

RMC mode ^a	Time in mode (seconds)	Torque (percent) ^{b, c}
7 Steady-state	43	0

^aControl engine speed as described in § 1054.505. Control engine speed for Mode 6 as described in § 1054.505(c) for idle operation.

^bAdvance from one mode to the next within a 20-second transition phase. During the transition phase, command a linear progression from the torque setting of the current mode to the torque setting of the next mode.

^cThe percent torque is relative to the value established for full-load torque, as described in § 1054.505.

Appendix III to Part 1054—High-Altitude Counties

The following counties have areas above 4,000 feet above sea level and are therefore considered to be high-altitude counties:

State of Arizona

Apache
Cochise
Coconino
Navajo
Yavapai

State of Colorado

Adams
Alamosa
Arapahoe
Archuleta
Boulder
Chaffee
Cheyenne
Clear Creek
Conejos
Costilla
Crowley
Custer
Delta
Denver
Dolores
Douglas
Eagle
Elbert
El Paso
Fremont
Garfield
Gilpin
Grand
Gunnison
Hinsdale
Huerfano
Jackson
Jefferson
Kit Carson
Lake
La Plata
Larimer
Las Animas
Lincoln
Mesa
Mineral
Moffat
Montezuma
Montrose
Morgan
Otero
Ouray
Park

Pitkin
Pueblo
Rio Blanco
Rio Grande
Routt
Saguache
San Juan
San Miguel
Summit
Teller
Washington
Weld

State of Idaho

Bannock
Bear Lake
Bingham
Blaine
Bonneville
Butte
Camas
Caribou
Cassia
Clark
Custer
Franklin
Fremont
Jefferson
Lemhi
Madison
Minidoka
Oneida
Power
Teton
Valley

State of Montana

Beaverhead
Deer Lodge
Gallatin
Jefferson
Judith Basin
Powell
Madison
Meagher
Park
Silver Bow
Wheatland

State of Nebraska

Banner
Cheyenne
Kimball
Sioux

State of Nevada

Carson City
Douglas
Elko
Esmeralda
Eureka
Humboldt
Lander
Lincoln
Lyon
Mineral
Nye
Pershing
Storey
Washoe
White Pine

State of New Mexico

Bernalillo
Catron
Colfax
Curry

De Baca
Grant
Guadalupe
Harding
Hidalgo
Lincoln
Los Alamos
Luna
McKinley
Mora
Otero
Rio Arriba
Roosevelt
Sandoval
San Juan
San Miguel
Santa Fe
Sierra
Socorro
Taos
Torrance
Union
Valencia

State of Oregon

Harney
Lake
Klamath

State of Texas

Jeff Davis
Judspeth
Parmer

State of Utah

Beaver
Box Elder
Cache
Carbon
Daggett
Davis
Duchesne
Emery
Garfield
Grand
Iron
Juab
Kane
Millard
Morgan
Piute
Rich
Salt Lake
San Juan
Sanpete
Sevier
Summit
Tooele
Uintah
Utah
Wasatch
Wayne
Weber

State of Wyoming

Albany
Campbell
Carbon
Converse
Fremont
Goshen
Hot Springs
Johnson
Laramie
Lincoln
Natrona
Niobrara

Park
Platte
Sublette
Sweetwater
Teton
Uinta
Washakie
Weston

133. A new part 1060 is added to subchapter U of chapter I to read as follows:

PART 1060—CONTROL OF EVAPORATIVE EMISSIONS FROM NEW AND IN-USE NONROAD AND STATIONARY EQUIPMENT

Subpart A—Overview and Applicability

Sec.

- 1060.1 Which products are subject to this part's requirements?
1060.5 Do the requirements of this part apply to me?
1060.10 How is this part organized?
1060.15 Do any other regulation parts apply to me?
1060.20 Submission of information.

Subpart B—Emission Standards and Related Requirements

- 1060.101 What evaporative emission requirements apply under this part?
1060.102 What permeation emission control requirements apply for fuel lines?
1060.103 What permeation emission control requirements apply for fuel tanks?
1060.104 What running loss emission control requirements apply?
1060.105 What diurnal and diffusion requirements apply for equipment?
1060.120 What emission-related warranty requirements apply?
1060.125 What maintenance instructions must I give to buyers?
1060.130 What installation instructions must I give to equipment manufacturers?
1060.135 How must I label and identify the engines and equipment I produce?
1060.136 How must I label and identify the fuel lines I produce?
1060.137 How must I label and identify the fuel tanks I produce?
1060.138 How must I label and identify other emission-related components I produce?

Subpart C—Certifying Emission Families

- 1060.201 What are the general requirements for obtaining a certificate of conformity?
1060.202 What are the certification requirements related to the general standards in § 1060.101?
1060.205 What must I include in my application?
1060.210 What records should equipment manufacturers keep if they do not apply for certification?
1060.225 How do I amend my application for certification?
1060.230 How do I select emission families?

- 1060.235 What emission testing must I perform for my application for a certificate of conformity?
1060.240 How do I demonstrate that my emission family complies with evaporative emission standards?
1060.250 What records must I keep and what reports must I send to EPA?
1060.255 What decisions may EPA make regarding my certificate of conformity?

Subpart D—Production Verification Testing

- 1060.301 Manufacturer testing.
1060.310 Supplying products to EPA for testing.

Subpart E—In-Use Testing

- 1060.401 General Provisions.

Subpart F—Test Procedures

- 1060.501 General testing provisions.
1060.505 Other procedures.
1060.510 How do I test EPA Low Emission Fuel Lines for permeation emissions?
1060.515 How do I test EPA Nonroad Fuel Lines for permeation emissions?
1060.520 How do I test fuel tanks for permeation emissions?
1060.521 How do I test fuel caps for permeation emissions?
1060.525 How do I test fuel systems for diurnal emissions?
1060.530 How do I test fuel systems for diffusion emissions?
1060.535 How do I measure fuel temperatures to comply with running loss requirements?

Subpart G—Special Compliance Provisions

- 1060.601 How do the prohibitions of 40 CFR 1068.101 apply with respect to the requirements of this part?
1060.605 Exemptions from evaporative emission standards.
1060.640 What special provisions apply to branded equipment?

Subpart H—Averaging, Banking, and Trading Provisions

- 1060.701 Applicability.
1060.705 How do I certify components to an emission level other than the standard under this part or use such components in my equipment?

Subpart I—Definitions and Other Reference Information

- 1060.801 What definitions apply to this part?
1060.805 What symbols, acronyms, and abbreviations does this part use?
1060.810 What materials does this part reference?
1060.815 What provisions apply to confidential information?
1060.820 How do I request a hearing?
1060.825 What reporting and recordkeeping requirements apply under this part?

Authority: 42 U.S.C. 7401–7671q.

Subpart A—Overview and Applicability

§ 1060.1 Which products are subject to this part's requirements?

(a) The standards and other requirements in this part 1060 apply to fuel lines, fuel tanks, couplings and fittings, and fuel caps used or intended to be used in the following categories of new engines and equipment that are fueled with a volatile liquid fuel (such as gasoline or ethanol, but not including diesel fuel), and the equipment in which these components are installed, starting with the model years shown in Table 1 of this section:

(1) Compression-ignition engines we regulate under 40 CFR part 1039. This includes stationary compression-ignition engines we regulate under the provisions of 40 CFR part 1039, as indicated under 40 CFR part 60, subpart IIII. See the evaporative emission standards specified in 40 CFR 1048.105. These engines are considered to be Large SI engines for purposes of this part 1060.

(2) Marine compression-ignition engines we regulate under 40 CFR part 1042. See the evaporative emission standards specified in 40 CFR 1045.107. These engines are considered to be Marine SI engines for purposes of this part 1060.

(3) Marine SI engines we regulate under 40 CFR part 1045. See the evaporative emission standards specified in 40 CFR 1045.107.

(4) Large SI engines we regulate under 40 CFR part 1048. This includes stationary spark-ignition engines subject to standards under 40 CFR parts 1048 or 1054 as indicated in 40 CFR part 60, subpart JJJJ. See the evaporative emission standards specified in 40 CFR 1048.105.

(5) Recreational vehicles and engines we regulate under 40 CFR part 1051 (such as snowmobiles and off-highway motorcycles). This includes highway motorcycles subject to standards under 40 CFR part 1051 as indicated in 40 CFR part 86, subpart E since these motorcycles are considered to be recreational vehicles for purposes of this part 1060. See the evaporative emission standards specified in 40 CFR 1051.110.

(6) Small SI engines we regulate under 40 CFR part 1054. See the evaporative emission standards specified in 40 CFR 1054.110.

(7) Portable marine fuel tanks and fuel lines associated with such fuel tanks must meet evaporative emission standards specified in 40 CFR 1045.107. Portable nonroad fuel tanks and fuel lines associated with such fuel tanks must also meet evaporative emission standards specified in 40 CFR 1045.107,

whether or not they are used with marine vessels. Portable nonroad fuel tanks are considered to be portable marine fuel tanks for purposes of this part 1060.

(b) The regulations in this part 1060 apply for new replacement components used with any of the engines or equipment specified in paragraph (a) of this section as described in § 1060.601.

(c) Fuel caps are subject to evaporative emission standards at the point of installation on a fuel tank. If a fuel cap is certified for use with Marine

SI engines or Small SI engines under the optional standards of § 1060.103, it is subject to all the requirements of this part 1060 as if these optional standards were mandatory.

(d) This part 1060 does not apply to any diesel-fueled engine or any other engine that does not use a volatile liquid fuel. In addition, this part does not apply to any engines or equipment in the following categories even if they use a volatile liquid fuel:

(1) Light-duty motor vehicles (see 40 CFR part 86).

(2) Heavy-duty motor vehicles and heavy-duty motor vehicle engines (see 40 CFR part 86).

(3) Aircraft engines (see 40 CFR part 87).

(4) Locomotives (see 40 CFR part 92).

(5) Land-based nonroad diesel engines we regulate under 40 CFR part 89.

(6) Marine diesel engines we regulate under 40 CFR part 89 or 94.

(7) Marine spark-ignition engines we regulate under 40 CFR part 91.

(e) This part 1060 does not apply for fuel lines made wholly of metal.

TABLE 1 TO § 1060.1—PART 1060 APPLICABILITY BY MODEL YEAR

Equipment category or sub-category	Fuel line permeation	Tank permeation	Diurnal or diffusion emissions	Running loss emissions
Marine SI—portable fuel tanks	2009	2011	2009	Not applicable.
Marine SI—personal watercraft.	2009	2011	2009	Not applicable.
Marine SI—other installed fuel tanks.	2009	2012	2010	Not applicable.
Large SI	2007	Not applicable	2007 (includes tank permeation).	2007
Recreational vehicles	2008	2008	Not applicable	Not applicable.
Small SI—handheld engines ..	^a 2012	2010 ^b	Not applicable	Not applicable.
Small SI—Class I nonhandheld engines.	2008	2012	2012	2012
Small SI—Class II nonhandheld engines.	2008	2011	2011	2011

^a2013 for small-volume emission families.

^b2011 for structurally integrated nylon fuel tanks and 2013 for all small-volume emission families.

§ 1060.5 Do the requirements of this part apply to me?

The requirements of this part are generally addressed to manufacturers that are subject to this part's requirements, as described in paragraph (a) of this section. The term "you" generally means the manufacturer or manufacturers that are subject to these requirements. Paragraphs (b) through (e) of this section describe which manufacturers may or must certify their products. (**Note:** § 1060.601 allows the certification responsibility to be delegated in certain circumstances.)

(a) *Overall responsibilities.* Manufacturers of engines, equipment, and fuel-system components described in § 1060.1 are subject to the standards and other requirements of this part 1060 except as otherwise noted. Multiple manufacturers may be subject to these standards and other requirements. For example, when a Small SI equipment manufacturer buys fuel lines manufactured by another person and installs them in its equipment, both the equipment manufacturer and the fuel line manufacturer are subject to the standards and other requirements of this part. The following provisions apply in such cases:

(1) Each person meeting the definition of manufacturer that is subject to the standards and other requirements of this part must comply with such requirements. However, if one person complies with a specific requirement for a given product, then all manufacturers are deemed to have complied with that specific requirement. For example, if a Small SI equipment manufacturer uses fuel lines manufactured and certified by another company, the equipment manufacturer is not required to obtain a certificate with respect to the fuel line emission standards. The Small SI equipment manufacturer remains subject to the standards and other requirements of this part. However, where a provision requires a specific manufacturer to comply with certain provisions, this paragraph (a) does not change or modify such a requirement. For example, where this section specifies that a certain manufacturer must certify its product, this paragraph (a) does not modify or change that manufacturer's obligation to comply with the certification requirements.

(2) The requirements of subparts C and D of this part apply to the manufacturer that obtains the certificate of conformity. Other manufacturers are required to comply with the

requirements of subparts C and D of this part only when we send notification. In our notification, we will specify a reasonable period for complying with the requirements identified in the notice. See § 1060.601 for the applicability of 40 CFR part 1068 to these other manufacturers.

(3) Certificate holders are responsible for meeting all applicable requirements even if other manufacturers are also subject to those requirements.

(b) *Marine SI.* Vessels, engines, and fuel-system components may be certified as follows:

(1) Component manufacturers must certify their fuel lines and fuel tanks intended for installation with Marine SI engines and vessels under this part 1060, except as allowed by § 1060.601.

(2) Vessel manufacturers are subject to all the requirements of this part 1060 that apply to Marine SI engines and fuel systems. However, they must certify their vessels to the emission standards specified in §§ 1060.102 through 1060.105 only if one or more of the following conditions apply:

(i) Vessel manufacturers install certified components that are not certified to meet all applicable evaporative emission standards. This would include vessel manufacturers

that make their own fuel tanks. Vessel manufacturers would certify under this part 1060.

(ii) Vessel manufacturers intend to generate or use emission credits, even if they use only certified components to meet all applicable evaporative emission standards. Vessel manufacturers would certify under part 40 CFR part 1045 using the emission-credit provisions in subpart H of that part to demonstrate compliance with the emission standard.

(3) For purposes of this part 1060, manufacturers of outboard engines must meet all the requirements that apply to vessel manufacturers.

(c) *Large SI.* Engine manufacturers must certify their engines and fuel systems under 40 CFR part 1048.

(d) *Recreational vehicles.* Vehicles, engines and fuel-system components may be certified as follows:

(1) Vehicle and engine manufacturers must certify their vehicles and engines under 40 CFR part 1051.

(2) Component manufacturers may certify fuel lines and fuel tanks intended for recreational vehicles under this part 1060.

(e) *Small SI.* Engines, equipment, and fuel-system components may be certified as follows:

(1) Component manufacturers must certify their fuel lines and fuel tanks intended for Small SI engines and equipment under this part 1060, except as allowed by § 1060.601.

(2) Engine and equipment manufacturers are subject to all the requirements of this part 1060 that apply to handheld Small SI engines and

fuel systems. However, they must certify their engines or equipment to the emission standards specified in §§ 1060.102 through 1060.105 only if one or more of the following conditions apply:

(i) Engine or equipment manufacturers install certified components that are not certified to meet all applicable evaporative emission standards. This would include engine or equipment manufacturers that make their own fuel tanks. Engine or equipment manufacturers would certify under this part 1060.

(ii) Engine or equipment manufacturers intend to generate or use emission credits, even if they use only certified components to meet all applicable evaporative emission standards. Engine or equipment manufacturers would certify under part 40 CFR part 1054 using the emission-credit provisions in subpart H of that part to demonstrate compliance with the emission standard.

(3) Engine manufacturers that produce nonhandheld Small SI engines with complete fuel systems must certify their engines and fuel systems under 40 CFR part 1054.

(4) Equipment manufacturers are subject to all the requirements of this part 1060 that apply to nonhandheld Small SI engines and fuel systems. However, they must certify their equipment to the emission standards specified in §§ 1060.102 through 1060.105 only if one or more of the following conditions apply:

(i) The engine manufacturer's certification does not cover running loss

emission standards. Equipment manufacturers would certify under this part 1060.

(ii) Equipment manufacturers install components that are not certified to meet all applicable evaporative emission standards. This would include equipment manufacturers that make their own fuel tanks. Equipment manufacturers would certify under this part 1060.

(iii) Equipment manufacturers intend to generate or use emission credits, even if they use only certified components to meet all applicable evaporative emission standards. Equipment manufacturers would certify under part 40 CFR part 1054 using the emission-credit provisions in subpart H of that part to demonstrate compliance with the emission standard.

(f) *Summary of certification responsibilities.* Tables 1 through 3 of this section summarize the certification responsibilities for different kinds of manufacturers as described in paragraphs (b) through (e) of this section. The term "No" as used in the tables means that a manufacturer is not required to obtain a certificate of conformity under paragraphs (b) through (e) of this section. In situations where multiple manufacturers are subject to the standards and other requirements of this part, such a manufacturer must nevertheless certify if the manufacturer who is required to certify under paragraphs (b) through (e) of this section fails to obtain a certificate of conformity.

TABLE 1 TO § 1060.5—SUMMARY OF ENGINE MANUFACTURER CERTIFICATION RESPONSIBILITIES

Equipment type	Is the engine manufacturer required to certify fuel systems? ^a	Code of Federal Regulations cite for certification
Marine SI	No, but manufacturers of outboard engines are treated as equipment manufacturers in this part.	
Large SI	Yes	40 CFR part 1048.
Recreational vehicles.	No.	
Small SI	Handheld: No, unless engine manufacturers install uncertified components or intend to generate or use emission credits. Nonhandheld: No, unless engines are sold with complete fuel systems	40 CFR part 1054.

^aFuel lines and fuel tanks that are attached to or sold with engines must be covered by a certificate of conformity.

TABLE 2 TO § 1060.5.—SUMMARY OF EQUIPMENT MANUFACTURER CERTIFICATION RESPONSIBILITIES

Equipment type	Is the equipment manufacturer required to certify fuel systems?	Code of Federal Regulations cite for certification
Marine SI	Yes, but only if vessel manufacturers install uncertified fuel lines or fuel tanks or intend to generate or use emission credits.	40 CFR part 1060, or 40 CFR part 1045 if certifying only for emission credits.
Large SI	No.	
Recreational vehicles	Yes, even if vehicle manufacturers install certified components.	40 CFR part 1051.

TABLE 2 TO § 1060.5.—SUMMARY OF EQUIPMENT MANUFACTURER CERTIFICATION RESPONSIBILITIES—Continued

Equipment type	Is the equipment manufacturer required to certify fuel systems?	Code of Federal Regulations cite for certification
Small SI	Handheld: No, unless equipment manufacturers install uncertified components or intend to generate or use emission credits. Nonhandheld: No, unless equipment manufacturers (1) use an engine that has not already been certified for control of running loss emissions; (2) install uncertified components; or (3) intend to generate or use emission credits.	40 CFR part 1060, or 40 CFR part 1054 if certifying only for emission credits.

TABLE 3 TO § 1060.5.—SUMMARY OF COMPONENT MANUFACTURER CERTIFICATION RESPONSIBILITIES

Equipment type	Is the component manufacturer required to certify fuel lines and fuel tanks?	Code of Federal Regulations cite for certification
Marine SI	Yes, including portable marine fuel tanks and associated fuel lines. ^a	40 CFR part 1060.
Large SI	No.	
Recreational vehicles	Allowed but not required	40 CFR part 1060.
Small SI	Yes ^a	40 CFR part 1060.

^a See § 1060.601 for an allowance to make contractual arrangements with engine or equipment manufacturers instead of certifying.

§ 1060.10 How is this part organized?

This part 1060 is divided into the following subparts:

(a) Subpart A of this part defines the applicability of part 1060 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 equipment or components under this part. Note that § 1060.110 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 the requirements related to verifying that products are being produced as described in an approved application for certification.

(e) Subpart E of this part describes the requirements related to verifying that products are meeting the standards in use.

(f) Subpart F of this part describes how to measure evaporative emissions.

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

(h) Subpart H of this part describes how to certify your equipment or components for inclusion in an emission averaging program allowed by an exhaust standard-setting part.

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

§ 1060.15 Do any other regulation parts apply to me?

(a) There is a separate part of the CFR that includes exhaust emission requirements for each particular application. These are referred to as the exhaust standard-setting parts. In cases where the exhaust standard-setting part includes evaporative requirements, apply this part 1060 as specified in the exhaust standard-setting part, as follows:

(1) The requirements in the exhaust standard-setting part may differ from the requirements in this part. In cases where it is not possible to comply with both the exhaust standard-setting part and this part, you must comply with the requirements in the exhaust standard-setting part. The exhaust standard-setting part may also allow you to deviate from the procedures of this part for other reasons.

(2) The exhaust standard-setting parts may reference some sections of this part 1060 or may allow or require certification under this part 1060. See the exhaust standard-setting parts, to determine what provisions of this part 1060 apply for these equipment types.

(b) The requirements and prohibitions of part 1068 of this chapter apply to everyone, including anyone who manufactures, imports, owns, operates, or services any of the fuel systems subject to this part 1060. Part 1068 of this chapter describes general provisions, including the following areas:

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

(2) Exclusions and exemptions for certain products.

(3) Importing products.

(4) Defect reporting and recall.

(5) Procedures for hearings.

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

§ 1060.20 Submission of information.

(a) This part includes various requirements to record data or other information. Refer to § 1060.825, 40 CFR 1068.25, and the exhaust standard-setting part 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 § 1060.255 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.

Subpart B—Emission Standards and Related Requirements

§ 1060.101 What evaporative emission requirements apply under this part?

Products subject to this part must meet emission standards and related requirements as follows:

(a) Section 1060.102 describes permeation emission control requirements for fuel lines.

(b) Section 1060.103 describes permeation emission control requirements for fuel tanks.

(c) Section 1060.104 describes running loss emission control requirements for fuel systems.

(d) Section 1060.105 describes diurnal and diffusion emission control requirements for fuel tanks.

(e) The following general requirements apply for components and equipment subject to the emission standards in §§ 1060.102 through 1060.105:

(1) *Adjustable parameters.* Components or equipment with adjustable parameters must meet all the requirements of this part for any adjustment in the physically adjustable range.

(2) *Prohibited controls.* The following controls are prohibited:

(i) For anyone to design, manufacture, or install emission control systems so they cause or contribute to an unreasonable risk to public health, welfare, or safety while operating.

(ii) For anyone to design, manufacture, or install emission control systems with features that disable, deactivate, or bypass the emission controls, either actively or passively. For example, you may not include a manual vent that the operator can open to bypass emission controls. You may ask us to allow such features if needed for safety reasons or if the features are fully functional during emission tests described in subpart F of this part.

(3) *Emission credits.* Equipment manufacturers are allowed to comply with the emission standards in this part using emission credits only if the exhaust standard-setting part explicitly allows it for evaporative emissions. See the exhaust standard-setting part and subpart H of this part for information about complying with emission credits. For equipment manufacturers to generate or use emission credits, components must be certified to a family emission limit (FEL), which serves as the standard for those components.

(f) This paragraph (f) specifies requirements that apply to equipment manufacturers subject to requirements under this part, whether or not they are subject to and certify to any of the emission standards in §§ 1060.102 through 1060.105. Equipment manufacturers meeting these requirements will be deemed to be certified as in conformity with the requirements of this paragraph (f)

without submitting an application for certification, as follows:

(1) *Fuel caps, vents, and carbon canisters.* You are responsible for ensuring that proper caps and vents are installed on each new piece of equipment that is subject to emission standards under this part. The following particular requirements apply to equipment that is subject to running loss, diurnal, or diffusion emission standards:

(i) All equipment must have a tethered gas cap. Fuel caps for equipment subject to diurnal requirements must include a visual or audible indication when it is properly sealed.

(ii) You may not add vents unless they are allowed by the applicable certificates of conformity.

(iii) If the emission controls rely on carbon canisters, they must be installed such that they will not be exposed to water or liquid fuel.

(2) *Fuel-line fittings.* The following requirements apply for fuel-line fittings that will be used with fuel lines that must meet permeation emission standards:

(i) Use good engineering judgment to ensure that all fuel-line fittings will remain securely connected to prevent fuel leakage throughout the useful life of the equipment.

(ii) Fuel lines that are intended to be detachable (such as those for portable marine fuel tanks) must be self-sealing when detached from the fuel tank or engine.

(3) *Refueling.* For any equipment using fuel tanks that are subject to diurnal or permeation emission standards under this part, you must design and build your equipment such that operators can reasonably be expected to fill the fuel tank without spitback or spillage during the refueling event. The following examples illustrate designs that meet this requirement:

(i) Equipment that is commonly refueled using a portable gasoline container should have a fuel inlet that is larger than a typical dispensing spout. The fuel inlet should be located so the operator can place the nozzle directly in the fuel inlet and see the fuel level while pouring the fuel (either through the tank wall or the fuel inlet).

(ii) Marine SI vessels with a filler neck extending to the side of the boat should be designed for automatic fuel shutoff. Alternatively, the filler neck should be designed such that the orientation of the filler neck allows dispensed fuel that collects in the filler neck to flow back into the fuel tank. A filler neck that ends with a horizontal or nearly horizontal segment at the

opening where fuel is dispensed would not be an acceptable design.

(4) *Opt-in by component manufacturers.* Component manufacturers may at their option become subject to the requirements specified in paragraph (f) of this section. If a component manufacturer is certified to these standards, all the applicable requirements and these standards are considered mandatory.

(g) Equipment must meet the standards specified in this part throughout the useful life of the equipment, where the useful life of the equipment is either:

(1) The useful life in years specified for the equipment in the exhaust standard-setting part.

(2) The useful life in years specified for the engine in the exhaust standard-setting part if the exhaust standards are specified for the engine rather than the equipment and there is no useful life given for the equipment.

(3) Five years if no useful life is specified in years for the equipment or engine in the exhaust standard-setting part.

§ 1060.102 What permeation emission control requirements apply for fuel lines?

(a) Nonmetal fuel lines must meet permeation requirements as follows:

(1) Marine SI fuel lines, including fuel lines associated with outboard engines or portable marine fuel tanks, must meet the permeation requirements in this section.

(2) Large SI fuel lines must meet the permeation requirements specified in 40 CFR 1048.105.

(3) Fuel lines for recreational vehicles must meet the permeation requirements specified in 40 CFR 1051.110 or in this section.

(4) Small SI fuel lines must meet the permeation requirements in this section.

(b) Different categories of nonroad equipment are subject to different requirements with respect to fuel line permeation. Fuel lines are classified based on measured emissions over the test procedure specified for the class. (Note: The test procedure for EPA LEFL lines is performed at a higher temperature than the test procedures for other classes, such that emissions measured using the EPA LEFL procedure will be substantially higher than emissions from the same fuel line measured with the EPA NRFL test procedure.)

(c) The regulations in 40 CFR part 1048 require that fuel lines used with Large SI engines must meet the standards for EPA LEFL fuel lines. The regulations in 40 CFR part 1054 require that fuel lines used with handheld

Small SI engines used in cold-weather equipment must meet the standards for EPA CWFL fuel lines. Unless specified otherwise in this subchapter U, fuel lines used with all other engines and equipment subject to the provisions of this part 1060, including fuel lines associated with outboard engines or portable marine fuel tanks, must meet the standards for EPA NRFL fuel lines.

(d) The following standards apply for each fuel line classification:

(1) EPA LEFL fuel lines must have permeation emissions at or below 25 g/m²/day when measured according to the test procedure described in § 1060.510.

