

## § 1051.320

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(f) After each test, compare the current CumSum statistic,  $C_i$ , to the recalculated Action Limit,  $H$ , defined as  $H = 5.0 \times \sigma$ .

(g) If the CumSum statistic exceeds the Action Limit in two consecutive tests, 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 §1051.225(f).

(h) If you amend the application for certification for an engine family under §1051.225, do not change any previous calculations of sample size or CumSum statistics for the model year.

[67 FR 68347, Nov. 8, 2002, as amended at 70 FR 40499, July 13, 2005; 73 FR 59252, Oct. 8, 2008]

### § 1051.320 What happens if one of my production-line vehicles or engines fails to meet emission standards?

(a) If you have a production-line vehicle or engine with final deteriorated test results exceeding one or more emission standards (see §1051.315(a)), the certificate of conformity is automatically suspended for that failing vehicle or engine. You must take the following actions before your certificate of conformity can cover that vehicle or engine:

(1) Correct the problem and retest the vehicle or 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 §1051.345.

(b) You may request to amend the application for certification to raise the FEL of the entire engine family at this point (see §1051.225).

[67 FR 68347, Nov. 8, 2002, as amended at 73 FR 59252, Oct. 8, 2008]

### § 1051.325 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 §1051.315. The suspension may apply to all facilities producing vehicles or engines from an engine family, even if you find noncompliant vehicles or 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 §1051.820). 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 1051.335 specifies steps you must take to remedy the cause of the engine family's production-line failure. All the vehicles 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 engine family before or after we suspend your certificate as described in §1051.225(f). We will approve your request if it is clear that you used good engineering judgment in establishing the original FEL.

[67 FR 68347, Nov. 8, 2002, as amended at 70 FR 40499, July 13, 2005; 73 FR 59252, Oct. 8, 2008]

### § 1051.330 May I sell vehicles from an engine family with a suspended certificate of conformity?

You may sell vehicles that you produce after we suspend the engine family's certificate of conformity under §1051.315 only if one of the following occurs:

(a) You test each vehicle or 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 vehicles and remedy any non-compliance at no expense to the owner if later testing shows that the engine family still does not comply.