

§ 89.1

APPENDIX B TO SUBPART E OF PART 89—TABLES 1

Subpart F—Selective Enforcement Auditing

- 89.501 Applicability.
- 89.502 Definitions.
- 89.503 Test orders.
- 89.504 Testing by the Administrator.
- 89.505 Maintenance of records; submittal of information.
- 89.506 Right of entry and access.
- 89.507 Sample selection.
- 89.508 Test procedures.
- 89.509 Calculation and reporting of test results.
- 89.510 Compliance with acceptable quality level and passing and failing criteria for selective enforcement audits.
- 89.511 Suspension and revocation of certificates of conformity.
- 89.512 Request for public hearing.
- 89.513 Administrative procedures for public hearing.
- 89.514 Hearing procedures.
- 89.515 Appeal of hearing decision.
- 89.516 Treatment of confidential information.

APPENDIX A TO SUBPART F OF PART 89—SAMPLING PLANS FOR SELECTIVE ENFORCEMENT AUDITING OF NONROAD ENGINES

Subpart G—Importation of Nonconforming Nonroad Engines

- 89.601 Applicability.
- 89.602 Definitions.
- 89.603 General requirements for importation of nonconforming nonroad engines.
- 89.604 Conditional admission.
- 89.605 Final admission of certified nonroad engines.
- 89.606 Inspection and testing of imported nonroad engines.
- 89.607 Maintenance of independent commercial importer's records.
- 89.608 "In Use" inspections and recall requirements.
- 89.609 Final admission of modification nonroad engines and test nonroad engines.
- 89.610 Maintenance instructions, warranties, emission labeling.
- 89.611 Exemptions and exclusions.
- 89.612 Prohibited acts; penalties.
- 89.613 Treatment of confidential information.

Subpart H—Recall Regulations

- 89.701 Applicability.
- 89.702 Definitions.
- 89.703 Applicability of part 85, subpart S.

Subpart I—Emission Defect Reporting Requirements

- 89.801 Applicability.

40 CFR Ch. I (7–1–13 Edition)

- 89.802 Definitions.
- 89.803 Applicability of part 85, subpart T.

Subpart J—Exemption Provisions

- 89.901 Applicability.
- 89.902 Definitions.
- 89.903 Application of section 216(10) of the Act.
- 89.904 Who may request an exemption.
- 89.905 Testing exemption.
- 89.906 Manufacturer-owned exemption and precertification exemption.
- 89.907 Display exemption.
- 89.908 National security exemption.
- 89.909 Export exemptions.
- 89.910 Granting of exemptions.
- 89.911 Submission of exemption requests.
- 89.912 Treatment of confidential information.
- 89.913 What provisions apply to engines certified under the motor-vehicle program?
- 89.914 What provisions apply to vehicles certified under the motor-vehicle program?
- 89.915 Staged-assembly exemption.
- 89.916 Emergency-vessel exemption for marine engines below 37 kW.

Subpart K—General Enforcement Provisions and Prohibited Acts

- 89.1001 Applicability.
- 89.1002 Definitions.
- 89.1003 Prohibited acts.
- 89.1004 General enforcement provisions.
- 89.1005 Injunction proceedings for prohibited acts.
- 89.1006 Penalties.
- 89.1007 Warranty provisions.
- 89.1008 In-use compliance provisions.
- 89.1009 What special provisions apply to branded engines?

AUTHORITY: 42 U.S.C. 7401–7671q.

SOURCE: 59 FR 31335, June 17, 1994, unless otherwise noted.

Subpart A—General

§ 89.1 Applicability.

(a) This part applies for all compression-ignition nonroad engines (see definition of "nonroad engine" in § 89.2) except those specified in paragraph (b) of this section. This means that the engines for which this part applies include but are not limited to the following:

(1) Compression-ignition engines exempted from the requirements of 40 CFR Part 92 by 40 CFR 92.907;

(2) Compression-ignition engines exempted from the requirements of 40 CFR Part 94 by 40 CFR 94.907;

Environmental Protection Agency

§ 89.2

(3) Portable compression-ignition engines that are used in but not installed in marine vessels (as defined in the General Provisions of the United States Code, 1 U.S.C. 3);

(4) Non-propulsion compression-ignition engines used in locomotives; and

(5) Compression-ignition marine engines with rated power under 37 kW.

(b) (1) *Aircraft engines*. This part does not apply for engines used in aircraft (as defined in 40 CFR 87.1).

(2) *Mining engines*. This part does not apply for engines used in underground mining equipment and regulated by the Mining Safety and Health Administration (MSHA) in 30 CFR parts 7, 31, 32, 36, 56, 57, 70, and 75.

(3) *Locomotive engines*. This part does not apply for engines that:

(i) Are subject to the standards of 40 CFR part 92; or

(ii) Are exempted from the requirements of 40 CFR part 92 by exemption provisions of 40 CFR part 92 other than those specified in 40 CFR 92.907.

(4) *Marine engines*. This part does not apply for engines that:

(i) Are subject to the standards of 40 CFR part 94;

(ii) Are exempted from the requirements of 40 CFR part 94 by exemption provisions of 40 CFR part 94 other than those specified in 40 CFR 94.907 or 94.912.

(iii) Are marine engines (as defined in 40 CFR part 94) with rated power at or above 37kW that are manufactured in calendar years in which the standards of 40 CFR part 94 are not yet applicable.

(5) *Hobby engines*. This part does not apply for engines installed in reduced-scale models of vehicles that are not capable of transporting a person.

(6) *Tier 4 engines*. This part does not apply to engines that are subject to emission standards under 40 CFR part 1039. See 40 CFR 1039.1 to determine when that part 1039 applies. Note that certain requirements and prohibitions apply to engines built on or after January 1, 2006 if they are installed in stationary applications or in equipment that will be used solely for competition, as described in 40 CFR 1039.1 and 40 CFR 1068.1; those provisions apply instead of the provisions of this part 89.

(c) In certain cases, the regulations in this part 89 apply to engines at or above 250 kW that would otherwise be covered by 40 CFR part 1048. See 40 CFR 1048.620 for provisions related to this allowance.

(d) This part applies as specified in 40 CFR part 60 subpart IIII, to compression-ignition engines subject to the standards of 40 CFR part 60, subpart IIII.

[64 FR 73330, Dec. 29, 1999, as amended at 69 FR 39212, June 29, 2004; 70 FR 40444, July 13, 2005; 71 FR 39184, July 11, 2006; 72 FR 53126, Sept. 18, 2007; 74 FR 8423, Feb. 24, 2009]

§ 89.2 Definitions.

The following definitions apply to part 89. All terms not defined herein have the meaning given them in the Act.

Act means the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*

Adjustable parameter means any device, system, or element of design which is physically capable of being adjusted (including those which are difficult to access) and which, if adjusted, may affect emissions or engine performance during emission testing.

Administrator means the Administrator of the Environmental Protection Agency or his or her authorized representative.

Aircraft means any vehicle capable of sustained air travel above treetop heights.

Amphibious vehicle means a vehicle with wheels or tracks that is designed primarily for operation on land and secondarily for operation in water.

Auxiliary emission control device (AECD) means any element of design that senses temperature, vehicle speed, engine RPM, transmission gear, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system.

Auxiliary marine diesel engine means a marine diesel engine that is not a propulsion marine diesel engine.

Blue Sky Series engine means a nonroad engine meeting the requirements of § 89.112(f).

Certification means, with respect to new nonroad engines, obtaining a certificate of conformity for an engine