

Supporting Statement
for
Information Collection Request

Transition Program for Equipment Manufacturers (Renewal)

EPA ICR Number 1826.05 OMB Control Number 2060-0369

42 USC 7521 § 213(d)

40 CFR 89.102

40 CFR 1039.625

40 CFR 1039.626

40 CFR 1039.630

40 CFR 1054.625

40 CFR 1054.626

40 CFR 1054.635

40 CFR 1068.250

40 CFR 1068.255

Certification and Compliance Division
Office of Transportation and Air Quality
Office of Air and Radiation
U.S. Environmental Protection Agency

1. Identification of the Information Collection

1(a) Title and Number of the Information Collection

Transition Program for Equipment Manufacturers (Renewal), EPA Number 1826.05, OMB Number 2060-0369.

1(b) Short Characterization

When EPA establishes new regulations with tighter engine emission standards, engine manufacturers often need to change the design of their engines to achieve the emissions reductions required by the new standards. Consequently, original equipment manufacturers may also need to redesign their products to accommodate these engine design changes. Sometimes, equipment manufacturers have trouble making the necessary adjustments by the effective date of the regulations. In an effort to provide equipment manufacturers with some flexibility in complying with the regulations, EPA created the Transition Program for Equipment Manufacturers (TPEM). Under the program, equipment manufacturers are allowed to delay compliance with the new standards for up to seven years as long as they comply with certain limitations. Participation in the program is voluntary. Participating equipment manufacturers and engine manufacturers who provide the noncompliant engines are required to keep records and submit reports of their activities under the program.

TPEM is currently available only for nonroad compression-ignited engines (NRCI) and spark-ignited engines at or below 19 kW (small SI). NRCI TPEM regulations can be found at 40 CFR 89.102 for Tier 1 through Tier 3 engines, and 1039.625 for Tier 4 engines. Small SI TPEM regulations are found at 40 CFR 1054.625.

It has been estimated that a total of 405 engine and equipment manufacturers will respond to this collection with an approximate cost of \$4,086,455.

2. Need for and Use of the Collection

2(a) Need/Authority for the Collection

Pursuant to Section 206(a) of the Clean Air Act (42 USC 7521), vehicle and engine manufacturers may not legally introduce their product into US commerce unless EPA has certified that their vehicles and engines comply with applicable emission standards. Section 213(d) extends that prohibition to nonroad engines. This is codified at 40 CFR 89.1003(a) and 1068.101(a)(1) for compression-ignited engines, and at 40 CFR 1068.101(a)(1) for small nonroad spark-ignition engines.

To alleviate the unintended impact of new emission regulations on equipment manufacturers, EPA created TPEM. The program allows manufacturers to install noncompliant engines in their equipment for a limited period of time provided they comply with the requirements described in this information collection.

TPEM also provides protection for engine manufacturers so that they can sell engines that do not comply with current regulations to equipment manufacturers under the provisions of TPEM. The program is codified at 40 CFR 89.102, 40 CFR 1039.625, and 40 CFR 1054.625. Engine manufacturers are also required to report the number of engines they sold under TPEM and their purchasers annually. The purpose of these reports is to independently verify the information provided by equipment manufacturers in their reports and prevent misuse of the program. In addition, equipment manufacturers may be required under 40 CFR 1039.626 or 40 CFR 1054.626 to post a bond to cover any potential enforcement action under the Clean Air Act before importing equipment with exempted engines produced outside the United States.

2(b) Practical Utility/Users of the Data

The information collected under TPEM is used to verify compliance and prevent abuse or misuse of the program. If compliance issues are identified, information submitted under the program could be used for enforcement purposes.

The information will be received, reviewed, and used by the Engine Programs Group (EPG), Certification and Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation. Non-confidential portions of the information might be used by importers, end users, environmental groups, members of the public, state and local governments or other federal agencies such as US Customs.

3. Nonduplication, Consultations and Other Collection Criteria

3(a) Nonduplication

This program is unique to EPA. No other program or Agency collects this information. Because of its specialized (and sometimes confidential) nature, the information collected is not available from any other source. Some of the information requested --such as actual production volumes-- is claimed by manufacturers as confidential business information (CBI); therefore, EPA can only obtain it from manufacturers. Participation in the program is voluntary.

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 (75 FR 63171) on October 14, 2010. No comments were received.

3(c) Consultations

EPA consulted less than ten past respondents regarding this information collection burden.

