

§ 1068.5

40 CFR Ch. I (7-1-08 Edition)

part 1051 (such as snowmobiles and off-highway motorcycles).

(3) Land-based nonroad diesel engines that we regulate under 40 CFR part 1039.

(4) Stationary compression-ignition engines certified to the provisions of 40 CFR part 1039, as indicated under 40 CFR part 60, subpart IIII.

(5) Stationary spark-ignition engines certified using provisions in 40 CFR part 1048, as indicated under 40 CFR part 60, subpart JJJJ.

(b) This part does not apply to any of the following engine or vehicle categories:

(1) Light-duty motor vehicles (see 40 CFR part 86).

(2) Heavy-duty motor vehicles and motor vehicle engines (see 40 CFR part 86).

(3) Aircraft engines (see 40 CFR part 87).

(4) Locomotive engines (see 40 CFR part 92).

(5) Land-based nonroad diesel engines that we regulate under 40 CFR part 89.

(6) Marine diesel engines (see 40 CFR parts 89 and 94)

(7) Marine outboard and personal watercraft engines (see 40 CFR part 91).

(8) Small nonroad spark-ignition engines (see 40 CFR part 90).

(c) For equipment subject to this part and regulated under equipment-based standards, interpret the term "engine" in this part to include equipment (see §1068.30).

(d) Paragraph (a)(1) of this section identifies the parts of the CFR that define emission standards and other requirements for particular types of engines and vehicles. This part 1068 refers to each of these other parts generically as the "standard-setting part." For example, 40 CFR part 1051 is always the standard-setting part for snowmobiles. Follow the provisions of the standard-setting part if they are different than any of the provisions in this part.

(e)(1) The provisions of §§1068.30, 1068.310, and 1068.320 apply for stationary spark-ignition engines built on or after January 1, 2004, and for stationary compression-ignition engines built on or after January 1, 2006.

(2) The provisions of §§1068.30 and 1068.235 apply for the types of engines listed in paragraph (a) of this section

beginning January 1, 2004, where they are used solely for competition.

[69 FR 39263, June 29, 2004, as amended at 71 FR 39185, July 11, 2006; 73 FR 3613, Jan. 18, 2008]

EFFECTIVE DATE NOTE: At 73 FR 37349, June 30, 2008, §1068.1 was amended by adding paragraphs (a)(6), and (a)(7), and revising paragraphs (b)(4) and (b)(6), effective July 7, 2008. For the convenience of the user, the added and revised text is set forth as follows:

§ 1068.1 Does this part apply to me?

(a) * * *

(6) Locomotives and locomotive engines we regulate under 40 CFR part 1033.

(7) Marine compression-ignition engines we regulate under 40 CFR part 1042.

(b) * * *

(4) Locomotives and locomotive engines we regulate under 40 CFR part 92.

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(6) Marine diesel engines we regulate under 40 CFR part 89 or 94.

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§ 1068.5 How must manufacturers apply good engineering judgment?

(a) You must use good engineering judgment for decisions related to any requirements under this chapter. This includes your applications for certification, any testing you do to show that your certification, production-line, and in-use engines comply with requirements that apply to them, and how you select, categorize, determine, and apply these requirements.

(b) If we send you a written request, you must give us a written description of the engineering judgment in question. Respond within 15 working days of receiving our request unless we allow more time.

(c) We may reject your decision if it is not based on good engineering judgment or is otherwise inconsistent with the requirements that apply, based on the following provisions:

(1) We may suspend, revoke, or void a certificate of conformity if we determine you deliberately used incorrect information or overlooked important information, that you did not decide in good faith, or that your decision was not rational.

(2) If we believe a different decision would better reflect good engineering

judgment, but none of the provisions of paragraph (c)(1) of this section apply, we will tell you of our concern (and its basis). You will have 30 days to respond to our concerns, or more time if we agree that you need it to generate more information. After considering your information, we will give you a final ruling. If we conclude that you did not use good engineering judgment, we may reject your decision and apply the new ruling to similar situations as soon as possible.

(d) We will tell you in writing of the conclusions we reach under paragraph (c) of this section and explain our reasons for them.

(e) If you disagree with our conclusions, you may file a request for a hearing with the Designated Officer as described in subpart G of this part. In your request, specify your objections, include data or supporting analysis, and get your authorized representative's signature. If we agree that your request raises a substantial factual issue, we will hold the hearing according to subpart F of this part.

[69 FR 39263, June 29, 2004]

§ 1068.10 What provisions apply to confidential information?

(a) Clearly show what you consider confidential by marking, circling, bracketing, stamping, or some other method.

(b) We will store your confidential information as described in 40 CFR part 2. Also, we will disclose it only as specified in 40 CFR part 2. This applies both to any information you send us and to any information we collect from inspections, audits, or other site visits.

(c) If you send us a second copy without the confidential information, we will assume it contains nothing confidential whenever we need to release information from it.

(d) If you send us information without claiming it is confidential, we may make it available to the public without further notice to you, as described in 40 CFR 2.204.

[70 FR 40511, July 13, 2005]

§ 1068.15 Who is authorized to represent the Agency?

(a) The Administrator of the Environmental Protection Agency or any official to whom the Administrator has delegated specific authority may represent the Agency. For more information, ask for a copy of the relevant sections of the EPA Delegation Manual from the Designated Officer.

(b) The regulations in this part and in the standard-setting part have specific requirements describing how to get EPA approval before you take specific actions. These regulations also allow us to waive some specific requirements. For provisions or flexibilities that we address frequently, we may choose to provide detailed guidance in supplemental compliance instructions for manufacturers. Such instructions will generally state how they relate to the need for pre-approval. Unless we explicitly state so, you should not consider full compliance with the instructions to be equivalent to EPA approval.

§ 1068.20 May EPA enter my facilities for inspections?

(a) We may inspect your engines, testing, manufacturing processes, engine storage facilities (including port facilities for imported engines or other relevant facilities), or records, as authorized by the Act, to enforce the provisions of this chapter. Inspectors will have authorizing credentials and will limit inspections to reasonable times—usually, normal operating hours.

(b) If we come to inspect, we may or may not have a warrant or court order.

(1) If we do not have a warrant or court order, you may deny us entry.

(2) If we have a warrant or court order, you must allow us to enter the facility and carry out the activities it describes.

(c) We may seek a warrant or court order authorizing an inspection described in this section, whether or not we first tried to get your permission to inspect.

(d) We may select any facility to do any of the following:

(1) Inspect and monitor any aspect of engine manufacturing, assembly, storage, or other procedures, and any facilities where you do them.