

## Environmental Protection Agency

## § 90.1103

civil penalty order is issued. The person must simultaneously send a copy of the filing by certified mail to the Administrator and the Attorney General.

(ii) The Administrator must file in the court within 30 days a certified copy, or certified index, as appropriate, of the record on which the order was issued. The court is not to set aside or remand any order issued in accordance with the requirements of this paragraph unless substantial evidence does not exist in the record, taken as a whole, to support the finding of a violation or unless the Administrator's assessment of the penalty constitutes an abuse of discretion, and the court is not to impose additional civil penalties unless the Administrator's assessment of the penalty constitutes an abuse of discretion. In any proceedings, the United States may seek to recover civil penalties assessed under this section.

(6) *Collection.* (i) If any person fails to pay an assessment of a civil penalty imposed by the Administrator as provided in this part after the order making the assessment has become final or after a court in an action brought under paragraph (c)(5) of this section has entered a final judgment in favor of the Administrator, the Administrator is to request that the Attorney General bring a civil action in an appropriate district court to recover the amount assessed (plus interest at rates established pursuant to section 6621(a)(2) of the Internal Revenue Code of 1986 from the date of the final order or the date of final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of the penalty are not subject to review.

(ii) A person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in paragraph (c)(6)(i) of this section is required to pay, in addition to that amount and interest, the United States' enforcement expenses, including attorney's fees and costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which the failure to pay persists. The nonpayment penalty is an amount equal to 10 percent of the aggregate amount of that person's penalties and nonpayment penalties which are un-

paid as of the beginning of such quarter.

### Subpart L—Emission Warranty and Maintenance Instructions

#### § 90.1101 Applicability.

The requirements of subpart L are applicable to all nonroad engines and vehicles subject to the provisions of subpart A of part 90.

#### § 90.1102 Definitions.

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

#### § 90.1103 Emission warranty, warranty period.

(a) Warranties imposed by this subpart shall be for the first two years of engine use from the date of sale to the ultimate purchaser. Manufacturers of handheld engines subject to Phase 2 standards may apply to the Administrator for approval for a warranty period of less than two years for handheld engines that are subject to severe service in seasonal equipment and are likely to run their full useful life hours in less than two years. Such an application must be made prior to certification. Alternatively, manufacturers of handheld engines subject to Phase 2 standards may apply to the Administrator for approval for a warranty period equal to the useful life of the engine or two years, whichever is less, if the equipment in which the engine is placed is equipped with a meter for measuring hours of use. Such an application must be made prior to certification.

(b) The manufacturer of each new nonroad engine must warrant to the ultimate purchaser and each subsequent purchaser that the engine is designed, built and equipped so as to conform at the time of sale with applicable regulations under section 213 of the Act, and the engine is free from defects in materials and workmanship which cause such engine to fail to conform with applicable regulations for its warranty period.

(c) In the case of a nonroad engine part, the manufacturer or rebuilder of the part may certify according to § 85.2112 of this chapter that use of the part will not result in a failure of the