

Supporting Statement
Information Collection Request

**Exclusion Determinations for New Nonroad
Spark-ignited Engines, New Nonroad
Compression-ignited Engines
and New On-road Heavy Duty Engines (Renewal)**

EPA Number 1852.04
OMB Control Number 2060-0395

40 CFR 85 Subpart R
40 CFR 89 Subpart J
40 CFR 90 Subpart J
40 CFR 91 Subpart K
40 CFR 92 Subpart J
40 CFR 94 Subpart J
40 CFR 1039.5
40 CFR 1048.5
40 CFR 1051.5
40 CFR 1068 Subpart C

December 2008

Certification and Compliance Division
Office of Transportation and Air Quality
Office of Air and Radiation
US Environmental Protection Agency

1. Identification of the Information Collection

1(a) Title and Number of the Information Collection

Exclusion Determinations for New Nonroad Spark-ignited Engines at or Below 19 Kilowatts, New Nonroad Compression-ignited Engines, New Marine Engines, and New On-road Heavy Duty Engines (Renewal); EPA Number 1852.04; OMB Control Number 2060-0395.

1(b) Short Characterization

Under the provisions of the Clean Air Act (Act), the Administrator is required to promulgate regulations to control air pollutant emissions from “motor vehicles” and “nonroad engines,” as defined in the Act. Motor vehicles and nonroad engines not meeting the applicable definitions are excluded from compliance with current regulations.

A manufacturer may make an exclusion determination by itself; however, manufacturers and importers may routinely request EPA to make such determination to ensure that their determination does not differ from the Agency’s. To request an exclusion determination, manufacturers submit a letter with a description of the engine and/or vehicle (engine type, horsepower rating, intended usage etc.) and sales brochures to the Compliance and Innovative Strategies Division (CISD), Heavy-Duty and Nonroad Engines Group (HDNEG), Office of Transportation and Air Quality. CISD uses this information to determine whether the engine or vehicle is excluded from compliance with one or more emission regulations. CISD then stores the data in its internal files, and makes it available to environmental groups and the public upon request under the Freedom of Information Act.

It is estimated that this information collection will have 12 respondents per year at a total annual cost to the respondents of \$6,254.

2. Need for and Use of the Collection

2(a) Need/Authority for the collection

Section 203(a)(1) of the Clean Air Act (Act) prohibits the introduction into commerce of any motor vehicle or engine unless it is covered by a certificate of conformity. Section 208(a) of the Act provides the Administrator with the authority to require a manufacturer to "make such reports, and provide such information as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with [Title II of the Act] or regulations promulgated thereunder...." This authority was extended to nonroad engines (small spark-ignited engines, compression-ignited engines, locomotive engines and marine engines) under Section 213(d).

The exclusion of vehicles from coverage by the Act’s motor vehicle provisions is based on section 216(2) of the Act, which defines a 'motor vehicle' as "any self-propelled vehicle designed for transporting persons or property on a street or highway." Regulations promulgated at Title 40 of the Code of Federal Regulations, Section 85.1703 (40 CFR 85.1703), list criteria for determining the applicability of this definition. When one or more of these criteria are met,

the vehicle is deemed not a “motor vehicle” and is excluded from compliance with the motor vehicle emission requirements.

Section 216(10) of the Act defines “nonroad engine” as an “internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 111 [related to “motor vehicle” fuels] or section 202 [related to “motor vehicles” as previously defined].” An engine not meeting the above definition would not be considered a nonroad engine, and, therefore, is excluded from the nonroad engine emission requirements of the Act.

A vehicle or engine may be excluded from compliance under one definition but may be subjected to emission requirements under another. For example, a vehicle can be deemed “not for use on a street or highway” and, therefore, be excluded from the motor vehicle provisions at 40 CFR Part 85. That same vehicle may meet the definition of a nonroad engine and be covered under 40 CFR Part 89.

A manufacturer may make an exclusion determination by itself; however, manufacturers may elect to submit vehicle or engine specifications to EPA and request that EPA make the exclusion determination.