(2) EPA NRFL fuel lines must have permeation emissions at or below 15 g/m²/day when measured according to the test procedure described in § 1060.515.

(3) EPA CWFL fuel lines must have permeation emissions at or below 175 g/m²/day when measured according to the test procedure described in § 1060.515.

(e) You may certify fuel lines for use as sections of any length. Also, you may certify fuel line assemblies as aggregated systems that include multiple sections of fuel line with connectors, and fittings. For example, you may certify fuel lines for portable marine fuel tanks as assemblies of fuel hose, primer bulbs, and self-sealing end connections. The standard applies with respect to the total permeation emissions divided by the wetted internal surface area of the assembly. Where it is not practical to determine the actual internal surface area of the assembly, you may assume that the internal surface area per unit length of the assembly is equal to the ratio of internal surface area per unit length of the hose section of the assembly.

(f) The exhaust standard-setting part may allow for certification of fuel lines to a family emission limit for calculating emission credits as described in subpart H of this part instead of meeting the emission standards in this section.

§ 1060.103 What permeation emission control requirements apply for fuel tanks?

(a) Fuel tanks must meet permeation requirements as follows:

(1) Marine SI fuel tanks, including portable marine fuel tanks, must meet the permeation requirements in this section.

(2) Large SI fuel tanks must meet diurnal emission standards as specified in § 1060.105, which includes measurement of permeation emissions. No separate permeation standard applies.

(3) Fuel tanks for recreational vehicles must meet the permeation requirements specified in 40 CFR 1051.110 or in this section.

(4) Small SI fuel tanks must meet the permeation requirements in this section.

(b) Permeation emissions from fuel tanks may not exceed 1.5 g/m²/day when measured at a nominal temperature of 28 °C with the test procedures for tank permeation in § 1060.520, except as allowed by paragraph (e) of this section. You may also choose to meet the following alternate standards:

(1) If you perform testing at a nominal temperature of 40 °C under § 1060.520(d), permeation emissions from fuel tanks may not exceed 2.5 g/m²/day.

(2) For structurally integrated nylon fuel tanks used with handheld Small SI equipment, permeation emissions from fuel tanks may not exceed 2.5 g/m²/day for testing at a nominal temperature of 28 °C and may not exceed 4.0 g/m²/day for testing at a nominal temperature of 40 °C.

(c) The exhaust standard-setting part may allow for certification of fuel tanks to a family emission limit for calculating emission credits as described in subpart H of this part instead of meeting the emission standards in this section.

(d) For purposes of this section, fuel tanks include fuel caps, gaskets, and other fittings that are directly mounted to the fuel tank. Fuel tanks do not include fuel lines that are subject to § 1060.102 or petcocks designed for draining fuel.

(e) Fuel caps may be certified separately to the permeation emission standard in paragraph (b) of this section using the test procedures specified in § 1060.521.

§ 1060.104 What running loss emission control requirements apply?

(a) Engines and equipment must meet running loss requirements as follows:

(1) Marine SI engines are not subject to running loss emission standards, except as noted in paragraph (c) of this section.

(2) Large SI engines must prevent fuel boiling during operation as specified in 40 CFR 1048.105.

(3) Recreational vehicles are not subject to running loss emission standards.

(4) Nonhandheld Small SI engines must meet running loss requirements described in this section. Handheld Small SI fuel tanks are not subject to running loss emission standards.

(b) You must demonstrate control of running loss emissions in one of the following ways if your engines or equipment are subject to the requirements of this section:

(1) Get an approved Executive Order from the California Air Resources Board

showing that your system meets applicable running loss standards in California.

(2) Route running loss emissions into the engine intake system so fuel vapors vented from the tank during engine operation are combusted in the engine. If you produce engines with complete fuel systems, you must test your engines with an installed vapor line for controlling running loss emissions. If another company has certified the engine with respect to exhaust emissions, describe in your application for certification why you believe the modified engines continue to meet exhaust emission standards.

(3) Design the equipment so fuel temperature does not rise more than 8.0 °C during normal operation when measured using the procedure in § 1060.535. Such a design may use insulation or active cooling to prevent fuel heating.

(4) Use a bladder or other means to minimize fuel vapor volume in a sealed fuel tank.

(5) Show that the equipment meets the definition of wintertime equipment in § 1060.801.

(c) Engines and equipment that are subject to diurnal emission standards must meet the requirements related to running loss emissions specified in § 1060.105.

§ 1060.105 What diurnal and diffusion requirements apply for equipment?

(a) Fuel tanks must meet diurnal and diffusion emission requirements as follows:

(1) Marine SI fuel tanks must meet the requirements related to diurnal emissions specified in this section, including portable marine fuel tanks. Marine SI fuel tanks are not subject to diffusion emission standards.

(2) Large SI fuel tanks must meet the requirements related to diurnal emissions specified in 40 CFR 1048.105. Large SI fuel tanks are not subject to diffusion emission standards.

(3) Recreational vehicles are not subject to diurnal or diffusion emission standards.

(4) Nonhandheld Small SI fuel tanks must meet the requirements related to diffusion emissions specified in this section. Nonhandheld Small SI fuel tanks are not subject to diurnal emission standards. Handheld Small SI fuel tanks are not subject to diurnal or diffusion emission standards.

(b) Diurnal emissions from Marine SI fuel tanks may not exceed 0.40 g/gal/day when measured using the test procedures specified in § 1060.525 for general fuel temperatures. An alternative standard of 0.16 g/gal/day

applies for fuel tanks installed in nontrailerable boats when measured using the corresponding fuel temperature profile in § 1060.525. Portable marine fuel tanks must comply with the requirements of paragraph (d) of this section.

(c) Portable marine fuel tanks and associated fuel-system components must meet the following requirements:

(1) They must be self-sealing (without any manual vents) when not attached to the engines. The tanks may not vent to the atmosphere when attached to an engine.

(2) They must remain sealed up to a positive pressure of 34.5 kPa (5.0 psig); however, they may contain air inlets that open when there is a vacuum pressure inside the tank.

(d) Detachable fuel lines that are intended for use with portable marine fuel tanks must be self-sealing (without any manual vents) when not attached to the engine or fuel tank.

(e) The following standards related to diffusion emissions apply for nonhandheld Small SI fuel tanks:

(1) Diffusion emissions from fuel systems not meeting the design standard of paragraph (e)(2) of this section may not exceed a performance standard of 0.80 g/day when measured using the test procedures specified in § 1060.530.

(i) Fuel tanks with fuel caps may be certified as a system to this diffusion emission standard. Fuel tanks certified this way that are not sold with the appropriate fuel cap must include specifications for appropriate fuel caps.

(ii) Fuel caps may be certified separately to this diffusion emission standard. Such fuel caps must include specifications for appropriate threading to mate with fuel tanks.

(2) If your fuel system meets any of the following design standards, you are not subject to the performance standard specified in paragraph (e)(1) of this section:

(i) A fuel tank must be sealed except for a single vent line that is at least 180 mm long with a ratio of length to the square of the diameter of at least 5.0 mm⁻¹ (127 in⁻¹). For example, a vent line with 7 mm inside diameter would have to be at least 245 mm long to comply under this paragraph (e)(2)(i).

(ii) A fuel cap must vent only through the cap such that a vent path goes through the gasket and then around the threads where the fuel cap screws onto the fuel tank. The ratio of average path length to total cross-sectional area of the vent path through the gasket must be at least 1.0 mm⁻¹ (25 in⁻¹), with the vent path going through at least 360° of threads. For example, if a gasket has two vent paths, each with a cross-sectional

area of 2 mm² and a path length of 6 mm, the length-to-area ratio is 1.5 mm⁻¹.

(iii) A fuel tank must be sealed except for a vent through a carbon canister designed for controlling diurnal or running loss emissions.

(iv) A fuel tank must be designed to remain sealed up to a positive pressure of 3.5 kPa (0.5 psig).

(f) The following general provisions apply for controlling diurnal emissions:

(1) Diurnal emission controls must continue to function during engine operation to control running loss emissions. For example, you may not use a fuel tank vent line during engine operation if it is not connected to the diurnal emission controls.

(2) You may not use diurnal emission controls that increase the occurrence of fuel spitback or spillage during in-use refueling. Also, if you use a carbon canister, you must incorporate design features that prevent liquid gasoline from reaching the canister during refueling or as a result of fuel sloshing.

§ 1060.120 What emission-related warranty requirements apply?

(a) *General requirements.* Certificate holders must warrant to the ultimate purchaser and each subsequent purchaser that the new nonroad equipment, including all parts of its evaporative 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 for at least two years from the point of first retail sale.

§ 1060.125 What maintenance instructions must I give to buyers?

Give ultimate purchasers written instructions for properly maintaining and using the emission control system.

§ 1060.130 What installation instructions must I give to equipment manufacturers?

(a) If you sell a certified fuel-system component for someone else to install in equipment, give the installer instructions for installing it consistent with the requirements of this part.

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

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

(2) State: "Failing to follow these instructions when installing [IDENTIFY COMPONENT(S)] in a piece of nonroad equipment violates federal law (40 CFR

1068.105(b)), subject to fines or other penalties as described in the Clean Air Act."

(3) Describe any limits on the range of applications needed to ensure that the component operates consistently with your application for certification. For example:

(i) For fuel tanks sold without fuel caps, you must specify the requirements for the fuel cap, such as the allowable materials, thread pattern, how it must seal, etc. You must also include instructions to tether the fuel cap as described in § 1060.101(f)(1) if you do not sell your fuel tanks with tethered fuel caps.

(ii) If your fuel lines do not meet permeation standards specified in § 1060.102 for LEFL fuel lines, tell equipment manufacturers not to install the fuel lines with Large SI engines that operate on gasoline or another volatile liquid fuel.

(4) Describe instructions for installing components so they will operate according to design specifications in your application for certification. Specify sufficient detail to ensure that the equipment will meet the applicable standards when your component is installed.

(5) If you certify a component with family emission limit above the emission standard, be sure to indicate that the equipment manufacturer must have a source of credits to offset the higher emissions and must label the equipment as specified in § 1060.135. Also indicate the applications for which the regulations allow for compliance using emission credits.

(6) Instruct the equipment manufacturers that they must comply with the requirements of § 1060.202.

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

(d) Provide instructions in writing or in an equivalent format. For example, you may post instructions on a publicly available website 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.

§ 1060.135 How must I label and identify the engines and equipment I produce?

The labeling requirements of this section apply for engine and equipment manufacturers. See §§ 1060.136 through 1060.138 for the labeling requirements that apply for fuel lines, fuel tanks, and other fuel-system components.

(a) If you hold a certificate for your engine or equipment with respect to

evaporative emissions, you must affix a permanent and legible label identifying each engine or piece of equipment before introducing it into U.S. commerce. The label must be—

- (1) Attached so it is not removable without being destroyed or defaced.
- (2) Secured to a part of the engine or equipment needed for normal operation and not normally requiring replacement.
- (3) Durable and readable for the equipment's entire life.
- (4) Readily visible in the final installation. It may be under a hinged door or other readily opened cover. It may not be hidden by any cover attached with screws or any similar designs.
- (5) Written in English.

(b) The engine or equipment label must include all the applicable information specified in §§ 1060.136 through 1060.138 if you are using components that are not already certified by another company. You may combine all required label information in a single label. This may include information related to exhaust emissions if you also certify the engine with respect to exhaust emissions.

(1) If you are certifying with respect to the running loss standard, include the following information:

- (i) Include your corporate name or trademark.
- (ii) Describe your method for meeting the running loss standard.
- (iii) State the date of manufacture [MONTH and YEAR] of the equipment; however, you may omit this from the label if you stamp or engrave it on the equipment.

(iv) State: "THIS EQUIPMENT COMPLIES WITH U.S. EPA RUNNING LOSS STANDARDS."

(2) If you are certifying your equipment with respect to emission credits, include the following information:

- (i) Include your corporate name or trademark.
- (ii) Identify the engine family name of the fuel-system components for which you are generating or using emission credits.
- (iii) State the date of manufacture [MONTH and YEAR] of the equipment; however, you may omit this from the label if you stamp or engrave it on the equipment.

(iv) State: "THIS EQUIPMENT COMPLIES WITH PERMEATION STANDARDS BASED ON EMISSION CREDITS."

(c) You may add information to the emission control information label to identify other emission standards that the equipment meets or does not meet (such as California standards). You may

also add other information to ensure that the equipment will be properly maintained and used.

(d) Anyone subject to the labeling requirements in this part 1060 may ask us to approve modified labeling requirements if it is necessary or appropriate. We will approve the request if the alternate label is consistent with the requirements of this part.

§ 1060.136 How must I label and identify the fuel lines I produce?

The requirements of this section apply for fuel line manufacturers:

(a) Label your fuel line at the time of manufacture as follows:

- (1) Label the fuel line in a permanent and legible manner.
- (2) Include your corporate name or trademark.
- (3) Include EPA's standardized designation for emission family.
- (4) Identify the fuel line's FEL, if applicable.
- (5) The labeling information must be continuous, with no more than 12 inches before repeating. You may add a continuous stripe or other pattern to help identify the particular type or grade of fuel line.

(b) You may ask us to approve modified labeling requirements in this section as described in § 1060.135(e). You may label short preformed fuel lines (less than 12 inches long) under § 1060.138 instead of complying with the requirements of this section.

§ 1060.137 How must I label and identify the fuel tanks I produce?

The requirements of this section apply for fuel tank manufacturers:

(a) Add a permanent label at the time of manufacture to each fuel tank. For molded tanks, you may mold the label into the tank. The label must be—

- (1) Attached so it is not removable without being destroyed or defaced.
- (2) Durable and readable for the equipment's entire life.
- (3) Written in English.
- (b) The label must—

(1) Include your full corporate name and trademark.

(2) Include EPA's standardized designation for emission family.

(3) Identify the fuel tank's FEL, if applicable.

(4) Identify the emission control system. For equipment subject to diurnal, diffusion, or running loss requirements, list applicable part numbers of emission control components consistent with the requirements of § 1060.138.

(5) State: "THIS FUEL TANK COMPLIES WITH U.S. EPA EMISSION REGULATIONS."

(c) You may add information to the emission control information label to identify other emission standards that the equipment meets or does not meet (such as California standards).

(d) You may ask to include the label information required by this section on the equipment label required by § 1060.135 instead of labeling the tank separately.

(e) You may ask us to approve modified labeling requirements in this section as described in § 1060.135(e).

§ 1060.138 How must I label and identify other emission-related components I produce?

The requirements of this section apply for manufacturers of fuel-system components.

(a) The requirements of this section apply for the following fuel-system components:

- (1) Fuel caps that are certified under § 1060.102.
- (2) Fuel caps for equipment subject to diurnal or diffusion requirements.
- (3) Carbon canisters.
- (4) Other components that are part of a system for controlling evaporative emissions.

(b) Add a permanent and legible label at the time of manufacture to each fuel-system component as follows:

- (1) Identify your corporate name or trademark; however, you may omit this if there is not enough space.
- (2) If you certify the component, include EPA's standardized designation for emission family.

(3) If the component is part of a system for controlling emissions from a fuel tank as described in § 1060.137(b)(5), identify the part number of each component or subassembly.

(c) You may ask us to approve modified labeling requirements in this section as described in § 1060.135(e).

Subpart C—Certifying Emission Families

§ 1060.201 What are the general requirements for obtaining a certificate of conformity?

Manufacturers of engines, equipment, or fuel-system components may need to certify their products with respect to evaporative emission standards as described in §§ 1060.1 and 1060.601. See § 1060.202 for requirements related to certifying with respect to the requirements specified in § 1060.101(f). 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 emission family. A

certificate of conformity for equipment 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. A certificate of conformity for a component is valid starting with the indicated effective date, but it is not valid for any production after the end of the *production period* for which it is issued.

(b) The application must contain all the information required by this part and must not include false or incomplete statements or information (see § 1060.255).

(c) We may ask you to include less information than we specify in this subpart, but you must still maintain all the information required by § 1060.250.

(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 § 1060.255 for provisions describing how we will process your application.

§ 1060.202 What are the certification requirements related to the general standards in § 1060.101?

Equipment manufacturers must ensure that their equipment is certified with respect to the general standards specified in § 1060.101(f) as follows:

(a) If § 1060.1 requires you to certify your equipment to any of the emission standards specified in through 1060.105, describe in your application for certification how you will meet the general standards specified in § 1060.101(f).

(b) If § 1060.1 does not require you to certify your equipment to any of the emission standards specified in through 1060.105, your equipment is deemed to be certified with respect to the general standards specified in § 1060.101(f) if you design and produce your equipment to meet those standards.

(1) You must keep records as described in § 1060.210. The other provisions of this part for certificate holders apply only as specified in § 1060.5.

(2) Your equipment is deemed to be certified only to the extent that it meets the general standards in § 1060.101(f). Thus, it is a violation of 40 CFR 1068.101(a)(1) to introduce into U.S. commerce such equipment that does not meet applicable requirements under § 1060.101(f).

(c) Instead of relying on paragraph (b) of this section, you may submit an application for certification and obtain a

certificate from us. The provisions of this part apply in the same manner for certificates issued under this paragraph (c) as for any other certificate issued under this part.

§ 1060.205 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 § 1060.202(c). We may require you to provide additional information to evaluate your application.

(a) Describe the emission family's specifications and other basic parameters of the emission controls. Describe how you meet the running loss emission control requirements in § 1060.104, if applicable. Describe how you meet any applicable equipment-based requirements of § 1060.101(e) and (f). State whether you are requesting certification for gasoline or some other fuel type. List each distinguishable configuration in the emission family.

(b) Describe the products you selected for testing and the reasons for selecting them.

(c) Describe the test equipment and procedures that you used, including any special or alternate test procedures you used (see § 1060.501).

(d) List the specifications of the test fuel to show that it falls within the required ranges specified in subpart F of this part.

(e) State the equipment applications to which your certification is limited. For example, if your fuel system meets the emission requirements of this part applicable only to handheld Small SI equipment, state that the requested certificate would apply only for handheld Small SI equipment.

(f) Identify the emission family's useful life.

(g) Include the maintenance instructions you will give to the ultimate purchaser of each new nonroad engine (see § 1060.125).

(h) Include the emission-related installation instructions you will provide if someone else will install your component in a piece of nonroad equipment (see § 1060.130).

(i) Describe your emission control information label (see §§ 1060.135 through 1060.138).

(j) Identify the emission standards or FELs to which you are certifying the emission family.

(k) Present emission data to show your products meet the applicable emission standards. Note that §§ 1060.235 and 1060.240 allow you to submit an application in certain cases without new emission data.

(l) State that your product was tested as described in the application

(including the test procedures, test parameters, and test fuels) to show you meet the requirements of this part. If you did not do the testing, identify the source of the data.

(m) Report all test results, including those from invalid 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.

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

(o) 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.

(p) Include other applicable information, such as information required by other subparts of this part.

(q) 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.

§ 1060.210 What records should equipment manufacturers keep if they do not apply for certification?

If you are an equipment manufacturer that does not need to obtain a certificate of conformity for your equipment as described in § 1060.1, you must keep the following records to document compliance with applicable requirements, which we may review at any time:

(a) Identify your equipment models and the annual U.S.-directed production volumes for each model.

(b) Identify the emission family names of the certificates that will cover your equipment and the names of the companies that hold the certificates.

(c) Describe how you comply with any emission-related installation instructions, labeling requirements, and the general standards in § 1060.101(e) and (f).

§ 1060.225 How do I amend my application for certification?

Before we issue a certificate of conformity, you may amend your application to include new or modified 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 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. If you would like to modify a family emission limit for your product, you must submit a separate application for a new emission family.

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

(1) Add a configuration to an emission family. In this case, the configuration added must be consistent with other configurations in the emission family with respect to the criteria listed in § 1060.230.

(2) Change a configuration already included in an emission 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 equipment's lifetime.

(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 configuration you intend to make.

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

(3) If the original emission data for the emission family are not appropriate to show compliance for the new or modified configuration, include new test data showing that the new or modified 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 emission families already covered by a certificate of conformity, we will determine whether the existing certificate of conformity covers your new or modified configuration. You may ask for a hearing if we deny your request (see § 1060.820).

(e) For emission families already covered by a certificate of conformity, you may start producing the new or modified 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 configurations do not meet applicable requirements, we will notify you to cease production of the configurations and may require you to recall the equipment at no expense to the owner. Choosing to produce equipment under this paragraph (e) is deemed to be consent to recall all equipment that we determine do not meet applicable emission standards or other requirements and to remedy the nonconformity at no expense to the owner. If you do not provide information required under paragraph (c) of this section within 30 days, you must stop producing the new or modified equipment.

§ 1060.230 How do I select emission families?

(a) Divide your product line into families of equipment (or components) that are expected to have similar emission characteristics throughout the useful life.

(b) Group fuel lines in the same emission family if they are the same in all the following aspects:

(1) Type of material including barrier layer.

(2) Production method.

(3) Types of connectors and fittings (material, approximate wall thickness, etc.) for fuel line assemblies certified together.

(4) Family emission limit, if applicable.

(c) Group fuel tanks (or fuel systems including fuel tanks) in the same emission family if they are the same in all the following aspects:

(1) Type of material, including any pigments, plasticizers, UV inhibitors, or other additives that may affect control of emissions.

(2) Production method.

(3) Relevant characteristics of fuel cap design for fuel systems subject to diurnal or diffusion emission requirements.

(4) Gasket material and design.

(5) Emission control strategy.

(6) Family emission limit, if applicable.

(d) Group other fuel-system components and equipment in the same emission family if they are the same in all the following aspects:

(1) Emission control strategy and design.

(2) Type of material (such as type of charcoal used in a carbon canister). This criteria does not apply for materials that are unrelated to emission control performance.

(3) The fuel systems meet the running loss emission standard based on the same type of compliance demonstration specified in § 1060.104(b), if applicable.

(e) You may subdivide a group of equipment or components that are identical under paragraphs (b) through (d) of this section into different emission families if you show the expected emission characteristics are different during the useful life.

(f) In unusual circumstances, you may group equipment or components that are not identical with respect to the things listed in paragraph (b) through (d) of this section in the same emission family if you show that their emission characteristics during the useful life will be similar. The provisions of this paragraph (f) do not exempt any engines from meeting all the applicable standards and requirements in subpart B of this part.

(g) Select test components that are most likely to exceed the applicable emission standards. For example, select a fuel tank with the smallest average wall thickness (or barrier thickness, as appropriate) of those fuel tanks you include in the same family.

§ 1060.235 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 subpart B of this part.

(a) Test your products using the procedures and equipment specified in subpart F of this part.

(b) Select an emission-data unit from each emission family for testing. In general, you must test a preproduction product that will represent actual production. However, for fuel tank permeation, you may test a tank with standardized geometry, provided that it is made of the same material(s) and appropriate wall thickness. Select the configuration that is most likely to exceed (or have emissions nearer to) an applicable emission standard. For example, for a family of multilayer fuel tanks, test the tank with the thinnest barrier layer. In general, the test procedures specify that components or systems be tested rather than complete equipment. For example, to certify your family of Small SI equipment, you would need to test a sample of fuel line for permeation emissions, a fuel tank for permeation emissions, and a fuel system for diffusion emissions. Note that paragraph (e) of this section and § 1060.240 allow you in certain circumstances to certify without testing an emission-data unit from the emission family.

(c) You may not do maintenance on emission-data units.

(d) We may measure emissions from any of your products from the emission family, as follows:

(1) You must supply your products to us if we choose to perform confirmatory testing.

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

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

(1) The emission family from the previous production period differs from the current emission family only with respect to production period or other characteristics unrelated to emissions. You may also ask to add a configuration subject to § 1060.225.

(2) The emission-data unit from the previous production period remains the appropriate emission-data unit under paragraph (b) of this section. For example, you may not carryover emission data for your family of nylon fuel tanks if you have added a thinner-walled fuel tank than was tested previously.

(3) The data show that the emission-data unit would meet all the requirements that apply to the emission family covered by the application for certification.

(f) We may require you to test a second unit of the same or different configuration in addition to the unit tested under paragraph (b) of this section.

(g) If you use an alternate test procedure under § 1060.505, and later testing shows that such testing does not produce results that are equivalent to the procedures specified in this part, we may reject data you generated using the alternate procedure.

§ 1060.240 How do I demonstrate that my emission family complies with evaporative emission standards?

(a) For purposes of certification, your emission family is considered in compliance with an evaporative emission standard in subpart B of this part if you do either of the following:

(1) You have test results showing measured emission levels from the fuel tank or fuel line (as applicable) in the family are at or below the applicable standard.

(2) You comply with the design specifications in paragraph (d) of this section.

(b) Your emission family is deemed not to comply if any fuel tank or fuel

line representing that family has test results showing an official emission level above the standard.

(c) Round the measured emission level to the same number of decimal places as the emission standard. Compare the rounded emission levels to the emission standard for each emission-data unit.

(d) You may demonstrate for certification that your emission family complies with the evaporative emission standards by demonstrating that you use the following control technologies:

(1) [Reserved]

(2) For certification to the fuel tank permeation standards specified in § 1060.103 with the following control technologies:

(i) A metal fuel tank with no nonmetal gaskets or with gaskets made from a low-permeability material.

(ii) A metal fuel tank with nonmetal gaskets with an exposed gasket surface area of 1,000 mm² or less.

(iii) A coextruded high-density polyethylene fuel tank with a continuous ethylene vinyl alcohol barrier layer making up at least 2 percent of the fuel tank's overall wall thickness, with no nonmetal gaskets or with gaskets made from a low-permeability material.

(iv) A coextruded high-density polyethylene fuel tank with a continuous ethylene vinyl alcohol barrier layer making up at least 2 percent of the fuel tank's overall wall thickness, with nonmetal gaskets or with an exposed gasket surface area of 1,000 mm² or less.

(3) For certification to the diurnal standards specified in § 1060.105 with the following control technologies:

(i) A Marine SI fuel tank sealed up to a positive pressure of 7.0 kPa (1.0 psig); however, they may contain air inlets that open when there is a vacuum pressure inside the tank.

(ii) A Marine SI fuel tank equipped with a passively purged carbon canister with a minimum carbon volume of 0.040 liters per gallon of fuel tank capacity (or 0.016 liters per gallon for fuel tanks used in nontrailerable boats).

The carbon canister must have a minimum effective length-to-diameter ratio of 3.5 and the vapor flow must be directed with the intent of using the whole carbon bed. The carbon must have a minimum butane working capacity of 90 g/L based on the test procedures specified in ASTM D5228-92 (incorporated by reference in § 1060.810). The carbon must adsorb no more than 0.5 grams of water per gram of carbon at 90% relative humidity and a temperature of 25 ± 5 °C. The carbon must also pass a dust attrition test based

on ASTM D3802-79 (incorporated by reference in § 1060.810), except that hardness is defined as the ratio of mean particle diameter before and after the test and the procedure must involve twenty 1/2-inch steel balls and ten 3/4-inch steel balls. Good engineering judgment must be used in the structural design of the carbon canister. The canister must have a volume compensator or some other device to prevent the carbon pellets from moving within the canister as a result of vibration or changing temperature.

(4) We may establish additional design certification options where we find that new test data demonstrate that the use of a different technology design will ensure compliance with the applicable emission standards.

