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for steamships built on or before August 1, 2011 if they are powered by propulsion boilers that were not originally designed for continued operation on marine distillate fuel or natural gas.

(b) [Reserved]

[80 FR 9113, Feb. 19, 2015]

§ 1043.100 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Environmental Protection Agency must publish a document in the FEDERAL REGISTER and the material must be available to the public. All approved material is available for inspection at U.S. EPA, Air and Radiation Docket and Information Center, 1301 Constitution Ave. NW., Room B102, EPA West Building, Washington, DC 20460, (202) 202-1744, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) The International Maritime Organization, 4 Albert Embankment, London SE1 7SR, United Kingdom, or www.imo.org, or 44-(0)20-7735-7611.

(1) MARPOL Annex VI, Regulations for the Prevention of Air Pollution from Ships, Third Edition, 2013, and NO_x Technical Code 2008.

(i) Revised MARPOL Annex VI, Regulations for the Prevention of Pollution from Ships, Third Edition, 2013 (“2008 Annex VI”); IBR approved for §§1043.1 introductory text, 1043.20, 1043.30(f), 1043.60(c), and 1043.70(a).

(ii) NO_x Technical Code 2008, Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines, 2013 Edition, (“NO_x Technical Code”); IBR approved for §§1043.20, 1043.41(b) and (h), and 1043.70(a).

(iii) Annex 12, Resolution MEPC.251(66) from the Report of the Marine Environment Protection Committee on its Sixty-Sixth Session, April 25, 2014. This document describes

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new and revised provisions that are considered to be part of Annex VI and NO_x Technical Code 2008 as referenced in paragraphs (b)(1)(i) and (ii) of this section. IBR approved for §§1043.1 introductory text, 1043.20, 1043.30(f), 1043.41(b) and (h), 1043.60(c), and 1043.70(a).

(2) [Reserved]

[81 FR 74161, Oct. 25, 2016]

PART 1045—CONTROL OF EMISSIONS FROM SPARK-IGNITION PROPULSION MARINE ENGINES AND VESSELS

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APPENDIX II TO PART 1045—DUTY CYCLES FOR PROPULSION MARINE ENGINES

AUTHORITY: 42 U.S.C. 7401–7671q.

SOURCE: 73 FR 59194, Oct. 8, 2008, unless otherwise noted.

Subpart A—Overview and Applicability

§ 1045.1 Does this part apply to my products?

(a) Except as provided in § 1045.5, the regulations in this part 1045 apply as follows:

(1) The requirements of this part related to exhaust emissions apply to new, spark-ignition propulsion marine engines beginning with the 2010 model year.

(2) The requirements of this part related to evaporative emissions apply to fuel lines and fuel tanks used with marine engines that use a volatile liquid fuel (such as gasoline) as specified in 40 CFR part 1045.112. This includes fuel lines and fuel tanks used with auxiliary marine engines. This also includes portable marine fuel tanks and associated fuel lines.

(b) We specify optional standards for certifying sterndrive/inboard engines before the 2010 model year in § 1045.145(a). Engines certified to these standards are subject to all the requirements of this part as if these optional standards were mandatory.

(c) See 40 CFR part 91 for requirements that apply to outboard and personal watercraft engines not yet subject to the requirements of this part 1045.

(d) The provisions of §§ 1045.620 and 1045.801 apply for new engines used solely for competition beginning January 1, 2010.

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§ 1045.2 Who is responsible for compliance?

The requirements and prohibitions of this part apply to manufacturers of engines and fuel-system components as described in § 1045.1. The requirements of this part are generally addressed to manufacturers subject to this part's requirements. The term “you” generally means the certifying manufacturer. For provisions related to exhaust emissions, this generally means the engine manufacturer, especially for issues related to certification (including production-line testing, reporting, etc.). For provisions related to certification with respect to evaporative emissions, this generally means the vessel manufacturer. Vessel manufacturers must meet applicable requirements as described in § 1045.20. Engine manufacturers must meet requirements related to evaporative emissions as described in § 1045.25.

§ 1045.5 Which engines are excluded from this part's requirements?

(a) *Auxiliary engines.* The exhaust emission standards of this part do not apply to auxiliary marine engines. See 40 CFR part 90, 1048, or 1054 for the exhaust emission standards that apply. Evaporative emission standards apply as specified in § 1045.112.

(b) *Hobby engines and vessels.* This part does not apply with respect to reduced-scale models of vessels that are not capable of transporting a person.

(c) *Large natural gas engines.* Propulsion marine engines powered by natural gas with maximum engine power at or above 250 kW are deemed to be compression-ignition engines. These engines are therefore subject to all the requirements of 40 CFR part 1042 instead of this part even if they would otherwise meet the definition of “spark-ignition” in § 1045.801.

§ 1045.10 How is this part organized?

This part 1045 is divided into the following subparts:

(a) Subpart A of this part defines the applicability of this part 1045 and gives an overview of regulatory requirements.

(b) Subpart B of this part describes the emission standards and other requirements that must be met to certify

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engines under this part 1045. Note that §1045.145 discusses certain interim requirements and compliance provisions that apply only for a limited time.

(c) Subpart C of this part describes how to apply for a certificate of conformity.

(d) Subpart D of this part describes general provisions for testing production-line engines.

(e) Subpart E of this part describes general provisions for testing in-use engines.

(f) Subpart F of this part describes how to test your engines (including references to other parts of the Code of Federal Regulations).

(g) Subpart G of this part and 40 CFR part 1068 describe requirements, prohibitions, and other provisions that apply to engine manufacturers, vessel manufacturers, owners, operators, rebuilders, and all others.

(h) Subpart H of this part describes how you may generate and use exhaust and evaporative emission credits to certify your engines and vessels.

(i) Subpart I of this part contains definitions and other reference information.

§1045.15 Do any other CFR parts apply to me?

(a) Part 1060 of this chapter describes standards and procedures that apply for controlling evaporative emissions from engines fueled by gasoline or other volatile liquid fuels and the associated fuel systems. See §1045.112 for information about how that part applies.

(b) Part 1065 of this chapter describes procedures and equipment specifications for testing engines to measure exhaust emissions. Subpart F of this part 1045 describes how to apply the provisions of part 1065 of this chapter to determine whether engines meet the exhaust emission standards in this part.

(c) The requirements and prohibitions of part 1068 of this chapter apply to everyone, including anyone who manufactures, imports, installs, owns, operates, or rebuilds any of the engines subject to this part 1045, or vessels powered by these engines. Part 1068 of this chapter describes general provisions, including these seven areas:

(1) Prohibited acts and penalties for engine manufacturers, vessel manufacturers, and others.

(2) Rebuilding and other aftermarket changes.

(3) Exclusions and exemptions for certain engines.

(4) Importing engines.

(5) Selective enforcement audits of your production.

(6) Defect reporting and recall.

(7) Procedures for hearings.

(d) Other parts of this chapter apply if referenced in this part 1045.

§ 1045.20 What requirements apply to my vessels?

(a) If you manufacture vessels with engines certified to the exhaust emission standards in this part, your vessels must meet all emission standards with the engine and fuel system installed.

(b) You may need to certify your vessels or fuel systems as described in 40 CFR 1060.1 and 1060.601. If you produce vessels subject to this part without obtaining a certificate, you must still meet the requirements of 40 CFR 1060.101(e) and (f) and keep records as described in 40 CFR 1060.210.

(c) You must identify and label vessels you produce under this section consistent with the requirements of §1045.135 and 40 CFR part 1060.

(d) You must follow all emission-related installation instructions from the certifying manufacturers as described in §1045.130 and 40 CFR 1068.105. If you do not follow the installation instructions, we may consider your vessel to be not covered by the certificates of conformity. Introduction of such vessels into U.S. commerce violates 40 CFR 1068.101.

§ 1045.25 How do the requirements related to evaporative emissions apply to engines and their fuel systems?

(a) Engine manufacturers must provide the installation instructions required by §1045.130 to the ultimate purchasers of the engine. These instructions may be combined with the maintenance instructions required by §1045.125.

(b) Engines sold with attached fuel lines or installed fuel tanks must be covered by the appropriate certificates

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of conformity issued under 40 CFR part 1060.

(c) Fuel lines intended to be used with new engines and new portable marine fuel tanks must be certified to the applicable requirements of 40 CFR part 1060. Similarly, fuel tanks intended to be used with new engines must be certified to the applicable requirements of 40 CFR part 1060.

(d) All persons installing engines certified under this part 1045 must follow the certifying manufacturer's emission-related installation instructions (see §1045.130 and 40 CFR 1068.105).

§ 1045.30 Submission of information.

(a) This part includes various requirements to record data or other information. Refer to §1045.825 and 40 CFR 1068.25 regarding recordkeeping requirements. If recordkeeping requirements are not specified, store these records in any format and on any media and keep them readily available for one year after you send an associated application for certification, or one year after you generate the data if they do not support an application for certification. You must promptly send us organized, written records in English if we ask for them. We may review them at any time.

(b) The regulations in §1045.255 and 40 CFR 1068.101 describe your obligation to report truthful and complete information and the consequences of failing to meet this obligation. This includes information not related to certification.

(c) Send all reports and requests for approval to the Designated Compliance Officer (see §1045.801).

(d) Any written information we require you to send to or receive from another company is deemed to be a required record under this section. Such

records are also deemed to be submissions to EPA. We may require you to send us these records whether or not you are a certificate holder.

Subpart B—Emission Standards and Related Requirements

§ 1045.101 What exhaust emission standards and requirements must my engines meet?

(a) You must show that your engines meet the following requirements:

(1) Outboard and personal watercraft engines must meet the exhaust emission standards specified in §1045.103.

(2) Sterndrive/inboard engines must meet the exhaust emission standards specified in §1045.105. You may optionally meet these standards earlier than we require, as specified in §1045.145(b).

(3) Sterndrive/inboard engines must meet the engine-diagnostic requirements in §1045.110.

(4) All engines must meet the requirements in §1045.115.

(b) It is important that you read §1045.145 to determine if there are other interim requirements or interim compliance provisions that apply for a limited time.

§ 1045.103 What exhaust emission standards must my outboard and personal watercraft engines meet?

(a) Duty-cycle emission standards. Starting in the 2010 model year, exhaust emissions from your outboard and personal watercraft engines may not exceed emission standards as follows:

(1) Measure emissions using the applicable steady-state test procedures described in subpart F of this part.

(2) The exhaust emission standards from the following table apply:

TABLE 1 TO § 1045.103—EMISSION STANDARDS FOR OUTBOARD AND PERSONAL WATERCRAFT ENGINES (g/kW-hr)

| Pollutant | Power ¹ | Emission standard |
|----------------------------|--------------------|--|
| HC + NO _x | P ≤4.3 kW | 30.0 |
| | P >4.3 kW | 2.1 + 0.09 × (151 + 557/P ^{0.9}) |
| CO | P ≤40 kW | 500 – 5.0 × P |
| | P >40 kW | 300 |

¹Power (P) = maximum engine power for the engine family, in kilowatts (kW).

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(3) For engines whose standard depends on maximum engine power, round the calculated HC + NO_x emission standard to the nearest 0.1 g/kW-hr; round the calculated CO emission standard to the nearest g/kW-hr. Determine maximum engine power for the engine family as described in §1045.140.

(b) *Averaging, banking, and trading.* You may generate or use emission credits under the averaging, banking, and trading (ABT) program described in subpart H of this part for demonstrating compliance with HC + NO_x emission standards. For CO emissions, you may generate or use emission credits for averaging as described in subpart H of this part, but such credits may not be banked or traded. To generate or use emission credits, you must specify a family emission limit for each pollutant you include in the ABT program for each engine family. These

family emission limits serve as the emission standards for the engine family with respect to all required testing instead of the standards specified in this section. An engine family meets emission standards even if its family emission limit is higher than the standard, as long as you show that the whole averaging set of applicable engine families meets the emission standards using emission credits and the engines within the family meet the family emission limit. The following FEL caps apply:

(1) For engines with maximum engine power at or below 4.3 kW, the maximum value of the family emission limit for HC + NO_x is 81.0 g/kW-hr. For all other engines, the maximum value of the family emission limit for HC + NO_x is defined by the following formula, with results rounded to the nearest 0.1 g/kW-hr:

$$FEL_{\max,HC+NO_x} = 6.0 + 0.25 \cdot \left(151 + \frac{557}{P^{0.9}} \right)$$

(2) For engines with maximum engine power above 40 kW, the maximum value of the family emission limit for CO is 450 g/kW-hr. For all other engines, the maximum value is defined by the following formula, with results rounded to the nearest g/kW-hr:

$$FEL_{\max,CO} = 650 - 5.0 \times P$$

(c) *Not-to-exceed emission standards.* Exhaust emissions may not exceed the not-to-exceed standards specified in §1045.107.

(d) *Fuel types.* The exhaust emission standards in this section apply for engines using the fuel type on which the engines in the engine family are designed to operate. You must meet the numerical emission standards for hydrocarbons in this section based on the following types of hydrocarbon emissions for engines powered by the following fuels:

- (1) Alcohol-fueled engines: THCE emissions.
- (2) Natural gas-fueled engines: NMHC emissions.
- (3) Other engines: THC emissions.

(e) *Useful life.* Your engines must meet the exhaust emission standards in paragraphs (a) through (c) of this section over the full useful life as follows:

(1) For outboard engines, the minimum useful life is 350 hours of engine operation or 10 years, whichever comes first.

(2) For personal watercraft engines, the minimum useful life is 350 hours of engine operation or 5 years, whichever comes first.

(3) You must specify a longer useful life in terms of hours for the engine family if the average service life of your vehicles is longer than the minimum value, as follows:

(i) Except as allowed by paragraph (e)(3)(ii) of this section, your useful life (in hours) may not be less than either of the following:

- (A) Your projected operating life from advertisements or other marketing materials for any engines in the engine family.
- (B) Your basic mechanical warranty for any engines in the engine family.

(ii) Your useful life may be based on the average service life of vehicles in the engine family if you show that the average service life is less than the useful life required by paragraph (e)(3)(i) of this section, but more than the minimum useful life (350 hours of engine operation). In determining the actual average service life of vehicles in an engine family, we will consider all available information and analyses. Survey data is allowed but not required to make this showing.

(f) *Applicability for testing.* The duty-cycle emission standards in this subpart apply to all testing performed according to the procedures in §1045.505, including certification, production-line, and in-use testing. The not-to-exceed standards apply for all testing performed according to the procedures of subpart F of this part.

[73 FR 59194, Oct. 8, 2008, as amended at 75 FR 23019, Apr. 30, 2010]

§ 1045.105 What exhaust emission standards must my sterndrive/inboard engines meet?

(a) *Duty-cycle emission standards.* Starting in the 2010 model year, exhaust emissions from your sterndrive/inboard engines may not exceed emission standards as follows:

(1) Measure emissions using the applicable steady-state test procedures described in subpart F of this part.

(2) For conventional sterndrive/inboard engines, the HC + NO_x emission standard is 5.0 g/kW-hr and the CO emission standard is 75.0 g/kW-hr.

(3) The exhaust emission standards from the following table apply for high-performance engines:

TABLE 1 TO § 1045.105—EMISSION STANDARDS FOR HIGH-PERFORMANCE ENGINES (g/kW-hr)

| Model year | Power ¹ | HC + NO _x | CO |
|--------------|--------------------|----------------------|-----|
| 2010 | P≤485 kW | 20.0 | 350 |
| | P>485 kW | 25.0 | 350 |
| 2011 + | P≤485 kW | 16.0 | 350 |
| | P>485 kW | 22.0 | 350 |

¹ Power (P) = maximum engine power in kilowatts (kW).

(b) *Averaging, banking, and trading.* You may not generate or use emission credits for high-performance engines. You may generate or use emission credits under the averaging, banking,

and trading (ABT) program described in subpart H of this part for demonstrating compliance with HC + NO_x and CO emission standards for conventional sterndrive-inboard engines. To generate or use emission credits, you must specify a family emission limit for each pollutant you include in the ABT program for each engine family. These family emission limits serve as the emission standards for the engine family with respect to all required testing instead of the standards specified in this section. An engine family meets emission standards even if its family emission limit is higher than the standard, as long as you show that the whole averaging set of applicable engine families meets the emission standards using emission credits and the engines within the family meet the family emission limit. Family emission limits for conventional sterndrive/inboard engines may not be higher than 16.0 g/kW-hr for HC + NO_x and 150 g/kW-hr for CO except as specified in §1045.145(c).

(c) *Not-to-exceed emission standards.* Exhaust emissions may not exceed the not-to-exceed standards specified in §1045.107 for conventional sterndrive/inboard engines. These standards do not apply for high-performance engines.

(d) *Fuel types.* The exhaust emission standards in this section apply for engines using the fuel type on which the engines in the engine family are designed to operate. You must meet the numerical emission standards for hydrocarbons in this section based on the following types of hydrocarbon emissions for engines powered by the following fuels:

(1) Alcohol-fueled engines: THCE emissions.

(2) Natural gas-fueled engines: NMHC emissions.

(3) Other engines: THC emissions.

(e) *Useful life.* Your engines must meet the exhaust emission standards in paragraphs (a) through (c) of this section over their full useful life, as follows:

(1) For high-performance engines with maximum engine power above 485 kW, the useful life is 50 hours of operation or 1 year, whichever comes first. For high-performance engines with maximum engine power at or below 485

kW, the useful life is 150 hours of operation or 3 years, whichever comes first.

(2) For conventional sterndrive/inboard engines, the minimum useful life is 480 hours of operation or ten years, whichever comes first. However, you may request in your application for certification that we approve a shorter useful life for an engine family. We may approve a shorter useful life, in hours of engine operation but not in years, if we determine that these engines will rarely operate longer than the shorter useful life. If engines identical to those in the engine family have already been produced and are in use, your demonstration must include documentation from such in-use engines. In other cases, your demonstration must include an engineering analysis of information equivalent to such in-use data, such as data from research engines or similar engine models that are already in production. Your demonstration must also include any overhaul interval that you recommend, any mechanical warranty that you offer for the engine or its components, and any relevant customer design specifications. Your demonstration may include any other relevant information. The useful life value may not be shorter than any of the following:

- (i) 150 hours of operation.
- (ii) Your recommended overhaul interval.
- (iii) Your mechanical warranty for the engine.

(3) You must specify a longer useful life for conventional sterndrive/inboard engines in terms of hours if the average service life of engines from the engine family is longer than the minimum useful life value, as follows:

(i) Except as allowed by paragraph (e)(3)(ii) of this section, your useful life (in hours) may not be less than either of the following:

(A) Your projected operating life from advertisements or other marketing materials for any engines in the engine family.

(B) Your basic mechanical warranty for any engines in the engine family.

(ii) Your useful life may be based on the average service life of engines in the engine family if you show that the average service life is less than the useful life required by paragraph (e)(3)(i)

of this section, but more than the minimum useful life (480 hours of engine operation). In determining the actual average service life of engines in an engine family, we will consider all available information and analyses. Survey data is allowed but not required to make this showing.

(f) *Applicability for testing.* The duty-cycle emission standards in this section apply to all testing performed according to the procedures in §1045.505, including certification, production-line, and in-use testing. The not-to-exceed standards apply for all testing performed according to the procedures of subpart F of this part.

§ 1045.107. What are the not-to-exceed emission standards?

Not-to-exceed emission standards apply as follows:

(a) Measure emissions using the not-to-exceed procedures in subpart F of this part:

(b) Determine the not-to-exceed standard, rounded to the same number of decimal places as the emission standard in Table 1 to this section from the following equation:

$$\text{Not-to-exceed standard} = (\text{STD}) \times (\text{M})$$

Where:

STD = The standard specified in paragraph (a) of this section if you certify without using ABT for that pollutant; or the FEL for that pollutant if you certify using ABT.

M = The NTE multiplier for that pollutant, as defined in paragraphs (c) through (e) of this section.

(c) For engines equipped with a catalyst, use NTE multipliers from the following table across the applicable zone specified in §1045.515:

TABLE 1 TO § 1045.107—NTE MULTIPLIERS FOR CATALYST-EQUIPPED ENGINES

| Pollutant | Subzone 1 | Subzone 2 |
|----------------------------|-----------|-----------|
| HC + NO _x | 1.50 | 1.00 |
| CO | N/A | 1.00 |

(d) For two-stroke engines not equipped with a catalyst, use an NTE multiplier of 1.2 for HC + NO_x and CO. Compare the weighted value specified in §1045.515(c)(5) to the NTE standards specified in paragraph (b) of this section.

(e) For engines not covered by paragraphs (c) and (d) of this section, use the NTE multipliers from the following table across the applicable zone specified in § 1045.515:

TABLE 2 TO § 1045.107—NTE MULTIPLIERS FOR FOUR-STROKE ENGINES WITHOUT CATALYSTS

| Pollutant | Subzone 1 | Subzone 2 |
|----------------------------|-----------|-----------|
| HC + NO _x | 1.40 | 1.60 |
| CO | 1.50 | 1.50 |

§ 1045.110 How must my engines diagnose malfunctions?

The following engine-diagnostic requirements apply for engines equipped with three-way catalyts and closed-loop control of air-fuel ratios:

(a) *Equip your engines with a diagnostic system.* Equip each engine with a diagnostic system that will detect significant malfunctions in its emission control system using one of the following protocols:

(1) If your emission control strategy depends on maintaining air-fuel ratios at stoichiometry, an acceptable diagnostic design would identify a malfunction whenever the air-fuel ratio does not cross stoichiometry for one minute of intended closed-loop operation. You may use other diagnostic strategies if we approve them in advance.

(2) If the protocol described in paragraph (a)(1) of this section does not apply to your engine, you must use an alternative approach that we approve in advance. Your alternative approach must generally detect when the emission control system is not functioning properly.

(3) Diagnostic systems approved by the California Air Resources Board for use with sterndrive/inboard engines fully satisfy the requirements of this section.

(b) *Use a malfunction indicator.* The malfunction indicator must be designed such that the operator can readily see or hear it; visible signals may be any color except red. Visible malfunction indicators must display “Check Engine,” “Service Engine Soon,” or a similar message that we approve. The malfunction indicator must go on under each of the following circumstances:

(1) When a malfunction occurs, as described in paragraph (a) of this section.

(2) When the diagnostic system cannot send signals to meet the requirement of paragraph (b)(1) of this section.

(3) When the engine’s ignition is in the “key-on” position before starting or cranking. The malfunction indicator should turn off after engine starting if the system detects no malfunction.

(c) *Control when the malfunction can turn off.* If the malfunction indicator goes on to show a malfunction, it must remain on during all later engine operation until servicing corrects the malfunction. If the engine is not serviced, but the malfunction does not recur for three consecutive engine starts during which the malfunctioning system is evaluated and found to be working properly, the malfunction indicator may stay off during later engine operation.

(d) *Store trouble codes in computer memory.* Record and store in computer memory any diagnostic trouble codes showing a malfunction that should activate the malfunction indicator. The stored codes must identify the malfunctioning system or component as uniquely as possible. Make these codes available through the data link connector as described in paragraph (g) of this section. You may store codes for conditions that do not activate the malfunction indicator. The system must store a separate code to show when the diagnostic system is disabled (from malfunction or tampering).

(e) *Make data, access codes, and devices accessible.* Make all required data accessible to us without any access codes or devices that only you can supply. Ensure that anyone servicing your engine can read and understand the diagnostic trouble codes stored in the on-board computer with generic tools and information.

(f) *Consider exceptions for certain conditions.* Your diagnostic systems may disregard trouble codes for the first three minutes after engine starting. You may ask us to approve diagnostic-system designs that disregard trouble codes under other conditions that would produce an unreliable reading, damage systems or components, or cause other safety risks.

(g) *Follow standard references for formats, codes, and connections.* Follow conventions defined in SAE J1939-05 (incorporated by reference in §1045.810) or ask us to approve using updated versions of (or variations from) this standard.