2(b) Practical Utility/Users of the Data

EPA collects information only when a request for exclusion determination is made or in rare instances where EPA believes that a determination made by a manufacturer or importer is erroneous. The information will be used by the Heavy-Duty and Nonroad Engines Group (HDNEG), Certification and Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation.

3. Nonduplication, Consultations, and Other Collection Criteria

3(a) Nonduplication

The applicable regulations are administered only by the Office of Transportation and Air Quality. No other program or agency collects this information.

3(b) Public Notice Required Prior to ICR Submission to OMB

An announcement of the public comment period for this ICR renewal was published in the Federal Register on June 30, 2008. No comments were received.

3(c) Consultations

Under the existing ICR, EPA has received less than 10 respondents in the last three years. Given this low level of activity, EPA used the burden estimates provided by the respondents under the existing ICR.

3(d) Effects of Less Frequent Collection

Exclusion determinations are made only once. It is impossible to make an exclusion determination without the needed information.

3(e) General Guidelines

This section is not applicable. None of the Paperwork Reduction Act guidelines are exceeded.

3(f) Confidentiality

Respondents are allowed to assert a claim of confidentiality over information provided to EPA. Confidentiality will be provided in accordance with the Freedom of Information Act and EPA regulations at 40 CFR Part 2.

3(g) Sensitive Questions

No sensitive questions are asked in this information collection.

4. Respondents and Information Requested

4(a) Respondents/NAICS Codes

Respondents are manufacturers, importers or vendors of on-road heavy duty vehicles, nonroad engines and nonroad equipment within the following North American Industry Classification System (NAICS) codes:

- 333111 Farm Machinery and Equipment Manufacturing
- 333112 Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing
- 333120 Construction Machinery Manufacturing
- 333618 Other Engine Equipment Manufacturing
- 333924 Industrial Truck, Tractor, Trailer, and Stacker Machinery Manufacturing

4(b) Information Requested

(i) Data Items, Including Recordkeeping Requirements

The information is voluntarily submitted and is readily available from sales brochures. The information needed to determine if an engine is covered by a rule depends on the type of engine for which the exclusion determination is requested. Such information includes:

1. On-road heavy-duty engines and vehicles (40 CFR 85.1703)
 - a. Engine type 85.1703(a)
 - b. Descriptive information of the vehicle* 85.1703(a)(2)
 - i. "Lacks features customarily associated with safe and practical street or highway use..."

- ii. "Exhibits features which render its use on a street or highway unsafe, impractical, or highly unlikely..."
- c. Vehicle's capability to transport people 85.1703(a) or materials
- 2. Nonroad Compression Ignition Engines (40 CFR 89)
 - a. Engine type 89.1(a)
 - b. Gross power output (horsepower rating) 89.1(a)
 - c. Intended usage 89.1(b)
- 3. Spark-ignited Small Engines (40 CFR 90)
 - a. Engine type 90.1(a)
 - b. Gross power output (horsepower rating) 90.1(a)
 - c. Intended usage 90.1(b)
 - d. Method of usage 90.1(b)
 - f. Descriptive information of the engine* 90.1(b)
 - g. Descriptive information of vehicle being powered* 90.1(b)
- 4. Spark-ignited Marine Engines (40 CFR 91)
 - a. Engine type 91.1
 - b. Intended usage 91.1(a)
 - c. Method of usage 91.3
 - d. Descriptive information of the engine* 91.3
 - e. Description of its technology 91.3
 - f. Emission levels 91.3
- 5. Locomotive Engines (40 CFR 92)
 - a. Engine type 92.1(a)
 - b. Intended usage 92.1(b)
 - c. Method of usage 92.1(b)
 - d. Descriptive information of the engine* 92.2
- 6. Marine Compression Ignition Engines (40 CFR 94 and 1039)
 - a. Engine type 94.1(b)(1) and 1039.5
 - b. Gross power output (horsepower rating) 94.1(b)(1) and 1039.5
 - c. Intended usage 94.1(b)(2) and 1039.5
- 7. Large Spark-ignited Engines (40 CFR 1048)
 - a. Whether the engine is certified under 40 CFR Part 1051 [1048.5(a)]
 - b. Whether the engine is certified under 40 CFR Part 91 [1048.5(b)]
- 6. Recreational Engines (40 CFR 1051)
 - a. Whether the engine is certified under 40 CFR Parts 89 or 1039 [1051.5(a)]
 - b. Excluded engines may need to be labeled 1051.5(b)

- * In many cases, pictures from sales brochures are needed to evaluate or clarify some characteristics of the vehicle or equipment.

