6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA-HQ-OAR-2014-0866; FRL-9948-65-OAR]

RIN 2060-AS43

Standards of Performance for Stationary Compression Ignition Internal Combustion Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing amendments to the standards of performance for stationary compression ignition (CI) internal combustion engines to allow manufacturers to design the engines so that operators can temporarily override performance inducements related to the emission control system for stationary CI internal combustion engines. The amendments apply to engines operating during emergency situations where the operation of the engine or equipment is needed to protect human life, and to require compliance with Tier 1 emission standards during such emergencies. The EPA is also amending the standards of performance for certain stationary CI internal combustion engines located in remote areas of Alaska.

DATES: This final rule is effective on **[insert date 60 days after the date of publication in the Federal Register]**.

ADDRESSES: Docket: The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2014-0866. All documents in the docket are listed in the http://www.regulations.gov index. The EPA also relies on materials in Docket ID Nos. EPA-HQ-OAR-2008-0708, EPA-HQ-OAR-2010-0295, and EPA-HQ-OAR-2011-1032, and incorporates those dockets into the record for this final rule.

Although listed in the index, some information is not publicly available (e.g., confidential business information or other information whose disclosure is restricted by statute). Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in http://www.regulations.gov or in hard copy at the EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742. Visit the EPA Docket Center homepage at http://www.epa.gov/dockets for additional information about the EPA's public docket.

In addition to being available in the docket, an electronic copy of this final rule will be available on the World Wide Web

(WWW). Following signature, a copy of this final rule will be posted at the following address: http://www3.epa.gov/ttn/atw/icengines.

FOR FURTHER INFORMATION CONTACT: Ms. Melanie King, Energy Strategies Group, Sector Policies and Programs Division (D243-01), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2469; facsimile number: (919) 541-5450; email address: king.melanie@epa.gov.

SUPPLEMENTARY INFORMATION:

Organization of this document. The information presented in this preamble is organized as follows:

I. General Background

On July 11, 2006, the EPA promulgated standards of performance for stationary CI internal combustion engines (71 FR 39154). These standards, known as new source performance standards (NSPS), implement section 111(b) of the Clean Air Act, and are issued for categories of sources that cause, or contribute significantly to, air pollution that may reasonably be anticipated to endanger public health or welfare. The standards are codified at 40 CFR part 60 subpart IIII. The standards apply to new stationary sources of emissions, i.e., sources whose construction, reconstruction, or modification begins after a standard for those sources is proposed. The NSPS for stationary CI internal combustion engines established limits on emissions of particulate matter (PM), nitrogen oxides (NOx), carbon monoxide (CO) and non-methane hydrocarbons (NMHC). The emission standards are generally modeled after the EPA's standards for nonroad and marine diesel engines. The nonroad CI engine standards are phased in over several years and have Tiers with increasing levels of stringency. The engine model year in which the Tiers take effect varies for different size ranges of

engines. The Tier 4 final standards for new stationary non-emergency and nonroad CI engines generally begin with either the 2014 or 2015 model year.

In 2011, the EPA finalized revisions to the NSPS for stationary CI engines that amended the standards for engines with a displacement greater than 10 liters per cylinder, and also for engines located in remote areas of Alaska (76 FR 37954, June 28, 2011). In this action, the EPA is finalizing amendments to the NSPS regarding performance inducements for Tier 4 engines and the criteria for defining remote areas of Alaska. The final amendments are discussed below.

II. Final Amendments

A. Temporary Override of Inducements in Emergency Situations

Many Tier 4 final engines are equipped by the engine manufacturer with selective catalytic reduction (SCR) to reduce emissions of NOx. The consumable reactant in an SCR system is typically supplied as a solution of urea in water known as diesel exhaust fluid (DEF). Engines equipped with SCR generally include controls that limit the function of the engines if they are operated without DEF, or if the engine's electronic control module cannot otherwise confirm that the SCR system is properly operating. Such controls are generally called "inducements" because they induce the operator to properly maintain the SCR emission control system. In normal circumstances, if inducements

begin, the engine operator is expected to perform any necessary maintenance to avoid shutdown. Manufacturers as well as owners or operators of nonroad and stationary CI Tier 4 certified engines have raised concerns regarding the inducements being triggered and engines shutting down during emergency situations. Additional background on Tier 4 engines and this amendment can be found in the proposal for this rulemaking (80 FR 68808, November 6, 2015). On August 8, 2014, the EPA promulgated provisions allowing manufacturers of nonroad engines certified to the emission standards in 40 CFR part 1039 to give operators the means to temporarily override emission control inducements during qualified emergency situations, such as those where operation of the engine is needed to protect human life (79 FR 46356, August 8, 2014). These provisions, which are codified in 40 CFR 1039.665, allow for auxiliary emission control devices (AECDs) that help to ensure proper function of engines in qualified emergency situations. AECDs are any element of design that senses temperature, motive speed, engine revolutions per minute, transmission gear, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system. The provisions of 40 CFR 1039.665 allow the engine manufacturer to include a dormant feature in the engine’s control software that could be activated to override emission control inducements. In

