

to comply with any applicable provision in this part for recordkeeping, reporting, or submission of information to EPA, including the annual certification requirements of § 94.1004.

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36. Section 94.1106 is amended by adding introductory text, revising paragraphs (a) and (c)(1), and adding paragraph (d) to read as follows:

**§ 94.1106 Penalties.**

This section specifies actions that are prohibited and the maximum civil penalties that we can assess for each violation. The maximum penalty values listed in paragraphs (a) and (c) of this section are shown for calendar year 2002. As described in paragraph (d) of this section, maximum penalty limits for later years are set forth in 40 CFR part 19.

(a) *Violations.* A violation of the requirements of this subpart is a violation of the applicable provisions of the Act, including sections 213(d) and 203, and is subject to the penalty provisions thereunder.

(1) A person who violates § 94.1103(a)(1), (a)(4), (a)(5), (a)(6), or (a)(7)(iv) or a manufacturer or dealer who violates § 94.1103(a)(3) (i) or (iii) or § 94.1103(a)(7) is subject to a civil

penalty of not more than \$31,500 for each violation.

(2) A person other than a manufacturer or dealer who violates § 94.1103(a)(3) (i) or (iii) or § 94.1103(a)(7) (i), (ii), or (iii) or any person who violates § 94.1103(a)(3)(ii) is subject to a civil penalty of not more than \$3,150 for each violation.

(3) A violation with respect to § 94.1103(a)(1), (a)(3)(i), (a)(3)(iii), (a)(4), or (a)(5), (a)(7) constitutes a separate offense with respect to each engine.

(4) A violation with respect to § 94.1103(a)(3)(ii) constitutes a separate offense with respect to each part or component. Each day of a violation with respect to § 94.1103(a)(5) or (a)(7)(iv) constitutes a separate offense.

(5) Each two hour period of a violation with respect to § 94.1103(a)(7)(iii) constitutes a separate offense. A violation of § 94.1103(a)(7)(iii) lasting less than two hours constitutes a single offense.

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(c) *Administrative assessment of certain penalties.* (1) Administrative penalty authority. Subject to 42 U.S.C. 7524(c), in lieu of commencing a civil action under paragraph (b) of this section, the Administrator may assess any civil penalty prescribed in paragraph (a) of this section, except that the maximum amount of penalty sought

against each violator in a penalty assessment proceeding shall not exceed \$250,000, unless the Administrator and the Attorney General jointly determine that a matter involving a larger penalty amount is appropriate for administrative penalty assessment. Any such determination by the Administrator and the Attorney General is not subject to judicial review. Assessment of a civil penalty shall be by an order made on the record after opportunity for a hearing held in accordance with the procedures found at part 22 of this chapter. The Administrator may compromise, or remit, with or without conditions, any administrative penalty which may be imposed under this section.

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(d) The maximum penalty values listed in paragraphs (a) and (c) of this section are shown for calendar year 2002. Maximum penalty limits for later years may be adjusted based on the Consumer Price Index. The specific regulatory provisions for changing the maximum penalties, published in 40 CFR part 19, reference the applicable U.S. Code citation on which the prohibited action is based.

[FR Doc. 03-3065 Filed 2-27-03; 8:45 am]

BILLING CODE 6560-50-P