)	19	8	13
5 .....	0	(2)	20	8	13
6 .....	1	6	21	9	14
7 .....	1	7	22	10	14
8 .....	2	7	23	10	15
9 .....	2	8	24	11	15
10 .....	3	8	25	11	16
11 .....	3	8	26	12	16
12 .....	4	9	27	12	17

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**TABLE 2—SAMPLE PLAN FOR CODE LETTER “A”—Continued**  
[Sample inspection criteria]

Stage	Pass No.	Fail No.	Stage	Pass No.	Fail No.1
13 .....	5	10	28	13	17
14 .....	5	10	29	14	17
15 .....	6	11	30	16	17

<sup>1</sup> Test sample passing not permitted at this stage.  
<sup>2</sup> Test sample failure not permitted at this stage.

**TABLE 3—SAMPLING PLAN FOR CODE LETTER “B”**  
[Sample Inspection Criteria]

Stage	Pass No.	Fail No.
1 .....	( <sup>1</sup> )	( <sup>2</sup> )
2 .....	( <sup>1</sup> )	( <sup>2</sup> )
3 .....	( <sup>1</sup> )	( <sup>2</sup> )
4 .....	( <sup>1</sup> )	( <sup>2</sup> )
5 .....	0	( <sup>2</sup> )
6 .....	1	6
7 .....	1	7
8 .....	2	7
9 .....	2	8
10 .....	3	8
11 .....	3	9
12 .....	4	9
13 .....	4	10
14 .....	5	10
15 .....	5	11
16 .....	6	12
17 .....	6	12
18 .....	7	13
19 .....	8	13
20 .....	8	14
21 .....	9	14
22 .....	9	15
23 .....	10	15
24 .....	10	16
25 .....	11	16
26 .....	11	17
27 .....	12	17
28 .....	12	18
29 .....	13	18
30 .....	13	19
31 .....	14	19
32 .....	14	20
33 .....	15	20
34 .....	16	21
35 .....	16	21
36 .....	17	22
37 .....	17	22
38 .....	18	22
39 .....	18	22
40 .....	21	22

<sup>1</sup> Test sample passing not permitted at this stage.  
<sup>2</sup> Test sample failure not permitted at this stage.

**TABLE 4—SAMPLING PLAN FOR CODE LETTER “C”**  
[Sample Inspection Criteria]

Stage	Pass No.	Fail No.
1 .....	( <sup>1</sup> )	( <sup>2</sup> )
2 .....	( <sup>1</sup> )	( <sup>2</sup> )
3 .....	( <sup>1</sup> )	( <sup>2</sup> )

**TABLE 4—SAMPLING PLAN FOR CODE LETTER “C”—Continued**  
[Sample Inspection Criteria]

Stage	Pass No.	Fail No.
4 .....	( <sup>1</sup> )	( <sup>2</sup> )
5 .....	0	( <sup>2</sup> )
6 .....	0	6
7 .....	1	7
8 .....	2	7
9 .....	2	8
10 .....	3	9
11 .....	3	9
12 .....	4	10
13 .....	4	10
14 .....	5	11
15 .....	5	11
16 .....	6	12
17 .....	6	12
18 .....	7	13
19 .....	7	13
20 .....	8	14
21 .....	8	14
22 .....	9	15
23 .....	10	15
24 .....	10	16
25 .....	11	16
26 .....	11	17
27 .....	12	17
28 .....	12	18
29 .....	13	18
30 .....	13	19
31 .....	14	19
32 .....	14	20
33 .....	15	20
34 .....	15	21
35 .....	16	21
36 .....	16	22
37 .....	17	22
38 .....	18	23
39 .....	18	23
40 .....	19	24
41 .....	19	24
42 .....	20	25
43 .....	20	25
44 .....	21	26
45 .....	21	27
46 .....	22	27
47 .....	22	27
48 .....	23	27
49 .....	23	27
50 .....	26	27

<sup>1</sup> Test sample passing not permitted at this stage.  
<sup>2</sup> Test sample failure not permitted at this stage.