§ 1045.112 What are the standards for evaporative emissions?

Fuel systems must meet the evaporative emission requirements of 40 CFR part 1060 as specified in this section. These standards apply over a useful life period of five years for personal watercraft and ten years for all other vessels and for portable marine fuel tanks.

(a) *Fuel line permeation.* Nonmetal fuel lines must meet the permeation requirements specified in 40 CFR 1060.102 for EPA NRFL fuel lines as described in this paragraph (a).

(1) Except as specified in paragraphs (a)(2) and (3) of this section, the emission standard for fuel lines starts for vessels or portable marine fuel tanks with a date of manufacture on or after January 1, 2009.

(2) The emission standard for primer bulbs applies starting January 1, 2011.

(3) The emission standard for under-cowl fuel lines used with outboard engines apply over a phase-in period as specified in this paragraph (a)(3).

(i) Except as specified in paragraph (a)(3)(ii) of this section, the phase-in period is based on total length of fuel lines as specified in Table 1 to this section. For example, at least 30 percent of the length of under-cowl fuel lines used on your full lineup of 2010 model year outboard engines must meet the specified permeation standards. See §1045.145(k) for administrative requirements related to this phase-in.

TABLE 1 TO § 1045.112—PHASE-IN SCHEDULE FOR UNDER-COWL FUEL LINES ON OUTBOARD ENGINES

| Model year | Percentage phase-in |
|-----------------|---------------------|
| 2010 | 30 |
| 2011 | 60 |
| 2012-2014 | 90 |
| 2015 + | 100 |

(ii) You may instead meet the permeation standards of this paragraph (a)

by complying with the specified standards with 100 percent of your under-cowl fuel lines across your full lineup of 2011 model year outboard engines. In this case, the requirements of this part would not apply to under-cowl fuel lines before the 2011 model year. To use this option, you must notify the Designated Compliance Officer before December 31, 2009 of your intent to meet permeation standards on all your under-cowl fuel lines in the 2011 model year.

(b) *Tank permeation.* Fuel tanks must meet the permeation requirements specified in 40 CFR 1060.103. Portable marine fuel tanks must meet permeation standards starting January 1, 2011. Fuel tanks for personal watercraft must meet permeation standards starting in the 2011 model year. Other installed fuel tanks must meet permeation standards starting in the 2012 model year. Vessel manufacturers may generate or use emission credits to show compliance with the requirements of this paragraph under the averaging, banking, and trading (ABT) program, as described in subpart H of this part. Starting in the 2014 model year for personal watercraft and in the 2015 model year for other installed fuel tanks, family emission limits may not exceed 5.0 g/m²/day if testing occurs at a nominal temperature of 28 °C, or 8.3 g/m²/day if testing occurs at a nominal temperature of 40 °C. These FEL caps do not apply to fuel caps that are certified separately to meet permeation standards. Portable marine fuel tank manufacturers may not generate or use emission credits under subpart H of this part.

(c) *Running loss.* The running loss requirements specified in 40 CFR part 1060 do not apply.

(d) *Diurnal emissions.* Installed fuel tanks must meet the diurnal emission requirements specified in 40 CFR 1060.105. Fuel tanks for personal watercraft must meet diurnal emission standards starting in the 2010 model year. Other installed fuel tanks must meet diurnal emission standards for vessels produced on or after July 31, 2011, except as allowed by §1045.625. Fuel tanks meeting the definition of *portable marine fuel tank* in §1045.801

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must comply with the diurnal requirements specified in 40 CFR part 1060 starting January 1, 2010.

(e) *Other requirements.* The requirements of 40 CFR 1060.101(e) and (f) apply to vessel manufacturers even if they do not obtain a certificate.

(f) *Engine manufacturers.* To the extent that engine manufacturers produce engines with fuel lines or fuel tanks, those fuel-system components must meet the requirements specified in this section. The timing of new standards is based on the date of manufacture of the engine.

§ 1045.115 What other requirements apply?

The following requirements apply with respect to engines that are required to meet the emission standards of this part:

(a) *Crankcase emissions.* Crankcase emissions may not be discharged directly into the ambient atmosphere from any engine throughout its useful life.

(b) *Torque broadcasting.* Starting in the 2013 model year, electronically controlled engines must broadcast their speed and output shaft torque (in newton-meters). Engines may alternatively broadcast a surrogate value for determining torque. Engines must broadcast engine parameters such that they can be read with a remote device, or broadcast them directly to their controller area networks. Your broadcasting protocol must allow for valid measurements using the field-testing procedures in 40 CFR part 1065, subpart J.

(c) *EPA access to broadcast information.* If we request it, you must provide us any hardware or tools we would need to readily read, interpret, and record all information broadcast by an engine's on-board computers and electronic control modules. If you broadcast a surrogate parameter for torque values, you must provide us what we need to convert these into torque units. We will not ask for hardware or tools if they are readily available commercially.

(d) *Altitude adjustments.* Engines must meet applicable emission standards for valid tests conducted under the ambient conditions specified in 40 CFR

1065.520. Engines must meet applicable emission standards at all specified atmospheric pressures, except that for atmospheric pressures below 94.0 kPa you may rely on an altitude kit for all testing if you meet the requirements specified in § 1054.205(s). If you rely on an altitude kit for certification, you must identify in the owners manual the altitude range for which you expect proper engine performance and emission control with and without the altitude kit; you must also state in the owners manual that operating the engine with the wrong engine configuration at a given altitude may increase its emissions and decrease fuel efficiency and performance.

(e) *Adjustable parameters.* Engines that have adjustable parameters must meet all the requirements of this part for any adjustment in the physically adjustable range. An operating parameter is not considered adjustable if you permanently seal it or if it is not normally accessible using ordinary tools. We may require that you set adjustable parameters to any specification within the adjustable range during any testing, including certification testing, production-line testing, or in-use testing.

(f) *Prohibited controls.* You may not design your engines with emission-control devices, systems, or elements of design that cause or contribute to an unreasonable risk to public health, welfare, or safety while operating. For example, this would apply if the engine emits a noxious or toxic substance it would otherwise not emit that contributes to such an unreasonable risk.

(g) *Defeat devices.* You may not equip your engines with a defeat device. A defeat device is an auxiliary emission control device that reduces the effectiveness of emission controls under conditions that the engine may reasonably be expected to encounter during normal operation and use. This does not apply for altitude kits installed or removed consistent with § 1045.655. This also does not apply to auxiliary emission control devices you identify in your application for certification if any of the following is true:

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(1) The conditions of concern were substantially included in the applicable duty-cycle test procedures described in subpart F of this part.

(2) You show your design is necessary to prevent engine (or vessel) damage or accidents. For example, you may design your engine to include emergency operating modes (sometimes known as limp-home operation) that would allow a vessel to return to land in the event of a malfunction even if such operating modes result in higher emissions.

(3) The reduced effectiveness applies only to starting the engine.

§ 1045.120 What emission-related warranty requirements apply to me?

(a) *General requirements.* You must warrant to the ultimate purchaser and each subsequent purchaser that the new engine, including all parts of its emission control system, meets two conditions:

(1) It is designed, built, and equipped so it conforms at the time of sale to the ultimate purchaser with the requirements of this part.

(2) It is free from defects in materials and workmanship that may keep it from meeting these requirements.

(b) *Warranty period.* Your emission-related warranty must be valid during the periods specified in this paragraph (b). You may offer an emission-related warranty more generous than we require. The emission-related warranty for an engine may not be shorter than any published warranty you offer without charge for that engine. Similarly, the emission-related warranty for any component may not be shorter than any published warranty you offer without charge for that component. If an engine has no hour meter, we base the warranty periods in this paragraph (b) only on the engine's age (in years). The warranty period begins when the engine is placed into service.

(1) The minimum warranty period for outboard engines is 175 hours of engine operation or 5 years, whichever comes first. The minimum warranty period for personal watercraft engines is 175 hours of engine operation or 30 months, whichever comes first.

(2) The minimum warranty period for sterndrive/inboard engines is shown in the following table:

TABLE 1 TO § 1045.120—WARRANTY PERIODS FOR STERNDRIVE/INBOARD ENGINES ¹

| Engine type | Electronic components | Mechanical components |
|--|-------------------------|-----------------------|
| Conventional | 3 years/480 hours | 3 years/480 hours. |
| High-performance with maximum engine power at or below 485 kW. | 3 years/480 hours | 3 years/150 hours. |
| High-performance with maximum engine power above 485 kW .. | 3 years/480 hours | 1 year/50 hours. |

¹ The warranty period expires after the specified time period or number of operating hours, whichever comes first.

(c) *Components covered.* The emission-related warranty covers all components whose failure would increase an engine's emissions of any regulated pollutant, including components listed in 40 CFR part 1068, Appendix I, and components from any other system you develop to control emissions. The emission-related warranty covers these components even if another company produces the component. Your emission-related warranty does not cover components whose failure would not increase an engine's emissions of any regulated pollutant.

(d) *Limited applicability.* You may deny warranty claims under this sec-

tion if the operator caused the problem through improper maintenance or use, as described in 40 CFR 1068.115.

(e) *Owners manual.* Describe in the owners manual the emission-related warranty provisions from this section that apply to the engine.

§ 1045.125 What maintenance instructions must I give to buyers?

Give the ultimate purchaser of each new engine written instructions for properly maintaining and using the engine, including the emission control system as described in this section. The maintenance instructions also apply to service accumulation on your

emission-data engines as described in § 1045.245 and in 40 CFR part 1065.

(a) *Critical emission-related maintenance.* Critical emission-related maintenance includes any adjustment, cleaning, repair, or replacement of critical emission-related components. This may also include additional emission-related maintenance that you determine is critical if we approve it in advance. You may schedule critical emission-related maintenance on these components if you meet the following conditions:

(1) You demonstrate that the maintenance is reasonably likely to be done at the recommended intervals on in-use engines. We will accept scheduled maintenance as reasonably likely to occur if you satisfy any of the following conditions:

(i) You present data showing that any lack of maintenance that increases emissions also unacceptably degrades the engine's performance.

(ii) You present survey data showing that at least 80 percent of engines in the field get the maintenance you specify at the recommended intervals.

(iii) You provide the maintenance free of charge and clearly say so in your maintenance instructions.

(iv) You otherwise show us that the maintenance is reasonably likely to be done at the recommended intervals.

(2) You may not schedule critical emission-related maintenance within the useful life period for aftertreatment devices, pulse-air valves, fuel injectors, oxygen sensors, electronic control units, superchargers, or turbochargers, except as specified in paragraph (a)(3), (b), or (c) of this section.

(3) You may ask us to approve a maintenance interval shorter than that specified in paragraph (a)(2) of this section. In your request you must describe the proposed maintenance step, recommend the maximum feasible interval for this maintenance, include your rationale with supporting evidence to support the need for the maintenance at the recommended interval, and demonstrate that the maintenance will be done at the recommended interval on in-use engines. In considering your request, we will evaluate the information you provide and any other available in-

formation to establish alternate specifications for maintenance intervals, if appropriate.

(b) *Recommended additional maintenance.* You may recommend any additional amount of maintenance on the components listed in paragraph (a) of this section, as long as you state clearly that these maintenance steps are not necessary to keep the emission-related warranty valid. If operators do the maintenance specified in paragraph (a) of this section, but not the recommended additional maintenance, this does not allow you to disqualify those engines from in-use testing or deny a warranty claim. Do not take these maintenance steps during service accumulation on your emission-data engines.

(c) *Special maintenance.* You may specify more frequent maintenance to address problems related to special situations, such as atypical engine operation. You must clearly state that this additional maintenance is associated with the special situation you are addressing. We may disapprove your maintenance instructions if we determine that you have specified special maintenance steps to address engine operation that is not atypical, or that the maintenance is unlikely to occur in use. If we determine that certain maintenance items do not qualify as special maintenance under this paragraph (c), you may identify this as recommended additional maintenance under paragraph (b) of this section.

(d) *Noncritical emission-related maintenance.* Subject to the provisions of this paragraph (d), you may schedule any amount of emission-related inspection or maintenance that is not covered by paragraph (a) of this section (i.e., maintenance that is neither explicitly identified as critical emission-related maintenance, nor that we approve as critical emission-related maintenance). Noncritical emission-related maintenance generally includes changing spark plugs, re-seating valves, or any other emission-related maintenance on the components we specify in 40 CFR part 1068, Appendix I that is not covered in paragraph (a) of this section. You must state in the owners manual that these steps are not necessary to keep the emission-related warranty

valid. If operators fail to do this maintenance, this does not allow you to disqualify those engines from in-use testing or deny a warranty claim. Do not take these inspection or maintenance steps during service accumulation on your emission-data engines.

(e) *Maintenance that is not emission-related.* For maintenance unrelated to emission controls, you may schedule any amount of inspection or maintenance. You may also take these inspection or maintenance steps during service accumulation on your emission-data engines, as long as they are reasonable and technologically necessary. This might include adding engine oil, changing air, fuel, or oil filters, servicing engine-cooling systems, and adjusting idle speed, governor, engine bolt torque, valve lash, or injector lash. You may perform this nonemission-related maintenance on emission-data engines at the least frequent intervals that you recommend to the ultimate purchaser (but not the intervals recommended for severe service).

(f) *Source of parts and repairs.* State clearly on the first page of your written maintenance instructions that a repair shop or person of the owner's choosing may maintain, replace, or repair emission control devices and systems. Your instructions may not require components or service identified by brand, trade, or corporate name. Also, do not directly or indirectly condition your warranty on a requirement that the engine be serviced by your franchised dealers or any other service establishments with which you have a commercial relationship. You may disregard the requirements in this paragraph (f) if you do one of two things:

(1) Provide a component or service without charge under the purchase agreement.

(2) Get us to waive this prohibition in the public's interest by convincing us the engine will work properly only with the identified component or service.

(g) *Payment for scheduled maintenance.* Owners are responsible for properly maintaining their engines. This generally includes paying for scheduled maintenance. However, manufacturers must pay for scheduled maintenance

during the useful life if it meets all the following criteria:

(1) Each affected component was not in general use on similar engines before the applicable dates shown in paragraph (5) of the definition of *new propulsion marine engine* in § 1045.801.

(2) The primary function of each affected component is to reduce emissions.

(3) The cost of the scheduled maintenance is more than 2 percent of the price of the engine.

(4) Failure to perform the maintenance would not cause clear problems that would significantly degrade the engine's performance.

(h) *Owners manual.* Explain the owner's responsibility for proper maintenance in the owners manual.

[73 FR 59194, Oct. 8, 2008, as amended at 75 FR 23019, Apr. 30, 2010]

§ 1045.130 What installation instructions must I give to vessel manufacturers?

(a) If you sell an engine for someone else to install in a vessel, give the engine installer instructions for installing it consistent with the requirements of this part. Include all information necessary to ensure that an engine will be installed in its certified configuration.

(b) Make sure the instructions have the following information:

(1) Include the heading: "Emission-related installation instructions".

(2) State: "Failing to follow these instructions when installing a certified engine in a vessel violates federal law (40 CFR 1068.105(b)), subject to fines or other penalties as described in the Clean Air Act."

(3) Describe the instructions needed to properly install the exhaust system and any other components. Include instructions consistent with the requirements of § 1045.205(u) related to in-use measurement and the requirements of § 1045.655 related to altitude kits.

(4) Describe the steps needed to control evaporative emissions as described in § 1045.112. This will generally require notification that the installer and/or vessel manufacturer must meet the requirements of § 1045.112 and 40 CFR part 1060.

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(5) Describe any necessary steps for installing the diagnostic system described in §1045.110.

(6) Describe any limits on the range of applications needed to ensure that the engine operates consistently with your application for certification. For example, if your engines are certified only for personal watercraft, tell vessel manufacturers not to install the engines in vessels longer than 4.0 meters.

(7) Describe any other instructions to make sure the installed engine will operate according to design specifications in your application for certification. For example, this may include specified limits for catalyst systems, such as exhaust backpressure, catalyst location, and temperature profiles during engine operation.

(8) State: "If you install the engine in a way that makes the engine's emission control information label hard to read during normal engine maintenance, you must place a duplicate label on the vessel, as described in 40 CFR 1068.105."

(c) You do not need installation instructions for engines you install in your own vessels.

(d) Provide instructions in writing or in an equivalent format. For example, you may post instructions on a publicly available Web site for downloading or printing. If you do not provide the instructions in writing, explain in your application for certification how you will ensure that each installer is informed of the installation requirements.

§ 1045.135 How must I label and identify the engines I produce?

The provisions of this section apply to engine manufacturers.

(a) Assign each engine a unique identification number and permanently affix, engrave, or stamp it on the engine in a legible way.

(b) At the time of manufacture, affix a permanent and legible label identifying each engine. The label must be—

(1) Attached in one piece so it is not removable without being destroyed or defaced.

(2) Secured to a part of the engine needed for normal operation and not normally requiring replacement.

(3) Durable and readable for the engine's entire life.

(4) Written in English.

(c) The label must—

(1) Include the heading "EMISSION CONTROL INFORMATION".

(2) Include your full corporate name and trademark. You may identify another company and use its trademark instead of yours if you comply with the provisions of §1045.640.

(3) Include EPA's standardized designation for the engine family (and subfamily, where applicable).

(4) State the engine's displacement (in liters) and maximum engine power (in kW); however, you may omit the displacement from the label if all the engines in the engine family have the same per-cylinder displacement and total displacement.

(5) State the date of manufacture [DAY (optional), MONTH, and YEAR]; however, you may omit this from the label if you stamp, engrave, or otherwise permanently identify it elsewhere on the engine, in which case you must also describe in your application for certification where you will identify the date on the engine.

(6) State the FELs to which the engines are certified (in g/kW-hr) if certification depends on the ABT provisions of subpart H of this part.

(7) Identify the emission control system. Use terms and abbreviations as described in 40 CFR 1068.45. You may omit this information from the label if there is not enough room for it and you put it in the owners manual instead.

(8) List specifications and adjustments for engine tuneups; however, you may omit this information from the label if there is not enough room for it and you put it in the owners manual instead.

(9) Identify the fuel type and any requirements for fuel and lubricants; however, you may omit this information from the label if there is not enough room for it and you put it in the owners manual instead.

(10) State: "THIS MARINE ENGINE COMPLIES WITH U.S. EPA EXHAUST REGULATIONS FOR [MODEL YEAR]."

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(11) If your durability demonstration for sterndrive/inboard engines is limited to fresh water, state: "THIS ENGINE IS NOT INTENDED FOR USE IN SALTWATER."

(d) You may add information to the emission control information label as follows:

(1) You may identify other emission standards that the engine meets or does not meet (such as California standards). You may include this information by adding it to the statement we specify or by including a separate statement.

(2) You may add other information to ensure that the engine will be properly maintained and used.

(3) You may add appropriate features to prevent counterfeit labels. For example, you may include the engine's unique identification number on the label.

(e) You may ask us to approve modified labeling requirements in this part 1045 if you show that it is necessary or appropriate. We will approve your request if your alternate label is consistent with the requirements of this part.

(f) If you obscure the engine label while installing the engine in the vessel such that the label cannot be read during normal maintenance, you must place a duplicate label on the vessel. If others install your engine in their vessels in a way that obscures the engine label, we require them to add a duplicate label on the vessel (see 40 CFR 1068.105); in that case, give them the number of duplicate labels they request and keep the following records for at least five years:

(1) Written documentation of the request from the vessel manufacturer.

(2) The number of duplicate labels you send for each engine family and the date you sent them.

§ 1045.140 What is my engine's maximum engine power?

(a) An engine configuration's maximum engine power is the maximum brake power point on the nominal power curve for the engine configuration, as defined in this section. Round the power value to the nearest whole kilowatt for engines above 30 kW and

to the nearest 0.1 kilowatt for engines at or below 30 kW.

(b) The nominal power curve of an engine configuration is the relationship between maximum available engine brake power and engine speed for an engine, using the mapping procedures of 40 CFR part 1065, based on the manufacturer's design and production specifications for the engine. This information may also be expressed by a torque curve that relates maximum available engine torque with engine speed.

(c) The nominal power curve must be within the range of the actual power curves of production engines considering normal production variability. If after production begins it is determined that your nominal power curve does not represent production engines, we may require you to amend your application for certification under § 1045.225.

(d) Maximum engine power for an engine family is generally the weighted average value of maximum engine power of each engine configuration within the engine family based on your total U.S.-directed production volume of engines you produce from the engine family. However, alternative approaches for defining an engine family's maximum engine power apply in the following circumstances:

(1) For outboard or personal watercraft engines for which you neither generate nor use emission credits, you may identify the greatest value for maximum engine power from all the different configurations within the engine family to determine the appropriate emission standard under § 1045.103.

(2) For high-performance engines, you must use the smallest value for maximum engine power from all the different configurations within the engine family to determine the standards and other requirements that apply under this subpart B.

[73 FR 59194, Oct. 8, 2008, as amended at 75 FR 23019, Apr. 30, 2010]

§ 1045.145 Are there interim provisions that apply only for a limited time?

The provisions in this section apply instead of other provisions in this part.

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This section describes how and when these interim provisions apply.

(a) *Small-volume engine manufacturers.* Special provisions apply to you for sterndrive/inboard engines if you are a small-volume engine manufacturer subject to the requirements of this part. You may delay complying with emission standards and other requirements that would otherwise apply until the 2011 model year for conventional sterndrive/inboard engines and until the 2013 model year for high-performance engines. For an engine to be exempt under this paragraph (a), you must contact us before January 1, 2011 or before you introduce such engines into U.S. commerce, whichever comes first. Add a permanent label to a readily visible part of each engine exempted under this paragraph (a). This label must include at least the following items:

(1) The label heading “EMISSION CONTROL INFORMATION”.

(2) Your corporate name and trademark.

(3) Engine displacement (in liters), rated power, and model year of the engine or whom to contact for further information.

(4) The following statement: “THIS ENGINE IS EXEMPT UNDER 40 CFR 1045.145(a) FROM EMISSION STANDARDS AND RELATED REQUIREMENTS.”

(b) *Early banking.* You may generate exhaust emission credits for conventional sterndrive/inboard engines before the 2010 model year (or before the 2011 model year for small-volume engine manufacturers) as follows:

(1) You must begin actual production of early-compliant engines by September 1, 2009 (or before September 1, 2010 for small-volume engine manufacturers).

(2) You may not generate emission credits under this paragraph (b) with engines you produce after December 31, 2009 (or December 31, 2010 for small-volume engine manufacturers).

(3) Early-compliant engines must be certified to the standards and requirements for conventional sterndrive/inboard engines under this part 1045, with all family emission limits at or below the specified emission standards.

(4) Calculate emission credits by setting STD equal to 16 g/kW-hr for HC + NO_x and 150 g/kW-hr for CO (see §1045.705).

(5) Small-volume engine manufacturers may calculate emission credits using a multiplier based on the number of model years before the 2011 model year. The multipliers are 1.25 for one year early, 1.5 for two years early, and 2.0 for three years early. For example, multiply your calculated emission credits generated from compliant 2009 model year engines by 1.5.

(6) You may not use the provisions of this paragraph (b) to generate emission credits for engines whose point of first retail sale is in California.

(7) HC + NO_x or CO credits you generate under this paragraph (b) may not be used after the 2012 model year (or the 2013 model year for small-volume engine manufacturers).

(c) *Assigned emission factors.* Through the 2013 model year, small-volume engine manufacturers may establish emission levels for certification without testing for conventional four-stroke sterndrive/inboard engines by selecting a family emission limit of 22.0 g/kW-hr for HC + NO_x emissions and 150 g/kW-hr for CO emissions. Note that you must use emission credits under the provisions of subpart H of this part to show that you meet applicable requirements if you use these family emission limits. Also, if you use these family emission limits, you must use them for both HC + NO_x and CO emissions.

