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Part III

Environmental Protection Agency

40 CFR Part 90

Class I and II Nonhandheld New Nonroad Phase 1 Small Spark-Ignition Engines; Revised Carbon Monoxide (CO) Standard; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 90

[FRL–5650–6]

Revised Carbon Monoxide (CO) Standard for Class I and II Nonhandheld New Nonroad Phase 1 Small Spark-Ignition Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule revises the Phase 1 carbon monoxide (CO) emission standard for Class I and II new nonroad spark-ignition (SI) engines at or below 19 kilowatts. Today's action increases the CO standard from 469 grams per kilowatt-hour (g/kW-hr) to 519 g/kW-hr. This action addresses the CO emission difference between oxygenated and nonoxygenated fuels that was not reflected when the Agency previously set the CO standard for these nonhandheld engines in a final rule published July 3, 1995. This correction of the nonhandheld engine CO standard will ensure that the CO standard for manufacturers of Class I and II small SI engines used to power equipment such as lawnmowers is achievable and otherwise appropriate under the Clean Air Act and that it is technically feasible for manufacturers to certify their engine models to the Phase 1 emission standards and make them commercially available for the 1997 model year.

In addition, today's action permits the use of open crankcases in engines used exclusively to power snowthrowers. This change will allow engine manufacturers to certify engines with open crankcases to be used in snowthrowers upon a demonstration that the engine still meets all applicable emission standards.

EFFECTIVE DATE: This rule is effective November 5, 1996.

ADDRESSES: Materials relevant to this rulemaking are contained in EPA Air and Radiation Docket No. A–93–25 and Docket No. A–96–02, at the U.S. Environmental Protection Agency, room M–1500, 401 M St., S.W., Washington, D.C. 20460. The materials in these dockets may be viewed from 8:00 a.m. until 5:30 p.m. weekdays. The docket may also be reached by telephone at (202) 260–7548. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for photocopying.

FOR FURTHER INFORMATION CONTACT: Laurel Horne, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone: (313) 741–7803. FAX: (313) 741–7816. Electronic mail: horne.laurel@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Regulated Entities

Entities potentially regulated by this action are those which manufacture engines used in nonhandheld applications, such as lawnmowers, and those which manufacture engines used exclusively to power snowthrowers. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Manufacturers of small (at or below 19 kW) nonroad engines used in nonhandheld applications such as lawnmowers.
Industry	Manufacturers of small nonroad engines used exclusively to power snowthrowers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your company is regulated by this action, you should carefully examine the applicability criteria in § 90.1 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **"FOR FURTHER INFORMATION CONTACT"** section.

II. Obtaining Electronic Copies of Documents

Electronic copies of the preamble and the regulatory text of this final rule are available electronically from the EPA internet site and via dial-up modem on the Technology Transfer Network (TTN), which is an electronic bulletin board system (BBS) operated by EPA's Office of Air Quality Planning and Standards. Both services are free of charge, except for your existing cost of internet connectivity or the cost of the phone call to TTN. Users are able to access and download files on their first call using a personal computer and modem per the following information.

Internet:
World Wide Web: http://www.epa.gov/OMSWWW
Gopher: gopher.epa.gov Follow menus for: Offices/Air/OMS
FTP: ftp.epa.gov Change Directory to pub/gopher/OMS
TTN BBS: 919–541–5742
(1200–14400 bps, no parity, 8 data bits, 1 stop bit)
Voice Helpline: 919–541–5384.
Off-line: Mondays from 8:00 AM to 12:00 noon EST.

A user who has not called TTN previously will be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following menu choices from the Top Menu to access information on this rulemaking.

<T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards)
<M> OMS—Mobile Sources Information
<K> Rulemaking and Reporting
<6> Non-Road
<2> Non-road Engines

At this point, the system will list all available files in the chosen category in reverse chronological order with brief descriptions. To download a file, select a transfer protocol that is supported by the terminal software on your own computer, then set your own software to receive the file using that same protocol.

If unfamiliar with handling compressed (i.e. ZIP'ed) files, go to the TTN top menu, System Utilities (Command: 1) for information and the necessary program to download in order to unZIP the files of interest after downloading to your computer. After getting the files you want onto your computer, you can quit the TTN BBS with the <G>oodbye command.

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

III. Legal Authority and Background

Authority for the actions set forth in this rule is granted to EPA by sections 213(a) and 301(a) of the Clean Air Act as amended (42 U.S.C. 7547(a) and 7601(a)).

