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identified pursuant to § 90.604(c) is identical, in all material respects, to an engine identified in an OEM's application for certification.

(B) If the documentation does not contain all the information required by this part, or is not sufficiently organized, EPA will notify the importer of any areas of inadequacy, and that the documentation will not receive further consideration until the required information or organization is provided.

(C) If EPA determines that the documentation does not clearly or sufficiently demonstrate that an engine is eligible for importation, EPA will notify the importer in writing.

(D) If EPA determines that the documentation clearly and sufficiently demonstrates that an engine is eligible for importation, EPA will grant approval for importation and notify the importer in writing.

(d) Foreign diplomatic and military personnel may import a nonconforming engine without bond. At the time of admission, the importer shall submit to the Administrator the written report required in § 90.604(a) and a statement from the U.S. Department of State confirming qualification for this exemption. Foreign military personnel may, in lieu of a statement from the U.S. Department of State, submit to the Administrator a copy of their orders for duty in the United States. The engine may not be sold in the United States and must be exported if the individual's diplomatic status is no longer applicable, as determined by the Department of State, or the foreign military orders for duty in the United States are no longer applicable, unless subsequently brought into conformity with U.S. emission requirements.

(e) *Competition exclusion.* A nonconforming engine may be conditionally admitted by any person provided the importer demonstrates to the Administrator that the engine is used to propel a nonroad vehicle used solely for competition and obtains prior written approval from the Administrator. A nonconforming engine imported pursuant to this paragraph may not be operated in the United States except for that operation incident and necessary for the competition purpose, unless subsequently brought into conformity with

United States emission requirements in accordance with § 90.612(c)(3).

(f) *Exclusions/exemptions based on date of original manufacture.* (1) Notwithstanding any other requirements of this subpart, engines originally manufactured prior to model year 1997 are excluded from the requirements of the Act in accordance with section 213 of the Act and may be imported by any person.

(2) Notwithstanding other requirements of this subpart, an engine not subject to an exclusion under § 90.612(f)(1) but greater than 20 original production (OP) years old is entitled to an exemption from the requirements of the Act, provided that it has not been modified in those 20 OP years. At the time of admission, the importer shall submit to the Administrator the written report required in § 90.604(c).

(g) Applications for exemptions and exclusions provided for in paragraphs (b), (c), and (e) of this section are to be mailed to: U.S. Environmental Protection Agency, Office of Mobile Sources, Engine Compliance Programs Group (6403-J), Washington, DC 20460, Attention: Imports.

[60 FR 34598, July 3, 1995, as amended at 64 FR 15245, Mar. 30, 1999; 70 FR 40450, July 13, 2005]

§ 90.613 Prohibited acts; penalties.

(a) The importation of an engine which is not covered by a certificate of conformity other than in accordance with this subpart and the entry regulations of the U.S. Customs Service is prohibited. Failure to comply with this subpart is a violation of section 213(d) and section 203 of the Act.

(b) Unless otherwise permitted by this subpart, during a period of conditional admission, the importer of an engine shall not:

(1) Register, license, or operate the engine in the United States; or

(2) Sell or offer the engine for sale.

(c) An engine conditionally admitted pursuant to § 90.612(b), (d), or (e) and not granted final admission within the period of time specified for such conditional admission in the written prior approval obtained from EPA, or within such additional time as designated by the Administrator, is deemed to be unlawfully imported into the United

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States in violation of section 213(d) and section 203 of the Act, unless the engine has been delivered to the U.S. Customs Service for export or other disposition under applicable Customs laws and regulations. An engine not so delivered is subject to seizure by the U.S. Customs Service.

(d) An importer who violates section 213(d) and section 203 of the Act is subject to a civil penalty under section 205 of the Act of not more than \$32,500 for each engine subject to the violation. In addition to the penalty provided in the Act, where applicable, under the exemption provisions of §90.612(b), a person or entity who fails to deliver the engine to the U.S. Customs Service is liable for liquidated damages in the amount of the bond required by applicable Customs laws and regulations. The maximum penalty value listed in this paragraph (d) is shown for calendar year 2004. Maximum penalty limits for later years may be adjusted based on the Consumer Price Index. The specific regulatory provisions for changing the maximum penalties, published in 40 CFR part 19, reference the applicable U.S. Code citation on which the prohibited action is based.

[60 FR 34598, July 3, 1995, as amended at 70 FR 40450, July 13, 2005]

§ 90.614 Treatment of confidential information.

The provisions for treatment of confidential information described in §90.4 apply to this subpart.

§ 90.615 Importation of partially complete engines.

The provisions of 40 CFR 1068.330 apply for importation of partially complete engines, or engines that will be modified for applications other than those covered by this part 90.

[70 FR 40450, July 13, 2005]

Subpart H—Manufacturer Production Line Testing Program

SOURCE: 64 FR 15245, Mar. 30, 1999, unless otherwise noted.

§ 90.701 Applicability.

(a) The requirements of this subpart are applicable to all Phase 2 nonroad

handheld and nonhandheld engines families subject to the provisions of subpart A of this part unless otherwise exempted in this subpart.

(b) The procedures described in this subpart are optional for small volume engine manufacturers and small volume engine families as defined in this part. Small volume engine manufacturers and small volume engine families for which the manufacturer opts not to conduct testing under this subpart pursuant to this paragraph shall remain subject to the Selective Enforcement Auditing procedures of subpart F of this part.

(c) Engine families for which the manufacturer opts to conduct in-use testing pursuant to subpart M of this part are exempt from this subpart, but shall remain subject to the Selective Enforcement Auditing procedures of subpart F of this part.

[64 FR 15245, Mar. 30, 1999, as amended at 65 FR 24313, Apr. 25, 2000]

§ 90.702 Definitions.

The definitions in subpart A of this part apply to this subpart. The following definitions also apply to this subpart.

Configuration means any subclassification of an engine family which can be described on the basis of gross power, emission control system, governed speed, injector size, engine calibration, and other parameters as designated by the Administrator.

Test sample means the collection of engines selected from the population of an engine family for emission testing.

§ 90.703 Production line testing by the manufacturer.

(a) Manufacturers of small SI engines shall test production line engines from each engine family according to the provisions of this subpart.

(b) Production line engines must be tested using the test procedure specified in subpart E of this part except that the Administrator may approve minor variations that the Administrator deems necessary to facilitate efficient and economical testing where the manufacturer demonstrates to the satisfaction of the Administrator that such variations will not significantly impact the test results. Any adjustable