

Alan Stout/AA/USEPA/US

EPA-OAR,OTAQ,ASD

Sent by: Alan Stout

Received Date:

06/18/2008 08:14 AM

Transmission Date:

06/18/2008 08:14:40 AM

To

cc

bcc

Subject



"Gault, Roger"

<rgault@emamail.org>

Sent by: "Gault, Roger"

<rgault@emamail.org>

Received Date:

04/25/2008 10:12 AM

Transmission Date:

04/25/2008 10:12:50 AM

To Alan Stout/AA/USEPA/US@EPA

cc

Subject RE: Replacement engine provisions

Alan:

Please review and contact me to discuss.

Thanks

Roger Gault

Engine Manufacturers Association

Two North LaSalle Street, Suite 2200

Chicago, Illinois 60602

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1068 replacements 04 21 08 - RTG.doc

§1068.240 What are the provisions for exempting new replacement engines?

The prohibitions in §1068.101(a)(1) do not apply to a new replacement engine if it is exempt under this section.

(a) General provisions. 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). Paragraphs (b) and (c) describe two different approaches for exempting new replacement engines where the engines are specially built to correspond to an earlier model year that was subject to less stringent standards than those that apply for current production (or is no longer covered by a certificate of conformity). Paragraphs (d) and (e) describe a simpler approach for exempting partially complete new replacement engines that are built under a certificate of conformity that is valid for producing engines for the current model year.

(b) Previous-tier replacement engines with tracking. You may produce any number of new replacement engines if all the following conditions are true:

(1) You produce a new engine to replace an engine already placed in service in a piece of equipment.

(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. The provisions of this paragraph (b) also apply for engines that were originally certified to the same standards that apply for the current model year if you no longer have a certificate of conformity to continue producing that engine configuration.

(3) You determine that you do not produce an engine certified to meet current requirements that has the appropriate physical or performance characteristics to repower the equipment. If the engine being replaced was made by a different company, you must make this determination also for engines produced by this other company. You must keep records to document your basis for making this determination.

(4) You or your agent takes possession of the old engine or confirms that this engine has been destroyed.

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(5) If the old engine was subject to emission standards, you must make the new replacement engine in a configuration identical in all material respects to the old engine and meet all the requirements of §1068.265 except as identified in this Part 1068.240. You may alternatively make the new replacement engine in a configuration identical in all material respects to another certified engine of the same or later model year, as long as the engine is not certified with a family emission limit higher than that of the old engine.

(6) You add a permanent label with your corporate name and the following additional information:

(i) Add the following statement if the engine being replaced was not subject to any emission standards under this chapter:

THIS ENGINE DOES NOT COMPLY WITH U.S. EPA NONROAD EMISSION REQUIREMENTS. SELLING OR INSTALLING THIS ENGINE FOR ANY PURPOSE OTHER THAN TO REPLACE A NONROAD ENGINE BUILT BEFORE JANUARY 1, [Insert appropriate year reflecting when the earliest tier of standards began to apply to engines of that size and type] MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY.

(ii) Add the following statement if the engine being replaced was subject to emission standards:

THIS ENGINE COMPLIES WITH U.S. EPA NONROAD EMISSION REQUIREMENTS FOR [Identify the appropriate emission standards (by model year, tier, or emission levels) for the replaced engine] ENGINES UNDER 40 CFR 1068.240. SELLING OR INSTALLING THIS ENGINE FOR ANY PURPOSE OTHER THAN TO REPLACE A [Identify the appropriate emission standards (by model year, tier(s), or emission levels) for the replaced engine] ENGINE MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY.

(c) Previous-tier replacement engines without tracking. You may produce a limited number of new replacement engines that are not from a currently certified engine family under the provisions of this paragraph (c). This would apply, for example, for engine configurations that were certified in an earlier model year, but are no longer covered by a certificate of conformity. You must comply with the requirements of paragraph (b) of this section for any number of replacement engines you produce in excess of what we allow under this paragraph (c). The following provisions apply to engines exempted under this paragraph (c):

(1) You may produce a limited number of replacement engines under this paragraph (c) representing 0.5 percent of your annual production volumes for each category and subcategory of engines identified in Table 1 to this section (1.0 percent through 2013). Calculate this number by multiplying your annual U.S.-directed production volume by 0.005 (or 0.01 through 2013) and round to the nearest whole number. Determine the appropriate production volume by identifying the highest total annual U.S.-directed production volume of engines from the previous three model years for all your certified engines from each category or subcategory identified in Table 1 to this section, as applicable. Include only those stationary engines in your U.S.-directed production volume which are certified under one of the standard-setting parts identified in Table 1 of this section. Do not include any exempted engines you produce as part of your U.S.-directed production volume, even if those engines must meet emission standards as a condition of the exemption. You must include U.S. directed engines produced by any parent or subsidiary companies and those from any other companies you license to produce engines for you.