(e) You may not establish a family emission limit below the emission standard for components certified based on design specifications under this section, even if actual emission rates are much lower.

§ 1060.250 What records must I keep and what reports must I send to EPA?

(a) 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 § 1060.205 that you were not required to include in your application.

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

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

(ii) All your emission tests, including documentation on routine and standard tests, and the date and purpose of each test.

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

(iv) Any other significant events.

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

(5) Keep a list of equipment identification numbers for all the equipment you produce under each certificate of conformity.

(b) 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 paragraph (a) of this section for eight years after we issue your certificate.

(c) 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.

(d) Send us copies of any maintenance instructions or explanations if we ask for them.

§ 1060.255 What decisions may EPA make regarding my certificate of conformity?

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

(b) We may deny your application for certification if we determine that your emission family fails to comply with emission standards or other requirements of this part or the Act. Our decision may be based on a review of all information available to us. 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 despite our presenting a warrant or court order (see 40 CFR 1068.20). This includes a failure to provide reasonable assistance.

(5) Produce equipment 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 equipment being produced.

(7) Take any action that otherwise circumvents the intent of the 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 when we ask for it.

(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 § 1060.820).

Subpart D—Production Verification Testing

§ 1060.301 Manufacturer testing.

(a) You must test production samples or otherwise verify that equipment or components you produce are as specified in the certificate of conformity.

(b) You must provide records of such verification to us upon request.

§ 1060.310 Supplying products to EPA for testing.

Upon our request, you must supply a reasonable number of production samples to us for verification testing.

Subpart E—In-Use Testing

§ 1060.401 General Provisions.

We may perform in-use testing of any equipment or fuel-system component subject to the standards of this part.

Subpart F—Test Procedures

§ 1060.501 General testing provisions.

(a) This subpart is addressed to you as a certifying manufacturer, but it applies

equally to anyone who does testing for you.

(b) Unless we specify otherwise, the terms “procedures” and “test procedures” in this part include all aspects of testing, including the equipment specifications, calibrations, calculations, and other protocols and procedural specifications needed to measure emissions.

(c) The specification for gasoline to be used for testing is given in 40 CFR 1065.710. Use the grade of gasoline specified for general testing. For testing specified in this part that requires a blend of gasoline and ethanol, blend this grade of gasoline with reagent-grade ethanol. You may use less pure ethanol if you can demonstrate that it will not affect your ability to demonstrate compliance with the applicable emission standards.

(d) Accuracy and precision of all temperature measurements must be ± 1.0 °C or better. If you use multiple sensors to measure differences in temperature, calibrate the sensors so they will be within 0.5 °C of each other when they are in thermal equilibrium at a point within the range of test temperatures (use the starting temperature in Table 1 of § 1060.525, unless this is not feasible).

(e) Accuracy and precision of mass balances must be sufficient to ensure accuracy and precision of two percent or better for emission measurements for products at the maximum level allowed by the standard. The readability of the display may not be coarser than half of the required accuracy and precision. Examples are shown in the following table:

	Example #1	Example #2	Example #3
Applicable standard	1.5 g/m ² /day	1.5 g/m ² /day	15 g/m ² /day
Internal surface area	1.15 m ²	0.47 m ²	0.070 m ²
Length of test	14 days	14 days	28 days
Maximum allowable mass change	24.15 g	9.87 g	1.96 g
Required accuracy and precision ..	± 0.483 g or better	± 0.197 g or better	± 0.0392 g or better
Required readability	0.1 g or better	0.1 g or better	0.01 g or better

§ 1060.505 Other procedures.

(a) *Your testing.* The procedures in this part apply for all testing you do to show compliance with emission standards, with certain exceptions listed in this section.

(b) *Our testing.* These procedures generally apply for testing that we do to determine if your equipment complies with applicable emission standards. We

may perform other testing as allowed by the Act.

(c) *Exceptions.* We may allow or require you to use procedures other than those specified in this part in the following cases:

(1) You may request to use special procedures if your equipment cannot be tested using the specified procedures. We will approve your request if we

determine that it would produce emission measurements that represent in-use operation and we determine that it can be used to show compliance with the requirements of the standard-setting part.

(2) You may ask to use emission data collected using other procedures, such as those of the California Air Resources Board or the International Organization

for Standardization. We will approve this only if you show us that using these other procedures does not affect your ability to show compliance with the applicable emission standards. This generally requires emission levels to be far enough below the applicable emission standards so any test differences do not affect your ability to state unconditionally that your equipment will meet all applicable emission standards when tested using the specified test procedures.

(3) You may request to use alternate procedures that are equivalent to allowed procedures or are more accurate or more precise than allowed procedures. See 40 CFR 1065.12 for a description of the information that is generally required to show that an alternate test procedure is equivalent.

(4) The test procedures are specified for gasoline-fueled equipment. If your equipment will use another volatile liquid fuel instead of gasoline, use a test fuel that is representative of the fuel that will be used with the equipment in use. You may ask us to approve other changes to the test procedures to reflect the effects of using a fuel other than gasoline.

(d) *Approval.* If we require you to request approval to use other procedures under paragraph (c) of this section, you may not use them until we approve your request.

§ 1060.510 How do I test EPA Low Emission Fuel Lines for permeation emissions?

For low-emission fuel lines (EPA LEFL), measure emissions according to SAE standard procedure number J2260, which is incorporated by reference in § 1054.810.

§ 1060.515 How do I test EPA Nonroad Fuel Lines and EPA Cold Weather Fuel Lines for permeation emissions?

Measure emission as follows for EPA NRFL and EPA CWFL fuel lines:

(a) Prior to permeation testing, precondition the fuel line by filling it with the fuel specified in paragraph (c) of this section, sealing the openings, and soaking it for 4 to 8 weeks at 23 ± 5 °C. Use Fuel CE10, which is Fuel C as specified in ASTM D 471-06 (incorporated by reference in § 1054.810) blended with 10 percent ethanol by volume.

(b) Drain the fuel line and refill it immediately with the fuel specified in paragraph (a) of this section. Be careful not to spill any fuel.

(c) Measure fuel line permeation emissions using the equipment and procedures for weight-loss testing specified in SAE J30 or SAE J1527

(incorporated by reference in § 1054.810). Start the measurement procedure within 8 hours after draining and refilling the fuel line.

§ 1060.520 How do I test fuel tanks for permeation emissions?

Measure permeation emissions by weighing a sealed fuel tank before and after a temperature-controlled soak.

(a) *Preconditioning durability testing.* Take the following steps before an emission test, in any order, unless we determine that omission of one or more of these durability tests will not affect the emissions from your fuel tank:

(1) *Pressure cycling.* Perform a pressure test by sealing the tank and cycling it between +13.8 and -1.7 kPa (+2.0 and -0.5 psig) for 10,000 cycles at a rate of 60 seconds per cycle. The purpose of this test is to represent environmental wall stresses caused by pressure changes and other factors (such as vibration or thermal expansion). If your tank cannot be tested using the pressure cycles specified by this paragraph (a)(1), you may ask to use special test procedures under § 1060.505.

(2) *UV exposure.* Perform a sunlight exposure test by exposing the tank to an ultraviolet light of at least 24 W/m² (0.40 W-hr/m²/min) on the tank surface for at least 450 hours. Alternatively, the fuel tank may be exposed to direct natural sunlight for an equivalent period of time, as long as you ensure that the tank is exposed to at least 450 daylight hours.

(3) *Slosh testing.* Perform a slosh test by filling the tank to 40 percent of its capacity with the fuel specified in paragraph (e) of this section and rocking it at a rate of 15 cycles per minute until you reach one million total cycles. Use an angle deviation of +15° to -15° from level.

(b) *Preconditioning fuel soak.* Take the following steps before an emission test:

(1) Fill the tank with the fuel specified in paragraph (e) of this section, seal it, and allow it to soak at 28 ± 5 °C for at least 20 weeks. Alternatively, the tank may be soaked for at least 10 weeks at 43 ± 5 °C. You may count the time of the preconditioning steps in paragraph (a) of this section as part of the preconditioning fuel soak, as long as the ambient temperature remains within the specified temperature range and the fuel tank is at least 40 percent full; you may add or replace fuel as needed to conduct the specified durability procedures.

(2) Determine the fuel tank's internal surface area in square-meters, accurate to at least three significant figures. You

may use less accurate estimates of the surface area if you make sure not to overestimate the surface area.

(3) Empty the fuel tank and immediately refill it with the specified test fuel to its nominal capacity. Be careful not to spill any fuel.

(4) Allow the tank and its contents to equilibrate to the temperatures specified in paragraph (d)(6) of this section.

(5) Seal the fuel tank within eight hours after refueling as follows:

(i) You may seal the fuel inlet with a nonpermeable covering if the fuel tank is designed to have a separate filler neck between the fuel cap and the tank, and the filler neck is at least 12 inches long and has an opening at least 6 inches above the top of the fuel tank.

(ii) For filler necks not meeting the specifications described in paragraph (b)(5)(i) of this section, take one of the following approaches:

(A) Use a production fuel cap expected to have permeation emissions at least as high as the highest-emitting fuel cap that you expect to be used with fuel tanks from the emission family. It would generally be appropriate to consider an HDPE fuel cap with a nitrile rubber seal to be worst-case.

(B) You may seal the fuel inlet with a nonpermeable covering if you separately measure the permeation from a worst-case fuel cap as described in § 1060.521.

(iii) Openings that are not normally sealed on the fuel tank (such as hose-connection fittings and vents in fuel caps) may be sealed using nonpermeable fittings such as metal or fluoropolymer plugs.

(iv) Openings for petcocks that are designed for draining fuel may be sealed using nonpermeable fittings such as metal or fluoropolymer plugs.

(c) *Reference tank.* A reference tank is required to correct for buoyancy effects that may occur during testing. Prepare the reference tank as follows:

(1) Obtain a second tank that is identical to the test tank. You may not use a tank that has previously contained fuel or any other contents that might affect its mass stability.

(2) Fill the reference tank with enough dry sand (or other inert material) so the mass of the reference tank is approximately the same as the test tank when filled with fuel. Use good engineering judgment to determine how similar the mass of the reference tank needs to be to the mass of the test tank, considering the performance characteristics of your balance.

(3) Ensure that the sand (or other inert material) is dry. This may require heating the tank or applying a vacuum to it.

(4) Seal the tank.
 (d) *Permeation test run.* To run the test, take the following steps after preconditioning:
 (1) Weigh the sealed test tank and record the weight. Place the reference tank on the balance and tare it so it reads zero. Place the sealed test tank on the balance and record the difference between the test tank and the reference tank. This value is $M_{initial}$. Take this measurement within 8 hours of filling the test tank with fuel as specified in paragraph (b)(3) of this section.
 (2) Carefully place the tank within a ventilated, temperature-controlled room or enclosure. Do not spill or add any fuel.
 (3) Close the room or enclosure and record the time.
 (4) Ensure that the measured temperature in the room or enclosure stays within the temperatures specified in paragraph (d)(6) of this section.
 (5) Leave the tank in the room or enclosure for 14 days.
 (6) Hold the temperature of the room or enclosure at 28 ± 2 °C; measure and record the temperature at least daily. You may alternatively hold the temperature of the room or enclosure at 40 ± 2 °C to demonstrate compliance with the alternative standards specified in § 1060.103(b).
 (7) At the end of the soak period, retare the balance using the reference tank and weigh the sealed test tank. Record the difference in mass between the reference tank and the test tank. This value is M_{final} .
 (8) Subtract M_{final} from $M_{initial}$; divide the difference by the internal surface area of the fuel tank. Divide this g/m^2 value by the number of test days (using at least three significant figures) to calculate the emission rate in $g/m^2/day$.

Example: If a tank with an internal surface area of $0.720 m^2$ weighed 1.31 grams less than the reference tank at the beginning of the test and weighed 9.86 grams less than the reference tank after soaking for 14.03 days, the emission rate would be—

$$\frac{((-1.31 g) - (-9.82 g))}{0.72 m^2 / 14.03 \text{ days}} = 0.842 g/m^2/day.$$

 (9) Round your result to the same number of decimal places as the emission standard.
 (10) In cases where consideration of permeation rates, using good engineering judgment, leads you to conclude that soaking for 14 days is not long enough to measure weight change with enough significant figures, you may soak for 14 days longer. In this case, repeat the steps in paragraphs (b)(8) and (9) of this section to determine the weight change for the full 28 days.
 (e) *Fuel specifications.* Use gasoline blended with 10 percent ethanol by volume as specified in § 1060.501. As an alternative, you may use Fuel CE10, which is Fuel C as specified in ASTM D 471–06 (incorporated by reference in § 1060.810) blended with 10 percent ethanol by volume.

§ 1060.521 How do I test fuel caps for permeation emissions?

If you measure a fuel tank's permeation emissions with a nonpermeable covering in place of the fuel cap as described in § 1060.520(b)(5)(ii), you must separately measure permeation emissions from a fuel cap. You may show that your fuel tank and fuel cap meet emission standards by certifying them separately or by combining the separate measurements into a single emission rate based on the relative areas of the

fuel tank and fuel cap. Measure fuel cap's permeation emissions as follows:
 (a) Select a fuel cap expected to have permeation emissions at least as high as the highest-emitting fuel cap that you expect to be used with fuel tanks from the emission family. Include a gasket that represents production models. If the fuel cap includes vent paths, seal these vents as follows:
 (1) If the vent path is through grooves in the gasket, you may use another gasket with no vent grooves if it is otherwise the same as a production gasket.
 (2) If the vent path is through the cap, seal any vents for testing.
 (b) Attach the fuel cap to a fuel tank with a capacity of at least one liter made of metal or some other impermeable material.
 (c) Use the procedures specified in § 1060.520 to measure permeation emissions. Calculate emission rates using the smallest inside cross sectional area of the opening on which the cap is mounted as the fuel cap's surface area.

§ 1060.525 How do I test fuel systems for diurnal emissions?

Use the procedures of this section to determine whether your fuel tanks meet the diurnal emission standards in § 1060.105.
 (a) Except as specified in paragraph (c) of this section, use the following procedure to measure diurnal emissions:
 (1) Diurnal measurements are based on a representative temperature cycle. For marine fuel tanks, the temperature cycle specifies fuel temperatures rather than ambient temperatures. The applicable temperature cycle is indicated in the following table:

TABLE 1 TO § 1060.525—DIURNAL TEMPERATURE PROFILES FOR FUEL TANKS

Time (hours)	Ambient temperature profile for land-based fuel tanks (°C)	General fuel temperature profile for installed marine fuel tanks (°C)	Fuel temperature profile for marine fuel tanks installed in nontrailerable boats (°C)
0	22.2	25.6	27.6
1	22.5	25.7	27.6
2	24.2	26.5	27.9
3	26.8	27.9	28.5
4	29.6	29.2	29.0
5	31.9	30.4	29.5
6	33.9	31.4	29.9
7	35.1	32.0	30.1
8	35.4	32.2	30.2
9	35.6	32.2	30.2
10	35.3	32.1	30.2
11	34.5	31.7	30.0
12	33.2	31.0	29.7
13	31.4	30.2	29.4

TABLE 1 TO § 1060.525—DIURNAL TEMPERATURE PROFILES FOR FUEL TANKS—Continued

Time (hours)	Ambient temperature profile for land-based fuel tanks (°C)	General fuel temperature profile for installed marine fuel tanks (°C)	Fuel temperature profile for marine fuel tanks installed in nontrailerable boats (°C)
14	29.7	29.3	29.1
15	28.2	28.6	28.8
16	27.2	28.0	28.5
17	26.1	27.5	28.3
18	25.1	27.0	28.1
19	24.3	26.6	28.0
20	23.7	26.3	27.9
21	23.3	26.1	27.8
22	22.9	25.9	27.7
23	22.6	25.7	27.6
24	22.2	25.6	27.6

(2) Fill the fuel tank to 40 percent of nominal capacity with the gasoline specified in 40 CFR 1065.710 for general testing.

(3) Install a vapor line from any vent ports that would not be sealed in the final in-use configuration. Use a length of vapor line representing the shortest length that would be expected with the range of in-use installations for the emission family.

(4) Stabilize the fuel tank at the starting temperature of the applicable temperature profile from paragraph (a)(1) of this section.

(5) If the fuel tank is equipped with a carbon canister, load the canister with butane or gasoline vapors to its carbon working capacity and attach it to the fuel tank in a way that represents a typical in-use configuration.

(6) Place the fuel tank with the carbon canister and vent line in a SHED meeting the specifications of 40 CFR 86.107–96(a)(1). Follow the applicable temperature trace from paragraph (a)(1) of this section for one 24-hour period. You need not measure emissions during this stabilization step.

(7) As soon as possible after the stabilization in paragraph (a)(6) of this section, purge the SHED and follow the applicable temperature trace from paragraph (a)(1) of this section for three consecutive 24-hour periods. Start measuring emissions when you start the temperature profile. The end of the first, second, and third emission sampling periods must occur 1440 ± 6, 2880 ± 6, and 4320 ± 6 minutes, respectively, after starting the measurement procedure. Use the highest of the three emission levels to determine whether your fuel tank meets the diurnal emission standard.

(b) You may subtract your fuel tank’s permeation emissions from the

measured diurnal emissions if the fuel tank is preconditioned with diurnal test fuel as described in § 1060.520(b) or if you use good engineering judgment to otherwise establish that the fuel tank has stabilized permeation emissions. Measure permeation emissions for subtraction as specified in § 1060.520(c) and (d) before measuring diurnal emissions, except that the permeation measurement must be done with diurnal test fuel. Use appropriate units and corrections to subtract the permeation emissions from the fuel tank during the diurnal emission test. You may not subtract a greater mass of emissions under this paragraph (b) than the fuel tank would emit based on meeting the applicable emission standard for permeation.

(c) For emission control technologies that do not use carbon canisters or other emission-sorbing materials, you must follow the procedures specified in paragraph (a) of this section, but you may omit the stabilization step in paragraph (a)(6) of this section and the last two 24-hour periods of emission measurements in paragraph (a)(7) of this section.

§ 1060.530 How do I test fuel systems for diffusion emissions?

Use the procedures of this section to determine whether your fuel tanks meet the diffusion emission standards in § 1060.105.

(a) Use the following procedure to measure diffusion emissions:

(1) Diffusion measurements are based on a 6-hour soak under nominally isothermal conditions.

(2) Fill the fuel tank to 90 percent of nominal capacity with the gasoline specified for general testing in 40 CFR 1065.710.

(3) Install fuel caps, vent ports, and vent lines representing in-use configurations.

(4) Stabilize the fuel tank at 28 ± 2 °C. You need not measure emissions during this stabilization step.

(5) If the fuel system is equipped with a carbon canister, load the canister with butane or gasoline vapors to its carbon working capacity and attach it to the fuel tank in a way that represents a typical in-use configuration.

(6) Place the fuel tank with the carbon canister and vent line in a sealed enclosure such as a SHED meeting the specifications of 40 CFR 86.107–96(a)(1). (**Note:** Make sure the enclosure is large enough that the mixture of fuel vapor and air within the enclosure will remain safely below the applicable lower flammability limit.)

(7) Hold the temperature of the enclosure at 28 ± 2 °C throughout the measurement procedure.

(8) Immediately following the stabilization period, purge the SHED. Reseal the SHED and start measuring emissions. Collect emission measurements for 6 hours. Use the measured results to calculate an emission rate over a 24-hour period.

(b) You may subtract your fuel tank’s permeation emissions from the measured diffusion emissions if the fuel tank is preconditioned with diffusion test fuel as described in § 1060.520(b) or if you use good engineering judgment to otherwise establish that the fuel tank has stabilized permeation emissions. Measure permeation emissions for subtraction as specified in § 1060.520(c) and (d) before measuring diffusion emissions, except that the permeation measurement must be done with diffusion test fuel. Use appropriate units and corrections to subtract the permeation emissions from the fuel tank

during the diffusion emission test. You may not subtract a greater mass of emissions under this paragraph (b) than the fuel tank would emit based on meeting the applicable emission standard for permeation.

(c) You may use the procedures of this section to certify fuel caps to diffusion emission standards. To do this, install the fuel cap on a fuel tank that has no other vent path.

§ 1060.535 How do I measure fuel temperatures to comply with running loss requirements?

Measure fuel temperature on representative equipment models as needed to show that all affected equipment models will not exceed the temperature rise specified in § 1060.104(b)(3).

(a) Measure fuel temperatures as follows:

(1) Select a piece of equipment representing the equipment configuration to be produced.

(2) Position a thermocouple in the fuel tank so it remains wetted when the fuel tank is 20 percent full, without touching the inside walls or bottom of the fuel tank.

(3) Except as specified in paragraph (b) of this section, you must conduct this testing outdoors without shelter under the following conditions:

(i) Ambient temperature must start between 20 and 30 °C and be steady or increasing during the test. Measure shaded ambient temperatures near the test site.

(ii) Average wind speed must be below 15 miles per hour.

(iii) No precipitation.

(iv) Maximum cloud cover of 25 percent as reported by the nearest local airport making hourly meteorological observations.

(4) Fill the fuel tank with a commercially available fuel. Testing may start when fuel temperatures in the tank are within 2 °C of the ambient temperature without exceeding the ambient temperature.

(5) Operate the equipment for one hour or until it uses 80 percent of the total fuel tank capacity, whichever occurs first, over a normal in-use duty cycle.

(6) Show that the difference between the maximum and minimum measured fuel temperature during the operation specified in paragraph (a)(5) of this section does not exceed 8 °C at any time during the operation.

(b) You may ask us to approve a plan to measure fuel temperatures indoors. Your plan must establish a measurement procedure that would simulate outdoor conditions and

consider engine operation, solar load, temperature, and wind speed such that the measured values would be expected to be the same as if they were measured using the procedures in paragraph (a) of this section.

(c) If a piece of equipment has more than one fuel tank, you may measure fuel temperatures in each fuel tank at the same time, but each fuel tank must control temperatures as specified in § 1060.104(b)(3).

(d) Keep records of all the measurements you make under this section. Also keep records describing the engine and equipment operation used for the measurements, including information related to factors that would affect engine load. For example, if the operation involves cutting grass, document the grass height and density and the mower's cutting height. Keep these records for at least eight years after the end of the last model year for which the test results apply.

Subpart G—Special Compliance Provisions

§ 1060.601 How do the prohibitions of 40 CFR 1068.101 apply with respect to the requirements of this part?

(a) As described in § 1060.1, certain fuel tanks and fuel lines that are used with or intended to be used with new nonroad engines are subject to evaporative emission standards under this part 1060. This includes portable marine fuel tanks and fuel lines and other fuel-system components associated with portable marine fuel tanks. Except as specified in paragraph (f) of this section, these fuel-system components must therefore be covered by a valid certificate of conformity before being introduced into U.S. commerce to avoid violating the prohibition of 40 CFR 1068.101(a). To the extent we allow it under the exhaust standard-setting part, fuel-system components may be certified with a family emission limit higher than the emission standard. The provisions of this paragraph (a) do not apply to fuel caps.

(b) New replacement fuel tanks and fuel lines are subject to evaporative emission standards under this part 1060 if they are intended to be used with nonroad engines that are regulated by this part 1060, as follows:

(1) *Applicability of standards between January 1, 2012 and December 31, 2019.* Manufacturers, distributors, retailers, and importers are obligated to clearly state on the packaging for all replacement components that could reasonably be used with nonroad engines how such components may be

used consistent with the prohibition in paragraph (a) of this section. It is presumed that such components are intended for use with nonroad engines, unless the components, or the packaging for such components, clearly identify appropriate restrictions. This requirement does not apply for components that are clearly not intended for use with fuels.

(2) *Applicability of standards after January 1, 2020.* Starting January 1, 2020 it is presumed that replacement components will be used with nonroad engines subject to the standards of this part if they can reasonably be used with such engines. Manufacturers, distributors, retailers, and importers are therefore obligated to take all reasonable steps possible to ensure that any uncertified components are not used to replace certified components. This would require labeling the components and may also require restricting the sales and requiring the ultimate purchaser to agree to not use the components inappropriately. This requirement does not apply for components that are clearly not intended for use with fuels.

(3) *Applicability of the tampering prohibition.* If a fuel tank or fuel line needing replacement was certified to meet the emission standards in this part with a family emission limit below the otherwise applicable standard, the new replacement fuel tank or fuel line must be certified with the same or lower family emission limit to avoid violating the tampering prohibition in 40 CFR 1068.101(b)(1). Equipment owners may request an exemption from this requirement by demonstrating that no such fuel tanks or fuel lines are available. We may issue guidance to address such exemptions more broadly if appropriate.

(c) Small SI engines must have a valid certificate of conformity with respect to running loss emission standards before being introduced into U.S. commerce to avoid violating the prohibition of 40 CFR 1068.101(a). The running loss emission standard cannot be met by component manufacturers. The emission standard and the responsibility for certification applies to engine manufacturers or equipment manufacturers as follows:

(1) Engines with complete fuel systems are subject to the running loss emission standard.

(2) If Small SI engines are sold without complete fuel systems, the associated equipment is subject to the running loss emission standard.

(d) Manufacturers that generate or use emission credits related to Marine SI engines in 40 CFR part 1045 or Small SI

engines in 40 CFR part 1054 are subject to the emission standards for which they are generating or using emission credits. These engines or equipment must therefore be covered by a valid certificate of conformity showing compliance with emission-credit provisions before being introduced into U.S. commerce to avoid violating the prohibition of 40 CFR 1068.101(a).

(e) Where there is no valid certificate of conformity for any given evaporative emission standard for new equipment, the manufacturers of the engine, equipment and fuel-system components are each liable for violations of the prohibited acts.

(f) If you manufacture fuel lines or fuel tanks that are subject to the requirements of this part as described in paragraph (a) of this section, the prohibition in 40 CFR 1068.101(a) does not apply to your products if you ship them directly to an equipment manufacturer or another manufacturer with which you have a contractual agreement that obligates the other manufacturer to certify those fuel lines or fuel tanks.

§ 1060.605 Exemptions from evaporative emission standards.

(a) Except as specified in the exhaust standard-setting part and paragraph (b) of this section, equipment using an engine that is exempt from emission standards under the provisions in 40 CFR part 1068, subpart C or D, is also exempt from the requirements of this part 1060. For example, engines or equipment exempted from exhaust emission standards for purposes of national security do not need to meet evaporative emission standards. Also, any engine that is exempt from emission standards because it will be used solely for competition does not need to meet evaporative emission standards.

(b) Engines produced under the replacement-engine exemption in 40 CFR 1068.240 must use fuel-system components that meet the evaporative emission standards based on the model year of the engine being replaced subject to the provisions of 40 CFR 1068.265. If no evaporative emission standards applied at that time, no requirements related to evaporative emissions apply to the new engine. Installing a replacement engine does not change the applicability of requirements for the equipment into which the replacement engine is installed.

(c) Engines or equipment that are temporarily exempt from EPA exhaust emission standards are also exempt from the requirements of this part 1060 for the same period as the exhaust exemption.

(d) For equipment powered by more than one engine, all the engines installed in the equipment must be exempt from all applicable EPA exhaust emission standards for the equipment to also be exempt under paragraph (a) or (b) of this section.