Contact: Mr. Gary Gauthun
Company: Northwest Products
Phone: 253-854-1915

Contact: Ms. Lisa Maeser
Company: Hardy Diesels and Equipment, China Diesel Imports
Phone: 800-341-7027

3(d) Effects of Less Frequent Collection

Under Part 89, each item of information requested from equipment manufacturers is collected only once. More information could be requested if it is deemed necessary for compliance/enforcement purposes. Part 1039 participants, however, must also submit annual reports. In these reports, equipment manufacturers must report the number of pieces of equipment they have sold in the US under TPEM. TPEM allows equipment manufacturers to sell only a limited amount of pieces of equipment throughout the duration of the program. Under the Small Volume Allowance, sales must comply with annual limits. Under the Percent-of-Production Allowance, manufacturers must keep track of annual sales percentages, which must be added up until a program cap is reached. Due to these limits, annual reporting is the best way for both manufacturers and EPA to make sure that program requirements are complied with.

Engine manufacturers are required to submit an annual production report under the requirements of the Certification Program. TPEM keeps that frequency so engine manufacturers may submit their TPEM data at the same time they submit their overall engine sales data. It is also easier for engine manufacturers to gather the information at the end of the engine model year rather than coming back later to gather information from different years and production cycles.

3(e) General Guidelines

This section is not applicable. No Paperwork Reduction Act guideline is exceeded.

3(f) Confidentiality

Manufacturers are allowed to assert a claim of confidentiality over information provided to EPA. Confidentiality is 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 of nonroad equipment and engines within the following North American Industry Classification System codes:

333618	Other Engine Equipment Manufacturing
333111	Farm Machinery and Equipment Manufacturing
333112	Lawn and Garden Tractor Manufacturing
333120	Construction Machinery Manufacturing

4(b) Information Requested

TPEM consists of two "allowances": the Percent-of-production Allowance and the Small Volume Allowance. It also contains provisions for manufacturers facing economic or technical hardship to seek additional relief.

Equipment manufacturers can claim only one per power category¹. Hardship relief is given on a case-by-cases basis. When applying for hardship, manufacturers must submit information about the circumstances that created the hardship, demonstrate that these circumstances are beyond their control and not their fault and, depending on the type of hardship requested, technical or financial information.

Equipment manufacturers must demonstrate compliance with the provisions of the allowance they have selected for each power category by submitting the corresponding calculations and by keeping adequate records of all exempt equipment. A list of power categories is attached.

Equipment manufacturers electing to participate in TPEM must also assure, in writing, to the engine manufacturer supplying the noncompliant engines that these engines are going to be used only in accordance with the provisions of TPEM. Engine manufacturers need that written assurance to protect themselves against the liabilities found in 40 CFR 89.1003, 1039.101(a)(1) and 1068.101(a)(1). There are also engine labeling requirements for Tier 4 NRCI and small SI engines.

For imported Tier 4 NRCI and small SI equipment, equipment manufacturers may need to post a bond, prior to importation, "to cover any potential enforcement actions under the CAA" [1039.626(a)(9) and 1054.626(a)(9)]. NRCI engine manufacturers who also manufacture equipment abroad may request a bond waiver if their US assets exceed \$10 million [1039.626(a)(9)(ii)(B) and 1054.690].

Equipment manufacturers must keep records of the production of all pieces of equipment manufactured under the provisions of TPEM. These records must be kept until December 31 of the year after the last year in which any of the allowances are used by the company. Equipment manufacturers must make these records available to the Agency upon request. An equipment manufacturer with inaccurate or inadequate records would be subject to civil penalties under existing law.

¹ Engines and equipment are grouped according to the rating of the engine. See applicable regulations for a list of power categories that apply to TPEM, which could be different from the power categories used in certification.

(i) Data Items

Table A
Information Items Requested from
Equipment Manufacturers

Information Item	Reference in Regulations
Letter to the engine manufacturer	89.102(g); 1039.625(j)(1); 1054.625(j)(1)
Calculation to verify compliance	89.102(e)(1); 1039.625(g)

Table B
Application for Hardship Relief

Equipment manufacturers who feel that TPEM does not provide a viable alternative for them to comply with EPA emissions regulations on a timely manner, and, as a consequence, will face serious economic hardship, can apply for hardship relief.