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(2) Count every exempted new replacement engine from your total U.S.-directed production volume that you produce in a given calendar year under this paragraph (c), including partially complete engines, except for the following:

(i) Engines built to specifications for an earlier model year under paragraph (b) of this section.

(ii) Partially complete engines exempted under paragraph (d) or (e) of this section.

(3) Send the Designated Compliance Officer a report by February 15 of the year following any year in which you produced exempted replacement engines under this paragraph (c). In your report include the total number of replacement engines you produce under this paragraph (c) for each category or subcategory, as appropriate, and the corresponding total production volumes determined under paragraph (c)(1) of this section. If you send us a report under this paragraph (c)(3), you must also include the total number of replacement engines you produced under paragraphs (b), (d), and (e) of this section. You may include this information in production reports required under the standard-setting part.

(4) Add a permanent label as specified in paragraph (b)(6) of this section. For partially complete engines, you may alternatively add a temporary or permanent label as specified in paragraph (d) of this section, except that the appropriate regulatory cite is 40 CFR 1068.240(c).

(5) You may not use the provisions of this paragraph (c) for any engines in the following engine categories or subcategories:

(i) Locomotive engines we regulate under 40 CFR part 1033.

(ii) Land-based nonroad compression-ignition engines we regulate under 40 CFR part 1039 with a per-cylinder displacement at or above 5.0 liters.

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(iii) Marine compression-ignition engines >5.0 liters per cylinder we regulate under 40 CFR part 1042.

(d) Current-tier replacement engines for engine-based standards. You may produce short blocks or other partially complete engines from a currently certified engine family as replacement components for in-use equipment powered by engines you originally produced. You must be able to identify all the engine models and model years for which the partially complete engine may properly be used for replacement purposes. You must label the engine as follows:

Deleted: under a valid certificate of conformity

(1) If you have a reasonable basis to believe that the fully assembled engine will include the original emission control information label, you may add a removable label to the engine with the statement: "This replacement engine is exempt under 40 CFR 1068.240(d)." This would generally apply if all

the engine models that are compatible with the replacement engine were covered by a certificate of conformity and they were labeled in a position on the engine or equipment that is not included as part of the partially complete engine being shipped for replacement purposes.

(2) If you do not qualify for using a temporary label in paragraph (d)(1) of this section, you must add a permanent label in a readily visible location, though it may be obscured after installation in a piece of equipment. Include on the permanent label your corporate name and trademark, the engine's part number (or other identifying information), and the statement: "This replacement engine is exempt under 40 CFR 1068.240(d)." If there is not enough space, you may alternatively add the statement: "REPLACEMENT" or "SERVICE ENGINE".

(e) Current-tier replacement engines for equipment-based standards. In the case of equipment subject to equipment-based standards, you may produce engines that are identical to engines covered by a current certificate of conformity demonstrating compliance with currently applicable standards where the engines will be installed as replacement engines. These engines might be fully assembled, but we would consider them to be partially complete engines because they are not yet installed in the equipment. You must be able to identify all the engine and equipment models and model years for which such an engine may properly be used for replacement purposes. Add a temporary or permanent label to these engines as described in paragraph (d) of this section, except that the appropriate regulatory cite is 40 CFR 1068.240(e).

(f) Emission credits. 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.

(g) Circumvention. The provisions of this section may not be used to circumvent emission standards that apply to new engines under the standard-setting part. Anyone utilizing an exempted replacement engine for purposes other than in service replacement is deemed to be a manufacturer of a new engine and subject to the prohibitions of §1068.101(a)(1). This applies to all engines exempted under this section.

You may inventory engines that will be introduced into U.S. commerce only as allowed by this section. The model year restrictions specified in §1068.103(f) do not apply for engines produced under paragraphs (d) and (e) of this section if you can demonstrate that the engines will be used only as replacement engines.

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Table 1 to §1068.240—[Engine Subcategories](#) for streamlined compliance provisions for new replacement engines—[reference 1068.240\(c\)](#)

Deleted: Allowable thresholds

Engine category	Standard-setting part	Engine subcategories
Nonroad CI, Marine CI , and Applicable Stationary CI	40 CFR part 1039	disp. < 0.6 L/cyl
		$0.6 \leq \text{disp.} < 1.2 \text{ L/cyl}$
		$1.2 \leq \text{disp.} < 2.5 \text{ L/cyl}$
		2.5 < disp. < 5.0 L/cyl.
Marine SI	40 CFR part 1045	outboard
		personal watercraft
Large SI, Applicable Stationary SI, and Marine SI (sterndrive/ inboard only)	40 CFR part 1048 or 40 CFR part 1045	all engines
Recreational vehicles	40 CFR part 1051	off-highway motorcycle
		all-terrain vehicle
		snowmobile
Small SI and Stationary SI	40 CFR part 1054	handheld
		Class I
		Class II

Alan Stout/AA/USEPA/US
EPA-OAR,OTAQ,ASD
Sent by: Alan Stout

Received Date:
04/21/2008 03:51 PM
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04/21/2008 03:51:44 PM

To rgault@emamail.org, WGuerry@KelleyDrye.com
cc jpietak@enginecert.com, dickg@northern-lights.com,
jmcknight@nmma.org, dhatch3@twcny.rr.com,
KHay@ImpcoTechnologies.com, pamette@mic.org
bcc Alan Stout/AA/USEPA/US
Subject Replacement engine provisions

Bill and Roger,

See the attached updated to the draft of regulatory provisions for replacement engines, which incorporates the input we've heard and includes a couple new ideas in the mix. Feel free to follow up as needed.