this action, the EPA is adopting those same provisions for stationary CI engines certified to the standards in 40 CFR part 1039 and used in qualified emergency situations. It is important to emphasize that the EPA is confident that Tier 4 engines will function properly in the vast majority of emergency situations. Thus, the EPA expects that AECDs allowed under this provision will rarely be activated. The EPA is adopting this provision merely as a precaution to ensure that stationary CI engines can continue to operate in emergency situations.

The final amendments allow engine manufacturers to design into their stationary CI engines a dormant AECD that can be activated for up to 120 engine hours per use during a qualified emergency situation to prevent emission controls from interfering with engine operation. The EPA is finalizing amendments that allow engine manufacturers to offer, and operators to request, re-activations of the AECD for additional time in increments of 120 engine hours in cases of a prolonged emergency situation. During the emergency situation, the engine must meet the Tier 1 emission standard in 40 CFR 89.112 that applies to the engine's rated power. Operators activating the AECD will be required to report the incident to the engine manufacturers, and engine manufacturers will submit an annual report to the EPA summarizing the use of these AECDs during the prior year. These final amendments are discussed in more detail

below.

1. Definition of Qualified Emergency Situation

The EPA is using the definition of qualified emergency situation established in the August 8, 2014, amendments for nonroad engines. This definition is found in the introductory text to 40 CFR 1039.665 and is cross-referenced in the NSPS for stationary CI internal combustion engines, specifically in 40 CFR 60.4204(f). The definition specifies that a qualified emergency situation is one in which the condition of an engine's emission controls poses a significant direct or indirect risk to human life. An example of a direct risk would be an emission control condition that inhibits the performance of an engine being used to rescue a person from a life-threatening situation (for example, providing power to a medical facility during an emergency situation). An example of an indirect risk would be an emission control condition that inhibits the performance of an engine being used to provide electrical power to a data center that routes “911” emergency response telecommunications.

2. Basic AECD Criteria

Section 1039.665 specifies provisions allowing for AECDs that are necessary to ensure proper function of engines and equipment in emergency situations. It also includes specific criteria that the engine manufacturer must meet to ensure that any adverse environmental impacts are minimized. These criteria

are cross-referenced in the NSPS for stationary CI engines and are as follows:

• The AECD must be designed so that it cannot be activated more than once without the specific permission of the certificate holder. Reactivation of the AECD must require the input of a temporary code or equivalent security feature.

• The AECD must become inactive within 120 engine hours of becoming active. The engine must also include a feature that allows the operator to deactivate the AECD once the emergency is over.

• The manufacturer must show that the AECD deactivates emission controls (such as inducement strategies) only to the extent necessary to address the expected emergency situation.

• The engine controls must be configured to record in non-volatile electronic memory the total number of activations of the AECD for each engine.

• The manufacturer must take appropriate additional steps to induce operators to report AECD activation and request resetting of the AECD. The EPA recommends including one or more persistent visible and/or audible alarms that are active from the point when the AECD is activated to the point when it is reset.

• The manufacturer must provide purchasers with instructions on how to activate the AECD in emergency

situations, as well as information about penalties for overuse.

3. Emission Standards During Qualified Emergency Situations

The EPA is requiring stationary CI engines to meet different emission standards for the very narrow period of operation where there is an emergency situation with a risk to human life and the owner or operator is warned that the inducement is about to occur. The emission standards that apply when the AECD is activated during the qualified emergency situation are the Tier 1 standards in 40 CFR 89.112. Engine manufacturers indicated that meeting the Tier 2 or 3 standards in 40 CFR 89.112 is not feasible because the base engine used in Tier 4 configurations does not have exhaust gas recirculation (EGR), which is the engine design technology used to meet the Tier 2 and 3 standards. The EGR is not needed for Tier 4 because NOx is controlled by the SCR.[1] The Tier 1 requirement applies only when there is a qualified emergency situation and bypass of inducements is necessary to ensure continued operation of the engine. Once the emergency situation has ended and the AECD is deactivated, the engine must comply with the otherwise applicable emission standard specified in 40 CFR 60.4202. Engine manufacturers must demonstrate that the engine complies with the Tier 1 standard when the AECD is activated when applying for

[1] See Document ID No. EPA-HQ-OAR-2014-0866-0010.

certification of an engine equipped with an AECD.

