

PART 9

FINAL REGULATION ORDER TEST PROCEDURES

Part I – F (Part 1068)

(2011 and Later Model Years)

Tier 4 Off-Road Compression-Ignition Engines

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FINAL REGULATION ORDER TEST PROCEDURES

Note: This appendix shows the entirety of regulatory amendments to the test procedures titled below, which were approved by the Air Resources Board on December 16, 2011, and refined via subsequent conforming modifications authorized under Resolution 11-41. The source for these test procedures is Part 1068 of the “California Exhaust Emission Standards and Test Procedures for New 2008 and Later Tier 4 Off-Road Compression Ignition Engines, Part I-C” (Part I-C), adopted October 20, 2005. Part 1039 and Part 1065 of those test procedures have been updated in separate documents titled “California Exhaust Emission Standards and Test Procedures for New 2011 and Later Tier 4 Off-Road Compression Ignition Engines, Part I-D” (Part I-D), and “California Exhaust Emission Standards and Test Procedures for New 2011 and Later Tier 4 Off Road Compression Ignition Engines, Part I-F” (Part I-F), respectively. The proposed modifications to this document are, in large part, incorporated directly or by reference from 40 Code of Federal Regulations (CFR) part 1068, subparts A, B, C, D, E, F, and G, including Appendix I and II to part 1068, last amended June 28, 2011, and the subparts of 40 CFR Part 60, 40 CFR Part 85, 40 CFR Part 86, 40 CFR Part 89, 40 CFR Part 92, and 40 CFR Part 1033 that are internally referenced within 40 CFR Part 1068. This document is incorporated by reference in Title 13, California Code of Regulations, Section 2421(a)(4)(B). These amendments are formatted in a style to indicate changes from the existing test procedures. All existing language is indicated by plain type. All additions to the existing language are indicated by underlined type (except that some existing headings within the test procedures were underlined originally for emphasis, and remain so, and thus do not constitute new language). All deletions to the existing language are indicated by ~~strikeout~~. Additionally, to facilitate lengthy and extensive revisions of the existing text, the terms “DELETE” and “REPLACE WITH” or “ADD” are used to denote changes from the existing test procedures and do not generally indicate the incorporation of federal provisions as this convention is normally used. Only those sections containing the modifications from the existing language are included. All other portions remain unchanged and are indicated by the notation [* * * * *] for reference. If there is any conflict between the provisions of this document and the California Health and Safety Code, Division 26, or Title 13 of the California Code of Regulations (CCR), the Health and Safety Code and Title 13 apply.

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State of California
AIR RESOURCES BOARD

**California Exhaust Emission Standards and Test Procedures for New 2011 and
Later Tier 4 Off-Road Compression-Ignition Engines**

PART I-GE

Adopted: October 20, 2005

Amended: October 25, 2012

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CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES FOR NEW 2008~~11~~ AND LATER TIER 4 OFF-ROAD COMPRESSION-IGNITION ENGINES, Part I-F

The following provisions of ~~Part 1039, Part 1065,~~ and Part 1068, Title 40, Code of Federal Regulations (CFR), as ~~proposed promulgated and last amended~~ by the United States Environmental Protection Agency on ~~the date listed~~ June 28, 2011, are ~~adopted~~ and incorporated herein by this reference into the existing California test procedures for 2008 model year and later off-road compression-ignition engines, hereafter known as the "California Exhaust Emission Standards and Test Procedures for New 2008~~11~~ and Later Tier 4 Off-Road Compression-Ignition Engines, Part I-F," except as altered or replaced by the provisions set forth below. All proposed changes indicated by the notation "*****" or by ~~strikeout~~/underline refer to the existing 2008 and Later California Test Procedures, Part I-C, as previously adopted by the Air Resources Board on October 20, 2005. References to other 40 CFR parts and sections refer to parts and sections incorporated in this or other ARB Test Procedures unless otherwise indicated.

PART 1068 – GENERAL COMPLIANCE PROVISIONS FOR ~~NONROAD~~ OFF-ROAD COMPRESSION-IGNITION ENGINE PROGRAMS

SOURCE: California Exhaust Emission Standards and Test Procedures for New 2008 and Later Tier 4 Off-Road Compression-Ignition Engines, Part I-C, Adopted October 20, 2005, predicated upon the requirements of 67 FR 68427, November 8, 2002, amended July 13, 2005, unless otherwise noted.

Subpart A – Applicability and Miscellaneous Provisions

§ 1068.1 Does this part apply to me?

* * * * *

{New section} ADD:

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

(a) See Title 13, Division 3, Chapter 9, Article 4, of the California Code of Regulations 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) Subpart A and subpart B of this part apply to engines and equipment, without regard to which is subject to certification requirements in Title 13, Division 3, Chapter 9, Article 4, of the California Code of Regulations.

(2) Subparts C, D, and E of this part apply to the engines or to the equipment, whichever is subject to certification requirements in Title 13, Division 3, Chapter 9, Article 4, of the California Code of Regulations.

