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(c) We may reject your decision if it is not based on good engineering judgment or is otherwise inconsistent with the requirements that apply, and we may—

(1) Suspend, revoke, or void a certificate of conformity if we determine you used incorrect or incomplete information or failed to consider relevant information, or that your decision was not based on good engineering judgment; or

(2) Notify you that we believe any aspect of your application or other information submission may be incorrect or invalid due to lack of good engineering judgment or other cause. Unless a different period is specified, you will have 30 days to respond to our notice and specifically address our concerns. After considering your information, we will notify you regarding our finding, which may include the actions provided in paragraph (c)(1) of this section.

(d) If you disagree with our conclusions under paragraph (c) of this section, you may file a request for a hearing with the Designated Compliance Officer as described in § 59.699. In your request, you must specifically state your objections, and include relevant data or supporting analysis. The request must be signed by your authorized representative. If we agree that your request raises a substantial factual issue, we will hold the hearing according to § 59.699.

§ 59.605 What portable fuel containers are excluded from this subpart's requirements?

This section describes exclusions that apply to certain portable fuel containers. The prohibitions and requirements of this subpart do not apply for containers excluded under this section. Exclusions under this section are based on inherent characteristics of the containers. See § 59.660 for exemptions that apply based on special circumstances.

(a) Containers approved as safety cans consistent with the requirements of 29 CFR 1926.150 through 1926.152 are excluded. Such cans generally have a flash-arresting screens, spring-closing lids and spout covers and have been approved by a nationally recognized testing laboratory such as Factory Mutual Engineering Corp. or Underwriters Laboratories, Inc., or Federal agencies such as Bureau of Mines, or U.S. Coast Guard.

(b) Containers with a nominal capacity of less than 0.25 gallons or more than 10.0 gallons are excluded.

(c) Containers designed and marketed solely to deliver fuel directly to nonroad engines during engine operation, such as containers with a connection for a fuel line and a reserve fuel area, are considered to be nonroad fuel tanks, and are thus excluded.

§ 59.607 Submission of information.

(a) You are responsible for all statements you make to us related to this subpart F, including information not required during certification. You are required to provide truthful and complete information. This subpart describes the consequences of failing to meet this obligation. The consequences also may include prosecution under 18 U.S.C. 1001 and 42 U.S.C. 7431(c)(2).

(b) We may require an officer or authorized representative of your company with knowledge of the information contained in the submittal to approve and sign any submission of information to us, and to certify that all the information submitted is accurate and complete.

Emission Standards and Related Requirements

§ 59.611 What evaporative emission requirements apply under this subpart?

(a) Hydrocarbon emissions from portable fuel containers may not exceed 0.3 grams per gallon per day when measured with the test procedures in §§ 59.650 through 59.653. This procedure measures diurnal venting emissions and permeation emissions.

(b) For the purpose of this section, portable fuel containers include spouts, caps, gaskets, and other parts provided with the container.

(c) The following general requirements also apply for all portable fuel containers subject to the standards of this subpart:

(1) *Prohibited controls.* The following controls are prohibited:

(i) For anyone to design, manufacture, or install emission control systems so they cause or contribute to an unreasonable risk to public health, welfare, or safety while operating.

(ii) For anyone to design, manufacture, or install emission control systems with features that disable, deactivate, reduce effectiveness, or bypass the emission controls, either actively or passively. However, you may include a vent that the operator can open to bypass emission controls if that vent closes automatically (*i.e.*, without operator involvement). You may include such design features if they operate during emission tests described in subpart F of this part. For example, you may include an integrated or external manually activated device in the portable fuel container's design to temporarily relieve pressure, provided that the device is in place during emission testing and closes automatically when not in use.

(2) *Leaks.* You must design and manufacture your containers to be free of leaks. This requirement applies when your container is upright, partially inverted, or completely inverted.

(3) *Refueling.* You are required to design your portable fuel containers to minimize spillage during refueling to the extent practical. This requires that you use good engineering judgment to avoid designs that will make it difficult to refuel typical vehicle and equipment designs without spillage.

(d) Portable fuel containers must meet the standards and requirements specified in this subpart throughout the useful life of the container. The useful life of the container is five years beginning on the date of sale to the ultimate purchaser.

[72 FR 8533, Feb. 26, 2007, as amended at 80 FR 9089, Feb. 19, 2015]

§ 59.612 What emission-related warranty requirements apply to me?

