Environmental Protection Agency

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year no more than one year earlier than the calendar year in which they are imported. For example, a new engine identified as a 2007 model-year product that is imported on January 31, 2010 will be treated as a 2009 model-year engine; the same engine will be treated as a 2010 model-year engine if it is imported any time in calendar year 2011.

(c) If you claim that an engine or piece of equipment is not subject to standards—or is subject to standards less stringent than those currently in place—based on its original manufacture date because it has already been placed into service, you must provide clear and convincing evidence that it has already been placed into service. Such evidence must generally include, but not be limited to, documentary evidence of purchase and maintenance history and visible wear that is consistent with the reported manufacture date. Importing products for resale or importing more than one engine or piece of equipment at a time would generally require a greater degree of evidence under this paragraph (c). If you do not satisfactorily demonstrate that the engine or equipment has already been placed into service, the provisions of paragraph (b) of this section apply.

(d) Nothing in this section should be interpreted to allow circumvention of the requirements of this part by misstating or mis-labeling the model year of engines or equipment. For example, this section does not permit engines imported in the same year that they are manufactured to be treated as an engine manufactured in the previous year. To verify compliance with the provisions of this section, we may require you to verify the original manufacture date of the engine or equipment based on manufacturing records, title-transfer documents, service records, or other documentation.

(e) If all the current emission control requirements are the same as in the named model year, the provisions of this section do not apply.

Subpart E—Selective Enforcement Auditing

§ 1068.401 What is a selective enforcement audit?

(a) We may conduct or require you to conduct emission tests on your production engines/equipment in a selective enforcement audit. This requirement is independent of any requirement for you to routinely test production-line engines/equipment. For products subject to equipment-based standards, but tested using engine-based test procedures, this subpart applies to the engines and/or the equipment, as applicable. Otherwise this subpart applies to engines for products subject to engine-based standards and to equipment for products subject to equipment-based standards.

(b) If we send you a signed test order, you must follow its directions and the provisions of this subpart. We may tell you where to test the engines/equipment. This may be where you produce the engines/equipment or any other other emission testing facility.

(c) If we select one or more of your families for a selective enforcement audit, we will send the test order to the person who signed the application for certification or we will deliver it in person.

(d) If we do not select a testing facility, notify the Designated Compliance Officer within one working day of receiving the test order where you will test your engines/equipment.

(e) You must do everything we require in the audit without delay.

§ 1068.405 What is in a test order?

(a) In the test order, we will specify the following things:

(1) The family and configuration (if any) we have identified for testing.

(2) The engine/equipment assembly plant, storage facility, or (if you import the engines/equipment) port facility from which you must select engines/equipment.

(3) The procedure for selecting engines/equipment for testing, including a selection rate.

(4) The test procedures, duty cycles, and test points, as appropriate, for testing the engines/equipment to show that they meet emission standards.

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§ 1068.410 How must I select and prepare my engines/equipment?

(a) Selecting engines/equipment. Select engines/equipment as described in the test order. If you are unable to select test engines/equipment this way, you may ask us to approve an alternate plan as long as you make the request before you start selecting engines/equipment.

(b) Assembling engines/equipment. Produce and assemble test engines/equipment using your normal production and assembly process for that family.

(1) Notify us directly if you make any change in your production, assembly, or quality control processes that might affect emissions between the time you receive the test order and the time you finish selecting test engines/equipment.

(2) If you do not fully assemble engines/equipment at the specified location, we will describe in the test order how to select components to finish assembling the engines/equipment. Assemble these components onto the test engines/equipment using your documented assembly and quality control procedures.

(c) Modifying engines/equipment. Once an engine or piece of equipment is selected for testing, you may adjust, repair, prepare, or modify it or check its emissions only if one of the following is true:

(1) You document the need for doing so in your procedures for assembling and inspecting all your production engines/equipment and make the action routine for all the engines/equipment in the family.

(2) This subpart otherwise allows your action.

(3) We approve your action in advance.

(d) Engine/equipment malfunction. If an engine/equipment malfunction prevents further emission testing, ask us to approve your decision to either repair the engine or delete it from the test sequence.

(e) Setting adjustable parameters. Before any test, we may adjust or require you to adjust any adjustable parameter to any setting within its physically adjustable range.

(1) [Reserved]

(2) We may make or specify adjustments within the physically adjustable range by considering their effect on emission levels. We may also consider how likely it is that someone will make such an adjustment with in-use engines/equipment.

(f) Stabilizing emission levels. (1) Before you test production-line engines/equipment for exhaust emission, you may operate the engine/equipment to stabilize the exhaust emission levels. Using good engineering judgment, operate your engines/equipment in a way that represents the way production engines/equipment will be used. You may operate each engine or piece of equipment for no more than the greater of two periods:

(1) 50 hours.