

**§ 90.122 Amending the application and certificate of conformity.**

(a) The engine manufacturer must notify the Administrator when either an engine is to be added to a certificate of conformity, an FEL is to be changed, or changes are to be made to a product line covered by a certificate of conformity. Notification occurs when the manufacturer submits an amendment to the original application prior to either producing such engines or making such changes to a product line.

(b) The amendment must request that the engine manufacturer's existing certificate of conformity be amended and include the following information:

(1) A full description of the engine to be added or the change(s) to be made in production;

(2) The manufacturer's proposed test engine selection(s); and

(3) Engineering evaluations or reasons why the original test engine is or is not still appropriate.

(c) The Administrator may require the engine manufacturer to perform tests on an engine representing the engine to be added or changed.

(d) *Decision by Administrator.* (1) Based on the submitted amendment and data derived from such testing as the Administrator may require or conduct, the Administrator must determine whether the proposed addition or change would still be covered by the certificate of conformity then in effect.

(2) If the Administrator determines that the new or changed engine(s) meets the requirements of this subpart and the Act, the appropriate certificate of conformity will be amended.

(3) If the Administrator determines that the proposed amendment would not be covered by the certificate of conformity, the Administrator must provide a written explanation to the engine manufacturer of his or her decision not to amend the certificate. The manufacturer may request a hearing on a denial.

(4) If the Administrator determines that a revised FEL meets the requirements of this subpart and the Act, the appropriate certificate of conformity will be amended, or a new certificate will be issued to reflect the revised

FEL. The certificate of conformity is revised conditional upon compliance with § 90.207(b).

(e)(1) Alternatively, an engine manufacturer may make changes in or additions to production engines concurrently with amending the application for an engine family as set forth in paragraph (a) and (b) of this section. In these circumstances the manufacturer may implement the production change without EPA pre-approval provided the request for change together with all supporting emission test data, related engineering evaluations, and other supporting documentation is received at EPA within three working days of implementing the change. Such changes are ultimately still subject to the provisions of paragraphs (c) and (d) of this section.

(2) If, after a review, the Administrator determines that additional testing or information is required, the engine manufacturer must provide required test data or information within 30 days or cease production of the affected engines.

(3) If the Administrator determines that the affected engines do not meet applicable requirements, the Administrator will notify the engine manufacturer to cease production of the affected engines.

[60 FR 34598, July 3, 1995, as amended at 64 FR 15239, Mar. 30, 1999; 69 FR 1833, Jan. 12, 2004]

**§ 90.123 Denial, revocation of certificate of conformity.**

(a) If, after review of the engine manufacturer's application, request for certification, information obtained from any inspection, and any other information the Administrator may require, the Administrator determines that the test engine does not meet applicable standards and requirements, the Administrator will notify the manufacturer in writing, setting forth the basis for this determination.

(b) Notwithstanding the fact that engines described in the application may comply with all other requirements of this subpart, the Administrator may deny the issuance of or revoke a previously issued certificate of conformity if the Administrator finds any one of

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the following infractions to be substantial:

(1) The engine manufacturer submits false or incomplete information;

(2) The engine manufacturer denies an EPA enforcement officer or EPA authorized representative the opportunity to conduct authorized inspections;

(3) The engine manufacturer fails to supply requested information or amend its application to include all engines being produced;

(4) The engine manufacturer renders inaccurate any test data which it submits or otherwise circumvents the intent of the Act or this part; or

(5) The engine manufacturer denies an EPA enforcement officer or EPA authorized representative reasonable assistance (as defined in § 90.506).

(c) If a manufacturer knowingly commits an infraction specified in paragraph (b)(1) or (b)(4) of this section or knowingly commits any fraudulent act which results in the issuance of a certificate of conformity, the Administrator may deem such certificate void ab initio.

(d) When the Administrator denies or revokes a certificate of conformity, the engine manufacturer will be provided a written determination. The manufacturer may request a hearing on the Administrator's decision.

(e) Any revocation of a certificate of conformity extends no further than to forbid the introduction into commerce of those engines previously covered by the certification which are still in the possession of the engine manufacturer, except in cases of such fraud or other misconduct that makes the certification void ab initio.

### § 90.124 Request for hearing.

(a) An engine manufacturer may request a hearing on the Administrator's denial or revocation of a certificate of conformity.

(b) The engine manufacturer's request must be filed within 30 days of the Administrator's decision, be in writing, and set forth the manufacturer's objections to the Administrator's decision and data to support the objections.

(c) If, after review of the request and supporting data, the Administrator

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finds that the request raises a substantial and factual issue, the Administrator will provide the engine manufacturer a hearing.

### § 90.125 Hearing procedures.

The hearing procedures set forth in §§ 90.513, 90.514, and 90.515 apply to this subpart.

### § 90.126 Right of entry and access.

Any engine manufacturer that has applied for certification of a new engine or engine family subject to certification testing under this subpart must admit or cause to be admitted to any applicable facilities during operating hours any EPA enforcement officer or EPA authorized representative as provided in § 90.506.

### § 90.127 Fuel line permeation from nonhandheld engines and equipment.

The following permeation standards apply to new nonhandheld engines and equipment with respect to fuel lines:

(a) *Emission standards and related requirements.* New nonhandheld engines and equipment with a date of manufacture of January 1, 2009 or later that run on a volatile liquid fuel (such as gasoline) must meet the emission standards specified in paragraph (a)(1) or (a)(2) of this section as follows:

(1) New nonhandheld engines and equipment must use only fuel lines that meet a permeation emission standard of 15 g/m<sup>2</sup>/day when measured according to the test procedure described in 40 CFR 1060.515.

(2) Alternatively, new nonhandheld engines and equipment must use only fuel lines that meet standards that apply for these engines and equipment in California for the same model year (see 40 CFR 1060.810). This may involve SHED-based measurements for equipment or testing with fuel lines alone. If this involves SHED-based measurements, all elements of the emission control system must remain in place for fully assembled engines and equipment.

(3) The emission standards in this section apply with respect to discrete fuel line segments of any length. Compliance may also be demonstrated using aggregated systems that include