

Environmental Protection Agency

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the original ones, we will answer within ten days after we receive your information.

(i) *Retesting after invalid tests.* You may retest an engine if you determine an emission test is invalid. Explain in your written report reasons for invalidating any test and the emission results from all tests. If you retest an engine and, within ten days after testing, ask to substitute results of the new tests for the original ones, we will answer within ten days after we receive your information.

(j) *Retesting after reaching a fail decision.* You may retest your engines once a fail decision for the audit has been reached based on the first test on each engine under § 1068.420(c). You may test each engine up to a total of three times, but you must perform the same number of tests on each engine. You may further operate the engine to stabilize emission levels before testing, subject to the provisions of paragraph (f) of this section. We may approve retesting at other times if you send us a request with satisfactory justification.

[67 FR 68347, Nov. 8, 2002, as amended at 69 FR 39270, June 29, 2004; 70 FR 40516, July 13, 2005]

§ 1068.415 How do I test my engines?

(a) Use the test procedures specified in the standard-setting part for showing that your engines meet emission standards. The test order will give further testing instructions.

(b) If no test cells are available at a given facility, you may make alternate testing arrangements with our approval.

(c) Test at least two engines in each 24-hour period (including void tests). However, if your projected U.S. nonroad engine sales within the engine family are less than 7,500 for the year, you may test a minimum of one engine per 24-hour period. If you request and justify it, we may approve a lower testing rate.

(d) Accumulate service on test engines at a minimum rate of 6 hours per engine during each 24-hour period. The first 24-hour period for service accumulation begins when you finish preparing an engine for testing. The minimum service accumulation rate does not apply on weekends or holidays. You

may ask us to approve a lower service accumulation rate. Plan your service accumulation to allow testing at the rate specified in paragraph (c) of this section. Select engine operation for accumulating operating hours on your test engines to represent normal in-use engine operation for the engine family.

(e) Test engines in the same order you select them.

[67 FR 68347, Nov. 8, 2002, as amended at 69 FR 39270, June 29, 2004]

§ 1068.420 How do I know when my engine family fails an SEA?

(a) A failed engine is one whose final deteriorated test results exceed an applicable emission standard for any regulated pollutant.

(b) Continue testing engines until you reach a pass decision for all pollutants or a fail decision for one pollutant.

(c) You reach a pass decision for the SEA requirements when the number of failed engines is less than or equal to the pass decision number in Appendix A to this subpart for the total number of engines tested. You reach a fail decision for the SEA requirements when the number of failed engines is greater than or equal to the fail decision number in Appendix A to this subpart for the total number of engines you test. An acceptable quality level of 40 percent is the basis for the pass or fail decision.

(d) Consider test results in the same order as the engine testing sequence.

(e) If you reach a pass decision for one pollutant, but need to continue testing for another pollutant, we will disregard these later test results for the pollutant with the pass decision.

(f) Appendix A to this subpart lists multiple sampling plans. Use the sampling plan for the projected sales volume you reported in your application for the audited engine family.

(g) We may choose to stop testing after any number of tests.

(h) If we test some of your engines in addition to your own testing, we may decide not to include your test results as official data for those engines if there is substantial disagreement between your testing and our testing. We will reinstate your data as valid if you

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show us that we made an error and your data are correct.

(i) If we rely on our test data instead of yours, we will notify you in writing of our decision and the reasons we believe your facility is not appropriate for doing the tests we require under this subpart. You may request in writing that we consider your test results from the same facility for future testing if you show us that you have made changes to resolve the problem.

§ 1068.425 What happens if one of my production-line engines exceeds the emission standards?

(a) If one of your production-line engines fails to meet one or more emission standards (see § 1068.420), the certificate of conformity is automatically suspended for that engine. You must take the following actions before your certificate of conformity can cover that engine:

(1) Correct the problem and retest the engine to show it complies with all emission standards.

(2) Include in your written report a description of the test results and the remedy for each engine (see § 1068.450).

(b) You may at any time ask for a hearing to determine whether the tests and sampling methods were proper (see subpart G of this part).

§ 1068.430 What happens if an engine family fails an SEA?

(a) We may suspend your certificate of conformity for an engine family if it fails the SEA under § 1068.420. The suspension may apply to all facilities producing engines from an engine family, even if you find noncompliant engines only at one facility.

(b) We will tell you in writing if we suspend your certificate in whole or in part. We will not suspend a certificate until at least 15 days after the engine family fails the SEA. The suspension is effective when you receive our notice.

(c) Up to 15 days after we suspend the certificate for an engine family, you may ask for a hearing to determine whether the tests and sampling methods were proper (see subpart G of this part). If we agree before a hearing that we used erroneous information in deciding to suspend the certificate, we will reinstate the certificate.

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§ 1068.435 May I sell engines from an engine family with a suspended certificate of conformity?

You may sell engines that you produce after we suspend the engine family's certificate of conformity only if one of the following occurs:

(a) You test each engine you produce and show it complies with emission standards that apply.

(b) We conditionally reinstate the certificate for the engine family. We may do so if you agree to recall all the affected engines and remedy any non-compliance at no expense to the owner if later testing shows that engines in the engine family still do not comply.

§ 1068.440 How do I ask EPA to reinstate my suspended certificate?

(a) Send us a written report asking us to reinstate your suspended certificate. In your report, identify the reason for the SEA failure, propose a remedy, and commit to a date for carrying it out. In your proposed remedy include any quality control measures you propose to keep the problem from happening again.

(b) Give us data from production-line testing showing that engines in the remedied engine family comply with all the emission standards that apply.

§ 1068.445 When may EPA revoke my certificate under this subpart and how may I sell these engines again?

(a) We may revoke your certificate for an engine family in the following cases:

(1) You do not meet the reporting requirements under this subpart.

(2) Your engine family fails an SEA and your proposed remedy to address a suspended certificate is inadequate to solve the problem or requires you to change the engine's design or emission-control system.

(b) To sell engines from an engine family with a revoked certificate of conformity, you must modify the engine family and then show it complies with the applicable requirements.

(1) If we determine your proposed design change may not control emissions for the engine's full useful life, we will tell you within five working days after receiving your report. In this case we will decide whether production-line