

### Subpart L—General Enforcement Provisions and Prohibited Acts

#### § 94.1101 Applicability.

The requirements of this subpart are applicable to all persons with respect to engines subject to the provisions of Subpart A of this part.

#### § 94.1102 Definitions.

The definitions of subpart A of this part apply to this subpart.

#### § 94.1103 Prohibited acts.

(a) The following acts and the causing thereof are prohibited:

(1)(i)(A) In the case of a manufacturer of new engines, the sale, the offering for sale, the introduction into commerce, the delivery for introduction into commerce, or the distribution in commerce of any new engine that is subject to the standards of this part, unless such engine is covered by a certificate of conformity issued (and in effect) under regulations found in this part.

(B) The manufacture of an engine for the purpose of an act listed in paragraph (a)(1)(i)(A) of this section unless such engine is covered by a certificate of conformity issued (and in effect) under regulations found in this part prior to its introduction into commerce.

(ii) In the case of any person, except as provided in Subpart I of this part, the importation into the United States of any engine manufactured on or after the implementation date of the applicable emission limits for the relevant engine, unless such engine is covered by a certificate of conformity issued (and in effect) under regulations found in this part.

(2)(i) For a person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under this part.

(ii) For a person to fail or refuse to permit entry, testing, or inspection authorized under this part.

(iii) For a person to fail or refuse to perform tests, or to have tests performed as required by this part.

(iv) For a person to fail to establish or maintain records as required under this part.

(3)(i) For a person to remove or render inoperative a device or element of design installed on or in an engine in compliance with regulations under this part, or to set any adjustable parameter to a setting outside of the range specified by the manufacturer, as approved in the application for certification by the Administrator.

(ii) For a person to manufacture, sell or offer to sell, or install, a part or component intended for use with, or as part of, an engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative a device or element of design installed on or in an engine in compliance with regulations issued under this part, and where the person knows or should know that the part or component is being offered for sale or installed for this use or put to such use.

(iii) For a person to deviate from the provisions of § 94.11 when rebuilding an engine (or rebuilding a portion of an engine or engine system).

(4) For a manufacturer of a new engine subject to standards prescribed under this part:

(i) To sell, offer for sale, or introduce or deliver for introduction into commerce, a new engine unless the manufacturer has complied with the requirements of § 94.1107.

(ii) To sell, offer for sale, or introduce or deliver for introduction into commerce, a new engine unless all required labels and tags are affixed to the engine in accordance with § 94.212.

(iii) To fail or refuse to comply with the requirements of § 94.1108.

(iv) Except as provided in § 94.211, to provide directly or indirectly in any communication to the ultimate purchaser or a subsequent purchaser that the coverage of a warranty under the Act is conditioned upon use of a part, component, or system manufactured by the manufacturer or a person acting for the manufacturer or under its control, or conditioned upon service performed by such persons.

(v) To fail or refuse to comply with the terms and conditions of the warranty under § 94.1107.

(5) For a manufacturer of marine vessels to distribute in commerce, sell,

offer for sale, or deliver for introduction into commerce a new vessel containing an engine not covered by a certificate of conformity applicable for an engine model year the same as or later than the calendar year in which the manufacture of the new vessel is initiated. (Note: For the purpose of this paragraph (a)(5), the manufacture of a vessel is initiated when the keel is laid, or the vessel is at a similar stage of construction.)

(6) For any person to install a recreational marine engine in a vessel that is manufactured on or after the implementation date of the applicable standards and that is not a recreational vessel.

(b) For the purposes of enforcement of this part, the following apply:

(1) Nothing in paragraph (a)(3) of this section is to be construed to require the use of any manufacturer's parts in maintaining or repairing an engine.

(2)(i) Actions for the purpose of repair or replacement of a device or element of design or any other item are not considered prohibited acts under paragraph (a)(3)(i) of this section if the action is a necessary and temporary procedure, the device or element is replaced upon completion of the procedure, and the action results in the proper functioning of the device or element of design.

(ii) Actions for emergency purposes are not considered prohibited acts under paragraph (a)(3)(i) of this section if the action is a necessary and temporary procedure and the device or element is replaced such that the proper functioning of the device or element of design is restored as soon as possible.

(3) Where the Administrator determines that no engine that is certified to the requirements of this part is produced by any manufacturer with the appropriate physical or performance characteristics to repower a vessel, the Administrator may allow an engine manufacturer to introduce into commerce a replacement engine without complying with all of the otherwise applicable requirements of this part. Such engine shall not be subject to the prohibitions of paragraph (a)(1) of this section, provided that:

(i) The engine requiring replacement is not certified or is certified to emis-

sion standards that are less stringent than those in effect when the replacement engine is built; and

(ii) The engine manufacturer or its agent takes ownership and possession of the engine being replaced in partial exchange for the replacement engine; and

(iii) The replacement engine is clearly labeled with the following language, or similar alternate language approved by the Administrator: "THIS ENGINE DOES NOT COMPLY WITH FEDERAL MARINE ENGINE EMISSION REQUIREMENTS. SALE OR INSTALLATION OF THIS ENGINE FOR ANY PURPOSE OTHER THAN AS A REPLACEMENT ENGINE FOR AN ENGINE MANUFACTURED PRIOR TO JANUARY 1 [INSERT APPROPRIATE YEAR] IS A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY"; and

(iv) In cases where an engine is to be imported for replacement purposes under the provisions of this paragraph (b)(3) of this section, the term "engine manufacturer" shall not apply to an individual or other entity that does not possess a current Certificate of Conformity issued by EPA under this part; and

(v) Where the replacement engine is intended to replace an engine that is certified to emission standards that are less stringent than those in effect when the replacement engine is built, the replacement engine shall be identical in all material respects to a certified configuration of the same or later model year as the engine being replaced; and

(vi) Engines sold pursuant to the provisions of this paragraph will neither generate nor use emission credits and will not be part of any accounting under the averaging, banking and trading program.

#### § 94.1104 General enforcement provisions.

(a) *Information collection provisions.*  
 (1)(i) Every manufacturer of new engines and other persons subject to the requirements of this part must establish and maintain records, perform tests, make reports and provide information the Administrator may reasonably require to determine whether the manufacturer or other person has acted