(e) In unusual circumstances, we may exempt equipment from the requirements of this part 1060 even if the equipment is powered by one or more engines that are subject to EPA exhaust emission standards. See 40 CFR part 1068. Such exemptions will be limited to:

(1) Testing. See 40 CFR 1068.210.

(2) National security. See 40 CFR 1068.225.

(3) Economic hardship. See 40 CFR 1068.245 and 1068.250.

(f) Evaporative emission standards generally apply based on the model year of the equipment, which is determined by the equipment's date of final assembly. However, in the first year of new emission standards, equipment manufacturers may apply evaporative emission standards based on the model year of the engine as shown on the engine's emission control information label. For example, for fuel line permeation standards starting in 2012, equipment manufacturers may order a batch of 2011 model year engines for installation in 2012 model year equipment, subject to the anti-stockpiling provisions of 40 CFR 1068.105(a). The equipment with the 2011 model year engines would not need to meet fuel line permeation standards, as long as the equipment is fully assembled by December 31, 2012.

§ 1060.640 What special provisions apply to branded equipment?

The following provisions apply if you identify the name and trademark of another company instead of your own on your emission control information label for equipment, as provided by § 1060.135:

(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 § 1060.120. 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 and describe the arrangements you have made to meet your requirements under this section.

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

Subpart H—Averaging, Banking, and Trading Provisions

§ 1060.701 Applicability.

(a) You are allowed to comply with the emission standards in this part with emission credits only if the exhaust standard-setting part explicitly allows it for evaporative emissions.

(b) The following CFR parts allow some use of emission credits:

(1) 40 CFR part 1045 for marine vessels.

(2) 40 CFR part 1051 for recreational vehicles.

(3) 40 CFR part 1054 for Small SI equipment.

(c) As specified in 40 CFR part 1048, there is no calculation of emission credits for Large SI equipment.

§ 1060.705 How do I certify components to an emission level other than the standard under this part or use such components in my equipment?

As specified in this section, a component or system may be certified to a family emission limit (FEL) instead of the otherwise applicable emission standard.

(a) *Requirements for certifying component manufacturers.* See subpart C of this part for instructions regarding the general requirements for certifying components.

(1) When you submit your application for certification, indicate the FEL to which your components will be certified. This FEL will serve as the applicable standard for your component and the equipment that uses the component. For example, when the regulations of this part use the phrase "demonstrate compliance with the applicable emission standard" it will mean "demonstrate compliance with the FEL" for your component.

(2) You may not change the FEL for an engine family. To specify a different FEL for your components, you must send a new application for certification for a new emission family.

(3) Unless your FEL is below all emission standards that could potentially apply, you must ensure that all equipment manufacturers that will use your component are aware of the limitations regarding the conditions under which they may use your component.

(4) It is your responsibility to read the relevant instructions in the standard-setting parts identified in § 1060.15.

(b) *Requirements for equipment manufacturers.* See subpart C of this

part for instructions regarding your ability to rely on the component manufacturer's certificate.

(1) The FEL of the component will serve as the applicable standard for your equipment.

(2) If the FEL is above the emission standard you must ensure that the exhaust standard-setting part allows you to use emission credits to comply with emission standards and that you will have an adequate source of emission credits. You must certify your equipment as specified in § 1060.201 and the rest of subpart C of this part.

Subpart I—Definitions and Other Reference Information

§ 1060.801 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 Act gives to them. The definitions follow:

Accuracy and precision means the sum of accuracy and repeatability, as defined in 40 CFR 1065.1001. For example, if a measurement device is determined to have an accuracy of $\pm 1\%$ and a repeatability of $\pm 2\%$, then its accuracy and precision would be $\pm 3\%$.

Act means the Clean Air Act, as amended, 42 U.S.C. 7401–7671q.

Adjustable parameter means any device, system, or element of design that someone can adjust and that, if adjusted, may affect emissions. You may ask us to exclude a parameter if you show us that it will not be adjusted in use in a way that affects emissions.

Applicable emission standard or applicable standard means an emission standard to which a fuel-system component; or, where a fuel-system component has been or is being certified another standard or FEL, applicable emission standards means the FEL and other standards to which the fuel-system component has been or is being certified. This definition does not apply to subpart H of this part.

Butane working capacity means the measured amount of hydrocarbon vapor that can be stored on a canister when tested according to ASTM D5228–92 (incorporated by reference in § 1060.810). You may determine carbon capacity for a given system by multiplying the mass of carbon in the system by weight-specific carbon working capacity of a specific type of carbon.

Certification means relating to the process of obtaining a certificate of conformity for an emission family that complies with the emission standards and requirements in this part.

Certified emission level means the highest official emission level in an emission family.

Cold-weather equipment includes the following types of handheld equipment: chainsaws, cut-off saws, clearing saws, brush cutters with engines at or above 40cc, commercial earth and wood drills, and ice augers. This includes earth augers if they are also marketed as ice augers.

Configuration means a unique combination of hardware (material, geometry, and size) and calibration within an emission family. Units within a single configuration differ only with respect to normal production variability.

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.

Detachable fuel line means a fuel line or fuel line assembly intended to be used with a portable nonroad fuel tank and which is connected by special fittings to the fuel tank and/or engine for easy disassembly. Fuel lines that require a wrench or other tools to disconnect are not considered detachable fuel lines.

Diffusion emissions means evaporative emissions caused by the venting of fuel tank vapors as a result of molecular motion rather than fuel heating.

Diurnal emissions means evaporative emissions that occur as a result of venting fuel tank vapors during daily temperature changes while the engine is not operating. Diurnal emissions include diffusion emissions.

Effective length-to-diameter ratio means the mean vapor path length of a carbon canister divided by the effective diameter of that vapor path. The effective diameter is the diameter of a circle with the same cross-sectional area as the average cross-sectional area of the carbon canister's vapor path.

Emission control system means any device, system, or element of design that controls or reduces the regulated evaporative emissions from a piece of nonroad equipment.

Emission-data unit means a fuel line, fuel tank, fuel system, or fuel-system component that is tested for certification. This includes components tested by EPA.

Emission-related maintenance means maintenance that substantially affects emissions or is likely to substantially affect emission deterioration.

Emission family has the meaning given in § 1060.230.

Equipment means vehicles, marine vessels, and other types of nonroad equipment that are subject to this part's requirements.

Evaporative means relating to fuel emissions that result from permeation of fuel through the fuel-system materials and from ventilation of the fuel system.

Exhaust standard-setting part means the part in the Code of Federal Regulations that contains exhaust emission standards for a particular piece of equipment (or the engine in that piece of equipment). For example, the exhaust standard-setting part for off-highway motorcycles is 40 CFR part 1051. Exhaust standard-setting parts may include evaporative emission requirements or describe how the requirements of this part 1060 apply.

Exposed gasket surface area means the surface area of the gasket inside the fuel tank that is exposed to fuel or fuel vapor. For the purposes of calculating exposed surface area of a gasket, the thickness of the gasket and the outside dimension of the opening being sealed are used. Gasket overhang into the fuel tank should be ignored for the purpose of this calculation.

Family emission limit (FEL) means an emission level declared by the manufacturer to serve in place of an otherwise applicable emission standard under an ABT program specified by the exhaust standard-setting 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 emission family with respect to all required testing.

Fuel line means hoses or tubing designed to contain liquid fuel. The exhaust standard-setting part may further specify which types of hoses and tubing are subject to the standards of this part.

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 CE10 has the meaning given in § 1060.515(a).

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 premium

gasoline, regular gasoline, or gasoline with 10 percent ethanol.

Gasoline means one of the following:

(1) For in-use fuels, *gasoline* means fuel that is commonly and commercially known as gasoline, including ethanol blends.

(2) For testing, *gasoline* has the meaning given in subpart F of this part.

Good engineering judgment means judgments made consistent with generally accepted scientific and engineering principles and all available relevant information. See 40 CFR 1068.5 for the administrative process we use to evaluate good engineering judgment.

Installed marine fuel tank means any fuel tank designed for delivering fuel to a Marine SI engine, excluding *portable nonroad fuel tanks*.

Large SI means relating to engines that are subject to evaporative emission standards in 40 CFR part 1048.

Low-permeability material means a material with permeation emission rates at or below 10 (g-mm)/(m²-day) when measured according to SAE J2659 (incorporated by reference in § 1060.810), where the test temperature is 23 °C, the test fuel is Fuel CE10, and testing immediately follows a four-week preconditioning soak with the test fuel.

Manufacture means the physical and engineering process of designing, constructing, and assembling an engine, piece of nonroad equipment, or fuel-system components subject to the requirements of this part.

Manufacturer has the meaning given in section 216(1) of the Act. In general, this term includes:

(1) Any person who manufactures an engine or piece of nonroad equipment for sale in the United States or otherwise introduces a new nonroad engine or a piece of new nonroad equipment into U.S. commerce.

(2) Any person who manufactures a fuel-system component for an engine subject to the requirements of this part as described in § 1060.1(a).

(3) Importers who import such products into the United States.

Marine SI means relating to vessels subject to evaporative emission standards in 40 CFR part 1045.

Marine vessel has the meaning given in 40 CFR § 1045.801, which generally includes all nonroad equipment used as a means of transportation on water.

Model year means one of the following things:

(1) For equipment defined as “new nonroad equipment” under paragraph (1) of the definition of “new nonroad engine,” 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.

(2) For other equipment defined as “new nonroad equipment” under paragraph (2) of the definition of “new nonroad engine,” model year has the meaning given in the exhaust standard-setting part.

(3) For other equipment defined as “new nonroad equipment” under paragraph (3) or paragraph (4) of the definition of “new nonroad engine,” model year means the model year of the engine as defined in the exhaust standard-setting part.

New nonroad equipment means equipment meeting one or more of the following criteria:

(1) Nonroad equipment for which the ultimate purchaser has never received the equitable or legal title. The equipment is no longer new when the ultimate purchaser receives this title or the product is placed into service, whichever comes first.

(2) Nonroad equipment that is defined as new under the exhaust standard-setting part. (**Note:** equipment that is not defined as new under the exhaust standard-setting part may be defined as new under this definition of “new nonroad equipment.”)

(3) Nonroad equipment with an engine that becomes new (as defined in the exhaust standard-setting part) while installed in the equipment. The equipment is no longer new when it is subsequently placed into service. This paragraph (3) does not apply if the engine becomes new before being installed in the equipment.

(4) Nonroad equipment not covered by a certificate of conformity issued under this part at the time of importation and manufactured after the requirements of this part start to apply (see § 1060.1). The equipment is no longer new when it is subsequently placed into service. Importation of this kind of new nonroad equipment is generally prohibited by 40 CFR part 1068.

Nominal capacity means the a fuel tank’s volume as specified by the fuel tank manufacturer, using at least two significant figures, based on the maximum volume of fuel the tank can hold with standard refueling techniques.

Nonroad engine has the meaning we give 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. This part does not apply to all nonroad engines (see § 1060.1).

Nonroad equipment means a piece of equipment that is powered by or intended to be powered by one or more nonroad engines. Note that § 1060.601 describes how we treat outboard engines, portable marine fuel tanks, and associated fuel-system components as nonroad equipment under this part 1060.

Nontrailerable boat means a vessel 26 feet or more in length.

Official emission result means the measured emission rate for an emission-data unit.

Placed into service means put into initial use for its intended purpose.

Portable marine fuel tank means a portable nonroad fuel tank that is used or intended to be used with a marine vessel.

Portable nonroad fuel tank means a fuel tank that meets each of the following criteria:

(1) It has design features indicative of use in portable applications, such as a carrying handle and fuel line fitting that can be readily attached to and detached from a nonroad engine.

(2) It has a nominal fuel capacity of 12 gallons or less.

(3) It is designed to supply fuel to an engine while the engine is operating.

Production period means the period in which a certified component will be produced under a certificate of conformity.

Recreational vehicle means vehicles that are subject to evaporative emission standards in 40 CFR part 1051. This generally includes engines that will be installed in recreational vehicles if the engines are certified separately under 40 CFR 1051.20.

Revoke has the meaning given in 40 CFR 1068.30. If we revoke a certificate or an exemption, you must apply for a new certificate or exemption before continuing to introduce the affected equipment into U.S. commerce.

Round means to round numbers according to standard procedures as specified in 40 CFR 1065.1001.

Running loss emissions means unburned fuel vapor that escapes from the fuel system to the ambient atmosphere while the engine is operating, excluding permeation emissions and diurnal emissions. Running loss emissions generally result from fuel-temperature increases caused by heat released from in-tank fuel pumps, fuel recirculation, or proximity to heat sources such as the engine or exhaust components.

Sealed means lacking openings to the atmosphere that would allow liquid or

vapor to leak out under normal operating pressures or other pressures specified in this part. Sealed fuel systems may have openings for emission controls or fuel lines needed to route fuel to the engine.

Small SI means relating to engines that are subject to emission standards in 40 CFR part 90 or 1054.

Structurally integrated nylon fuel tank means a fuel tank having all the following characteristics:

(1) The fuel tank is made of a polyamide material that does not contain more than 50 percent by weight of a reinforcing glass fiber or mineral filler and does not contain more than 10 percent by weight of impact modified polyamides that use rubberized agents such as EPDM rubber.

(2) The fuel tank must be used in a cut-off saw or chainsaw or be integrated into a major structural member where, as a single component, the fuel tank material is a primary structural/stress member for other major components such as the engine, transmission, or cutting attachment.

Subchapter U means 40 CFR parts 1000 through 1299.

Suspend has the meaning given in 40 CFR 1068.30. If we suspend a certificate, you may not introduce into U.S. commerce equipment from that emission family unless we reinstate the certificate or approve a new one. If we suspend an exemption, you may not introduce into U.S. commerce equipment that was previously covered by the exemption unless we reinstate the exemption.

Tare means to use a container or other reference mass to zero a balance before weighing a sample. Generally, this means placing the container or reference mass on the balance, allowing it to stabilize, then zeroing the balance without removing the container or reference mass. This allows you to use the balance to determine the difference in mass between the sample and the container or reference mass.

Test unit means a piece of fuel line, a fuel tank, or a fuel system in a test sample.

Test sample means the collection of fuel lines, fuel tanks, or fuel systems selected from the population of an emission family for emission testing. This may include testing for certification, production-line testing, or in-use testing.

Ultimate purchaser means, with respect to any new nonroad equipment,

the first person who in good faith purchases such new nonroad equipment for purposes other than resale.

Ultraviolet light means electromagnetic radiation with a wavelength between 300 and 400 nanometers.

United States has the meaning given in 40 CFR 1068.30.

U.S.-directed production volume means the amount of equipment, 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 new nonroad equipment is required to comply with all applicable emission standards. See § 1060.101.

Void has the meaning given in 40 CFR 1068.30. If we void a certificate, each piece of equipment introduced into U.S. commerce under that emission family for that production period is considered noncompliant, and you are liable for each piece of equipment introduced into U.S. commerce under the certificate and may face civil or criminal penalties or both. This applies equally to each piece of equipment in the emission family, including equipment introduced into U.S. commerce before we voided the certificate. If we void an exemption, each piece of equipment introduced into U.S. commerce under that exemption is considered uncertified (or nonconforming), and you are liable for each piece of equipment introduced into U.S. commerce under the exemption and may face civil or criminal penalties or both. You may not introduce into U.S. commerce any additional equipment using the voided exemption.

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.

We (us, our) means the Administrator of the Environmental Protection Agency and any authorized representatives.

Wintertime equipment means equipment using a wintertime engine, as defined in 40 CFR 1054.801. Note this definition applies only for Small SI equipment.

§ 1060.805 What symbols, acronyms, and abbreviations does this part use?

The following symbols, acronyms, and abbreviations apply to this part:

° degree.

ASTM American Society for Testing and Materials.

C Celsius.

CFR Code of Federal Regulations.

CWFL Cold-weather fuel line (see § 1060.102).

EPA Environmental Protection Agency.

FEL family emission limit.

g gram.

gal gallon.

hr hour.

in inch.

kPa kilopascal.

kW kilowatt.

L liter.

LEFL Low-emission fuel line (see § 1060.102).

m meter.

min minute.

mm millimeter.

NRFL Nonroad fuel line (see § 1060.102).

psig pounds per square inch of gauge pressure.

SAE Society of Automotive Engineers.

SHED Sealed Housing for Evaporative Determination.

U.S. United States.

U.S.C. United States Code.

W watt.

§ 1060.810 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. 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) *ASTM material*. Table 1 of this section lists material from the American Society for Testing and Materials 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 American Society for Testing and Materials, 100 Barr Harbor Dr., P.O. Box C700, West Conshohocken, PA 19428 or www.astm.com. Table 1 follows:

TABLE 1 TO § 1060.810.—ASTM MATERIALS

Document number and name	Part 1060 reference
ASTM D 471–06, Standard Test Method for Rubber Property-Effect of Liquids	1060.515
ASTM D3802–79 (Reapproved 2005), Standard Test Method for Ball-Pan Hardness of Activated Carbon	1060.240
ASTM D5228–92 (Reapproved 2005), Standard Test Method for Determination of Butane Working Capacity of Activated Carbon	1060.240

(b) *SAE material.* Table 2 of 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 *www.sae.org*. Table 2 follows:

TABLE 2 TO § 1060.810.—SAE MATERIALS

Document number and name	Part 1060 reference
SAE J30, Fuel and Oil Hoses, June 1998	1060.515
SAE J1527, Marine Fuel Hoses, February 1993	1060.515
SAE J2260, Nonmetallic Fuel System Tubing with One or More Layers, November 1996	1060.510
SAE J2659, Test Method to Measure Fluid Permeation of Polymeric Materials by Speciation, December 2003	1060.801

§ 1060.815 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.

§ 1060.820 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.

§ 1060.825 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 products regulated under this part:

- (a) We specify the following requirements related to equipment certification in this 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 engines.
 - (3) In 40 CFR 1060.301 we require manufacturers to make engines or equipment 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.

- (b) 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 equipment available for our testing or inspection if we make such a request.

(4) In 40 CFR 1068.105 we require equipment manufacturers to keep certain records related to duplicate labels from engine manufacturers.

(5) [Reserved]

(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.

(7) In 40 CFR part 1068, subpart D, we identify several reporting and recordkeeping items for making demonstrations and getting approval related to importing equipment.

(8) In 40 CFR 1068.450 and 1068.455 we specify certain records related to testing production-line products 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 equipment.

PART 1065—ENGINE-TESTING PROCEDURES

134. The authority citation for part 1065 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart A—[Amended]

135. Section 1065.1 is amended by revising paragraph (a) to read as follows:

§ 1065.1 Applicability.

(a) This part describes the procedures that apply to testing we require for the following engines or for vehicles using the following engines:

(1) [Reserved]

(2) Model year 2010 and later heavy-duty highway engines we regulate under 40 CFR part 86. For earlier model years, manufacturers may use the test procedures in this part or those specified in 40 CFR part 86, subpart N, according to § 1065.10.

(3) Nonroad diesel engines we regulate under 40 CFR part 1039 and stationary diesel engines that are certified to the standards in 40 CFR part 1039 as specified in 40 CFR part 60, subpart III. For earlier model years, manufacturers may use the test procedures in this part or those specified in 40 CFR part 89 according to § 1065.10.

(4) [Reserved]

(5) Marine spark-ignition engines we regulate under 40 CFR part 1045. For earlier model years, manufacturers may use the test procedures in this part or those specified in 40 CFR part 91 according to § 1065.10.

(6) Large nonroad spark-ignition engines we regulate under 40 CFR part 1048, and stationary engines that are certified to the standards in 40 CFR part 1048 as specified in 40 CFR part 60, subpart JJJ.

(7) Vehicles we regulate under 40 CFR part 1051 (such as snowmobiles and off-highway motorcycles) based on engine testing. See 40 CFR part 1051, subpart F, for standards and procedures that are based on vehicle testing.

(8) Small nonroad spark-ignition engines we regulate under 40 CFR part 1054 and stationary engines that are certified to the standards in 40 CFR part 1054 as specified in 40 CFR part 60, subpart JJJJ. For earlier model years, manufacturers may use the test procedures in this part or those specified in 40 CFR part 90 according to § 1065.10.

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PART 1068—GENERAL COMPLIANCE PROVISIONS FOR NONROAD PROGRAMS

136. The authority citation for part 1068 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart A—[Amended]

137. Section 1068.1 is revised to read as follows:

§ 1068.1 Does this part apply to me?

(a) The provisions of this part apply to everyone with respect to the following engines and to equipment using the following engines (including owners, operators, parts manufacturers, and persons performing maintenance).

(1) Locomotives we regulate under 40 CFR part 1039.

(2) Land-based nonroad compression-ignition engines we regulate under 40 CFR part 1039.

(3) Stationary compression-ignition engines certified to the provisions of 40 CFR part 1039, as indicated under 40 CFR part 60, subpart III.

(4) Marine diesel engines we regulate under 40 CFR part 1042.

(5) Marine spark-ignition engines we regulate under 40 CFR part 1045.

(6) Large nonroad spark-ignition engines we regulate under 40 CFR part 1048.

(7) Stationary spark-ignition engines certified to the provisions of 40 CFR parts 1048 or 1054, as indicated under 40 CFR part 60, subpart JJJJ.

(8) Recreational engines and vehicles we regulate under 40 CFR part 1051 (such as snowmobiles and off-highway motorcycles).

(9) Small nonroad spark-ignition engines we regulate under 40 CFR part 1054.

(b) This part does not apply to any of the following engine or vehicle categories:

(1) Light-duty motor vehicles (see 40 CFR part 86).

(2) Heavy-duty motor vehicles and motor vehicle engines (see 40 CFR part 86).

(3) Aircraft engines (see 40 CFR part 87).

(4) Land-based nonroad diesel engines we regulate under 40 CFR part 89.

(5) Small nonroad spark-ignition engines we regulate under 40 CFR part 90.

(6) Marine spark-ignition engines we regulate under 40 CFR part 91.

(7) Locomotive engines (see 40 CFR part 92).

(8) Marine diesel engines (see 40 CFR parts 89 and 94).

(c) Paragraph (a)(1) of this section identifies the parts of the CFR that define emission standards and other requirements for particular types of engines and equipment. This part 1068 refers to each of these other parts generically as the “standard-setting part.” For example, 40 CFR part 1051 is always the standard-setting part for snowmobiles. Follow the provisions of the standard-setting part if they are different than any of the provisions in this part.

(d)(1) The provisions of §§ 1068.30, 1068.310, and 1068.320 apply for stationary spark-ignition engines built on or after January 1, 2004, and for stationary compression-ignition engines built on or after January 1, 2006.

(2) The provisions of §§ 1068.30 and 1068.235 apply for the types of engines/equipment listed in paragraph (a) of this section beginning January 1, 2004, if they are used solely for competition.

138. A new § 1068.2 is added to read as follows:

§ 1068.2 How does this part apply for engines and how does it apply for equipment?

(a) See the standard-setting part to determine if engine-based and/or equipment-based standards apply. (**Note:** Some equipment is subject to engine-based standards for exhaust emission and equipment-based standards for evaporative emissions.)

(b) The provisions of this part apply differently depending on whether the engine or equipment is required to be certified.

(1) This subpart A and subpart B of this part apply to engines and equipment, without regard to which is subject to certification requirements in the standard-setting part.

(2) Subparts C, D, and E of this part apply to the engines or to the equipment, whichever is subject to certification requirements in the standard-setting part.

(3) Subpart F of this part generally applies to the engines or to the equipment, whichever is subject to standards under the standard-setting part. However, since subpart F of this part addresses in-use engines and equipment (in which the engine is installed in the equipment), the requirements do not always distinguish between engines and equipment.

(c) For issues related to testing, read the term “engines/equipment” to mean engines for engines subject to engine-based testing and equipment for equipment subject to equipment-based testing; otherwise, read the term “engines/equipment” to mean engines for sources subject to engine-based standards and equipment for sources subject to equipment-based standards.

(d) Where we use the term engines (rather than engines/equipment), read it to mean engines without regard to whether the source is subject to engine-based standards or testing. Where we use the term equipment (rather than engines/equipment), read it to mean equipment without regard to whether the source is subject to equipment-based standards or testing. (**Note:** The definition of “equipment” in § 1068.30 includes the engine.)

(e) The terminology convention described in this section is not intended to limit our authority or your obligations under the Clean Air Act.

139. Section 1068.5 is amended by revising paragraph (a) to read as follows:

§ 1068.5 How must manufacturers apply good engineering judgment?

(a) You must use good engineering judgment for decisions related to any

requirements under this chapter. This includes your applications for certification, any testing you do to show that your certification, production-line, and in-use engines/equipment comply with requirements that apply to them, and how you select, categorize, determine, and apply these requirements.

* * * * *

140. Section 1068.20 is amended by revising paragraphs (a) and (d) to read as follows:

§ 1068.20 May EPA enter my facilities for inspections?

(a) We may inspect your testing, manufacturing processes, storage facilities (including port facilities for imported engines and equipment or other relevant facilities), or records, as authorized by the Act, to enforce the provisions of this chapter. Inspectors will have authorizing credentials and will limit inspections to reasonable times—usually, normal operating hours.

* * * * *

(d) We may select any facility to do any of the following:

(1) Inspect and monitor any aspect of engine or equipment manufacturing, assembly, storage, or other procedures, and any facilities where you do them.

(2) Inspect and monitor any aspect of engine or equipment test procedures or test-related activities, including test engine/equipment selection, preparation, service accumulation, emission duty cycles, and maintenance and verification of your test equipment's calibration.

(3) Inspect and copy records or documents related to assembling, storing, selecting, and testing an engine or piece of equipment.

(4) Inspect and photograph any part or aspect of engines or equipment and components you use for assembly.

* * * * *

141. Section 1068.25 is revised to read as follows:

§ 1068.25 What information must I give to EPA?

If you are subject to the requirements of this part, we may require you to give us information to evaluate your compliance with any regulations that apply, as authorized by the Act. This includes the following things:

(a) You must provide the information we require in this chapter. We may require an authorized representative of your company to approve and sign any submission of information to us, and to certify that the information is accurate and complete.

(b) You must establish and maintain records, perform tests, make reports and

provide additional information that we may reasonably require under section 208 of the Act (42 U.S.C. 7542). This also applies to engines/equipment we exempt from emission standards or prohibited acts.

142. Section 1068.27 is revised to read as follows:

§ 1068.27 May EPA conduct testing with my production engines/equipment?

If we request it, you must make a reasonable number of production-line engines or pieces of production-line equipment available for a reasonable time so we can test or inspect them for compliance with the requirements of this chapter.

143. Section 1068.30 is revised to read as follows:

§ 1068.30 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 Act gives to them. The definitions follow:

Act means the Clean Air Act, as amended, 42 U.S.C. 7401–7671q, the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*

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 reduce emissions in the engine exhaust before it is exhausted to the environment. Exhaust-gas recirculation (EGR) is not aftertreatment.

Aircraft means any vehicle capable of sustained air travel above treetop heights.

Certificate holder means a manufacturer (including importers) with a currently valid certificate of conformity for at least one family in a given model year.

Date of manufacture means—

(1) For engines, the later of the following dates:

(i) The date on which an engine is assembled to the point of being able to run. This does not require installation of a cooling system, fuel tank, or aftertreatment devices.

(ii) The date on which a partially complete engine that was introduced into U.S. commerce with an exemption under § 1068.262 is assembled in its final certified configuration.

(2) For equipment, the date on which assembly of the equipment is completed.