(3) Subpart F of this part generally applies to the engines or to the equipment, whichever is subject to standards under Title 13, Division 3, Chapter 9, Article 4, of the California Code of Regulations. However, since subpart F of this part addresses in-use engines and equipment (in which the engine is installed in the equipment), the requirements in Subpart F do not always distinguish between engines and equipment.

(c) For issues related to testing, read the term “engines/equipment” to mean 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) When 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. When 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 California Health and Safety Code, Division 26, and corresponding regulations, except where the context indicates otherwise.

§ 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.

* * * * *

§ 1068.10 What provisions apply to confidential information?

* * * * *

§ 1068.15 ~~Who is authorized to represent the Air Resources Board?~~ What general provisions apply for Air Resources Board decision-making?

* * * * *

§ 1068.20 May ARB enter my facilities for inspections?

DELETE,
REPLACE WITH:

(a) Any engine/equipment manufacturer affected by these regulations, upon receipt of prior notice must admit or cause to be admitted during operating hours any ARB Enforcement Officer that has presented proper credentials to any of the following:

(1) Any facility where tests or procedures or activities connected with such tests or procedures are or were performed.

(2) Any facility where any new off-road compression-ignition engine/equipment is present and is being, has been, or will be tested.

(3) Any facility where a manufacturer constructs, assembles, modifies, or builds-up an engine into a certification engine that will be tested for certification.

(4) Any facility where any record or other document relating to any of the above is located.

(b) Upon admission to any facility referred to in paragraph (c)(1) of this Section, any ARB Enforcement Officer must be allowed:

(1) To inspect and monitor any part or aspect of such procedures, activities, and testing facilities, including, but not limited to, monitoring engine preconditioning, emissions tests and break-in, maintenance, and ~~engine~~ storage procedures.

(2) To verify correlation or calibration of test equipment; and,

(3) To inspect and make copies of any such records, designs, or other documents; and,

(4) To inspect and/or photograph any part or aspect of any such certification engine/equipment and any components to be used in the construction thereof.

(c) To permit an ARB determination whether production off-road compression-ignition engines/equipment conform in all material respects to the design specifications that apply to those engines/equipment described in the Executive Order certifying such engines and to standards prescribed herein. Engine/equipment manufacturers must, upon receipt of prior notice, admit any ARB Enforcement Officer, upon presentation of credentials, to:

(1) Any facility where any document design, or procedure relating to the translation of the design and construction of engines/equipment and emission related components described in the application for certification or used for certification testing into production engines/equipment is located or carried on; and,

(2) Any facility where any off-road compression-ignition engines/equipment to be introduced into commerce are manufactured or assembled.

(3) Any California retail outlet where any off-road compression-ignition engine/equipment is sold.

(d) On admission to any such facility referred to in this Section, any ARB Enforcement Officer must be allowed:

(1) To inspect and monitor any aspects of such manufacture or assembly and other procedures;

(2) To inspect and make copies of any such records, documents or designs; and,

(3) To inspect and photograph any part or aspect of any such new off-road compression-ignition engines/equipment and any component used in the assembly thereof that are reasonably related to the purpose of the Enforcement Officer's entry.

(e) Any ARB Enforcement Officer must be furnished by those in charge of a facility being inspected with such reasonable assistance as may be necessary to discharge any function listed in this paragraph. Each applicant for or recipient of certification is required to cause those in charge of a facility operated for its benefit to furnish such reasonable assistance without charge to the ARB irrespective of whether or not the applicant controls the facility.

(f) The duty to admit or cause to be admitted any ARB Enforcement Officer applies whether or not the applicant owns or controls the facility in question and applies both to domestic and foreign engine manufacturers and facilities. The ARB will not attempt to make any inspections that it has been informed that local law forbids. However, if local law makes it impossible to insure the accuracy of data generated at a facility, no informed judgment that an engine is certifiable or is covered by an Executive Order can properly be based on the data. It is the responsibility of the engine/equipment manufacturer to locate its testing and manufacturing facilities in jurisdictions where this situation will not arise.

(g) For purposes of this Section:

(1) "Presentation of credentials" means a display of a document designating a person to be an ARB Enforcement Officer.

(2) Where engine/equipment, component, or engine storage areas or facilities are

concerned, "operating hours" means all times during which personnel are at work in the vicinity of the area or facility and have access to it.

(3) Where facilities or areas other than those covered by paragraph (g)(2) of this Section are concerned, "operating hours" means all times during which an assembly line is in operation or during which testing, maintenance, break-in procedure, production or compilation of records, or any other procedure or activity is being conducted related to certification testing, translation of designs from the test stage to the production stage, or engine/equipment manufacture or assembly.