Alan



1068 replacements 04 21 08.doc

§1068.240 What are the provisions for exempting new replacement engines?

The prohibitions in §1068.101(a)(1) do not apply to a new replacement engine if it is exempt under this section.

(a) General provisions. 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). Paragraphs (b) and (c) describe two different approaches for exempting replacement engines where the engines are specially built to correspond to an earlier model year that was subject to less stringent standards than those that apply for current production (or is no longer covered by a certificate of conformity). Paragraphs (d) and (e) describe a simpler approach for exempting partially complete replacement engines that are built under a certificate of conformity that is valid for producing engines for the current model year.

(b) Previous-tier replacement engines with tracking. You may produce any number of new replacement engines if all the following conditions are true:

- (1) You produce a new engine to replace an engine already placed in service in a piece of equipment.
- (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. The provisions of this paragraph (b) also apply for engines that were originally certified to the same standards that apply for the current model year if you no longer have a certificate of conformity to continue producing that engine configuration.
- (3) You determine that you do not produce an engine certified to meet current requirements that has the appropriate physical or performance characteristics to repower the equipment. If the engine being replaced was made by a different company, you must make this determination also for engines produced by this other company. You must keep records to document your basis for making this determination.
- (4) You or your agent takes possession of the old engine or confirms that the engine has been destroyed.
- (5) If the old engine was subject to emission standards, you must make the replacement engine in a configuration identical in all material respects to the old engine and meet all the requirements of §1068.265. You may alternatively make the replacement engine in a configuration identical in all material respects to another certified engine of the same or later model year, as long as the engine is not certified with a family emission limit higher than that of the old engine.
- (6) You add a permanent label with your corporate name and the following additional information:

(i) Add the following statement if the engine being replaced was not subject to any emission standards under this chapter:

THIS ENGINE DOES NOT COMPLY WITH U.S. EPA NONROAD EMISSION REQUIREMENTS. SELLING OR INSTALLING THIS ENGINE FOR ANY PURPOSE OTHER THAN TO REPLACE A NONROAD ENGINE BUILT BEFORE JANUARY 1, [Insert appropriate year reflecting when the earliest tier of standards began to apply to engines of that size and type] MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY.

(ii) Add the following statement if the engine being replaced was subject to emission standards:
THIS ENGINE COMPLIES WITH U.S. EPA NONROAD EMISSION REQUIREMENTS FOR [Identify the appropriate emission standards (by model year, tier, or emission levels) for the replaced engine] ENGINES UNDER 40 CFR 1068.240. SELLING OR INSTALLING THIS ENGINE FOR ANY PURPOSE OTHER THAN TO REPLACE A [Identify the appropriate emission standards (by model year, tier, or emission levels) for the replaced engine] ENGINE MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY.

(c) Previous-tier replacement engines without tracking. You may produce a limited number of new replacement engines that are not from a currently certified engine family under the provisions of this paragraph (c). This would apply, for example, for engine configurations that were certified in an earlier

model year, but are no longer covered by a certificate of conformity. You must comply with the requirements of paragraph (b) of this section for any number of replacement engines you produce in excess of what we allow under this paragraph (c). The following provisions apply to engines exempted under this paragraph (c):

(1) You may produce a number of replacement engines under this paragraph (c) representing 0.5 percent of your annual production volumes for each category and subcategory of engines identified in Table 1 to this section (1.0 percent through 2013). Calculate this number by multiplying your annual U.S.-directed production volume by 0.005 (or 0.01 through 2013) and rounding to the nearest whole number. Determine the appropriate production volume by identifying the highest total annual U.S.-directed production volume of engines from the previous three model years for all your certified engines from each category or subcategory identified in Table 1 to this section, as applicable. Include stationary engines in your U.S.-directed production volume only if they are certified under one of the standard-setting parts identified in Table 1 of this section. Do not include any exempted engines you produce as part of your U.S.-directed production volume, even if those engines must meet emission standards as a condition of the exemption. Consider engines produced by any parent or subsidiary companies and those from any other companies you license to produce engines for you.

(2) Count every exempted replacement engine from your total U.S.-directed production volume that you produce in a given calendar year under this paragraph (c), including partially complete engines, except for the following:

(i) Engines built to specifications for an earlier model year under paragraph (b) of this section.