On July 3, 1996, the Agency published a Notice of Proposed Rulemaking (NPRM) for this rule.[1] That proposed rule contains substantial background information relevant to the matters discussed throughout this final rule. The reader is referred to that document for additional background information and discussion of various issues. Discussion in this notice will focus on the comments received during the public comment period and describe changes made from the proposal to the final rule. The two issues discussed in

[1] 61 FR 34778 (July 3, 1996).

the NPRM and this final rule are revision to the Phase 1 carbon monoxide exhaust emission standard for nonhandheld small engines, and changes to the closed crankcase requirement for engines used exclusively in snowthrowers.

On March 4, 1996, Briggs and Stratton Corporation submitted to EPA a petition requesting reconsideration and revision of the certification fuel requirements and carbon monoxide (CO) emission standard for nonhandheld engines. The petition asks the Agency to amend its July 3, 1995 final rule, Emission Standards for New Nonroad Spark-ignition (SI) Engines At or Below 19 Kilowatts, hereafter referred to as the Phase 1 small SI engine regulations.[2] Specifically, the petition requests that the Agency amend the Phase 1 small SI engine rule to either: (1) Permit the use of appropriate oxygenated gasolines for emissions certification testing as a direct alternative to Indolene[3] under the current CO standard, or (2) revise the CO standard for nonhandheld small engines from 469 grams per kilowatt-hour (g/kW-hr) to 536 g/kW-hr, in order to reflect the emission characteristics of these engines when tested on nonoxygenated gasolines. Nonhandheld engines are intended for use in nonhandheld applications and fall under one of two classes based on engine displacement.[4] Class I engines are less than 225 cubic centimeters (cc) displacement, and Class II engines are greater than or equal to 225 cc displacement.[5]

Specific engine manufacturers and the Engine Manufacturers Association (EMA) have also raised concerns about the closed crankcase certification requirement specified in the Phase 1 small SI engine final rule at § 90.109. The Agency specified in its Phase 1 small SI rule that as a requirement of certification crankcases must be closed in order to eliminate emissions that would otherwise occur when a crankcase is vented to the atmosphere. Subsequent to publication of the Phase 1 small SI engine final rule, however, the Agency was made aware of concerns specific to manufacturers of engines used exclusively in snowthrowers. These manufacturers indicated that it is necessary to maintain an open crankcase in order to prevent the freeze up of the intake which would likely occur if a crankcase breather hose was required. Additionally, these manufacturers provided evidence that the cost to close these crankcases and prevent freeze up would be prohibitively expensive, with the emissions benefit not justifying the cost. Manufacturers also claimed that the CO emission impact on CO nonattainment will also be minor due to the limited numbers of these pieces of equipment and the small impact opening the crankcase has on overall CO emissions from this small number of engines.

EPA addressed these issues in a notice of proposed rulemaking published on July 3, 1996. The public comment period closed on August 2, 1996.

IV. Description of This Rule

This final rule revises the CO emission standard for Class I and II nonhandheld small SI engines from 469 g/kW-hr to 519 g/kW-hr in response to the petition submitted by Briggs and Stratton Corporation (B&SC). The underlying technical analysis and a description of the data on which it is based is presented in the Regulatory Support Document, a copy of which is in the public docket for this rulemaking.

Given that the Agency, had it known that Briggs and Stratton had used an oxygenated test fuel to generate the test data which EPA used to set the Class I and II nonhandheld standard, would have taken fuel effects into account when determining the CO standard, the Agency believes that it is appropriate, now knowing about the fuel differences, to revise the Phase 1 final rule to reflect the fuel effect on CO emissions.

In addition, the Agency is convinced by the arguments presented by the manufacturers of engines used exclusively in snowthrowers that a change to the closed crankcase requirement is appropriate. Therefore, the Administrator will allow open crankcases for engines used exclusively to power snowthrowers based upon a manufacturer's demonstration that all applicable emission standards will still be met by the engine. This demonstration may be based on best engineering judgment. Upon request of the Administrator, the manufacturer must provide an explanation of the procedure or methodology used to determine that the total CO emissions from the breather and the exhaust are below the regulatory requirement for CO. The Agency is convinced that the cost of abating emissions from an open crankcase would be prohibitive, and therefore seeks no further demonstration of prohibitive cost.