4. Approval, Recordkeeping and Reporting for Engine Manufacturers

Manufacturers may ask for approval of the use of emergency AECDs at any time; however, the EPA encourages manufacturers to obtain preliminary approval before submitting an application for certification. Otherwise, the EPA's review of the AECD, which may include many unique features, may delay the approval of the application for certification.

The manufacturer is required to keep records to document the use of emergency AECDs until the end of the calendar year 5 years after the onset of the relevant emergency situation. The manufacturer must submit an annual compliance report to the EPA within 90 calendar days of the end of each calendar year in which it authorizes use of an AECD. The annual report must include a description of each AECD activation and copies of the reports submitted by owners or operators (or statements that an owner or operator did not submit a report, to the extent of the manufacturer's knowledge). If an owner or operator fails to report the use of an emergency AECD to the manufacturer, the manufacturer, to the extent it has been made aware of the AECD activation, must send written notification to the operator that failure to meet the submission requirements may subject the operator to penalties.

5. Engine Owner or Operator Requirements

Owners or operators who purchase engines with this dormant feature will receive instructions from the engine manufacturer on how to activate the AECD in qualified emergency situations, as well as information about penalties for overuse. The EPA would consider appropriate use of this feature to be during a situation where operation of a stationary CI engine is needed to protect human life (or where impaired operation poses a significant direct or indirect risk to human life), and temporarily overriding emission controls enables full operation of the equipment. The EPA is adopting this provision to give operators the means to obtain short-term relief one time without the need to contact the engine manufacturer or the EPA. In a qualified emergency situation, delaying the activation to obtain approval could put lives at risk, and would be unacceptable. However, the EPA retains the authority to evaluate, after the fact, whether it was reasonable to judge that there was a significant risk to human life to justify the activation of the AECD. Where the EPA determines that it was not reasonable to judge (1) that there was a significant risk to human life; or (2) that the emission control strategy was curtailing the ability of the engine to perform, the owner or operator may be subject to penalties for tampering with emission controls. The owner or operator requirements also include a specific

prohibition on operating the engine with the AECD beyond the time reasonably needed for such operation. The owner or operator may also be subject to penalties for tampering if they continue to operate the engine with the AECD once the emergency situation has ended or the problem causing the emission control strategy to interfere with the performance of the engine has been or can reasonably be fixed. Nevertheless, the EPA will consider the totality of the circumstances when assessing penalties, and retain discretion to reduce penalties where the EPA determines that an owner or operator acted in good faith.

The owner or operator must send a written report to the engine manufacturer within 60 calendar days after activating an emergency AECD. If any consecutive reactivations occur, this report is still due 60 calendar days from the first activation. The report must include:

• Contact name, mail and email addresses, and telephone number for the responsible company or entity.

• A description of the emergency situation, the location of the engine during the emergency, and the contact information for an official who can verify the emergency situation (such as a county sheriff, fire marshal, or hospital administrator).

• The reason for AECD activation during the emergency situation, such as the lack of DEF, or the failure of an emission-related sensor when the engine was needed to respond to

an emergency situation.

• The engine's serial number (or equivalent).

• A description of the extent and duration of the engine operation while the AECD was active, including a statement describing whether or not the AECD was manually deactivated after the emergency situation ended.

Paragraph 40 CFR 1039.665(g) specifies that failure to provide this information to the engine manufacturer within the deadline is improper use of the AECD and is prohibited.

B. Remote Areas of Alaska

The EPA is finalizing an amendment to the NSPS for stationary CI internal combustion engines that would align the definition of remote areas of Alaska with the definition currently used in the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Stationary Reciprocating Internal Combustion Engines, which can be found at 40 CFR part 63, subpart ZZZZ. The amendment specifies that engines in areas that are accessible by the Federal Aid Highway System (FAHS) can be considered remote if each of the following conditions is met: (1) the only connection to the FAHS is through the Alaska Marine Highway System, or the stationary CI engine operation is within an isolated grid in Alaska that is not connected to the statewide electrical grid referred to as the Alaska Railbelt Grid; (2) at least 10 percent of the power generated by the

engine on an annual basis is used for residential purposes; and (3) the generating capacity of the facility is less than 12 megawatts, or the engine is used exclusively for backup power for renewable energy. The Alaska Railbelt Grid is defined as the service areas of the six regulated public utilities that extend from Fairbanks to Anchorage and the Kenai Peninsula. These utilities are Golden Valley Electric Association; Chugach Electric Association; Matanuska Electric Association; Homer Electric Association; Anchorage Municipal Light & Power; and the City of Seward Electric System. Background on the provisions related to remote areas of Alaska can be found in the proposal for this rulemaking (80 FR 68808, November 6, 2015).