(ii) Partially complete engines exempted under paragraph (d) or (e) of this section.

(3) Send the Designated Compliance Officer a report by February 15 of the year following any year in which you produced exempted replacement engines under this paragraph (c). In your report include the total number of replacement engines you produce under this paragraph (c) for each category or subcategory, as appropriate, and the corresponding total production volumes determined under paragraph (c)(1) of this section. If you send us a report under this paragraph (c)(3), you must also include the total number of replacement engines you produced under paragraphs (b), (d), and (e) of this section. You may include this information in production reports required under the standard-setting part.

(4) Add a permanent label as specified in paragraph (b)(6) of this section. For partially complete engines, you may alternatively add a temporary or permanent label as specified in paragraph (d) of this section, except that the appropriate regulatory cite is 40 CFR 1068.240(c).

(5) You may not use the provisions of this paragraph (c) for any engines in the following engine categories or subcategories:

(i) Locomotive engines we regulate under 40 CFR part 1033.

(ii) Land-based nonroad compression-ignition engines we regulate under 40 CFR part 1039 with a per-cylinder displacement at or above 2.5 liters.

(iii) Marine compression-ignition engines we regulate under 40 CFR part 1042.

(d) Current-tier replacement engines for engine-based standards. You may produce short blocks or other partially complete engines from a currently certified engine family as replacement components for in-use equipment powered by engines you originally produced under a valid certificate of conformity. You must be able to identify all the engine models and model years for which the partially complete engine may properly be used for replacement purposes. You must label the engine as follows:

(1) If you have a reasonable basis to believe that the fully assembled engine will include the original emission control information label, you may add a removable label to the engine with the statement: "This replacement engine is exempt under 40 CFR 1068.240(d)." This would generally apply if all the engine models that are compatible with the replacement engine were covered by a certificate of conformity and they were labeled in a position on the engine or equipment that is not included as part of the partially complete engine being shipped for replacement purposes.

(2) If you do not qualify for using a temporary label in paragraph (d)(1) of this section, you must add a permanent label in a readily visible location, though it may be obscured after installation in a piece

of equipment. Include on the permanent label your corporate name and trademark, the engine's part number (or other identifying information), and the statement: "This replacement engine is exempt under 40 CFR 1068.240(d)." If there is not enough space, you may alternatively add the statement: "REPLACEMENT" or "SERVICE ENGINE".

(e) Current-tier replacement engines for equipment-based standards. In the case of equipment subject to equipment-based standards, you may produce engines that are identical to engines covered by a current certificate of conformity demonstrating compliance with currently applicable standards where the engines will be installed as replacement engines. These engines might be fully assembled, but we would consider them to be partially complete engines because they are not yet installed in the equipment. You must be able to identify all the engine and equipment models and model years for which such an engine may properly be used for replacement purposes. Add a temporary or permanent label to these engines as described in paragraph (d) of this section, except that the appropriate regulatory cite is 40 CFR 1068.240(e).

(f) Emission credits. 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.

(g) Circumvention. The provisions of this section may not be used to circumvent emission standards that apply to new engines under the standard-setting part. Anyone performing an initial installation of an exempted replacement engine is deemed to be a manufacturer of a new engine and subject to the prohibitions of §1068.101(a)(1). This applies to all engines exempted under this section. You may stockpile engines that will be introduced into U.S. commerce only as allowed by this section. The model year restrictions specified in §1068.103(f) do not apply for engines produced under paragraphs (d) and (e) of this section if you can demonstrate that the engines will be used only as replacement engines.

Table 1 to §1068.240— Allowable thresholds for streamlined compliance provisions for new replacement engines

Engine category	Standard-setting part	Engine subcategories
Nonroad CI and Stationary CI	40 CFR part 1039	disp. < 0.6 L/cyl
		$0.6 \leq \text{disp.} < 1.2$ L/cyl
		$1.2 \leq \text{disp.} < 2.5$ L/cyl
Marine SI	40 CFR part 1045	outboard
		personal watercraft
Large SI, Stationary SI, and Marine SI (sterndrive/ inboard only)	40 CFR part 1048 or 40 CFR part 1045	all engines
Recreational vehicles	40 CFR part 1051	off-highway motorcycle
		all-terrain vehicle
		snowmobile
Small SI and Stationary SI	40 CFR part 1054	handheld
		Class I
		Class II

Alan Stout/AA/USEPA/US
EPA-OAR,OTAQ,ASD
Sent by: Alan Stout

Received Date:
03/21/2008 03:54 PM
Transmission Date:
03/21/2008 03:54:42 PM

To rgault@emamail.org
cc
bcc Alan Stout/AA/USEPA/US
Subject Draft text on replacement engines

Roger,

See the attached files for draft reg language for you and your members to consider. The replacement-engine provisions include language that reflects our recent discussions related changing §1068.240 to reflect an approach that is better tailored to partially complete engines. I needed to expedite the internal review process to be able to share a draft with you this week. As a result, there will likely be some further internal discussion on some of the fine print, but the overall direction is well accepted by the various EPA participants.