(4) "Reasonable assistance" includes, but is not limited to, providing clerical, copying, interpretation and translation services; making personnel available upon request to inform the ARB Enforcement Officer of how the facility operates and to answer questions; and performing requested emissions tests on any engine that is being, has been, or will be used for certification testing. Such tests must be nondestructive, but may require appropriate break-in. The engine/equipment manufacturer must be compelled to cause the personal appearance of any employee at such a facility before an ARB Enforcement Officer, upon written request from the Executive Officer for the appearance of any employee of a facility, and service of such request upon the engine/equipment manufacturer. Any such employee who has been instructed by the engine/equipment manufacturer to appear will be entitled to be accompanied, represented, and advised by counsel.

§ 1068.25 What information must I give to ARB?

* * * * *

(b) DELETE,
REPLACE WITH:

Manufacturers subject to the requirements of this part must establish and maintain records, perform tests, make reports and provide additional information that the Executive Officer may reasonably require under the California Health and Safety Code, Division 26, and corresponding regulations. This also applies to engines or equipment that are exempt from emission standards. Manufacturers must keep required records for eight years unless otherwise directed.

(c) ADD:

(c) Manufacturers are responsible for statements and information in the applications they provide for certification or any other requests or reports. If a manufacturer provides statements or information to another party for submission to ARB, the manufacturer is responsible for these statements and information as if it had submitted them to ARB directly. For example, knowingly submitting false information to someone else for inclusion in an application for certification would be deemed to be a submission of false information in violation of the California Health and Safety Code, Division 26, and corresponding regulations.

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

{Entire section text} DELETE,
REPLACE WITH:

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~~ part.

§ 1068.30 What definitions apply to this part?

{Introductory text} DELETE,
REPLACE WITH:

The definitions in ~~40 CFR §§1039.801 and 1065.1001~~ of the California Exhaust Emission Standards and Test Procedures for New 2011 and Later Tier 4 Off-Road Compression-Ignition Engines, Parts 1-D and 1-F, respectively, ~~as modified,~~ apply with the following substitutions, revisions, and additions:

40 CFR part 1039 DELETE,
REPLACE WITH:

40 CFR part 1039 or Part 1039 means Part 1039 and applicable subparts contained in these 2008 and Later Test procedures of the California Exhaust Emission Standards and Test Procedures for New 2011 and Later Tier 4 Off-Road Compression-Ignition Engines, PART I-D, when referenced in unrevised (i.e., “*****”) sections. When referenced in revised sections, the term 40 CFR part 1039 refers to the federal regulations of the same title, last amended on June 28, 2011.

ADD:

40 CFR part 1065 or Part 1065 means Part 1065 and applicable subparts of the California Exhaust Emission Standards and Test Procedures for New 2011 and Later Tier 4 Off-Road Compression-Ignition Engines, PART I-E, when referenced in unrevised (i.e., “*****”) sections. When referenced in revised sections, the term 40 CFR part 1065 refers to the federal regulations of the same title, last amended on June 28, 2011.

40 CFR part 1068 DELETE,
REPLACE WITH:

40 CFR part 1068 or Part 1068 means Part 1068 and applicable subparts contained in these 2008 and Later Test procedures of the California Exhaust Emission Standards and Test Procedures for New 2011 and Later Tier 4 Off-Road Compression-Ignition Engines, PART I-F, when referenced in unrevised (i.e., “*****”) sections. When referenced in revised sections, the term 40 CFR part 1068 refers to the federal regulations of the same title, last amended on June 28, 2011.

* * * * *

ADD:

Date of manufacture means one of the following:

(1) For engines, the date on which the crankshaft is installed in an engine block, with the following exceptions:

(i) Reserved.

(ii) Manufacturers may assign a date of manufacture at a point in the assembly process later than the date otherwise specified under this definition. For example, a manufacturer may use the build date printed on the label or stamped on the engine as the date of manufacture.

(2) For equipment, the date on which the engine is installed, unless otherwise specified in Title 13, Division 3, Chapter 9, Article 4, of the California Code of Regulations. Manufacturers may alternatively assign a date of manufacture later in the assembly process.

* * * * *

ADD:

Engine/equipment and engines/equipment mean engine(s) and/or equipment depending on the context. 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 DELETE,

REPLACE WITH:

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, or

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

* * * * *

ADD:

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 Title 13, Division 3, Chapter 9, Article 4, of the California Code of Regulations. Exempted engines/equipment not required to comply with the otherwise applicable requirements of Title 13, Division 3, Chapter 9, Article 4, (e.g., certification, reporting, warranty, etc.) of the California Code of Regulations or the applicable test procedures are still deemed to be “subject to” the standards of Title 13, Division 3, Chapter 9, Article 4, of the California Code of Regulations. 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.

* * * * *

Nonroad engine DELETE,
REPLACE WITH:

Nonroad engine means: an off-road engine as defined in §1039.801 of the California Exhaust Emission Standards and Test Procedures for New 2011 and Later Tier 4 Off-Road Compression-Ignition Engines, Part 1-D.

* * * * *

ADD:

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

* * * * *

ADD:

United States, when referenced in unrevised sections, generally means California, or within the jurisdiction of the California Air Resources Board, unless indicated otherwise by the context of the section.