The following NSPS provisions that currently apply to stationary CI internal combustion engines for engines that are located in areas of Alaska that are not accessible by the FAHS will be extended to stationary CI internal combustion engines located in the areas identified above:

• Exemption for all pre-2014 model year engines from diesel fuel sulfur requirements (see 40 CFR 60.4216(d));

• Allowance for owners and operators of stationary CI engines to use engines certified to marine engine standards, rather than land-based nonroad engine standards (see 40 CFR 60.4216(b));

• No requirement to meet emission standards that would

necessitate the use of aftertreatment devices for NO_x, in particular, SCR (emission standards that are not based on the use of aftertreatment devices for NO_x will apply) (see 40 CFR 60.4216(c));

• No requirement to meet emission standards that would necessitate the use of aftertreatment devices for PM until the 2014 model year (see 40 CFR 60.4216(c)); and

• Allowance for the blending of used lubricating oil, in volumes of up to 1.75 percent of the total fuel, if the sulfur content of the used lubricating oil is less than 200 parts per million and the used lubricating oil is "on-spec," i.e., it meets the on-specification levels and properties of 40 CFR 279.11 (see 40 CFR 60.4216(f)).

III. Public Comments and Responses

This section presents a summary of the public comments that the EPA received on the proposed amendments and the responses developed. The EPA received 7 public comments on the proposed rule. The comments can be obtained online from the Federal Docket Management System at http://www.regulations.gov.

A. Temporary Override of Inducements in Emergency Situations

Comment: Two commenters supported the proposed amendment to allow manufacturers of stationary CI engines certified to the emission standards in 40 CFR part 1039 to give engine operators the means to temporarily override emission control inducements

while operating in qualified emergency situations. One commenter noted the critical need for the proposed amendment to ensure that stationary CI engines, when used in emergency situations, may continue to operate to ameliorate the emergency and protect human life. The commenter noted that the EPA had already adopted the proposed provision for nonroad engines, and that it was essential for stationary engines as well. The commenter also supported the proposed amendment so that engines could be dual-certified for both stationary and nonroad use, which reduces the cost and burden of certification.

Response: No response necessary.

Comment: One commenter supported the proposed definition of an emergency situation. Another commenter stated that the EPA should not impose any limitations on the operating time of an engine during an emergency situation, and noted that in the NESHAP for Stationary Reciprocating Internal Combustion Engines, emergencies are excluded from operating time limitations and should similarly be excluded here. The commenter stated that it is not necessary to newly incorporate a definition of a qualified emergency situation because there are applicable examples of emergency situations already provided in the definition of an emergency stationary internal combustion engine in the NSPS for stationary CI internal combustion engines. The commenter indicated that if the EPA believes it must finalize

specific requirements for emergency operations, then the definition of a qualified emergency situation should be revised so that it is more generalized and more applicable to different types of emergency situations which would necessitate the operation of stationary CI engines. According to the commenter, the proposed definition of a qualified emergency situation and the associated examples of indirect and direct risk to human life apply very specifically to nonroad engines that are able to be transported. The commenter urged the EPA to acknowledge that the examples provided in 40 CFR 1039.665 are merely examples, and do not constitute limits on interpreting the definition of a qualified emergency situation for stationary CI engines. The commenter indicated the EPA should clarify that there are other possible emergency situations that might pose a risk to human life, or list additional examples.

Response: The definition of emergency stationary internal combustion engine in the NSPS for stationary CI internal combustion engines, and the similar definition in the NESHAP for Stationary Reciprocating Internal Combustion Engines, defines a subcategory of engines that are subject to different standards, whether operating in an actual emergency or in other limited non-emergency circumstances. The definition of a qualified emergency situation has a different purpose; it defines when the inducement can be overridden for a non-emergency engine. The

definition of a qualified emergency situation where an inducement can be overridden is intended to be more limited to emergency situations where there is a significant direct or indirect risk to human life.

The EPA does not agree with the commenter that the proposed definition is not sufficiently generalized and that the examples provided are not representative of stationary engines. One of the examples is "an engine being used to provide electrical power to a data center that routes '911' emergency response telecommunications," which would likely be a stationary generator. The possible scenarios provided in the definition are merely examples and are not intended to be the only types of applications and situations that can qualify. The use of the word "example" in the definition is an indication that they are just examples and not limits on interpreting the definition. It would not be possible to provide examples of all of the potential uses of engines in qualified emergency situations.

Comment: One commenter recommended that the initial period for AECD operation should be 15 days (360 hours) rather than the proposed 120 hours, with follow-on increments of 120 hours activated by communications with the engine certificate holder. The commenter stated that the time limit should be designed to address a worst-case situation, such as a region-wide disaster and a remote area, where extended communications and/or supply

chain disruptions may impact the engine operator and the certificate holder beyond 120 hours. According to the commenter, the threat of post-emergency analysis and punishment by the EPA will likely be sufficient to minimize overuse of the leeway provided by the proposed amendment.

Another commenter opposed any hour limit during an emergency situation. According to the commenter, because emergencies are sudden, uncontrollable, and unlikely, there is no need to limit the amount of override time allowable to keep engines running during emergencies. The commenter also expressed concern about the procedures set forth for reactivation of the AECD, and urged the EPA to remove the requirements for resetting of the AECD. The commenter stated that the engine manufacturer is not the appropriately qualified entity to determine a facility's qualified emergency, and that there need not be such stringent requirements for activation of the AECD, since the EPA has the authority to evaluate after the fact whether or not it was reasonable to justify the qualified emergency.

Response: The proposed definition of a qualified emergency situation specifies emergency situations for which an engine owner or operator may temporarily override emission control inducements. Should the engine owner or operator need to extend the override beyond the initial 120 hour period, it can work with the engine manufacturer to reset the AECD for additional

time. Thus, the engine owner/operator will be able to override the emission controls throughout the duration of the qualified emergency situation. The limit on AECD activation periods and procedures for resetting the AECD are necessary to ensure that the time of the override is truly limited to the time necessary to address the emergency situation, and minimize excess emissions, which would lead to adverse environmental impacts. The commenters that suggested an initial 360 hour AECD activation period to address a "worst case scenario" or an unlimited activation period did not provide any specific example of a qualified emergency situation of longer than 120 hours where the procedures for resetting the AECD could not have been followed, or explain why 360 hours represents a "worst case scenario." The EPA's approach appropriately balances the need to provide regulatory relief in emergency circumstances with the need to deter overuse, and the EPA does not agree that an unlimited period is necessary or that a period of 360 hours or unlimited hours is preferable. In order to reactivate the AECD, the engine manufacturer is only required to have evidence that the emergency situation is continuing and is not required to judge if the situation is a qualifying emergency. As indicated in the proposal, it is expected that AECDs would be activated rarely, if ever, so the provisions are unlikely to impose a significant burden on engine owners/operators.

Further, the EPA's decision to adopt requirements concerning initial AECD activation periods, reactivation and notification that are identical to such requirements in the nonroad engine rules is influenced by our desire to allow for dual certification of stationary and nonroad engines, which reduces the burden of the rule on engine manufacturers. The Truck and Engine Manufacturers Association noted in their public comments[2] that the ability to dual certify nonroad and stationary engines reduces the number of engine families that a manufacturer must certify, reduces the number of engine models that dealers, distributors, and customers must inventory and manage, and reduces the number of engine families that the EPA must certify. According to the commenter, if the EPA were to foreclose the ability of manufacturers to continue to dual certify, significant costs and burdens would result. Given that the NSPS for stationary CI internal combustion engines places a great deal of the compliance demonstration burden on the engine manufacturer, it is reasonable to have the manufacturer's compliance obligations be as consistent as possible for stationary and nonroad engines.

Comment: One commenter supported the recordkeeping process outlined in the proposed rule. Another commenter disagreed with

[2] EPA-HQ-OAR-2014-0866-0017.

the proposed requirements for the engine owner/operator to send a written report to the engine manufacturer detailing the activation of the emergency AECD. According to the commenter, the engine manufacturer has no authority to enforce penalties or regulations promulgated by the EPA, and, therefore, the commenter did not think it made logical sense for owners/operators to be required to submit reports to the engine manufacturers, nor are the engine manufacturers qualified to determine what constitutes a qualified emergency situation at the affected facility. The commenter stated that using the engine manufacturers to collect reports and then report this information to the EPA is unprecedented and creates an unnecessary middleman. The commenter recommended that the proposed provisions be revised so that owners/operators are required to report the information directly to the EPA, or to the appropriate permitting authority.

