

(3) For model years 2004 and beyond:  
 (i) Emission-related components shall be warranted for a period of two years or 200 hours of engine use, whichever occurs first.

(ii) Specified major emission control components shall be warranted for a period of three years or 200 hours of engine use, whichever occurs first.

(b) The manufacturer of each new marine SI engine must warrant to the ultimate purchaser and each subsequent purchaser, that the engine is designed, built, and equipped so as to conform at the time of sale with applicable regulations under section 213 of the Act, and the engine is free from defects in materials and workmanship which cause such engine to fail to conform with applicable regulations for its warranty period.

(c) In the case of a marine SI engine part, the manufacturer or rebuilder of the part may certify according to §85.2112 of this chapter that use of the part will not result in a failure of the engine to comply with emission standards promulgated in this part.

(d) For the purposes of this section, the owner of any marine SI engine warranted under this part is responsible for the proper maintenance of the engine as stated in the manufacturer's written instructions. Proper maintenance generally includes replacement and service, at the owner's expense at a service establishment or facility of the owner's choosing, such items as spark plugs, points, condensers, and any other part, item, or device related to emission control (but not designed for emission control) under the terms of the last sentence of section 207(a)(3) of the Act, unless such part, item, or device is covered by any warranty not mandated by this Act.

**§91.1204 Furnishing of maintenance and use instructions to ultimate purchaser.**

(a) The manufacturer must furnish or cause to be furnished to the ultimate purchaser of each new marine SI engine written instructions for the maintenance and use needed to assure proper functioning of the emission control system.

(b) The manufacturer must provide in boldface type on the first page of the

written maintenance instructions notice that maintenance, replacement, or repair of the emission control devices and systems may be performed by any marine SI engine repair establishment or individual.

(c) The instructions under paragraph (a) of this section will not include any condition on the ultimate purchaser's using, in connection with such engine, any component or service (other than a component or service provided without charge under the terms of the purchase agreement) which is identified by brand, trade, or corporate name. Such instructions also will not directly or indirectly distinguish between service performed by the franchised dealers of such manufacturer or any other service establishments with which such manufacturer has a commercial relationship and service performed by independent marine engine repair facilities which such manufacturer has no commercial relationship.

(d) The prohibition of paragraph (c) of this section may be waived by the Administrator if:

(1) The manufacturer satisfies the Administrator that the engine will function properly only if the component or service so identified is used in connection with such engine, and

(2) The Administrator finds that such a waiver is in the public interest.

**Subpart N—In-Use Credit Program for New Marine Engines**

**§91.1301 Applicability.**

Marine SI engines subject to the provisions of subpart A of this part 91 are eligible to participate in the in-use credit program described in this subpart.

**§91.1302 Definitions.**

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

*Averaging* means the exchange of marine engine in-use emission credits among engine families within a given manufacturer's product line.

*Banking* means the retention of marine engine in-use emission credits by the manufacturer generating the emission credits for use in future model

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year averaging or trading as permitted by these regulations.

*Carry-over engine family* means an engine family which undergoes certification using carryover test data from previous model years. See §91.118(c).

*Emission credits or in-use credits* represent the amount of emission reduction or exceedance, for each regulated pollutant, by a marine engine family below or above, respectively, the applicable certification family emission limit (FEL) to which the engine family is certified. Emission reductions below the FEL are considered “positive credits,” while emission exceedances above the FEL are considered “negative or required credits.”

*Banked credits* refer to positive emission credits based on actual applicable production/sales volume as contained in the end of model year in-use testing reports submitted to EPA. Some or all of these banked credits may be revoked if EPA review of the end of model year in-use testing reports or any subsequent audit action(s) uncovers problems or errors.

*Trading* means the exchange of marine SI engine in-use emission credits between manufacturers and/or brokers.

*Compliance level* for an engine family is determined by averaging the in-use test results from each engine.

### §91.1303 General provisions.

(a) The in-use credit program for eligible marine engines is described in this subpart. Participation in this program is voluntary.

(b) A marine SI engine family is eligible to participate in the in-use credit program if it is subject to regulation under subpart B of this part with certain exceptions specified in paragraph (c) of this section.

(c) Marine SI engines may not participate in the in-use averaging, banking, and trading program if they are delivered to a “point of first retail sale” outside of the U.S., as defined in §91.202.

(d) Credits generated and used in the marine engine certification averaging, banking, and trading program pursuant to the provisions of subpart C of this part are not interchangeable with credits generated and used in the marine engine in-use credit program.

(e) An engine family with a compliance level, as determined by in-use testing pursuant to subpart I of this part and paragraph (h) of this section, below the applicable FEL to which the engine family is certified may generate emission credits for averaging, banking, or trading in the in-use credit program.

(f) Positive credits generated in a given model year may be used in that model year and/or in any subsequent model year.

(g) A manufacturer of an engine family with a compliance level exceeding the applicable FEL to which the engine family is certified, may, prior to the date of the report required under paragraph (j) of this section use previously banked credits, purchase credits from another manufacturer, or perform additional testing pursuant to paragraph (i) of this section to address (as calculated elsewhere in this subpart) the associated credit deficit (negative credits or a need for credits).

(h) A manufacturer may carry-over an in-use credit deficit up to and including model year 2003. Beginning with model year 2004, all manufacturers must have a zero or positive credit balance.

(i) A manufacturer must notify EPA of plans to test additional engine families beyond the maximum 25 percent required in subpart I of this part for the in-use testing program. Such notice must be submitted 30 days prior to initiation of service accumulation. EPA may approve, with adequate justification, the use of an existing fleet for additional testing. If the additional testing discovers an engine family to be in noncompliance with the applicable FEL, the testing must be treated as if it were a failure of the normal in-use testing requirement of an engine family.

(j) Manufacturers must demonstrate a zero or positive credit balance under the in-use credit program for a particular model year within 90 days of the end of the in-use testing of that model year’s engine families, or at the same time as the final certification AB&T report (required under §91.210), whichever is later.