No recordkeeping is required under this information collection.

(ii) Respondent Activities

Respondents will collect readily available information and write to EPA requesting an exclusion determination. If pictures from each side of the vehicle are not available from sales brochures, the respondent will take the pictures, have the film developed, and submit the pictures along with the letter.

5. The Information Collected -- Agency Activities, Collection Methodology and Information Management

5(a) Agency Activities

HDNEG reviews the information submitted by the respondent and the requirements of the applicable rule(s), and answers the respondent's request for an exclusion determination. HDNEG also stores the data. In the event that a third party requests information about a particular exclusion determination, HDNEG analyzes the data for possible confidential business information and provides appropriate protection, if applicable.

5(b) Collection Methodology and Management

The information is collected through a letter submitted by the respondent. The respondent usually includes sales brochures and/or pictures to help describe the engine or vehicle for which an exclusion determination has been requested. The information submitted is analyzed to determine if the engine or vehicle is covered by the appropriate rules. If the engine is not covered by any rule, an exclusion determination is granted. If it is not covered by the rule under which the exclusion determination was requested but under another regulation, the requester is notified. The information is stored in internal files, and disclosed under the provisions of the Freedom of Information Act.

5(c) Small Entity Flexibility

The information required is the minimum needed to make an exclusion determination and is usually readily available from sales brochures. Respondents submit the information voluntarily with a minimum burden. Respondents also have the option of making the exclusion determination by themselves. Further flexibility is not necessary or appropriate.

5(d) Collection Schedule

The information is collected only once when an engine manufacturer or importer requests an exclusion determination.

6. Estimating the Burden and Cost of the Collection

Please refer to Table A for further details.

6(a) Estimating Respondent Burden

Under the existing ICR, less than 10 respondents requested exclusion determinations in the last three years. EPA used the burden estimates provided by the respondents under the existing ICR.

6(b) Estimating Respondent Cost

(i) Estimating Labor Costs

To estimate labor costs, EPA used the mean hourly wage estimates developed by the Bureau of Labor Statistics (BLS) for Machinery Manufacturing (NAICS Subsector 333) and adjusted the rates to account for overhead. The mean hourly rate estimated by BLS for management occupations (SOC 11-0000) is \$ 50.91, resulting in a rate of \$ 106.91 after adding overhead/benefits by a factor of 2.1. The mean hourly rate for Secretaries, Except Legal, Medical, and Executive (SOC 43-6014) is \$ 14.04, resulting in a rate of \$ 29.48 after adding overhead/benefits by a factor of 2.1. These estimates are taken from the "May 2007 National Industry-Specific Occupational Employment and Wage Estimates, NAICS 333000 - Machinery Manufacturing" table (http://www.bls.gov/oes/current/naics3_333000.htm).

**Table A
Annual Respondent Burden and Cost**

Hours and Cost per Respondent						Total Hours and Cost			
Information Collection Activity	Manager \$106.91/hr	Sec. @ \$29.48/hr	Resp. hr/yr	Labor Cost/yr	Capital Start Up Cost	O & M Cost ¹	# of Resp. ²	Total hr/yr	Total Cost/yr
Gather Information	2.5	0.0	2.5	\$267.28	0	0	12	30	\$3,207.36
Take and develop pictures	0.5	1.0	1.5	\$82.94	0	\$18.00	4	6	\$403.76
Report information	0.5	1.0	1.5	\$82.94	0	\$2.00	12	18	\$1,019.28
Answer additional questions from EPA	1.5	0.0	1.5	\$160.37	0	\$2.00	10	15	\$1,623.70
Total for one respondent	varies	varies	7.0	\$593.53	0	\$22.00	N/A	N/A	\$615.53
Total cost for the industry	N/A	N/A	N/A	\$6,138.10	N/A	\$116	12	69	\$6,254.10

¹ Includes postage, photocopying, film and film developing expenses.

