

the end of the calendar year preceding new standards, you may use engines from the previous model year for those units you produce before January 1 of the year that new standards apply. If emission standards do not change in a given model year, you may continue to install engines from the previous model year without restriction. You may not circumvent the provisions of § 1068.101(a)(1) by stockpiling engines that were built before new or changed standards take effect. Note that this allowance does not apply for equipment subject to equipment-based standards.

(b) *Installing engines.* You must follow the engine manufacturer's emission-related installation instructions. For example, you may need to constrain where you place an exhaust aftertreatment device or integrate into your equipment models a device for sending visual or audible signals to the operator. Not meeting the manufacturer's emission-related installation instructions is a violation of § 1068.101(b)(1).

(c) *Attaching a duplicate label.* If you obscure the engine's label, you must do four things to avoid violating § 1068.101(a)(1):

(1) Send a request for duplicate labels in writing with your company's letterhead to the engine manufacturer. Include the following information in your request:

(i) Identify the type of equipment and the specific engine and equipment models needing duplicate labels.

(ii) Identify the engine family (from the original engine label).

(iii) State the reason that you need a duplicate label for each equipment model.

(iv) Identify the number of duplicate labels you will need.

(2) Permanently attach the duplicate label to your equipment by securing it to a part needed for normal operation and not normally requiring replacement. Make sure an average person can easily read it.

(3) Destroy any unused duplicate labels if you find that you will not need them.

(4) Keep the following records for at least eight years after the end of the model year identified on the engine label:

(i) Keep a copy of your written request.

(ii) Keep drawings or descriptions that show how you apply the duplicate labels to your equipment.

(iii) Maintain a count of those duplicate labels you use and those you destroy.

[67 FR 68347, Nov. 8, 2002, as amended at 69 FR 39265, June 29, 2004; 70 FR 40513, July 13, 2005]

#### § 1068.110 What other provisions apply to engines in service?

(a) *Aftermarket parts and service.* As the engine manufacturer, you may not require anyone to use your parts or service to maintain or repair an engine, unless we approve this in your application for certification. It is a violation of the Act for anyone to manufacture an engine or vehicle part if one of its main effects is to reduce the effectiveness of the emission controls. See § 1068.101(b)(2).

(b) *Certifying aftermarket parts.* As the manufacturer or rebuilder of an aftermarket engine part, you may—but are not required to—certify according to § 85.2114 of this chapter that using the part will not cause engines to fail to meet emission standards. Whether you certify or not, you must keep any information showing how your parts or service affect emissions.

(c) *Compliance with standards.* We may test engines and equipment to investigate compliance with emission standards and other requirements. We may also require the manufacturer to do this testing.

(d) *Defeat devices.* We may test engines and equipment to investigate potential defeat devices. We may also require the manufacturer to do this testing. If we choose to investigate one of your designs, we may require you to show us that it does not have a defeat device. To do this, you may have to share with us information regarding test programs, engineering evaluations, design specifications, calibrations, on-board computer algorithms, and design strategies. It is a violation of the Act for anyone to make, install or use defeat devices. See § 1068.101(b)(2) and the standard-setting part.

## Environmental Protection Agency

## § 1068.120

(e) *Warranty and maintenance.* Owners are responsible for properly maintaining their engines; however, owners may make warranty claims against the manufacturer for all expenses related to diagnosing and repairing or replacing emission-related parts, as described in §1068.115. The warranty period begins when the engine is first placed into service. See the standard-setting part for specific requirements. It is a violation of the Act for anyone to disable emission controls; see §1068.101(b)(1) and the standard-setting part.

[67 FR 68347, Nov. 8, 2002, as amended at 69 FR 39266, June 29, 2004; 70 FR 40513, July 13, 2005]

### **§ 1068.115 When must manufacturers honor emission-related warranty claims?**

Section 207(a) of the Clean Air Act (42 U.S.C. 7541(a)) requires certifying manufacturers to warrant to purchasers that their engines are designed, built, and equipped to conform at the time of sale to the applicable regulations for their full useful life, including a warranty that the engines are free from defects in materials and workmanship that would cause an engine to fail to conform to the applicable regulations during the specified warranty period. This section codifies the warranty requirements of section 207(a) without intending to limit these requirements.

(a) As a certifying manufacturer, you may deny warranty claims only for failures that have been caused by the owner's or operator's improper maintenance or use, by accidents for which you have no responsibility, or by acts of God. For example, you would not need to honor warranty claims for failures that have been directly caused by the operator's abuse of an engine or the operator's use of the engine in a manner for which it was not designed, and are not attributable to you in any way.

(b) As a certifying manufacturer, you may not deny emission-related warranty claims based on any of the following:

(1) Maintenance or other service you or your authorized facilities performed.

(2) Engine repair work that an operator performed to correct an unsafe, emergency condition attributable to

you, as long as the operator tries to restore the engine to its proper configuration as soon as possible.

(3) Any action or inaction by the operator unrelated to the warranty claim.

(4) Maintenance that was performed more frequently than you specify.

(5) Anything that is your fault or responsibility.

(6) The use of any fuel that is commonly available where the engine operates, unless your written maintenance instructions state that this fuel would harm the engine's emission control system and operators can readily find the proper fuel.

[67 FR 68347, Nov. 8, 2002, as amended at 70 FR 40513, July 13, 2005]

### **§ 1068.120 What requirements must I follow to rebuild engines?**

(a) This section describes the steps to take when rebuilding engines to avoid violating the tampering prohibition in §1068.101(b)(1). These requirements apply to anyone rebuilding an engine subject to this part, but the record-keeping requirements in paragraphs (j) and (k) of this section apply only to businesses.

(b) The term "rebuilding" refers to a rebuild of an engine or engine system, including a major overhaul in which you replace the engine's pistons or power assemblies or make other changes that significantly increase the service life of the engine. It also includes replacing or rebuilding an engine's turbocharger or aftercooler or the engine's systems for fuel metering or electronic control so that it significantly increases the service life of the engine. For these provisions, rebuilding may or may not involve removing the engine from the equipment. Rebuilding does not normally include the following:

(1) Scheduled emission-related maintenance that the standard-setting part allows during the useful life period (such as replacing fuel injectors).

(2) Unscheduled maintenance that occurs commonly within the useful life period. For example, replacing a water pump is not rebuilding an engine.

(c) For maintenance or service that is not rebuilding, you may not make changes that might increase emissions