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(a) Follow the steps in 40 CFR 1048.245 to show that you meet the requirements of 40 CFR 1048.105.

(b) Do the following things in your application for certification:

(1) Describe how your engines control evaporative emissions.

(2) Present test data to show that equipment using your engines meets the evaporative emission standards we specify in this section if you do not use design-based certification under 40 CFR 1048.245. Show these figures before and after applying deterioration factors, where applicable.

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§ 1039.115 What other requirements must my engines meet?

Engines subject to this part must meet the following requirements, except as noted elsewhere in this part:

(a) *Crankcase emissions.* Crankcase emissions may not be discharged directly into the ambient atmosphere from any engine, except as follows:

(1) Engines may discharge crankcase emissions to the ambient atmosphere if the emissions are added to the exhaust emissions (either physically or mathematically) during all emission testing.

(2) If you take advantage of this exception, you must do the following things:

(i) Manufacture the engines so that all crankcase emissions can be routed into the applicable sampling systems specified in 40 CFR part 1065.

(ii) Account for deterioration in crankcase emissions when determining exhaust deterioration factors.

(3) For purposes of this paragraph (a), crankcase emissions that are routed to the exhaust upstream of exhaust aftertreatment during all operation are not considered to be discharged directly into the ambient atmosphere.

(b)–(d) [Reserved]

(e) *Adjustable parameters.* Engines that have adjustable parameters must meet all the requirements of this part for any adjustment in the physically adjustable range. An operating parameter is not considered adjustable if you permanently seal it or if it is not normally accessible using ordinary tools. We may require that you set adjustable parameters to any specification within the adjustable range during any test-

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ing, including certification testing, selective enforcement auditing, or in-use testing.

(f) *Prohibited controls.* You may not design your engines with emission-control devices, systems, or elements of design that cause or contribute to an unreasonable risk to public health, welfare, or safety while operating. For example, this would apply if the engine emits a noxious or toxic substance it would otherwise not emit that contributes to such an unreasonable risk.

(g) *Defeat devices.* You may not equip your engines with a defeat device. A defeat device is an auxiliary emission-control device that reduces the effectiveness of emission controls under conditions that the engine may reasonably be expected to encounter during normal operation and use. This does not apply to auxiliary-emission control devices you identify in your certification application if any of the following is true:

(1) The conditions of concern were substantially included in the applicable test procedures described in subpart F of this part.

(2) You show your design is necessary to prevent engine (or equipment) damage or accidents.

(3) The reduced effectiveness applies only to starting the engine.

§ 1039.120 What emission-related warranty requirements apply to me?

(a) *General requirements.* You must warrant to the ultimate purchaser and each subsequent purchaser that the new nonroad engine, including all parts of its emission-control system, meets two conditions:

(1) It is designed, built, and equipped so it conforms at the time of sale to the ultimate purchaser with the requirements of this part.

(2) It is free from defects in materials and workmanship that may keep it from meeting these requirements.

(b) *Warranty period.* Your emission-related warranty must be valid for at least as long as the minimum warranty periods listed in this paragraph (b) in hours of operation and years, whichever comes first. You may offer an emission-related warranty more generous than we require. The emission-related warranty for the engine may not

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be shorter than any published warranty you offer without charge for the engine. Similarly, the emission-related warranty for any component may not be shorter than any published warranty you offer without charge for that component. If an engine has no hour meter,

we base the warranty periods in this paragraph (b) only on the engine's age (in years). The warranty period begins when the engine is placed into service. The minimum warranty periods are shown in the following table:

If your engine is certified as . . .	And its maximum power is . . .	And its rated speed is . . .	Then its warranty period is . . .
Variable speed or constant speed.	kW < 19	Any speed	1,500 hours or two years, whichever comes first.
Constant speed	19 ≤ kW < 37	3,000 rpm or higher	1,500 hours or two years, whichever comes first.
Constant speed	19 ≤ kW < 37	Less than 3,000 rpm	3,000 hours or five years, whichever comes first.
Variable speed	19 ≤ kW < 37	Any speed	3,000 hours or five years, whichever comes first.
Variable speed or constant speed.	kW ≥ 37	Any speed	3,000 hours or five years, whichever comes first.

(c) *Components covered.* The emission-related warranty covers all components whose failure would increase an engine's emissions of any pollutant. This includes components listed in 40 CFR part 1068, Appendix I, and components from any other system you develop to control emissions. The emission-related warranty covers these components even if another company produces the component. Your emission-related warranty does not cover components whose failure would not increase an engine's emissions of any pollutant.

(d) *Limited applicability.* You may deny warranty claims under this section if the operator caused the problem through improper maintenance or use, as described in 40 CFR 1068.115.

(e) *Owners manual.* Describe in the owners manual the emission-related warranty provisions from this section that apply to the engine.

[69 FR 39213, June 29, 2004, as amended at 70 FR 40463, July 13, 2005]

§ 1039.125 What maintenance instructions must I give to buyers?

Give the ultimate purchaser of each new nonroad engine written instructions for properly maintaining and using the engine, including the emission-control system. The maintenance instructions also apply to service accumulation on your emission-data engines, as described in § 1039.245 and in 40 CFR part 1065.

(a) *Critical emission-related maintenance.* Critical emission-related maintenance includes any adjustment, cleaning, repair, or replacement of critical emission-related components. This may also include additional emission-related maintenance that you determine is critical if we approve it in advance. You may schedule critical emission-related maintenance on these components if you meet the following conditions:

(1) You demonstrate that the maintenance is reasonably likely to be done at the recommended intervals on in-use engines. We will accept scheduled maintenance as reasonably likely to occur if you satisfy any of the following conditions:

(i) You present data showing that, if a lack of maintenance increases emissions, it also unacceptably degrades the engine's performance.

(ii) You present survey data showing that at least 80 percent of engines in the field get the maintenance you specify at the recommended intervals.

(iii) You provide the maintenance free of charge and clearly say so in maintenance instructions for the customer.

(iv) You otherwise show us that the maintenance is reasonably likely to be done at the recommended intervals.

(2) For engines below 130 kW, you may not schedule critical emission-related maintenance more frequently than the following minimum intervals,