² These numbers take into account that only four respondents are expected to take and develop pictures; the remaining eight are expected to submit pictures already available in sales brochures.

(ii) Estimating Capital and Operations and Maintenance (O&M) Costs

Operation and maintenance (O&M) costs associated with this information collection include the photocopying of brochures, postage, film and film development (please see Table A). Although only four pictures are needed, one from each side of the engine or vehicle, the cost of a roll of film and its development were included entirely. These pictures are needed to evaluate some vehicles' or equipment's characteristics that could lead to its exclusion from the corresponding rule. If these pictures are available from sales brochures, then the respondent does not have to incur these expenses.

(iii) Capital/Start-up vs. Operating and Maintenance Costs

There are no capital start-up costs associated with this information collection. O&M costs are discussed in section 6(b)(ii).

(iv) Annualizing Capital Costs

There are no capital start-up costs associated with this information collection.

6(c) Estimating Agency Burden and Cost

Government cost is based on GS-13 salary for professional engineers (\$42.75/hr), adjusted by a factor of 1.6 to account for government benefits, resulting in a final rate of \$68.40/hr. The hourly rate was obtained from the Office of Personal Management, "Salary Table 2008-GS" (http://www.opm.gov/oca/08tables/html/g_s_h.asp). Agency time is allocated for review of the NCP application, review of the PCA data, determination of the emission compliance level and review of the quarterly reports and NCP fee calculation.

Please refer to Table B for details.

**Table B
Annual Agency Burden and Cost**

Hours and Cost per Response					Total Hours and Cost			
Information Collection Activity	GS-13 Eng. \$68.40 /hr	Hours Per Response	Labor Cost Per Response	Capital Start Up Cost	O&M Cost ¹	Number of Responses	Total hr/yr	Total Cost/yr
Review the information	1.0	1.0	\$68.40	0	0	12	12	\$820.80
Review the rules	2.0	2.0	\$136.80	0	0	12	24	\$1,641.60
Request additional information	1.5	1.5	\$102.60	0	\$5.00	10	15	\$1,076.00
Answer request	3.0	3.0	\$205.20	0	\$2.00	12	36	\$2,486.40
File information	0.5	0.5	\$34.20	0	0	12	6	\$410.40
Total per response	8.0	8.0	\$547.20	0	\$7.00	N/A	N/A	N/A
Total for EPA	N/A	N/A	N/A	0	\$74	12	93	\$6,435

¹ Includes phone calls, photocopying expenses and postage.

6(d) Estimating the Respondent Universe and Total Burden and Costs

During the last year, EPA received about one exclusion determination request. However, since new regulations have taken effect recently or will take effect during the next three years, EPA estimates that about 12 exclusion requests will be received from different sectors outlined in section 4(b)(i).

6(e) Bottom Line Burden Hours and Cost Tables

(i) Respondent Tally

Number of Respondents:	12
Number of Activities:	4
Total Hours Per Year:	69
Total Labor Cost Per Year:	\$6,138
Total Annual Capital Cost:	0
Total Annual O&M Costs:	\$116
Total Costs:	\$6,254

(ii) Agency Tally

Number of Responses:	12
Number of Activities:	5
Total Hours Per Year:	93
Total Labor Cost Per Year:	\$6,361
Total Annual Capital Cost:	0
Total Annual O & M Costs:	\$74
Total Costs:	\$6,435

6(f) Reasons for Change in Burden

There is no change in burden hours for this collection request.

6(g) Burden Statement

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 6 hour per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. 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 EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under

Docket ID No. EPA-HQ-OAR-2005-0121, which is available for public viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566-1742. An electronic version of the public docket is available online through Regulations.gov at <http://www.regulations.gov>. Use Regulations.gov to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Office for EPA. Please include the EPA Docket ID No. EPA-HQ-OAR-2005-0121 and OMB control number 2060-0395 in any correspondence.