(d) *Early compliance with evaporative emission standards.* You may sell or install fuel tanks that do not meet the specified permeation standards without violating the prohibition in 40 CFR 1068.101(a)(1) if you earn evaporative emission allowances, as follows:

(1) You may earn an evaporative emission allowance from one fuel tank certified to EPA’s evaporative emission standards by producing it before EPA’s evaporative emission standards start to apply. You may use this evaporative emission allowance by selling one fuel tank that does not meet the specified permeation emission standards. For example, you can earn an

evaporative emission allowance by selling a low-permeation fuel tank for personal watercraft before the 2011 model year, in which case you could sell a high-permeation fuel tank for a personal watercraft in 2011. You must meet all the other requirements related to evaporative emissions that apply for fuel tanks covered by an EPA certificate of conformity.

(2) You must add a label to exempted fuel tanks you produce under this paragraph (d) with the following statement: “EXEMPT FROM EMISSION STANDARDS UNDER 40 CFR 1045.145(d)”.

(3) Evaporative emission allowances you earn under this paragraph (d) from portable marine fuel tanks may be used only for other portable marine fuel tanks. Similarly, evaporative emission allowances from personal watercraft fuel tanks may be used only for personal watercraft fuel tanks and evaporative emission allowances from other installed fuel tanks may be used only for other installed fuel tanks.

(4) You may not use the allowances you generate under this paragraph (d) for portable marine fuel tanks and personal watercraft fuel tanks in 2014 or later model years. Similarly, you may not use the allowances you generate under this paragraph (d) for other installed fuel tanks in 2015 or later model years.

(5) Send the Designated Compliance Officer the following information for each year in which you use the provisions of this paragraph (d):

(i) Send us a report within 45 days after the end of the model year describing how many pieces of equipment you produced in the preceding model year that generate allowances. You may combine this with the reports specified in §1045.250(a) if applicable.

(ii) Describe the number of equipment using allowances under this paragraph (d) in your end-of-year reports and final reports after the end of the model year as described in §1045.730(a). If you do not participate in averaging, banking, and trading program, send this information separately within 90 days after the end of the model year.

(e) *Useful life for evaporative emission standards.* A useful life period of two years applies for fuel tanks certified to meet the permeation emission stand-

ards in §1045.112(b) in 2013 and earlier model years. However, for fuel tanks with a family emission limit above or below the specified emission standard, calculate emission credits under §1045.706 based on the useful life values specified in §1045.112.

(f) *Delayed FEL caps for stand-up personal watercraft.* The FEL caps specified in §1045.103(b) do not apply in the 2010 and 2011 model years for personal watercraft that are designed for operation from a standing position.

(g) *Delayed compliance with not-to-exceed emission standards.* The not-to-exceed standards specified in §1045.107 do not apply in the 2010 through 2012 model years for engine families that are certified based on carryover emission data from the 2009 model year. This includes models that were certified only in California, as long as no new testing is otherwise required to get a new certificate.

(h) *Carryover of California ARB emission data.* The provisions of 40 CFR 1065.10(c)(5) allow for the use of emission data generated for the California Air Resources Board as the basis for EPA certification. For sterndrive/inboard engines certified in California before the 2010 model year, you may use such emission data as the basis for meeting the standards of §1045.105, as long as you meet the conditions specified in §1045.235(d).

(i) *Hardship for obsolete engines.* We have made the determination under 40 CFR 1068.255 that secondary engine manufacturers may use the hardship exemption to sell uncertified 4.3-liter and 8.1-liter engines from General Motors in the 2010 model year. These engines are exempt without request. You must label the engines as specified in 40 CFR 1068.255(b).

(j) *Adjusted NTE subzones for noncatalyzed four-stroke engines.* For supercharged four-stroke outboard engines above 150 kW without catalysts, you may divide the NTE zone specified in §1045.515(c)(6) based on a speed cutpoint of 70 percent of maximum test speed instead of 50 percent of maximum test speed through the 2014 model year.

(k) *Averaging for under-cowl fuel lines.* Section 1045.112 specifies phased-in standards for under-cowl fuel lines for

2010 through 2014 model years, subject to the following provisions:

(1) You must comply with these requirements based on total lengths of compliant and noncompliant fuel lines. For each model year, calculate the percentage of compliant under-cowl fuel line by adding up the length of under-cowl fuel line certified to meet the applicable permeation standards and dividing this sum by the total length of under-cowl fuel line from all your outboard engines. You may count a fuel line as compliant only if you certify that its emission levels will be at or below the specified standard throughout the useful life.

(2) In your application for certification for each outboard engine family, identify the part numbers, descriptions, and locations of all the compliant fuel lines. You must include a drawing of any fuel lines in addition to the description if that is necessary for us to find which fuel lines you intend to be certified. Your descriptions must include the lengths of compliant and noncompliant fuel lines for each engine, including aggregated lengths for the whole set of fuel lines used on an engine. If the engine family includes noncompliant fuel lines, you must also include a statement that you will have enough compliant fuel lines to meet the phase-in requirements and provide detailed calculations to support your statement.

(3) Send the Designated Compliance Officer end-of-year reports and final reports after the end of each model year that you use noncompliant fuel lines as described in §1045.730(a). Include the production volumes with a point of retail sale in the United States, as described in §§1045.701(j). State your production volumes in terms of total engine sales by model and in terms of total lengths of compliant and noncompliant fuel lines. If a single engine family includes configurations with different lengths of compliant or noncompliant fuel lines, count each configuration separately. If you changed your designs during the model year in a way that affects these compliance calculations, identify the actual production volumes associated with each unique design.

(4) Keep a copy of the reports we require in this paragraph (k) until December 31, 2022 as described in §1045.735(b). We may require you to keep additional records or to send us relevant information not required by this paragraph (k), as allowed under the Clean Air Act.

(5) Label your compliant low-permeation fuel lines as specified in §1060.137. Any fuel line observed without a complete identification as specified in §1060.137 will be considered noncompliant. In addition, for each model year in which you use noncompliant fuel lines, you must include one of the following statements on the engine label described in §1045.135:

(i) “LOW-PERM/HIGH-PERM = [x/y]”, where x is the percentage of low-permeation under-cowl fuel line and y is the percentage of high-permeation under-cowl fuel line (x and y must sum to 100).

(ii) “LOW-PERM = [x mm]; HIGH-PERM = [y mm]”, where x is the length of low-permeation under-cowl fuel line and y is the length of high-permeation under-cowl fuel line, in mm.

(l) [Reserved]

(m) *Delayed labeling for fuel lines.* You may omit fuel-line labeling requirements specified in 40 CFR part 1060 in the 2009 model year.

(n) *Continued use of 40 CFR part 91 test procedures.* You may continue to use the test procedures in 40 CFR part 91 instead of those in subpart F of this part for 2010 through 2012 model year outboard and personal watercraft engines. This applies for certification, production-line, and in-use testing. You may continue to use test data based on the test procedures in 40 CFR part 91 for engine families in 2013 and later model years, provided that we allow you to use carryover emission data under 40 CFR 1045.235(d) for your engine family. You may also use the test procedures in 40 CFR part 91 for production-line testing with any engine family whose certification is based on testing with those procedures.

(o) *Banking early credits for jet boat engines.* Banked emission credits that were originally generated from outboard and personal watercraft engines under 40 CFR part 91 may be used to

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certify jet boat engines under the provisions §1045.660.

[73 FR 59194, Oct. 8, 2008, as amended at 75 FR 23019, Apr. 30, 2010; 75 FR 68462, Nov. 8, 2010]

Subpart C—Certifying Engine Families

§1045.201 What are the general requirements for obtaining a certificate of conformity?

Engine manufacturers must certify their engines with respect to the exhaust emission standards in this part. Manufacturers of engines, equipment, or fuel-system components may need to certify their products with respect to evaporative emission standards as described in 40 CFR 1060.1 and 1060.601. The following general requirements apply for obtaining a certificate of conformity:

(a) You must send us a separate application for a certificate of conformity for each engine family. A certificate of conformity is valid starting with the indicated effective date but it is not valid for any production after December 31 of the model year for which it is issued. No certificate will be issued after December 31 of the model year.

(b) The application must contain all the information required by this part and must not include false or incomplete statements or information (see §1045.255).

(c) We may ask you to include less information than we specify in this subpart as long as you maintain all the information required by §1045.250.

(d) You must use good engineering judgment for all decisions related to your application (see 40 CFR 1068.5).

(e) An authorized representative of your company must approve and sign the application.

(f) See §1045.255 for provisions describing how we will process your application.

(g) We may require you to deliver your test engines to a facility we designate for our testing (see §1045.235(c)).

(h) For engines that become new after being placed into service, such as engines installed on imported vessels or engines converted to run on a different fuel, we may specify alternate certification provisions consistent with

the intent of this part. See §1045.645 and the definition of “new propulsion marine engine” in §1045.801.

[73 FR 59194, Oct. 8, 2008, as amended at 75 FR 23019, Apr. 30, 2010]

§ 1045.205 What must I include in my application?

This section specifies the information that must be in your application, unless we ask you to include less information under §1045.201(c). We may require you to provide additional information to evaluate your application.

(a) Describe the engine family’s specifications and other basic parameters of the engine’s design and emission controls. List the fuel type on which your engines are designed to operate (for example, all-season gasoline). List each distinguishable engine configuration in the engine family. For each engine configuration, list the maximum engine power and the range of values for maximum engine power resulting from production tolerances, as described in §1045.140. Describe why your engines qualify as high-performance engines, if applicable.

(b) Explain how the emission control systems operate. Describe in detail all system components for controlling exhaust emissions, including all auxiliary emission control devices (AECs) and all fuel-system components you will install on any production or test engine. Identify the part number of each component you describe. For this paragraph (b), treat as separate AECs any devices that modulate or activate differently from each other. Include sufficient detail to allow us to evaluate whether the AECs are consistent with the defeat device prohibition of §1045.115.

(c) Explain how the engine diagnostic system works, if applicable, describing especially the engine conditions (with the corresponding diagnostic trouble codes) that cause the malfunction indicator to go on. Propose the conditions under which the diagnostic system should disregard trouble codes, as described in §1045.110(f).

(d) Describe the engines you selected for testing and the reasons for selecting them.

(e) Describe the test equipment and procedures that you used, including

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any special or alternate test procedures you used.

(f) Describe how you operated the emission-data engine before testing, including the duty cycle and the number of engine operating hours used to stabilize emission levels. Explain why you selected the method of service accumulation. Describe any scheduled maintenance you did.

(g) List the specifications of the test fuel to show that it falls within the required ranges we specify in 40 CFR part 1065.

(h) Identify the engine family's useful life.

(i) Include the maintenance and warranty instructions you will give to the ultimate purchaser of each new engine (see §§ 1045.120 and 1045.125).

(j) Include the emission-related installation instructions you will provide if someone else installs your engines in a vessel (see § 1045.130).

(k) Describe your emission control information label (see § 1045.135).

(l) Identify the emission standards or FELs to which you are certifying engines in the engine family.

(m) Identify the engine family's deterioration factors and describe how you developed them (see § 1045.245). Present any emission test data you used for this.

(n) State that you operated your emission-data engines as described in the application (including the test procedures, test parameters, and test fuels) to show you meet the requirements of this part.

(o) Present emission data to show that you meet emission standards, as follows:

(1) Present emission data by mode for hydrocarbons (such as THC or THCE, as applicable), NO_x, and CO on an emission-data engine to show your engines meet the duty-cycle emission standards we specify in §§ 1045.103(a) and 1045.105(a). Show weighted emission figures before and after applying deterioration factors for each engine. If we specify more than one grade of any fuel type (for example, low-temperature and all-season gasoline), you need to submit test data only for one grade, unless the regulations of this part specify otherwise for your engine.

(2) Note that §§ 1045.235 and 1045.245 allow you to submit an application in certain cases without new emission data.

(p) State that all the engines in the engine family comply with the not-to-exceed emission standards we specify in subpart B of this part for all normal operation and use when tested as specified in § 1045.515, if applicable. Describe any relevant testing, engineering analysis, or other information in sufficient detail to support your statement.

(q) Report test results as follows:

(1) Report all test results involving measurement of pollutants for which emission standards apply. Include test results from invalid tests or from any other tests, whether or not they were conducted according to the test procedures of subpart F of this part. We may ask you to send other information to confirm that your tests were valid under the requirements of this part and 40 CFR parts 1060 and 1065.

(2) Report measured CO₂, N₂O, and CH₄ as described in § 1045.235. Small-volume engine manufacturers may omit reporting N₂O and CH₄.

(r) Describe all adjustable operating parameters (see § 1045.115(e)), including production tolerances. Include the following in your description of each parameter:

(1) The nominal or recommended setting.

(2) The intended physically adjustable range.

(3) The limits or stops used to establish adjustable ranges.

(4) Information showing why the limits, stops, or other means of inhibiting adjustment are effective in preventing adjustment of parameters on in-use engines to settings outside your intended physically adjustable ranges.

(s) Describe how your engines comply with emission standards at varying atmospheric pressures. Include a description of altitude kits you design to comply with the requirements of § 1045.115(d). Identify the part number of each component you describe. Identify the altitude range for which you expect proper engine performance and emission control with and without the altitude kit. State that your engines will comply with applicable emission standards throughout the useful life

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with the altitude kit installed according to your instructions. Describe any relevant testing, engineering analysis, or other information in sufficient detail to support your statement. In addition, describe your plan for making information and parts available such that you would reasonably expect that altitude kits would be widely used in the high-altitude counties specified in 40 CFR part 1068, Appendix III. For example, engine owners should have ready access to information describing when an altitude kit is needed and how to obtain this service. Similarly, parts and service information should be available to qualified service facilities in addition to authorized service centers if that is needed for owners to have such altitude kits installed locally.

(t) Provide the information needed to read, record, and interpret all the information broadcast by an engine's on-board computers and electronic control units. State that, upon request, you will give us any hardware, software, or tools we would need to do this. If you broadcast a surrogate parameter for torque values, you must provide us what we need to convert these into torque units. You may reference any appropriate publicly released standards that define conventions for these messages and parameters. Format your information consistent with publicly released standards.

(u) Confirm that your emission-related installation instructions specify how to ensure that sampling of exhaust emissions will be possible after engines are installed in vessels and placed in service. Show how to sample exhaust emissions in a way that prevents diluting the exhaust sample with ambient air.

(v) Unconditionally certify that all the engines in the engine family comply with the requirements of this part, other referenced parts of the CFR, and the Clean Air Act.

(w) Include good-faith estimates of U.S.-directed production volumes. Include a justification for the estimated production volumes if they are substantially different than actual production volumes in earlier years for similar models.

(x) Include the information required by other subparts of this part. For example, include the information required by §1045.725 if you participate in the ABT program.

(y) Include other applicable information, such as information specified in this part or 40 CFR part 1068 related to requests for exemptions.

(z) Name an agent for service located in the United States. Service on this agent constitutes service on you or any of your officers or employees for any action by EPA or otherwise by the United States related to the requirements of this part.

(aa) For imported engines, identify the following:

(1) The port(s) at which you have imported engines over the previous 12 months.

(2) The names and addresses of the agents you have authorized to import your engines.

(3) The location of a test facility in the United States where you can test your engines if we select them for testing under a selective enforcement audit, as specified in 40 CFR part 1068, subpart E.

[73 FR 59194, Oct. 8, 2008, as amended at 73 FR 73789, Dec. 4, 2008; 74 FR 56509, Oct. 30, 2009]

§ 1045.210 May I get preliminary approval before I complete my application?

If you send us information before you finish the application, we will review it and make any appropriate determinations, especially for questions related to engine family definitions, auxiliary emission control devices, deterioration factors, testing for service accumulation, maintenance, and compliance with not-to-exceed standards. Decisions made under this section are considered to be preliminary approval, subject to final review and approval. We will generally not reverse a decision where we have given you preliminary approval, unless we find new information supporting a different decision. If you request preliminary approval related to the upcoming model year or the model year after that, we will make the appropriate determinations as soon as practicable. We will

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generally not provide preliminary approval related to a future model year more than two years ahead of time.

§ 1045.220 How do I amend the maintenance instructions in my application?

You may amend your emission-related maintenance instructions after you submit your application for certification as long as the amended instructions remain consistent with the provisions of §1045.125. You must send the Designated Compliance Officer a written request to amend your application for certification for an engine family if you want to change the emission-related maintenance instructions in a way that could affect emissions. In your request, describe the proposed changes to the maintenance instructions. If operators follow the original maintenance instructions rather than the newly specified maintenance, this does not allow you to disqualify those engines from in-use testing or deny a warranty claim.

(a) If you are decreasing or eliminating any specified maintenance, you may distribute the new maintenance instructions to your customers 30 days after we receive your request, unless we disapprove your request. This would generally include replacing one maintenance step with another. We may approve a shorter time or waive this requirement.

(b) If your requested change would not decrease the specified maintenance, you may distribute the new maintenance instructions anytime after you send your request.

(c) You need not request approval if you are making only minor corrections (such as correcting typographical mistakes), clarifying your maintenance instructions, or changing instructions for maintenance unrelated to emission control. We may ask you to send us copies of maintenance instructions revised under this paragraph (c).

[73 FR 59194, Oct. 8, 2008, as amended at 75 FR 23019, Apr. 30, 2010]

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§ 1045.225 How do I amend my application for certification to include new or modified engines or change an FEL?

Before we issue you a certificate of conformity, you may amend your application to include new or modified engine configurations, subject to the provisions of this section. After we have issued your certificate of conformity, you may send us an amended application requesting that we include new or modified engine configurations within the scope of the certificate, subject to the provisions of this section. You must amend your application if any changes occur with respect to any information included in your application.

(a) You must amend your application before you take any of the following actions:

(1) Add an engine configuration to an engine family. In this case, the engine configuration added must be consistent with other engine configurations in the engine family with respect to the criteria listed in §1045.230.

(2) Change an engine configuration already included in an engine family in a way that may affect emissions, or change any of the components you described in your application for certification. This includes production and design changes that may affect emissions any time during the engine's lifetime.

(3) Modify an FEL for an engine family as described in paragraph (f) of this section.

(b) To amend your application for certification, send the Designated Compliance Officer the following information:

(1) Describe in detail the addition or change in the engine model or configuration you intend to make.

(2) Include engineering evaluations or data showing that the amended engine family complies with all applicable requirements. You may do this by showing that the original emission-data engine is still appropriate for showing that the amended family complies with all applicable requirements.

(3) If the original emission-data engine for the engine family is not appropriate to show compliance for the new

or modified engine configuration, include new test data showing that the new or modified engine configuration meets the requirements of this part.

(c) We may ask for more test data or engineering evaluations. You must give us these within 30 days after we request them.

(d) For engine families already covered by a certificate of conformity, we will determine whether the existing certificate of conformity covers your newly added or modified engine. You may ask for a hearing if we deny your request (see § 1045.820).

(e) For engine families already covered by a certificate of conformity, you may start producing the new or modified engine configuration anytime after you send us your amended application and before we make a decision under paragraph (d) of this section. However, if we determine that the affected engines do not meet applicable requirements, we will notify you to cease production of the engines and may require you to recall the engines at no expense to the owner. Choosing to produce engines under this paragraph (e) is deemed to be consent to recall all engines that we determine do not meet applicable emission standards or other requirements and to remedy the non-conformity at no expense to the owner. If you do not provide information required under paragraph (c) of this section within 30 days after we request it, you must stop producing the new or modified engines.

(f) You may ask us to approve a change to your FEL in certain cases after the start of production. The changed FEL may not apply to engines you have already introduced into U.S. commerce, except as described in this paragraph (f). If we approve a changed FEL after the start of production, you must include the new FEL on the emission control information label for all engines produced after the change. You may ask us to approve a change to your FEL in the following cases:

(1) You may ask to raise your FEL for your engine family at any time. In your request, you must show that you will still be able to meet the emission standards as specified in subparts B and H of this part. If you amend your application by submitting new test

data to include a newly added or modified engine, as described in paragraph (b)(3) of this section, use the appropriate FELs with corresponding production volumes to calculate emission credits for the model year, as described in subpart H of this part. In all other circumstances, you must use the higher FEL for the entire family to calculate emission credits under subpart H of this part.

(2) You may ask to lower the FEL for your engine family only if you have test data from production engines showing that emissions are below the proposed lower FEL. The lower FEL applies only to engines you produce after we approve the new FEL. Use the appropriate FELs with corresponding production volumes to calculate emission credits for the model year, as described in subpart H of this part.

§ 1045.230 How do I select engine families?

(a) For purposes of certification, divide your product line into families of engines that are expected to have similar emission characteristics throughout their useful life as described in this section. Your engine family is limited to a single model year.

(b) Group engines into the same engine family if they are the same in all the following aspects:

(1) The combustion cycle and fuel. See paragraph (e) of this section for special provisions that apply for dual-fuel engines.

(2) Method of air aspiration (for example, turbocharged vs. naturally aspirated).

(3) The number, location, volume, and composition of catalytic converters.

(4) The number, arrangement (such as in-line or vee configuration), and approximate bore diameter of cylinders.

(5) Method of control for engine operation, other than governing (i.e., mechanical or electronic).

(6) The numerical level of the applicable emission standards. For example, an engine family may not include engines certified to different family emission limits, though you may change family emission limits without recertifying as specified in § 1045.225.

(c) You may subdivide a group of engines that is identical under paragraph (b) of this section into different engine families if you show the expected emission characteristics are different during the useful life.

(d) You may group engines that are not identical with respect to the things listed in paragraph (b) of this section into the same engine family, as follows:

(1) In unusual circumstances, you may group such engines into the same engine family if you show that their emission characteristics during the useful life will be similar.

(2) If you are a small-volume engine manufacturer, you may group all your high-performance engines into a single engine family.

(3) The provisions of this paragraph (e) do not exempt any engines from meeting all the emission standards and requirements in subpart B of this part.

(e) You may certify dual-fuel or flexible-fuel engines in a single engine family. You may include dedicated-fuel versions of this same engine model in the same engine family, as long as they are identical to the engine configuration with respect to that fuel type for the dual-fuel or flexible-fuel version of the engine. For example, if you produce an engine that can alternately run on gasoline and natural gas, you can include the gasoline-only and natural gas-only versions of the engine in the same engine family as the dual-fuel engine if engine operation on each fuel type is identical with or without installation of components for operating on the other fuel.

[73 FR 59194, Oct. 8, 2008, as amended at 75 FR 23019, Apr. 30, 2010]

§ 1045.235 What emission testing must I perform for my application for a certificate of conformity?

This section describes the emission testing you must perform to show compliance with the emission standards in §§ 1045.103 and 1045.105. See § 1045.205(p) regarding emission testing related to the not-to-exceed standards. See §§ 1045.240 and 1045.245 and 40 CFR part 1065, subpart E, regarding service accumulation before emission testing.

(a) Select an emission-data engine from each engine family for testing as

described in 40 CFR 1065.401. Select the engine with a configuration that is most likely to exceed the exhaust emission standards, using good engineering judgment. Consider the emission levels of all exhaust constituents over the full useful life of the engine when operated in a vessel.

(b) Test your emission-data engines using the procedures and equipment specified in subpart F of this part. In the case of dual-fuel engines, measure emissions when operating with each type of fuel for which you intend to certify the engine. In the case of flexible-fuel engines, measure emissions when operating with the fuel mixture that is most likely to cause the engine to exceed the applicable HC + NO_x emission standard, though you may ask us to exclude fuel mixtures that you can show are not likely to occur in use.

(c) We may measure emissions from any of your emission-data engines or other engines from the engine family, as follows:

(1) We may decide to do the testing at your plant or any other facility. If we do this, you must deliver the engine to a test facility we designate. The engine you provide must include appropriate manifolds, aftertreatment devices, electronic control units, and other emission-related components not normally attached directly to the engine block. If we do the testing at your plant, you must schedule it as soon as possible and make available the instruments, personnel, and equipment we need.

