AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

apply for and receive a certificate of conformity.

(c) Unless specifically noted otherwise, the term ''you'' means manufacturers, as defined in § 59.680.

§ 59.602 What are the general prohibitions and requirements of this subpart?

(a) *General prohibition for manufacturers and importers.* No manufacturer or importer may sell, offer for sale, introduce or deliver for introduction into commerce in the United States, or import any new portable fuel container that is subject to the emissions standards of this subpart and is manufactured after December 31, 2008 unless it is covered by a valid certificate of conformity, it is labeled as required, and it complies with all of the applicable requirements of this subpart, including compliance with the emissions standards for its useful life. After June 30, 2009, no manufacturer or importer may sell, offer for sale, introduce or deliver into commerce in the United States, or import any new portable fuel container that was manufactured prior to January 1, 2009 unless it meets the requirements of this subpart.

(b) *General prohibition for wholesale distributors.* No wholesale distributor may sell, offer for sale, or distribute any portable fuel container in the United States that is subject to the emissions standards of this subpart and is manufactured after December 31, 2008 unless it is covered by a valid certificate of conformity and is labeled as required. After December 31, 2009, no wholesale distributor may sell, offer for sale, or distribute in the United States any portable fuel container that was manufactured prior to January 1, 2009 unless it meets the requirements of this subpart. After December 31, 2009, all new portable fuel containers shall be deemed to be manufactured after December 31, 2008 unless they are in retail inventory.

(c) *Reporting and recordkeeping.* (1) You must keep the records and submit the reports specified in § 59.628. Records must be retained for at least 5 years from the date of manufacture or importation and must be supplied to EPA upon request.

(2) No person may alter, destroy, or falsify any record or report required by this subpart.

(d) *Testing and access to facilities.* You may not keep us from entering your facility to observe tests or inspect facilities if we are authorized to do so. Also, you must perform the tests we require (or have the tests done for you). Failure to perform this testing is prohibited.

(e) *Warranty.* You may not fail to offer, provide notice of, or honor the emissions warranty required under this subpart.

(f) *Replacement components.* No person may sell, offer for sale, introduce or deliver for introduction into commerce in the United States, import, or install any replacement component for portable fuel containers subject to the standards of this subpart where the component has the effect of disabling, bypassing, or rendering inoperative the emissions controls of the containers.

(g) *Violations.* If a person violates any prohibition or requirement of this subpart or the Act concerning portable fuel containers, it shall be considered a separate violation for each portable fuel container.

(h) *Assessment of penalties and injunctions.* We may assess administrative penalties, bring a civil action to assess and recover civil penalties, bring a civil action to enjoin and restrain violations, or bring criminal action as provided by the Clean Air Act.

§ 59.603 How must manufacturers apply good engineering judgment?

(a) In addition to other requirements and prohibitions set forth in this subpart, you must use good engineering judgment for decisions related to any requirements under this subpart. This includes your applications for certification, any testing you do to show that your portable fuel containers comply with requirements that apply to them, and how you select, categorize, determine, and apply these requirements.

(b) Upon request, you must provide EPA a written description of the engineering judgment in question. Such information must be provided within 15 working days unless EPA specifies a different period of time to respond.

(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: