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**UNITED STATES OF AMERICA  
DEPARTMENT OF LABOR  
MINE SAFETY AND HEALTH ADMINISTRATION**

**EQUIVALENCY EVALUATION )  
OF THE U. S. ENVIRONMENTAL ) RIN 1219-AB43  
PROTECTION AGENCY'S NONROAD )  
DIESEL ENGINE STANDARDS )**

**COMMENTS OF THE  
ENGINE MANUFACTURES ASSOCIATION**

**MAY 30, 2006**

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**A. Introduction**

The Engine Manufacturers Association (EMA) hereby submits its comments in response to the Notice of Intent (Proposal) published in the March 28, 2006, edition of the Federal Register (FR 71: 15358-15359) to evaluate the equivalency of specified US Environmental Protection Agency (EPA) standards. The intent of the Proposal is to compare the subject EPA regulations governing emissions of nonroad compression ignition engines with similar provisions in 30 CFR Part 7 governing approval of diesel engines intended for underground coal mines. EMA is the trade association that represents the world's leading manufacturers of internal combustion engines, including spark-ignited and compression-ignition engines used in on-highway trucks and buses, non-road construction and farm equipment, marine vessels, grounds care and utility equipment, and stationary power sources. More specifically, EMA members manufacture and market the compression ignition engines used in underground mining equipment and thus represent the primary regulated community affected by the Proposal.

EMA members produce compression-ignition, diesel fueled engines used in a variety of nonroad construction equipment. Emissions from such engines are regulated by the US EPA, and engine manufacturers must certify that emissions levels of regulated pollutants meet applicable nonroad engine standards as required under 40 CFR Part 89. The same engine models that are used in surface equipment and are certified to meet EPA emissions standards also are used in underground mining equipment. When used in underground mining equipment, those engines also must be approved for use by the US Mine Safety and Health Administration (MSHA) and meet all requirements specified in 30 CFR Part 7. Consequently, engine manufacturers frequently must complete two sets of emissions tests and follow two sets of approval procedures for essentially the same engines. This duplication creates added costs and regulatory burdens on engine manufacturers.

MSHA is proposing to evaluate whether certain US EPA testing, verification and certification procedures for nonroad engines under 40 CFR Part 89 provide, or can be modified to provide, the same degree of protection as currently applicable MSHA procedures that must be completed under 30 CFR Part 7. Our understanding of the Proposal is that if MSHA finds that the two regulatory approaches are equivalent, then engine manufacturers would not have to duplicate testing to obtain MSHA approval, but could use one set of tests to obtain MSHA and EPA approvals.

## **B. Comments and Recommendations on Proposal**

### **1. EMA fully supports MSHA's efforts to demonstrate equivalency of US EPA and MSHA requirements to streamline approval of engines and equipment.**

EMA supports the proposal to evaluate the equivalency of EPA standards with MSHA requirements. Engine manufacturers generally do not design and manufacture an engine specifically for use in underground mining equipment. Rather, the engines used in such equipment are typically designed and manufactured for use in a variety of nonroad mobile equipment, or even in stationary source applications. As a result, a specific engine coming off the assembly line can be destined for either a nonroad mobile source piece of construction equipment or a piece of underground mining equipment. And, in some cases, the same situation is equally true for the equipment manufacturer. Some machines that are usually employed in above-ground work are sometimes purchased and used in underground mines. Thus, engines used to power underground mining equipment are often identical to engines used to power non-mining construction equipment.

All nonroad mobile source engines are required to meet US EPA nonroad emissions standards and requirements. Engine manufacturers are required to certify that their engines meet the EPA emissions standards through a complex series of testing, documentation, and submissions to EPA's Office of Transportation and Air Quality. The testing procedures and certification requirements are governed by detailed regulations found in 40 CFR Parts 89 and 1065. If a manufacturer meets all requirements and the testing data indicates that the emissions from the engine family are at or below the applicable standards, EPA issues a certificate of conformance to the manufacturer.

Under the present MSHA requirements, those certified engines that are to be used in underground mining equipment must undergo a separate and redundant testing and approval process per 30 CFR Part 7. This additional testing and approval process adds considerable costs for engine manufacturers and consequently, increased costs to mining equipment owners and operators. These added costs for separate EPA and MSHA tests and approvals do not result in reduced emissions or better performance since no design modifications are made to the engine. Thus, the current duplicate testing requirement serves little useful function other than to satisfy the regulatory requirements of two federal agencies.

