

**§ 1054.635 What special provisions apply for small-volume engine and equipment manufacturers?**

This section describes how we apply the special provisions in this part for small-volume engine and equipment manufacturers.

(a) If you qualify under paragraph (1) or (2) of the definition of small-volume engine manufacturer or under paragraph (1) or (2) of the definition of small-volume equipment manufacturer in §1054.801, the small-volume provisions apply as specified in this part.

(b) If you are a small business (as defined by the Small Business Administration at 13 CFR 121.201) that manufactures nonroad spark-ignition engines or equipment, but you do not qualify under paragraph (1) or (2) of the definition of small-volume engine manufacturer or under paragraph (1) or (2) of the definition of small-volume equipment manufacturer in §1054.801, you may ask us to designate you to be a small-volume engine or equipment manufacturer. You may do this whether you began manufacturing engines before, during, or after 2007. We may set other reasonable conditions that are consistent with the intent of this section and the Clean Air Act.

(c) Special provisions apply for small-volume engine and equipment manufacturers, as illustrated by the following examples:

(1) Additional lead time and other provisions related to the transition to new emission standards. See §1054.145.

(2) More flexible arrangements for creating engine families. See §1054.230.

(3) Assigned deterioration factors. See §1054.240.

(4) Waived requirements for production-line testing. See §1054.301.

(5) Streamlined certification provisions for equipment manufacturers relying on engine manufacturer's design parameters. See §1054.612.

(6) Additional allowances under the Transition Program for Equipment Manufacturers. See §1054.625.

(7) Additional special provisions apply for small-volume engine and equipment manufacturers under 40 CFR part 1068. For example, see 40 CFR 1068.250.

(d) Small-volume engine and equipment manufacturers may ask us to

waive or modify the requirements of §1054.690 if this would cause a serious economic hardship, as long as you demonstrate to us in some other way that you will meet any potential compliance-or enforcement-related obligations. In evaluating such a request, we would consider the extent to which there is a risk of noncompliance or nonconformity and the extent to which the manufacturer could be expected to fulfill future regulatory obligations and administrative judgments. We may also consider how many years the manufacturer has certified engines without a violation or a finding of noncompliance to determine whether to adjust applicable asset thresholds or to reduce the minimum bond value. We may set other reasonable conditions to ensure that the manufacturer will meet applicable requirements.

(e) If you use any of the provisions of this part that apply specifically to small-volume manufacturers and we find that you exceed the production limits or otherwise do not qualify as a small-volume manufacturer, we may consider you to be in violation of the requirements that apply for companies that are not small-volume manufacturers for those engines produced in excess of the specified production limits. If you no longer qualify as a small-volume engine manufacturer (based on increased production volumes or other factors), we will work with you to determine a reasonable schedule for complying with additional requirements that apply. For example, if you no longer qualify as a small-volume engine manufacturer shortly before you certify your engines for the next model year, we might allow you to use assigned deterioration factors for one more model year.

**§ 1054.640 What special provisions apply to branded engines?**

The following provisions apply if you identify the name and trademark of another company instead of your own on your emission control information label, as provided by §1054.135(c)(2):

(a) You must have a contractual agreement with the other company that obligates that company to take the following steps:

## § 1054.645

(1) Meet the emission warranty requirements that apply under §1054.120. This may involve a separate agreement involving reimbursement of warranty-related expenses.

(2) Report all warranty-related information to the certificate holder.

(b) In your application for certification, identify the company whose trademark you will use.

(c) You remain responsible for meeting all the requirements of this chapter, including warranty and defect-reporting provisions.

### **§ 1054.645 What special provisions apply for converting an engine to use an alternate fuel?**

A certificate of conformity is no longer valid for an engine if the engine is modified such that it is not in a configuration covered by the certificate. This section applies if such modifications are done to convert the engine to run on a different fuel type. Such engines may need to be recertified as specified in this section if the certificate is no longer valid for that engine.

(a) Converting a certified new engine to run on a different fuel type violates 40 CFR 1068.101(a)(1) if the modified engine is not covered by a certificate of conformity.

(b) Converting a certified engine that is not new to run on a different fuel type violates 40 CFR 1068.101(b)(1) if the modified engine is not covered by a certificate of conformity. We may specify alternate certification provisions consistent with the requirements of this part. For example, you may certify the modified engine for a partial useful life. For example, if the engine is modified halfway through its original useful life period, you may generally certify the engine based on completing the original useful life period; or if the engine is modified after the original useful life period is past, you may generally certify the engine based on testing that does not involve further durability demonstration.

(c) Engines may be certified using the certification procedures for new engines as specified in this part or using the certification procedures for aftermarket parts as specified in 40 CFR part 85, subpart V. Unless the original engine manufacturer con-

## 40 CFR Ch. I (7–1–10 Edition)

tinues to be responsible for the engine as specified in paragraph (d) of this section, you must remove the original engine manufacturer's emission control information label if you recertify the engine.

(d) The original engine manufacturer is not responsible for operation of modified engines in configurations resulting from modifications performed by others. In cases where the modification allows an engine to be operated in either its original configuration or a modified configuration, the original engine manufacturer remains responsible for operation of the modified engine in its original configuration.

(e) Entities producing conversion kits may obtain certificates of conformity for the converted engines. Such entities are engine manufacturers for purposes of this part.

### **§ 1054.650 What special provisions apply for adding or changing governors?**

The special provisions in this section apply for engines that will not be governed to control engine speeds consistent with the constant-speed operation reflected by the duty cycles specified in §1054.505. We refer to these as constant-speed governors in this section. Paragraph (a) of this section also applies for any engines shipped without installed governors.

(a) The representative-testing requirements of 40 CFR 1065.10(c)(1) related to in-use duty cycles do not apply to engines you produce and ship without constant-speed governors if you comply with all the following requirements:

(1) You must have test data showing that the effectiveness of the engine's emission controls over the expected range of in-use operation will be similar to that measured over the specified duty cycle. Alternatively, if your emission controls depend on maintaining a consistent air-fuel ratio, you may demonstrate that the engine is calibrated to maintain a consistent air-fuel ratio over the expected range of in-use operation.

(2) Describe in your application for certification the data and analysis that supports your conclusion.