

**Environmental Protection Agency**

**§ 1039.2**

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**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 .....	<sup>1</sup> 2008
19 ≤ kW < 56 .....	<sup>2</sup> 2008
56 ≤ kW < 130 .....	2012
130 ≤ kW ≤ 560 .....	2011
kW > 560 .....	2011

<sup>1</sup>As 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.

<sup>2</sup>As 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 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]

**§ 1039.2 Who is responsible for compliance?**

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, especially for issues related to certification.

[75 FR 22988, Apr. 30, 2010]

## § 1039.5

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### § 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 certified under 40 CFR part 1033.

(ii) Engines in locomotives that are exempt from the standards of 40 CFR part 92 or 1033 pursuant to the provisions of 40 CFR part 1033 or 1068 (except for the provisions of 40 CFR 1033.150(e)).

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

(i) Engines in locomotives exempt from 40 CFR part 1033 pursuant to the provisions of 40 CFR 1033.150(e).

(ii) Locomotive engines excluded from the definition of locomotive in 40 CFR 1033.901.

(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 (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 installed in reduced-scale models of vehicles

that are not capable of transporting a person are not subject to the provisions of this part 1039.

(e) *Engines used in recreational vehicles.* Engines certified to meet the requirements of 40 CFR part 1051 or are otherwise subject to 40 CFR part 1051 (for example, engines used in snowmobiles and all-terrain vehicles) 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; 73 FR 59191, Oct. 8, 2008; 75 FR 22988, Apr. 30, 2010]

### § 1039.10 How is this part organized?

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.

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

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

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

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

[69 FR 39213, June 29, 2004, as amended at 70 FR 40462, July 13, 2005; 72 FR 53129, Sept. 18, 2007]

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### § 1039.15 Do any other regulation parts apply to me?

(a) Part 1065 of this chapter describes procedures and equipment specifications for testing engines to measure exhaust emissions. Subpart F of this part 1039 describes how to apply the provisions of part 1065 of this chapter to determine whether engines meet the exhaust emission standards in this part.

(b) The requirements and prohibitions of part 1068 of this chapter apply to everyone, including anyone who manufactures, imports, installs, owns, operates, or rebuilds any of the engines subject to this part 1039, or equipment containing these engines. Part 1068 of this chapter describes general provisions, including these seven areas:

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

(2) Rebuilding and other aftermarket changes.

(3) Exclusions and exemptions for certain engines.

(4) Importing engines.

(5) Selective enforcement audits of your production.

(6) Defect reporting and recall.

(7) Procedures for hearings.

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

[69 FR 39213, June 29, 2004, as amended at 75 FR 22988, Apr. 30, 2010]

### § 1039.20 What requirements from this part apply to excluded stationary engines?

The provisions of this section apply for engines built on or after January 1, 2006.

(a) You must add a permanent label or tag to each new engine you produce or import that is excluded under § 1039.1(c) as a stationary engine and is not required by 40 CFR part 60, subpart III, to meet the requirements of this part 1039, or the requirements of 40 CFR parts 89, 94 or 1042, that are equivalent to the requirements applicable to marine or land-based nonroad engines for the same model year. To meet labeling requirements, you must do the following things:

(1) Attach the label or tag in one piece so no one can remove it without destroying or defacing it.

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

(3) Make sure it is durable and readable for the engine's entire life.

(4) Write it in English.

(5) Follow the requirements in § 1039.135(g) regarding duplicate labels if the engine label is obscured in the final installation.

(b) Engine labels or tags required under this section must have the following information:

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

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

(3) State the engine displacement (in liters) and maximum engine power (or in the case of fire pumps, NFPA nameplate engine power).

(4) State: "THIS ENGINE IS EXEMPTED FROM THE REQUIREMENTS OF 40 CFR PARTS 89 AND 1039 AS A "STATIONARY ENGINE." INSTALLING OR USING THIS ENGINE IN ANY OTHER APPLICATION MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY."

(c) Stationary engines required by 40 CFR part 60, subpart III, to meet the requirements of this part 1039, or part 89, 94 or 1042, must meet the labeling requirements of 40 CFR 60.4210.

