

this part or by having a certifying remanufacturer include your locomotive under its certificate of conformity. In either case, your remanufactured locomotive must be covered by a certificate before it is reintroduced into service.

(d) If you do not obtain your own certificate of conformity from EPA, contact a certifying remanufacturer to have your locomotive included under its certificate of conformity. Confirm with the certificate holder that your locomotive's model, date of original manufacture, previous FEL, and power rating allow it to be covered by the certificate. You must do all of the following:

(1) Comply with the certificate holder's emission-related installation instructions.

(2) Provide to the certificate holder the information it identifies as necessary to comply with the requirements of this part.

(e) For parts unrelated to emissions and emission-related parts not addressed by the certificate holder in the emission-related installation instructions, you may use parts from any source. For emission-related parts listed by the certificate holder in the emission-related installation instructions, you must either use the specified parts or parts certified under 40 CFR 1033.645 for remanufacturing. If you believe that the certificate holder has included as emission-related parts, parts that are actually unrelated to emissions, you may ask us to exclude such parts from the emission-related installation instructions. (NOTE: This paragraph (e) does not apply with respect to parts for maintenance other than remanufacturing; see § 92.1004 for provisions related to general maintenance.)

(f) Failure to comply with this section is a violation of § 92.1102(a)(1).

[73 FR 37195, June 30, 2008]

Subpart L—General Enforcement Provisions and Prohibited Acts

§ 92.1101 Applicability.

The requirements of this subpart are applicable to all manufacturers, remanufacturers, owners and operators of locomotives and locomotive engines

subject to the provisions of subpart A of this part.

§ 92.1102 Definitions.

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

§ 92.1103 Prohibited acts.

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

(1)(i)(A) In the case of a manufacturer or remanufacturer of new locomotives or new locomotive 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 locomotive or new locomotive engine manufactured or remanufactured after the effective date of applicable emission standards under this part, unless such locomotive or locomotive engine is covered by a certificate of conformity issued (and in effect) under regulations found in this part. (Introduction into commerce includes placement of a new locomotive or new locomotive engine back into service following remanufacturing.)

(B) The manufacture or remanufacture of a locomotive or locomotive engine for the purpose of an act listed in paragraph (a)(1)(i)(A) of this section unless such locomotive or locomotive 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 locomotive or locomotive engine manufactured or remanufactured after June 15, 1998, unless such locomotive or locomotive 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.

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(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 a locomotive or locomotive 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 or remanufacturer, as approved in the application for certification by the Administrator.

(ii) For a person to manufacture, remanufacture, sell or offer to sell, or install, a part or component intended for use with, or as part of, a locomotive or locomotive 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 a locomotive or locomotive 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 locomotive owner or operator to fail to comply with the maintenance and repair requirements of §92.1004.

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

(i) To sell, offer for sale, or introduce or deliver for introduction into commerce, a new locomotive or new locomotive engine unless the manufacturer or remanufacturer has complied with the requirements of §92.1107.

(ii) To sell, offer for sale, or introduce or deliver for introduction into commerce, a new locomotive or new locomotive engine unless all required labels and tags are affixed to the engine in accordance with §92.212.

(iii) To fail or refuse to comply with the requirements of §92.1108.

(iv) Except as provided in §92.211, 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 remanufacturer or a person acting for the manufacturer

or remanufacturer 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 §92.1107.

(5) For a manufacturer or remanufacturer of locomotives to distribute in commerce, sell, offer for sale, or deliver for introduction into commerce new locomotives (including all locomotives which contain a new engine) not covered by a certificate of conformity.

(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 or remanufacturer's parts in maintaining or repairing a locomotive or locomotive engine.

(2) 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.

(3) Actions for the purpose of remanufacturing a locomotive are not considered prohibited acts under paragraph (a)(3)(i) of this section if the new remanufactured locomotive is covered by a certificate of conformity and complies with all applicable requirements of this part.

§92.1104 General enforcement provisions.

(a) *Information collection provisions.*

(1)(i) Every manufacturer or remanufacturer of new locomotives and/or new locomotive 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 remanufacturer or other person has acted or is acting in compliance with this part or to otherwise carry out the provisions of this part, and must, upon request of an officer or employee duly designated