(2) If we measure emissions on one of your engines, the results of that testing become the official emission results for the engine. Unless we later invalidate these data, we may decide not to consider your data in determining if your engine family meets applicable requirements.

(3) We may set the adjustable parameters of your engine to any point within the physically adjustable ranges (see § 1045.115(e)).

(4) We may calibrate your engine within normal production tolerances for anything we do not consider an adjustable parameter. For example, this would apply where we determine that

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an engine parameter is not an adjustable parameter (as defined in §1045.801) but that it is subject to production variability.

(d) You may ask to use carryover emission data from a previous model year instead of doing new tests, but only if all the following are true:

(1) The engine family from the previous model year differs from the current engine family only with respect to model year or other characteristics unrelated to emissions.

(2) The emission-data engine from the previous model year remains the appropriate emission-data engine under paragraph (b) of this section.

(3) The data show that the emission-data engine would meet all the requirements that apply to the engine family covered by the application for certification. For engines originally tested under the provisions of 40 CFR part 91, you may consider those test procedures to be equivalent to the procedures we specify in subpart F of this part.

(e) We may require you to test another engine of the same or different configuration in addition to the engine(s) tested under paragraph (b) of this section.

(f) If you use an alternate test procedure under 40 CFR 1065.10 and later testing shows that such testing does not produce results that are equivalent to the procedures specified in subpart F of this part, we may reject data you generated using the alternate procedure.

(g) Measure CO₂ and CH₄ with each low-hour certification test using the procedures specified in 40 CFR part 1065 starting in the 2011 and 2012 model years, respectively. Also measure N₂O with each low-hour certification test using the procedures specified in 40 CFR part 1065 starting in the 2013 model year for any engine family that depends on NO_x aftertreatment to meet emission standards. Small-volume engine manufacturers may omit measurement of N₂O and CH₄. These measurements are not required for NTE testing. Use the same units and modal calculations as for your other results to report a single weighted value for each constituent. Round the final values as follows:

(1) Round CO₂ to the nearest 1 g/kW-hr.

(2) Round N₂O to the nearest 0.001 g/kW-hr.

(3) Round CH₄ to the nearest 0.001 g/kW-hr.

[73 FR 59194, Oct. 8, 2008, as amended at 74 FR 56510, Oct. 30, 2009]

§ 1045.240 How do I demonstrate that my engine family complies with exhaust emission standards?

(a) For purposes of certification, your engine family is considered in compliance with the duty-cycle emission standards in §1045.103 or §1045.105 if all emission-data engines representing that family have test results showing official emission results and deteriorated emission levels at or below these standards. This also applies for all test points for emission-data engines within the family used to establish deterioration factors. Note that your FELs are considered to be the applicable emission standards with which you must comply if you participate in the ABT program in subpart H of this part. See paragraph (e) of this section for provisions related to demonstrating compliance with NTE standards.

(b) Your engine family is deemed not to comply with the duty-cycle emission standards in §1045.103 or §1045.105 if any emission-data engine representing that family has test results showing an official emission result or a deteriorated emission level for any pollutant that is above an applicable emission standard. Similarly, your engine family is deemed not to comply if any emission-data engine representing that family has test results showing any emission level above the applicable not-to-exceed emission standard for any pollutant. This also applies for all test points for emission-data engines within the family used to establish deterioration factors.

(c) Determine a deterioration factor to compare emission levels from the emission-data engine with the applicable emission standards. Section 1045.245 specifies how to test engines to develop deterioration factors that represent the expected deterioration in emissions over your engines' full useful life. Your deterioration factors must take into account any available data from in-use

testing with similar engines. You may ask us to give you an assigned deterioration factor for your high-performance engines. Small-volume engine manufacturers may use assigned deterioration factors that we establish for any engine families certified under this part. Apply deterioration factors as follows:

(1) *Additive deterioration factor for exhaust emissions.* For engines that do not use aftertreatment technology, use an additive deterioration factor for exhaust emissions. An additive deterioration factor is the difference between exhaust emissions at the end of useful life and exhaust emissions at the low-hour test point. Adjust the official emission results for each tested engine at the selected test point by adding the factor to the measured emissions. If the deterioration factor is less than zero, use zero. Additive deterioration factors must be specified to one more decimal place than the emission standard.

(2) *Multiplicative deterioration factor for exhaust emissions.* For engines that use aftertreatment technology, such as catalytic converters, use a multiplicative deterioration factor for exhaust emissions. A multiplicative deterioration factor is the ratio of exhaust emissions at the end of useful life to exhaust emissions at the low-hour test point. Adjust the official emission results for each tested engine at the selected test point by multiplying the measured emissions by the deterioration factor. If the deterioration factor is less than one, use one. Multiplicative deterioration factors must be specified to one more significant figure than the emission standard.

(d) Collect emission data using measurements to one more decimal place than the applicable standard. Apply the deterioration factor to the official emission result, as described in paragraph (c) of this section, then round the adjusted figure to the same number of decimal places as the emission standard. Compare the rounded emission levels to the emission standard for each emission-data engine. In the case of HC + NO_x standards, add the official emission results and apply the deterioration factor to the sum of the pollutants before rounding. However, if your

deterioration factors are based on emission measurements that do not cover the vehicle's full useful life, apply the deterioration factor to each pollutant and then add the results before rounding.

(e) Use good engineering judgment to demonstrate compliance with NTE standards throughout the useful life. You may, but are not required to, apply the same deterioration factors used to show compliance with the applicable duty-cycle standards.

[73 FR 59194, Oct. 8, 2008, as amended at 75 FR 23019, Apr. 30, 2010]

§ 1045.245 How do I determine deterioration factors from exhaust durability testing?

This section describes how to determine deterioration factors, either with pre-existing test data or with new emission measurements.

(a) You may ask us to approve deterioration factors for an engine family based on emission measurements from similar engines if you have already given us these data for certifying the other engines in the same or earlier model years. Use good engineering judgment to decide whether the two engines are similar.

(b) If you are unable to determine deterioration factors for an engine family under paragraph (a) of this section, select engines, subsystems, or components for testing. Determine deterioration factors based on service accumulation and related testing. Include consideration of wear and other causes of deterioration expected under typical consumer use, including exposure to saltwater if applicable. Determine deterioration factors as follows:

(1) You must measure emissions from the emission-data engine at a low-hour test point and the end of the useful life. You may also test at evenly spaced intermediate points. Collect emission data using measurements to one more decimal place than the emission standard.

(2) Operate the engine over a representative duty cycle for a period at least as long as the useful life (in hours). You may operate the engine continuously. You may also use an engine installed in a vessel to accumulate

service hours instead of running the engine only in the laboratory.

(3) In the case of dual-fuel or flexible-fuel engines, you may accumulate service hours on a single emission-data engine using the type or mixture of fuel expected to have the highest combustion and exhaust temperatures. For dual-fuel engines, you must measure emissions on each fuel type at each test point.

(4) You may perform maintenance on emission-data engines as described in §1045.125 and 40 CFR part 1065, subpart E.

(5) If you measure emissions at only two points to calculate your deterioration factor, base your calculations on a linear relationship connecting these two data points for each pollutant. If you measure emissions at three or more points, use a linear least-squares fit of your test data for each pollutant to calculate your deterioration factor.

(6) If you test more than one engine to establish deterioration factors, calculate the deterioration factor for each engine and average the deterioration factors from all the engines before rounding.

(7) Use good engineering judgment for all aspects of the effort to establish deterioration factors under this paragraph (b).

(8) You may use other testing methods to determine deterioration factors, consistent with good engineering judgment, as long as we approve those methods in advance.

(c) Include the following information in your application for certification:

(1) If you determine your deterioration factors based on test data from a different engine family, explain why this is appropriate and include all the emission measurements on which you base the deterioration factor.

(2) If you do testing to determine deterioration factors, describe the form and extent of service accumulation, including the method you use to accumulate hours.

§1045.250 What records must I keep and what reports must I send to EPA?

(a) Send the Designated Compliance Officer information related to your U.S.-directed production volumes as

described in §1045.345. In addition, within 45 days after the end of the model year, you must send us a report describing information about engines you produced during the model year as follows:

(1) State the total production volume for each engine family that is not subject to reporting under §1045.345.

(2) State the total production volume for any engine family for which you produce engines after completing the reports required in §1045.345.

(3) For production volumes you report under this paragraph (a), identify whether or not the figures include California sales. Include a separate count of production volumes for California sales if those figures are available.

(b) Organize and maintain the following records:

(1) A copy of all applications and any summary information you send us.

(2) Any of the information we specify in §1045.205 that you were not required to include in your application.

(3) A detailed history of each emission-data engine. For each engine, describe all of the following:

(i) The emission-data engine's construction, including its origin and buildup, steps you took to ensure that it represents production engines, any components you built specially for it, and all the components you include in your application for certification.

(ii) How you accumulated engine operating hours (service accumulation), including the dates and the number of hours accumulated.

(iii) All maintenance, including modifications, parts changes, and other service, and the dates and reasons for the maintenance.

(iv) All your emission tests, including documentation on routine and standard tests, as specified in part 40 CFR part 1065, and the date and purpose of each test.

(v) All tests to diagnose engine or emission control performance, giving the date and time of each and the reasons for the test.

(vi) Any other significant events.

(4) Production figures for each engine family divided by assembly plant.

(5) Keep a list of engine identification numbers for all the engines you

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produce under each certificate of conformity.

(c) Keep data from routine emission tests (such as test cell temperatures and relative humidity readings) for one year after we issue the associated certificate of conformity. Keep all other information specified in this section for eight years after we issue your certificate.

(d) Store these records in any format and on any media as long as you can promptly send us organized, written records in English if we ask for them. You must keep these records readily available. We may review them at any time.

§ 1045.255 What decisions may EPA make regarding my certificate of conformity?

(a) If we determine your application is complete and shows that the engine family meets all the requirements of this part and the Clean Air Act, we will issue a certificate of conformity for your engine family for that model year. We may make the approval subject to additional conditions.

(b) We may deny your application for certification if we determine that your engine family fails to comply with emission standards or other requirements of this part or the Clean Air Act. We will base our decision on all available information. If we deny your application, we will explain why in writing.

(c) In addition, we may deny your application or suspend or revoke your certificate if you do any of the following:

(1) Refuse to comply with any testing or reporting requirements.

(2) Submit false or incomplete information (paragraph (e) of this section applies if this is fraudulent).

(3) Render inaccurate any test data.

(4) Deny us from completing authorized activities (see 40 CFR 1068.20). This includes a failure to provide reasonable assistance.

(5) Produce engines for importation into the United States at a location where local law prohibits us from carrying out authorized activities.

(6) Fail to supply requested information or amend your application to include all engines being produced.

(7) Take any action that otherwise circumvents the intent of the Clean Air Act or this part.

(d) We may void your certificate if you do not keep the records we require or do not give us information as required under this part or the Clean Air Act.

(e) We may void your certificate if we find that you intentionally submitted false or incomplete information.

(f) If we deny your application or suspend, revoke, or void your certificate, you may ask for a hearing (see § 1045.820).

Subpart D—Testing Production-line Engines

§ 1045.301 When must I test my production-line engines?

(a) If you produce engines that are subject to the requirements of this part, you must test them as described in this subpart, except as follows:

(1) Small-volume engine manufacturers may omit testing under this subpart.

(2) We may exempt engine families with a projected U.S.-directed production volume below 150 units from routine testing under this subpart. Request this exemption in your application for certification and include your basis for projecting a production volume below 150 units. We will approve your request if we agree that you have made good-faith estimates of your production volumes. Your exemption is approved when we grant your certificate. You must promptly notify us if your actual production exceeds 150 units during the model year. If you exceed the production limit or if there is evidence of a nonconformity, we may require you to test production-line engines under this subpart, or under 40 CFR part 1068, subpart E, even if we have approved an exemption under this paragraph (a)(2).

(3) The requirements of this subpart do not apply to sterndrive/inboard engines.

(b) We may suspend or revoke your certificate of conformity for certain engine families if your production-line engines do not meet the requirements of this part or you do not fulfill your

obligations under this subpart (see §§ 1045.325 and 1045.340).

(c) Other regulatory provisions authorize us to suspend, revoke, or void your certificate of conformity, or order recalls for engine families, without regard to whether they have passed these production-line testing requirements. The requirements of this subpart do not affect our ability to do selective enforcement audits, as described in 40 CFR part 1068. Individual engines in families that pass these production-line testing requirements must also conform to all applicable regulations of this part and 40 CFR part 1068.

(d) You may use alternate programs for testing production-line engines in the following circumstances:

(1) You may use analyzers and sampling systems that meet the field-testing requirements of 40 CFR part 1065, subpart J, but not the otherwise applicable requirements in 40 CFR part 1065 for laboratory testing, to demonstrate compliance with duty-cycle emission standards if you double the minimum sampling rate specified in § 1045.310(b). Use measured test results to determine whether engines comply with applicable standards without applying a measurement allowance. This alternate program does not require prior approval but we may disallow use of this option where we determine that use of field-grade equipment would prevent you from being able to demonstrate that your engines are being produced to conform to the specifications in your application for certification.

(2) You may ask to use another alternate program for testing production-line engines. In your request, you must show us that the alternate program gives equal assurance that your products meet the requirements of this part. We may waive some or all of this subpart's requirements if we approve your alternate approach. For example, in certain circumstances you may be able to give us equal assurance that your products meet the requirements of this part by using less rigorous measurement methods if you offset that by increasing the number of test engines.

(e) If you certify an engine family with carryover emission data, as described in § 1045.235(d), and these equip-

ment engine families consistently pass the production-line testing requirements over the preceding two-year period, you may ask for a reduced testing rate for further production-line testing for that family. The minimum testing rate is one engine per engine family. If we reduce your testing rate, we may limit our approval to any number of model years. In determining whether to approve your request, we may consider the number of engines that have failed the emission tests.

(f) We may ask you to make a reasonable number of production-line engines available for a reasonable time so we can test or inspect them for compliance with the requirements of this part.

§ 1045.305 How must I prepare and test my production-line engines?

This section describes how to prepare and test production-line engines. You must assemble the test engine in a way that represents the assembly procedures for other engines in the engine family. You must ask us to approve any deviations from your normal assembly procedures for other production engines in the engine family.

(a) *Test procedures.* Test your production-line engines using the applicable testing procedures in subpart F of this part to show you meet the duty-cycle emission standards in subpart B of this part. The not-to-exceed standards apply for this testing, but you need not do additional testing to show that production-line engines meet the not-to-exceed standards.

(b) *Modifying a test engine.* Once an engine is selected for testing (see § 1045.310), 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 and make the action routine for all the engines in the engine family.

(2) This subpart otherwise specifically allows your action.

(3) We approve your action in advance.

(c) *Engine malfunction.* If an engine malfunction prevents further emission

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testing, ask us to approve your decision to either repair the engine or delete it from the test sequence.

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

(1) We may require you to adjust idle speed outside the physically adjustable range as needed, but only until the engine has stabilized emission levels (see paragraph (e) of this section). We may ask you for information needed to establish an alternate minimum idle speed.

(2) We may 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.

(e) *Stabilizing emission levels.* You may operate the engine to stabilize the emission levels before you test production-line engines. Using good engineering judgment, operate your engines in a way that represents the way production engines will be used. You may operate each engine for no more than the greater of two periods:

(1) 12 hours.

(2) The number of hours you operated your emission-data engine for certifying the engine family (see 40 CFR part 1065, subpart E, or the applicable regulations governing how you should prepare your test engine).

(f) *Damage during shipment.* If shipping an engine to a remote facility for production-line testing makes necessary an adjustment or repair, you must wait until after the initial emission test to do this work. We may waive this requirement if the test would be impossible or unsafe or if it would permanently damage the engine. Report to us in your written report under §1045.345 all adjustments or repairs you make on test engines before each test.

(g) *Retesting after invalid tests.* You may retest an engine if you determine an emission test is invalid under subpart F of this part. Explain in your written report reasons for invalidating any test and the emission results from all tests. If we determine that you improperly invalidated a test, we may re-

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quire you to ask for our approval for future testing before substituting results of the new tests for invalid ones.

§ 1045.310 How must I select engines for production-line testing?

(a) Test engines from each engine family as described in this section based on test periods, as follows:

(1) For engine families with projected U.S.-directed production volume of at least 1,600, the test periods are consecutive quarters (3 months). However, if your annual production period is less than 12 months long, you may take the following alternative approach to define quarterly test periods:

(i) If your annual production period is 120 days or less, the whole model year constitutes a single test period.

(ii) If your annual production period is 121 to 210 days, divide the annual production period evenly into two test periods.

(iii) If your annual production period is 211 to 300 days, divide the annual production period evenly into three test periods.

(iv) If your annual production period is 301 days or longer, divide the annual production period evenly into four test periods.

(2) For engine families with projected U.S.-directed production volume below 1,600, the whole model year constitutes a single test period.

(b) Early in each test period, randomly select and test an engine from the end of the assembly line for each engine family.

(1) In the first test period for newly certified engines, randomly select and test one more engine. Then, calculate the required sample size for the model year as described in paragraph (c) of this section.

(2) In later test periods of the same model year, combine the new test result with all previous testing in the model year. Then, calculate the required sample size for the model year as described in paragraph (c) of this section.

(3) In the first test period for engine families relying on previously submitted test data, combine the new test result with the last test result from the previous model year. Then, calculate the required sample size for the

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model year as described in paragraph (c) of this section. Use the last test result from the previous model year only for this first calculation. For all subsequent calculations, use only results from the current model year.

(c) Calculate the required sample size for each engine family. Separately calculate this figure for HC + NO_x and CO. The required sample size is the greater of these calculated values. Use the following equation:

$$N = \left[\frac{(t_{95} \cdot \sigma)}{(x - \text{STD})} \right]^2 + 1$$

Where:

N = Required sample size for the model year.
 t₉₅ = 95% confidence coefficient, which depends on the number of tests completed, n, as specified in the table in paragraph (c)(1) of this section. It defines 95% confidence intervals for a one-tail distribution.
 σ = Test sample standard deviation (see paragraph (c)(2) of this section).
 x = Mean of emission test results of the sample.
 STD = Emission standard (or family emission limit, if applicable).

| n | t ₉₅ | n | t ₉₅ | n | t ₉₅ |
|----|-----------------|----|-----------------|------|-----------------|
| 2 | 6.31 | 12 | 1.80 | 22 | 1.72 |
| 3 | 2.92 | 13 | 1.78 | 23 | 1.72 |
| 4 | 2.35 | 14 | 1.77 | 24 | 1.71 |
| 5 | 2.13 | 15 | 1.76 | 25 | 1.71 |
| 6 | 2.02 | 16 | 1.75 | 26 | 1.71 |
| 7 | 1.94 | 17 | 1.75 | 27 | 1.71 |
| 8 | 1.90 | 18 | 1.74 | 28 | 1.70 |
| 9 | 1.86 | 19 | 1.73 | 29 | 1.70 |
| 10 | 1.83 | 20 | 1.73 | 30 + | 1.70 |
| 11 | 1.81 | 21 | 1.72 | | |

(1) Determine the 95% confidence coefficient, t₉₅, from the following table:

(2) Calculate the standard deviation, σ, for the test sample using the following formula:

$$\sigma = \left[\frac{\sum (X_i - x)^2}{(n - 1)} \right]^{\frac{1}{2}}$$

Where:

X_i = Emission test result for an individual engine.
 n = The number of tests completed in an engine family.

mainder of the model year is sufficient to meet the calculated sample size, you may wait until the next quarter to do additional testing. Continue to randomly select engines from each engine family.

(d) Use final deteriorated test results to calculate the variables in the equations in paragraph (c) of this section (see §1045.315(a)(2)).

(g) Continue testing until one of the following things happens:

(e) After each new test, recalculate the required sample size using the updated mean values, standard deviations, and the appropriate 95-percent confidence coefficient.

(1) After completing the minimum number of tests required in paragraph (b) of this section, the number of tests completed in an engine family, n, is greater than the required sample size, N, and the sample mean, x, is less than or equal to the emission standard. For example, if N = 5.1 after the fifth test, the sample-size calculation does not allow you to stop testing.

(f) Distribute the remaining engine tests evenly throughout the rest of the year. You may need to adjust your schedule for selecting engines if the required sample size changes. If your scheduled quarterly testing for the re-

(2) The engine family does not comply according to §1045.315.

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(3) You test 30 engines from the engine family.

(4) You test one percent of your projected annual U.S.-directed production volume for the engine family, rounded to the nearest whole number. Do not count an engine under this paragraph (g)(4) if it fails to meet an applicable emission standard.

(5) You choose to declare that the engine family does not comply with the requirements of this subpart.

(h) If the sample-size calculation allows you to stop testing for one pollutant but not another, you must continue measuring emission levels of all pollutants for any additional tests required under this section. However, you need not continue making the calculations specified in this subpart for the pollutant for which testing is not required. This paragraph (h) does not affect the number of tests required under this section, the required calculations in §1045.315, or the remedial steps required under §1045.320.

(i) You may elect to test more randomly chosen engines than we require under this section. Include these engines in the sample-size calculations.

§ 1045.315 How do I know when my engine family fails the production-line testing requirements?

This section describes the pass-fail criteria for the production-line testing requirements. We apply these criteria on an engine-family basis. See §1045.320 for the requirements that apply to individual engines that fail a production-line test.

(a) Calculate your test results as follows:

(1) *Initial and final test results.* Calculate and round the test results for each engine. If you do several tests on an engine, calculate the initial results for each test, then add all the test results together and divide by the number of tests. Round this final calculated value for the final test results on that engine.

(2) *Final deteriorated test results.* Apply the deterioration factor for the engine family to the final test results (see §1045.240(c)).

(3) *Round deteriorated test results.* Round the results to the number of decimal places in the emission stand-

ard expressed to one more decimal place.

(b) Construct the following CumSum Equation for each engine family for HC + NO_x and CO emissions:

C_i = Max [0 or C_{i-1} + X_i - (STD + 0.25 × σ)]

Where:

C_i = The current CumSum statistic.

C_{i-1} = The previous CumSum statistic. For the first test, the CumSum statistic is 0 (i.e., C₁ = 0).

X_i = The current emission test result for an individual engine.

STD = Emission standard (or family emission limit, if applicable).

(c) Use final deteriorated test results to calculate the variables in the equation in paragraph (b) of this section (see §1045.315(a)).

(d) After each new test, recalculate the CumSum statistic.

(e) If you test more than the required number of engines, include the results from these additional tests in the CumSum Equation.

(f) After each test, compare the current CumSum statistic, C_i, to the recalculated Action Limit, H, defined as H = 5.0 × σ.

(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 entire engine family as described in §1045.225(f).

(h) If you amend the application for certification for an engine family under §1045.225, do not change any previous calculations of sample size or CumSum statistics for the model year.

§ 1045.320 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 §1045.315(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:

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(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 §1045.345.

(b) You may request to amend the application for certification to raise the FEL of the entire engine family at this point (see §1045.225).

[73 FR 59194, Oct. 8, 2008, as amended at 73 FR 73789, Dec. 4, 2008]

§ 1045.325 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 §1045.315. 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 §1045.820). 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 1045.335 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 engine family before or after we suspend your certificate as described in §1045.225(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.

§ 1045.330 May I sell 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 §1045.315 only if one of the following occurs:

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

§ 1045.335 How do I ask EPA to reinstate my suspended certificate?

(a) Send us a written report asking us to reinstate your suspended certificate. In your report, identify the reason for noncompliance, propose a remedy for the engine family, and commit to a date for carrying it out. In your proposed remedy include any quality control measures you propose to keep the problem from happening again.

(b) Give us data from production-line testing that shows the remedied engine family complies with all the emission standards that apply.

§ 1045.340 When may EPA revoke my certificate under this subpart and how may I sell these engines again?