V. Public Participation and Comment

The Agency received written submissions during the comment period for the NPRM from four commenters. Copies may be obtained from the docket for this rule (see **ADDRESSES**).

This section responds to significant comments received and provides EPA's rationale for its responses.

A. Revision of the CO Standard

In its petition to the Agency, Briggs & Stratton Corporation requested that EPA amend the small engine Phase 1 final rule to either permit the use of appropriate oxygenated gasoline for certification testing or revise the CO standard for nonhandheld engines from 469 g/kW-hr to 536 g/kW-hr to reflect emission characteristics of these engines when tested on nonoxygenated gasoline. The Agency has decided to address the petitioner's concern by raising the Phase 1 CO standard for Class I and II nonhandheld engines from 469 g/kW-hr to 519 g/kW-hr.

Both the Engine Manufacturers Association (EMA) and Briggs and Stratton Corporation submitted comments on the NPRM indicating full support for modifying the CO standard. EMA supported the proposal to raise the standard to 519 g/kW-hr. However, Briggs & Stratton Corporation expressed concern about several points contained in the July 1996 NPRM.

One concern raised by B&SC is that in the prior rulemaking leading to the Phase 1 standards the Agency never addressed comments submitted August 5, 1994, by the Engine Manufacturers Association (EMA) and the Outdoor Power Equipment Institute (OPEI) which requested that EPA include a ''Phase 2 or later California/Federal certification fuel'' in the Phase 1 final rule. In these comments, EMA and OPEI argued that allowing such a fuel for certification would harmonize the EPA regulations with California's, and thereby eliminate the need for manufacturers to duplicate certification tests for EPA and California.

In its small engine Phase 1 final rule, EPA did address the commenters'

[2] 60 FR 34582, July 3, 1995, codified at 40 CFR part 90. The docket for the Phase 1 small SI engine rulemaking, EPA Air Docket #A–93–25, is incorporated by reference.

[3] See § 90.308(b) and page 34589 of the preamble for the certification fuel specification for the Phase 1 small SI engine rulemaking. Indolene is one possible Federal certification fuel. Indolene is not the only eligible fuel, but it is within the eligible range specified in part 86 (section 86.1313–94(a)) to which the Phase 1 small SI engine rule refers. The Phase 1 small SI engine rulemaking provides for a range and based on experience with the on-highway program, EPA expects that engine manufacturers will use Indolene. California Phase II Reformulated Gasoline and other oxygenated fuels are not within the range specified in the Phase 1 small SI engine rule.

[4] For additional discussion of engine classes and handheld engine qualifications, see 60 FR 34585, July 3, 1995.

[5] Class I engines are predominantly found in lawnmowers. Class II engines primarily include engines used in generator sets, garden tractors, and commercial lawn and garden equipment.

concern about the need for duplicate certification testing by allowing for the use of Indolene fuel. Since the CARB regulation allows the use of either Indolene or Phase 2 fuel, a test performed using Indolene could be used to satisfy both Federal and CARB requirements for small SI engines. In addition, as EMA points out in its comments, the Agency already provides a mechanism under the alternative test procedures provision of the small engine Phase 1 final rule for those manufacturers who certify in California using oxygenated fuel and wish to use those test results for certification with EPA.

B&SC also commented that while it supports EPA's decision to raise the CO standard, it believes the most efficient and technically correct method for addressing the concern raised in their petition would be for EPA to permit the use of certification test fuels allowed by CARB. As EPA explained in the July 1996 NPRM for this rule, the Agency set nonhandheld CO emission standards that only engines tested on oxygenated fuel had been demonstrated to meet. In conjunction with a test fuel like Indolene, the current 469 g/kW-hr nonhandheld CO emission standard is more stringent than the Agency intended because it did not take into account the effect of the oxygenated fuel used in the test data on which EPA based the standard. As described in detail in the July 1996 NPRM for this rule, it is the Agency's position that the most effective and timely way to address this problem is to raise the CO emission standard for nonhandheld engines. The Agency considered addressing the problem by allowing oxygenated fuels for certification, but because of several concerns about this approach, EPA has concluded that revising the CO standard is the preferred way to address the problem. In its July 1996 NPRM, the Agency described three concerns regarding the allowance of oxygenated test fuels for small SI engine certification. One concern is that while the Agency based its nonhandheld Class I and II emission standards on Briggs and Stratton test data, which it now knows was run on oxygenated fuels, the same cannot be said for the data EPA used to set its standards for Classes III, IV and IV. Allowing the use of oxygenated certification fuel for these other standards would be inconsistent with the technical basis used to set the standard, and would undermine the level of stringency expected by the Agency in adopting these standards. Secondly, if the Agency were to allow certification testing on oxygenated fuels but maintain its current standards, it would not be certain of the benefits of HC and NO_X emission reductions described in the Phase 1 final rule when the engines designed to meet the new emission standards are run on nonoxygenated fuels in the field. In addition, the Agency wishes to maintain its longheld position that engines should be certified on fuels representative of fuels they will see in-use and representative of fuels on which the standards are based. The Agency believes that the current test fuel specifications meets this objective better than California Phase II Reformulated Gasoline. For these reasons, the Agency believes the most effective and timely method for addressing the problem raised by B&SC is not to change the certification test fuel specifications, but to raise the nonhandheld CO emission standard.