**TABLE 5—SAMPLING PLAN FOR CODE LETTER “D”**  
[Sample Inspection Criteria]

Stage	Pass No.	Fail No.
1 .....	( <sup>1</sup> )	( <sup>2</sup> )
2 .....	( <sup>1</sup> )	( <sup>2</sup> )
3 .....	( <sup>1</sup> )	( <sup>2</sup> )
4 .....	( <sup>1</sup> )	( <sup>2</sup> )
5 .....	0	( <sup>2</sup> )
6 .....	0	6
7 .....	1	7
8 .....	2	8
9 .....	2	8
10 .....	3	9
11 .....	3	9

TABLE 5—SAMPLING PLAN FOR CODE LETTER “D”—Continued  
[Sample Inspection Criteria]

Stage	Pass No.	Fail No.
12 .....	4	10
13 .....	4	10
14 .....	5	11
15 .....	5	11
16 .....	6	12
17 .....	6	12
18 .....	7	13
19 .....	7	13
20 .....	8	14
21 .....	8	14
22 .....	9	15
23 .....	9	15
24 .....	10	16
25 .....	11	16
26 .....	11	17
27 .....	12	17
28 .....	12	18
29 .....	13	19
30 .....	13	19
31 .....	14	20
32 .....	14	20
33 .....	15	21
34 .....	15	21
35 .....	16	22
36 .....	16	22
37 .....	17	23
38 .....	17	23
39 .....	18	24
40 .....	18	24
41 .....	19	25
42 .....	19	26
43 .....	20	26
44 .....	21	27
45 .....	21	27
46 .....	22	28
47 .....	22	28
48 .....	23	29
49 .....	23	29
50 .....	24	30
51 .....	24	30
52 .....	25	31
53 .....	25	31
54 .....	26	32
55 .....	26	32
56 .....	27	33
57 .....	27	33
58 .....	28	33
59 .....	28	33
60 .....	32	33

<sup>1</sup> Test sample passing not permitted at this stage.  
<sup>2</sup> Test sample failure not permitted at this stage.

**Subpart G—Importation of Nonconforming Engines**

**§ 90.601 Applicability.**

(a) Except where otherwise indicated, this subpart is applicable to engines and vehicles which are offered for importation or imported into the United States and for which the Administrator has promulgated regulations under subpart B of this part prescribing emission standards, but which are not cov-

ered by certificates of conformity issued under section 213 and section 206(a) of the Clean Air Act (that is, which are nonconforming engines as defined below) and under subpart B of this part at the time of importation or conditional importation, as applicable. Compliance with regulations under this subpart shall not relieve any person or entity from compliance with other applicable provisions of the Clean Air Act.

(b) Regulations prescribing further procedures for the importation of small SI engines into the Customs territory of the United States, as defined in 19 U.S.C. 1202, are set forth in U.S. Customs Service regulations.

(c) Importers must complete the appropriate EPA declaration form before importing an engine. These forms are available on the Internet at <http://www.epa.gov/OTAQ/imports/> or by phone at 734-214-4100. Importers must keep the forms for five years and make them available promptly upon request.

[60 FR 34598, July 3, 1995, as amended at 73 FR 59182, Oct. 8, 2008]

**§ 90.602 Definitions.**

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

*Certificate of conformity.* The document issued by the Administrator under section 213 and section 206(a) of the Act.

*Nonconforming engine.* An engine which is not covered by a certificate of conformity prior to final or conditional admission (or for which such coverage has not been adequately demonstrated to EPA).

*Original engine manufacturer (OEM).* The entity which originally manufactured the engine.

*Original production (OP) year.* The calendar year in which the engine was originally produced by the OEM.

*Original production (OP) years old.* The age of an engine as determined by subtracting the original production year of the engine from the calendar year of importation.

*Production changes.* Those changes in the engine configuration, equipment or calibration which are made by an OEM