Days means calendar days, including weekends and holidays.

Defeat device has the meaning given in the standard-setting part.

Designated Officer means the Manager of the Heavy-Duty and Nonroad Engine Group (6405–J), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., Washington, DC 20460.

Engine means a complete or partially complete internal combustion engine. The term engine broadly includes any assembly of an engine block and at least one other attached component. The term engine does not include engine blocks with no attached components, nor does it include any assembly of engine components that does not include the engine block. This includes complete and partially complete engines as follows:

(1) A complete engine is a fully assembled engine in its final configuration.

(2) A partially complete engine is an engine that is not fully assembled or is not in its final configuration. Except where we specify otherwise in this part or the standard-setting part, partially complete engines are subject to the same standards and requirements as complete engines. The following would be considered examples of partially complete engines:

(i) An engine that is missing only an aftertreatment component.

(ii) An engine that was originally assembled as a motor-vehicle engine that will be recalibrated for use as a nonroad engine.

(iii) An engine that was originally assembled as a land-based engine that will be modified for use as a marine propulsion engine.

(iv) A short block consisting of engine components connected to the engine block, but missing the head assembly.

(v) A loose engine that will be installed in an off-highway motorcycle that will be subject to vehicle-based standards.

Engine-based standard means an emission standard expressed in units of grams of pollutant per kilowatt-hour, and which applies to the engine. Emission standards are either engine-based or equipment-based.

Engine-based test means an emission test intended to measure emissions in units of grams of pollutant per kilowatt-hour, without regard to whether the standard applies to the engine or equipment.

Engine/equipment and *engines/equipment* mean either engine(s) or equipment. Specifically these terms mean the following:

(1) Engine(s) when only engine-based standards apply.

(2) Engine(s) for testing issues when engine-based testing applies.

(3) Engine(s) and equipment when both engine-based and equipment-based standards apply.

(4) Equipment when only equipment-based standards apply.

(5) Equipment for testing issues when equipment-based testing applies.

Equipment means one of the following things:

(1) Any vehicle, vessel, or other type of equipment that is subject to the requirements of this part, or that uses an engine that is subject to the requirements of this part. An installed engine is part of the equipment.

(2) Fuel-system components that are subject to an equipment-based standard under this chapter. Installed fuel-system components are part of the engine.

Equipment-based standard means an emission standard that applies to the equipment in which an engine is used or to fuel-system components associated with an engine, without regard to how the emissions are measured. Where equipment-based standards apply, we require that the equipment or fuel-system components be certified, rather than just the engine. Emission standards are either engine-based or equipment-based. For example, recreational vehicles we regulate under 40 CFR part 1051 are subject to equipment-based standards, even if emission measurements are based on engine operation alone.

Exempted means relating to engines/equipment that are not required to meet otherwise applicable standards.

Exempted engines/equipment must conform to regulatory conditions specified for an exemption in this part 1068 or in the standard-setting part. Exempted engines/equipment are deemed to be "subject to" the standards of the standard-setting part, even though they are not required to comply with the otherwise applicable requirements. Engines/equipment exempted with respect to a certain tier of standards may be required to comply with an earlier tier of standards as a condition of the exemption; for example, engines exempted with respect to Tier 3 standards may be required to comply with Tier 1 or Tier 2 standards.

Family means engine family or emission family, as applicable under the standard-setting part.

Final deteriorated test result has the meaning given in the standard-setting part. If it is not defined in the standard-setting part, it means the emission level that results from applying all appropriate adjustments (such as deterioration factors) to the measured emission result of the emission-data engine.

Good engineering judgment means judgments made consistent with generally accepted scientific and engineering principles and all available relevant information.

Incomplete engine assembly means an assembly of engine components that includes at least the engine block and one other component, but lacks certain parts essential for engine operation. An engine block with no other assembled components is not an incomplete engine assembly under this section. An assembly of engine parts that does not include the engine block is also not an incomplete engine assembly.

Manufacturer has the meaning given in section 216(1) of the Act (42 U.S.C. 7550(1)). In general, this term includes any person who manufactures an engine or piece of equipment for sale in the United States or otherwise introduces a new engine or piece of equipment into U.S. commerce. This includes importers that import new engines or new equipment into the United States for resale. It also includes secondary engine manufacturers.

Model year has the meaning given in the standard-setting part. Unless the standard-setting part specifies otherwise, model year for individual engines/equipment is based on the date of manufacture or a later date determined by the manufacturer. The model year of a new engine that is neither certified nor exempt is deemed to be the calendar year in which it is sold, offered for sale, imported, or delivered or otherwise introduced into commerce in the United States.

Motor vehicle has the meaning given in 40 CFR 85.1703(a).

New has the meaning we give it in the standard-setting part.

Nonroad engine means:

(1) Except as discussed in paragraph (2) of this definition, a nonroad engine is an internal combustion engine that meets any of the following criteria:

(i) It is (or will be) used in or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers).

(ii) It is (or will be) used in or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers).

(iii) By itself or in or on a piece of equipment, it is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

(2) An internal combustion engine is not a nonroad engine if it meets any of the following criteria:

(i) The engine is used to propel a motor vehicle, an aircraft, or equipment used solely for competition.

(ii) The engine is regulated under 40 CFR part 60, (or otherwise regulated by a federal New Source Performance Standard promulgated under section 111 of the Act (42 U.S.C. 7411)).

(iii) The engine otherwise included in paragraph (1)(iii) of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location approximately three months (or more) each year. See § 1068.31 for provisions that apply if the engine is removed from the location.

Operating hours means:

(1) For engine and equipment storage areas or facilities, times during which people other than custodians and security personnel are at work near, and can access, a storage area or facility.

(2) For other areas or facilities, times during which an assembly line operates or any of the following activities occurs:

(i) Testing, maintenance, or service accumulation.

(ii) Production or compilation of records.

(iii) Certification testing.

(iv) Translation of designs from the test stage to the production stage.

(v) Engine or equipment manufacture or assembly.

Piece of equipment means any vehicle, vessel, locomotive, aircraft, or other type of equipment using engines to which this part applies.

Placed into service means used for its intended purpose.

Reasonable technical basis means information that would lead a person familiar with engine design and function to reasonably believe a conclusion, related to compliance with the requirements of this part. For example, it would be reasonable to believe that parts performing the same function as the original parts (and to the

same degree) would control emissions to the same degree as the original parts.

Revoke means to terminate the certificate or an exemption for a family. If we revoke a certificate or exemption, you must apply for a new certificate or exemption before continuing to introduce the affected engines/equipment into U.S. commerce. This does not apply to engines/equipment you no longer possess.

Secondary engine manufacturer means anyone who produces a new engine by modifying a complete or partially complete engine that was made by a different company. For the purpose of this definition, "modifying" does not include making changes that do not remove an engine from its original certified configuration. Secondary engine manufacturing includes, for example, converting automotive engines for use in industrial applications, or land-based engines for use in marine applications. This applies whether it involves a complete or partially complete engine and whether the engine was previously certified to emission standards or not. Manufacturers controlled by the manufacturer of the base engine (or by an entity that also controls the manufacturer of the base engine) are not secondary engine manufacturers; rather, both entities are considered to be one manufacturer for purposes of this part. Equipment manufacturers that substantially modify engines are secondary engine manufacturers. Also, equipment manufacturers that certify to equipment-based standards using engines produced by another company are deemed to be secondary engine manufacturers.

Small business means either of the following:

(1) A company that qualifies under the standard-setting part for special provisions for small businesses or small-volume manufacturers.

(2) A company that qualifies as a small business under the regulations adopted by the Small Business Administration at 13 CFR 121.201.

Standard-setting part means a part in the Code of Federal Regulations that defines emission standards for a particular engine and/or piece of equipment (see § 1068.1(a)). For example, the standard-setting part for marine spark-ignition engines is 40 CFR part 1045. For provisions related to evaporative emissions, the standard-setting part may be 40 CFR part 1060, as specified in 40 CFR 1060.1.

Suspend means to temporarily discontinue the certificate or an exemption for a family. If we suspend a certificate, you may not introduce into U.S. commerce engines/equipment from

that family unless we reinstate the certificate or approve a new one. If we suspend an exemption, you may not introduce into U.S. commerce engines/equipment that were previously covered by the exemption unless we reinstate the exemption.

Ultimate purchaser means the first person who in good faith purchases a new nonroad engine or new piece of equipment for purposes other than resale.

United States means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, and the U.S. Virgin Islands.

U.S.-directed production volume means the number of engine/equipment 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.

Void means to invalidate a certificate or an exemption ab initio. If we void a certificate, all the engines/equipment introduced into U.S. commerce under that family for that model year are considered noncompliant, and you are liable for all engines/equipment introduced into U.S. commerce under the certificate and may face civil or criminal penalties or both. This applies equally to all engines/equipment in the family, including engines/equipment introduced into U.S. commerce before we voided the certificate. If we void an exemption, all the engines/equipment introduced into U.S. commerce under that exemption are considered uncertified (or nonconforming), and you are liable for engines/equipment introduced into U.S. commerce under the exemption and may face civil or criminal penalties or both. You may not introduce into U.S. commerce any additional engines/equipment using the voided exemption.

Voluntary emission recall means a repair, adjustment, or modification program voluntarily initiated and conducted by a manufacturer to remedy any emission-related defect for which engine owners have been notified.

We (us, our) means the Administrator of the Environmental Protection Agency and any authorized representatives.

144. A new § 1068.31 is added to read as follows:

§ 1068.31 What provisions apply to nonroad or stationary engines that change their status?

This section specifies the provisions that apply when an engine previously used in a nonroad application is

subsequently used in an application other than a nonroad application, or when an engine previously used in a stationary application (i.e., an engine that was not used as a nonroad engine and that was not used to propel a motor vehicle, an aircraft, or equipment used solely for competition) is moved.

(a) Changing the status of a stationary engine to be a new nonroad engine as described in paragraph (b) of this section is a violation of § 1068.101(a)(1) unless the engine has been certified to be compliant with all requirements of this chapter that apply to new nonroad engines of the same type (for example, a compression-ignition engine rated at 40 kW) and model year, and is in its certified configuration.

(b) A stationary engine becomes a new nonroad engine if—

(1) It is used in an application that meets the criteria specified in paragraphs (1)(i) or (ii) in the definition of "nonroad engine" in § 1068.30.

(2) It meets the criteria specified in paragraph (1)(iii) of the definition of "nonroad engine" in § 1068.30 and is moved so that it fails to meet (or no longer meets) the criteria specified in paragraph (2)(iii) in the definition of "nonroad engine" in § 1068.30.

(c) A stationary engine does not become a new nonroad engine if it is moved but continues to meet the criteria specified in paragraph (2)(iii) in the definition of "nonroad engine" in § 1068.30 in its new location. For example, a transportable engine that is used in a single specific location for 18 months and is later moved to a second specific location where it will remain for at least 12 months is considered to be a stationary engine in both locations.

(d) Changing the status of a nonroad engine to be a new stationary engine as described in paragraph (e) of this section is a violation of § 1068.101(a)(1) unless the engine complies with all the requirements of this chapter for new stationary engines of the same type (for example, a compression-ignition engine rated at 40 kW) and model year. For a new stationary engine that is required to be certified under 40 CFR part 60, the engine must have been certified to be compliant with all the requirements that apply to new stationary engines of the same type and model year, and must be in its certified configuration.

(e) A nonroad engine ceases to be a nonroad engine and becomes a new stationary engine if—

(1) At any time, it meets the criteria specified in paragraph (2)(iii) in the definition of "nonroad engine" in § 1068.30. For example, a portable generator engine ceases to be a nonroad engine if it is used or will be used in

a single specific location for 12 months or longer. If we determine that an engine will be or has been used in a single specific location for 12 months or longer, it ceased to be a nonroad engine when it was placed in that location.

(2) It is otherwise regulated by a federal New Source Performance Standard promulgated under section 111 of the Act (42 U.S.C. 7411).

(f) A nonroad engine ceases to be a nonroad engine if it is used to propel a motor vehicle, an aircraft, or equipment used solely for competition. See 40 CFR part 86 for requirements applicable to motor vehicles and motor vehicle engines. See 40 CFR part 87 for requirements applicable to aircraft and aircraft engines. See § 1068.235 for requirements applicable to equipment used solely for competition.

Subpart B—[Amended]

145. Section 1068.101 is revised to read as follows:

§ 1068.101 What general actions does this regulation prohibit?

This section specifies actions that are prohibited and the maximum civil penalties that we can assess for each violation. The maximum penalty values listed in paragraphs (a) and (b) of this section are shown for calendar year 2004. As described in paragraph (e) of this section, maximum penalty limits for later years are set forth in 40 CFR part 19.

(a) The following prohibitions and requirements apply to manufacturers of new engines, manufacturers of equipment containing these engines, and manufacturers of new equipment, except as described in subparts C and D of this part:

(1) *Introduction into commerce.* You may not sell, offer for sale, or introduce or deliver into commerce in the United States or import into the United States any new engine/equipment after emission standards take effect for the engine/equipment, unless it is covered by a valid certificate of conformity for its model year and has the required label or tag. You also may not take any of the actions listed in the previous sentence with respect to any equipment containing an engine subject to this part's provisions, unless the engine is covered by a valid and appropriate certificate of conformity and has the required engine label or tag. We may assess a civil penalty up to \$32,500 for each engine or piece of equipment in violation.

(i) For purposes of this paragraph (a)(1), an appropriate certificate of conformity is one that applies for the same model year as the model year of

the equipment (except as allowed by § 1068.105(a)), covers the appropriate category of engines/equipment (such as locomotive or Marine SI), and conforms to all requirements specified for equipment in the standard-setting part. Engines/equipment are considered not covered by a certificate unless they are in a configuration described in the application for certification.

(ii) The requirements of this paragraph (a)(1) also cover new engines you produce to replace an older engine in a piece of equipment, unless the engine qualifies for the replacement-engine exemption in § 1068.240.

(iii) For engines used in equipment subject to equipment-based standards, you may not sell, offer for sale, or introduce or deliver into commerce in the United States or import into the United States any new engine, unless it is covered by a valid certificate of conformity for its model year and has the required label or tag. See the standard-setting part for more information about how this prohibition applies.

(2) *Reporting and recordkeeping.* This chapter requires you to record certain types of information to show that you meet our standards. You must comply with these requirements to make and maintain required records (including those described in § 1068.501). You may not deny us access to your records or the ability to copy your records if we have the authority to see or copy them. Also, you must give us complete and accurate reports and information without delay, as required under this chapter. Failure to comply with the requirements of this paragraph is prohibited. We may assess a civil penalty up to \$32,500 for each day you are in violation. In addition, knowingly submitting false information is a violation of 18 U.S.C. 1001, which may involve criminal penalties and up to five years imprisonment.

(3) *Testing and access to facilities.* You may not keep us from entering your facility to test engines/equipment or inspect if we are authorized to do so. Also, you must perform the tests we require (or have the tests done for you). Failure to perform this testing is prohibited. We may assess a civil penalty up to \$32,500 for each day you are in violation.

(b) The following prohibitions apply to everyone with respect to the engines and equipment to which this part applies:

(1) *Tampering.* You may not remove, disable, or render inoperative a device or element of design that may affect an engine's or piece of equipment's emission levels. This includes, for

example, operating an engine without a supply of appropriate quality urea if the emissions control system relies on urea to reduce NO_x emissions or the use of incorrect fuel or engine oil that renders the emissions control system inoperative. This restriction applies before and after the engine or equipment is placed in service. Section 1068.120 describes how this applies to rebuilding engines. See the standard-setting part, which may include additional provisions regarding actions prohibited by this requirement. For a manufacturer or dealer, we may assess a civil penalty up to \$32,500 for each engine or piece of equipment in violation. For anyone else, we may assess a civil penalty up to \$2,750 for each day an engine or piece of equipment is operated in violation. This prohibition does not apply in any of the following situations:

(i) You need to repair the engine/equipment and you restore it to proper functioning when the repair is complete.

(ii) You need to modify the engine/equipment to respond to a temporary emergency and you restore it to proper functioning as soon as possible.

(iii) You modify new engines/equipment that another manufacturer has already certified to meet emission standards and recertify them under your own family. In this case you must tell the original manufacturer not to include the modified engines/equipment in the original family.

(2) *Defeat devices.* You may not knowingly manufacture, sell, offer to sell, or install, any part that bypasses, impairs, defeats, or disables the control the emissions of any pollutant. See the standard-setting part, which may include additional provisions regarding actions prohibited by this requirement. We may assess a civil penalty up to \$2,750 for each part in violation.

(3) *Stationary engines.* For an engine that is excluded from any requirements of this chapter because it is a stationary engine, you may not move it or install it in any mobile equipment, except as allowed by the provisions of this chapter. You may not circumvent or attempt to circumvent the residence-time requirements of paragraph (2)(iii) of the nonroad engine definition in § 1068.30. We may assess a civil penalty up to \$32,500 for each day you are in violation.

(4) *Competition engines/equipment.* For uncertified engines/equipment that are excluded or exempted from any requirements of this chapter because they are to be used solely for competition, you may not use any of them in a manner that is inconsistent with use solely for competition. We may

assess a civil penalty up to \$32,500 for each day you are in violation.

(5) *Importation.* You may not import an uncertified engine or piece of equipment if it is defined to be new in the standard-setting part and it is built after emission standards start to apply in the United States. We may assess a civil penalty up to \$32,500 for each day you are in violation. Note the following:

(i) The definition of new is broad for imported engines/equipment; uncertified engines and equipment (including used engines and equipment) are generally considered to be new when imported.

(ii) Engines/equipment that were originally manufactured before applicable EPA standards were in effect are generally not subject to emission standards.

(6) *Warranty and recall.* You must meet your obligation to honor your

emission-related warranty under § 1068.115, including any commitments you identify in your application for certification. You must also fulfill all applicable requirements under subpart F of this part related to emission-related defects and recalls. Failure to meet these obligations is prohibited. Also, except as specifically provided by regulation, you are prohibited from directly or indirectly communicating to the ultimate purchaser or a later purchaser that the emission-related warranty is valid only if the owner has service performed at authorized facilities, or only if the owner uses authorized parts, components, or systems. We may assess a civil penalty up to \$32,500 for each engine or piece of equipment in violation.

(c) [Reserved]

(d) Exemptions from these prohibitions are described in subparts C

and D of this part and in the standard-setting part.

(e) The standard-setting parts describe more requirements and prohibitions that apply to manufacturers (including importers) and others under this chapter.

(f) [Reserved]

(g) The maximum penalty values listed in paragraphs (a) and (b) of this section are shown for calendar year 2004. Maximum penalty limits for later years may be adjusted based on the Consumer Price Index. The specific regulatory provisions for changing the maximum penalties, published in 40 CFR part 19, reference the applicable U.S. Code citation on which the prohibited action is based. The following table is shown here for informational purposes:

TABLE 1 TO § 1068.101.—LEGAL CITATION FOR SPECIFIC PROHIBITIONS FOR DETERMINING MAXIMUM PENALTY AMOUNTS

Part 1068 regulatory citation of prohibited action	General description of prohibition	U.S. Code citation for clean air act authority
§ 1068.101(a)(1)	Introduction into U.S. commerce of an uncertified source	42 U.S.C. 7522(a)(1).
§ 1068.101(a)(2)	Failure to provide information	42 U.S.C. 7522(a)(2).
§ 1068.101(a)(3)	Denying access to facilities	42 U.S.C. 7522(a)(2).
§ 1068.101(b)(1)	Tampering with emission controls by a manufacturer or dealer	42 U.S.C. 7522(a)(3).
	Tampering with emission controls by someone other than a manufacturer or dealer.	
§ 1068.101(b)(2)	Sale or use of a defeat device	42 U.S.C. 7522(a)(3).
§ 1068.101(b)(3)	Mobile use of a stationary engine	42 U.S.C. 7522(a)(1).
§ 1068.101(b)(4)	Noncompetitive use of uncertified engines/equipment that is exempted for competition.	42 U.S.C. 7522(a)(1).
§ 1068.101(b)(5)	Importation of an uncertified source	42 U.S.C. 7522(a)(1).

146. Section 1068.105 is revised to read as follows:

§ 1068.105 What other provisions apply to me specifically if I manufacture equipment needing certified engines?

This section describes general provisions that apply to equipment manufacturers for sources subject to engine-based standards. See the standard-setting part for any requirements that apply for certain applications.

(a) *Transitioning to new engine-based standards.* If new engine-based emission standards apply in a given model year, your equipment in that model year must have engines that are certified to the new standards, except that you may continue to use up your normal inventory of earlier engines that were built before the date of the new or changed standards. For example, if your normal inventory practice is to keep on hand a one-month supply of engines based on your upcoming production schedules, and a new tier of standard starts to apply for the 2015 model year,

you may order engines based on your normal inventory requirements late in the engine manufacturer's 2014 model year and install those engines in your equipment, regardless of the date of installation. Also, if your model year starts before the end of the calendar year preceding new standards, you may use engines from the previous model year for those units you produce before January 1 of the year that new standards apply. If emission standards for the engine do not change in a given model year, you may continue to install engines from the previous model year without restriction. You may not circumvent the provisions of § 1068.101(a)(1) by stockpiling engines that were built before new or changed standards take effect. Note that this allowance does not apply for equipment subject to equipment-based standards.

(b) *Installing engines or certified components.* You must follow the engine manufacturer's emission-related installation instructions. For example, you may need to constrain where you place an exhaust aftertreatment device

or integrate into your equipment models a device for sending visual or audible signals to the operator. Similarly, you must follow the emission-related installation instructions from the manufacturer of a component that has been certified for controlling evaporative emissions under 40 CFR part 1060. Not meeting the manufacturer's emission-related installation instructions is a violation of § 1068.101(b)(1).

(c) *Attaching a duplicate label.* If you obscure the engine's label, you must do four things to avoid violating § 1068.101(a)(1):

(1) Send a request for duplicate labels in writing with your company's letterhead to the engine manufacturer. Include the following information in your request:

(i) Identify the type of equipment and the specific engine and equipment models needing duplicate labels.

(ii) Identify the family (from the original engine label).

(iii) State the reason that you need a duplicate label for each equipment model.

(iv) Identify the number of duplicate labels you will need.

(2) Permanently attach the duplicate label to your equipment by securing it to a part needed for normal operation and not normally requiring replacement. Make sure an average person can easily read it.

(3) Destroy any unused duplicate labels if you find that you will not need them.

(4) Keep the following records for at least eight years after the end of the model year identified on the engine label:

(i) Keep a copy of your written request.

(ii) Keep drawings or descriptions that show how you apply the duplicate labels to your equipment.

(iii) Maintain a count of those duplicate labels you use and those you destroy.

147. Section 1068.110 is revised to read as follows:

§ 1068.110 What other provisions apply to engines/equipment in service?

(a) *Aftermarket parts and service.* As the certifying manufacturer, you may not require anyone to use your parts or service to maintain or repair an engine or piece of equipment, unless we approve this in your application for certification. It is a violation of the Act for anyone to manufacture any part if one of its main effects is to reduce the effectiveness of the emission controls. See § 1068.101(b)(2).

(b) *Certifying aftermarket parts.* As the manufacturer or rebuilder of an aftermarket engine or equipment part, you may—but are not required to—certify according to 40 CFR part 85, subpart V, that using the part will not cause engines/equipment to fail to meet emission standards. Whether you certify or not, you must keep any information showing how your parts or service affect emissions.

(c) *Compliance with standards.* We may test engines and equipment to investigate compliance with emission standards and other requirements. We may also require the manufacturer to do this testing.

(d) *Defeat devices.* We may test engines and equipment to investigate potential defeat devices. We may also require the manufacturer to do this testing. If we choose to investigate one of your designs, we may require you to show us that it does not have a defeat device. To do this, you may have to share with us information regarding test programs, engineering evaluations,

design specifications, calibrations, on-board computer algorithms, and design strategies. It is a violation of the Act for anyone to make, install or use defeat devices. See § 1068.101(b)(2) and the standard-setting part.

(e) *Warranty and maintenance.* Owners are responsible for properly maintaining their engines/equipment; however, owners may make warranty claims against the manufacturer for all expenses related to diagnosing and repairing or replacing emission-related parts, as described in § 1068.115. The warranty period begins when the equipment is first placed into service. See the standard-setting part for specific requirements. It is a violation of the Act for anyone to disable emission controls; see § 1068.101(b)(1) and the standard-setting part.

148. Section 1068.115 is revised to read as follows:

§ 1068.115 When must manufacturers honor emission-related warranty claims?

Section 207(a) of the Clean Air Act (42 U.S.C. 7541(a)) requires certifying manufacturers to warrant to purchasers that their engines/equipment are designed, built, and equipped to conform at the time of sale to the applicable regulations for their full useful life, including a warranty that the engines/equipment are free from defects in materials and workmanship that would cause any engine/equipment to fail to conform to the applicable regulations during the specified warranty period. This section codifies the warranty requirements of section 207(a) without intending to limit these requirements.

(a) As a certifying manufacturer, you may deny warranty claims only for failures that have been caused by the owner's or operator's improper maintenance or use, by accidents for which you have no responsibility, or by acts of God. For example, you would not need to honor warranty claims for failures that have been directly caused by the operator's abuse of the engine/equipment or the operator's use of the engine/equipment in a manner for which it was not designed, and are not attributable to you in any way.

(b) As a certifying manufacturer, you may not deny emission-related warranty claims based on any of the following:

(1) Maintenance or other service you or your authorized facilities performed.

(2) Engine/equipment repair work that an operator performed to correct an unsafe, emergency condition attributable to you, as long as the operator tries to restore the engine/equipment to its proper configuration as soon as possible.

(3) Any action or inaction by the operator unrelated to the warranty claim.

(4) Maintenance that was performed more frequently than you specify.

(5) Anything that is your fault or responsibility.

(6) The use of any fuel that is commonly available where the equipment operates, unless your written maintenance instructions state that this fuel would harm the equipment's emission control system and operators can readily find the proper fuel.

149. Section 1068.120 is revised to read as follows:

§ 1068.120 What requirements must I follow to rebuild engines?

(a) This section describes the steps to take when rebuilding engines to avoid violating the tampering prohibition in § 1068.101(b)(1). These requirements apply to anyone rebuilding an engine subject to this part, but the recordkeeping requirements in paragraphs (j) and (k) of this section apply only to businesses. For maintenance or service that is not rebuilding, including any maintenance related to evaporative emission controls, you may not make changes that might increase emissions of any pollutant, but you do not need to keep any records.

(b) The term "rebuilding" refers to a rebuild of an engine or engine system, including a major overhaul in which you replace the engine's pistons or power assemblies or make other changes that significantly increase the service life of the engine. It also includes replacing or rebuilding an engine's turbocharger or aftercooler or the engine's systems for fuel metering or electronic control so that it significantly increases the service life of the engine. For these provisions, rebuilding may or may not involve removing the engine from the equipment. Rebuilding does not normally include the following:

(1) Scheduled emission-related maintenance that the standard-setting part allows during the useful life period (such as replacing fuel injectors).

(2) Unscheduled maintenance that occurs commonly within the useful life period. For example, replacing a water pump is not rebuilding an engine.