* * * * *

ADD:

Void means to invalidate an Executive Order or an exemption ab initio. If we void an Executive Order or withdraw an exemption, all the engines/equipment introduced into California commerce under that family for that model year are considered noncompliant, and you are liable for all engines/equipment introduced into California commerce under the Executive Order and may face civil or criminal penalties or both. This applies equally to all engines/equipment in the family, including engines/equipment introduced into California commerce before we voided the Executive Order. If we void an

exemption, all the engines/equipment introduced into California commerce under that exemption are considered uncertified (or nonconforming), and you are liable for engines/equipment introduced into California commerce under the exemption and may face civil or criminal penalties or both. You may not introduce into California commerce any additional engines/equipment using the voided Executive Order or exemption.

* * * * *

§ 1068.35 What symbols, acronyms, and abbreviations does this part use?

* * * * *

{New section} ADD:
§1068.45 General labeling provisions.

The labeling provisions in Title 13, California Code of Regulations, §2424 apply.

Subpart B – Prohibited Actions and Related Requirements

§ 1068.101 What general actions does this regulation prohibit?

* * * * *

(b)(7) ADD:
(b)(7) Labeling.

(i) You may not remove or alter an emission control information label or other required permanent label except as specified in this paragraph (b)(7) or otherwise allowed by this chapter. Removing or altering an emission control information label is a violation of paragraph (b)(1) of this section. However, it is not a violation to remove a label in the following circumstances:

(A) The engine is destroyed, is permanently disassembled, or otherwise loses its identity such that the original title to the engine is no longer valid.

(B) The regulations specifically direct you to remove the label. For example, see §1068.235.

(C) The part on which the label is mounted needs to be replaced. In this case, you must have a replacement part with a duplicate of the original label installed by the certifying manufacturer or an authorized agent, except that the replacement label may omit the date of manufacture if applicable. Labels must be permanently attached to parts that will not normally be replaced, except for replacements in unusual circumstances, such as damage in a collision or other accident.

(D) The original label is incorrect, provided that it is replaced with the correct label from the certifying manufacturer or an authorized agent. This allowance to replace incorrect labels does not affect whether the application of an incorrect original label is a violation.

(ii) Removing or altering a temporary or removable label contrary to the provisions of this paragraph (b)(7)(ii) is a violation of paragraph (b)(1) of this section.

(A) For labels identifying temporary exemptions, you may not remove or alter the label while the engine/equipment is in an exempt status. The exemption is automatically revoked for each engine/equipment for which the label has been removed.

(B) For temporary or removable consumer information labels, only the ultimate purchaser may remove the label.

(iii) You may not apply a false emission control information label. You also may not manufacture, sell, provide, distribute, or offer to sell false labels. The application, manufacture, sale, provision, distribution, or offer for sale of false labels is a violation of this section (such as paragraph (a)(1) or (b)(2) of this section). Note that applying an otherwise valid emission control information label to the wrong engine is considered to be applying a false label.

* * * * *

{New section} ADD:
§ 1068.103 What are the provisions related to the duration and applicability of Executive Orders?

(a) Engines/equipment covered by an Executive Order are limited to those that are produced during the period specified in the certificate and conform to the specifications described in the certificate and the associated application for certification. For the purposes of this paragraph (a), "specifications" includes any conditions or limitations identified by the manufacturer or ARB. For example, if the application for an Executive Order specifies certain engine configurations, the Executive Order does not cover any configurations that are not specified. We may ignore any information provided in the application that we determine is not relevant to a demonstration of compliance with applicable regulations, such as your projected production volumes in many cases.

(b) Unless Title 13, Division 3, Chapter 9, Article 4, of the California Code of Regulations specifies otherwise, determine the production period corresponding to each Executive Order as specified in this paragraph (b). In general, the production period is the manufacturer's annual production period identified as a model year.

(1) For engines/equipment subject to emission standards based on model years, the first day of the annual production period can be no earlier than January 2 of the calendar year preceding the year for which the model year is named, or the earliest date of manufacture for any engine/equipment in the engine family, whichever is later. The

last day of the annual production period can be no later than December 31 of the calendar year for which the model year is named or the latest date of manufacture for any engine/equipment in the engine family, whichever is sooner.

(2) Reserved.

(c) An Executive Order will not cover engines/equipment you produce with a date of manufacture earlier than the date you submit the application for certification for the family. You may start to produce engines/equipment after you submit an application for certification and before the effective date of an Executive Order, subject to the following conditions:

(1) The engines/equipment must conform in all material respects to the engines/equipment described in your application. Note that if we require you to modify your application, you must ensure that all engines/equipment conform to the specifications of the modified application.

(2) The engines/equipment may not be sold, offered for sale, introduced into commerce, or delivered for introduction into California commerce before the effective date of the Executive Order.

