

(6) The manner in which the engine identification numbers will be identified, recorded, and made available; and

(7) The means or procedure whereby test results will be recorded.

(f) A manufacturer of new engines may request a testing exemption to cover engines intended for use in test programs planned or anticipated over the course of a subsequent two-year period. Unless otherwise required by the Director, Engine Programs and Compliance Division, a manufacturer requesting such an exemption need only furnish the information required by paragraphs (a)(1) and (d)(2) of this section along with a description of the record-keeping and control procedures that will be employed to assure that the engines are used for purposes consistent with paragraph (a) of this section.

(g) For engines being used for the purpose of developing a fundamentally new emission control technology related either to an alternative fuel or an aftertreatment device, the Administrator may exempt the engine from some or all of the applicable standards of this part for the full useful life of the engine, subject to the provisions of paragraphs (a) through (f) of this section.

§ 94.906 Manufacturer-owned exemption, display exemption, and competition exemption.

(a) *Manufacturer-owned exemption.* Any manufacturer-owned engine, as defined by § 94.2, is exempt from § 94.1103, without application, if the manufacturer complies with the following terms and conditions:

(1) The manufacturer must establish, maintain, and retain the following adequately organized and indexed information on each exempted engine:

- (i) engine identification number;
- (ii) Use of the engine on exempt status; and
- (iii) Final disposition of any engine removed from exempt status.

(2) The manufacturer must provide right of entry and access to these records to EPA Enforcement Officers as outlined in § 94.208.

(3) The manufacturer must permanently affix a label to each engine on exempt status, unless the requirement is waived or an alternate procedure is

approved by the Director, Engine Programs and Compliance Division. This label should:

(i) Be affixed in a readily visible portion of the engine;

(ii) Be attached in such a manner that cannot be removed without destruction or defacement;

(iii) State in the English language and in block letters and numerals of a color that contrasts with the background of the label, the following information:

(A) The label heading "Emission Control Information";

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement, engine family identification, and model year of engine; or person of office to be contacted for further information about the engine;

(D) The statement "This engine is exempt from the prohibitions of 40 CFR 94.1103."

(4) No provision of paragraph (a)(3) of this section prevents a manufacturer from including any other information it desires on the label.

(5) The engine is not used in revenue-generating service, or sold.

(b) *Display exemption.* An uncertified engine that is to be used solely for display purposes, and that will only be operated incident and necessary to the display purpose, and will not be sold unless an applicable certificate of conformity has been obtained for the engine, is exempt without request from the standards of this part. This does not apply to imported engines (see § 94.804).

(c) *Competition exemption.* The Administrator may exempt, upon request, engines that are intended by the manufacturer to be used solely for competition. Engines that are modified after they have been placed into service and are used solely for competition are exempt without request.

[64 FR 73331, Dec. 29, 1999, as amended at 68 FR 9787, Feb. 28, 2003]

§ 94.907 Engine dressing exemption.

(a) This section applies to you if you are an engine manufacturer (this includes post-manufacture marinizers).

(b) The only requirements or prohibitions from this part that apply to an

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engine that is exempt under this section are in this section.

(c) The requirements and prohibitions of this part apply to all engines in the scope of §94.1 that do not qualify for the engine dressing exemption.

(d) New Category 1 and Category 2 marine engines that meet all the following criteria are exempt under this section:

(1) You must produce it by marinizing an engine covered by a valid certificate of conformity from one of the following programs:

(i) Heavy-duty highway engines (40 CFR part 86).

(ii) Land-based nonroad diesel engines (40 CFR part 89).

(iii) Locomotive engines (40 CFR part 92).

(2) The engine must have the label required under 40 CFR part 86, 89, or 92.

(3) You must not make any changes to the certified engine that could reasonably be expected to increase its emissions. For example, if you make any of the following changes to one of these engines, you do not qualify for the engine dressing exemption:

(i) Changing any fuel system parameters from the certified configuration.

(ii) Replacing an original turbocharger, except that small-volume manufacturers of recreational engines may replace an original turbocharger with one that matches the performance of the original turbocharger.

(iii) Modify or design the marine engine cooling or aftercooling system so that temperatures or heat rejection rates are outside the original engine manufacturer's specified ranges.

(4) You must make sure that fewer than 50 percent of the engine model's total sales, from all companies, are used in marine applications.

(e) If you dress an engine under this exemption, you must do all of the following:

(1) Make sure the original engine label will remain clearly visible after installation in the vessel.

(2) Add a permanent supplemental label to the engine in a position where it will remain clearly visible after installation in the vessel. In your engine label, do the following:

(i) Include the heading: "Marine Engine Emission Control Information".

(ii) Include your full corporate name and trademark.