Response: Similar to the limit on AECD activation periods and the procedures for resetting the AECD, the recordkeeping process is necessary to ensure the AECD is used in true emergencies only and prevent adverse environmental impacts. The proposed reporting provisions do not require engine manufacturers to enforce penalties or EPA regulations. Rather, they require that, in cases where the manufacturer is aware of use of the AECD, the manufacturer must make the engine

owner/operator aware that they may be subject to penalties from the EPA for failing to report the use of the AECD. There are other situations in the regulations where an engine manufacturer is required to indicate that an owner/operator may be subject to penalties, such as the labeling requirement in 40 CFR 1039.20. The commenter did not provide any information to show that it would be unreasonable for engine manufacturers to compile information on the use of AECDs, and the engine manufacturers have not objected to the requirement. As stated previously, it is expected that AECDs will be activated rarely, if ever, so the reporting provisions are unlikely to impose a significant burden on engine owners/operators or engine manufacturers.

Comment: One commenter requested that the EPA clarify that manufacturers are not required to submit actual certification test-based data to demonstrate that engines equipped with an AECD that helps to ensure proper function of engines in qualified emergency situations will meet the Tier 1 emission standards in 40 CFR 89.112 when the AECD is activated. According to the commenter, submittal of certification test-based data would be unduly expensive and burdensome for engine manufacturers and the EPA. The commenter recommended that engine manufacturers be allowed to demonstrate that an engine complies with the Tier 1 emission standards when the AECD is activated by submitting the conversion efficiencies for the Tier 4 engine’s

emission control systems and using good engineering judgement to demonstrate that the engine complies with the Tier 1 standard. Specifically, according to the commenter, manufacturers could compare the conversion efficiency with the Tier 4 emission standard for the engine to demonstrate that the engine would meet the Tier 1 emission standard if the emission control system is disabled. The commenter noted that the EPA allows the demonstration of compliance through means other than the generation of actual certification data for the not-to-exceed standards in part 1039. The commenter suggested specific edits to 40 CFR 60.4210(j) to help clarify the required demonstration.

Response: The proposed rule was not intended to require certification test-based data to be submitted to demonstrate that the engines will meet the Tier 1 emission standards. The final rule includes language in 40 CFR 60.4210(j) to clarify that certification test-based data are not required for such demonstration. The intent of the provision is that engine manufacturers would demonstrate achievement of the Tier 1 emission standards at the time that the manufacturer applies for certification of the engine equipped with an AECD. Manufacturers must document that the engine complies with the Tier 1 emission standards when the AECD is activated and provide any relevant testing, engineering analysis, or other information in sufficient detail to support such statement when applying for

certification (or amending an existing certificate) of an engine equipped with an AECD.

B. Remote Areas of Alaska

Comment: Four commenters supported the proposed amendment to align the definition of remote areas of Alaska in the NSPS for stationary CI engines with the definition currently used in the NESHAP for Stationary Reciprocating Internal Combustion Engines. Commenters indicated that the proposed amendment would address the unique circumstances of engines located in remote areas of Alaska. No commenters opposed the proposed amendment.

Response: No response necessary.

Comment: One commenter requested that the EPA reconsider the effectiveness of, and need for, PM emission control equipment on new Tier 3 marine engines providing prime power in remote areas of Alaska. The commenter questioned the benefit of installing PM emission controls on engines certified to the Tier 3 marine engine standards, which have lower PM emissions than engines certified to the Tier 3 standards for nonroad engines. The commenter stated that it believes that the capital and operating cost, questionable reliability, and additional complexity resulting from the PM emission control requirement do not appear to be warranted or economically viable.

Response: This comment is outside the scope of the proposal, which did not seek comment on the appropriateness of

the PM emission control requirement in 40 CFR 61.4216(c) for remote areas of Alaska.

IV. Impacts of the Final Action

A. Economic Impacts

The EPA does not expect any significant economic impacts as a result of this final rule. A significant economic impact for the amendment allowing the temporary override of inducements in emergency situations is not anticipated because AECDs are expected to be activated rarely (if ever), and, thus, the impacts to affected sources and consumers of affected output will be minimal.

The economic impact from the change to the criteria for remote areas of Alaska will be a cost savings for owners or operators of engines that are located in the additional areas that will now be considered remote. The precise savings depends on the number and size of engines that will be installed each year. Information provided by the Alaska Energy Authority indicated that one to two new engines are expected to be installed each year. Information provided by the state of Alaska indicated that the expected initial capital cost savings per engine ranges from $28,000 to $163,000, depending on the size of the engine. There will also be annual operating and maintenance cost savings due to avoidance of the need to obtain and store DEF.

B. Environmental Impacts

The EPA does not expect any significant environmental impacts as a result of the amendment to allow a temporary override of inducements in emergency situations. The AECDs are expected to be activated rarely (if ever) and will only affect emissions for a very short period.