B&SC also raised a concern about EPA's statement in the July 1996 NPRM that the data was inconclusive regarding the potential for increases in in-use NO_X emissions from not allowing certification testing on oxygenated gasoline. Briggs and Stratton states that a review of the Regulatory Support Document (RSD) does not support the position taken by EPA in the preamble that the data is inconclusive, but instead shows that the EPA data was inconclusive and the pertinent Briggs & Stratton data showed an increase in NO_X emissions. EPA maintains that the data is inconclusive, and believes no change in the HC + NO_X standard is required due to the change in the CO emission standard. EPA's analysis, as presented in the RSD, indicates that the Briggs & Stratton test data, based on the average of 6 engine models, shows a NO_X increase of 0.14 g/kW-hr with the use of an oxygenated fuel over Indolene. EPA's data showed a NO_X decrease of 0.08 g/kW-hr with the use of an oxygenated fuel over a nonoxygenated fuel. EPA views the combined data to be inconclusive regarding the effect of oxygenated versus nonoxygenated fuel on NO_X emissions.

In its petition, Briggs & Stratton proposed a revised CO emission standard of 536 g/kW-hr to take into account not only the offset between test fuels but also production variability. B&SC argued that in order to account for the wider range in test results that would occur when an engine model enters high volume production and the family on a whole is tested in a product line audit, a 67 g/kW-hr change to the standard is necessary. Briggs & Stratton commented that in the July 1996 NPRM EPA had failed to support its position that the Agency had taken production variability into account at an earlier stage of the small engine rulemaking process, and thus should increase the standard by 67 g/kW-hr to 536 g/kW-hr instead of by 50 g/kW-hr to 519 g/kW-hr. The Agency disagrees. EPA had stated in the NPRM that the data it analyzed to determine the CO emission difference between oxygenated and nonoxygenated fuels indicated that fuel differences may account for as much as 50 g/kW-hr. However, as EPA does not expect the production variability to change based on differences in fuel type, the Agency has no reason to increase the CO standard in this rule to account for production variability. As EPA mentions in the July 1996 NPRM and explains in the small engine Phase 1 final rule Response to Comments document,[6] EPA took production variability into account when it increased the CO standard from 402 g/kW-hr to 469 g/kW-hr between the small engine Phase 1 NPRM and final rule. B&SC mischaracterizes EPA's position by stating that the underlying premise for EPA's position is that the degree of variability in mass emissions data will not increase in relation to mass. This was not EPA's underlying premise; EPA examined B&SC's production variability concern from the perspective of specifically addressing the high volume production issue that Briggs & Stratton raised in its petition. B&SC itself makes no claim regarding variability in relation to mass, nor provides data concerning mass emissions and variability. EPA believes it adequately addressed the production variability concern B&SC raised in its petition when the Agency increased the CO standard from 402 g/kW-hr to 469 g/kW-hr between the small engine Phase 1 NPRM and final rule. Accordingly, EPA believes the only rationale for increasing the CO emission standard in this rule is to account for emission differences between oxygenated and nonoxygenated fuels. The Agency is therefore increasing the nonhandheld Class I and II CO standard to 519 g/kW-hr.

B. Open Crankcase for Snowthrowers

In the July 1996 NPRM, EPA proposed allowing the Administrator the option to permit the use of open crankcases in engines used exclusively to power snowthrowers. As described in the NPRM, EPA would consider allowing open crankcases for these engines if adequate demonstrations are made by the manufacturers that the applicable emission standards would be met and that the cost of abating emissions from

[6] See EPA Air Docket #A–93–25, item V–C–01, p. 37.

an open crankcase would be prohibitive. EPA received comment on this issue from the Engine Manufacturers Association (EMA) and two manufacturers of engines used exclusively in snowthrowers, American Honda Motor Co., Inc. (Honda) and Tecumseh Products Company (Tecumseh).