While I'm at it, I am including a file with a variety of technical amendments to part 1039 for nonroad diesel engines. I think most of these will be quite benign. The "low-hour" definition aligns with what we just adopted for marine diesel engines. We can talk more about any or all of these things once you have a chance to work through the material.

You should note that I will be out of the office next week, returning April 1.

Alan



replacement engines 03 21 08.doc



1039 amendments 03 21 08.doc

§1068.240 What are the provisions for exempting new replacement engines?

The prohibitions in §1068.101(a)(1) do not apply to a new replacement engine if it is exempt under this section.

(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). Paragraphs (b) and (c) describe two different approaches for exempting replacement engines where the engines are specially built to correspond to an earlier model year that was subject to less stringent standards than those that apply for current production. Paragraphs (e) and (f) describe a simpler approach for exempting partially complete replacement engines that are built under a certificate of conformity that is valid for producing engines for the current model year.

(b) You may produce any number of new replacement engines if all the following conditions are met:

(1) You produce a new engine to replace an engine already placed in service in a piece of equipment.

(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.

(3) You determine that you do not produce an engine certified to meet current requirements that has the appropriate physical or performance characteristics to repower the equipment. If the engine being replaced was made by a different company, you must make this determination also for engines produced by this other company. You must keep records to document your basis for making this determination.

(4) You or your agent takes possession of the old engine or confirms that the engine has been destroyed.

(5) If the old engine was subject to emission standards less stringent than those in effect when you produce the replacement engine, you must make the replacement engine in a configuration identical in all material respects to the old engine and meet all the requirements of §1068.265. You may alternatively make the replacement engine in a configuration identical in all material respects to another certified engine of the same or later model year, as long as the engine is not certified with a family emission limit higher than that of the old engine.

(c) You may produce a limited number of new replacement engines under the provisions of this paragraph

(c). You must comply with the requirements of paragraph (b) of this section for any number of replacement engines you produce in excess of what we allow under this paragraph (c). The following provisions apply to engines exempted under this paragraph (c):

(1) Determine the number of replacement engines you may produce under this paragraph (c) based on the percentage allowances specified for each category and subcategory of engines in Table 1 to this section. Calculate this number by multiplying the percentages from Table 1 to this section by your highest total U.S.-directed production volume from each of the previous three model years for all your certified engines from each category or subcategory, as applicable. Do not include any exempted engines you produce as part of your U.S.-directed production volume, even if those engines must meet emission standards as a condition of the exemption.

(2) Count every exempted replacement engine from your total U.S.-directed production volume that you produce in a given calendar year under this paragraph (c), including partially complete engines, except for the following:

(i) Engines built to specifications for a previous tier of standards under paragraph (b) of this section.

(ii) Partially complete engines exempted under paragraph (e) or (f) of this section.

(3) Note that a threshold allowance of 0 percent means that you may not use the provisions of this paragraph (c) for any engines in the identified category or subcategory. For example, this

paragraph (c) does not apply for engines with per-cylinder displacement at or above 2.5 liters.

(4) Send the Designated Compliance Officer a report by February 15 of the year following any year in which you produced exempted replacement engines under this paragraph (c). In your report include the total number of replacement engines you produce under this paragraph (c) for each category or subcategory, as appropriate, and the corresponding total production volumes determined under paragraph (c)(1) of this section. You may include this information in reports required by in the standard-setting part.

(d) Add a permanent label with your corporate name to engines exempted under paragraph (b) or (c) of this section. Include additional information on the label, as follows:

(1) Except as specified in paragraph (d)(3) of this section, add the following statement if the engine being replaced was not subject to any emission standards under this chapter:

THIS ENGINE DOES NOT COMPLY WITH U.S. EPA NONROAD EMISSION REQUIREMENTS. SELLING OR INSTALLING THIS ENGINE FOR ANY PURPOSE OTHER THAN TO REPLACE A NONROAD ENGINE BUILT BEFORE JANUARY 1, [Insert appropriate year reflecting when the earliest tier of standards began to apply to engines of that size and type] MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY.

(2) Except as specified in paragraph (d)(3) of this section, add the following statement if the engine being replaced was subject to emission standards less stringent than those that would otherwise apply to the replacement engine:

THIS ENGINE COMPLIES WITH U.S. EPA NONROAD EMISSION REQUIREMENTS FOR [Identify the appropriate emission standards (by model year, tier, or emission levels) for the replaced engine] ENGINES UNDER 40 CFR 1068.240. SELLING OR INSTALLING THIS ENGINE FOR ANY PURPOSE OTHER THAN TO REPLACE A [Identify the appropriate emission standards (by model year, tier, or emission levels) for the replaced engine] ENGINE MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY.