The EPA also does not expect significant environmental impacts as a result of the amendments to the criteria for remote areas of Alaska. As an example, allowing the use of a Tier 3 engine instead of a Tier 4 engine would result in less reductions for a 250 horsepower (HP) stationary CI engine of 5.4 tons per year (tpy) of NOx, 0.1 tpy of NMHC, 1.6 tpy of CO, and 0.3 tpy of PM, assuming the engine operates full time (8,760 hours per year).[3] As stated previously, the state of Alaska estimates that only one to two new engines will be installed each year in the additional remote areas.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at http://www2.epa.gov/laws-

[3] Estimates are based on Tier 3 and Tier 4 emission factors for a 175-300 HP engine provided in Table A4 of Exhaust and Crankcase Emission Factors for Nonroad Engine Modeling - Compression-Ignition. NR-009d. Assessment and Standards Division, Office of Transportation and Air Quality. U.S. Environmental Protection Agency. EPA-420-R-10-018. July 2010. http://www.epa.gov/otaq/models/nonrdmdl/nonrdmdl2010/420r10018.pdf.

regulations/laws-and-executive-orders.

A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to the OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2196.05. The only new information collection activity in this rule is the reporting by engine owners and operators and engine manufacturers that would occur if the AECD is activated during a qualified emergency situation. The EPA expects that it is unlikely that these AECDs will ever need to be activated. Therefore, the EPA estimates that there will be no additional burden from this reporting requirement.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce

that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule. The OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060-0590.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. As mentioned earlier in this preamble, the EPA is harmonizing the NSPS for stationary CI engines in this action with an existing rule issued by the EPA for nonroad CI engines. Thus, this action is reducing regulatory impacts to small entities as well as other affected entities. The EPA is also including additional remote areas of Alaska in the regulatory flexibility provisions already in the rule for remote areas of Alaska, which further reduces the burden of the existing rule on small entities and other affected entities. We have, therefore,

concluded that this action will relieve regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175. This final rule would impose compliance costs primarily on engine manufacturers, depending on the extent to which they take

advantage of the flexibilities offered. The final amendments to expand the areas that are considered remote areas of Alaska would reduce the compliance costs for owners and operators of stationary engines in those areas. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income

Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The provisions being finalized in this action are designed to eliminate risks to human life and are expected to be used rarely, if at all, and will only affect emissions for a very short period. Other changes the EPA is finalizing have minimal effect on emissions.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 28, 2016.

Gina McCarthy,
Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 60 of the Code of the Federal Regulations is amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart IIII—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines

2. Amend §60.4201 by revising paragraph (f)(1) and adding paragraph (h) to read as follows:

§60.4201 What emission standards must I meet for non-emergency engines if I am a stationary CI internal combustion engine manufacturer?

* * * * *

(f) * * *

(1) Remote areas of Alaska; and

* * * * *

(h) Stationary CI ICE certified to the standards in 40 CFR part 1039 and equipped with auxiliary emission control devices (AECDs) as specified in 40 CFR 1039.665 must meet the Tier 1 certification emission standards for new nonroad CI engines in 40 CFR 89.112 while the AECD is activated during a qualified emergency situation. A qualified emergency situation is defined

in 40 CFR 1039.665. When the qualified emergency situation has ended and the AECD is deactivated, the engine must resume meeting the otherwise applicable emission standard specified in this section.

3. Amend §60.4202 by revising paragraph (g)(1) to read as follows:

§60.4202 What emission standards must I meet for emergency engines if I am a stationary CI internal combustion engine manufacturer?

* * * * *

(g) * * *

(1) Remote areas of Alaska; and

* * * * *

4. Amend §60.4204 by adding paragraph (f) to read as follows:

§60.4204 What emission standards must I meet for non-emergency engines if I am an owner or operator of a stationary CI internal combustion engine?

* * * * *

(f) Owners and operators of stationary CI ICE certified to the standards in 40 CFR part 1039 and equipped with AECDs as specified in 40 CFR 1039.665 must meet the Tier 1 certification emission standards for new nonroad CI engines in 40 CFR 89.112 while the AECD is activated during a qualified emergency situation. A qualified emergency situation is defined in 40 CFR

1039.665. When the qualified emergency situation has ended and the AECD is deactivated, the engine must resume meeting the otherwise applicable emission standard specified in this section.

5. Amend §60.4210 by adding paragraph (j) to read as follows:

§60.4210 What are my compliance requirements if I am a stationary CI internal combustion engine manufacturer?

