

SUBCHAPTER U—AIR POLLUTION CONTROLS

PART 1039—CONTROL OF EMISSIONS FROM NEW AND IN-USE NONROAD COMPRESSION-IGNITION ENGINES

Subpart A—Overview and Applicability

Sec.

- 1039.1 Does this part apply for my engines?
- 1039.5 Which engines are excluded from this part's requirements?
- 1039.10 How is this part organized?
- 1039.15 Do any other regulation parts apply to me?
- 1039.20 What requirements from this part apply to excluded stationary engines?

Subpart B—Emission Standards and Related Requirements

- 1039.101 What exhaust emission standards must my engines meet after the 2014 model year?
- 1039.102 What exhaust emission standards and phase-in allowances apply for my engines in model year 2014 and earlier?
- 1039.104 Are there interim provisions that apply only for a limited time?
- 1039.105 What smoke standards must my engines meet?
- 1039.107 What evaporative emission standards and requirements apply?
- 1039.110 [Reserved]
- 1039.115 What other requirements must my engines meet?
- 1039.120 What emission-related warranty requirements apply to me?
- 1039.125 What maintenance instructions must I give to buyers?
- 1039.130 What installation instructions must I give to equipment manufacturers?
- 1039.135 How must I label and identify the engines I produce?
- 1039.140 What is my engine's maximum engine power?

Subpart C—Certifying Engine Families

- 1039.201 What are the general requirements for obtaining a certificate of conformity?
- 1039.205 What must I include in my application?
- 1039.210 May I get preliminary approval before I complete my application?
- 1039.220 How do I amend the maintenance instructions in my application?
- 1039.225 How do I amend my application for certification to include new or modified engines or to change an FEL?
- 1039.230 How do I select engine families?

- 1039.235 What emission testing must I perform for my application for a certificate of conformity?
- 1039.240 How do I demonstrate that my engine family complies with exhaust emission standards?
- 1039.245 How do I determine deterioration factors from exhaust durability testing?
- 1039.250 What records must I keep and what reports must I send to EPA?
- 1039.255 What decisions may EPA make regarding my certificate of conformity?

Subpart D [Reserved]

Subpart E—In-use Testing

- 1039.401 General provisions.

Subpart F—Test Procedures

- 1039.501 How do I run a valid emission test?
- 1039.505 How do I test engines using steady-state duty cycles, including ramped-modal testing?
- 1039.510 Which duty cycles do I use for transient testing?
- 1039.515 What are the test procedures related to not-to-exceed standards?
- 1039.520 What testing must I perform to establish deterioration factors?
- 1039.525 How do I adjust emission levels to account for infrequently regenerating aftertreatment devices?

Subpart G—Special Compliance Provisions

- 1039.601 What compliance provisions apply to these engines?
- 1039.605 What provisions apply to engines certified under the motor-vehicle program?
- 1039.610 What provisions apply to vehicles certified under the motor-vehicle program?
- 1039.615 What special provisions apply to engines using noncommercial fuels?
- 1039.620 What are the provisions for exempting engines used solely for competition?
- 1039.625 What requirements apply under the program for equipment-manufacturer flexibility?
- 1039.626 What special provisions apply to equipment imported under the equipment-manufacturer flexibility program?
- 1039.627 What are the incentives for equipment manufacturers to use cleaner engines?
- 1039.630 What are the economic hardship provisions for equipment manufacturers?
- 1039.635 What are the hardship provisions for engine manufacturers?
- 1039.640 What special provisions apply to branded engines?

Environmental Protection Agency

§ 1039.1

- 1039.645 What special provisions apply to engines used for transportation refrigeration units?
- 1039.650 [Reserved]
- 1039.655 What special provisions apply to engines sold in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands?
- 1039.660 What special provisions apply to Independent Commercial Importers?

Subpart H—Averaging, Banking, and Trading for Certification

- 1039.701 General provisions.
- 1039.705 How do I generate and calculate emission credits?
- 1039.710 How do I average emission credits?
- 1039.715 How do I bank emission credits?
- 1039.720 How do I trade emission credits?
- 1039.725 What must I include in my application for certification?
- 1039.730 What ABT reports must I send to EPA?
- 1039.735 What records must I keep?
- 1039.740 What restrictions apply for using emission credits?
- 1039.745 What can happen if I do not comply with the provisions of this subpart?

Subpart I—Definitions and Other Reference Information

- 1039.801 What definitions apply to this part?
- 1039.805 What symbols, acronyms, and abbreviations does this part use?
- 1039.810 What materials does this part reference?
- 1039.815 What provisions apply to confidential information?
- 1039.820 How do I request a hearing?
- APPENDIX I TO PART 1039 [RESERVED]
- APPENDIX II TO PART 1039—STEADY-STATE DUTY CYCLES FOR CONSTANT-SPEED ENGINES
- APPENDIX III TO PART 1039—STEADY-STATE DUTY CYCLES FOR VARIABLE-SPEED ENGINES WITH MAXIMUM POWER BELOW 19 kW
- APPENDIX IV TO PART 1039—STEADY-STATE DUTY CYCLES FOR VARIABLE-SPEED ENGINES WITH MAXIMUM POWER AT OR ABOVE 19 kW
- APPENDIX V TO PART 1039 [RESERVED]
- APPENDIX VI TO PART 1039—NONROAD COMPRESSION-IGNITION COMPOSITE TRANSIENT CYCLE

AUTHORITY: 42 U.S.C. 7401–7671q.