(3) You must notify us in your application for certification that you plan to use the provisions of this paragraph (c) and when you intend to start production. If Title 13, Division 3, Chapter 9, Article 4, of the California Code of Regulations specifies mandatory testing for production-line engines, you must start testing as directed in Title 13, Division 3, Chapter 9, Article 4, of the California Code of Regulations based on your actual start of production, even if that occurs before we approve your certification. You must also agree to give us full opportunity to inspect and/or test the engines/equipment during and after production. For example, we must have the opportunity to specify selective enforcement audits as allowed by Title 13, Division 3, Chapter 9, Article 4, of the California Code of Regulations as if the engines/equipment were produced after the effective date of the Executive Order.

(4) Reserved.

(d) Engines/equipment with a date of manufacture after December 31 of the calendar year for which a model year is named are not covered by the Executive Order for that model year. You must submit an application for a new Executive Order demonstrating compliance with applicable standards even if the engines/equipment are identical to those built before December 31.

(e) The flexible approach to naming the annual production period described in paragraph (b)(1) of this section is intended to allow you to introduce new products at any point during the year. This is based on the expectation that production periods generally run on consistent schedules from year to year. You may not use this flexibility

to arrange your production periods such that you can avoid annual certification as exemplified in 1068.103(f) below.

(f) An engine is generally assigned a model year based on its date of manufacture, which is typically based on the date the crankshaft is installed in the engine (see §1068.30). You may not circumvent the provisions of §1068.101(a)(1) by stockpiling engines with a date of manufacture before new or changed emission standards take effect by deviating from your normal production and inventory practices. (For purposes of this paragraph (f), normal production and inventory practices means those practices you typically use for similar families in years in which emission standards do not change. We may require you to provide us routine production and inventory records that document your normal practices for the preceding eight years.) For most engines you should plan to complete the assembly of an engine of a given model year within the first week after the end of the model year if new emission standards start to apply in that model year. For special circumstances it may be appropriate for your normal business practice to involve more time. For engines with per-cylinder displacement below 2.5 liters, we would consider it to be a violation to complete the assembly of an engine of a given model year more than 30 days after the end of the model year for that engine family if new emission standards start to apply in that year. For example, in the case where new standards apply in the 2010 model year, and your normal production period is based on the calendar year, you must complete the assembly of all your 2009 model year engines before January 31, 2010, or an earlier date consistent with your normal production and inventory practices. For engines with per-cylinder displacement at or above 2.5 liters, this time may not exceed 60 days. Note that for the purposes of this paragraph (f), an engine shipped under §1068.261 is deemed to be a complete engine. Note also that §1068.245 allows flexibility for additional time in unusual circumstances. Note finally that disassembly of complete engines and reassembly (such as for shipment) does not affect the determination of model year; the provisions of this paragraph (f) apply based on the date on which initial assembly is complete.

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

* * * * *

(a) DELETE,
REPLACE WITH:

(a) Transitioning to new engine-based standards. If new engine-based emission standards apply in a given model year, your equipment in that ~~model~~ calendar year must have engines that are certified to the new standards, except that you may continue to use up your normal inventories of earlier engines that were built before the date of the new or changed standards. For purposes of this paragraph (a), normal inventory applies for engines you possess and engines from your engine supplier's inventory. 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 standards starts to apply for the 2015 model year, you may order engines ~~based on~~ consistent

with 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- (or any earlier model year for which the same standards apply. You may not circumvent the provisions of §1068.101(a)(1) by stockpiling engines that were built before new or changed standards take effect. Similarly, you may not circumvent the provisions of §1068.101(a)(1) by knowingly installing engines that were stockpiled by engine suppliers in violation of §1068.103(f). Note that this allowance does not apply for equipment subject to equipment-based standards.

(b) DELETE:
REPLACE WITH:

(b) Installing engines or certified components. The provisions in §1068.101(a)(1) generally prohibit you from introducing into California commerce any new equipment that includes engines not covered by an Executive Order. In addition, 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. Not meeting the manufacturer's emission-related installation instructions is a violation of one or more of the prohibitions of §1068.101(b)(4). See §1068.261 for special provisions that apply when the engine manufacturer delegates final assembly of emission controls to you.

* * * * *

(d) DELETE,

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

(a) DELETE,
REPLACE WITH:

(a) Aftermarket parts and service. As the engine certifying manufacturer, you may not require anyone to use your parts or service to maintain or repair an engine or a piece of equipment, unless we approve this in your application for certification. It is a violation of the applicable provisions of the California Health and Safety Code, Division 26, and corresponding regulations for anyone to manufacture an engine or vehicle any part if one of its main effects is to reduce the effectiveness of the emission controls. See §1068.101(b)(2).

(b) DELETE,
REPLACE WITH:

(b) Certifying aftermarket parts. The manufacturer or rebuilder of an aftermarket engine/equipment part shall be required to certify according to the requirements of Title 13, CCR, Chapter 4, Article 2. The aftermarket part rebuilder or manufacturer must keep all records showing how the part affects emissions, and shall provide this information to the Executive Officer within 30 calendar days upon request.