All of the commenters expressed support for the idea of allowing open crankcases on engines used exclusively to power snowthrowers. However, all three commenters oppose EPA requiring a demonstration to show that the cost of abating emissions from an open crankcase would be prohibitive. In addition, commenters expressed concern about the provision requiring manufacturers to demonstrate that the engine would meet applicable emission standards even with the open crankcase. After considering the comments received, EPA has determined that it will permit the use of open crankcases in engines used exclusively to power snowthrowers, based on a manufacturer's demonstration that the applicable standards will be met. This demonstration may be based on best engineering judgment. The Agency will not require a demonstration of prohibitive cost. However, the Agency will require manufacturers to provide to the Agency upon request the methodology or procedure used to determine that the applicable CO emission standard would be met.

EPA is convinced by commenters arguments that requiring individual demonstrations of prohibitive cost would be burdensome for the manufacturers and the Agency, and possibly could create competitive inequities among manufacturers. In addition, some manufacturers previously shared information with the Agency regarding costs that the Agency believes shows the technological fix that would generally be required to close snowthrower crankcases are prohibitive. Consequently, manufacturers will not need to make any demonstration of the cost to close the crankcase on engines used exclusively to power snowthrowers.

The Agency received comment from the same three commenters on the proposed provision that manufacturers demonstrate that the applicable emission standards would be met with open crankcases. EMA states in its comments that no test procedure has been defined nor test method developed to measure the CO contained within the crankcase gasses emitted from the open crankcase; EMA thus views the required demonstration to be difficult if not impossible. In its comments, Tecumseh also indicates that it does not support the requirement to measure crankcase breather emissions because the amount of CO in crankcase emissions is extremely small, and because no test procedure is defined to measure CO emissions in crankcase gases. However, Tecumseh expressed willingness to share with EPA the procedure it used to determine the crankcase CO emissions, which it states are approximately 1% of the exhaust CO emissions, regardless of operating mode. Honda suggests in its concluding comments that the Agency should allow open crankcases for snowthrower engines if the total CO emissions from the breather and the exhaust are below the regulatory requirement for CO. Honda's research on open crankcases indicates that gas flow from the crankcase breather does not exceed 2.5% of the exhaust flow, and crankcase breather CO gas flow accounts for only 0.025% of the total exhaust flow. In its concluding comments, Honda states that since the crankcase breather CO is very small when compared to the exhaust, EPA should accept a manufacturer's engineering judgment when determining the total engine CO.

Based on the comments, EPA believes that in many cases snowthrowers with open crankcases would continue to meet all of the applicable standards, including the CO standard. However, the data before the agency is relatively limited and EPA is not in a position at this time to conclude that no demonstration of compliance is needed for any such engines before a certificate of conformity is issued. The comments do reflect that manufacturers should often be in a position to demonstrate that the standards are met with an open crankcase using best engineering judgment. Only a limited amount of data generation would seem necessary to make such a demonstration. Therefore the final rule requires that manufacturers make such a demonstration, but makes it clear that this may be based on best engineering judgment. Upon request by EPA, the manufacturers of engines used exclusively in snowthrowers must explain to the Agency the procedure or methodology used to determine that the applicable standards would be met.

C. Effective Date

As proposed in the July 1996 NPRM, this rule will be effective upon signature by the Administrator. This rule is not adding regulatory burdens to any regulated entities; rather, it is relieving burden. In addition, EPA needs to act expeditiously in order that manufacturers may certify their engine models to the Phase 1 emission standards and make them available for the 1997 model year. Consequently, EPA believes no delay in the effective date of this rule is necessary.

VI. Environmental Benefit Assessment

Although the change in the nonhandheld CO standard results in a change from the 7% reduction in CO estimated in the final rule to a 2% reduction in the CO inventory, the Agency has concluded that this rule has no effect on the $HC+NO_X$ inventory and minimal effect on the CO inventory in nonattainment areas. The majority of equipment powered by the Class I and II nonhandheld engines subject to this rule is used during the summer months, when CO nonattainment is generally not a concern. Furthermore, the CO emission rate for many nonhandheld engine models will remain unchanged despite the change in the CO standard since CO levels often are controlled in meeting the $HC+NO_X$ emission standards which are not affected by this action.

