

(b) For Category 1 and Category 2 engines, if a production-line engine fails to meet emission standards and you test two additional engines as described in §1042.310, calculate the average emission level for each pollutant for the three engines. If the calculated average emission level for any pollutant exceeds the applicable emission standard, the engine family fails the production-line testing requirements of this subpart. Tell us within ten working days if this happens. You may request to amend the application for certification to raise the FEL of the engine family as described in §1042.225(f).

[73 37243, June 30, 2008, as amended at 75 FR 23004, Apr. 30, 2010]

§ 1042.320 What happens if one of my production-line engines fails to meet emission standards?

(a) If you have a production-line engine with final deteriorated test results exceeding one or more emission standards (see §1042.315(a)), the certificate of conformity is automatically suspended for that failing 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 the test results and describe the remedy for each engine in the written report required under §1042.345.

(b) You may request to amend the application for certification to raise the FEL of the entire engine family at this point (see §1042.225).

(c) For catalyst-equipped engines, you may ask us to allow you to exclude an initial failed test if all of the following are true:

(1) The catalyst was in a green condition when tested initially.

(2) The engine met all emission standards when retested after degreening the catalyst.

(3) No additional emission-related maintenance or repair was performed between the initial failed test and the subsequent passing test.

[73 37243, June 30, 2008, as amended at 75 FR 23004, Apr. 30, 2010]

§ 1042.325 What happens if an engine family fails the production-line testing requirements?

(a) We may suspend your certificate of conformity for an engine family if it fails under §1042.315. 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 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 (see §1042.920). If we agree before a hearing occurs that we used erroneous information in deciding to suspend the certificate, we will reinstate the certificate.

(d) Section 1042.335 specifies steps you must take to remedy the cause of the engine family's production-line failure. All the engines you have produced since the end of the last test period are presumed noncompliant and should be addressed in your proposed remedy. We may require you to apply the remedy to engines produced earlier if we determine that the cause of the failure is likely to have affected the earlier engines.

(e) You may request to amend the application for certification to raise the FEL of the entire engine family before or after we suspend your certificate as described in §1042.225(f). We will approve your request if the failure is not caused by a defect and it is clear that you used good engineering judgment in establishing the original FEL.

[73 37243, June 30, 2008, as amended at 75 FR 23004, Apr. 30, 2010]

§ 1042.330 Selling 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 under §1042.315 only if one of the following occurs:

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