(3) For partially complete replacement engines exempted under paragraph (c) of this section, you may alternatively label the engine as described in paragraph (e) or (f) of this section, as appropriate.

(e) You may produce short blocks or other partially complete engines from a currently certified engine family as replacement components for in-use equipment powered by engines you originally produced under a valid certificate of conformity. Label these engines as follows:

(1) Except as specified in paragraph (e)(1) of this section, you must add a permanent label with your corporate name, the part number (or other identifying information), and the statement: "This replacement engine is exempt from emission standards under 40 CFR 1068.240(e)." If there is not enough space, you may alternatively add the statement: "REPLACEMENT ENGINE." You must be able to identify all the engine models and model years for which the partially complete engine may be properly used for replacement purposes. This label must be in a readily visible location, though it may be obscured after installation in a piece of equipment.

(2) If the original engine had a permanent label affixed to a component that is included in the replacement engine assembly, you must permanently attach a duplicate label in a similar location on the replacement engine; you must also identify the engine as a replacement engine, either on the emission control information label or on a separate label.

(f) You may produce fully assembled engines that are identical to engines covered by a current certificate of conformity demonstrating compliance with currently applicable standards where the engines will be installed as replacement engines in equipment subject to equipment-based standards. If the original engine had a permanent label, you must permanently attach a duplicate label on the replacement engine. Otherwise, you must include the following statement on a permanent label: "This replacement engine may be used with the following models: [identify models using any appropriate designations, model numbers, or family names]."

(g) 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.

(h) The provisions of this section may not be used to circumvent emission standards that apply to new engines under the standard-setting part. Anyone performing an initial installation of an exempted replacement engine is deemed to be a manufacturer of a new engine and subject to the prohibitions of §1068.101(a)(1). This applies to all engines exempted under this section.

Table 1 to §1068.240— Allowable thresholds for streamlined compliance provisions for new replacement engines

Engine category	Standard-setting part	Engine subcategories	Threshold
Locomotive	40 CFR part 1033	not applicable	—
Nonroad CI	40 CFR part 1039	disp. < 0.6 L/cyl	0.5 %
		0.6 < disp. < 1.2 L/cyl	0.5 %
		1.2 < disp. < 2.5 L/cyl	0.5 %
		disp. > 2.5 L/cyl	0 %
Marine CI	40 CFR part 1042	all engines	0 %
Marine SI	40 CFR part 1045	outboard	0.1 %
		personal watercraft	0.1 %
		sterndrive/inboard	0.5 %
Large SI	40 CFR part 1048	all engines	0.5 %
Recreational vehicles	40 CFR part 1051	ATV	0.1 %
		snowmobile	0.1 %
		off-highway motorcycle	0.1 %
Small SI	40 CFR part 1054	handheld	0.1 %
		Class 1	0.1 %
		Class 2	0.1 %

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

1. The authority citation for part 89 continues to read as follows:
Authority: 42 U.S.C. 7401 - 7671q.

Subpart B—[Amended]

2. Section 1039.102 is amended by revising paragraph (g)(4) to read as follows:
§1039.102 What exhaust emission standards and phase-in allowances apply for my engines in model year 2014 and earlier?

* * * * *

(g) * * *

(4) Special provisions for 37-56 kW engines. For engines at or above 37 kW and below 56 kW from model years 2008 through 2012, you must add information to the emission-related installation instructions to clarify the equipment manufacturer’s obligations under §1039.104(f).

3. Section 1039.135 is amended by revising paragraph (c)(4) to read as follows:
§1039.135 How must I label and identify the engines I produce?

* * * * *

(c) * * *

(4) State the power category or subcategory from §1039.101 or §1039.102 that determines the applicable emission standards for the engine family. For engines at or above 37 kW and below 56 kW from model years 2008 through 2012, and for engines less than 8 kW utilizing the provision at §1039.101(c), you must state the applicable PM standard for the engine family.

* * * * *

Subpart G—[Amended]

4. Section 1039.625 is amended by revising paragraph (d)(1), (e)(1), (e)(3), (f)(4), (g)(1) introductory text, (g)(1)(iv), (g)(2), and (m)(2) to read as follows:

§1039.625

* * * * *

(d) * * *

(1) If you use the provisions of **40 CFR** 1068.105(a) to use up your inventories of engines not certified to new emission standards, do not include these units in your count of equipment with exempted engines under paragraph (b) of this section. However, you may include these units in your count of total equipment you produce for the given year for the percentage calculation in paragraph (b)(1) of this section.

* * * * *

(e) * * *
(1) If you are using the provisions of paragraph (d)(4) of this section, engines must meet the applicable Tier 1 **or Tier 2** emission standards described in §89.112.

* * * * *
(3) In all other cases, engines at or above 56 kW and at or below 560 kW must meet the appropriate Tier 3 standards described in **40 CFR** 89.112. Engines below 56 kW and engines above 560 kW must meet the appropriate Tier 2 standards described in **40 CFR** 89.112.