(a) We may revoke your certificate for an engine family in the following cases:

(1) You do not meet the reporting requirements.

(2) Your engine family fails to comply with the requirements of this subpart and your proposed remedy to address a suspended certificate under §1045.335 is inadequate to solve the problem or requires you to change the engine's design or emission control system.

(b) To sell engines from an engine family with a revoked certificate of conformity, you must modify the engine family and then show it complies with the requirements of this part.

(1) If we determine your proposed design change may not control emissions for the engine's full useful life, we will

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tell you within five working days after receiving your report. In this case we will decide whether production-line testing will be enough for us to evaluate the change or whether you need to do more testing.

(2) Unless we require more testing, you may show compliance by testing production-line engines as described in this subpart.

(3) We will issue a new or updated certificate of conformity when you have met these requirements.

§ 1045.345 What production-line testing records must I send to EPA?

(a) Within 45 days of the end of each test period, send us a report with the following information:

(1) Describe any facility used to test production-line engines and state its location.

(2) State the total U.S.-directed production volume and number of tests for each engine family.

(3) Describe how you randomly selected engines.

(4) Describe each test engine, including the engine family's identification and the engine's model year, build date, model number, identification number, and number of hours of operation before testing.

(5) Identify how you accumulated hours of operation on the engines and describe the procedure and schedule you used.

(6) Provide the test number; the date, time and duration of testing; test procedure; all initial test results; final test results; and final deteriorated test results for all tests. Provide the emission results for all measured pollutants. Include information for both valid and invalid tests and the reason for any invalidation.

(7) Describe completely and justify any nonroutine adjustment, modification, repair, preparation, maintenance, or test for the test engine if you did not report it separately under this subpart. Include the results of any emission measurements, regardless of the procedure or type of engine.

(8) Provide the CumSum analysis required in §1045.315 and the sample-size calculation required in §1045.310 for each engine family.

(9) Report on each failed engine as described in §1045.320.

(10) State the date the test period ended for each engine family.

(b) We may ask you to add information to your written report so we can determine whether your new engines conform with the requirements of this subpart. We may also ask you to send less information.

(c) An authorized representative of your company must sign the following statement:

We submit this report under sections 208 and 213 of the Clean Air Act. Our production-line testing conformed completely with the requirements of 40 CFR part 1045. We have not changed production processes or quality-control procedures for test engines in a way that might affect emission controls. All the information in this report is true and accurate to the best of my knowledge. I know of the penalties for violating the Clean Air Act and the regulations. (Authorized Company Representative).

(d) Send electronic reports of production-line testing to the Designated Compliance Officer using an approved information format. If you want to use a different format, send us a written request with justification for a waiver.

(e) We will send copies of your reports to anyone from the public who asks for them. Section 1045.815 describes how we treat information you consider confidential.

§ 1045.350 What records must I keep?

(a) Organize and maintain your records as described in this section. We may review your records at any time.

(b) Keep paper or electronic records of your production-line testing for eight years after you complete all the testing required for an engine family in a model year.

(c) Keep a copy of the written reports described in §1045.345.

(d) Keep the following additional records:

(1) A description of all test equipment for each test cell that you can use to test production-line engines.

(2) The names of supervisors involved in each test.

(3) The name of anyone who authorizes adjusting, repairing, preparing, or modifying a test engine and the names of all supervisors who oversee this work.

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(4) If you shipped the engine for testing, the date you shipped it, the associated storage or port facility, and the date the engine arrived at the testing facility.

(5) Any records related to your production-line tests that are not in the written report.

(6) A brief description of any significant events during testing not otherwise described in the written report or in this section.

(7) Any information specified in § 1045.345 that you do not include in your written reports.

(e) If we ask, you must give us a more detailed description of projected or actual production figures for an engine family. We may ask you to divide your production figures by maximum engine power, displacement, fuel type, or assembly plant (if you produce engines at more than one plant).

(f) Keep records of the engine identification number for each engine you produce under each certificate of conformity. You may identify these numbers as a range. Give us these records within 30 days if we ask for them.

(g) We may ask you to keep or send other information necessary to implement this subpart.

Subpart E—In-Use Testing

§ 1045.401 What testing requirements apply to my engines that have gone into service?

(a) We may perform in-use testing of any engines subject to the standards of this part. If you produce outboard or personal watercraft engines that are subject to the requirements of this part, you must test them as described in this subpart. The testing requirements described in this subpart do not apply to sterndrive/inboard engines. This generally involves testing engines in the field or removing them for measurement in a laboratory.

(b) We may approve an alternate plan for showing that in-use engines comply with the requirements of this part if one of the following is true:

(1) You produce 200 or fewer engines per year in the selected engine family.

(2) You identify a unique aspect of your engine applications that keeps

you from doing the required in-use testing.

(c) We may void your certificate of conformity for an engine family if you do not meet your obligations under this part.

(d) Independent of your responsibility to test in-use engines, we may choose at any time to do our own testing of your in-use engines.

(e) If in-use testing shows that engines fail to meet emission standards or other requirements of this part, we may pursue a recall or other remedy as allowed by the Clean Air Act (see § 1045.415).

§ 1045.405 How does this program work?

(a) You must test in-use engines for exhaust emissions from the families we select. We may select up to 25 percent of your engine families in any model year—or one engine family if you have three or fewer families. When we select an engine family for testing, we may specify that you preferentially test engines based on the type of vessel. In addition, we may identify specific modes of operation or sampling times. You may choose to test additional engine families that we do not select.

(b) The provisions of this paragraph (b) describe how test families are selected, depending on when we receive the application for certification.

(1) If we receive the application by December 31 of a given calendar year for the following model year (for example, by December 31, 2009 for model year 2010), we would expect to select engine families for testing by February 28 of the model year. If we have not completed the selection of engine families by February 28, you may select your own engine families for in-use testing. In this case, you must make your selections and notify us which engine families you have selected by March 31. You should consider the following factors in selecting engine families, in priority order:

(i) Select an engine family that has not recently been tested in an in-use testing regimen (and passed) under the provisions of this subpart. This should generally involve engine families that have not been selected in the previous two model years. If design changes

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have required new testing for certification, we would consider that this engine family has not been selected for in-use testing.

(ii) Select an engine family if we have approved an alternative approach to establishing a deterioration factor under § 1045.245(b)(8).

(iii) Select the engine family with the highest projected U.S.-directed production volume.

(2) If we receive an application for a given model year after December 31 of the previous calendar year, you must conduct in-use testing with that engine family without regard to the limitations specified in paragraph (a) of this section, unless we waive this requirement. We will generally waive testing under this paragraph (b)(2) only for small-volume engine manufacturers or in the case where similar testing was recently completed for a related engine family.

(c) Send us an in-use testing plan for engine families selected for testing as described in this paragraph (c). Complete the testing within 36 months after we direct you to test a particular engine family. Send us a complete in-use testing plan according to the following deadlines:

(1) Within six months after we direct you to test a particular engine family.

(2) By February 28 of the following year if you select engine families for testing under paragraph (b)(1) of this section.

(3) Within six months after we approve certification for engine families subject to the requirements of paragraph (b)(2) of this section.

(4) If we request additional information or require you to modify your plan to meet the requirements of this subpart, you must provide the information or the modified plan within 30 days of our request.

(d) You may need to test engines from more than one model year at a given time.

(e) In appropriate extreme and unusual circumstances that are clearly outside your control and could not have been avoided by the exercise of prudence, diligence, and due care, we may allow more time to complete testing or we may waive the in-use testing requirement for an engine family. For

example, if your test fleet is destroyed by severe weather during service accumulation and we agree that completion of testing is not possible, we would generally waive testing requirements for that engine family.

[73 FR 59194, Oct. 8, 2008, as amended at 75 FR 23020, Apr. 30, 2010]

§ 1045.410 How must I select, prepare, and test my in-use engines?

(a) You may make arrangements to select representative test engines from your own fleet or from other independent sources.

(b) For the selected engine families, select engines that you or your customers have—

(1) Operated for at least 50 percent of the engine family's useful life (see § 1045.103(e));

(2) Not maintained or used in an abnormal way; and

(3) Documented in terms of total hours of operation, maintenance, operating conditions, and storage.

(c) Use the following methods to determine the number of engines you must test in each engine family:

(1) Test at least two engines if you produce 2,000 or fewer engines in the model year from all engine families, or if you produce 500 or fewer engines from the selected engine family. Otherwise, test at least four engines.

(2) If you successfully complete an in-use test program on an engine family and later certify an equivalent engine family with carryover emission data, as described in § 1045.235(d)(1), then test at least one engine instead of the testing rates in paragraph (c)(1) of this section.

(3) If you test the minimum required number of engines and all comply fully with emission standards, you may stop testing.

(4) For each engine that fails any applicable emission standard, test two more. Regardless of measured emission levels, you do not have to test more than ten engines in an engine family. You may do more tests than we require.

(5) You may concede that the engine family does not comply before testing a total of ten engines.

(6) In appropriate extreme and unusual circumstances that could not

have been avoided by the exercise of prudence, diligence, and due care, we may waive the in-use testing requirement for an engine family.

(d) You may do minimal maintenance to set components of a test engine to specifications for anything we do not consider an adjustable parameter (see §1045.205(r)). Limit maintenance to what is in the owner's instructions for engines with that amount of service and age. Document all maintenance and adjustments.

(e) You may do repeat measurements with a test engine; however, you must conduct the same number of tests on each engine.

(f) For a test program on an engine family, choose one of the following methods to test your engines:

(1) Remove the selected engines for testing in a laboratory. Use the applicable procedures in subpart F of this part to show compliance with the duty-cycle standards in §1045.103(a) or §1045.105(a). We may direct you to measure emissions on the dynamometer using the test procedures in §1045.515 to show compliance with the not-to-exceed standards in §1045.107.

(2) Test the selected engines while they remain installed in the vessel. Use the procedures in §1045.515. Measure emissions during normal operation of the vessel to show compliance with the not-to-exceed standards in §1045.107. We may direct you to include specific areas of normal operation.

(g) You may ask us to waive parts of the prescribed test procedures if they are not necessary to determine in-use compliance.

(h) Calculate the average emission levels for an engine family from the results for the set of tested engines. Round them to the number of decimal places in the emission standards expressed to one more decimal place.

§1045.415 What happens if in-use engines do not meet requirements?

(a) Determine the reason each in-use engine exceeds the emission standards.

(b) If the average emission levels calculated in §1045.410(h) exceed any of the emission standards that apply, notify us within fifteen days of completing testing on this family. Other-

wise follow the reporting instructions in §1045.420.

(c) We will consider failure rates, average emission levels, and any defects—among other things—to decide on taking remedial action under this subpart (see 40 CFR 1068.505). We may consider the results from any voluntary additional testing you perform. We may also consider information related to testing from other engine families showing that you designed them to exceed the minimum requirements for controlling emissions. We may order a recall before or after you complete testing of an engine family if we determine a substantial number of engines do not conform to section 213 of the Clean Air Act or to this part. The scope of the recall may include other engine families in the same or different model years if the cause of the problem identified in paragraph (a) of this section applies more broadly than the tested engine family, as allowed by the Clean Air Act.

(d) If in-use testing reveals a design or manufacturing defect that prevents engines from meeting the requirements of this part, you must correct the defect as soon as possible for any future production for engines in every family affected by the defect. See 40 CFR 1068.501 for additional requirements related to defect reporting.

(e) You may voluntarily recall an engine family for emission failures, as described in 40 CFR 1068.535, unless we have ordered a recall for that family under 40 CFR 1068.505.

(f) You have the right to a hearing before we order you to recall your engines or implement an alternative remedy (see §1045.820).

§1045.420 What in-use testing information must I report to EPA?

(a) In a report to us within three months after you finish testing an engine family, do all the following:

(1) Identify the engine family, model, serial number, and date of manufacture.

(2) [Reserved]

(3) Describe the specific reasons for disqualifying any engines for not being properly maintained or used.

(4) For each engine selected for testing, include the following information:

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(i) Estimate the hours each engine was used before testing.

(ii) Describe all maintenance, adjustments, modifications, and repairs to each test engine.

(5) State the date and time of each test attempt.

(6) Include the results of all emission testing, including incomplete or invalidated tests, if any.

(b) Send electronic reports of in-use testing to the Designated Compliance Officer using an approved information format. If you want to use a different format, send us a written request with justification for a waiver.

(c) We will send copies of your reports to anyone from the public who asks for them. See §1045.815 for information on how we treat information you consider confidential.

(d) We may ask for more information.

§ 1045.425 What records must I keep?

(a) Organize and maintain your records as described in this section. We may review your records at any time, so it is important to keep required information readily available.

(b) Keep paper records of your in-use testing for one full year after you complete all the testing required for an engine family in a model year. You may use any additional storage formats or media if you like.

(c) Keep a copy of the written reports described in §1045.420.

(d) Keep any additional records related to the procurement process.

Subpart F—Test Procedures

§ 1045.501 How do I run a valid emission test?

(a) *Applicability.* This subpart is addressed to you as a manufacturer but it applies equally to anyone who does testing for you, and to us when we perform testing to determine if your engines meet emission standards.

(b) *General requirements.* Use the equipment and procedures for spark-ignition engines in 40 CFR part 1065 to determine whether engines meet the duty-cycle emission standards in §§1045.103 and 1045.105. Measure the emissions of all exhaust constituents subject to emissions standards as specified in 40 CFR part 1065. Measure CO₂,

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N₂O, and CH₄ as described in §1045.235. Use the applicable duty cycles specified in §1045.505. Section 1045.515 describes the supplemental procedures for evaluating whether engines meet the not-to-exceed emission standards in §1045.107.

(c) *Fuels.* Use the fuels and lubricants specified in 40 CFR part 1065, subpart H, for all the testing we require in this part, except as specified in §1045.515. Use gasoline meeting the specifications described in 40 CFR 1065.710 for general testing. For service accumulation, use the test fuel or any commercially available fuel that is representative of the fuel that in-use engines will use. You may alternatively use gasoline blended with ethanol as follows:

(1) You may use the ethanol-blended fuel for certifying engines under this part without our advance approval. If you use the blended fuel for certifying a given engine family, you may also use it for production-line testing or any other testing you perform for that engine family under this part. If you use the blended fuel for certifying a given engine family, we may use the blended fuel or the specified gasoline test fuel with that engine family.

(2) The blended fuel must consist of a mix of gasoline meeting the specifications described in 40 CFR 1065.710 for general testing and fuel-grade ethanol meeting the specifications described in 40 CFR 1060.501(c) such that the blended fuel has 10.0 + 1.0 percent ethanol by volume. You may also use ethanol with a higher or lower purity if you show us that it will not affect your ability to demonstrate compliance with the applicable emission standards. You do not need to measure the ethanol concentration of such blended fuels and may instead calculate the blended composition by assuming that the ethanol is pure and mixes perfectly with the base fuel.

(d) *Laboratory conditions.* Ambient conditions for duty-cycle testing must be within ranges specified in 40 CFR 1065.520, subject to the provisions of §1045.115(d). Emissions may not be corrected for the effects of test temperature or pressure. Humidity levels must represent actual in-use humidity levels; however, you may correct emissions for humidity as specified in 40 CFR 1065.670.

(e) *Engine stabilization.* Instead of the provisions of 40 CFR 1065.405, you may consider emission levels stable without measurement after 12 hours of engine operation.

(f) *Maximum test speed.* Instead of the provisions of 40 CFR 1065.510(f), you may declare a value of maximum test speed for laboratory testing that is within 500 rpm of the corresponding measured value for maximum test speed.

(g) *Special and alternate procedures.* If you are unable to run the duty cycle specified in this part for your engine (such as with constant-speed engines), use an alternate test cycle that will result in a cycle-weighted emission measurement equivalent to the expected average in-use emissions. This cycle must be approved under 40 CFR 1065.10. You may use other special or alternate procedures to the extent we allow them under 40 CFR 1065.10.

(h) *Laboratory testing with portable analyzers.* You may use field-grade equipment for any laboratory testing with high-performance engines, as specified in 40 CFR 1065.901(b), without requesting approval.

[73 FR 59194, Oct. 8, 2008, as amended at 74 FR 56510, Oct. 30, 2009]

§ 1045.505 How do I test engines using discrete-mode or ramped-modal duty cycles?

(a) This section describes how to test engines under steady-state conditions. We allow you to perform tests with either discrete-mode or ramped-modal sampling. You must use the modal testing method for certification and all other testing you perform for an engine family. If we test your engines to confirm that they meet emission standards, we will use the modal testing method you select for your own testing. If you submit certification test data collected with both discrete-mode and ramped-modal testing (either in your original application or in an amendment to your application), either method may be used for subsequent testing. We may also perform other testing as allowed by the Clean Air Act. Conduct duty-cycle testing as follows:

(1) For discrete-mode testing, sample emissions separately for each mode,

then calculate an average emission level for the whole cycle using the weighting factors specified for each mode. In each mode, operate the engine for at least 5 minutes, then sample emissions for at least 1 minute. Calculate cycle statistics and compare with the established criteria as specified in 40 CFR 1065.514 to confirm that the test is valid.

(2) For ramped-modal testing, start sampling at the beginning of the first mode and continue sampling until the end of the last mode. Calculate emissions and cycle statistics the same as for transient testing as specified in 40 CFR part 1065.

(b) Measure emissions by testing the engine on a dynamometer to determine whether it meets the emission standards in §§ 1045.103(a) and 1045.105(a). Use the 5-mode duty cycle or the corresponding ramped-modal cycle described in Appendix I of this part.

(c) During idle mode, operate the engine at its warm idle speed as described in 40 CFR 1065.510; this may involve a nonzero torque setting if that represents in-use operation.

(d) For full-load operating modes, operate the engine at wide-open throttle.

(e) See 40 CFR part 1065 for detailed specifications of tolerances and calculations.

§ 1045.515 What are the test procedures related to not-to-exceed standards?

(a) This section describes the procedures to determine whether your engines meet the not-to-exceed emission standards in § 1045.107. These procedures may include any normal engine operation and ambient conditions that the engines may experience in use. Paragraphs (b) and (c) of this section define the limits of what we will consider normal engine operation and ambient conditions. Use the test procedures we specify in § 1045.501, except for the provisions we specify in this section. Measure emissions with one of the following procedures:

(1) Remove the selected engines for testing in a laboratory. You may use an engine dynamometer to simulate normal operation, as described in this section.

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(2) Test the selected engines while they remain installed on a vessel. In 40 CFR part 1065, subpart J, we describe the equipment and sampling methods for testing engines in the field. Use fuel meeting the specifications of 40 CFR part 1065, subpart H, or a fuel typical of what you would expect the engine to use in service.

(b) Engine testing may occur under a range of ambient conditions as follows:

(1) Engine testing may occur under the following ranges of ambient conditions without correcting measured emission levels:

(i) Barometric pressure must be between 94.0 and 103.325 kPa.

(ii) Ambient air temperature must be between 13 and 35 °C.

(iii) Ambient water temperature must be between 5 and 27 °C.

(iv) Any ambient humidity level.

(2) Engine testing may occur outside the conditions described in paragraph (b)(1) of this section, as long as measured values are corrected to be equivalent to the nearest end of the specified range using good engineering practice.

(c) An engine's emissions may not exceed the NTE standards in §1045.107 under the following ranges of engine operation:

(1) The sampling period may not begin until the engine has reached stable operating temperatures. For example, this would exclude engine operation after starting until the thermostat starts modulating coolant temperature. The sampling period may also not include engine starting. For testing under paragraphs (c)(4) and (6) of this section, the NTE standards apply for any continuous sampling period of at least 30 seconds.

(2) Engine operation during the emission sampling period may include any nominally steady-state combination of speeds and loads within the applicable zone defined by segments on an engine's power vs. speed map specified in paragraphs (c)(3) through (6) of this section, except as follows:

(i) You may request that we specify a narrower zone, as long as the modified zone includes all points where your engines are expected to normally operate in use, but not including any points at which engine speed is below 40 percent of maximum test speed or engine load

is below 25.3 percent of maximum torque at maximum test speed. However, we may perform valid tests at any speeds and loads within the zones specified in paragraphs (c)(3) through (6) of this section that we observe with in-use engines. The engine must comply with emission standards at all such speeds and loads unless we determine that one of following criteria are true:

(A) Such speeds and loads occur very infrequently. This determination may consider whether the operation would be expected to result in damage to the engine or vessel or be inherently unsafe.

(B) Such speeds and loads result from the engine being installed in a manner that is not consistent with your emission-related installation instructions.

(ii) You must notify us if you design your engines for normal in-use operation outside the specified zone. If we learn that normal in-use operation for your engines includes other speeds and loads, we may specify a broader zone, as long as the modified zone is limited to normal in-use operation for speeds greater than 40 percent of maximum test speed and loads greater than 25.3 percent of maximum torque at maximum test speed.

(3) The NTE zone for testing engines under this section is defined by the following segments on an engine's torque vs. speed map, as illustrated in Figures 1 through 3 of this section:

(i) Speed at or above 40 percent of maximum test speed.

(ii) Speeds and torques below the line defined by the following equation:

$$\text{Normalized torque} = 1.5 \times \text{normalized speed} - 0.16$$

(iii) Speeds and torques at or below the engine's mapped torque values.

(iv) Speeds at or below 100 percent of maximum test speed, except as specified in paragraph (c)(5) of this section.

(v) Speeds and torques above the line defined by the following equation:

$$\text{Normalized torque} = (\text{normalized speed})^{1.5} - 0.08$$

(vi) Torques at or above 25.3 percent of maximum torque at maximum test speed, except as specified in paragraph (c)(5) of this section.

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(4) For engines equipped with a catalyst, the NTE zone described in paragraph (c)(3) of this section is divided into the following subzones for determining the applicable NTE standards, as illustrated in Figure 1 of this section:

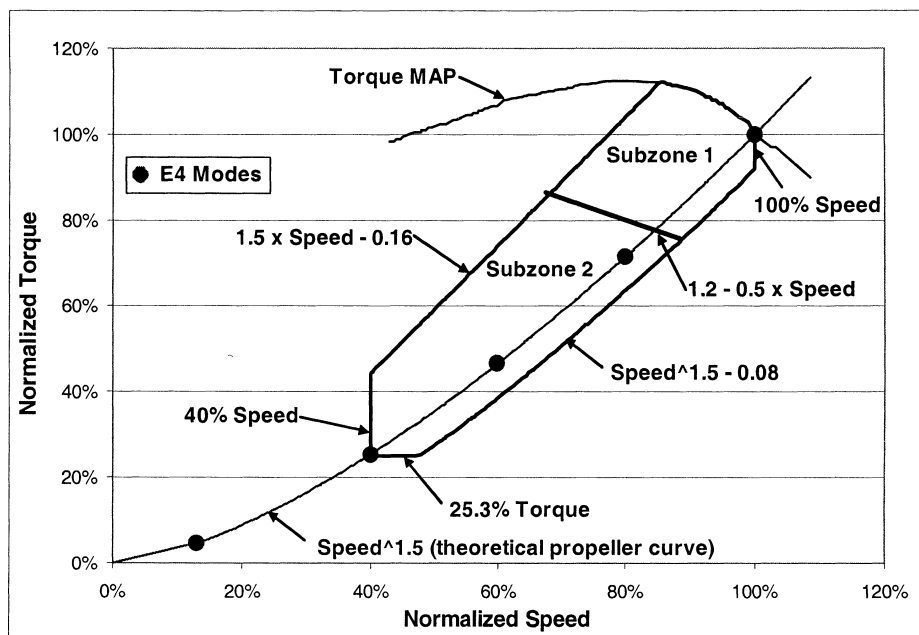
(i) Subzone 1 includes all operation in the NTE zone characterized by speeds

and torques above the line represented by the following equation:

$$(\text{percent torque}) = 1.2 - 0.5 \times (\text{percent speed})$$

(ii) Subzone 2 includes all operation in the NTE zone not included in Subzone 1.