* * * * *

(e) DELETE,
REPLACE WITH:

(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. Manufacturers may ask to limit diagnosis and repair to authorized service facilities, provided this does not limit their ability to meet their warranty obligations under §1068.115. The warranty period begins when the ~~engine~~ equipment is first placed into service. See the Title 13, Division 3, Chapter 9, Article 4, of the California Code of Regulations standard-setting part for specific requirements. It is a violation of the applicable provisions of the California Health and Safety Code, Division 26, and corresponding regulations for anyone to disable emission controls; see §1068.101(b)(1) and Title 13, Division 3, Chapter 9, Article 4, of the California Code of Regulations.

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

* * * * *

{All occurrences of “engine” and “engines” through (b)(2)} DELETE,
REPLACE WITH:
“engine/equipment” or “engines/equipment” respective.

* * * * *

(b)(6) DELETE,
REPLACE WITH:

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

§ 1068.120 What requirements must I follow to rebuild engines?

(a) DELETE,
REPLACE WITH:

(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 regulated pollutant, but you do not need to keep any records.

* * * * *

(c) DELETE,
REPLACE WITH:
(c) [Reserved]

* * * * *

(e) DELETE,
REPLACE WITH:

(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.~~ except as allowed by this paragraph (e). You may rebuild it to a different certified configuration of the same or later model year. You may also rebuild it to a certified configuration from an earlier model year as long as the earlier configuration is as clean or cleaner than the original configuration. For purposes of this paragraph (e), "as clean or cleaner" means one of the following:

(1) For engines not certified with a Family Emission Limit for calculating credits for a particular pollutant, this means that the same emission standard applied for both model years. This includes supplemental standards such as Not-to-Exceed standards.

(2) For engines certified with a Family Emission Limit for a particular pollutant, this means that the configuration to which the engine is being rebuilt has a Family Emission Limit for that pollutant that is at or below the standard that applied to the engine originally, and is at or below the original Family Emission Limit.

(f) DELETE,
REPLACE WITH:

~~(f) If the rebuilt engine replaces~~ A rebuilt engine may replace another certified engine in a piece of equipment, you must rebuild it only if the engine was rebuilt to a certified configuration of the same meeting equivalent or more stringent emission standards. Note that a certified configuration would generally include more than one model year as, or a later. A rebuilt engine being installed that is from the same model year than, the engine you are replacing, or a newer model year than the engine being replaced meets this requirement. The following examples illustrate the provisions of this paragraph (f):

(1) In most cases, you may use a rebuilt Tier 2 engine to replace a Tier 1 engine or another Tier 2 engine.

(2) You may use a rebuilt Tier 1 engine to replace a Tier 2 engine if the two engines differ only with respect to model year or other characteristics unrelated to emissions since such engines would be considered to be in the same configuration. This may occur if the Tier 1 engine had emission levels below the Tier 2 standards or if the Tier 2 engine was certified with a Family Emission Limit for calculating emission credits.

(3) You may use a rebuilt engine that originally met the Tier 1 standards without certification, as provided under §1068.265, to replace a certified Tier 1 engine. This may occur for engines produced under a Transition Program for Equipment Manufacturers such as that described in §1039.625.

(4) You may never replace a certified engine with an engine rebuilt to a configuration that does not meet ARB or U.S. EPA emission standards. Note that a configuration is considered to meet ARB or U.S. EPA emission standards if it was previously certified or was otherwise shown to meet emission standards.

* * * * *

(j)(1) DELETE,
REPLACE WITH:

(j)(1) Identify the hours of operation (or mileage, as appropriate) at the time of rebuild. These may be noted as approximate values if the engine has no hour meter (or odometer).

* * * * *

§ 1068.125 What happens if I violate the regulations?

* * * * *

Subpart C – Exemptions and Exclusions

§ 1068.201 Does ARB exempt or exclude any engines/equipment from the prohibited acts?

* * * * *

{All occurrences of “engine” and “engines” (a) through (f)} DELETE,
REPLACE WITH:
“engine/equipment” or “engines/equipment” respective.

* * * * *

(h) DELETE,
REPLACE WITH:

(h) You may ask us to modify the administrative requirements for the exemptions described in this subpart or in subpart D of this part. 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) DELETE,
REPLACE WITH:

(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 an Executive Order if you send us an application for certification showing that you meet all the applicable requirements from Title 13, Division 3, Chapter 9, Article 4, of the California Code of Regulations and pay the appropriate fee. ~~Also, in some cases~~ Alternatively, we may allow ~~manufacturers you to include in an existing certified engine family those engines/equipment you modify the engine as needed~~ (or otherwise demonstrate) to make it be identical to engines /equipment already covered by ~~a the~~ Executive Order. 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.

§ 1068.210 What are the provisions for exempting test engines/equipment?

(a) DELETE,
REPLACE WITH:

(a) We may exempt engines ~~that are not exempted under other sections of this part~~ that you will use for research, investigations, studies, demonstrations, or training. Note that you are not required to get an exemption under this section for engines that are exempted under other provisions of this part, such as the manufacturer-owned exemption in §1068.215.