(c) [Reserved]

(d) If you rebuild an engine or engine system, you must have a reasonable technical basis for knowing that the rebuilt engine's emission control system performs as well as, or better than, it performs in its certified configuration. Identify the model year of the resulting engine configuration. You have a reasonable basis if you meet two main conditions:

(1) Install parts—new, used, or rebuilt—so a person familiar with engine design and function would reasonably believe that the engine with those parts will control emissions of all pollutants at least to the same degree as with the original parts. For example, it would be reasonable to believe that parts performing the same function as the original parts (and to the same degree) would control emissions to the same degree as the original parts.

(2) Adjust parameters or change design elements only according to the original engine manufacturer's instructions. Or, if you differ from these instructions, you must have data or some other technical basis to show you should not expect in-use emissions to increase.

(e) If the rebuilt engine remains installed or is reinstalled in the same piece of equipment, you must rebuild it to the original configuration or another certified configuration of the same or later model year.

(f) If the rebuilt engine replaces another certified engine in a piece of equipment, you must rebuild it to a certified configuration of the same model year as, or a later model year than, the engine you are replacing.

(g) Do not erase or reset emission-related codes or signals from onboard monitoring systems without diagnosing and responding appropriately to any diagnostic codes. This requirement applies regardless of the manufacturer's reason for installing the monitoring system and regardless of its form or interface. Clear any codes from diagnostic systems when you return the rebuilt engine to service. Do not disable a diagnostic signal without addressing its cause.

(h) When you rebuild an engine, check, clean, adjust, repair, or replace all emission-related components (listed in Appendix I of this part) as needed according to the original manufacturer's recommended practice. In particular, replace oxygen sensors, replace the catalyst if there is evidence of malfunction, clean gaseous fuel-system components, and replace fuel injectors (if applicable), unless you have a reasonable technical basis for believing any of these components do not need replacement.

(i) If you are installing an engine that someone else has rebuilt, check all emission-related components listed in Appendix I of this part as needed according to the original manufacturer's recommended practice.

(j) Keep at least the following records:

(1) Identify the hours of operation (or mileage, as appropriate) at time of rebuild.

(2) Identify the work done on the engine or any emission-related control components, including a listing of parts and components you used.

(3) Describe any engine parameter adjustments.

(4) Identify any emission-related codes or signals you responded to and reset.

(k) You must show us or send us your records if we ask for them. Keep records for at least two years after rebuilding an engine. Keep them in any format that allows us to readily review them.

(1) You do not need to keep information that is not reasonably available through normal business practices. We do not expect you to have information that you cannot reasonably access.

(2) You do not need to keep records of what other companies do.

(3) You may keep records based on families rather than individual engines if that is the way you normally do business.

Subpart C—[Amended]

150. Section 1068.201 is revised to read as follows:

§ 1068.201 Does EPA exempt or exclude any engines/equipment from the prohibited acts?

We may exempt new engines/equipment from some or all of the prohibited acts or requirements of this part under provisions described in this subpart. We may exempt engines/equipment already placed in service in the United States from the prohibition in § 1068.101(b)(1) if the exemption for engines/equipment used solely for competition applies (see § 1068.235). In addition, see § 1068.1 and the standard-setting parts to determine if other engines/equipment are excluded from some or all of the regulations in this chapter.

(a) This subpart identifies which engines/equipment qualify for exemptions and what information we need. We may ask for more information.

(b) If you violate any of the terms, conditions, instructions, or requirements to qualify for an exemption, we may void, revoke, or suspend the exemption.

(c) If you use an exemption under this subpart, we may require you to add a permanent label to your exempted engines/equipment. You may ask us to modify these labeling requirements if it is appropriate for your engine/equipment.

(d) If you produce engines/equipment we exempt under this subpart, we may require you to make and keep records, perform tests, make reports and provide

information as needed to reasonably evaluate the validity of the exemption.

(e) If you own or operate engines/equipment we exempt under this subpart, we may require you to provide information as needed to reasonably evaluate the validity of the exemption.

(f) Subpart D of this part describes how we apply these exemptions to engines/equipment you import (or intend to import).

(g) If you want to ask for an exemption or need more information, write to the Designated Officer.

(h) You may ask us to modify the administrative requirements for the exemptions described in this subpart. We may approve your request if we determine that such approval is consistent with the intent of this part. For example, waivable administrative requirements might include some reporting requirements, but would not include any eligibility requirements or use restrictions.

(i) If you want to take an action with respect to an exempted or excluded engine/equipment that is prohibited by the exemption or exclusion, such as selling it, you need to certify the engine/equipment. We will issue a certificate of conformity if you send us an application for certification showing that you meet all the applicable requirements from the standard-setting part and pay the appropriate fee. Also, in some cases, we may allow manufacturers to modify the engines/equipment as needed to make it identical to engines/equipment already covered by a certificate. We would base such an approval on our review of any appropriate documentation. These engines/equipment must have emission control information labels that accurately describe their status.

151. Section 1068.210 is revised to read as follows:

§ 1068.210 What are the provisions for exempting test engines/equipment?

(a) We may exempt engines/equipment that are not exempted under other sections of this part that you will use for research, investigations, studies, demonstrations, or training.

(b) Anyone may ask for a testing exemption.

(c) If you are a certificate holder, you may request an exemption for engines/equipment you intend to include in test programs over a two-year period.

(1) In your request, tell us the maximum number of engines/equipment involved and describe how you will make sure exempted engines/equipment are used only for this testing.

(2) Give us the information described in paragraph (d) of this section if we ask for it.

(d) If you are not a certificate holder do all of the following:

- (1) Show that the proposed test program has a valid purpose under paragraph (a) of this section.
- (2) Show you need an exemption to achieve the purpose of the test program (time constraints may be a basis for needing an exemption, but the cost of certification alone is not).
- (3) Estimate the duration of the proposed test program and the number of engines/equipment involved.
- (4) Allow us to monitor the testing.
- (5) Describe how you will ensure that you stay within this exemption's purposes. Address at least the following things:
 - (i) The technical nature of the test.
 - (ii) The test site.
 - (iii) The duration and accumulated engine/equipment operation associated with the test.
 - (iv) Ownership and control of the engines/equipment involved in the test.
 - (v) The intended final disposition of the engines/equipment.
 - (vi) How you will identify, record, and make available the engine/equipment identification numbers.
 - (vii) The means or procedure for recording test results.
- (e) If we approve your request for a testing exemption, we will send you a letter or a memorandum for your signature describing the basis and scope of the exemption. The exemption does not take effect until we receive the signed letter or memorandum from you. It will also include any necessary terms and conditions, which normally require you to do the following:
 - (1) Stay within the scope of the exemption.
 - (2) Create and maintain adequate records that we may inspect.
 - (3) Add a permanent, legible label, written in English, to a readily visible part of all exempted engines/equipment. This label must include at least the following items:
 - (i) The label heading "EMISSION CONTROL INFORMATION".
 - (ii) Your corporate name and trademark.
 - (iii) Engine displacement, family identification, and model year of the engine/equipment (as applicable); or whom to contact for further information.
 - (iv) One of these statements (as applicable)
 - (A) "THIS ENGINE IS EXEMPT UNDER 40 CFR 1068.210 OR 1068.215 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS."
 - (B) "THIS EQUIPMENT IS EXEMPT UNDER 40 CFR 1068.210 OR 1068.215 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS."

(4) Tell us when the test program is finished.

(5) Tell us the final disposition of the engines/equipment.

(6) Send us a written confirmation that you meet the terms and conditions of this exemption.

152. Section 1068.215 is revised to read as follows:

§ 1068.215 What are the provisions for exempting manufacturer-owned engines/equipment?

(a) You are eligible for the exemption for manufacturer-owned engines/equipment only if you are a certificate holder.

(b) Engines/equipment may be exempt without a request if they are nonconforming engines/equipment under your ownership and control and you operate them to develop products, assess production methods, or promote your engines/equipment in the marketplace. You may not loan, lease, sell, or use the engine/equipment to generate revenue, either by itself or for an engine installed in a piece of equipment.

(c) To use this exemption, you must do three things:

(1) Establish, maintain, and keep adequately organized and indexed information on all exempted engines/equipment, including the engine/equipment identification number, the use of the engine/equipment on exempt status, and the final disposition of any engine/equipment removed from exempt status.

(2) Let us access these records, as described in § 1068.20.

(3) Add a permanent, legible label, written in English, to a readily visible part of all exempted engines/equipment. This label must include at least the following items:

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

(ii) Your corporate name and trademark.

(iii) Engine displacement, family identification, and model year of the engine/equipment (as applicable); or whom to contact for further information.

(iv) One of these statements (as applicable)

(A) "THIS ENGINE IS EXEMPT UNDER 40 CFR 1068.210 OR 1068.215 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS."

(B) "THIS EQUIPMENT IS EXEMPT UNDER 40 CFR 1068.210 OR 1068.215 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS."

153. Section 1068.220 is revised to read as follows:

§ 1068.220 What are the provisions for exempting display engines/equipment?

(a) Anyone may request an exemption for display engines/equipment.

(b) Nonconforming display engines/equipment will be exempted if they are used only for displays in the interest of a business or the general public. This exemption does not apply to engines/equipment displayed for private use, private collections, or any other purpose we determine is inappropriate for a display exemption.

(c) You may operate the exempted engine/equipment, but only if we approve specific operation that is part of the display.

(d) You may sell or lease the exempted engine/equipment only with our advance approval; you may not use it to generate revenue.

(e) To use this exemption, you must add a permanent, legible label, written in English, to a readily visible part of all exempted engines/equipment. 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, family identification, and model year of the engine/equipment, (as applicable) or whom to contact for further information.

(4) One of these statements (as applicable):

(i) "THIS ENGINE IS EXEMPT UNDER 40 CFR 1068.220 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS."

(ii) "THIS EQUIPMENT IS EXEMPT UNDER 40 CFR 1068.220 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS."

(f) We may set other conditions for approval of this exemption.

154. Section 1068.225 is revised to read as follows:

§ 1068.225 What are the provisions for exempting engines/equipment for national security?

(a) You are eligible for the exemption for national security only if you are a manufacturer.

(b) Your engine/equipment is exempt without a request if it will be used or owned by an agency of the federal government responsible for national defense, where the equipment has armor, permanently attached weaponry, or other substantial features typical of military combat.

(c) You may request a national security exemption for engines/equipment not meeting the conditions of paragraph (b) of this section, as long as your request is endorsed by an

agency of the federal government responsible for national defense. In your request, explain why you need the exemption.

(d) Add a legible label, written in English, to all engines/equipment exempted under this section. The label must be permanently secured to a readily visible part of the engine/equipment needed for normal operation and not normally requiring replacement, such as the engine block. 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, family identification, and model year of the engine/equipment, (as applicable), or whom to contact for further information.
- (4) One of these statements (as applicable):
 - (i) "THIS ENGINE HAS AN EXEMPTION FOR NATIONAL SECURITY UNDER 40 CFR 1068.225.".
 - (ii) "THIS EQUIPMENT HAS AN EXEMPTION FOR NATIONAL SECURITY UNDER 40 CFR 1068.225.".

155. Section 1068.230 is revised to read as follows:

§ 1068.230 What are the provisions for exempting engines/equipment for export?

(a) If you export a new engine or new piece of equipment to a country with emission standards identical to ours, we will not exempt it. These engines/equipment must comply with our certification requirements.

(b) If you export engines/equipment to a country with different emission standards or no emission standards, they are exempt from the prohibited acts in this part without a request. If you produce exempt engines/equipment for export and any are sold or offered for sale to someone in the United States (except for export), we will void the exemption.

(c) Label all exempted engines/equipment and shipping containers with a label or tag showing the engines/equipment are not certified for sale or use in the United States. These labels need not be permanently attached to the engines/equipment. The label must include at least one of these statements (as applicable):

- (1) "THIS ENGINE IS SOLELY FOR EXPORT AND IS THEREFORE EXEMPT UNDER 40 CFR 1068.230 FROM U.S. EMISSION STANDARDS AND RELATED REQUIREMENTS.".
- (2) "THIS EQUIPMENT IS SOLELY FOR EXPORT AND IS THEREFORE EXEMPT UNDER 40 CFR 1068.230 FROM U.S. EMISSION STANDARDS AND RELATED REQUIREMENTS.".

156. Section 1068.235 is revised to read as follows:

§ 1068.235 What are the provisions for exempting engines/equipment used solely for competition?

(a) New engines/equipment you produce that are used solely for competition are generally excluded from emission standards. See the standard-setting parts for specific provisions where applicable.

(b) If you modify any engines/equipment after they have been placed into service in the United States so they will be used solely for competition, they are exempt without request. This exemption applies only to the prohibition in § 1068.101(b)(1) and is valid only as long as the engine/equipment is used solely for competition.

(c) If you modify any engines/equipment under paragraph (b) of this section, you must destroy the original emission labels. If you loan, lease, sell, or give any of these engines/equipment to someone else, you must tell the new owner (or operator, if applicable) in writing that they may be used only for competition.

157. Section 1068.240 is amended by revising paragraphs (a), (b)(2), (b)(5), and (e) and adding paragraph (f) to read as follows:

§ 1068.240 What are the provisions for exempting new replacement engines?

(a) You are eligible for the exemption for new replacement engines only if you are a certificate holder. Note that this exemption does not apply for locomotives (40 CFR 1033.601) and that unique provisions apply to marine compression-ignition engines (40 CFR 1042.615).

(b) * * *
(2) The engine being replaced was not originally subject to emission standards, or was originally subject to less stringent emission standards than those that would otherwise apply to the new engine.

* * * * *
(5) You make the replacement engine in a configuration identical in all material respects to the engine being replaced (or that of another certified engine of the same or later model year) and meet all the requirements of § 1068.265. This requirement applies only if the old engine was subject to emission standards less stringent than those in effect when you produce the replacement engine.

* * * * *
(e) Replacement engines exempted under this section may not generate or use emission credits under the standard-

setting part, nor be part of any associated credit calculations.

(f) The provisions of this section may not be used to circumvent emission standards that apply to new engines under the standard-setting part.

158. Section 1068.245 is amended by revising paragraphs (a) and (f) to read as follows:

§ 1068.245 What temporary provisions address hardship due to unusual circumstances?

(a) After considering the circumstances, we may permit you to introduce into U.S. commerce engines/equipment that do not comply with emission-related requirements for a limited time if all the following conditions apply:

- (1) Unusual circumstances that are clearly outside your control and that could not have been avoided with reasonable discretion prevent you from meeting requirements from this chapter.
- (2) You exercised prudent planning and were not able to avoid the violation; you have taken all reasonable steps to minimize the extent of the nonconformity.
- (3) Not having the exemption will jeopardize the solvency of your company.
- (4) No other allowances are available under the regulations in this chapter to avoid the impending violation, including the provisions of § 1068.250.

* * * * *

(f) Add a permanent, legible label, written in English, to a readily visible part of all engines/equipment exempted under this section. 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/equipment, (as applicable) or whom to contact for further information.
- (4) One of the following statements:
 - (i) If the engine/equipment does not meet any emission standards:
 - (A) "THIS ENGINE IS EXEMPT UNDER 40 CFR 1068.245 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS."; or
 - (B) "THIS EQUIPMENT IS EXEMPT UNDER 40 CFR 1068.245 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS.".
 - (ii) If the engines/equipment meet alternate emission standards as a condition of an exemption under this section, we may specify a different statement to identify the alternate emission standards.

159. Section 1068.250 is amended by revising the section heading and

paragraphs (b), (c)(1)(i), (d)(5), (j), and (k) to read as follows:

§ 1068.250 What are the provisions for extending compliance deadlines for small businesses under hardship?

* * * * *

(b) To be eligible for this exemption, you must be a small business.

(c) * * *

(1) * * *

(i) In the case of importers of engines/equipment produced by other companies, show that you attempted to find a manufacturer capable of supplying complying products as soon as you became aware of the applicable requirements, but were unable to do so.

* * * * *

(d) * * *

(5) Identify the level of compliance you can achieve. For example, you may be able to produce engines/equipment that meet a somewhat less stringent emission standard than the regulations in this chapter require.

* * * * *

(j) We may approve extensions of the compliance deadlines as reasonable under the circumstances up to one model year at a time, and up to three years total.

(k) Add a permanent, legible label, written in English, to a readily visible part of all engines/equipment exempted under this section. 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/equipment or whom to contact for further information.

(4) One of the following statements:

(i) If the engine/equipment does not meet any emission standards:

(A) "THIS ENGINE IS EXEMPT UNDER 40 CFR 1068.250 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS.", or

(B) "THIS EQUIPMENT IS EXEMPT UNDER 40 CFR 1068.250 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS.".

(ii) If the engine/equipment meets alternate emission standards as a condition of an exemption under this section, we may specify a different statement to identify the alternate emission standards.

160. Section 1068.255 is revised to read as follows:

§ 1068.255 What are the provisions for exempting engines and fuel-system components for hardship for equipment manufacturers and secondary engine manufacturers?

This section describes how, in unusual circumstances, we may approve an exemption to prevent hardship to an equipment manufacturer or a secondary engine manufacturer. This section does not apply to products that are subject to equipment-based exhaust emission standards.

(a) *Equipment exemption.* As an equipment manufacturer, you may ask for approval to produce exempted equipment for up to 12 months. We will generally limit this to the first year that new or revised emission standards apply. Send the Designated Officer a written request for an exemption before you are in violation. In your request, you must show you are not at fault for the impending violation and that you would face serious economic hardship if we do not grant the exemption. This exemption is not available under this paragraph (a) if you manufacture the engine or fuel-system components you need for your own equipment or if complying engines or fuel-system components are available from other manufacturers that could be used in your equipment, unless we allow it elsewhere in this chapter. We may impose other conditions, including provisions to use products meeting less stringent emission standards or to recover the lost environmental benefit. In determining whether to grant the exemptions, we will consider all relevant factors, including the following:

(1) The number of engines or fuel-system components involved.

(2) The size of your company and your ability to endure the hardship.

(3) The amount of time you had to redesign your equipment to accommodate complying products.

(4) Whether there was any breach of contract by a supplier.

(5) The potential for market disruption.

(b) *Engine and fuel-system component exemption.* As an engine manufacturer or fuel-system component manufacturer, you may produce nonconforming products for the equipment we exempt in paragraph (a) of this section. You do not have to request this exemption, but you must have written assurance from equipment manufacturers that they need a certain number of exempted products under this section. Label engines or fuel-system components as follows:

(1) *Engines.* Add a permanent, legible label, written in English, to a readily visible part of each exempted engine.

This label must include at least the following items:

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

(ii) Your corporate name and trademark.

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

(iv) If the engine does not meet any emission standards: "THIS ENGINE IS EXEMPT UNDER 40 CFR 1068.255 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS.". If the engine meets alternate emission standards as a condition of an exemption under this section, we may specify a different statement to identify the alternate emission standards.

(2) *Fuel-system components.* Add a permanent, legible label, written in English, to a readily visible part of each fuel-system component exempted under this section. This label must prominently include at least the following items:

(i) Your corporate name and trademark.

(ii) The statement "EXEMPT UNDER 40 CFR 1068.255.".

(c) *Secondary engine manufacturers.* As a secondary engine manufacturer, you may ask for approval to produce exempted engines under this section for up to 12 months. We may require you to certify your engines to compliance levels above the emission standards that apply. For example, the in the case of multiple tiers of emission standards, we may require you to meet the standards from the previous tier.

(1) The provisions in paragraph (a) of this section that apply to equipment manufacturers requesting an exemption apply equally to you, except that you may manufacture the engines. Before we approve an exemption under this section, we will generally require that you commit to a plan to make up the lost environmental benefit.

(i) If you produce uncertified engines under this exemption, we will calculate the lost environmental benefit based on our best estimate of uncontrolled emission rates for your engines.

(ii) If you produce engines under this exemption that are certified to a compliance level less stringent than the emission standards that would otherwise apply, we will calculate the lost environmental benefit based on the compliance level you select for your engines.

(2) The labeling requirements in paragraph (b) of this section apply to your exempted engines; however, if you certify engines to specific compliance

levels, state on the label the compliance levels that apply to each engine.

161. Section 1068.260 is revised to read as follows:

§ 1068.260 What provisions apply for selling or shipping certified engines that are not yet in the certified configuration?

The provisions of § 1068.101(a)(1) generally require that all new engines be in their certified configuration before being introduced into U.S. commerce. All emission-related components generally need to be installed on an engine for such an engine to be in its certified configuration. This section specifies exceptions to these requirements for engines. This section does not apply to equipment subject to equipment-based standards. (Note: See § 1068.262 for provisions related to manufacturers introducing into U.S. commerce partially complete engines for which someone else holds the certificate of conformity.)

(a) Shipping an engine separately from an aftertreatment component that you have specified as part of its certified configuration will not be a violation of the prohibitions in § 1068.101(a)(1) if you follow the provisions of paragraph (b) or (c) of this section. Note that the standard-setting parts allows this exemption for delegated final assembly only for the following engines:

(1) Stationary compression-ignition engines (see 40 CFR part 60, subpart III).

(2) Stationary spark-ignition engines (see 40 CFR part 60, subpart JJJJ).

(3) Land-based nonroad compression-ignition engines (see 40 CFR part 1039).

(4) Marine spark-ignition engines (see 40 CFR part 1045).

(5) Marine compression-ignition engines (see 40 CFR part 1042).

(6) Large nonroad spark-ignition engines (see 40 CFR part 1048).

(b) If you do not manufacture the equipment in which the engine will be installed, you must meet all the following conditions to ship engines without aftertreatment components specified in your application for certification:

(1) Apply for and receive a certificate of conformity for the engine and its emission control system before shipment.

(2) Provide installation instructions in enough detail to ensure that the engine will be in its certified configuration if someone follows these instructions.

(3) Have a contractual agreement with each equipment manufacturer obligating the equipment manufacturer to complete the final assembly of the engine so it is in its certified configuration when installed in the

equipment. This agreement must also obligate the equipment manufacturer to provide the affidavits and cooperate with the audits required under paragraph (b)(6) of this section.

(4) Include the cost of all aftertreatment components in the cost of the engine. For purposes of importation, you may itemize your invoice to separately identify the cost of aftertreatment components that will be shipped separately. A copy of your invoice from the aftertreatment manufacturer may be needed to avoid payment of importation duties that include the value of aftertreatment components.

(5) Ship the aftertreatment components directly to the equipment manufacturer, or arrange for separate shipment by the component manufacturer to the equipment manufacturer.

(6) Take appropriate additional steps to ensure that all engines will be in their certified configuration when installed by the equipment manufacturer. At a minimum do the following:

(i) Obtain annual affidavits from every equipment manufacturer to whom you sell engines under this section. Include engines that you sell through distributors or dealers. The affidavits must list the part numbers of the aftertreatment devices that equipment manufacturers install on each engine they purchase from you under this section.

(ii) If you sell engines to 16 or more equipment manufacturers under the provisions of this section, you must annually audit four equipment manufacturers to whom you sell engines under this section. To select individual equipment manufacturers, divide all the affected equipment manufacturers into quartiles based on the number of engines they buy from you; select a single equipment manufacturer from each quartile each model year. Vary the equipment manufacturers you audit from year to year, though you may repeat an audit in a later model year if you find or suspect that a particular equipment manufacturer is not properly installing aftertreatment devices. If you sell engines to fewer than 16 equipment manufacturers under the provisions of this section, you may instead set up a plan to audit each equipment manufacturer on average once every four model years. Audits must involve the assembling companies' facilities, procedures, and production records to monitor their compliance with your instructions, must include investigation of some assembled engines, and must confirm that the number of aftertreatment devices shipped were

sufficient for the number of engines produced. You must keep records of these audits for five years after the end of the model year and provide a report to us describing any uninstalled or improperly installed aftertreatment components. Send us these reports within 90 days of the audit, except as specified in paragraph (e) of this section.

(iii) If you sell engines to fewer than 16 equipment manufacturers under the provisions of this section, you must conduct audits as described in paragraph (b)(6)(ii) of this section or propose an alternative plan for ensuring that equipment manufacturers properly install aftertreatment devices.

(7) Describe the following things in your application for certification:

(i) How you plan to use the provisions of this section.

(ii) A detailed plan for auditing equipment manufacturers, as described in paragraph (b)(6) of this section.

(iii) All other steps you plan to take under paragraph (b)(6) of this section.

(8) Keep records to document how many engines you produce under this exemption. Also, keep records to document your contractual agreements under paragraph (b)(3) of this section. Keep all these records for five years after the end of the model year and make them available to us upon request.

(9) Make sure the engine has the emission control information label we require under the standard-setting part. Apply an additional temporary label or tag in a way that makes it unlikely that the engine will be installed in equipment other than in its certified configuration. The label or tag must identify the engine as incomplete and include a clear statement that failing to install the aftertreatment device, or otherwise bring the engine into its certified configuration, is a violation of federal law subject to civil penalty.

(10) You must keep a supply of aftertreatment devices available at your production facility so you can test production-line engines as specified in the standard-setting part or in subpart E of this part. Use a new catalyst with each tested engine, following the specified procedures for stabilizing emission levels. Keep records showing how you randomly selected these catalysts, consistent with applicable requirements.

(c) If you manufacture engines and install them in equipment you also produce, you must take steps to ensure that your facilities, procedures, and production records are set up to ensure that equipment and engines are assembled in their proper certified configurations. You may demonstrate

compliance with this requirement by maintaining a database showing how you pair aftertreatment components with the appropriate engines.

(d) Once the equipment manufacturer takes possession of an engine exempted under this section and the engine reaches the point of final equipment assembly, the exemption expires and the engine is subject to all the prohibitions in § 1068.101.

(e) You must notify us within 15 days if you find from an audit or another source that an equipment manufacturer has failed to meet its obligations under this section.

(f) We may suspend, revoke, or void an exemption under this section, as follows:

(1) We may suspend or revoke your exemption for the entire family if we determine that any of the engines are not in their certified configuration after installation in the equipment, or if you fail to comply with the requirements of this section. If we suspend or revoke the exemption for any of your families under this paragraph (f), this exemption will not apply for future certificates unless you demonstrate that the factors causing the nonconformity do not apply to the other families. We may suspend or revoke the exemption for shipments to a single facility where final assembly occurs.

(2) We may void your exemption for the entire family if you intentionally submit false or incomplete information or fail to keep and provide to EPA the records required by this section. We may suspend, revoke, or void an exemption under this section, as follows:

(g) You are liable for the in-use compliance of any engine that is exempt under this section.

(h) It is a violation of the Act for any person to introduce into U.S. commerce a previously exempted engine, including as part of a piece of equipment, without complying fully with the installation instructions.

(i) [Reserved]

(j) In certain circumstances you may ship engines with emission-related components that are not yet assembled to the engine. This allowance is limited to situations where the final assembly depends on equipment design parameters and we determine that shipment of the fully assembled engine is impractical. For example, you may generally ship aftertreatment devices along with engines rather than installing them on the engine before shipment. You do not need an exemption to ship an engine under this paragraph (j).

(k) You do not need an exemption to ship engines without specific

components if they are not emission-related components identified in Appendix I of this part. For example, you may generally ship engines without radiators needed to cool the engine. You may ask us at the time of certification to allow you to ship your engines without other equipment-related components (such as a vehicle speed sensor) that are described in your application for certification. If we allow it, we may specify conditions that we determine are needed to ensure that shipping the engine without such components will not result in the engine being operated outside of its certified configuration.

