



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
NATIONAL VEHICLE AND FUEL EMISSIONS LABORATORY
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ANN ARBOR, MICHIGAN 48105-2498

OFFICE OF
AIR AND RADIATION

May 16, 2016

CD-16-08 (NRCI, HD On-Highway, Marine CI)

Subject: “Downgrading” Engines for Purpose of Exportation

Dear Manufacturer:

The purpose of this letter is clarify EPA’s policy on the “downgrading” of engines for the purposes of exportation. It has come to EPA’s attention that some engine manufacturers may be “downgrading” used engines within the United States for purposes of exportation. The term “downgrading” refers to the modification of an engine’s configuration such that it no longer is covered by a valid EPA certificate of conformity. “Downgrading” may include the removal, modification and/or addition of emission-related engine components. This “downgrading” is purportedly necessary when an EPA-certified engine is sold or relocated for use outside the United States to a location where fuels, oils or other issues make the operation or use of that engine in its original certified configuration impractical or highly problematic. As such, to make that engine useable or marketable, the engine’s original certified configuration is modified.

Section 203(a)(3)(A) of the Clean Air Act (“CAA” or “the Act”) states that it is a prohibited act “for any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this subchapter prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser.” This is commonly known as the tampering prohibition. Section 203(b)(3) of the CAA provides an exemption from the requirements of Section 203(a), but the exemption is only applicable to “a new motor vehicle or new motor vehicle engine intended solely for export...” (emphasis added). Indeed, EPA has promulgated regulations that allow engine manufacturers to build new engines that do not meet EPA’s emission standards provided that the engine is labeled for export only. (See 40 CFR § 1068.230).

EPA views that the actions referred to as “downgrading” would constitute prohibited tampering under section 203(a)(3) for which no exemption exists. Furthermore, we do not think that “downgrading” would make certified motor vehicles or motor vehicle engines “new” as that term is defined by Section 216(3) of the Act. Thus, the practice of “downgrading” non-new or used engines within the United States for export would be contrary to the Act and EPA’s implementing regulations.

If you have any questions, please contact Justin Greuel of my staff at 734-214-4210 or greuel.justin@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Byron Bunker". The signature is fluid and cursive, with a long horizontal stroke at the end.

Byron Bunker, Director
Compliance Division
Office of Transportation and Air Quality