(f) * * *
(4) **An e-mail address and phone number that will allow us to get further information about the engine or equipment.**

* * * * *
(g) * * *
(1) Before January 1 of the first year you intend to use the provisions of this section, send the Designated Compliance Officer ~~and the Designated Enforcement Officer~~ a written notice of your intent, including: * * *

(iv) The name and address of the company **you expect to produce** engines for the equipment **you manufacture** under this section.

* * * * *
(2) For each year that you use the provisions of this section, send the Designated Compliance Officer ~~and the Designated Enforcement Officer~~ a written report by March 31 of the following year. Identify the following things in your report:

- (i) The total count of engines you sold in the preceding year for each power category, based on actual U.S.-directed production information.
- (ii) The percentages of U.S.-directed production that correspond to the number of units in each power category and the cumulative numbers and percentages of units for all the units you have sold under this section for each power category. You may omit the percentage figures if you include in the report a statement that you will not be using the percent-of-production allowances in paragraph (b)(1) of this section.
- (iii) The engine supplier for equipment you produce under this section if this is different than you specified under paragraph (g)(1)(iv) of this section.**

* * * * *
(m) * * *
(2) To apply for exemptions under this paragraph (m), send the Designated Compliance Officer ~~and the Designated Enforcement Officer~~ a written request as soon as possible before you are in violation. In your request, include the following information:

* * * * *

5. Section 1039.626 is amended by revising paragraphs (a)(2), (a)(9)(ii)(B), (a)(9)(iv), (b)(1) introductory text, and (b)(2) to read as follows:

§1039.626 What special provisions apply to equipment imported under the equipment-manufacturer flexibility program?

* * * * *

(a) * * *

(2) Name an agent for service ~~of process~~ 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.

* * * * *

(9) * * *

(ii) * * *

(B) Get us to approve a waiver from the bonding requirement **if you can show that you meet the asset thresholds described in 40 CFR 1054.690.**

* * * * *

(iv) You will forfeit the proceeds of the bond posted under this section if you need to satisfy any U.S. **administrative settlement agreement**, administrative final order or judicial judgment against **you arising from your violation of this chapter**, or violation of 18 U.S.C. 1001, 42 U.S.C. 7413(c)(2), or other applicable provisions of the Clean Air Act.

* * * * *

(b) * * *

(1) Before January 1 of the first year you intend to use the provisions of this section, send the Designated Compliance Officer ~~and the Designated Enforcement Officer~~ a written notice of your intent, including:

* * * * *

(2) For each year that you use the provisions of this section, send the Designated Compliance Officer ~~and the Designated Enforcement Officer~~ a written report by March 31 of the following year. Include in your report the total number of engines you imported under this section in the preceding calendar year, broken down by engine manufacturer and by equipment manufacturer.

6. Section 1039.801 is amended by revising the definition for “Low-hour” to read as follows:

§1039.801 What definitions apply to this part?

* * * * *

Low-hour means relating to an engine that has stabilized emissions and represents the undeteriorated emission level. This would generally involve less than 125 hours of operation for engines below 560 kW and less than 300 hours for engines at or above 560 kW.

* * * * *

Alan Stout/AA/USEPA/US
EPA-OAR,OTAQ,ASD
Sent by: Alan Stout
Received Date:
06/18/2008 08:05 AM
Transmission Date:
06/18/2008 08:05:08 AM

To
cc
bcc
Subject



"Gault, Roger"
<rgault@emamail.org>
Sent by: "Gault, Roger"
<rgault@emamail.org>
Received Date:
03/06/2008 12:37 PM
Transmission Date:
03/06/2008 12:37:05 PM

To Alan Stout/AA/USEPA/US@EPA
cc
Subject RE: EMA - Alan Stout - March 7, 2008 Joint EMA/EPA
Conference Call - EPA Incomplete Engines

Alan:

Attached is an industry strawman regarding partially complete engines that we would like to discuss in comparison to the draft regulatory text you provided.

In addition there are a number of concerns with the draft language provided (1068.230) regarding export exemptions we would like to discuss.

Talk to you tomorrow.

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-----Original Message-----

From: Stout.Alan@epamail.epa.gov [mailto:Stout.Alan@epamail.epa.gov]
Sent: Friday, February 29, 2008 8:20 AM
To: Gault, Roger
Subject: Re: EMA - Alan Stout - March 7, 2008 Joint EMA/EPA Conference Call - EPA Incomplete Engines

Roger,
This timing looks good. I am inviting -- Cleophas Jackson, Mike Wolfe, Bob Doyle, Anne Wick, David Alexander, and Chuck Moulis. I will try to make sure Byron is available if you want to talk about the replacement engine exemption with respect to previous-tier models. There may be some team substitutions, but this should give you a good idea of what lineup to expect.