* * * * *

{All occurrences of “engine” and “engines” (c) through (d)(5)(vi)} DELETE,
REPLACE WITH:
“engine/equipment” or “engines/equipment” respective.

* * * * *

(e)(3) DELETE,
REPLACE WITH:

(e)(3) Add a permanent, legible label, ~~written in block letters in English, to a readily visible part of each~~ all engines/equipment exempted engine. This label must include under this section, consistent with Title 13, California Code of Regulations, §2424, with at least the following items:

* * * * *

(e)(3)(iii) DELETE,
REPLACE WITH:

(e)(3)(iii) Engine displacement, ~~engine family identification (as applicable)~~, and model year of the engine/equipment (as applicable), or whom to contact for further information.

(e)(3)(vi) DELETE,
REPLACE WITH:

(e)(3)(vi) ~~The statement~~ One of these statements (as applicable):

(A) ~~"THIS ENGINE IS EXEMPT UNDER 40 CFR 1068.210 OR 1068.215 FROM CALIFORNIA EMISSION STANDARDS AND RELATED REQUIREMENTS."~~

(B) "THIS EQUIPMENT IS EXEMPT FROM CALIFORNIA EMISSION STANDARDS AND RELATED REQUIREMENTS."

The combining of similar federal statements and/or citations with California statements and/or citations on these labels is permitted with Executive Officer approval.

* * * * *

(e)(5) DELETE,
REPLACE WITH:

(e)(5) Tell us the final disposition of the engines/equipment.

§ 1068.215 What are the provisions for exempting manufacturer-owned engines/equipment?

(a) DELETE,
REPLACE WITH:

(a) You are eligible for the exemption for manufacturer-owned engines/equipment only if you are ~~a certificate holder~~ the certifying manufacturer of record.

(b) DELETE,
REPLACE WITH:

(b) By provision of the California Health and Safety Code, Division 24, Part 5, Chapter 1, § 43014, a manufacturer may request the Executive Officer to issue an experimental permit for a nonconforming engine/equipment under the ownership and control of the manufacturer for the purposes of developing products, assessing production methods, or promoting engines/equipment in the marketplace. The engine/equipment shall not be loaned, leased, or sold to generate revenue, either by itself or for an engine installed in a piece of equipment.

(c) DELETE,

REPLACE WITH:

(c) To use this exemption, you must do three things:

(1) Establish, maintain, and keep adequately organized and indexed information on ~~each~~ all exempted engine 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 block letters in English, to a readily visible part of each~~ all engines/equipment exempted engine. ~~This label must include under this section, consistent with Title 13, California Code of Regulations, §2424, with~~ at least the following items:

(i) The label heading "EMISSION CONTROL INFORMATION".

(ii) Your corporate name and trademark.

(iii) ~~Engine displacement, engine Family identification (as applicable), and model year of the engine/equipment (as applicable), or whom to contact for further information.~~

(iv) ~~The statement~~ One of these statements (as applicable):

(A) "THIS ENGINE IS COVERED BY AN EXPERIMENTAL PERMIT AND IS EXEMPT FROM MEETING CALIFORNIA EMISSION REQUIREMENTS." ~~The referencing of similar federal requirements in combination with California references under this provision is permitted.~~

(B) "THIS EQUIPMENT IS EXEMPT FROM CALIFORNIA EMISSION STANDARDS AND RELATED REQUIREMENTS."

The combining of similar federal statements and/or citations with California statements and/or citations on these labels is permitted with Executive Officer approval.

§ 1068.220 What are the provisions for exempting display engines/equipment?

* * * * *

{All occurrences of "engine" and "engines" (a) through (d)} DELETE,
REPLACE WITH:
"engine/equipment" or "engines/equipment" respective.

(e) DELETE,
REPLACE WITH:

(e) To use this exemption, you must add a permanent, legible label, ~~written in block letters in English, to a readily visible part of each~~ all engines/equipment exempted engine. ~~This label must include under this section, consistent with Title 13, California Code of Regulations, §2424, with~~ at least the following items:

(1) The label heading "EMISSION CONTROL INFORMATION".

(2) Your corporate name and trademark.

(3) Engine displacement, ~~engine family identification (as applicable),~~ and model year of the engine/equipment (as applicable), or whom to contact for further information.

(4) ~~The statement~~ One of these statements (as applicable):

(i) "THIS ENGINE IS EXEMPT UNDER 40 CFR 1068.220 FROM CALIFORNIA EMISSION STANDARDS AND RELATED REQUIREMENTS."

(ii) "THIS EQUIPMENT IS EXEMPT FROM CALIFORNIA EMISSION STANDARDS AND RELATED REQUIREMENTS."

The combining of similar federal statements and/or citations with California statements and/or citations on these labels is permitted with Executive Officer approval.

* * * * *

§ 1068.225 What are the provisions for exempting engines/equipment for national security?

Entire section DELETE,
REPLACE WITH:

The federal provisions in Title 40, Code of Federal Regulations, §1068.225 (76 FR 37977, June 28, 2011) apply.