[69 FR 39213, June 29, 2004, as amended at 71 FR 39185, July 11, 2006; 76 FR 37977, June 28, 2011]

### § 1039.30 Submission of information.

(a) This part includes various requirements to record data or other information. Refer to § 1039.825 and 40 CFR 1068.25 regarding recordkeeping requirements. Unless we specify otherwise, 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 § 1039.255 and 40 CFR 1068.101 describe your obligation

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to report truthful and complete information and the consequences of failing to meet this obligation. This includes information not related to certification.

(c) Send all reports and requests for approval to the Designated Compliance Officer (see §1039.801).

(d) Any written information we require you to send to or receive from another company is deemed to be a required record under this section. Such records are also deemed to be submissions to EPA. We may require you to send us these records whether or not you are a certificate holder.

[75 FR 22988, Apr. 30, 2010]

**Subpart B—Emission Standards and Related Requirements**

**§ 1039.101 What exhaust emission standards must my engines meet after the 2014 model year?**

The exhaust emission standards of this section apply after the 2014 model year. Certain of these standards also apply for model year 2014 and earlier.

This section presents the full set of emission standards that apply after all the transition and phase-in provisions of §1039.102 and §1039.104 expire. See §1039.102 and 40 CFR 89.112 for exhaust emission standards that apply to 2014 and earlier model years. Section 1039.105 specifies smoke standards.

(a) *Emission standards for transient testing.* Transient exhaust emissions from your engines may not exceed the applicable emission standards in Table 1 of this section. Measure emissions using the applicable transient test procedures described in subpart F of this part. The following engines are not subject to the transient standards in this paragraph (a):

- (1) Engines above 560 kW.
- (2) Constant-speed engines.

(b) *Emission standards for steady-state testing.* Steady-state exhaust emissions from your engines may not exceed the applicable emission standards in Table 1 of this section. Measure emissions using the applicable steady-state test procedures described in subpart F of this part.

TABLE 1 OF § 1039.101—TIER 4 EXHAUST EMISSION STANDARDS AFTER THE 2014 MODEL YEAR, G/KW-HR <sup>1</sup>

Maximum engine power	Application	PM	NO <sub>x</sub>	NMHC	NO <sub>x</sub> +NMHC	CO
kW < 19	All	≤ 0.40			7.5	≤ 6.6
19 ≤ kW < 56	All	0.03			4.7	≤ 5.0
56 ≤ kW < 130	All	0.02	0.40	0.19		5.0
130 ≤ kW ≤ 560	All	0.02	0.40	0.19		3.5
	Generator sets	0.03	0.67	0.19		3.5
kW > 560	All except generator sets	0.04	3.5	0.19		3.5

<sup>1</sup> Note that some of these standards also apply for 2014 and earlier model years. This table presents the full set of emission standards that apply after all the transition and phase-in provisions of § 1039.102 expire.

<sup>2</sup> See paragraph (c) of this section for provisions related to an optional PM standard for certain engines below 8 kW.

<sup>3</sup> The CO standard is 8.0 g/kW-hr for engines below 8 kW.

<sup>4</sup> The CO standard is 5.5 g/kW-hr for engines below 37 kW.

(c) *Optional PM standard for engines below 8 kW.* You may certify hand-startable, air-cooled, direct injection engines below 8 kW to an optional Tier 4 PM standard of 0.60 g/kW-hr. The term hand-startable generally refers to engines that are started using a hand crank or pull cord. This PM standard applies to both steady-state and transient testing, as described in paragraphs (a) and (b) of this section. Engines certified under this paragraph (c) may not be used to generate PM or NO<sub>x</sub>+NMHC emission credits under the provisions of subpart H of this part.

These engines may use PM or NO<sub>x</sub>+NMHC emission credits, subject to the FEL caps in paragraph (d)(1) of this section.

(d) *Averaging, banking, and trading.* You may generate or use emission credits under the averaging, banking, and trading (ABT) program, as described in subpart H of this part. This requires that you specify a family emission limit (FEL) for each pollutant you include in the ABT program for each engine family. These FELs serve as the emission standards for the