Alan

"Gault, Roger"
<rgault@emamail.org>
Sent by: Alan Stout/AA/USEPA/US@EPA
"Vujovic, Andjelka" cc
<avujovic@emamail.org> Subject
EMA - Alan Stout - March 7, 2008
Joint EMA/EPA Conference Call -
EPA Incomplete Engines
Received Date: 02/28/2008 04:54
PM
Transmission
Date: 02/28/2008
04:54:54 PM

The purpose of the call is to discuss part 1068 draft regulatory language. Please advise who from EPA will be participating on the conference call. If you have any questions, please do not hesitate to contact me.

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DRAFT

Industry strawman: Partially complete engine introduction into commerce

Background:

EPA has proposed a definition of an engine and a partially complete engine as follows:

Engine means an engine block with an installed crankshaft. The term engine does not include engine blocks without an installed crankshaft, 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.

EPA has proposed that “engines” introduced into commerce (including partially complete engines) must meet applicable EPA regulatory requirements unless they meet explicit criteria to be exempt. For complete engines the replacement engine provisions as specified in 40 CFR Part 1068.240 apply. EPA has proposed a conditional allowance to sell (enter into commerce) partially complete engines where the buyer either has an EPA exemption or an EPA Certificate of Conformity for the engine produced using the purchased incomplete engine. These partially complete engines are subject to labeling and/or bill of lading control in addition to record keeping requirements. EPA has also clarified that partially complete engines may be shipped between multiple locations of the same parent company without being subject to exemption requirements provided that the application for the Certificate of Conformity includes documentation of this practice.

In meetings and informal discussions EPA has proposed that service replacement partially complete engines (typically short block assemblies) would be subject to the same provisions as complete replacement engines (40 CFR Part 1068.240).

Industry strawman:

Industry must have the ability to sell (introduce into commerce) partially complete engines for a variety of product uses including: (i) secondary engine manufacture; (ii) service replacement parts; and (iii) movement of partially complete engines between different companies or divisions of a parent organization that may be of a different name..

The draft proposal to allow the movement of partially complete engines between different locations of the same parent company is directionally correct but must be clarified such that current business practices are not required to change substantially and additional product identification or labeling are not required.

The draft proposal to allow the sale of partially complete engines to secondary engine manufacturers must be modified to allow the engine manufacturer to ship and the secondary engine manufacturer to receive partially complete engines in advance of a Certificate of Conformity being obtained. The existing manufacturer owned exemption and/or test exemption appear to provide this flexibility provided that they are viable.

The concept of using the replacement engine provisions for service replacement partially complete engines is not viable and must be replaced. Industry proposes that the definition of a partially complete engine proposed in 1068.30 be revised such that an engine that is missing only an aftertreatment component is considered a complete engine utilizing the provisions defined in 1068.260 and/or 1068.261 and a further example of an incomplete engine be added describing a long block assembly: A long block consisting of a short block plus a cylinder head but missing components necessary for the engine to operate. The proposed sections 1068.240(f) and (g) should be removed and a new section (i.e. 1068.241) be added to explicitly define the requirements for incomplete engines introduced into commerce for service replacement purposes.

1068.241 What provisions apply to partially-complete engines used for service?

This section defines the provisions applicable to partially complete engines used to service (i.e. rebuild or repair) existing engines. Examples of a partially complete engine include a short block, long block, or complete block assembly. This section applies to partially complete engines used to service engines meeting the current emissions level (i.e. the emissions level in effect at the time the partially complete engine was produced) and it applies to partially complete engines used to service engines meeting a previous emissions level (including partially complete engines used to service engines that were not certified to any emissions level). It is a violation of 1068.101(a)(1) to use the partially complete engine to construct a new uncertified engine.

See section 1068.240 for provisions applicable to complete engines used to replace engines meeting an earlier emissions standard, or to replace engines not certified to any emissions standard. See section 1068.262 for provisions applicable to shipping partially complete engines to a secondary engine manufacturer. See section 1068.260(c) for the provisions applicable to shipping partially complete engines between two facilities owned by the same manufacturer.

(a) You must either label the partially complete engine or the package containing such engine with the following information.

- (1) Company name of the manufacturer of record. This manufacturer of record must be known to EPA by holding, or having previously held, a Certificate of Conformity;
- (2) The statement: “**Service use only**”.
- (3) An identification number from which the manufacturer of record can provide, upon request, the intended application(s) of the partially complete engine

The label need not be permanent, but should be attached in such a way that it cannot be separated from the engine or engine packaging without deliberate effort.

In addition the customs importation form (EPA Form 3520-21) will require revision to: (i) agree with the revised EPA definition of an engine and incomplete engine; (ii) add indication of partially complete engines being imported between different portions of the same parent company; (iii) modify the incomplete engine identification to include clarification of partially complete engines being imported where the recipient has an EPA Certificate of Conformity (including prior to a certificate being applied for), and (iv) provide an option to identify service replacement partially complete engines including the respective option selected by the manufacturer.