

your certification is limited for certain engines. If this is the case, describe how you will prevent use of these engines in applications for which they are not certified. This applies for engines such as the following:

- (1) Constant-speed engines.
- (2) Engines used for transportation refrigeration units that you certify under the provisions of § 1039.645.
- (3) Hand-startable engines certified under the provisions of § 1039.101(c).
- (4) Engines above 560 KW that are not certified to emission standards for generator-set engines.
- (w) Unconditionally certify that all the engines in the engine family comply with the requirements of this part, other referenced parts of the CFR, and the Clean Air Act.
- (x) Include good-faith estimates of U.S.-directed production volumes. Include a justification for the estimated production volumes if they are substantially different than actual production volumes in earlier years for similar models.
- (y) Include the information required by other subparts of this part. For example, include the information required by § 1039.725 if you participate in the ABT program.
- (z) Include other applicable information, such as information specified in this part or 40 CFR part 1068 related to requests for exemptions.
- (aa) Name an agent for service located in the United States. Service on this agent constitutes service on you or any of your officers or employees for any action by EPA or otherwise by the United States related to the requirements of this part.

[69 FR 39213, June 29, 2004, as amended at 71 FR 39185, July 11, 2006; 72 FR 53131, Sept. 18, 2007]

§ 1039.210 May I get preliminary approval before I complete my application?

If you send us information before you finish the application, we will review it and make any appropriate determinations, especially for questions related to engine family definitions, auxiliary emission-control devices, deterioration factors, testing for service accumulation, maintenance, and NTE deficiencies and carve-outs. Decisions

made under this section are considered to be preliminary approval, subject to final review and approval. We will generally not reverse a decision where we have given you preliminary approval, unless we find new information supporting a different decision. If you request preliminary approval related to the upcoming model year or the model year after that, we will make best-efforts to make the appropriate determinations as soon as practicable. We will generally not provide preliminary approval related to a future model year more than two years ahead of time.

[72 FR 53131, Sept. 18, 2007]

§ 1039.220 How do I amend the maintenance instructions in my application?

You may amend your emission-related maintenance instructions after you submit your application for certification, as long as the amended instructions remain consistent with the provisions of § 1039.125. You must send the Designated Compliance Officer a request to amend your application for certification for an engine family if you want to change the emission-related maintenance instructions in a way that could affect emissions. In your request, describe the proposed changes to the maintenance instructions. We will disapprove your request if we determine that the amended instructions are inconsistent with maintenance you performed on emission-data engines.

(a) If you are decreasing the specified maintenance, you may distribute the new maintenance instructions to your customers 30 days after we receive your request, unless we disapprove your request. We may approve a shorter time or waive this requirement.

(b) If your requested change would not decrease the specified maintenance, you may distribute the new maintenance instructions anytime after you send your request. For example, this paragraph (b) would cover adding instructions to increase the frequency of a maintenance step for engines in severe-duty applications.

(c) You need not request approval if you are making only minor corrections

(such as correcting typographical mistakes), clarifying your maintenance instructions, or changing instructions for maintenance unrelated to emission control.

§ 1039.225 How do I amend my application for certification to include new or modified engines or to change an FEL?

Before we issue you a certificate of conformity, you may amend your application to include new or modified engine configurations, subject to the provisions of this section. After we have issued your certificate of conformity, you may send us an amended application requesting that we include new or modified engine configurations within the scope of the certificate, subject to the provisions of this section. You must amend your application if any changes occur with respect to any information included in your application.

(a) You must amend your application before you take any of the following actions:

(1) Add an engine configuration to an engine family. In this case, the engine configuration added must be consistent with other engine configurations in the engine family with respect to the criteria listed in §1039.230.

(2) Change an engine configuration already included in an engine family in a way that may affect emissions, or change any of the components you described in your application for certification. This includes production and design changes that may affect emissions any time during the engine's lifetime.

(3) Modify an FEL for an engine family as described in paragraph (f) of this section.

(b) To amend your application for certification, send the Designated Compliance Officer the following information:

(1) Describe in detail the addition or change in the engine model or configuration you intend to make.

(2) Include engineering evaluations or data showing that the amended engine family complies with all applicable requirements. You may do this by showing that the original emission-data engine is still appropriate with respect to

showing compliance of the amended family with all applicable requirements.

(3) If the original emission-data engine for the engine family is not appropriate to show compliance for the new or modified engine configuration, include new test data showing that the new or modified engine configuration meets the requirements of this part.

(c) We may ask for more test data or engineering evaluations. You must give us these within 30 days after we request them.

(d) For engine families already covered by a certificate of conformity, we will determine whether the existing certificate of conformity covers your newly added or modified engine. You may ask for a hearing if we deny your request (see §1039.820).

(e) For engine families already covered by a certificate of conformity, you may start producing the new or modified engine configuration anytime after you send us your amended application and before we make a decision under paragraph (d) of this section. However, if we determine that the affected engines do not meet applicable requirements, we will notify you to cease production of the engines and may require you to recall the engines at no expense to the owner. Choosing to produce engines under this paragraph (e) is deemed to be consent to recall all engines that we determine do not meet applicable emission standards or other requirements and to remedy the non-conformity at no expense to the owner. If you do not provide information required under paragraph (c) of this section within 30 days, you must stop producing the new or modified engines.

(f) You may ask to change your FEL in the following cases:

(1) You may ask to raise your FEL after the start of production. You may not apply the higher FEL to engines you have already introduced into commerce. Use the appropriate FELs with corresponding sales volumes to calculate your average emission level, as described in subpart H of this part. In your request, you must demonstrate that you will still be able to comply with the applicable average emission standards as specified in subparts B and H of this part.