The provision to permit open crankcases in engines used exclusively to power snowthrowers will require that manufacturers show compliance with applicable standards. The Agency expects, therefore, that the proposed open crankcase option will not affect the emission inventory or the emission reductions to be achieved by the Phase 1 small SI engine final rule.

VII. Economic Effects

The Agency anticipates that this rule will have minimal, if any, effect on the costs or benefits of the Phase 1 small SI engine final rule. Industry costs are unlikely to change because engine manufacturers will not need to make additional modifications to meet the relaxed CO standard. As there will be no additional cost for industry to pass on to the consumer as a result of this rulemaking, EPA is convinced that consumer cost impacts will remain unchanged. The Agency therefore concludes that the economic effects of this rulemaking are negligible.

VIII. Administrative Requirements

A. Administrative Designation

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), EPA must determine whether a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the executive order. The order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or

adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof;

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the order.

EPA has determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This rule does not contain any new information requirements subject to the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., nor does it change the information collection requirements the Office of Management and Budget (OMB) has previously approved. OMB has previously assigned OMB control number 2060–0338 to the requirements associated with the nonroad small SI engine certification information collection request (ICR); this action does not change those requirements in any way.

C. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (signed into law on March 22, 1995) requires that EPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 of the Unfunded Mandates Reform Act requires EPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, EPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. EPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless EPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this rule is expected to result in the expenditure by State, local, and tribal governments or the private sector of less than $100 million in any one year, EPA has not prepared a budgetary impact statement or specifically addressed selection of the least costly, most cost-effective or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, EPA is not required to develop a plan with regard to small governments.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601) requires EPA to consider potential impacts of proposed regulations on small business. If a preliminary analysis indicates that a proposed regulation would have a significant adverse economic impact on a substantial number of small business entities, a regulatory flexibility analysis must be prepared.

This rule decreases the stringency of the CO exhaust emission standard for Class I and II nonhandheld engines, and allows manufacturers of snowthrowers to be relieved of the requirement that crankcases be closed, thereby potentially creating beneficial effects on small businesses by easing these two provisions required of small engine manufacturers by the Phase 1 small SI engine regulations. As a result, EPA has determined that this rulemaking will not have a significant adverse effect on a substantial number of small entities. Consequently, EPA has not prepared a regulatory flexibility analysis for this rule.

IX. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and required information to the U.S. Senate, the House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 90

Environmental protection, Administrative practice and procedure, Confidential business information, Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: November 5, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 90 of title 40 of the Code of Federal Regulations is amended as follows:

PART 90–CONTROL OF EMISSIONS FROM NONROAD SPARK-IGNITION ENGINES

1. The authority citation for part 90 continues to read as follows:

Authority: Sections 203, 204, 205, 206, 207, 208, 209, 213, 215, 216, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7547, 7549, 7550, and 7601(a)).

Subpart B—[Amended]

2. Section 90.103 is amended by revising the table in paragraph (a) introductory text to read as follows:

§ 90.103 Exhaust emission standards.

(a) * * *

EXHAUST EMISSION STANDARDS

[Grams per kilowatt-hour]

Engine displacement class	Hydrocarbon plus oxides of nitrogen	Hydrocarbon	Carbon monoxide	Oxides of nitrogen
I	16.1	.....	519	.....
II	13.4	.....	519	.....
III	.....	295	805	5.36
IV	.....	241	805	5.36
V	.....	161	603	5.36

* * * * *

3. Section 90.109 is amended by adding new paragraph (c) to read as follows:

§ 90.109 Requirement of certification—closed crankcase.

* * * * *

(c) Notwithstanding paragraph (a) of this section, the Administrator will allow open crankcases for engines used exclusively to power snowthrowers based upon a manufacturer's demonstration that all applicable emission standards will be met by the engine for the combination of emissions from the crankcase, and exhaust emissions measured using the procedures in subpart E of this part. This demonstration may be made based upon best engineering judgment. Upon request of the Administrator, the manufacturer must provide an explanation of any procedure or methodology used to determine that the total CO emissions from the crankcase and the exhaust are below the applicable standard for CO.

[FR Doc. 96–29026 Filed 11–12–96; 8:45 am]

BILLING CODE 6560–50–P