

for limitations on the maintenance that you may perform on your emission-data engine.

(a) You may ask us to approve deterioration factors for an engine family with established technology based on engineering analysis instead of testing. Engines certified to a NO<sub>x</sub>+NMHC standard or FEL greater than the Tier 3 NO<sub>x</sub>+NMHC standard described in 40 CFR 89.112 are considered to rely on established technology for gaseous emission control, except that this does not include any engines that use exhaust-gas recirculation or aftertreatment. In most cases, technologies used to meet the Tier 1 and Tier 2 emission standards would be considered to be established technology.

(b) You may ask us to approve deterioration factors for an engine family based on emission measurements from similar highway or nonroad engines if you have already given us these data for certifying the other engines in the same or earlier model years. Use good engineering judgment to decide whether the two engines are similar. We will approve your request if you show us that the emission measurements from other engines reasonably represent in-use deterioration for the engine family for which you have not yet determined deterioration factors.

(c) If you are unable to determine deterioration factors for an engine family under paragraph (a) or (b) of this section, select engines, subsystems, or components for testing. Determine deterioration factors based on service accumulation and related testing to represent the deterioration expected from in-use engines over the full useful life. You must measure emissions from the emission-data engine at least three times with evenly spaced intervals of service accumulation. You may use extrapolation to determine deterioration factors once you have established a trend of changing emissions with age for each pollutant. You may use an engine installed in nonroad equipment to accumulate service hours instead of running the engine only in the laboratory. You may perform maintenance on emission-data engines as described in § 1039.125 and 40 CFR part 1065, subpart E. Use good engineering judgment for all aspects of the effort to establish de-

terioration factors under this paragraph (c).

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

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

(2) If you determine your deterioration factors based on engineering analysis, explain why this is appropriate and include a statement that all data, analyses, evaluations, and other information you used are available for our review upon request.

(3) If you do testing to determine deterioration factors, describe the form and extent of service accumulation, including a rationale for selecting the service-accumulation period and the method you use to accumulate hours.

**§ 1039.250 What records must I keep and what reports must I send to EPA?**

(a) Within 30 days after the end of the model year, send the Designated Compliance Officer a report describing the following information about engines you produced during the model year:

(1) Report the total number of engines you produced in each engine family by maximum engine power, total displacement, and the type of fuel system.

(2) If you produced exempted engines under the provisions of § 1039.625, report the number of exempted engines you produced for each engine model and identify the buyer or shipping destination for each exempted engine.

(b) Organize and maintain the following records:

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

(2) Any of the information we specify in § 1039.205 that you were not required to include in your application.

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

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

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

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

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

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

(vi) Any other significant events.

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

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

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

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

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

**§1039.255 What decisions may EPA make regarding my certificate of conformity?**

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

(b) We may deny your application for certification if we determine that your engine family fails to comply with emission standards or other requirements of this part or the Act. Our deci-

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

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

(7) Take any action that otherwise circumvents the intent of the 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 §1039.820).

**Subpart D [Reserved]**

**Subpart E—In-Use Testing**

**§ 1039.401 General provisions.**

We may perform in-use testing of any engine subject to the standards of this part. However, we will limit recall testing to the first 75 percent of each engine's useful life as specified in §1039.101(g).

**Subpart F—Test Procedures**

**§ 1039.501 How do I run a valid emission test?**

(a) Use the equipment and procedures for compression-ignition engines in 40