As indicated in the Proposal, MSHA plans to evaluate whether the US EPA testing and approval procedures provide equivalent function to the existing MSHA requirements. An equivalency demonstration will be very beneficial since it will allow engine manufacturers to submit data and information used to obtain EPA certification in lieu of having to perform separate engine testing using the MSHA procedures. Equivalency will result in considerable cost savings by avoiding the need for a new series of expensive tests and analyses. By reducing the regulatory burden on the industry, it will allow a more rapid deployment of new technology to the mining industry. A determination of equivalency will reduce the regulatory and paperwork

burden on industry without affecting engine emissions and without compromising the protection of miners.

EMA fully supports MSHA's efforts to review and demonstrate equivalency between the EPA and MSHA testing and approval procedures.

**2. EMA recommends that MSHA include additional regulations, including 40 CFR Part 1065, in the equivalency review and determination.**

MSHA lists a number of EPA testing and certification standards from 40 CFR Part 89 in the Proposal and states that MSHA will review these specific standards to determine whether the EPA requirements provide adequate testing procedures and technical information needed for engine approvals under 30 CFR Part 7, Subpart E. EMA supports review of the 40 CFR Part 89 standards but recommends that the review be expanded to include 40 CFR Part 1065 as well.

EPA has regulated nonroad engine testing and certification through 40 CFR Part 89 for a number of years. However, EPA has recently updated and consolidated engine testing standards in 40 CFR Part 1065. Part 1065 uses the latest, and most accurate, testing procedures and will eventually replace Part 89. EMA recommends that the MSHA equivalency review include the testing and analysis procedures of Part 1065 as well as Part 89.

Importantly, engine manufacturers are allowed to use the Part 1065 procedures today, and some manufacturers are opting to do so. Thus, if MSHA were only to evaluate equivalency with the specific sections of Part 89, manufacturers who commit to early adoption of the updated Part 1065 procedures would not be able to take advantage of any equivalency determination.

Completing an equivalency evaluation on both Parts 89 and 1065 is necessary to avoid a second equivalency determination in the near future and to ensure that MSHA and engine manufacturers can take full advantage of the equivalency determination over the full range of engine product lines.

**3. MSHA's equivalency determination should extend not only to testing and analysis procedures but to the emissions limit values as well.**

The Proposal indicates that MSHA intends to review the US Environmental Protection Agency's "standards" for nonroad emissions. However, the review will be limited to "testing standards" and "certification standards" contained in referenced sections of 40 CFR Part 89. EMA supports the evaluation of the test procedures and MSHA's efforts to allow use of engine test data collected for EPA certification to be submitted to MSHA to fulfill the testing requirements of 30 CFR Part 7. However, EMA recommends that the review include an assessment of the actual emissions limit values in 40 CFR Part 89 as well (89.112 and 89.113) to determine if the EPA nonroad emissions standards provide the same level of protection as required by Technical Requirements in 30 CFR Part 7.84.

A determination that the actual EPA limit values, and not just EPA test procedures, are equivalent to MSHA technical requirements, would result in additional efficiencies and cost savings. If the EPA emissions limit values are determined to provide equivalent protection, then engine manufacturers could gain even more efficiencies in engine manufacturing testing and reporting while ensuring greater environmental protection for mine-workers. The EPA nonroad emission standards identified in 40 CFR Parts 89 should be included in the review and evaluation in addition to the cited testing and certification procedures.

### **C. Concluding Statement**

EMA supports MSHA's proposal to evaluate the equivalency of EPA's nonroad emissions standards and regulations in accordance with the provisions of 7 CFR Part 30.10. An equivalency determination is appropriate in this case since the engines that are used in underground mining equipment are usually nonroad engines that also are tested and certified to the EPA emissions standards. An equivalency determination will eliminate the current requirement that engine manufacturers must complete separate emissions testing to MSHA procedures and will consequently result in both cost and time savings to MSHA, engine manufacturers, and the mining community.

As the trade association representing the regulated community affected by the proposed action, EMA is pleased to offer to assist MSHA in the equivalency review. EMA has considerable technical expertise in this area and can provide information, technical data, or other assistance during the evaluation process. EMA and its members look forward to working with MSHA on this project.

Respectfully submitted,

**Joseph L. Suchecki**  
**Director, Public Affairs**

**ENGINE MANUFACTURERS ASSOCIATION**