(iii) State: "This engine was marinized without affecting its emission controls."

(iv) State the date you finished marinizing the engine (month and year).

(3) Send a signed letter to the Designated Officer by the end of each calendar year (or less often if we tell you) with all the following information:

(i) Identify your full corporate name, address, and telephone number.

(ii) List the engine models you expect to produce under this exemption in the coming year.

(iii) State: "We produce each listed engine model for marine application without making any changes that could increase its certified emission levels, as described in 40 CFR 94.907."

(f) In general you may use up your inventory of engines that are not certified to new marine emission standards if they were originally manufactured before the date of the new standards. However, stockpiling these engines is a violation of §94.1103(a)(1)(i)(A).

(g) If your engines do not meet the criteria listed in paragraphs (d)(2) through (d)(4) of this section, they will be subject to the standards and prohibitions of this part. Marinization without a valid exemption or certificate of conformity would be a violation of §94.1103(a)(1) and/or the tampering prohibitions of the applicable land-based regulations (40 CFR part 86, 89, or 92).

(h)(1) If you are the original manufacturer and marinizer of an exempted engine, you must send us emission test data on the appropriate marine duty cycles. You can include the data in your application for certification or in the letter described in paragraph (e)(3) of this section.

(2) If you are the original manufacturer of an exempted engine that is marinized by a post-manufacture marinizer, you may be required to send us emission test data on the appropriate marine duty cycles. If such data

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are requested you will be allowed a reasonable amount of time to collect the data.

[64 FR 73331, Dec. 29, 1999, as amended at 67 FR 68347, Nov. 8, 2002; 68 FR 9787, Feb. 28, 2003]

§ 94.908 National security exemption.

(a)(1) Any marine engine, otherwise subject to this part, that is used in a vessel that exhibits substantial features ordinarily associated with military combat such as armor, permanently affixed weaponry, specialized electronic warfare systems, unique stealth performance requirements, and/or unique combat maneuverability requirements and which will be owned and/or used by an agency of the federal government with the responsibility for national defense, will be exempt from the regulations in this subpart for reasons of national security. No request for this exemption is necessary.

(2) Manufacturers may request a national security exemption for any marine engine, otherwise subject to this part, which does not meet the conditions described in paragraph (a)(1) of this section. A manufacturer requesting a national security exemption must state the purpose for which the exemption is required and the request must be endorsed by an agency of the federal government charged with responsibility for national defense.

(b) EPA will maintain a list of models of marine engines (and the vessels which use them) that have been granted a national security exemption under paragraph (a)(2) of this section. This list will be available to the public and may be obtained by writing to the Designated Officer.

EFFECTIVE DATE NOTE: At 69 FR 39213, June 29, 2004, § 94.908 was amended by adding paragraph (c), effective Aug. 30, 2004. For the convenience of the user, the added text is set forth as follows:

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(c) Manufacturers must add a legible label, written in block letters in English, to each engine exempted under this section. The label must be permanently secured to a readily visible part of the engine needed for normal operation and not normally requiring re-

placement, such as the engine block. This label must include at least the following items:

(1) The label heading "EMISSION CONTROL INFORMATION".

(2) Your corporate name and trademark.

(3) Engine displacement, engine family identification (as applicable), and model year of the engine or whom to contact for further information.

(4) The statement "THIS ENGINE HAS AN EXEMPTION FOR NATIONAL SECURITY UNDER 40 CFR 94.908."

§ 94.909 Export exemptions.

(a) A new engine intended solely for export, and so labeled or tagged on the outside of any container and on the engine, is subject to the provisions of § 94.1103, unless the importing country has new marine engine emission standards which differ from EPA standards.

(b) For the purpose of paragraph (a) of this section, a country having no standards whatsoever is deemed to be a country having emission standards which differ from EPA standards.

(c) It is a condition of any exemption for the purpose of export under paragraph (a) of this section, that such exemption is void ab initio with respect to a new engine intended solely for export, where such engine is sold, or offered for sale, to an ultimate purchaser or otherwise distributed or introduced into commerce in the United States for purposes other than export.

§ 94.910 Granting of exemptions.

(a) If upon completion of the review of an exemption request made pursuant to § 94.905 or § 94.908, EPA determines it is appropriate to grant such an exemption, a memorandum of exemption is to be prepared and submitted to the person requesting the exemption. The memorandum is to set forth the basis for the exemption, its scope, and such terms and conditions as are deemed necessary. Such terms and conditions generally include, but are not limited to, agreements by the applicant to conduct the exempt activity in the manner described to EPA, create and maintain adequate records accessible to EPA at reasonable times, employ labels for the exempt engines setting forth the nature of the exemption, take appropriate measures to assure that the terms of the exemption are met, and