(l) You may ask us to provide a temporary exemption to allow you to complete production of your engines at different facilities, as long as you maintain control of the engines until they are in their certified configuration. We may require you to take specific steps to ensure that such engines are in their certified configuration before reaching the ultimate purchaser. You may request an exemption under this paragraph (l) in your application for certification, or in a separate submission to the Designated Compliance Officer.

162. A new § 1068.262 is added to read as follows:

§ 1068.262 What are the provisions for temporarily exempting engines for shipment to secondary engine manufacturers?

Except as specified in paragraph (f) of this section, all new engines in the United States are presumed to be subject to the prohibitions of § 1068.101. This section specifies when manufacturers may introduce into U.S. commerce partially complete engines that have a certificate of conformity held by a secondary engine manufacturer and are not yet in their certified configuration. (Note: See § 1068.260 for provisions related to manufacturers introducing into U.S. commerce partially complete engines for which they hold the certificate of conformity.) This exemption is temporary, as described in paragraph (e) of this section.

(a) Manufacturers may introduce into U.S. commerce partially complete engines as described in this section if they have a written request for such engines from a secondary manufacturer that has certified the engine and will finish the engine assembly. The original engine manufacturer must apply a temporary label to each engine to make clear that the engine is not yet in its certified configuration. The temporary label must include the corporate names of both the original and certifying manufacturers and the engine family

name for the engine. The original engine manufacturer may not apply a permanent emission control information label identifying the engine's eventual certification status.

(b) The provisions of this section apply only where the secondary engine manufacturer has substantial control over the design and assembly of emission controls. In determining whether a manufacturer has substantial control over the design and assembly of emission controls, we would consider the degree to which the secondary manufacturer would be able to ensure that the engine will conform to the regulations in its final configuration. Such secondary manufacturers may finish assembly of partially complete engines in the following cases:

(1) You obtain an engine that is not fully assembled, with the intent to manufacture a complete engine.

(2) You obtain an engine with the intent to modify it before it reaches the ultimate purchaser.

(3) You obtain an engine with the intent to install it in equipment that will be subject to equipment-based standards.

(c) The manufacturer that will hold the certificate must include the following information in its application for certification:

(1) Identify the original engine manufacturer of the partially complete engine or of the complete engine you will modify.

(2) Describe briefly how and where final assembly will be completed. Specify how you have the ability to ensure that the engines will conform to the regulations in their final configuration. (Note: Paragraph (b) of this section prohibits using the provisions of this section unless you have substantial control over the design and assembly of emission controls.)

(3) State unconditionally that the engines will comply with all applicable regulations in their final configuration.

(d) [Reserved]

(e) These provisions are intended only to allow you to obtain engines in the specific circumstances identified in this section, so any exemption under this section expires when you complete the assembly of the engine/equipment in its final configuration.

(f) Reduced-scale hobby engines are not presumed to be engines subject to the prohibitions of § 1068.101. Hobby engines are compression-ignition engines with a per-cylinder displacement of less than 50 cubic centimeters or spark-ignition engines installed in reduced-scale models of vehicles that are not capable of transporting a person. Other engines

that do not have a valid certificate of conformity or exemption when introduced into U.S. commerce are presumed to be engines subject to the prohibitions of § 1068.101 unless we determine that such engines are excluded from the prohibitions of § 1068.101.

(g) For purposes of this section, an allowance to introduce engines into U.S. commerce includes a conditional allowance to sell, introduce, or deliver such partially complete engines into commerce in the United States or import them into the United States. It does not include a general allowance to offer such partially complete engines for sale because this exemption is intended to apply only for cases in which the certificate holder already has an arrangement to purchase the engines from the original engine manufacturer. This exemption does not allow the original engine manufacturer to subsequently offer the engines for sale to a different manufacturer who will hold the certificate unless that second manufacturer has also complied with the requirements of this part.

(h) No exemption is needed to import equipment that does not include an engine. No exemption is available under this section for equipment subject to equipment-based standards if the engine has been installed.

163. Section 1068.265 is revised to read as follows:

§ 1068.265 What provisions apply to engines/equipment that are conditionally exempted from certification?

Engines produced under an exemption for replacement engines (§ 1068.240) or engines/equipment produced under an exemption for hardship (§ 1068.245, § 1068.250, or § 1068.255) may need to meet alternate emission standards as a condition of the exemption. The standard-setting part may similarly exempt engines/equipment from all certification requirements, or allow us to exempt engines/equipment from all certification requirements for certain cases, but require the engines/equipment to meet alternate standards. In these cases, all the following provisions apply:

(a) Your engines/equipment must meet the alternate standards we specify in (or pursuant to) the exemption section, and all other requirements applicable to engines/equipment that are subject to such standards.

(b) You need not apply for and receive a certificate for the exempt engines/equipment. However, you must comply with all the requirements and obligations that would apply to the engines/equipment if you had received

a certificate of conformity for them, unless we specifically waive certain requirements.

(c) You must have emission data from test engines/equipment using the appropriate procedures that demonstrate compliance with the alternate standards, unless the engines/equipment are identical in all material respects to engines/equipment that you have previously certified to standards that are the same as, or more stringent than, the alternate standards.

(d) Unless we specify otherwise elsewhere in the standard-setting part, you must meet the labeling requirements in the standard-setting part, with the following exceptions:

(1) Modify the family designation by eliminating the character that identifies the model year.

(2) See the provisions of the applicable exemption for appropriate language to replace the compliance statement otherwise required in the standard-setting part.

(e) You may not generate emission credits for averaging, banking, or trading with engines/equipment meeting requirements under the provisions of this section.

(f) Keep records to show that you meet the alternate standards, as follows:

(1) If your exempted engines/equipment are identical to previously certified engines/equipment, keep your most recent application for certification for the certified family.

(2) If you previously certified a similar family, but have modified the exempted engines/equipment in a way that changes them from their previously certified configuration, keep your most recent application for certification for the certified family, a description of the relevant changes, and any test data or engineering evaluations that support your conclusions.

(3) If you have not previously certified a similar family, keep all the records we specify for the application for certification and any additional records the standard-setting part requires you to keep.

(g) We may require you to send us an annual report of the engines/equipment you produce under this section.

Subpart D—Amended]

164. Section 1068.301 is revised to read as follows:

§ 1068.301 What general provisions apply?

(a) This subpart applies to you if you import into the United States engines or equipment subject to our emission standards or equipment containing engines subject to our emission standards.

(b) In general, engines/equipment that you import must be covered by a certificate of conformity unless they were built before emission standards started to apply. This subpart describes the limited cases where we allow importation of exempt or excluded engines/equipment. For equipment not subject to equipment-based exhaust emission standards, an exemption of the engine allows you to import the equipment.

(c) The U.S. Customs Service may prevent you from importing engines or equipment if you do not meet the requirements of this subpart. In addition, U.S. Customs Service regulations may contain other requirements for engines/equipment imported into the United States (see 19 CFR Chapter I).

(d) Complete the appropriate EPA declaration form before importing any engines or equipment. These forms are available on the Internet at <http://www.epa.gov/otaq/imports> or by phone at 734-214-4100. Importers must keep the forms for five years and make them available promptly upon request.

165. Section 1068.305 is revised to read as follows:

§ 1068.305 How do I get an exemption or exclusion for imported engines/equipment?

(a) You must meet the requirements of the specific exemption or exclusion you intend to use and complete the appropriate declaration form described in § 1068.301(d).

(b) If we ask for it, prepare a written request in which you do the following:

(1) Give your name, address, telephone number, and taxpayer identification number.

(2) Give the engine/equipment owner's name, address, telephone number, and taxpayer identification number.

(3) Identify the make, model, identification number, and original production year of all engines/equipment.

(4) Identify which exemption or exclusion in this subpart allows you to import nonconforming engines/equipment and describe how your engine/equipment qualifies.

(5) Tell us where you will keep your engines/equipment if you might need to store them until we approve your request.

(6) Authorize us to inspect or test your engines/equipment as the Act allows.

(c) We may ask for more information.

(d) You may import the nonconforming engines/equipment you identify in your request if you get prior written approval from us. The U.S.

Customs Service may require you to show them the approval letter. We may temporarily or permanently approve the exemptions or exclusions, as described in this subpart.

(e) Meet the requirements specified for the appropriate exemption in this part or the standard-setting part, including any labeling requirements that apply.

166. Section 1068.310 is revised to read as follows:

§ 1068.310 What are the exclusions for imported engines/equipment?

If you show us that your engines/equipment qualify under one of the paragraphs of this section, we will approve your request to import such excluded engines/equipment. You must have our approval before importing engines/equipment under paragraph (a) of this section. You may, but are not required to request our approval to import the engines/equipment under paragraph (b) or (c) of this section. The following engines/equipment are excluded:

(a) *Engines/equipment used solely for competition.* Engines/equipment that you demonstrate will be used solely for competition are excluded from the restrictions on imports in § 1068.301(b), but only if they are properly labeled. See the standard-setting part for provisions related to this demonstration. Section 1068.101(b)(4) prohibits anyone from using these excluded engines/equipment for purposes other than competition.

(b) *Stationary engines.* The definition of nonroad engine in § 1068.30 does not include certain engines used in stationary applications. Such engines (and equipment containing such engines) may be subject to the standards of 40 CFR part 60. Engines that are excluded from the definition of nonroad engine in this part and are not required to be certified to standards under 40 CFR part 60 are not subject to the restrictions on imports in § 1068.301(b), but only if they are properly labeled and there is clear and convincing evidence that each engine will be used in a stationary application (see paragraph (2)(iii) of the definition of “Nonroad engine”). Section 1068.101 restricts the use of stationary engines for non-stationary purposes, unless they are certified under 40 CFR part 60 to the same standards that would apply to nonroad engines for the same model year.

(c) *Other engines/equipment.* The standard-setting parts may exclude engines/equipment used in certain applications. For example, engines used in aircraft and very small engines used

in hobby vehicles are generally excluded. Engines/equipment used in underground mining are excluded if they are regulated by the Mine Safety and Health Administration.

167. Section 1068.315 is revised to read as follows:

§ 1068.315 What are the permanent exemptions for imported engines/equipment?

We may approve a permanent exemption from the restrictions on imports under § 1068.301(b) under the following conditions:

(a) *National security exemption.* You may import an engine or piece of equipment under the national security exemption in § 1068.225, but only if it is properly labeled.

(b) *Manufacturer-owned engine/equipment exemption.* You may import manufacturer-owned engines/equipment, as described in § 1068.215.

(c) *Replacement engine exemption.* You may import a nonconforming replacement engine as described in § 1068.240. To use this exemption, you must be a certificate holder for a family we regulate under the same part as the replacement engine.

(d) *Extraordinary circumstances exemption.* You may import a nonconforming engine or piece of equipment if we grant hardship relief as described in § 1068.245.

(e) *Small-volume manufacturer exemption.* You may import a nonconforming engine or piece of equipment if we grant hardship relief for a small-volume manufacturer, as described in § 1068.250.

(f) *Equipment-manufacturer hardship exemption.* You may import a nonconforming engine if we grant an exemption for the transition to new or revised emission standards, as described in § 1068.255.

(g) [Reserved]

(h) *Identical configuration exemption.* Unless specified otherwise in the standard-setting part, you may import nonconforming engines/equipment if they are identical to certified engines/equipment produced by the same manufacturer, subject to the following provisions:

(1) You must meet all the following criteria:

(i) You have owned the engines/equipment for at least six months.

(ii) You agree not to sell, lease, donate, trade, or otherwise transfer ownership of the engines/equipment for at least five years. During this period, the only acceptable way to dispose of the engines/equipment is to destroy or export them.

(iii) You use data or evidence sufficient to show that the engines/

equipment are in a configuration that is identical to engines/equipment the original manufacturer has certified to meet emission standards that apply at the time the manufacturer finished assembling or modifying the engines/equipment in question. If you modify the engines/equipment to make them identical, you must completely follow the original manufacturer's written instructions.

(2) We will tell you in writing if we find the information insufficient to show that the engines/equipment are eligible for this exemption. In this case, we will not consider your request further until you address our concerns.

(i) *Ancient engine/equipment exemption.* If you are not the original engine/equipment manufacturer, you may import nonconforming engines/equipment that are subject to a standard-setting part and were first manufactured at least 21 years earlier, as long as they are still in their original configurations.

168. Section 1068.320 is revised to read as follows:

§ 1068.320 How must I label imported engines/equipment with an exclusion or a permanent exemption?

(a) For engines/equipment imported under § 1068.310(a) or (b), you must place a permanent label or tag on all engines/equipment. If no specific label requirements in the standard-setting part apply for these engines/equipment, you must meet the following requirements:

(1) Attach the label or tag in one piece so no one can remove it without destroying or defacing it.

(2) Make sure it is durable and readable for the engine/equipment's entire life.

(3) Secure it to a part of the engine/equipment needed for normal operation and not normally requiring replacement.

(4) Write it in English.

(5) For labels on the engine, make the labels readily visible to the average person after the engine is installed in the equipment.

(b) On the engine/equipment label or tag, do the following:

(1) Include the heading “EMISSION CONTROL INFORMATION”.

(2) Include your full corporate name and trademark.

(3) State the engine displacement (in liters) and rated power. If the engine's rated power is not established, state the approximate power rating accurately enough to allow a determination of which standards would otherwise apply.

(4) State: “THIS ENGINE IS EXEMPT FROM THE REQUIREMENTS OF

[identify the part referenced in § 1068.1(a) that would otherwise apply], AS PROVIDED IN [identify the paragraph authorizing the exemption (for example, "40 CFR 1068.315(a)")]. INSTALLING THIS ENGINE IN ANY DIFFERENT APPLICATION MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY."

(c) Get us to approve alternate label language if it is more accurate for your engine/equipment.

169. Section 1068.325 is revised to read as follows:

§ 1068.325 What are the temporary exemptions for imported engines/equipment?

You may import engines/equipment under certain temporary exemptions, subject to the conditions in this section. We may ask the U.S. Customs Service to require a specific bond amount to make sure you comply with the requirements of this subpart. You may not sell or lease one of these engines/equipment while it is in the United States. You must eventually export the engine/equipment as we describe in this section unless you get a certificate of conformity for it or it qualifies for one of the permanent exemptions in § 1068.315. Section 1068.330 specifies an additional temporary exemption allowing you to import certain engines/equipment you intend to modify.

(a) *Exemption for repairs or alterations.* You may temporarily import nonconforming engines/equipment under bond solely for repair or alteration. You may operate the engine/equipment in the United States only as necessary to repair it, alter it, or ship it to or from the service location. Export the engine/equipment directly after servicing is complete.

(b) *Testing exemption.* You may temporarily import nonconforming engines/equipment under bond for testing if you follow the requirements of § 1068.210. You may operate the engines/equipment in the United States only as needed to perform tests. This exemption expires one year after you import the engine/equipment, unless we approve an extension. The engine/equipment must be exported before the exemption expires.

(c) *Display exemption.* You may temporarily import nonconforming engines/equipment under bond for display, as described in § 1068.220. This exemption expires one year after you import the engine/equipment, unless we approve your request for an extension. We may approve an extension of up to one more year for each request, but no more than three years in total. The engine/equipment must be exported by

the time the exemption expires or directly after the display concludes, whichever comes first.

(d) *Export exemption.* You may temporarily import nonconforming engines/equipment to export them, as described in § 1068.230. You may operate the engine/equipment in the United States only as needed to prepare it for export. Label the engine/equipment as described in § 1068.230.

(e) *Diplomatic or military exemption.* You may temporarily import nonconforming engines/equipment without bond if you represent a foreign government in a diplomatic or military capacity. In your request to the Designated Officer (see § 1068.305), include either written confirmation from the U.S. State Department that you qualify for this exemption or a copy of your orders for military duty in the United States. We will rely on the State Department or your military orders to determine when your diplomatic or military status expires, at which time you must export your exempt engines/equipment.

(f) *Delegated-assembly exemption.* You may import a nonconforming engine for final assembly under the provisions of § 1068.260. However, this does not include the staged-assembly provisions of § 1068.260(j).

(g) *Partially complete engine exemption.* You may import an engine if another company already has a certificate of conformity and will be modifying the engine to be in its final, certified configuration under the provisions of § 1068.262.

§ 1068.330 [Removed]

170. Section 1068.330 is removed.

171. Section 1068.335 is revised to read as follows:

§ 1068.335 What are the penalties for violations?

(a) *All imported engines/equipment.* Unless you comply with the provisions of this subpart, importation of nonconforming engines/equipment violates sections 203 and 213(d) of the Act (42 U.S.C. 7522 and 7547(d)). You may then have to export the engines/equipment, or pay civil penalties, or both. The U.S. Customs Service may seize unlawfully imported engines and equipment.

(b) *Temporarily imported engines/equipment.* If you do not comply with the provisions of this subpart for a temporary exemption under § 1068.325 or § 1068.330, you may forfeit the total amount of the bond in addition to the sanctions we identify in paragraph (a) of this section. We will consider an engine or piece of equipment to be exported if

it has been destroyed or delivered to the U.S. Customs Service for export or other disposition under applicable Customs laws and regulations. EPA or the U.S. Customs Service may offer you a grace period to allow you to export temporarily exempted engines/equipment without penalty after the exemption expires.

Subpart E—[Amended]

172. Section 1068.401 is revised to read as follows:

§ 1068.401 What is a selective enforcement audit?

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

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

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

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

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

173. Section 1068.405 is revised to read as follows:

§ 1068.405 What is in a test order?

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

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

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

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

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

(b) We may state that we will select the test engines/equipment.

(c) We may identify alternate families or configurations for testing in case we determine the intended engines/equipment are not available for testing or if you do not produce enough engines/equipment to meet the minimum rate for selecting test engines/equipment.

(d) We may include other directions or information in the test order.

(e) We may ask you to show us that you meet any additional requirements that apply to your engines/equipment (closed crankcases, for example).

(f) In anticipation of a potential audit, you may give us a list of your preferred families and the corresponding assembly plants, storage facilities, or (if you import the engines/equipment) port facilities from which we should select engines/equipment for testing. The information would apply only for a single model year, so it would be best to include this information in your application for certification. If you give us this list before we issue a test order, we will consider your recommendations, but we may select engines/equipment differently.

(g) If you also do routine production-line testing with the selected family in the same time period, the test order will tell you what changes you might need to make in your production-line testing schedule.

174. Section 1068.410 is revised to read as follows:

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

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

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

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

(2) If you do not fully assemble engines/equipment at the specified location, we will describe in the test order how to select components to

finish assembling the engines/equipment. Assemble these components onto the test engines/equipment using your documented assembly and quality control procedures.

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

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

(2) This subpart otherwise allows your action.

(3) We approve your action in advance.

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

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

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

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

(f) *Stabilizing emission levels.* (1) Before you test production-line engines/equipment for exhaust emission, you may operate the engine/equipment to stabilize the exhaust emission levels. Using good engineering judgment,

operate your engines/equipment in a way that represents the way production engines/equipment will be used. You may operate each engine or piece of equipment for no more than the greater of two periods:

(i) 50 hours.

(ii) The number of hours you operated your emission-data engine/equipment for certifying the family (see 40 CFR part 1065, subpart E).

(2) Use good engineering judgment and follow the standard-setting part to stabilize equipment for evaporative emissions, where appropriate.

(g) *Damage during shipment.* If shipping the engine/equipment to a remote facility for testing under a selective enforcement audit 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/equipment. Report to us, in your written report under § 1068.450, all adjustments or repairs you make on test engines/equipment before each test.

(h) *Shipping engines/equipment.* If you need to ship engines/equipment to another facility for testing, make sure the test engines/equipment arrive at the test facility within 24 hours after being selected. You may ask that we allow more time if you are unable to do this.

(i) *Retesting after invalid tests.* You may retest an engine or piece of equipment if you determine an emission test is invalid under the standard-setting part. Explain in your written report reasons for invalidating any test and the emission results from all tests. If you retest an engine or piece of equipment and, within ten days after testing, ask to substitute results of the new tests for the original ones, we will answer within ten days after we receive your information.

(j) *Retesting after reaching a fail decision.* You may retest your engines/equipment once a fail decision for the audit has been reached based on the first test on each engine or piece of equipment under § 1068.420(c). You may test each engine or piece of equipment up to a total of three times, but you must perform the same number of tests on each engine or piece of equipment. You may further operate the engine/equipment to stabilize emission levels before testing, subject to the provisions of paragraph (f) of this section. We may approve retesting at other times if you send us a request with satisfactory justification.

175. Section 1068.415 is revised to read as follows:

§ 1068.415 How do I test my engines/equipment?

(a) Use the test procedures specified in the standard-setting part for showing that your engines/equipment meet emission standards. The test order will give further testing instructions.

(b) If no test cells are available at a given facility, you may make alternate testing arrangements with our approval.

(c) Test at least two engines/equipment in each 24-hour period (including void tests). However, if your projected U.S. nonroad sales within the family are less than 7,500 for the year, you may test a minimum of one per 24-

hour period. If you request and justify it, we may approve a lower testing rate.

(d) For exhaust emissions, accumulate service on test engines/equipment at a minimum rate of 6 hours per engine or piece of equipment during each 24-hour period. The first 24-hour period for service accumulation begins when you finish preparing an engine or piece of equipment for testing. The minimum service accumulation rate does not apply on weekends or holidays. You may ask us to approve a lower service accumulation rate. We may require you to accumulate hours more rapidly than the minimum rate, as appropriate. Plan your service accumulation to allow testing at the rate specified in paragraph (c) of this section. Select operation for accumulating operating hours on your test engines/equipment to represent normal in-use operation for the family.

(e) Test engines/equipment in the same order you select them.

176. Section 1068.420 is revised to read as follows:

§ 1068.420 How do I know when my family fails an SEA?

(a) A failed engine or piece of equipment is one whose final deteriorated test results exceed an applicable emission standard for any regulated pollutant.

(b) Continue testing engines/equipment until you reach a pass decision for all pollutants or a fail decision for one pollutant.

(c) You reach a pass decision for the SEA requirements when the number of failed engines/equipment is less than or equal to the pass decision number in Appendix A to this subpart for the total number of engines/equipment tested. You reach a fail decision for the SEA requirements when the number of failed engines/equipment is greater than or equal to the fail decision number in Appendix A to this subpart for the total number of engines/equipment you test. An acceptable quality level of 40 percent is the basis for the pass or fail decision.

(d) Consider test results in the same order as the engine/equipment testing sequence.

(e) If you reach a pass decision for one pollutant, but need to continue testing for another pollutant, we will disregard these later test results for the pollutant with the pass decision.

(f) Appendix A to this subpart lists multiple sampling plans. Use the sampling plan for the projected sales volume you reported in your application for the audited family.

(g) We may choose to stop testing after any number of tests.

(h) If we test some of your engines/equipment in addition to your own testing, we may decide not to include your test results as official data for those engines/equipment if there is substantial disagreement between your testing and our testing. We will reinstate your data as valid if you show us that we made an error and your data are correct.

(i) If we rely on our test data instead of yours, we will notify you in writing of our decision and the reasons we believe your facility is not appropriate for doing the tests we require under this subpart. You may request in writing that we consider your test results from the same facility for future testing if you show us that you have made changes to resolve the problem.

177. Section 1068.425 is revised to read as follows:

§ 1068.425 What happens if one of my production-line engines/equipment exceeds the emission standards?

(a) If one of your production-line engines/equipment fails to meet one or more emission standards (see § 1068.420), the certificate of conformity is automatically suspended for that engine or piece of equipment. You must take the following actions before your certificate of conformity can cover that engine or piece of equipment:

(1) Correct the problem and retest the engine/equipment to show it complies with all emission standards.

(2) Include in your written report a description of the test results and the remedy for each engine or piece of equipment (see § 1068.450).

(b) You may at any time ask for a hearing to determine whether the tests and sampling methods were proper (see subpart G of this part).

178. Section 1068.430 is revised to read as follows:

§ 1068.430 What happens if a family fails an SEA?

(a) We may suspend your certificate of conformity for a family if it fails the SEA under § 1068.420. The suspension may apply to all facilities producing engines/equipment from a family, even if you find noncompliant engines/equipment 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 family fails the SEA. The suspension is effective when you receive our notice.

(c) Up to 15 days after we suspend the certificate for a family, you may ask for a hearing to determine whether the tests and sampling methods were proper (see subpart G of this part). If we agree before

a hearing that we used erroneous information in deciding to suspend the certificate, we will reinstate the certificate.

179. Section 1068.435 is revised to read as follows:

§ 1068.435 May I sell engines/equipment from a family with a suspended certificate of conformity?

You may sell engines/equipment that you produce after we suspend the family's certificate of conformity only if one of the following occurs:

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

(b) We conditionally reinstate the certificate for the family. We may do so if you agree to recall all the affected engines/equipment and remedy any noncompliance at no expense to the owner if later testing shows that engines/equipment in the family still do not comply.

180. Section 1068.440 is amended by revising paragraph (b) to read as follows:

§ 1068.440 How do I ask EPA to reinstate my suspended certificate?

* * * * *

(b) Give us data from production-line testing showing that engines/equipment in the remedied family comply with all the emission standards that apply.

181. Section 1068.445 is revised to read as follows:

§ 1068.445 When may EPA revoke my certificate under this subpart and how may I sell these engines/equipment again?

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

(1) You do not meet the reporting requirements under this subpart.

(2) Your family fails an SEA and your proposed remedy to address a suspended certificate is inadequate to solve the problem or requires you to change the engine/equipment's design or emission control system.

(b) To sell engines/equipment from a family with a revoked certificate of conformity, you must modify the family and then show it complies with the applicable requirements.

(1) If we determine your proposed design change may not control emissions for the engine/equipment's full useful life, we will 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/equipment as described in this subpart.

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

182. Section 1068.450 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 1068.450 What records must I send to EPA?

(a) Within 30 calendar days of the end of each audit, send us a report with the following information:

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

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

(3) Describe your test engines/equipment, including the family's identification and the engine/equipment's model year, build date, model number, identification number, and number of hours of operation before testing for each test engine or piece of equipment.

(4) Identify where you accumulated hours of operation on the engines/equipment and describe the procedure and schedule you used.

(5) Provide the test number; the date, time and duration of testing; test procedure; initial test results before and after rounding; final test results; and final deteriorated test results for all tests. Provide the emission figures for all measured pollutants. Include

information for both valid and invalid tests and the reason for any invalidation.

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

(7) Report on each failed engine or piece of equipment as described in § 1068.425.

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

(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 testing conformed completely with the requirements of 40 CFR part 1068. We have not changed production processes or quality-control procedures for the family in a way that might affect the emission control from production engines/equipment. 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)

* * * * *

183. Section 1068.455 is amended by revising paragraphs (d)(2), (d)(3), and (e) to read as follows:

§ 1068.455 What records must I keep?

* * * * *

(d) * * *

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

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

* * * * *

(e) If we ask, you must give us projected or actual production for a family. Include each assembly plant if you produce engines/equipment at more than one plant.