* * * * *

(j) Stationary CI ICE manufacturers may equip their stationary CI internal combustion engines certified to the emission standards in 40 CFR part 1039 with AECDs for qualified emergency situations according to the requirements of 40 CFR 1039.665. Manufacturers of stationary CI ICE equipped with AECDs as allowed by 40 CFR 1039.665 must meet all of the requirements in 40 CFR 1039.665 that apply to manufacturers. Manufacturers must document that the engine complies with the Tier 1 standard in 40 CFR 89.112 when the AECD is activated. Manufacturers must provide any relevant testing, engineering analysis, or other information in sufficient detail to support such statement when applying for certification (including amending an existing certificate) of an engine equipped with an AECD as allowed by 40 CFR 1039.665.

6. Amend §60.4211 by adding paragraph (h) to read as follows:

§60.4211 What are my compliance requirements if I am an owner or

operator of a stationary CI internal combustion engine?

* * * * *

(h) The requirements for operators and prohibited acts specified in 40 CFR 1039.665 apply to owners or operators of stationary CI ICE equipped with AECDs for qualified emergency situations as allowed by 40 CFR 1039.665.

7. Amend §60.4214 by adding paragraph (e) to read as follows:

§60.4214 What are my notification, reporting, and recordkeeping requirements if I am an owner or operator of a stationary CI internal combustion engine?

* * * * *

(e) Owners or operators of stationary CI ICE equipped with AECDs pursuant to the requirements of 40 CFR 1039.665 must report the use of AECDs as required by 40 CFR 1039.665(e).

8. Amend §60.4216 by revising paragraphs (b) through (d) and (f) to read as follows:

§60.4216 What requirements must I meet for engines used in Alaska?

* * * * *

(b) Except as indicated in paragraph (c) of this section, manufacturers, owners and operators of stationary CI ICE with a displacement of less than 10 liters per cylinder located in remote areas of Alaska may meet the requirements of this subpart by manufacturing and installing engines meeting the requirements

of 40 CFR parts 94 or 1042, as appropriate, rather than the otherwise applicable requirements of 40 CFR parts 89 and 1039, as indicated in §§60.4201(f) and 60.4202(g).

(c) Manufacturers, owners and operators of stationary CI ICE that are located in remote areas of Alaska may choose to meet the applicable emission standards for emergency engines in §§60.4202 and 60.4205, and not those for non-emergency engines in §§60.4201 and §60.4204, except that for 2014 model year and later non-emergency CI ICE, the owner or operator of any such engine that was not certified as meeting Tier 4 PM standards, must meet the applicable requirements for PM in §§60.4201 and 60.4204 or install a PM emission control device that achieves PM emission reductions of 85 percent, or 60 percent for engines with a displacement of greater than or equal to 30 liters per cylinder, compared to engine-out emissions.

(d) The provisions of §60.4207 do not apply to owners and operators of pre-2014 model year stationary CI ICE subject to this subpart that are located in remote areas of Alaska.

* * * * *

(f) The provisions of this section and §60.4207 do not prevent owners and operators of stationary CI ICE subject to this subpart that are located in remote areas of Alaska from using fuels mixed with used lubricating oil, in volumes of up to 1.75 percent of the total fuel. The sulfur content of the used

lubricating oil must be less than 200 parts per million. The used lubricating oil must meet the on-specification levels and properties for used oil in 40 CFR 279.11.

9. Amend §60.4219 by adding in alphabetical order the definitions for "*Alaska Railbelt Grid*" and "*Remote areas of Alaska*" to read as follows:

§60.4219 What definitions apply to this subpart?

* * * * *

Alaska Railbelt Grid means the service areas of the six regulated public utilities that extend from Fairbanks to Anchorage and the Kenai Peninsula. These utilities are Golden Valley Electric Association; Chugach Electric Association; Matanuska Electric Association; Homer Electric Association; Anchorage Municipal Light & Power; and the City of Seward Electric System.

* * * * *

Remote areas of Alaska means areas of Alaska that meet either paragraph (1) or (2) of this definition.

(1) Areas of Alaska that are not accessible by the Federal Aid Highway System (FAHS).

(2) Areas of Alaska that meet all of the following criteria:

(i) The only connection to the FAHS is through the Alaska Marine Highway System, or the stationary CI ICE operation is

within an isolated grid in Alaska that is not connected to the statewide electrical grid referred to as the Alaska Railbelt Grid.

(ii) At least 10 percent of the power generated by the stationary CI ICE on an annual basis is used for residential purposes.

(iii) The generating capacity of the source is less than 12 megawatts, or the stationary CI ICE is used exclusively for backup power for renewable energy.

* * * * *

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