Figure 1 of §1045.515 –
NTE Zone and Subzones for Catalyst-Equipped Engines



(5) For two-stroke engines not equipped with a catalyst, the NTE zone described in paragraph (c)(3) of this section is divided into subzones for testing to determine compliance with the applicable NTE standards. Measure emissions to get an NTE result by collecting emissions at five points as described in this paragraph (c)(5). Calculate a weighted test result for these emission measurements using the weighting factors from Appendix II of this part for the corresponding modal result (similar to discrete-mode testing for certification). Test engines over the

following modes corresponding to the certification duty cycle:

(i) Mode 1: Operate the engine at wide open throttle. For laboratory testing, this may involve any torque value between the boundaries specified in paragraph (c)(3) of this section.

(ii) Mode 2: Operate the engine at a nominal speed that is 80 percent of maximum test speed at any torque value between the boundaries specified in paragraph (c)(3) of this section.

(iii) Mode 3: Operate the engine at a nominal speed that is 60 percent of maximum test speed at any torque

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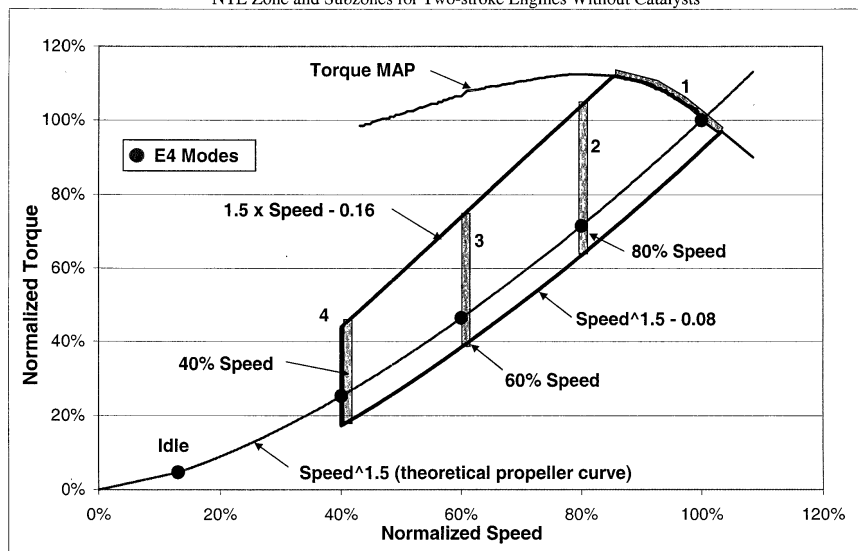
value between the boundaries specified in paragraph (c)(3) of this section.

(iv) Mode 4: Operate the engine at a nominal speed that is 40 percent of maximum test speed at any torque

value between the boundaries specified in paragraphs (c)(3)(ii) and (v) of this section.

(v) Mode 5: Operate the engine at idle.

Figure 2 of §1045.515 --
NTE Zone and Subzones for Two-stroke Engines Without Catalysts

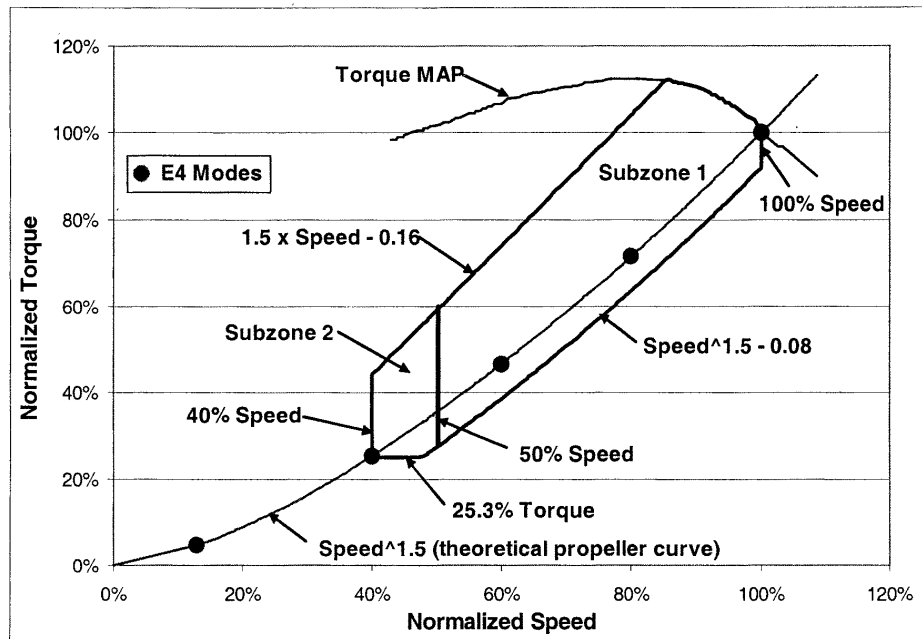


(6) For any engines not covered by paragraphs (c)(4) and (5) of this section, the NTE zone described in paragraph (c)(3) of this section is divided into the following subzones for determining the applicable NTE standards, as illustrated in Figure 2 of this section:

(i) Subzone 1 includes all operation in the NTE zone at speeds above 50 percent of maximum test speed.

(ii) Subzone 2 includes all operation in the NTE zone not included in Subzone 1.

Figure 3 of §1045.515 –
NTE Zone and Subzones for Four-Stroke Engines Without Catalysts



[73 FR 59194, Oct. 8, 2008, as amended at 75 FR 23020, Apr. 30, 2010]

§ 1045.520 What testing must I perform to establish deterioration factors?

Sections 1045.240 and 1045.245 describe the required methods for testing to establish deterioration factors for an engine family.

Subpart G—Special Compliance Provisions

§ 1045.601 What compliance provisions apply to these engines?

Engine and vessel manufacturers, as well as owners, operators, and rebuilders of engines subject to the requirements of this part, and all other persons, must observe the provisions of this part, the requirements and prohibitions in 40 CFR part 1068, and the provisions of the Clean Air Act.

§ 1045.605 What provisions apply to engines already certified under the motor vehicle or Large SI programs?

(a) *General provisions.* If you are an engine manufacturer, this section allows you to introduce new propulsion marine engines into U.S. commerce if they are already certified to the requirements that apply to spark-ignition engines under 40 CFR parts 85 and 86 or part 1048 for the appropriate model year. If you comply with all the provisions of this section, we consider the certificate issued under 40 CFR part 86 or 1048 for each engine to also be a valid certificate of conformity under this part 1045 for its model year, without a separate application for certification under the requirements of this part 1045.

(b) *Vessel-manufacturer provisions.* If you are not an engine manufacturer, you may produce vessels using motor vehicle engines or nonroad spark-ignition engines under this section as long

as you meet all the requirements and conditions specified in paragraph (d) of this section. If you modify the engine in any of the ways described in paragraph (d)(2) of this section, we will consider you a manufacturer of a new propulsion marine engine. Such engine modifications prevent you from using the provisions of this section.

(c) *Liability.* Engines for which you meet the requirements of this section are exempt from all the requirements and prohibitions of this part, except for those specified in this section. Engines exempted under this section must meet all the applicable requirements from 40 CFR parts 85 and 86, or part 1048. This applies to engine manufacturers, vessel manufacturers who use these engines, and all other persons as if these engines were used in applications other than for installation as propulsion marine engines. The prohibited acts of 40 CFR 1068.101(a)(1) apply to these new engines and vessels; however, we consider the certificate issued under 40 CFR part 86 or 1048 for each engine to also be a valid certificate of conformity under this part 1045 for its model year. If we make a determination that these engines do not conform to the regulations during their useful life, we may require you to recall them under 40 CFR part 86 or 1068.

(d) *Specific requirements.* If you are an engine or vessel manufacturer and meet all the following criteria and requirements regarding your new propulsion marine engine, the engine is eligible for an exemption under this section:

(1) Your engine must be covered by a valid certificate of conformity issued under 40 CFR part 86 or 1048.

(2) You must not make any changes to the certified engine that could reasonably be expected to increase its exhaust emissions for any pollutant, or its evaporative emissions. For example, if you make any of the following changes to one of these engines, you do not qualify for this exemption:

(i) Change any fuel-system or evaporative-system parameters from the certified configuration (this does not apply to refueling controls).

(ii) Change, remove, or fail to properly install any other component, element of design, or calibration specified

in the engine manufacturer's application for certification. This includes aftertreatment devices and all related components.

(iii) Modify or design the marine engine cooling system so that temperatures or heat rejection rates are outside the original engine manufacturer's specified ranges.

(3) You must show that fewer than 10 percent of the engine family's total sales in the United States are used in marine applications. This includes engines used in any application without regard to which company manufactures the vessel or equipment. Show this as follows:

(i) If you are the original manufacturer of the engine, base this showing on your sales information.

(ii) In all other cases, you must get the original manufacturer of the engine to confirm this based on its sales information.

(4) You must ensure that the engine has the label we require under 40 CFR part 86 or 1048.

(5) You must add a permanent supplemental label to the engine in a position where it will remain clearly visible after installation in the vessel. In the supplemental label, do the following:

(i) Include the heading: "MARINE ENGINE EMISSION CONTROL INFORMATION".

(ii) Include your full corporate name and trademark. You may instead include the full corporate name and trademark of another company you choose to designate.

(iii) State: "THIS ENGINE WAS ADAPTED FOR MARINE USE WITHOUT AFFECTING ITS EMISSION CONTROLS."

(iv) If the modified engine is certified as a motor vehicle engine, also state: "THE EMISSION CONTROL SYSTEM DEPENDS ON THE USE OF FUEL MEETING SPECIFICATIONS THAT APPLY FOR MOTOR VEHICLE APPLICATIONS. OPERATING THE ENGINE ON OTHER FUELS MAY BE A VIOLATION OF FEDERAL LAW."

(v) State the date you finished modifying the engine (month and year), if applicable.

(6) The original and supplemental labels must be readily visible after the engine is installed in the vessel or, if

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the vessel obscures the engine's emission control information label, the vessel manufacturer must attach duplicate labels, as described in 40 CFR 1068.105.

(7) Send the Designated Compliance Officer a signed letter by the end of each calendar year (or less often if we tell you) with all the following information:

(i) Identify your full corporate name, address, and telephone number.

(ii) List the engine or vessel models you expect to produce under this exemption in the coming year and describe your basis for meeting the sales restrictions of paragraph (d)(3) of this section.

(iii) State: "We produce each listed [engine or vessel] model without making any changes that could increase its certified emission levels, as described in 40 CFR 1045.605."

(e) *Failure to comply.* If your engines do not meet the criteria listed in paragraph (d) of this section, they will be subject to the standards, requirements, and prohibitions of this part 1045 and the certificate issued under 40 CFR part 86 or 1048 will not be deemed to also be a certificate issued under this part 1045. Introducing these engines into U.S. commerce without a valid exemption or certificate of conformity under this part violates the prohibitions in 40 CFR 1068.101(a)(1).

(f) *Data submission.* We may require you to send us emission test data on one of the duty cycles specified in subpart F of this part.

(g) *Participation in averaging, banking and trading.* Engines adapted for marine use under this section may not generate or use emission credits under this part 1045. These engines may generate credits under the ABT provisions in 40 CFR part 86. These engines must use emission credits under 40 CFR part 86 if they are certified to an FEL above a standard that applies under 40 CFR part 86.

§ 1045.610 What provisions apply to using engines already certified to Small SI emission standards?

This section applies to marine engines that are identical to land-based engines certified under 40 CFR part 90 or 1054. See § 1045.605 for provisions that

apply to marine engines that are certified under other programs.

(a) If an engine meets all the following criteria, it is exempt from the requirements of this part:

(1) The engine must be in an engine family that has a valid certificate of conformity showing that it meets emission standards for nonhandheld engines under 40 CFR part 90 or 1054 for the appropriate model year.

(2) You must show that fewer than 5 percent of the engine family's total sales in the United States are used in marine applications. This includes engines used in any application without regard to which company manufactures the vessel or equipment.

Show this as follows:

(i) If you are the original manufacturer of the engine, base this showing on your sales information.

(ii) In all other cases, you must get the original manufacturer of the engine to confirm this based on its sales information.

(b) The only requirements or prohibitions from this part that apply to an engine that meets the criteria in paragraph (a) of this section are in this section.

(c) Engines exempted under this section are subject to all the requirements affecting engines under 40 CFR part 90 or 1054. The requirements and restrictions of 40 CFR part 90 or 1054 apply to anyone manufacturing these engines, anyone manufacturing equipment that uses these engines, and all other persons in the same manner as if these engines were not used as propulsion marine engines.

(d) You may use the provisions of § 1045.605 in addition to the provisions of this section for engines certified under 40 CFR part 1054. Where § 1045.605 references 40 CFR parts 85, 86, and/or 1048, apply the applicable provisions of 40 CFR part 1054 instead. Include the engines you sell under this section in your demonstration that you meet the sales limit in § 1045.605(d)(3).

§ 1045.620 What are the provisions for exempting engines used solely for competition?

The provisions of this section apply for new engines and vessels built on or after January 1, 2010.

(a) We may grant you an exemption from the standards and requirements of this part for a new engine on the grounds that it is to be used solely for competition. The requirements of this part, other than those in this section, do not apply to engines that we exempt for use solely for competition.

(b) We will exempt engines that we determine will be used solely for competition. The basis of our determination is described in paragraphs (c) and (d) of this section. Exemptions granted under this section are good for only one model year and you must request renewal for each subsequent model year. We will not approve your renewal request if we determine the engine will not be used solely for competition.

(c) Engines meeting all the following criteria are considered to be used solely for competition:

(1) Neither the engine nor any vessels containing the engine may be displayed for sale in any public dealership or otherwise offered for sale to the general public. Note that this does not preclude display of these engines as long as they are not available for sale to the general public.

(2) Sale of the vessel in which the engine is installed must be limited to professional racing teams, professional racers, or other qualified racers. For replacement engines, the sale of the engine itself must be limited to professional racing teams, professional racers, other qualified racers, or to the original vessel manufacturer.

(3) The engine and the vessel in which it is installed must have performance characteristics that are substantially superior to noncompetitive models.

(4) The engines are intended for use only as specified in paragraph (e) of this section.

(d) You may ask us to approve an exemption for engines not meeting the criteria listed in paragraph (c) of this section as long as you have clear and convincing evidence that the engines will be used solely for competition.

(e) Engines are considered to be used solely for competition only if their use is limited to competition events sanctioned by the U.S. Coast Guard or another public organization with authorizing permits for participating com-

petitors. Operation of such engines may include only racing events, trials to qualify for racing events, and practice associated with racing events. Authorized attempts to set speed records are also considered racing events. Engines will not be considered to be used solely for competition if they are ever used for any recreational or other non-competitive purpose. Use of exempt engines in any recreational events, such as poker runs and lobsterboat races, is a violation of 40 CFR 1068.101(b)(4).

(f) You must permanently label engines exempted under this section to clearly indicate that they are to be used only for competition. Failure to properly label an engine will void the exemption for that engine.

(g) If we request it, you must provide us any information we need to determine whether the engines are used solely for competition. This would include documentation regarding the number of engines and the ultimate purchaser of each engine as well as any documentation showing a vessel manufacturer's request for an exempted engine. Keep these records for five years.

§ 1045.625 What requirements apply under the Diurnal Transition Program?

The provisions of this section allow vessel manufacturers to produce a certain number of vessels with installed fuel tanks that do not meet the diurnal emission standards specified in §1045.112(d) and 40 CFR 1060.105. The provisions of this section do not apply for portable marine fuel tanks, personal watercraft, or outboard engines with under-cowl fuel tanks. Vessels you produce under this section are exempt from the prohibitions in 40 CFR 1068.101(a)(1) with respect to diurnal emissions, subject to the provisions of this section.

(a) *General.* If you are a vessel manufacturer, you may introduce into U.S. commerce limited numbers of exempted vessels under this section. You may use the exemptions in this section only if you have primary responsibility for designing and manufacturing vessels and your manufacturing procedures include installing some engines in these vessels. Consider all U.S.-directed vessel sales in showing that you meet the

requirements of this section, including those from any parent or subsidiary companies and those from any other companies you license to produce vessels for you. These provisions are available for vessels you produce during the periods specified in paragraph (b) of this section.

(b) *Allowances.* You may choose one of the following options to produce exempted vessels under this section:

(1) *Percent-of-production allowances.* You may produce up to 50 percent of your vessels from July 31, 2011 through July 31, 2012 that are exempt from the diurnal emission standards. Calculate this percentage based on your total U.S.-directed production volume.

(2) *Small-volume allowances.* Small-volume vessel manufacturers may produce up to 1200 vessels from July 31, 2011 through July 31, 2013 that are exempt from the diurnal emission standards.

(c) *Vessel labeling.* You must add a permanent label, written legibly in English, to a readily visible part of each exempted vessel you produce under this section. You may combine this with the label required under 40 CFR 1060.135. This label must include at least the following items:

(1) The label heading "EMISSION CONTROL INFORMATION".

(2) Your corporate name and trademark.

(3) The vessel's date of manufacture.

(4) The following statement: "THIS VESSEL IS EXEMPT FROM DIURNAL STANDARDS UNDER 40 CFR 1045.625."

(d) *Notification and reporting.* You must notify us of your intent to use the provisions of this section and send us an annual report to verify that you are not exceeding the allowances, as follows:

(1) Before you produce vessels that are exempt under this section, send the Designated Compliance Officer a written notice of your intent with the following information:

(i) Identify your company's name and address, and your parent company's name and address, if applicable.

(ii) Identify the name, e-mail address, and phone number of a person to contact for further information.

(iii) Identify the name and address of the company you expect to produce the

fuel tanks you will be using for the vessels exempted under this section.

(iv) If you qualify as a small-volume vessel manufacturer, state whether you will comply under paragraph (b)(1) or (b)(2) of this section.

(v) Include your production figures for the period from July 31, 2009 through July 31, 2010, including figures broken down by model.

(2) Send the Designated Compliance Officer a written report by December 31, 2012. If you are a small-volume manufacturer using the provisions of paragraph (b)(2) of this section to produce exempted vessels after July 31, 2012, send us a second report by December 31, 2013. These reports must include the total number of vessels and the number of exempted vessels you sold in the preceding year for each model, based on actual U.S.-directed production information. You may omit the count of compliant vessels if you include in the report a statement that you are not using the percent-of-production allowances in paragraph (b)(1) of this section. If you initially comply using the percent-of-production allowances in paragraph (b)(1) of this section, you may not use the small-volume allowances in paragraph (b)(2) of this section for later production.

(3) If you send your initial notification under paragraph (d)(1) of this section after the specified deadline, we may approve your use of allowances under this section. In your request, describe why you were unable to meet the deadline. We will not approve your request if the delay could have been avoided with reasonable care and discretion.

(e) *Recordkeeping.* Keep the following records of all exempted vessels you produce under this section:

(1) The model number, serial number, and the date of manufacture for each vessel.

(2) The total number or percentage of exempted vessels as described in paragraph (b) of this section and all documentation supporting your calculation.

(3) The notifications and reports we require under paragraph (d) of this section.

(f) *Provisions for fuel tank manufacturers.* As a fuel tank manufacturer, you may produce fuel tanks as needed for

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vessel manufacturers under this section without our prior approval. These fuel tanks are exempt from the diurnal emission standards. Note that this diurnal exemption does not affect the requirements related to permeation emissions specified in §1045.112. You must have written assurance from vessel manufacturers that they need a certain number of exempted fuel tanks under this section. You must keep records of the number of exempted fuel tanks you sell to each vessel manufacturer.

(g) *Enforcement.* Producing more exempted vessels than we allow under this section violates the prohibitions in 40 CFR 1068.101(a)(1). Vessel manufacturers and fuel tank manufacturers must keep the records we require under this section until at least December 31, 2017 and give them to us if we ask for them (see 40 CFR 1068.101(a)(2)).

§ 1045.630 What is the personal-use exemption.

This section applies to individuals who manufacture recreational vessels for personal use with used engines. If you and your vessel meet all the conditions of this section, the vessel and its engine are considered to be exempt from the standards and requirements of this part that apply to new engines, including standards and requirements related to evaporative emissions. For example, you are not required to use certified fuel system components or otherwise obtain certificates of conformity showing that the vessel meets evaporative emission standards, and you do not need to install a certified engine.

(a) The vessel may not be manufactured from a previously certified vessel, nor may it be manufactured from a partially complete vessel that is equivalent to a certified vessel. The vessel must be manufactured primarily from unassembled components, but may incorporate some preassembled components. For example, fully preassembled steering assemblies may be used. You may also power the vessel with an engine that was previously used in a highway or land-based nonroad application.

(b) The vessel may not be sold within five years after the date of final assembly.

(c) No individual may manufacture more than one vessel in any five-year period under this exemption.

(d) You may not use the vessel in any revenue-generating service or for any other commercial purpose. For example, this exemption does not apply for vessels used in commercial fishing or charter service.

(e) This exemption may not be used to circumvent the requirements of this part or the requirements of the Clean Air Act. For example, this exemption would not cover a case in which a person sells an almost completely assembled vessel to another person, who would then complete the assembly. This would be considered equivalent to the sale of the complete new vessel. This section also does not allow engine manufacturers to produce new engines that are exempt from emission standards and it does not provide an exemption from the prohibition against tampering with certified engines.

§ 1045.635 What special provisions apply for small-volume engine manufacturers?

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

(a) Special provisions apply for certain small-volume engine manufacturers, as illustrated by the following examples:

(1) Additional lead time and other provisions related to the transition to new emission standards. See §1045.145.

(2) More flexible arrangements for creating engine families for high-performance engines. See §1045.230.

(3) Assigned deterioration factors. See §1045.240.

(4) Waived requirements for production-line testing. See §1045.301.

(5) Additional special provisions apply for small-volume engine and vessel manufacturers. For example, see §1045.625 and 40 CFR 1068.250.

(b) If you use any of the provisions of this part that apply specifically to small-volume engine manufacturers and we find that you do not qualify to use these provisions, we may consider you to be in violation of the requirements that apply for companies that are not small-volume engine manufacturers. If your number of employees

grows to the point that you no longer qualify as a small-volume engine manufacturer, 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.

§ 1045.640 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 § 1045.135(c)(2):

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

(1) Meet the emission warranty requirements that apply under § 1045.120. 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.

§ 1045.645 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 continues 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 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 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.

§ 1045.650 Do delegated-assembly provisions apply for marine engines?

The provisions of 40 CFR 1068.261 related to delegated final assembly do not apply for marine spark-ignition engines certified under this part 1045. This means that for engines requiring exhaust aftertreatment (such as catalyts), the engine manufacturers must either install the aftertreatment on the engine before introducing it into

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U.S. commerce or ship the aftertreatment along with the engine.

§ 1045.655 What special provisions apply for installing and removing altitude kits?

An action for the purpose of installing or modifying altitude kits and performing other changes to compensate for changing altitude is not considered a prohibited act under 40 CFR 1068.101(b) as long as it is done consistent with the manufacturer's instructions.

§ 1045.660 How do I certify outboard or personal watercraft engines for use in jet boats?

(a) This section describes how to certify outboard or personal watercraft engines for use in jet boats. To be certified under this section, the jet boat engines must be identical in all physical respects to the corresponding outboard or personal watercraft engines, but may differ slightly with respect to engine calibrations.

(b) The outboard or personal watercraft engines must meet all the applicable requirements for outboard or personal watercraft engines. Jet boat engines certified under this section must meet all the applicable requirements for sterndrive/inboard engines.

(c) The jet boat engines must be in an engine family separate from the corresponding outboard or personal watercraft engines.

(d) Jet boat engine families may use emission credits from outboard or personal watercraft engine families, as described in §1045.701(d).

(e) Jet-boat engines certified under the provisions of this section must meet emission standards over the same useful-life period that applies to the corresponding outboard or personal watercraft engine family, as described in §1045.103(e).

