

§ 1068.25

(2) Inspect and monitor any aspect of engine test procedures or test-related activities, including test engine selection, preparation, service accumulation, emission duty cycles, and maintenance and verification of your test equipment's calibration.

(3) Inspect and copy records or documents related to assembling, storing, selecting, and testing an engine.

(4) Inspect and photograph any part or aspect of engines and components you use for assembly.

(e) You must give us reasonable help without charge during an inspection authorized by the Act. For example, you may need to help us arrange an inspection with the facility's managers, including clerical support, copying, and translation. You may also need to show us how the facility operates and answer other questions. If we ask in writing to see a particular employee at the inspection, you must ensure that he or she is present (legal counsel may accompany the employee).

(f) If you have facilities in other countries, we expect you to locate them in places where local law does not keep us from inspecting as described in this section. We will not try to inspect if we learn that local law prohibits it, but we may suspend your certificate if we are not allowed to inspect.

§ 1068.25 What information must I give to EPA?

If you are subject to the requirements of this part, we may require you to give us information to evaluate your compliance with any regulations that apply, as authorized by the Act. This includes the following things:

(a) You must provide the information we require in this chapter.

(b) You must establish and maintain records, perform tests, make reports and provide additional information that we may reasonably require under section 208 of the Act (42 U.S.C. 7542). This also applies to engines we exempt from emission standards or prohibited acts.

[69 FR 39264, June 29, 2004]

§ 1068.27 May EPA conduct testing with my production engines?

If we request it, you must make a reasonable number of production-line

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engines available for a reasonable time so we can test or inspect them for compliance with the requirements of this chapter.

[69 FR 39264, June 29, 2004]

§ 1068.30 What definitions apply to this part?

The following definitions apply to this part. The definitions apply to all subparts unless we note otherwise. All undefined terms have the meaning the Act gives to them. The definitions follow:

Act means the Clean Air Act, as amended, 42 U.S.C. 7401-7671q.

Aftertreatment means relating to a catalytic converter, particulate filter, or any other system, component, or technology mounted downstream of the exhaust valve (or exhaust port) whose design function is to reduce emissions in the engine exhaust before it is exhausted to the environment. Exhaust-gas recirculation (EGR) is not aftertreatment.

Aircraft means any vehicle capable of sustained air travel above treetop heights.

Certificate holder means a manufacturer (including importers) with a currently valid certificate of conformity for at least one engine family in a given model year.

Days means calendar days, including weekends and holidays.

Defeat device means has the meaning given in the standard-setting part.

Designated Officer means the Manager of the Engine Programs Group (6405-J), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., Washington, DC 20460.

Emission-related defect means a defect in design, materials, or workmanship (in an emission-control device or vehicle component or system) that affects an emission-related component, parameter, or specification that is identified in Appendix I or Appendix II of this part. Using an incorrect emission-related component is an emission-related defect.

Engine means an engine to which this part applies. For equipment subject to this part and regulated under equipment-based standards, the term engine in this part shall be interpreted to include equipment.

Engine-based means having emission standards in units of grams of pollutant per kilowatt-hour, and which apply to the engine. Emission standards are either engine-based or equipment-based.

Engine manufacturer means the manufacturer that is subject to the certification requirements of the standard-setting part. For vehicles and equipment subject to this part and regulated under vehicle-based or equipment-based standards, the term engine manufacturer in this part includes vehicle and equipment manufacturers.

Equipment means any vehicle, vessel, or other type of equipment that is subject to the requirements of this part, or that uses an engine that is subject to the requirements of this part.

Equipment-based means having emission standards that apply to the equipment in which an engine is used, without regard to how the emissions are measured. Where equipment-based standards apply, we require that the equipment be certified, rather than just the engine. Emission standards are either engine-based or equipment-based.

Equipment manufacturer means any company manufacturing a piece of equipment (such as a vehicle).

Exempted means relating to an engine that is not required to meet otherwise applicable standards. Exempted engines must conform to regulatory conditions specified for an exemption in this part 1068 or in the standard-setting part. Exempted engines are deemed to be "subject to" the standards of the standard-setting part, even though they are not required to comply with the otherwise applicable requirements. Engines exempted with respect to a certain tier of standards may be required to comply with an earlier tier of standards as a condition of the exemption; for example, engines exempted with respect to Tier 3 standards may be required to comply with Tier 1 or Tier 2 standards.

Good engineering judgment means judgments made consistent with generally accepted scientific and engineering principles and all available relevant information. See 40 CFR 1068.5 for the administrative process we use

to evaluate good engineering judgment.

Manufacturer has the meaning given in section 216(1) of the Act (42 U.S.C. 7550(1)). In general, this term includes any person who manufactures an engine or vehicle for sale in the United States or otherwise introduces a new engine or vehicle into commerce in the United States. This includes importers that import new engines or new equipment into the United States for resale. It also includes secondary engine manufacturers, as described in § 1068.255.

Motor vehicle has the meaning given in 40 CFR 85.1703(a).

New has the meaning we give it in the standard-setting part.

Nonroad engine means:

(1) Except as discussed in paragraph (2) of this definition, a nonroad engine is any internal combustion engine:

(i) In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers); or

(ii) In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

(iii) That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

(2) An internal combustion engine is not a nonroad engine if:

(i) The engine is used to propel a motor vehicle, an aircraft, or equipment used solely for competition, or is subject to standards promulgated under section 202 of the Act (42 U.S.C. 7521); or

(ii) The engine is regulated by a federal New Source Performance Standard promulgated under section 111 of the Act (42 U.S.C. 7411); or

(iii) The engine otherwise included in paragraph (1)(iii) of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. A location

is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (*i.e.*, at least two years) and that operates at that single location approximately three months (or more) each year. This paragraph (2)(iii) does not apply to an engine after the engine is removed from the location.