* * * * *

184. Appendix A to Subpart E is amended by revising Table A-1 and the heading and footnote for Table A-2 to read as follows:

Appendix A to Subpart E of Part 1068—Plans for Selective Enforcement Auditing

* * * * *

TABLE A-1.—SAMPLING PLAN CODE LETTER

Projected family sales	Code letter ¹	Minimum number of tests		Maximum number of tests
		To pass	To fail	
20-50	AA	3	5	20
20-99	A	4	6	30
100-299	B	5	6	40
300-499	C	5	6	50
500+	D	5	6	60

¹ A manufacturer may optionally use either the sampling plan for code letter "AA" or sampling plan for code letter "A" for Selective Enforcement Audits of families with annual sales between 20 and 50 engines/equipment. Additionally, the manufacturer may switch between these plans during the audit.

Table A-2.— Sampling Plans for Different Family Sales Volumes

* * * * *

^a Stage refers to the cumulative number of engines/equipment tested.

185. The heading of subpart F is revised to read as follows:

Subpart F—Reporting Defects and Recalling Engines/Equipment

186. Section 1068.501 is revised to read as follows:

§ 1068.501 How do I report emission-related defects?

This section addresses the certificate holder's responsibility to investigate and report emission-related defects in design, materials, or workmanship. The provisions of this section do not limit your liability under this part or the Clean Air Act. For example, selling an engine/equipment that does not conform to your application for certification is a violation of § 1068.101(a)(1), independent of the requirements of this section. The requirements of this section apply separately to each certificate holder if

there is more than one certificate holder for the equipment.

(a) *General provisions.* As a certifying manufacturer, you must investigate in certain circumstances whether engines/equipment that have been introduced into U.S. commerce under your certificate have incorrect, improperly installed, or otherwise defective emission-related components or systems. This includes defects in design, materials, or workmanship. You must also send us reports as specified by this section.

(1) This section addresses defects for any of the following emission-related

components, or systems containing the following components:

(i) 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 associated with any of these components.

(ii) For engines and equipment subject to evaporative emission standards, fuel tanks, fuel caps, and fuel lines and connectors.

(iii) Any other component whose primary purpose is to reduce emissions.

(iv) Any other component whose failure might increase emissions of any pollutant without significantly degrading engine/equipment performance.

(2) The requirements of this section relate to defects in any of the components or systems identified in paragraph (a)(1) of this section if the defects might affect any of the parameters or specifications in Appendix II of this part or might otherwise affect the emissions of any pollutant.

(3) For the purposes of this section, defects do not include damage to emission-related components or systems (or maladjustment of parameters) caused by owners improperly maintaining or abusing their engines/equipment.

(4) The requirements of this section do not apply to emission control information labels. Note however, that § 1068.101(a)(1) prohibits the sale of engines/equipment without proper labels, which also applies to misprinted labels.

(5) You must track the information specified in paragraph (b)(1) of this section. You must assess this data at least every three months to evaluate whether you exceed the thresholds specified in paragraphs (e) and (f) of this section. Where thresholds are based on a percentage of engines/equipment in the family, use actual sales figures for the whole model year when they become available. Use projected sales figures until the actual sales figures become available. You are not required to collect additional information other than that specified in paragraph (b)(1) of this section before reaching a threshold for an investigation specified in paragraph (e) of this section.

(6) You may ask us to allow you to use alternate methods for tracking, investigating, reporting, and correcting emission-related defects. In your request, explain and demonstrate why you believe your alternate system will be at least as effective in the aggregate in tracking, identifying, investigating,

evaluating, reporting, and correcting potential and actual emissions-related defects as the requirements in this section. In this case, provide all available data necessary to demonstrate why an alternate system is appropriate for your engines/equipment and how it will result in a system at least as effective as that required under this section.

(7) If we determine that emission-related defects result in a substantial number of properly maintained and used engines/equipment not conforming to the regulations of this chapter during their useful life, we may order you to conduct a recall of your engines/equipment (see § 1068.505).

(8) Send all reports required by this section to the Designated Officer.

(9) This section distinguishes between defects and possible defects. A possible defect exists anytime there is an indication that an emission-related component or system might have a defect, as described in paragraph (b)(1) of this section.

(b) *Investigation of possible defects.* Investigate possible defects as follows:

(1) If the number of engines/equipment that have a possible defect, as defined by this paragraph (b)(1), exceeds a threshold specified in paragraph (e) of this section, you must conduct an investigation to determine if an emission-related component or system is actually defective. You must classify an engine/equipment component or system as having a possible defect if any of the following sources of information shows there is a significant possibility that a defect exists:

(i) A warranty claim is submitted for the component, whether this is under your emission-related warranty or any other warranty.

(ii) Your quality-assurance procedures suggest that a defect may exist.

(iii) You receive any other information for which good engineering judgment would indicate the component or system may be defective, such as information from dealers, field-service personnel, equipment manufacturers, hotline complaints, or engine diagnostic systems.

(2) If the number of shipped replacement parts for any individual component is high enough that good engineering judgment would indicate a significant possibility that a defect exists, you must conduct an investigation to determine if it is actually defective. Note that this paragraph (b)(2) does not require data-tracking or recording provisions related to shipment of replacement parts.

(3) Your investigation must be prompt, thorough, consider all relevant information, follow accepted scientific and engineering principles, and be designed to obtain all the information specified in paragraph (d) of this section.

(4) Your investigation needs to consider possible defects that occur only within the useful life period, or within five years after the end of the model year, whichever is longer.

(5) You must continue your investigation until you are able to show that there is no emission-related defect or you obtain all the information specified for a defect report in paragraph (d) of this section. Send us an updated defect report anytime you have significant additional information.

(6) If a component with a possible defect is used in additional families or model years, you must investigate whether the component may be defective when used in these additional families or model years, and include these results in any defect report you send under paragraph (c) of this section.

(7) If your initial investigation concludes that the number of engines/equipment with a defect is fewer than any of the thresholds specified in paragraph (f) of this section, but other information later becomes available that may show that the number of engines/equipment with a defect exceeds a threshold, then you must resume your investigation. If you resume an investigation, you must include the information from the earlier investigation to determine whether to send a defect report.

(c) *Reporting defects.* You must send us a defect report in either of the following cases:

(1) Your investigation shows that the number of engines/equipment with a defect exceeds a threshold specified in paragraph (f) of this section. Send the defect report within 21 days after the date you identify this number of defective engines/equipment. See paragraph (h) of this section for reporting requirements that apply if the number of engines/equipment with a defect does not exceed any of the thresholds in paragraph (f) of this section.

(2) You know there are emission-related defects for a component or system in a number of engines/equipment that exceeds a threshold specified in paragraph (f) of this section, regardless of how you obtain this information. Send the defect report within 21 days after you learn that the number of defects exceeds a threshold.

(d) *Contents of a defect report.*

Include the following information in a defect report:

(1) Your corporate name and a person to contact regarding this defect.

(2) A description of the defect, including a summary of any engineering analyses and associated data, if available.

(3) A description of the engines/equipment that have the defect, including families, models, and range of production dates.

(4) An estimate of the number and percentage of each class or category of affected engines/equipment that have the defect, and an explanation of how you determined this number. Describe any statistical methods you used under paragraph (g)(6) of this section.

(5) An estimate of the defect's impact on emissions, with an explanation of how you calculated this estimate and a summary of any emission data demonstrating the impact of the defect, if available.

(6) A description of your plan for addressing the defect or an explanation of your reasons for not believing the defects must be addressed.

(e) *Thresholds for conducting a defect investigation.* You must begin a defect investigation based on the following number of engines/equipment that may have the defect:

(1) For engines/equipment with maximum engine power at or below 560 kW:

(i) For families with annual sales below 500 units: 50 or more engines/equipment.

(ii) For families with annual sales from 500 to 50,000 units: more than 10.0 percent of the total number of engines/equipment in the family.

(iii) For families with annual sales from 50,000 to 550,000 units: more than the total number of engines/equipment represented by the following equation:

$$\text{Investigation threshold} = 5,000 + (\text{Production units} - 50,000) \times 0.04$$

(iv) For families with annual sales above 550,000 units: 25,000 or more engines/equipment.

(2) For engines/equipment with maximum engine power greater than 560 kW:

(i) For families with annual sales below 250 units: 25 or more engines/equipment.

(ii) For families with annual sales at or above 250 units: more than 10.0 percent of the total number of engines/equipment in the family.

(f) *Thresholds for filing a defect report.* You must send a defect report based on the following number of engines/equipment that have the defect:

(1) For engines/equipment with maximum engine power at or below 560 kW:

(i) For families with annual sales below 1,000 units: 20 or more engines/equipment.

(ii) For families with annual sales from 1,000 to 50,000 units: more than 2.0 percent of the total number of engines/equipment in the family.

(iii) For families with annual sales from 50,000 to 550,000 units: more than the total number of engines/equipment represented by the following equation:

$$\text{Reporting threshold} = 1,000 + (\text{Production units} - 50,000) \times 0.01$$

(iv) For families with annual sales above 550,000 units: 6,000 or more engines/equipment.

(2) For engines/equipment with maximum engine power greater than 560 kW:

(i) For families with annual sales below 150 units: 10 or more engines/equipment.

(ii) For families with annual sales from 150 to 750 units: 15 or more engines/equipment.

(iii) For families with annual sales above 750 units: more than 2.0 percent of the total number of engines/equipment in the family.

(g) *How to count defects.* (1) Track defects separately for each model year and family as much as possible. If information is not identifiable by model year or family, use good engineering judgment to evaluate whether you exceed a threshold in paragraph (e) or (f) of this section. Consider only your U.S.-directed production volume.

(2) Within a family, track defects together for all components or systems that are the same in all material respects. If multiple companies separately supply a particular component or system, treat each company's component or system as unique.

(3) For engine-based standards, if a possible defect is not attributed to any specific part of the engine, consider the complete engine a distinct component for evaluating whether you exceed a threshold in paragraph (e) of this section. For equipment-based standards, if a possible defect is not attributed to any specific part of the equipment, consider the complete piece of equipment a distinct component for evaluating whether you exceed a threshold in paragraph (e) of this section.

(4) If you correct defects before they reach the ultimate purchaser as a result of your quality-assurance procedures, count these against the investigation thresholds in paragraph (e) of this

section unless you routinely check every engine or piece of equipment in the family. Do not count any corrected defects as actual defects under paragraph (f) of this section.

(5) Use aggregated data from all the different sources identified in paragraph (b)(1) of this section to determine whether you exceed a threshold in paragraphs (e) and (f) of this section.

(6) If information is readily available to conclude that the possible defects identified in paragraph (b)(1) of this section are actual defects, count these toward the reporting thresholds in paragraph (f) of this section.

(7) During an investigation, use appropriate statistical methods to project defect rates for engines/equipment that you are not otherwise able to evaluate. For example, if 75 percent of the components replaced under warranty are available for evaluation, it would be appropriate to extrapolate known information on failure rates to the components that are unavailable for evaluation. Take steps as necessary to prevent bias in sampled data. Make adjusted calculations to take into account any bias that may remain.

(h) *Investigation reports.* Once you trigger an investigation threshold under paragraph (e) of this section, you must report your progress and conclusions. In your reports, include the information specified in paragraph (d) of this section, or explain why the information is not relevant. Send us the following reports:

(1) While you are investigating, send us mid-year and end-of-year reports to describe the methods you are using and the status of the investigation. Send these status reports no later than June 30 and December 31 of each year.

(2) If you find that the number of components or systems with an emission-related defect exceeds a threshold specified in paragraph (f) of this section, send us a report describing your findings within 21 days after the date you reach this conclusion.

(3) If you find that the number of components or systems with an emission-related defect does not exceed any of the thresholds specified in paragraph (f) of this section, send us a final report supporting this conclusion. For example, you may exclude warranty claims that resulted from misdiagnosis and you may exclude defects caused by improper maintenance, improper use, or misfueling. Send this report within 21 days after the date you reach this conclusion.

(i) *Future production.* If you identify a design or manufacturing defect that prevents engines/equipment from meeting the requirements of this part,

you must correct the defect as soon as possible for future production of engines/equipment in every family affected by the defect. This applies without regard to whether you are required to conduct a defect investigation or submit a defect report under this section.

187. Section 1068.505 is revised to read as follows:

§ 1068.505 How does the recall program work?

(a) If we make a determination that a substantial number of properly maintained and used engines/equipment do not conform to the regulations of this chapter during their useful life, you must submit a plan to remedy the nonconformity of your engines/equipment. We will notify you of our determination in writing. Our notice will identify the class or category of engines/equipment affected and describe how we reached our conclusion. If this happens, you must meet the requirements and follow the instructions in this subpart. You must remedy at your expense noncompliant engines/equipment that have been properly maintained and used, as described in § 1068.510(a)(7). You may not transfer this expense to a dealer (or equipment manufacturer for engine-based standards) through a franchise or other agreement.

(b) You may ask for a hearing if you disagree with our determination (see subpart G of this part).

(c) Unless we withdraw the determination of noncompliance, you must respond to it by sending a remedial plan to the Designated Officer by the later of these two deadlines:

(1) Within 60 days after we notify you.

(2) Within 60 days after a hearing.

(d) Once you have sold engines/equipment to the ultimate purchaser, we may inspect or test the engines/equipment only if the purchaser permits it, or if state or local inspection programs separately provide for it.

(e) You may ask us to allow you to conduct your recall differently than specified in this subpart, consistent with section 207(c) of the Act (42 U.S.C. 7541(c)).

(f) You may do a voluntary recall under § 1068.535, unless we have made the determination described in § 1068.535(a).

(g) For purposes of recall, *owner* means someone who owns an engine or piece of equipment affected by a remedial plan.

188. Section 1068.510 is revised to read as follows:

§ 1068.510 How do I prepare and apply my remedial plan?

(a) In your remedial plan, describe all of the following:

(1) The class or category of engines/equipment to be recalled, including the number of engines/equipment involved and the model year or other information needed to identify the engines/equipment.

(2) The modifications, alterations, repairs, corrections, adjustments, or other changes you will make to correct the affected engines/equipment.

(3) A brief description of the studies, tests, and data that support the effectiveness of the remedy you propose to use.

(4) The instructions you will send to those who will repair the engines/equipment under the remedial plan.

(5) How you will determine the owners' names and addresses.

(6) How you will notify owners; include copies of any notification letters.

(7) The proper maintenance or use you will specify, if any, as a condition to be eligible for repair under the remedial plan. Describe how these specifications meet the provisions of paragraph (e) of this section. Describe how the owners should show they meet your conditions.

(8) The steps owners must take for you to do the repair. You may set a date or a range of dates, specify the amount of time you need, and designate certain facilities to do the repairs.

(9) Which company (or group) you will assign to do or manage the repairs.

(10) If your employees or authorized warranty agents will not be doing the work, state who will and describe their qualifications.

(11) How you will ensure an adequate and timely supply of parts.

(12) The effect of proposed changes on fuel consumption, driveability, and safety of the engines/equipment you will recall; include a brief summary of the information supporting these conclusions.

(13) How you intend to label the engines/equipment you repair and where you will place the label on the engine/equipment (see § 1068.515).

(b) We may require you to add information to your remedial plan.

(c) We may require you to test the proposed repair to show it will remedy the noncompliance.

(d) Use all reasonable means to locate owners. We may require you to use government or commercial registration lists to get owners' names and addresses, so your notice will be effective.

(e) The maintenance or use that you specify as a condition for eligibility

under the remedial plan may include only things you can show would cause noncompliance. Do not require use of a component or service identified by brand, trade, or corporate name, unless we approved this approach with your original certificate of conformity. Also, do not place conditions on who maintained the engine/equipment.

(f) We may require you to adjust your repair plan if we determine owners would be without their engines/equipment or equipment for an unreasonably long time.

(g) We will tell you in writing within 15 days of receiving your remedial plan whether we have approved or disapproved it. We will explain our reasons for any disapproval.

(h) Begin notifying owners within 15 days after we approve your remedial plan. If we hold a hearing, but do not change our position about the noncompliance, you must begin notifying owners within 60 days after we complete the hearing, unless we specify otherwise.

189. Section 1068.515 is revised to read as follows:

§ 1068.515 How do I mark or label repaired engines/equipment?

(a) Attach a label to engines/equipment you repair under the remedial plan. At your discretion, you may label or mark engines/equipment you inspect but do not repair.

(b) Make the label from a durable material suitable for its planned location. Make sure no one can remove the label without destroying or defacing it.

(c) On the label, designate the specific recall campaign and state where you repaired or inspected the engine/equipment.

(d) We may waive or modify the labeling requirements if we determine they are overly burdensome.

190. Section 1068.520 is revised to read as follows:

§ 1068.520 How do I notify affected owners?

(a) Notify owners by first class mail, unless we say otherwise. We may require you to use certified mail. Include the following in your notice:

(1) State: "The U.S. Environmental Protection Agency has determined that your engine/equipment may be emitting pollutants in excess of the federal emission standards, as defined in Title 40 of the Code of Federal Regulations. These emission standards were established to protect the public health or welfare from air pollution."

(2) State that you (or someone you designate) will repair these engines/equipment at your expense.

(3) If we approved maintenance and use conditions in your remedial plan, state that you will make these repairs only if owners show their engines/equipment meet the conditions for proper maintenance and use. Describe these conditions and how owners should prove their engines/equipment are eligible for repair.

(4) Describe the components your repair will affect and say generally how you will repair the engines/equipment.

(5) State that the engine/equipment, if not repaired, may fail an emission inspection test if state or local law requires one.

(6) Describe any adverse effects on its performance or driveability that would be caused by not repairing the engine/equipment.

(7) Describe any adverse effects on the functions of other components that would be caused by not repairing the engine/equipment.

(8) Specify the date you will start the repairs, the amount of time you will need to do them, and where you will do them. Include any other information owners may need to know.

(9) Include a self-addressed card that owners can mail back if they have sold the engine/equipment; include a space for owners to write the name and address of a buyer.

(10) State that owners should call you at a phone number you give to report any difficulty in obtaining repairs.

(11) State: "To ensure your full protection under the emission warranty on your [engine/equipment] by federal law, and your right to participate in future recalls, we recommend you have your [engine/equipment] serviced as soon as possible. We may consider your not servicing it to be improper maintenance."

(b) We may require you to add information to your notice or to send more notices.

(c) You may not in any communication with owners or dealers say or imply that your noncompliance does not exist or that it will not degrade air quality.

191. Section 1068.525 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1068.525 What records must I send to EPA?

* * * * *

(b) From the time you begin to notify owners, send us a report within 25 days of the end of each calendar quarter. Send reports for six consecutive quarters or until all the engines/equipment are inspected, whichever comes first. In these reports, identify the following:

(1) The range of dates you needed to notify owners.

(2) The total number of notices sent.

(3) The number of engines/equipment you estimate fall under the remedial plan (explain how you determined this number).

(4) The cumulative number of engines/equipment you inspected under the remedial plan.

(5) The cumulative number of these engines/equipment you found needed the specified repair.

(6) The cumulative number of these engines/equipment you have repaired.

(7) The cumulative number of engines/equipment you determined to be unavailable due to exportation, theft, retirement, or other reasons (specify).

(8) The cumulative number of engines/equipment you disqualified for not being properly maintained or used.

(c) If your estimated number of engines/equipment falling under the remedial plan changes, change the estimate in your next report and add an explanation for the change.

* * * * *

192. Section 1068.530 is amended by revising paragraph (b) to read as follows:

§ 1068.530 What records must I keep?

* * * * *

(b) Keep a record of the names and addresses of owners you notified. For each engine or piece of equipment, state whether you did any of the following:

(1) Inspected the engine/equipment.

(2) Disqualified the engine/equipment for not being properly maintained or used.

(3) Completed the prescribed repairs.

* * * * *

193. Section 1068.535 is amended by revising the introductory text and paragraph (c) to read as follows:

§ 1068.535 How can I do a voluntary recall for emission-related problems?

If we have made a determination that a substantial number of properly maintained and used engines/equipment do not conform to the regulations of this chapter during their useful life, you may not use a voluntary recall or other alternate means to meet your obligation to remedy the noncompliance. Thus, this section only applies where you learn that your family does not meet the requirements of this chapter and we have not made such a determination.

* * * * *

(c) From the time you start the recall campaign, send us a report within 25 days of the end of each calendar quarter, following the guidelines in § 1068.525(b). Send reports for six consecutive quarters or until all the

engines/equipment are inspected, whichever comes first.

* * * * *

194. Appendix I to part 1068 is amended by revising paragraph I to read as follows:

Appendix I to Part 1068—Emission-Related Components

* * * * *

I. Emission-related components include any engine/equipment parts related to the following systems:

1. Air-induction system.
2. Fuel system, including evaporative emission controls.
3. Ignition system.
4. Exhaust gas recirculation systems.
5. All components comprising the combustion chamber, including the piston, piston rings, block, head, and valves.

* * * * *

195. A new part 1074 is added to subchapter U of chapter I to read as follows:

PART 1074—PREEMPTION OF STATE STANDARDS AND PROCEDURES FOR WAIVER OF FEDERAL PREEMPTION FOR NONROAD ENGINES AND NONROAD VEHICLES

Subpart A—Applicability and General Provisions

Sec.

1074.1 Applicability.

1074.5 Definitions.

1074.10 Scope of preemption.

1074.12 Scope of preemption—specific provisions for locomotives and locomotive engines.

Subpart B—Procedures for Authorization

1074.101 Procedures for California nonroad authorization requests.

1074.105 Criteria for granting authorization.

1074.110 Adoption of California standards by other States.

1074.115 Relationship of Federal and State standards.

Authority: 42 U.S.C. 7401–7671q.

Subpart A—Applicability and General Provisions

§ 1074.1 Applicability.

The requirements of this part apply with respect to state and local standards and other requirements relating to the control of emissions from nonroad engines and nonroad vehicles.

§ 1074.5 Definitions.

The definitions in this section apply to this part. As used in this part, all undefined terms have the meaning the Act gives to them. The definitions follow:

Act means the Clean Air Act, as amended, 42 U.S.C. 7401–7671q.

Administrator means the Administrator of the Environmental

Protection Agency and any authorized representatives.

Commercial means an activity engaged in as a vocation.

Construction equipment or vehicle means any internal combustion engine-powered machine primarily used in construction and located on commercial construction sites.

Engine used in a locomotive means either an engine placed in a locomotive to move other equipment, freight, or passenger traffic, or an engine mounted on a locomotive to provide auxiliary power.

Farm equipment or vehicle means any internal combustion engine-powered machine primarily used in the commercial production and/or commercial harvesting of food, fiber, wood, or commercial organic products or for the processing of such products for further use on the farm.

Locomotive means a piece of equipment meeting the definition of locomotive in 40 CFR 1033.901 that is propelled by a nonroad engine.

New has the following meanings:

(1) For locomotives, new has the meaning given in 40 CFR 1033.901.

(2) For engines used in locomotives, new means an engine incorporated in (or intended to be incorporated in) in a new locomotive.

(3) For other nonroad engines and equipment, new means a domestic or imported nonroad engine or nonroad vehicle the equitable or legal title to which has never been transferred to an ultimate purchaser. Where the equitable or legal title to an engine or vehicle is not transferred to an ultimate purchaser until after the engine or vehicle is placed into service, then the engine or vehicle will no longer be new once it is placed into service. A nonroad engine or vehicle is placed into service when it is used for its functional purposes. This paragraph (3) does not apply to locomotives or engines used in locomotives.

Nonroad engine has the meaning given in 40 CFR 1068.30

Primarily used means used 51 percent or more.

States and localities means any or all of the states, commonwealths, and territories in the United States including the District of Columbia and any or all of their political subdivisions.

Ultimate purchaser means the first person who in good faith purchases a new nonroad engine or new nonroad vehicle or equipment for purposes other than resale.

United States has the meaning given in 40 CFR 1068.30.

§ 1074.10 Scope of preemption.

(a) States and localities are preempted from adopting or enforcing standards or other requirements relating to the control of emissions from new engines smaller than 175 horsepower that are primarily used in farm or construction equipment or vehicles, as defined in this part. For equipment that is used in applications in addition to farming or construction activities, if the equipment is primarily used as farm and/or construction equipment or vehicles (as defined in this part), it is considered farm or construction equipment or vehicles.

(b) For nonroad engines or vehicles other than those described in paragraph (a) of this section and § 1074.12, States and localities are preempted from enforcing any standards or other requirements relating to control of emissions from nonroad engines or vehicles except as provided in subpart B of this part.

§ 1074.12 Scope of preemption specific provisions for locomotives and locomotive engines.

(a) States and localities are preempted from adopting or enforcing standards or other requirements relating to the control of emissions from new locomotives and new engines used in locomotives.

(b) During a period equivalent in length to 133 percent of the useful life, expressed as MW-hrs (or miles where applicable), beginning at the point at which the locomotive or engine becomes new, those standards or other requirements which are preempted include, but are not limited to, the following: emission standards, mandatory fleet average standards, certification requirements, retrofit and aftermarket equipment requirements, and nonfederal in-use testing requirements. The standards and other requirements specified in the preceding sentence are preempted whether applicable to new or other locomotives or locomotive engines.

Subpart B—Procedures for Authorization

§ 1074.101 Procedures for California nonroad authorization requests.

(a) California must request authorization from the Administrator to enforce its adopted standards and other requirements relating to control of emissions from nonroad engines or vehicles that are not preempted by § 1074.10(a) or § 1074.12. The request must include the record on which the state rulemaking was based.

(b) After receiving the authorization request, the Administrator will provide

notice and opportunity for a public hearing regarding such requests.

§ 1074.105 Criteria for granting authorization.

(a) The Administrator will grant the authorization if California determines that its standards will be, in the aggregate, at least as protective of public health and welfare as otherwise applicable federal standards.

(b) The authorization will not be granted if the Administrator finds that any of the following are true:

(1) California's determination is arbitrary and capricious.

(2) California does not need such standards to meet compelling and extraordinary conditions.

(3) The California standards and accompanying enforcement procedures are not consistent with section 209 of the Act (42 U.S.C. 7543).

(c) In considering any request from California to authorize the state to adopt or enforce standards or other requirements relating to control of emissions from new nonroad spark-ignition engines smaller than 50 horsepower, the Administrator will give appropriate consideration to safety factors (including the potential increased risk of burn or fire) associated with compliance with the California standard.

§ 1074.110 Adoption of California standards by other States.

(a) Except as described in paragraph (b) of this section, any state other than California that has plan provisions approved under Part D of Title I of the Act (42 U.S.C. 7501 to 7515) may adopt and enforce emission standards for any period for nonroad engines and vehicles subject to the following requirements:

(1) The state must provide notice to the Administrator that it has adopted such standards.

(2) Such standards may not apply to new engines smaller than 175 horsepower that are used in farm or construction equipment or vehicles, or to new locomotives or new engines used in locomotives.

(3) Such standards and implementation and enforcement must be identical, for the period concerned, to the California standards authorized by the Administrator.

(4) The state must adopt such standards at least two years before the standards first take effect.

(5) California must have adopted such standards two years before the standards first take effect in the state that is adopting them under this section.

(b) States and localities, other than the State of California, may not adopt or

attempt to enforce any standard or other requirement applicable to the control of emissions from spark-ignition engines smaller than 50 horsepower, except standards or other requirements that were adopted by that state before September 1, 2003.

§ 1074.115 Relationship of Federal and State standards.

If state standards apply to a new nonroad engine or vehicle pursuant to authorization granted under section 209 of the Act (42 U.S.C. 7543), compliance with such state standards will be treated

as compliance with the otherwise applicable standards of this chapter for engines or vehicles introduced into commerce in that state.

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