Subpart H—Averaging, Banking, and Trading for Certification

§ 1045.701 General provisions.

(a) You may average, bank, and trade (ABT) emission credits for purposes of certification as described in this subpart to show compliance with the

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standards of this part. This applies for engines with respect to exhaust emissions and for vessels with respect to evaporative emissions. Participation in this program is voluntary.

(b) The definitions of subpart I of this part apply to this subpart. The following definitions also apply:

(1) *Actual emission credits* means emission credits you have generated that we have verified by reviewing your final report.

(2) *Averaging set* means a set of engines (or vessels) in which emission credits may be exchanged only with other engines (or vessels) in the same averaging set.

(3) *Broker* means any entity that facilitates a trade of emission credits between a buyer and seller.

(4) *Buyer* means the entity that receives emission credits as a result of a trade.

(5) *Family* means engine family for exhaust credits or emission family for evaporative credits.

(6) *Reserved emission credits* means emission credits you have generated that we have not yet verified by reviewing your final report.

(7) *Seller* means the entity that provides emission credits during a trade.

(8) *Standard* means the emission standard that applies under subpart B of this part for engines or fuel-system components not participating in the ABT program of this subpart.

(9) *Trade* means to exchange emission credits, either as a buyer or seller.

(c) You may not average or exchange banked or traded exhaust credits with evaporative credits, or vice versa. Evaporative credits generated by any vessels under this part may be used by any vessels under this part. Exhaust credits may be exchanged only within an averaging set. Except as specified in paragraph (d) of this section, the following criteria define the applicable exhaust averaging sets:

(1) Sterndrive/inboard engines.

(2) Outboard and personal watercraft engines.

(d) Sterndrive/inboard engines certified under §1045.660 for jet boats may use HC + NO_x and CO exhaust credits generated from outboard and personal watercraft engines, as long as the credit-using engine is the same model as an

engine model from an outboard or personal watercraft family. Such emission credits that you generate under this part 1045 may be used for averaging, but not for banking or trading. The FEL caps for such jet boat families are the HC + NO_x and CO standard for outboard and personal watercraft engines. U.S.-directed sales from jet boat engines using the provisions of this paragraph (d) may not be greater than the U.S.-directed sales of the same engine model for outboard or personal watercraft engines.

(e) You may not generate evaporative credits based on permeation measurements from metal fuel tanks or portable marine fuel tanks.

(f) You may not use emission credits generated under this subpart to offset any emissions that exceed an FEL or standard. This applies for all testing, including certification testing, in-use testing, selective enforcement audits, and other production-line testing. However, if exhaust emissions from an engine exceed an exhaust FEL or standard (for example, during a selective enforcement audit), you may use emission credits to recertify the family with a higher FEL that applies only to future production.

(g) Emission credits may be used for averaging in the model year they are generated or banked for averaging in future model years, except that CO emission credits for outboard and personal watercraft engines may not be banked or traded.

(h) You may increase or decrease an exhaust FEL during the model year by amending your application for certification under §1045.225.

(i) Engine and vessel manufacturers certifying with respect to evaporative emissions may use emission credits to demonstrate compliance under this subpart. Component manufacturers may establish FELs for their certified products, but they may not generate or use emission credits under this subpart.

(j) In your application for certification, base your showing of compliance on projected production volumes for engines or vessels intended for sale in the United States. As described in §1045.730, compliance with the requirements of this subpart is determined at

the end of the model year based on actual production volumes for engines or vessels intended for sale in the United States. Do not include any of the following engines or vessels to calculate emission credits:

(1) Engines or vessels exempted under subpart G of this part or under 40 CFR part 1068.

(2) Engines or vessels intended for export.

(3) Engines or vessels that are subject to state emission standards for that model year. However, this restriction does not apply if we determine that the state standards and requirements are equivalent to those of this part and that products sold in such a state will not generate credits under the state program. For example, you may not include engines or vessels certified for California if California has more stringent emission standards for these products or if your products generate or use emission credits under the California program.

(4) Engines or vessels not subject to the requirements of this part, such as those excluded under §1045.5.

(5) Any other engines or vessels where we indicate elsewhere in this part 1045 that they are not to be included in the calculations of this subpart.

[73 FR 59194, Oct. 8, 2008, as amended at 75 FR 23020, Apr. 30, 2010]

§ 1045.705 How do I generate and calculate exhaust emission credits?

The provisions of this section apply for calculating exhaust emission credits for HC + NO_x or CO. You may generate exhaust emission credits only if you are a certifying engine manufacturer.

(a) For each participating family, calculate positive or negative emission credits relative to the otherwise applicable emission standard. Calculate positive emission credits for a family that has an FEL below the standard. Calculate negative emission credits for a family that has an FEL above the standard. Sum your positive and negative credits for the model year before rounding. Round the sum of emission credits to the nearest kilogram (kg) using consistent units throughout the following equation:

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$$\text{Emission credits (kg)} = (\text{STD} - \text{FEL}) \times (\text{Volume}) \times (\text{Power}) \times (\text{UL}) \times (\text{LF}) \times (10^{-3})$$

Where:

STD = the emission standard, in g/kW-hr.

FEL = the family emission limit for the family, in g/kW-hr.

Volume = the number of engines eligible to participate in the averaging, banking, and trading program within the given family during the model year, as described in § 1045.701(j).

Power = maximum engine power for the family, in kilowatts (see § 1045.140).

UL = The useful life for the given family.

LF = load factor. Use 0.207. We may specify a different load factor if we approve the use of special test procedures for an engine family under 40 CFR 1065.10(c)(2), consistent with good engineering judgment.

(b) [Reserved]

[73 FR 59194, Oct. 8, 2008, as amended at 75 FR 23020, Apr. 30, 2010]

§ 1045.706 How do I generate and calculate evaporative emission credits?

The provisions of this section apply for calculating evaporative emission credits. This applies only for fuel tank permeation. You may generate credits only if you are a certifying vessel manufacturer. This may include outboard engine manufacturers if they install under-cowl fuel tanks.

(a) For each participating vessel, calculate positive or negative emission credits relative to the otherwise applicable emission standard. Calculate positive emission credits for a family that has an FEL below the standard. Calculate negative emission credits for a family that has an FEL above the standard. Sum your positive and negative credits for the model year before rounding. Round the sum of emission credits to the nearest kilogram (kg) using consistent units throughout the following equation:

$$\text{Emission credits (kg)} = (\text{STD} - \text{FEL}) \times (\text{Total Area}) \times (\text{UL}) \times (\text{AF}) \times (365) \times (10^{-3})$$

Where:

STD = the emission standard, in g/m²/day.

FEL = the family emission limit for the family, in g/m²/day, as described in paragraph (b) of this section.

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Total Area = The combined internal surface area of all fuel tanks in the family, in m².

UL = 5 years, which represents the useful life for the given family.

AF = adjustment factor. Use 1.0 for fuel tank testing performed at 28 °C and 0.60 for testing performed at 40 °C.

(b) For calculating credits under paragraph (a) of this section, the emission standard and FEL must both be based on test measurements at the same temperature (28 ° or 40 °C). Determine the FEL for calculating emission credits (relative to testing at 28 °C) as follows:

(1) To use an FEL below 5.0 g/m²/day, it must be based on emission measurements.

(2) The provisions of this paragraph (b)(2) apply for all emission families with FELs at or above 5.0 g/m²/day. To calculate emission credits for such emission families, you must choose from one of the following options and apply it to all your emission families with FELs at or above 5.0 g/m²/day:

(i) Option 1: Establish all your FELs based on emission measurements. This may include measurements from a certifying fuel tank manufacturer.

(ii) Option 2: Use an assigned FEL of 10.4 g/m²/day. This would apply without regard to whether any of these emission families have measured emission levels below 10.4 g/m²/day. If any of your fuel tanks were otherwise certified (by you or the fuel tank manufacturer) with an FEL between 5.0 and 10.4 g/m²/day, the assigned FEL of 10.4 g/m²/day applies only for emission credit calculations.

§ 1045.710 How do I average emission credits?

(a) Averaging is the exchange of emission credits among your families. You may average emission credits only within the same averaging set.

(b) You may certify one or more families to an FEL above the emission standard, subject to the FEL caps and other provisions in subpart B of this part, if you show in your application for certification that your projected balance of all emission-credit transactions in that model year is greater than or equal to zero.

(c) If you certify a family to an FEL that exceeds the otherwise applicable

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standard, you must obtain enough emission credits to offset the family's deficit by the due date for the final report required in §1045.730. The emission credits used to address the deficit may come from your other families that generate emission credits in the same model year, from emission credits you have banked, or from emission credits you obtain through trading.

§ 1045.715 How do I bank emission credits?

(a) Banking is the retention of emission credits by the manufacturer generating the emission credits for use in future model years for averaging or trading. You may use banked emission credits only within the averaging set in which they were generated, except as described in this subpart.

(b) You may designate any emission credits you plan to bank in the reports you submit under §1045.730. During the model year and before the due date for the final report, you may designate your reserved emission credits for averaging or trading.

(c) Reserved credits become actual emission credits when you submit your final report. However, we may revoke these emission credits if we are unable to verify them after reviewing your reports or auditing your records.

§ 1045.720 How do I trade emission credits?

(a) Trading is the exchange of emission credits between manufacturers. You may use traded emission credits for averaging, banking, or further trading transactions. Traded emission credits may be used only within the averaging set in which they were generated, except as described in this subpart.

(b) You may trade actual emission credits as described in this subpart. You may also trade reserved emission credits, but we may revoke these emission credits based on our review of your records or reports or those of the company with which you traded emission credits. You may trade banked credits within an averaging set to any certifying engine or vessel manufacturer.

(c) If a negative emission credit balance results from a transaction, both

the buyer and seller are liable, except in cases we deem to involve fraud. See §1045.255(e) for cases involving fraud. We may void the certificates of all families participating in a trade that results in a manufacturer having a negative balance of emission credits. See §1045.745.

§ 1045.725 What must I include in my application for certification?

(a) You must declare in your application for certification your intent to use the provisions of this subpart for each family that will be certified using the ABT program. You must also declare the FELs you select for the family for each pollutant for which you are using the ABT program. Your FELs must comply with the specifications of subpart B of this part, including the FEL caps. FELs must be expressed to the same number of decimal places as the emission standard.

(b) Include the following in your application for certification:

(1) A statement that, to the best of your belief, you will not have a negative balance of emission credits for any averaging set when all emission credits are calculated at the end of the year.

(2) Detailed calculations of projected emission credits (positive or negative) based on projected production volumes. We may require you to include similar calculations from your other engine families to demonstrate that you will be able to avoid a negative credit balance for the model year. If you project negative emission credits for a family, state the source of positive emission credits you expect to use to offset the negative emission credits.

§ 1045.730 What ABT reports must I send to EPA?

(a) If any of your families are certified using the ABT provisions of this subpart, you must send an end-of-year report within 90 days after the end of the model year and a final report within 270 days after the end of the model year. We may waive the requirement to send the end-of-year report as long as you send the final report on time.

(b) Your end-of-year and final reports must include the following information for each family participating in the ABT program:

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- (1) Family designation.
 - (2) The emission standards that would otherwise apply to the family.
 - (3) The FEL for each pollutant. If you change the FEL after the start of production, identify the date that you started using the new FEL and/or give the engine identification number for the first engine covered by the new FEL. In this case, identify each applicable FEL and calculate the positive or negative emission credits under each FEL.
 - (4) The projected and actual production volumes for the model year with a point of retail sale in the United States, as described in §1045.701(j). For fuel tanks, state the production volume in terms of total surface area and production volume for each tank configuration and state the total surface area for the emission family. If you changed an FEL during the model year, identify the actual production volume associated with each FEL.
 - (5) Maximum engine power for each engine configuration, and your declared value of maximum engine power for the engine family (see §1045.140).
 - (6) Useful life.
 - (7) Calculated positive or negative emission credits for the whole family. Identify any emission credits that you traded, as described in paragraph (d)(1) of this section.
- (c) Your end-of-year and final reports must include the following additional information:
- (1) Show that your net balance of emission credits from all your participating families in each averaging set in the applicable model year is not negative.
 - (2) State whether you will retain any emission credits for banking.
 - (3) State that the report's contents are accurate.
 - (d) If you trade emission credits, you must send us a report within 90 days after the transaction, as follows:
 - (1) As the seller, you must include the following information in your report:
 - (i) The corporate names of the buyer and any brokers.
 - (ii) A copy of any contracts related to the trade.
 - (iii) The families that generated emission credits for the trade, includ-

- ing the number of emission credits from each family.
 - (2) As the buyer, you must include the following information in your report:
 - (i) The corporate names of the seller and any brokers.
 - (ii) A copy of any contracts related to the trade.
 - (iii) How you intend to use the emission credits, including the number of emission credits you intend to apply to each family (if known).
 - (e) Send your reports electronically to the Designated Compliance Officer using an approved information format. If you want to use a different format, send us a written request with justification for a waiver.
 - (f) Correct errors in your end-of-year report or final report as follows:
 - (1) You may correct any errors in your end-of-year report when you prepare the final report as long as you send us the final report by the time it is due.
 - (2) If you or we determine within 270 days after the end of the model year that errors mistakenly decreased your balance of emission credits, you may correct the errors and recalculate the balance of emission credits. You may not make these corrections for errors that are determined more than 270 days after the end of the model year. If you report a negative balance of emission credits, we may disallow corrections under this paragraph (f)(2).
 - (3) If you or we determine anytime that errors mistakenly increased your balance of emission credits, you must correct the errors and recalculate the balance of emission credits.
- § 1045.735 What records must I keep?**
- (a) You must organize and maintain your records as described in this section. We may review your records at any time.
 - (b) Keep the records required by this section for at least eight years after the due date for the end-of-year report. You may not use emission credits for any engines or vessel if you do not keep all the records required under this section. You must therefore keep these records to continue to bank valid credits. Store these records in any format and on any media as long as you can

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promptly send us organized, written records in English if we ask for them. You must keep these records readily available. We may review them at any time.

(c) Keep a copy of the reports we require in §§ 1045.725 and 1045.730.

(d) Keep records of the engine identification number for each engine or vessel you produce that generates or uses emission credits under the ABT program. You may identify these numbers as a range.

(e) We may require you to keep additional records or to send us relevant information not required by this section in accordance with the Clean Air Act.

§ 1045.745 What can happen if I do not comply with the provisions of this subpart?

(a) For each family participating in the ABT program, the certificate of conformity is conditional upon full compliance with the provisions of this subpart during and after the model year. You are responsible to establish to our satisfaction that you fully comply with applicable requirements. We may void the certificate of conformity for a family if you fail to comply with any provisions of this subpart.

(b) You may certify your family to an FEL above an emission standard based on a projection that you will have enough emission credits to offset the deficit for the family. However, we may void the certificate of conformity if you cannot show in your final report that you have enough actual emission credits to offset a deficit for any pollutant in a family.

(c) We may void the certificate of conformity for a family if you fail to keep records, send reports, or give us information we request.

(d) You may ask for a hearing if we void your certificate under this section (see § 1045.820).

Subpart I—Definitions and Other Reference Information

§ 1045.801 What definitions apply to this part?

The following definitions apply to this part. The definitions apply to all subparts unless we note otherwise. All undefined terms have the meaning the

Clean Air Act gives to them. The definitions follow:

Adjustable parameter means any device, system, or element of design that someone can adjust (including those which are difficult to access) and that, if adjusted, may affect emissions or engine performance during emission testing or normal in-use operation. This includes, but is not limited to, parameters related to injection timing and fueling rate. You may ask us to exclude a parameter that is difficult to access if it cannot be adjusted to affect emissions without significantly degrading engine performance, or if you otherwise show us that it will not be adjusted in a way that affects emissions during in-use operation.

Aftertreatment means relating to a catalytic converter, particulate filter, or any other system, component, or technology mounted downstream of the exhaust valve (or exhaust port) whose design function is to decrease emissions in the engine exhaust before it is exhausted to the environment. Exhaust-gas recirculation (EGR), turbochargers, and oxygen sensors are not aftertreatment.

Alcohol-fueled engine means an engine that is designed to run using an alcohol fuel. For purposes of this definition, alcohol fuels do not include fuels with a nominal alcohol content below 25 percent by volume.

Amphibious vehicle means a vehicle with wheels or tracks that is designed primarily for operation on land and secondarily for operation in water.

Applicable emission standard or *applicable standard* means an emission standard to which an engine (or vessel) is subject. Additionally, if an engine (or vessel) has been or is being certified to another standard or FEL, *applicable emission standard* means the FEL or other standard to which the engine (or vessel) has been or is being certified. This definition does not apply to subpart H of this part.

Auxiliary emission control device means any element of design that senses temperature, motive speed, engine RPM, transmission gear, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system.

Brake power means the usable power output of the engine, not including power required to fuel, lubricate, or heat the engine, circulate coolant to the engine, or to operate aftertreatment devices.

Calibration means the set of specifications and tolerances specific to a particular design, version, or application of a component or assembly capable of functionally describing its operation over its working range.

Carryover means relating to certification based on emission data generated from an earlier model year, as described in § 1045.235(d).

Certification means relating to the process of obtaining a certificate of conformity for an engine family that complies with the emission standards and requirements in this part.

Certified emission level means the highest deteriorated emission level in an engine family for a given pollutant from either transient or steady-state testing.

Clean Air Act means the Clean Air Act, as amended, 42 U.S.C. 7401–7671q.

Conventional sterndrive/inboard engine means a sterndrive/inboard engine that is not a high-performance engine.

Crankcase emissions means airborne substances emitted to the atmosphere from any part of the engine crankcase's ventilation or lubrication systems. The crankcase is the housing for the crankshaft and other related internal parts.

Critical emission-related component means any of the following components:

(1) Electronic control units, aftertreatment devices, fuel-metering components, EGR-system components, crankcase-ventilation valves, all components related to charge-air compression and cooling, and all sensors and actuators associated with any of these components.

(2) Any other component whose primary purpose is to reduce emissions.

Date of manufacture has the meaning given in 40 CFR 1068.30.

Days means calendar days unless otherwise specified. For example, when we specify working days we mean calendar days, excluding weekends and U.S. national holidays.

Designated Compliance Officer means the Manager, Heavy-Duty and Nonroad Engine Group (6405–J), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

Designated Enforcement Officer means the Director, Air Enforcement Division (2242A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

Deteriorated emission level means the emission level that results from applying the appropriate deterioration factor to the official emission result of the emission-data engine.

Deterioration factor means the relationship between emissions at the end of useful life and emissions at the low-hour test point (see §§ 1045.240 and 1045.245), expressed in one of the following ways:

(1) For multiplicative deterioration factors, the ratio of emissions at the end of useful life to emissions at the low-hour test point.

(2) For additive deterioration factors, the difference between emissions at the end of useful life and emissions at the low-hour test point.

Discrete-mode means relating to the discrete-mode type of steady-state test described in § 1045.505.

Dual fuel means relating to an engine designed for operation on two different fuels but not on a continuous mixture of those fuels.

Emission control system means any device, system, or element of design that controls or reduces the emissions of regulated pollutants from an engine.

Emission-data engine means an engine that is tested for certification. This includes engines tested to establish deterioration factors.

Emission-related maintenance means maintenance that substantially affects emissions or is likely to substantially affect emission deterioration.

Engine has the meaning given in 40 CFR 1068.30. This includes complete and partially complete engines.

Engine configuration means a unique combination of engine hardware and calibration within an engine family. Engines within a single engine configuration differ only with respect to normal production variability.

Engine family has the meaning given in § 1045.230.

Engine manufacturer means the manufacturer of the engine. See the definition of “manufacturer” in this section.

Evaporative means relating to fuel emissions controlled by 40 CFR part 1060. This generally includes emissions that result from permeation of fuel through the fuel-system materials or from ventilation of the fuel system.

Excluded means relating to an engine that either:

(1) Has been determined not to be a nonroad engine, as specified in 40 CFR 1068.30; or

(2) Is a nonroad engine that, according to § 1045.5, is not subject to this part 1045.

Exempted has the meaning given in 40 CFR 1068.30.

Exhaust-gas recirculation (EGR) means a technology that reduces emissions by routing exhaust gases that had been exhausted from the combustion chamber(s) back into the engine to be mixed with incoming air before or during combustion. The use of valve timing to increase the amount of residual exhaust gas in the combustion chamber(s) that is mixed with incoming air before or during combustion is not considered exhaust-gas recirculation for the purposes of this part.

Family emission limit (FEL) means an emission level declared by the manufacturer to serve in place of the emission standards specified in subpart B of this part under the ABT program in subpart H of this part. The family emission limit must be expressed to the same number of decimal places as the emission standard it replaces. The family emission limit serves as the emission standard for the engine family (exhaust) or emission family (evaporative) with respect to all required testing.

Flexible-fuel means relating to an engine designed for operation on any mixture of two or more different fuels.

Fuel line means hose, tubing, and primer bulbs containing or exposed to liquid fuel, including hose or tubing that delivers fuel to or from the engine, as follows:

(1) This includes flexible molded sections for transporting liquid fuel to or from the engine, but does not include

inflexible components for connecting hose or tubing.

(2) This includes hose or tubing for the vent line or filler neck if fuel systems are designed such that any portion of the vent-line or filler-neck material continues to be exposed to liquid fuel after completion of a refueling event in which an operator fills the fuel tank using typical methods. For example, we would not consider a filler neck to be a fuel line if an operator stops refueling after an initial automatic shutoff that signals the fuel tank is full, where any liquid fuel in the filler neck during the refueling procedure drains into the fuel tank.

(3) This does not include primer bulbs that contain liquid fuel only for priming the engine before starting.

Fuel system means all components involved in transporting, metering, and mixing the fuel from the fuel tank to the combustion chamber(s), including the fuel tank, fuel tank cap, fuel pump, fuel filters, fuel lines, carburetor or fuel-injection components, and all fuel-system vents. In the case where the fuel tank cap or other components (excluding fuel lines) are directly mounted on the fuel tank, they are considered to be a part of the fuel tank.

Fuel type means a general category of fuels such as gasoline or natural gas. There can be multiple grades within a single fuel type, such as low-temperature or all-season gasoline.

Good engineering judgment has the meaning given in 40 CFR 1068.30. See 40 CFR 1068.5 for the administrative process we use to evaluate good engineering judgment.

High-performance means relating to a sterndrive/inboard engine with maximum engine power above 373 kW that has design features to enhance power output such that the expected operating time until rebuild is substantially shorter than 480 hours.

Hydrocarbon (HC) means the hydrocarbon group on which the emission standards are based for each fuel type, as described in subpart B of this part.

Identification number means a unique specification (for example, a model number/serial number combination) that allows someone to distinguish a particular engine from other similar engines.

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Jet boat means a vessel that uses an installed internal combustion engine powering a water jet pump as its primary source of propulsion and is designed with open area for carrying passengers. Jet boat engines qualify as sterndrive/inboard engines.

Low-hour means relating to an engine that has stabilized emissions and represents the undeteriorated emission level. This would generally involve less than 30 hours of operation.

Manufacture means the physical and engineering process of designing, constructing, and assembling an engine or vessel.

Manufacturer has the meaning given in section 216(1) of the Clean Air Act (42 U.S.C. 7550(1)). In general, this term includes any person who manufactures an engine, or vessel for sale in the United States or otherwise introduces a new marine engine into U.S. commerce. This includes importers who import engines or vessels for resale, but not dealers. All manufacturing entities under the control of the same person are considered to be a single manufacturer.

Marine engine means a nonroad engine that is installed or intended to be installed on a vessel. This includes a portable auxiliary marine engine only if its fueling, cooling, or exhaust system is an integral part of the vessel. There are two kinds of marine engines:

(1) *Propulsion marine engine* means a marine engine that moves a vessel through the water or directs the vessel's movement.