Information Item	Reference in Regulations
Statement that the applicant is not also the engine manufacturer	89.102(f)(2)
Evidence showing that the conditions causing the impending violation are substantially not the applicant's fault	89.102(f)(3); 1039.625(m)
Evidence showing that, if relief is not granted, the applicant will face serious economic hardship	89.102(f)(4); 1039.625(m)
Demonstration that no other allowance will help to avoid the impending violation	89.102(f)(5); 1039.625(m)

Table C
Information Items Requested from
Engine Manufacturers

Every year, within 30 days of the end of the model year, engine manufacturers supplying noncompliant engines under the provisions of TPEM must submit a report with the following information:

Information Item	Reference in Regulations
Number of engines produced by:	
Engine model	89.125(b);
Purchaser or shipping destination	89.125(b)
Other categories that EPA may require	89.125(b); 1054.625(j); 1039.625(j)

Table D
Recordkeeping Requirements

Equipment manufacturers must keep records of all exempt equipment sufficient to demonstrate compliance until at least two full years after the last year in which the allowances are available for each power category (if subject to 89.102(e)(2)) or for at least five full years after the final year in which allowances are available for each power category (if subject to 1039.625(h)). These records must be made available to EPA upon request.

Information Item	Reference in Regulations
Equipment and engine model numbers	89.102(e)(2); 1054.625(h)(1); 1039.625(h)(1)
Serial numbers	89.102(e)(2); 1039.625(h)(1)
Dates of manufacture	89.102(e)(2); 1039.625(h)(1)
Engine rated power	89.102(e)(2); 1039.625(h)(2)
Sufficient information to verify	89.102(e)(2); 1054.625(g); 1039.625(g)

(ii) Respondent Activities

Activities carried out by participating equipment manufacturers are as follows:

- Review the regulations; Equipment manufacturers may contact EPA for further guidance
- Select an allowance per power category and decide what equipment to exempt
- Notify EPA of participation (optional under Part 89; required under 1039 and 1054 – one time only)
- Send a letter to the engine manufacturer
- Count exempt equipment as it is produced
- Make corresponding calculations to ensure compliance with the requirements of the selected allowance

- Submit calculations and actual production data to EPA
- Retain and maintain records, and submit them upon request
- For imported engines, post a bond or apply for a waiver.

Equipment manufacturers who wish to apply for hardship relief will:

- Submit their request in writing describing their situation; and
- Provide proof that they will face serious economic hardship if relief is not granted

Engine manufacturers participating in TPEM as providers of noncompliant engines:

- Receive requests for engines and supply them (customary business practice)
- Gather information about who is requesting and purchasing the noncompliant engines
- Report to EPA their sales under TPEM by engine model and purchaser
- Keep records

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

5(a) Agency Activities

EPA spends a significant amount of time answering questions and providing guidance to equipment manufacturers, importers, engine manufacturers and other interested parties about the program. EPA reviews and stores the information provided by manufacturers, and will process their reports when they start coming in. The information contained in the reports will be used to verify compliance and for enforcement purposes, as needed. The agency may also conduct investigations if there is reason to believe a manufacturer is misusing the program or defaulting its requirements.

5(b) Collection Methodology and Management

Currently, EPA receives information from respondents both in electronic format and in hard copy. EPA is developing a database to collect these reports. Once the database is in place, EPA will store respondent's information both in hard copy and electronic format (according to the format in which the original submission was received). In the meantime, EPA has developed electronic forms (Excel spreadsheets) that manufacturers may use to submit:

- Equipment manufacturer notifications
- Equipment manufacturer reports
- Engine manufacturer reports
- Bond waiver requests

Copies of these forms will be provided as part of the renewal package for this information collection.

5(c) Small Entity Flexibility

TPEM is particularly useful to small businesses as it provides them with additional time to comply with EPA emission regulations. Actually, the format of the program is based on recommendations made by the panel convened for the August 1998 rule under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The small volume allowance is intended to address the needs of small businesses with a limited product line. The percent-of-production allowance requires Equipment manufacturers to use certified engines in a portion of their production. The small volume allowance eliminates that requirement and allows equipment manufacturers to exempt up to 200 pieces of equipment without using certified engines at all.

Regulations at 1039.625 (m), 1068.255 and 1054.635 provide additional flexibilities for small volume manufacturers.

The information being requested is the minimum needed to maintain the integrity of the program. Further measures to simplify reporting for small businesses do not appear prudent or necessary.

5(d) Collection Schedule

Under Part 89, information submitted by equipment manufacturers is collected only at the beginning and at the end of their participation in the program. At the beginning, they notify EPA of their participation in the program, if they wish to. At the end of the program, they must submit their calculations (no later than December 31 of the final year in which they use the allowances). Part 1039 equipment manufacturers must notify EPA of their participation in TPEM before they start using the allowances, and must submit reports annually.

Engine manufacturers, however, need to submit their reports every year.

6. Estimating the Burden and Cost of the Collection

6(a) Estimating Respondent Burden

Burden estimates were taken from the previous ICR and adjusted to reflect comments from fewer than 10 respondents consulted by EPA. Table 1 and 2 (spreadsheet file) contain detailed information.

