

contain Category 3 engines subject to the provisions of subpart A of this part, except as otherwise specified.

#### **§ 94.1002 Definitions.**

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

#### **§ 94.1003 Production testing, in-use testing, and inspections.**

(a) [Reserved]

(b) [Reserved]

(c) Manufacturers, owners and operators must allow emission tests and inspections to be conducted and must provide reasonable assistance to perform such tests or inspections.

#### **§ 94.1004 Maintenance, repair, adjustment, and recordkeeping.**

(a) Unless otherwise approved by the Administrator, all owners and operators of Category 3 engines subject to the provisions of this part shall ensure that all emission-related maintenance is performed, as specified in the maintenance instructions provided by the certifying manufacturer in compliance with § 94.211.

(b) Unless otherwise approved by the Administrator, all maintenance, repair, adjustment, and alteration of engines subject to the provisions of this part performed by any owner, operator or other maintenance provider that is not covered by paragraph (a) of this section shall be performed, using good engineering judgment, in such a manner that the engine continues (after the maintenance, repair, adjustment or alteration) to meet the emission standards it was certified as meeting prior to the need for service. Adjustments are limited to the range specified by the engine manufacturer in the approved application for certification.

(c) An engine may not be adjusted or altered contrary to the requirements of § 94.11 or § 94.1004(b), except as allowed by § 94.1103(b)(2). If such an adjustment or alteration occurs, the engine must be returned to a configuration allowed by this part within two hours of operation. Each two-hour period during which there is noncompliance is a separate violation. The following provisions apply to adjustments or alterations made under § 94.1103(b)(2):

(1) In the case of an engine that is adjusted or altered under § 94.1103(b)(2)(i), there is no violation under this paragraph (c) for engine operation before completion of the repair or replacement procedure. The provisions of paragraph (c) introductory text apply to all operation following completion of the repair or replacement procedure.

(2) In the case of an engine that is adjusted or altered under § 94.1103(b)(2)(ii), there is no violation under this paragraph (c) if the engine operates for less than two hours following the conclusion of the emergency that prompted the adjustment or alteration before the emission-control system is restored to proper functioning. The provisions of paragraph (c) introductory text apply to all operation that occurs after this two-hour period.

(d) The owner and operator of the engine shall maintain on board the vessel records of all maintenance, repair, and adjustment that could reasonably affect the emission performance of any Category 3 engine subject to the provision of this part. Owners and operators shall also maintain, on board the vessel, records regarding certification, parameter adjustment, and fuels used. For engines that are automatically adjusted electronically, all adjustments must be logged automatically. Owners and operators shall make these records available to EPA upon request. These records must include the following:

(1) [Reserved]

(2) The Technical File, Record Book of Engine Parameters, and bunker delivery notes that are required by the Annex VI Technical Code (incorporated by reference in § 94.5).

(3) Specific descriptions of engine maintenance, repair, adjustment, and alteration (including rebuilding). The descriptions must include at least the date, time, and nature of the maintenance, repair, adjustment, or alteration and the position of the vessel when the maintenance, repair, adjustment, or alteration was made.

(4) Emission-related maintenance instructions provided by the manufacturer.

(e) For each marine vessel containing a Category 3 engine, the owner shall annually review the vessel's records and submit to EPA a signed statement certifying compliance during the preceding year with the requirements of this part that are applicable to owners and operators of such vessels. Alternately, if review of the vessel's records indicates that there has been one or more violations of the requirements of this part, the owner shall submit to EPA a signed statement specifying the noncompliance, including the nature of the noncompliance, the time of the noncompliance, and any efforts made to remedy the noncompliance. The statement of compliance (or noncompliance) required by this paragraph shall be signed by the

executive with responsibility for marine activities of the owner. If the vessel is operated by a different business entity than the vessel owner, the reporting requirements of this paragraph (e) apply to both the owner and the operator. Compliance with these review and certification requirements by either the vessel owner or the vessel operator with respect to a compliance statement will be considered compliance with these requirements by both of these parties for that compliance statement. The executive(s) may authorize a captain or other primary operator to conduct this review and submit the certification, provided that the certification statement is accompanied by written authorization for that individual to submit such statements. The Administrator may waive the requirements of this paragraph when equivalent assurance of compliance is otherwise available.

#### **Subpart L—[Amended]**

35. Section 94.1103 is amended by adding paragraphs (a)(2)(v), (a)(2)(vi), and (a)(7) and by revising paragraph (a)(3)(i) to read as follows:

#### **§ 94.1103 Prohibited acts.**

(a) \* \* \*

(2) \* \* \*

(v) For an owner or operator of a vessel using a Category 3 engine to refuse to allow the in-use testing described in § 94.1003 to be performed.

(vi) For a manufacturer, owner or operator of a Category 3 engine to fail to provide maintenance instructions as required by § 94.211.

(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 (except as allowed by §§ 94.1003 and 94.1004).

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(7)(i) For an owner or operator of a vessel using a Category 3 engine to fail or refuse to ensure that an engine is properly adjusted as set forth in § 94.1004.

(ii) For an owner or operator of a vessel using a Category 3 engine to fail to maintain or repair an engine as set forth in § 94.1004.

(iii) For an owner or operator of a vessel using a Category 3 engine to operate an engine in violation of the requirements of § 94.1004(c).

(iv) For an owner or operator of a vessel using a Category 3 engine to fail