Operating hours means:

(1) For engine storage areas or facilities, times during which people other than custodians and security personnel are at work near, and can access, a storage area or facility.

(2) For other areas or facilities, times during which an assembly line operates or any of the following activities occurs:

(i) Testing, maintenance, or service accumulation.

(ii) Production or compilation of records.

(iii) Certification testing.

(iv) Translation of designs from the test stage to the production stage.

(v) Engine manufacture or assembly.

Piece of equipment means any vehicle, vessel, locomotive, aircraft, or other type of equipment using engines to which this part applies.

Placed into service means used for its intended purpose.

Reasonable technical basis means information that would lead a person familiar with engine design and function to reasonably believe a conclusion, related to compliance with the requirements of this part. For example, it would be reasonable to believe that parts performing the same function as the original parts (and to the same degree) would control emissions to the same degree as the original parts.

Revoke means to terminate the certificate or an exemption for an engine family. If we revoke a certificate or exemption, you must apply for a new cer-

tificate or exemption before continuing to introduce the affected engines into commerce. This does not apply to engines you no longer possess.

Standard-setting part means the part in the Code of Federal Regulations that defines emission standards for a particular engine (see §1068.1(a)). For example, the standard-setting part for non-recreational spark-ignition engines over 19 kW is part 1048 of this chapter.

Suspend means to temporarily discontinue the certificate or an exemption for an engine family. If we suspend a certificate, you may not introduce into commerce engines from that engine family unless we reinstate the certificate or approve a new one. If we suspend an exemption, you may not introduce into commerce engines that were previously covered by the exemption unless we reinstate the exemption.

Ultimate purchaser means the first person who in good faith purchases a new nonroad engine or new piece of equipment for purposes other than resale.

United States means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, and the U.S. Virgin Islands.

U.S.-directed production volume means the number of engine units, subject to the requirements of this part, produced by a manufacturer for which the manufacturer has a reasonable assurance that sale was or will be made to ultimate purchasers in the United States.

We (us, our) means the Administrator of the Environmental Protection Agency and any authorized representatives.

Void means to invalidate a certificate or an exemption ab initio. If we void a certificate, all the engines introduced into commerce under that engine family for that model year are considered noncompliant, and you are liable for each engine introduced into commerce under the certificate and may face civil or criminal penalties or both. This applies equally to all engines in the engine family, including engines introduced into commerce before we voided the certificate. If we void an exemption, all the engines introduced into commerce under that exemption are

considered uncertified (or nonconforming), and you are liable for each engine introduced into commerce under the exemption and may face civil or criminal penalties or both. You may not introduce into commerce any additional engines using the voided exemption.

[67 FR 68347, Nov. 8, 2002, as amended at 69 FR 39264, June 29, 2004; 70 FR 40511, July 13, 2005]

§ 1068.35 What symbols, acronyms, and abbreviations does this part use?

The following symbols, acronyms, and abbreviations apply to this part:

§ U.S. dollars.
CFR Code of Federal Regulations.
EPA Environmental Protection Agency.
U.S. United States.
U.S.C. United States Code.

Subpart B—Prohibited Actions and Related Requirements

§ 1068.101 What general actions does this regulation prohibit?

This section specifies actions that are prohibited and the maximum civil penalties that we can assess for each violation. The maximum penalty values listed in paragraphs (a) and (b) of this section are shown for calendar year 2004. As described in paragraph (e) of this section, maximum penalty limits for later years are set forth in 40 CFR part 19.

(a) The following prohibitions and requirements apply to manufacturers of new engines and manufacturers of equipment containing these engines, except as described in subparts C and D of this part:

(1) *Introduction into commerce.* You may not sell, offer for sale, or introduce or deliver into commerce in the United States or import into the United States any new engine or equipment after emission standards take effect for that engine or equipment, unless it has a valid certificate of conformity for its model year and the required label or tag. You also may not take any of the actions listed in the previous sentence with respect to any equipment containing an engine subject to this part's provisions, unless the engine has a valid and appropriate certificate of conformity and the re-

quired engine label or tag. For purposes of this paragraph (a)(1), an appropriate certificate of conformity is one that applies for the same model year as the model year of the equipment (except as allowed by §1068.105(a)), covers the appropriate category of engines (such as locomotive or CI marine), and conforms to all requirements specified for equipment in the standard-setting part. The requirements of this paragraph (a)(1) also cover new engines you produce to replace an older engine in a piece of equipment, unless the engine qualifies for the replacement-engine exemption in §1068.240. We may assess a civil penalty up to \$32,500 for each engine in violation.

(2) *Reporting and recordkeeping.* This chapter requires you to record certain types of information to show that you meet our standards. You must comply with these requirements to make and maintain required records (including those described in §1068.501). You may not deny us access to your records or the ability to copy your records if we have the authority to see or copy them. Also, you must give us the required reports or information without delay. Failure to comply with the requirements of this paragraph is prohibited. We may assess a civil penalty up to \$32,500 for each day you are in violation.

(3) *Testing and access to facilities.* You may not keep us from entering your facility to test engines or inspect if we are authorized to do so. Also, you must perform the tests we require (or have the tests done for you). Failure to perform this testing is prohibited. We may assess a civil penalty up to \$32,500 for each day you are in violation.

(b) The following prohibitions apply to everyone with respect to the engines to which this part applies:

(1) *Tampering.* You may not remove or disable a device or element of design that may affect an engine's emission levels. This restriction applies before and after the engine is placed in service. Section 1068.120 describes how this applies to rebuilding engines. For a manufacturer or dealer, we may assess a civil penalty up to \$32,500 for each engine in violation. For anyone else, we may assess a civil penalty up to \$2,750