(2) *Auxiliary marine engine* means a marine engine not used for propulsion.

Marine vessel has the meaning given in 1 U.S.C. 3, except that it does not include amphibious vehicles. The definition in 1 U.S.C. 3 very broadly includes every craft capable of being used as a means of transportation on water.

Maximum engine power has the meaning given in § 1045.140.

Maximum test speed has one of the following meanings:

(1) For all testing with two-stroke engines and for testing four-stroke engines on an engine dynamometer, *maximum test speed* has the meaning given in 40 CFR 1065.1001 and § 1045.501.

(2) For testing a four-stroke engine that remains installed in a vessel, *max-*

imum test speed means the engine speed during sustained operation with maximum operator demand.

Model year means one of the following things:

(1) For freshly manufactured vessels and engines (see definition of “new propulsion marine engine,” paragraph (1)), model year means one of the following:

(i) Calendar year.

(ii) Your annual new model production period if it is different than the calendar year. This must include January 1 of the calendar year for which the model year is named. It may not begin before January 2 of the previous calendar year and it must end by December 31 of the named calendar year. For seasonal production periods not including January 1, model year means the calendar year in which the production occurs, unless you choose to certify the applicable engine family with the following model year. For example, if your production period is June 1, 2010 through November 30, 2010, your model year would be 2010 unless you choose to certify the engine family for model year 2011.

(2) For an engine that is converted to a propulsion marine engine after being certified and placed into service as a motor vehicle engine, a nonroad engine that is not a propulsion marine engine, or a stationary engine, model year means the calendar year in which the engine was originally produced. For an engine that is converted to a propulsion marine engine after being placed into service as a motor vehicle engine, a nonroad engine that is not a propulsion marine engine, or a stationary engine without having been certified, model year means the calendar year in which the engine becomes a new propulsion marine engine. (See definition of “new propulsion marine engine,” paragraph (2).)

(3) [Reserved]

(4) For engines that are not freshly manufactured but are installed in new vessels, model year means the calendar year in which the engine is installed in the new vessel (see definition of “new propulsion marine engine,” paragraph (4)).

(5) For imported engines:

(i) For imported engines described in paragraph (5)(i) of the definition of

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“new propulsion marine engine,” *model year* has the meaning given in paragraphs (1) through (4) of this definition.

(ii) For imported engines described in paragraph (5)(ii) of the definition of “new propulsion marine engine,” *model year* means the calendar year in which the engine is modified.

(iii) For imported engines described in paragraph (5)(iii) of the definition of “new propulsion marine nonroad engine,” *model year* means the calendar year in which the engine is first assembled in its imported configuration, unless specified otherwise in this part or in 40 CFR part 1068.

New portable marine fuel tanks and fuel lines means portable marine fuel tanks and fuel lines that have not yet been placed into service, or which are otherwise offered for sales as new products.

New propulsion marine engine or *new engine* means any of the following things:

(1) A freshly manufactured propulsion marine engine for which the ultimate purchaser has never received the equitable or legal title. This kind of engine might commonly be thought of as “brand new.” In the case of this paragraph (1), the engine is new from the time it is produced until the ultimate purchaser receives the title or the product is placed into service, whichever comes first.

(2) An engine originally manufactured as a motor vehicle engine, a nonroad engine that is not a propulsion marine engine, or a stationary engine that is later used or intended to be used as a propulsion marine engine. In this case, the engine is no longer a motor vehicle, nonpropulsion, or stationary engine and becomes a “new propulsion marine engine.” The engine is no longer new when it is placed into service as a marine propulsion engine. This paragraph (2) applies for engines we exclude under §1045.5, where that engine is later installed as a propulsion engine in a vessel that is covered by this part 1045.

(3) [Reserved]

(4) An engine not covered by paragraphs (1) through (3) of this definition that is intended to be installed in a new vessel. This generally includes installation of used engines in new vessels. The engine is no longer new when

the ultimate purchaser receives a title for the vessel or the product is placed into service, whichever comes first.

(5) An imported marine engine, subject to the following provisions:

(i) An imported marine engine covered by a certificate of conformity issued under this part that meets the criteria of one or more of paragraphs (1) through (4) of this definition, where the original engine manufacturer holds the certificate, is new as defined by those applicable paragraphs.

(ii) An imported engine that will be covered by a certificate of conformity issued under this part, where someone other than the original engine manufacturer holds the certificate (such as when the engine is modified after its initial assembly), is a new propulsion marine engine when it is imported. It is no longer new when the ultimate purchaser receives a title for the engine or it is placed into service, whichever comes first.

(iii) An imported propulsion marine engine that is not covered by a certificate of conformity issued under this part at the time of importation is new. This addresses uncertified engines and vessels initially placed into service that someone seeks to import into the United States. Importation of this kind of engine (or vessel containing such an engine) is generally prohibited by 40 CFR part 1068. However, the importation of such an engine is not prohibited if the engine has an earlier model year than that identified in the following table, since it is not subject to standards:

APPLICABILITY OF EMISSION STANDARDS FOR PROPULSION MARINE ENGINES

| Engine type | Initial model year of emission standards |
|---------------------------|--|
| Outboard | 1998 |
| Personal watercraft | 1999 |
| Sterndrive/inboard | 2010 |

New vessel means either of the following things:

(1) A vessel for which the ultimate purchaser has never received the equitable or legal title. The product is no longer new when the ultimate purchaser receives this title or it is placed into service, whichever comes first.

(2) An imported vessel that has already been placed into service, where it has an engine not covered by a certificate of conformity issued under this part at the time of importation that was manufactured after the requirements of this part start to apply (see § 1045.1).

Noncompliant engine means an engine that was originally covered by a certificate of conformity but is not in the certified configuration or otherwise does not comply with the conditions of the certificate.

Nonconforming engine means an engine not covered by a certificate of conformity that would otherwise be subject to emission standards.

Nonmethane hydrocarbon has the meaning given in 40 CFR 1065.1001. This generally means the difference between the emitted mass of total hydrocarbons and the emitted mass of methane.

Nonroad means relating to nonroad engines, or vessels, or equipment that include nonroad engines.

Nonroad engine has the meaning given in 40 CFR 1068.30. In general, this means all internal-combustion engines except motor vehicle engines, stationary engines, engines used solely for competition, or engines used in aircraft.

Official emission result means the measured emission rate for an emission-data engine on a given duty cycle before the application of any deterioration factor.

Outboard engine means an assembly of a spark-ignition engine and drive unit used to propel a vessel from a properly mounted position external to the hull of the vessel. An outboard drive unit is partially submerged during operation and can be tilted out of the water when not in use.

Owners manual means a document or collection of documents prepared by the engine manufacturer for the owner or operator to describe appropriate engine maintenance, applicable warranties, and any other information related to operating or keeping the engine. The owners manual is typically provided to the ultimate purchaser at the time of sale. The owners manual may be in paper or electronic format.

Oxides of nitrogen has the meaning given in 40 CFR part 1065.1001.

Personal watercraft means a vessel less than 4.0 meters (13 feet) in length that uses an installed spark-ignition engine powering a water jet pump as its primary source of propulsion and is designed with no open load carrying area that would retain water. The vessel is designed to be operated by a person or persons positioned on, rather than within the confines of the hull. A vessel using an outboard engine as its primary source of propulsion is not a personal watercraft.

Personal watercraft engine means a spark-ignition engine used to propel a personal watercraft.

Placed into service means put into initial use for its intended purpose.

Point of first retail sale means the location at which the initial retail sale occurs. This generally means an equipment dealership, but may also include an engine seller or distributor in cases where loose engines are sold to the general public for uses such as replacement engines.

Portable marine fuel tank has the meaning given in 40 CFR 1060.801.

Ramped-modal means relating to the ramped-modal type of steady-state test described in § 1045.505.

Revoke has the meaning given in 40 CFR 1068.30. In general this means to terminate the certificate or an exemption for an engine family.

Round has the meaning given in 40 CFR 1065.1001.

Scheduled maintenance means adjusting, repairing, removing, disassembling, cleaning, or replacing components or systems periodically to keep a part or system from failing, malfunctioning, or wearing prematurely. It also may mean actions you expect are necessary to correct an overt indication of failure or malfunction for which periodic maintenance is not appropriate.

Small-volume engine manufacturer means an engine manufacturer with 250 or fewer employees. This includes any employees working for a parent company and all its subsidiaries.

Small-volume vessel manufacturer means a vessel manufacturer with 500 or fewer employees. This includes any employees working for a parent company and all its subsidiaries.

Spark-ignition means relating to a gasoline-fueled engine or any other type of engine with a spark plug (or other sparking device) and with operating characteristics significantly similar to the theoretical Otto combustion cycle. Spark-ignition engines usually use a throttle to regulate intake air flow to control power during normal operation.

Steady-state means relating to emission tests in which engine speed and load are held at a finite set of essentially constant values. Steady-state tests are either discrete-mode tests or ramped-modal tests.

Sterndrive/inboard engine means a spark-ignition engine that is used to propel a vessel, but is not an outboard engine or a personal watercraft engine. A sterndrive/inboard engine may be either a conventional sterndrive/inboard engine or a high-performance engine. Engines on propeller-driven vessels, jet boats, air boats, and hovercraft are all sterndrive/inboard engines.

Stoichiometric means relating to the particular ratio of air and fuel such that if the fuel were fully oxidized, there would be no remaining fuel or oxygen. For example, stoichiometric combustion in a gasoline-fueled engine typically occurs at an air-to-fuel mass ratio of about 14.7:1.

Suspend has the meaning given in 40 CFR 1068.30. In general this means to temporarily discontinue the certificate or an exemption for an engine family.

Test engine means an engine in a test sample.

Test sample means the collection of engines selected from the population of an engine family for emission testing. This may include testing for certification, production-line testing, or in-use testing.

Total hydrocarbon has the meaning given in 40 CFR 1065.1001. This generally means the combined mass of organic compounds measured by the specified procedure for measuring total hydrocarbon, expressed as a hydrocarbon with a hydrogen-to-carbon mass ratio of 1.85:1.

Total hydrocarbon equivalent has the meaning given in 40 CFR 1065.1001. This generally means the sum of the carbon mass contributions of non-oxygenated hydrocarbons, alcohols and aldehydes,

or other organic compounds that are measured separately as contained in a gas sample, expressed as exhaust hydrocarbon from petroleum-fueled engines. The hydrogen-to-carbon ratio of the equivalent hydrocarbon is 1.85:1.

Ultimate purchaser means, with respect to any new vessel or new marine propulsion engine, the first person who in good faith purchases such new vessel or new engine for purposes other than resale.

Under-cowl fuel line means a fuel line that is entirely contained within the cowl of an outboard engine. This does not include a fuel line that crosses through the cowl housing.

United States has the meaning given in 40 CFR 1068.30.

Upcoming model year for an engine family means the model year after the one currently in production.

U.S.-directed production volume means the number of engine units, subject to the requirements of this part, produced by a manufacturer for which the manufacturer has a reasonable assurance that sale was or will be made to ultimate purchasers in the United States.

Useful life means the period during which a vehicle is required to comply with all applicable emission standards, specified as a given number of hours of operation or calendar years, whichever comes first. It is the period during which an engine is required to comply with all applicable emission standards. See §§1045.103(e), 1045.105(e), and 1045.112. If an engine has no hour meter, the specified number of hours does not limit the period during which an in-use engine is required to comply with emission standards unless the degree of service accumulation can be verified separately.

Variable-speed engine means an engine that is not a constant-speed engine.

Vessel means marine vessel.

Void has the meaning given in 40 CFR 1068.30. In general this means to invalidate a certificate or an exemption both retroactively and prospectively.

Volatile liquid fuel means any fuel other than diesel or biodiesel that is a liquid at atmospheric pressure and has a Reid Vapor Pressure higher than 2.0 pounds per square inch.

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We (us, our) means the Administrator of the Environmental Protection Agency and any authorized representatives.

Wide-open throttle means maximum throttle opening. Unless this is specified at a given speed, it refers to maximum throttle opening at maximum speed. For electronically controlled or other engines with multiple possible fueling rates, wide-open throttle also means the maximum fueling rate at maximum throttle opening under test conditions.

[73 FR 59194, Oct. 8, 2008, as amended at 75 FR 23020, Apr. 30, 2010]

§ 1045.805 What symbols, acronyms, and abbreviations does this part use?

The following symbols, acronyms, and abbreviations apply to this part:

- ABT Averaging, banking, and trading.
- AECD Auxiliary emission control device.
- CFR Code of Federal Regulations.
- CH₄ methane.
- CO carbon monoxide.
- CO₂ carbon dioxide.
- EPA Environmental Protection Agency.
- FEL Family Emission Limit.
- g gram.
- HC hydrocarbon.
- hr hour.
- kPa kilopascals.
- kW kilowatt.
- m meter.
- N₂O nitrous oxide.
- NARA National Archives and Records Administration.
- NMHC nonmethane hydrocarbons.
- NO_x oxides of nitrogen (NO and NO₂).
- NTE not-to-exceed
- psig pounds per square inch of gauge pressure.
- RPM revolutions per minute.
- SAE Society of Automotive Engineers.
- THC total hydrocarbon.
- THCE total hydrocarbon equivalent.
- U.S.C. United States Code.

§ 1045.810 What materials does this part reference?

Documents listed in this section have been incorporated by reference into this part. The Director of the Federal Register approved the incorporation by reference as prescribed in 5 U.S.C.

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552(a) and 1 CFR part 51. Anyone may inspect copies at the U.S. EPA, Air and Radiation Docket and Information Center, 1301 Constitution Ave., NW., Room B102, EPA West Building, Washington, DC 20460 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(a) *SAE material.* Table 1 to this section lists material from the Society of Automotive Engineers that we have incorporated by reference. The first column lists the number and name of the material. The second column lists the sections of this part where we reference it. Anyone may purchase copies of these materials from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, PA 15096 or <http://www.sae.org>. Table 1 follows:

TABLE 1 TO § 1045.810—SAE MATERIALS

| Document number and name | Part 1045 reference |
|---|---------------------|
| SAE J1939-05, Marine Stern Drive and Inboard Spark-Ignition Engine On-Board Diagnostics Implementation Guide, February 2008 | 1045.110 |

(b) [Reserved]

§ 1045.815 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.

§ 1045.820 How do I request a hearing?

(a) You may request a hearing under certain circumstances as described elsewhere in this part. To do this, you must file a written request, including a description of your objection and any supporting data, within 30 days after we make a decision.

(b) For a hearing you request under the provisions of this part, we will approve your request if we find that your request raises a substantial factual issue.

(c) If we agree to hold a hearing, we will use the procedures specified in 40 CFR part 1068, subpart G.

§ 1045.825 What reporting and recordkeeping requirements apply under this part?

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget approves the reporting and recordkeeping specified in the applicable regulations. The following items illustrate the kind of reporting and recordkeeping we require for engines and vessels regulated under this part:

(a) We specify the following requirements related to engine and vessel certification in this part 1045:

(1) In § 1045.20 we require vessel manufacturers to label their vessels if they are relying on component certification.

(2) In § 1045.135 we require engine manufacturers to keep certain records related to duplicate labels sent to vessel manufacturers.

(3) In § 1045.145 we include various reporting and recordkeeping requirements related to interim provisions.

(4) In subpart C of this part we identify a wide range of information required to certify engines.

(5) In §§ 1045.345 and 1045.350 we specify certain records related to production-line testing.

(6) In §§ 1045.420 and 1045.425 we specify certain records related to in-use testing.

(7) In subpart G of this part we identify several reporting and recordkeeping items for making demonstrations and getting approval related to various special compliance provisions.

(8) In §§ 1045.725, 1045.730, and 1045.735 we specify certain records related to averaging, banking, and trading.

(b) We specify the following requirements related to vessel or component certification in 40 CFR part 1060:

(1) In 40 CFR 1060.20 we give an overview of principles for reporting information.

(2) In 40 CFR part 1060, subpart C, we identify a wide range of information required to certify products.

(3) In 40 CFR 1060.301 we require manufacturers to make engines or vessels available for our testing if we make such a request.

(4) In 40 CFR 1060.505 we specify information needs for establishing various changes to published test procedures.

(c) We specify the following requirements related to testing in 40 CFR part 1065:

(1) In 40 CFR 1065.2 we give an overview of principles for reporting information.

(2) In 40 CFR 1065.10 and 1065.12 we specify information needs for establishing various changes to published test procedures.

(3) In 40 CFR 1065.25 we establish basic guidelines for storing test information.

(4) In 40 CFR 1065.695 we identify data that may be appropriate for collecting during testing of in-use engines using portable analyzers.

(d) We specify the following requirements related to the general compliance provisions in 40 CFR part 1068:

(1) In 40 CFR 1068.5 we establish a process for evaluating good engineering judgment related to testing and certification.

(2) In 40 CFR 1068.25 we describe general provisions related to sending and keeping information.

(3) In 40 CFR 1068.27 we require manufacturers to make engines available for our testing or inspection if we make such a request.

(4) In 40 CFR 1068.105 we require vessel manufacturers to keep certain records related to duplicate labels from engine manufacturers.

(5) In 40 CFR 1068.120 we specify recordkeeping related to rebuilding engines.

(6) In 40 CFR part 1068, subpart C, we identify several reporting and recordkeeping items for making demonstrations and getting approval related to various exemptions.

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(7) In 40 CFR part 1068, subpart D, we identify several reporting and record-keeping items for making demonstrations and getting approval related to importing engines.

(8) In 40 CFR 1068.450 and 1068.455 we specify certain records related to testing production-line engines in a selective enforcement audit.

(9) In 40 CFR 1068.501 we specify certain records related to investigating and reporting emission-related defects.

(10) In 40 CFR 1068.525 and 1068.530 we specify certain records related to recalling nonconforming engines.

APPENDIX I TO PART 1045—SUMMARY OF PREVIOUS EMISSION STANDARDS

(a) The following standards apply to outboard and personal watercraft engines produced before the model years specified in

§1045.1 (since the end of the phase-in period specified in 40 CFR 91.104):

(1) For engines at or below 4.3 kW, the HC + NO_x standard is 81.00 g/kW-hr.

(2) For engines above 4.3 kW, the following HC + NO_x standard applies:

$$STD = 6.00 + 0.250 \cdot (151 + 557/P^{0.9})$$

Where:

STD = The HC + NO_x emission standard, in g/kW-hr.

P = The average power of an engine family, in kW.

(b) See 40 CFR 91.104 for standards that applied to outboard and personal watercraft engines during the phase-in period.

APPENDIX II TO PART 1045—DUTY CYCLES FOR PROPULSION MARINE ENGINES

(a) The following duty cycle applies for discrete-mode testing:

| E4 Mode No. | Engine speed ¹ | Torque (percent) ² | Weighting factors |
|-------------|---------------------------|-------------------------------|-------------------|
| 1 | Maximum test speed | 100 | 0.06 |
| 2 | 80% | 71.6 | 0.14 |
| 3 | 60% | 46.5 | 0.15 |
| 4 | 40% | 25.3 | 0.25 |
| 5 | Warm idle | 0 | 0.40 |

¹ Speed terms are defined in 40 CFR part 1065. Percent speed values are relative to maximum test speed.

² Except as noted in § 1045.505, the percent torque is relative to maximum torque at maximum test speed.

(b) The following duty cycle applies for ramped-modal testing:

| RMC Mode | Time in mode (seconds) | Engine speed ^{1,2} | Torque (percent) ^{2,3} |
|------------------------|------------------------|-----------------------------|---------------------------------|
| 1a Steady-state | 225 | Idle | 0 |
| 1b Transition | 20 | Linear transition | Linear transition |
| 2a Steady-state | 63 | Maximum test speed | 100 |
| 2b Transition | 20 | Linear transition | Linear transition |
| *3a Steady-state | 271 | 40% | 25.3% |
| 3b Transition | 20 | Linear transition | Linear transition |
| 4a Steady-state | 151 | 80% | 71.6% |
| 4b Transition | 20 | Linear transition | Linear transition |
| 5a Steady-state | 161 | 60% | 46.5% |
| 5b Transition | 20 | Linear transition | Linear transition |
| 6 Steady-state | 229 | Warm idle | 0 |

¹ Speed terms are defined in 40 CFR part 1065. Percent speed values are relative to maximum test speed.

² Advance from one mode to the next within a 20-second transition phase. During the transition phase, command linear progressions of speed and torque from the speed setting and torque setting of the current mode to the speed setting and torque setting of the next mode.

³ Except as noted in § 1045.505, the percent torque is relative to maximum torque at maximum test speed.

PART 1048—CONTROL OF EMISSIONS FROM NEW, LARGE NONROAD SPARK-IGNITION ENGINES

Subpart A—Overview and Applicability

Sec.

- 1048.1 Does this part apply to me?
- 1048.2 Who is responsible for compliance?
- 1048.5 Which engines are excluded from this part's requirements?
- 1048.10 How is this part organized?
- 1048.15 Do any other regulation parts apply to me?
- 1048.20 What requirements from this part apply to excluded stationary engines?
- 1048.30 Submission of information.

Subpart B—Emission Standards and Related Requirements

- 1048.101 What exhaust emission standards must my engines meet?
- 1048.105 What evaporative emissions standards and requirements apply?
- 1048.110 How must my engines diagnose malfunctions?
- 1048.115 What other requirements apply?
- 1048.120 What warranty requirements apply to me?
- 1048.125 What maintenance instructions must I give to buyers?
- 1048.130 What installation instructions must I give to equipment manufacturers?
- 1048.135 How must I label and identify the engines I produce?
- 1048.140 What are the provisions for certifying Blue Sky Series engines?
- 1048.145 Are there interim provisions that apply only for a limited time?

Subpart C—Certifying Engine Families

- 1048.201 What are the general requirements for obtaining a certificate of conformity?
- 1048.205 What must I include in my application?
- 1048.210 May I get preliminary approval before I complete my application?
- 1048.220 How do I amend the maintenance instructions in my application?
- 1048.225 How do I amend my application for certification to include new or modified engine configurations?
- 1048.230 How do I select engine families?
- 1048.235 What emission testing must I perform for my application for a certificate of conformity?
- 1048.240 How do I demonstrate that my engine family complies with exhaust emission standards?
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- 1048.250 What records must I keep and make available to EPA?
- 1048.255 What decisions may EPA make regarding my certificate of conformity?

Subpart D—Testing Production-line Engines

- 1048.301 When must I test my production-line engines?
- 1048.305 How must I prepare and test my production-line engines?
- 1048.310 How must I select engines for production-line testing?
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- 1048.320 What happens if one of my production-line engines fails to meet emission standards?
- 1048.325 What happens if an engine family fails the production-line testing requirements?
- 1048.330 May I sell engines from an engine family with a suspended certificate of conformity?
- 1048.335 How do I ask EPA to reinstate my suspended certificate?
- 1048.340 When may EPA revoke my certificate under this subpart and how may I sell these engines again?
- 1048.345 What production-line testing records must I send to EPA?
- 1048.350 What records must I keep?

Subpart E—Testing In-use Engines

- 1048.401 What testing requirements apply to my engines that have gone into service?
- 1048.405 How does this program work?
- 1048.410 How must I select, prepare, and test my in-use engines?
- 1048.415 What happens if in-use engines do not meet requirements?
- 1048.420 What in-use testing information must I report to EPA?
- 1048.425 What records must I keep?

Subpart F—Test Procedures

- 1048.501 How do I run a valid emission test?
- 1048.505 How do I test engines using steady-state duty cycles, including ramped-modal testing?
- 1048.510 What transient duty cycles apply for laboratory testing?
- 1048.515 What are the field-testing procedures?

Subpart G—Compliance Provisions

- 1048.601 What compliance provisions apply to these engines?
- 1048.605 What provisions apply to engines certified under the motor vehicle program?
- 1048.610 What provisions apply to vehicles certified under the motor vehicle program?