(a) *General requirements.* You must warrant to the ultimate purchaser that the new portable fuel container, including all parts of its evaporative emission-control system, is:

(1) Designed, built, and equipped so it conforms at the time of sale to the ultimate purchaser with the requirements of this subpart.

(2) Is free from defects in materials and workmanship that may keep it from meeting these requirements.

(b) *Warranty notice and period.* Your emission-related warranty must be valid for a minimum of one year from the date of sale to the ultimate purchaser.

(c) *Notice.* You must provide a warranty notice with each container.

§ 59.613 What operation and maintenance instructions must I give to buyers?

You must provide the ultimate purchaser of the new portable fuel container written instructions for properly maintaining and using the emission-control system.

§ 59.615 How must I label and identify the portable fuel containers I produce?

This section describes how you must label your portable fuel containers.

(a) At the time of manufacture, indelibly mark the month and year of manufacture on each container.

(b) Mold into or affix a legible label identifying each portable fuel container. The label must be:

(1) Attached so it is not easily removable.

(2) Secured to a part of the container that can be easily viewed when the can is in use, not on the bottom of the container.

(3) Written in English.

(c) The label must include:

(1) The heading ''EMISSION CONTROL INFORMATION''.

(2) Your full corporate name, trademark and warranty contact information.

(3) A standardized identifier such as EPA's standardized designation for the emission families, the model number, or the part number.

(4) This statement: ''THIS CONTAINER COMPLIES WITH U.S. EPA EMISSION REGULATIONS FOR PORTABLE FUEL CONTAINERS (40 CFR Part 59).''.

(5) This statement: ''THE EMISSIONS WARRANTY IS VALID FOR A MINIMUM OF ONE YEAR FROM DATE OF PURCHASE.''.

(d) You may add information to the emission control information label to identify other emission standards that

the container meets or does not meet (such as California standards). You may also add other information to ensure that the portable fuel container will be properly maintained and used.

(e) You may request that we approve modified labeling requirements in this subpart F if you show that it is necessary or appropriate. We will approve your request if your alternate label is consistent with the requirements of this subpart.

(f) You may identify the name and trademark of another company instead of their own on your emission control information label, subject to the following provisions:

(1) You must have a contractual agreement with the other company that obligates that company to take the following steps:

(i) Meet the emission warranty requirements that apply under § 59.612. This may involve a separate agreement involving reimbursement of warranty-related expenses.

(ii) Report all warranty-related information to the certificate holder.

(2) In your application for certification, identify the company whose trademark you will use and describe the arrangements you have made to meet your requirements under this section.

(3) You remain responsible for meeting all the requirements of this subpart.

CERTIFYING EMISSION FAMILIES

§ 59.621 Who may apply for a certificate of conformity?

A certificate of conformity may be issued only to the manufacturer that completes the construction of the portable fuel container. In unusual circumstances, upon a petition by a manufacturer, we may allow another manufacturer of the container to hold the certificate of conformity. However, in order to hold the certificate, the manufacturer must demonstrate day-to-day ability to ensure that containers produced under the certificate will comply with the requirements of this subpart.

§ 59.622 What are the general requirements for obtaining a certificate of conformity and producing portable fuel containers under it?

(a) You must send us a separate application for a certificate of conformity for each emission family. A certificate of conformity for containers is valid from the indicated effective date until the end of the production period for which it is issued. We may require new certification prior to the end of the production period if we finds that containers are not meeting the standards in use during their useful life.

(b) The application must be written in English and contain all the information required by this subpart and must not include false or incomplete statements or information (see §§ 59.607 and 59.629).

(c) We may ask you to include less information than we specify in this subpart, as long as you maintain all the information required by § 59.628.

(d) You must use good engineering judgment for all decisions related to your application (see § 59.603).

(e) An authorized representative of your company must approve and sign the application.

(f) See § 59.629 for provisions describing how we will process your application.

(g) If we approve your application, we will issue a certificate that will allow you to produce the containers that you described in your application for a specified production period. Certificates do not allow you to produce containers that were not described in your application, unless we approve the additional containers under § 59.624.

§ 59.623 What must I include in my application?

This section specifies the information that must be in your application, unless we ask you to include less information under § 59.622(c). We may require you to provide additional information to evaluate your application.

(a) Describe the emission family's specifications and other basic parameters of the emission controls. List each distinguishable configuration in