

with the approval of the State or tribal agency responsible for the SIP or TIP in that area, create an early emissions reductions credit program. The Federal agency can create the emission reduction credits in accordance with the requirements in paragraph (b) of this section and can use them in accordance with paragraph (c) of this section.

(b) Creation of emission reduction credits.

(1) Emissions reductions must be quantifiable through the use of standard emission factors or measurement techniques. If non-standard factors or techniques to quantify the emissions reductions are used, the Federal agency must receive approval from the State or tribal agency responsible for the implementation of the SIP or TIP and from EPA's Regional Office. The emission reduction credits do not have to be quantified before the reduction strategy is implemented, but must be quantified before the credits are used in the General Conformity evaluation.

(2) The emission reduction methods must be consistent with the applicable SIP or TIP attainment and reasonable further progress demonstrations.

(3) The emissions reductions cannot be required by or credited to other applicable SIP or TIP provisions.

(4) Both the State or Tribe and Federal air quality agencies must be able to take legal action to ensure continued implementation of the emission reduction strategy. In addition, private citizens must also be able to initiate action to ensure compliance with the control requirement.

(5) The emissions reductions must be permanent or the timeframe for the reductions must be specified.

(6) The Federal agency must document the emissions reductions and provide a copy of the document to the State or tribal air quality agency and the EPA regional office for review. The documentation must include a detailed description of the emission reduction strategy and a discussion of how it meets the requirements of paragraphs (b)(1) through (5) of this section.

(c) Use of emission reduction credits. The emission reduction credits created in accordance with paragraph (b) of this section can be used, subject to the following limitations, to reduce the

emissions increase from a Federal action at the facility for the conformity evaluation.

(1) If the technique used to create the emission reduction is implemented at the same facility as the Federal action and could have occurred in conjunction with the Federal action, then the credits can be used to reduce the total direct and indirect emissions used to determine the applicability of the regulation as required in §93.153 and as offsets or mitigation measures required by §93.158.

(2) If the technique used to create the emission reduction is not implemented at the same facility as the Federal action or could not have occurred in conjunction with the Federal action, then the credits cannot be used to reduce the total direct and indirect emissions used to determine the applicability of the regulation as required in §93.153, but can be used to offset or mitigate the emissions as required by §93.158.

(3) Emissions reductions credits must be used in the same year in which they are generated.

(4) Once the emission reduction credits are used, they cannot be used as credits for another conformity evaluation. However, unused credits from a strategy used for one conformity evaluation can be used for another conformity evaluation as long as the reduction credits are not double counted.

(5) Federal agencies must notify the State or tribal air quality agency responsible for the implementation of the SIP or TIP and EPA Regional Office when the emission reduction credits are being used.

[75 FR 17278, Apr. 5, 2010]

## PART 94—CONTROL OF EMISSIONS FROM MARINE COMPRESSION-IGNITION ENGINES

Sec.

94.1 Applicability.

94.2 through 94.3 [Reserved]

AUTHORITY: 42 U.S.C. 7401–7671q.

SOURCE: 86 FR 34373, June 29, 2021, unless otherwise noted.

### §94.1 Applicability.

The Environmental Protection Agency adopted emission standards for

model year 2004 and later marine compression-ignition engines under this part. EPA has migrated regulatory requirements for these engines to 40 CFR part 1042, with additional testing and compliance provisions in 40 CFR parts 1065 and 1068. The Tier 1 and Tier 2 standards originally adopted in this part are identified in 40 CFR part 1042, appendix I. See 40 CFR 1042.1 for information regarding the timing of the transition to 40 CFR part 1042, and for information regarding regulations that continue to apply for engines that manufacturers originally certified or otherwise produced under this part.

§ § 94.2 through 94.3 [Reserved]

**PART 95—MANDATORY PATENT LICENSES**

Sec.

95.1 Definitions.

95.2 Petition for mandatory license.

95.3 Findings prior to application to Attorney General.

95.4 Limitations on mandatory licenses.

AUTHORITY: 42 U.S.C. 7609; Sec. 104, Pub. L. 103-182, 107 Stat. 2057, 2064.

SOURCE: 59 FR 67638, Dec. 30, 1994, unless otherwise noted.

**§ 95.1 Definitions.**

(a) As used in this part, all terms not defined in this section shall have the meaning given them by the Act.

(b) *Act* means the Clean Air Act, as amended (42 U.S.C. §§ 7401-7671).

(c) *Agency* means the Environmental Protection Agency.

(d) *Administrator* means the Administrator of the Environmental Protection Agency.

**§ 95.2 Petition for mandatory license.**

(a) Any party required to comply with sections 111, 112 or 202 of the Act (42 U.S.C. 7411, 7412 or 7521) may petition to the Administrator for a mandatory patent license pursuant to section 308 of the Act (42 U.S.C. 7608), under a patent that the petitioner maintains is necessary to enable the petitioner to comply with Sections 111, 112 or 202 of the Act.

(b)(1) Each petition shall be signed by the petitioner and shall state the petitioner's name and address. If the peti-

tioner is a corporation, the petition shall be signed by an authorized officer of the corporation, and the petition shall indicate the state of incorporation. Where the petitioner elects to be represented by counsel, a signed notice to that effect shall be included with the petition at the time of filing.

(2) Each petition shall include a copy of the patent under which a mandatory patent license is sought. The petition shall identify all current owners of the patent and shall include a copy of all assignment documents relevant to the patent that are available from the United States Patent and Trademark Office.

(3) Each petition must identify any person whose interest the petitioner believes may be affected by the grant of the license to which the petition is directed.

(4) Each petition must contain a concise statement of all of the essential facts upon which it is based. No particular form of statement is required. Each petition shall be verified by the petitioner or by the person having the best knowledge of such facts. In the case of facts stated on information and belief, the source of such information and grounds of belief shall be given. The statement of facts shall include the following:

(i) An identification of the provisions of the Act and/or regulations thereunder that the petitioner maintains petitioner will be able to comply with if the petitioner is granted the patent license that is the subject of the petition;

(ii) An identification of the nature and purpose of the petitioner's intended use of the patent license;

(iii) An explanation of the relationship between the patented technology and the activities to which petitioner proposes to apply the patented technology, including an estimate of the effect on such activities stemming from the grant or denial of the patent license;

(iv) A summary of facts demonstrating that the patent under which a mandatory patent license is sought is being used or is intended for public or commercial use;

(v) An explanation of why a mandatory patent license is necessary for the