All burden estimates, including those associated with one-time preparations were annualized.

6(b) Estimating Respondent Costs

(i) Estimating Labor Costs

To estimate labor costs, EPA used the Bureau of Labor Statistics' National Industry-specific Occupational Wage Estimates (May 2009) for the Engine and Turbines Industry (SIC 351) and increased by a factor of 2.1 to account for benefits and overhead. The specific rates used are listed below. These are mean hourly rates.

**Table 3
Labor Costs Estimates**

Occupation	SOC Code Number	Mean Hourly Rate (BLS)	110%
Mechanical Engineers	17-2141	\$36.75	\$77.18
Engineering Managers	11-9041	\$51.11	\$107.33
Lawyers	23-1011	\$ 65.65	\$137.87
Secretaries, Except Legal, Medical and Executive	43-6014	\$16.89	\$35.47

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

Operation and maintenance costs associated with TPPEM include phone calls, photocopying, postage expenses and diskettes. Diskettes may be used by manufacturers to keep their records.

No capital costs are associated with participation in this program.

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

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

(iv) Annualizing capital costs

There are no capital costs associated with this ICR.

6(c) Estimating Agency Burden

Table 4 explains EPA's overall burden associated with the programs contained in this information collection.

Table 5 summarizes EPA's labor costs associated with this information collection. These costs are based on 2010 hourly wage rates obtained from the Office of Personnel Management and adjusted by a factor of 1.6 to account for benefits and overhead.

Table 5
Agency Labor Costs

Occupation	Hourly Rate	160%
Environmental Protection Specialist (GS-13/3)	\$45.51	\$72.82
Lawyers (GS-13/7)	\$51.19	\$81.90
Managers (GS-15)	\$59.30	\$94.88
SES-1	\$99.00	\$158.40

O&M costs include phone calls, faxes, postage, electronic media to store information and other expenses incurred in contacting respondents.

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

EPA estimates that approximately 375 equipment manufacturers and 30 engine manufacturers will be participating in TPEM during the next three years.

Under Part 89, the period of participation in TPEM has closed for many engine power categories. Therefore, fewer equipment manufacturers will be participating under the Part 89 program. Most of those who participated in the Part 89 program are moving up to the Tier 4 (Part 1039) program. EPA is also receiving notifications of participations from equipment manufacturers who did not participate in the Part 89 program. EPA also expects sizeable participation in the small SI program mainly due to the large size of the industry. In summary, EPA expects participation in TPEM to increase significantly as (1) the Part 89 program phases out and manufacturers have to comply with tighter emission standards, and (2) TPEM becomes available to more categories of engines.

6(e) Bottom Line Burden Hours and Cost Tables

(i) Respondent Tally

Number of Respondents:	405
Number of Activities:	14
Total Hours Per Year:	40,090
Total Labor Cost Per Year:	\$3,024,805
Total Annual Capital Costs:	0
Total Annual O&M Costs:	\$1,061,650
Total Costs:	\$4,086,455

(ii) The Agency Tally

Number of Respondents:	405
Number of Activities:	9
Total Hours Per Year:	6,817
Total Labor Cost Per Year:	\$507,721
Total Annual Capital Costs:	0
Total Annual O&M Costs:	\$20,470
Total Costs:	\$528,191

6(f) Reasons for change in burden

Total burden has increased significantly due to a sharp increase in the estimated number of participants. In previous estimates, EPA's analysis indicated that the number of participants would decrease as the Part 89 program was phased out and the new, more stringent Part 1039 program started. This is due to Part 1039's bonding requirements, annual reporting and the fact that engines exempted under the Tier 4 program must meet higher emission standards, even though they are not certified.

However, tighter Tier 4 standards have resulted in engine manufacturers not being able to provide their customers with compliant engines in time for the effective date of the new regulations. This has meant that equipment manufacturers who did not previously participate in TPPEM now need the program to reach the gap between the effective date of the regulations and the date when compliant engines are ready.

A significant number of participants will also be added when the small Si program starts in 2011. EPA expects at least 150 new participants from that industry alone.

6(g) Burden Statement

The average annual burden associated with participation in the Transition Program for Equipment Manufacturers is 51 hours per response.

These estimates include time to review applicable regulations and guidance documents, generate and gather the necessary information, submit applications and reports, and maintain records.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or 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 Number EPA-HQ-OAR-2007-0904, which is available for online viewing at www.regulations.gov, or in person 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, D.C. 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 at www.regulations.gov. This site can be used 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. When 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, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-OAR-2007-0904 and OMB Control Number 2060-0369 in any correspondence.