



16711/Serial No. 867  
CG-CVC Policy Letter 21-01  
January 25, 2021

From: M. Edwards, CAPT  
COMDT (CG-CVC)

To: Distribution

Subj: EXERCISE OF ENFORCEMENT DISCRETION WITH REGARD TO MARPOL  
ANNEX VI REGULATION 13.5.1.2.1

Ref: (a) MARPOL Annex VI Regulation 13.5.1.2.1

1. PURPOSE. This policy letter outlines how the U.S. Coast Guard (USCG) will enforce reference (a), the Tier III NOx limits, for certain engines installed on recreational vessels above 24 meters in length and less than 500 gross tonnage (“large recreational vessels”).
2. ACTION. Officers in Charge, Marine Inspection (OCMI), affected Companies, and Recognized Organizations (RO) that issue International Air Pollution Prevention (IAPP) certificates on behalf of the United States<sup>1</sup> are encouraged to apply this Policy Letter as it relates to the certification of qualifying engines (engines of 130 – 600 kW) that are required to meet International Maritime Organization (IMO) Tier III performance standards and their installation on large recreational vessels. This policy letter expires on December 31, 2023.
3. DIRECTIVES AFFECTED. None.
  - a. BACKGROUND. The IMO postponed<sup>2</sup> the application of the Tier III NOx limits for engines on large recreational vessels to January 1, 2021. While engines certified as MARPOL Annex VI Tier III compliant continue to be unavailable for use on large recreational vessels, U.S. Environmental Protection Agency (EPA) certified engines covered by this guidance may be accepted as meeting Clean Air Act Tier 3 requirements under 40 Code of Federal Regulations (CFR) part 1042.
  - b. Reference (a) generally prohibits the operation in the North American and U.S. Caribbean Sea NOx Emission Control Areas (collectively, “the U.S. ECAs”) of any engine at or above 130 kW that does not comply with the MARPOL Annex VI Tier III requirements if (1) that engine is installed on a vessel constructed<sup>3</sup> in 2016 or later

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<sup>1</sup> See 46 CFR 8.320(b)(12).

<sup>2</sup> In April 2014, the Marine Environment Protection Committee at IMO agreed to delay the application of the Tier III NOx limits to engines installed on recreational vessels above 24 meters but less than 500 GT to January 1, 2021. That delay was intended to allow additional time for engine manufacturers and boat builders to address various technical challenges stemming from the unique design and operating characteristics of recreational vessels. While progress continues to be made by boat builders and engine manufacturers, all issues are not expected to be resolved in time for boats constructed beginning on April 1, 2021.

<sup>3</sup> “Constructed” is defined in regulation 2.19 to be ships the keels of which are laid or that are at a similar stage of construction.

or (2) the engine undergoes a major conversion<sup>4</sup> in 2016 or later. In some cases, suitable Tier III NOx compliant engines of the required size may not be available at the time of the vessel construction or conversion.

- c. EPA certification to Clean Air Act Tier 3 standards is required to qualify under this Policy Letter for U.S.-flagged and foreign-flagged large recreational vessels that operate in the U.S. portion of the North American or U.S. Caribbean Sea NOx Emission Control Areas (collectively, “the ECA”).

#### 4. POLICY.

- a. The USCG will defer enforcement on the operation of engines on large recreational vessels subject to the prohibition set out in reference (a). The deferral will be available after the temporary waiver for large recreational vessels set out in Regulation 13.5.2.3 expires on January 1, 2021, until a suitable engine is available or December 31, 2023, whichever is earlier. This Policy Letter only applies to this Annex VI requirement and does not waive or otherwise affect the need to satisfy all applicable requirements of the U.S. Clean Air Act.
- b. Large recreational vessels constructed during the period of applicability of this policy letter, January 1, 2021 through December 31, 2023, will be permitted to operate engines within the U.S. portion of the ECAs without future USCG enforcement action even though the engines are not “MARPOL-compliant engines,” – that is, they do not meet the MARPOL Annex VI Regulation 13 Tier III NOx emission standard.<sup>5</sup>
- c. To identify as a qualifying large recreational vessel, any engine installed on a new or existing U.S.-flagged or foreign-flagged large recreational vessel constructed before the necessary MARPOL-compliant engine is available or this Policy Letter expires must be:
  - i. Properly certified to Clean Air Act Tier 3 emission standards (satisfied by having an EPA-issued Clean Air Act Tier 3 emission label affixed to each affected engine).
  - ii. Each affected engine must also be certified to MARPOL Tier II NOx standards. This requirement may be satisfied through proper documentation, including Technical Files and a Record Book of Engine Parameters, on board the vessel.
  - iii. When installed on the large recreational vessel for which they are qualified, these qualifying engines will retain that status indefinitely; that is, they will be considered qualifying engines after MARPOL-compliant engines become available and continuing for the operating life of the engine.
- d. Additionally, the following applies:

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<sup>4</sup> “Major conversion” is addressed at Regulation 13.2.

<sup>5</sup> The standard and applicability requirements are set out at Annex VI Regulation 13.5.1 and exceptions to applicability are set out in Regulation 13.5.2.

- i. Diesel engines installed on U.S.-flagged large recreational vessels are not excused from meeting Clean Air Act standards for marine diesel engines under 40 CFR part 1042.
  - ii. Diesel engines installed on foreign-flagged large recreational vessels must be certified by EPA to the Clean Air Act Tier 3 standards as a condition of qualifying for the USCG's enforcement discretion with respect to the MARPOL Tier III NOx standards.
  - iii. Qualified engines are only within the scope of this policy letter while installed on the large recreational vessel associated with the IAPP or other vessel documentation demonstrating their qualified engine status.
  - iv. The affected engine must be accompanied by appropriate records explaining how the determination of non-availability of suitable engines was made at the time the vessel was constructed.
6. DISCLAIMER. The guidance in this policy letter is not a substitute for applicable legal requirements, nor is it, in itself, a regulation. It neither imposes nor intends to impose legally-binding requirements on any party. It represents the Coast Guard's current thinking on this topic and may assist industry, mariners, the general public, and the Coast Guard, as well as other federal and state regulators, in applying statutory and regulatory requirements. You may use an alternative approach for demonstrating compliance with the standards of reference (a) if you determine that the approach will satisfy the relevant provisions within MARPOL Annex VI, although this will not exempt you from complying with applicable United States law and regulations. If you want to discuss an alternative approach (you are not required to do so), you may contact the local Coast Guard OCMI who is responsible for implementing this guidance.
7. QUESTIONS. Questions concerning this policy letter and guidance should be directed to the Office of Commercial Vessel Compliance, COMDT (CG-CVC), Domestic Compliance Division at [CG-CVC-1@uscg.mil](mailto:CG-CVC-1@uscg.mil). This letter and other domestic vessel policy documents are posted at [http://www.uscg.mil/hq/cgcvc/cvc/policy/policy\\_letters.asp](http://www.uscg.mil/hq/cgcvc/cvc/policy/policy_letters.asp).

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