SOURCE: 69 FR 39213, June 29, 2004, unless otherwise noted.

Subpart A—Overview and Applicability

§ 1039.1 Does this part apply for my engines?

(a) The regulations in this part 1039 apply for all new, compression-ignition nonroad engines (defined in §1039.801), except as provided in § 1039.5.

(b) This part 1039 applies as follows:

(1) This part 1039 applies for all engines subject to the emission standards specified in subpart B of this part starting with the model years noted in the following table:

TABLE 1 OF § 1039.1—PART 1039
APPLICABILITY BY MODEL YEAR

Power category	Model year
kW < 19	¹ 2008
19 ≤ kW < 56	² 2008
56 ≤ kW < 130	2012
130 ≤ kW ≤ 560	2011
kW > 560	2011

¹As described in §1039.102, some engines below 19 kW may not be subject to the emission standards in this part until the 2010 model year.

²As described in §1039.102, some engines in the 19–56 kW power category may not be subject to the emission standards in this part until the 2012 model year.

(2) If you use the provisions of §1039.104(a) to certify an engine to the emission standards of this part before the model years shown in Table 1 of this section, all the requirements of this part apply for those engines.

(3) See 40 CFR part 89 for requirements that apply to engines not yet subject to the requirements of this part 1039.

(4) This part 1039 applies for other compression-ignition engines as follows:

(i) The provisions of paragraph (c) of this section and §1039.801 apply for stationary engines beginning January 1, 2006.

(ii) The provisions of §1039.620 and §1039.801 apply for engines used solely for competition beginning January 1, 2006.

(c) The definition of nonroad engine in 40 CFR 1068.30 excludes certain engines used in stationary applications. These engines may be required by subpart IIII of 40 CFR part 60 to comply with some of the provisions of this part 1039; otherwise, these engines are only

§ 1039.5

required to comply with the requirements in § 1039.20. In addition, the prohibitions in 40 CFR 1068.101 restrict the use of stationary engines for nonstationary purposes unless they are certified under this part 1039, or under the provisions of 40 CFR part 89 or 40 CFR part 94, to the same standards that would apply to nonroad engines for the same model year.

(d) In certain cases, the regulations in this part 1039 apply to engines at or above 250 kW that would otherwise be covered by 40 CFR part 1048. See 40 CFR 1048.620 for provisions related to this allowance.

[69 FR 39213, June 29, 2004, as amended at 70 FR 40462, July 13, 2005; 71 FR 39184, July 11, 2006]

§ 1039.5 Which engines are excluded from this part's requirements?

This part does not apply to the following nonroad engines:

(a) *Locomotive engines.* (1) The following locomotive engines are not subject to the provisions of this part 1039:

(i) Engines in locomotives subject to the standards of 40 CFR part 92.

(ii) Engines in locomotives that are exempt from the standards of 40 CFR part 92 pursuant to the provisions of 40 CFR part 92 (except for the provisions of 40 CFR 92.907). For example, an engine that is exempt under 40 CFR 92.906 because it is in a manufacturer-owned locomotive is not subject to the provisions of this part 1039.

(2) The following locomotive engines are subject to the provisions of this part 1039:

(i) Engines in locomotives exempt from 40 CFR part 92 pursuant to the provisions of 40 CFR 92.907.

(ii) Locomotive engines excluded from the definition of locomotive in 40 CFR 92.2.

(b) *Marine engines.* (1) The following marine engines are not subject to the provisions of this part 1039:

(i) Engines subject to the standards of 40 CFR part 94.

(ii) Engines not subject to the standards of 40 CFR part 94 only because they were produced before the standards of 40 CFR part 94 started to apply.

(iii) Engines that are exempt from the standards of 40 CFR part 94 pursuant to the provisions of 40 CFR part 94

40 CFR Ch. I (7–1–07 Edition)

(except for the provisions of 40 CFR 94.907 or 94.912). For example, an engine that is exempt under 40 CFR 94.906 because it is a manufacturer-owned engine is not subject to the provisions of this part 1039.

(iv) Engines with rated power below 37 kW.

(v) Engines on foreign vessels.

(2) Marine engines are subject to the provisions of this part 1039 if they are exempt from 40 CFR part 94 based on the engine-dressing provisions of 40 CFR 94.907 or the common-family provisions of 40 CFR 94.912.

(c) *Mining engines.* Engines used in underground mining or in underground mining equipment and regulated by the Mining Safety and Health Administration in 30 CFR parts 7, 31, 32, 36, 56, 57, 70, and 75 are not subject to the provisions of this part 1039.

(d) *Hobby engines.* Engines with per-cylinder displacement below 50 cubic centimeters are not subject to the provisions of this part 1039.

[69 FR 39213, June 29, 2004, as amended at 70 FR 40462, July 13, 2005]

§ 1039.10 How is this part organized?

The regulations in this part 1039 contain provisions that affect both engine manufacturers and others. However, the requirements of this part are generally addressed to the engine manufacturer. The term “you” generally means the engine manufacturer, as defined in § 1039.801. This part 1039 is divided into the following subparts:

(a) Subpart A of this part defines the applicability of part 1039 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 engines under this part. Note that § 1039.102 and § 1039.104 discuss 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) [Reserved]

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