

Environmental Protection Agency

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the new standards. However, stockpiling these engines is a violation of § 94.1103(a)(1)(i)(A).

(g) *Failure to comply.* If your engines do not meet the criteria listed in paragraph (d) of this section, they will be subject to the standards, requirements, and prohibitions of this part 94 and the certificate issued under 40 CFR part 86, 89, 92, or 1039 will not be deemed to also be a certificate issued under this part 94. Introducing these engines into commerce without a valid exemption or certificate of conformity under this part violates the prohibitions in 40 CFR 94.1103(a)(1).

(h) *Data submission.* (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 are requested you will be allowed a reasonable amount of time to collect the data.

(i) *Participation in averaging, banking and trading.* Engines adapted for marine use under this section may not generate or use emission credits under this part 94. These engines may generate credits under the ABT provisions in 40 CFR part 86, 89, 92, or 1039, as applicable. These engines must use emission credits under 40 CFR part 86, 89, 92, or 1039 as applicable if they are certified to an FEL that exceeds an applicable standard.

(j) *Operator requirements.* The requirements for vessel manufacturers, owners, and operators in subpart K of this part apply to these engines whether they are certified under this part 94 or another part as allowed by this section.

[70 FR 40459, July 13, 2005]

§ 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, perma-

nently 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.

(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 replacement, 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."

[64 FR 73331, Dec. 29, 1999, as amended at 69 FR 39213, June 29, 2004]

§ 94.909 Export exemptions.

(a) A new engine intended solely for export, and so labeled or tagged on the

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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 advise EPA of the termination of the activity and the ultimate disposition of the engines.

(b) Any exemption granted pursuant to paragraph (a) of this section is deemed to cover any subject engine only to the extent that the specified terms and conditions are complied with. A breach of any term or condition causes the exemption to be void ab initio with respect to any engine. Consequently, the causing or the performing of an act prohibited under §94.1103(a)(1) or (a)(3), other than in strict conformity with all terms and conditions of this exemption, renders

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the person to whom the exemption is granted, and any other person to whom the provisions of §94.1103(a) are applicable, liable to suit under sections 204 and 205 of the Act.

§94.911 Submission of exemption requests.

Requests for exemption or further information concerning exemptions and/or the exemption request review procedure should be addressed to the Designated Officer.

§94.912 Optional certification to land-based standards for auxiliary marine engines.

This section applies to auxiliary marine engines that are identical to certified land-based engines. See §94.907 for provisions that apply to propulsion marine engines or auxiliary marine engines that are modified for marine applications.

(a) *General provisions.* If you are an engine manufacturer, this section allows you to introduce new marine engines into commerce if they are already certified to the requirements that apply to compression-ignition engines under 40 CFR part 89 or 1039 for the appropriate model year. If you comply with all the provisions of this section, we consider the certificate issued under 40 CFR part 86 or 1039 for each engine to also be a valid certificate of conformity under this part 94 for its model year, without a separate application for certification under the requirements of this part 94.

(b) *Boat builder provisions.* If you are not an engine manufacturer, you may install an engine certified for land-based applications in a marine vessel as long as you meet all the qualifying criteria and requirements specified in paragraphs (d) and (e) of this section. If you modify the non-marine engine, we will consider you a manufacturer of a new marine engine. Such engine modifications prevent you from using the provisions of this section.

(c) *Liability.* Engines for which you meet the requirements of this section are exempt from all the requirements and prohibitions of this part, except for those specified in this section. Engines exempted under this section must meet all the applicable requirements from 40