

§ 89.106

new nonroad compression-ignition engine for each model year.

[59 FR 31335, June 17, 1994. Redesignated at 63 FR 56995, Oct. 23, 1998]

§ 89.106 Prohibited controls.

(a) An engine may not be equipped with an emission control system for the purpose of complying with emission standards if such system will cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function.

(b) You may not design your engines with emission-control devices, systems, or elements of design that cause or contribute to an unreasonable risk to public health, welfare, or safety while operating. For example, this would apply if the engine emits a noxious or toxic substance it would otherwise not emit that contributes to such an unreasonable risk.

[59 FR 31335, June 17, 1994. Redesignated at 63 FR 56995, Oct. 23, 1998; 67 FR 68339, Nov. 8, 2002]

§ 89.107 Defeat devices.

(a) An engine may not be equipped with a defeat device.

(b) For purposes of this section, “defeat device” means any device, system, or element of design which senses operation outside normal emission test conditions and reduces emission control effectiveness.

(1) Defeat device includes any auxiliary emission control device (AECDD) that reduces the effectiveness of the emission control system under conditions which may reasonably be expected to be encountered in normal operation and use unless such conditions are included in the test procedure.

(2) Defeat device does not include such items which either operate only during engine starting or are necessary to protect the engine (or equipment in which it is installed) against damage or accident during its operation.

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§ 89.108 Adjustable parameters, requirements.

(a) Nonroad engines equipped with adjustable parameters must comply with all requirements of this subpart

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for any adjustment in the physically adjustable range.

(b) An operating parameter is not considered adjustable if it is permanently sealed or otherwise not normally accessible using ordinary tools.

(c) The Administrator may require that adjustable parameters be set to any specification within its adjustable range for certification, selective enforcement audit, or in-use testing to determine compliance with the requirements of this subpart.

[59 FR 31335, June 17, 1994. Redesignated at 63 FR 56995, Oct. 23, 1998]

§ 89.109 Maintenance instructions and minimum allowable maintenance intervals.

(a) The manufacturer must furnish or cause to be furnished to the ultimate purchaser of each new nonroad engine subject to standards under this part written instructions for the maintenance needed to ensure proper functioning of the emission control system. Paragraphs (b) through (h) of this section do not apply to Tier 1 engines with rated power at or above 37 kW.

(b) Maintenance performed on equipment, engines, subsystems or components used to determine exhaust emission deterioration factors is classified as either emission-related or nonemission-related and each of these can be classified as either scheduled or unscheduled. Further, some emission-related maintenance is also classified as critical emission-related maintenance.

(c) This paragraph (c) specifies emission-related scheduled maintenance for purposes of obtaining durability data for nonroad engines. The maintenance intervals specified below are minimum intervals:

(1) All emission-related scheduled maintenance for purposes of obtaining durability data must occur at the same or longer hours of use intervals as those specified in the manufacturer’s maintenance instructions furnished to the ultimate purchaser of the engine under paragraph (a) of this section. This maintenance schedule may be updated as necessary throughout the testing of the engine, provided that no maintenance operation is deleted from