§ 1068.230 What are the provisions for exempting engines/equipment for export?

* * * * *

§ 1068.235 What are the provisions for exempting engines/equipment used solely for competition?

(a) DELETE,
REPLACE WITH:

(a) New engines/equipment you produce that are used solely for competition are generally excluded from emission standards. See Title 13, Division 3, Chapter 9, Article 4, of the California Code of Regulations s for specific provisions where applicable.

(b) DELETE,
REPLACE WITH:

(b) If you modify ~~an engine~~ any engines/equipment after ~~it has~~ they have been placed into service in California so ~~it they~~ will be used solely for competition, ~~it is~~ 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. You may not use the provisions of this paragraph (b) to circumvent the requirements that apply to the sale of new competition engines under Title 13, Division 3, Chapter 9, Article 4, of the California Code of Regulations.

(c) DELETE,
REPLACE WITH:

(c) If you modify ~~an engine~~ any engines/equipment under paragraph (b) of this section, you must destroy the original emission labels. If you loan, lease, sell, or give ~~one~~ any of these engines/equipment to someone else, you must tell the new owner (or operator, if applicable) in writing that ~~it they~~ may be used only for competition.

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

* * * * *

(c) DELETE,
REPLACE WITH:

(c) If the replacement engine being replaced is built to a configuration that was not certified subject to any emission standards under ~~this chapter~~ 13 CCR 2423, add a permanent label with your corporate name and trademark and the following language:

“THIS ENGINE DOES NOT COMPLY WITH CALIFORNIA OFF-ROAD EMISSION REQUIREMENTS. SALE OR INSTALLATION OF THIS ENGINE FOR ANY PURPOSE OTHER THAN AS A REPLACEMENT ENGINE FOR AN ENGINE MANUFACTURED PRIOR TO JANUARY 1, [Insert appropriate year reflecting when the earliest tier of emission standards began to apply to engines of that size and type] ~~IS~~ MAY BE A VIOLATION OF CALIFORNIA LAW SUBJECT TO CIVIL PENALTY.”

Beginning January 1, 2013, the following additional information shall also be included on the emission control label:

<u>ENGINE POWER:</u>	<u>{insert the advertised power of the specific engine configuration or the applicable power category for the engine family in kilowatts}</u>
<u>DATE OF MANUFACTURE:</u>	<u>{insert the engine build date per §1068.30}</u> ”

In lieu of including “Engine Power” or “Date of Manufacture” on the emissions control label, manufacturers may provide this information on a supplemental label attached to the engine in accordance with the provisions of this part and 13 CCR 2424.

The referencing of similar federal requirements in combination with California references under this provision is permitted.

(d) DELETE,
REPLACE WITH:

(d) If the replacement engine being replaced is built to a configuration that was certified subject to emission standards under 13 CCR 2423 less stringent than those in effect when you produce the replacement engine, add a permanent label with your corporate name and trademark and the following language:

~~“THIS ENGINE COMPLIES WITH CALIFORNIA OFF-ROAD AND U.S. EPA NONROAD EMISSION REQUIREMENTS FOR [insert [Identify the appropriate year reflecting when the applicable tier of emission standards (by model year, tier, or emission levels) for the replaced engine began to apply] ENGINES UNDER 13 CCR 2423(j) AND 40 CFR 1068.240. SELLING OR INSTALLING THIS ENGINE FOR ANY PURPOSE OTHER THAN TO REPLACE AN OFF-ROAD ENGINE BUILT BEFORE JANUARY 1 [insert [Identify the appropriate year reflecting when the next tier of emission standards (by model year, tier, or emission levels) for the replaced engine began to apply] OFF-ROAD ENGINE MAY BE A VIOLATION OF CALIFORNIA AND FEDERAL LAW SUBJECT TO CIVIL PENALTY.”~~

Beginning January 1, 2013, the following additional information shall also be included on the emission control label:

ENGINE POWER: {insert the certified power in kilowatts of the specific engine configuration, if applicable, otherwise insert advertised power in kilowatts}

REFERENCE FAMILY NAME: {insert the engine family name of the replacement engine as recorded in the Executive Order for the engine family to which the replacement engine was originally certified}

DATE OF MANUFACTURE: {insert the engine build date per §1068.30}”

In lieu of including “Engine Power,” Reference Family Name,” or “Date of Manufacture” on the emissions control label, manufacturers may provide this information on a supplemental label attached to the engine in accordance with the provisions of this part and 13 CCR 2424. Manufacturers may alternately state the applicable power category in kilowatts for the certified engine family on the emission control or supplemental label when indicating “Engine Power.”

Additionally, manufacturers may indicate the “Emissions Tier” of the replacement engine on the emissions control or supplemental label instead of the “Reference Family Name.” For the purpose of this section, “Emissions Tier” is the emissions standard designation (e.g., Tier 1, Tier 2, Tier 3, Tier 4i, Tier 4f) of the engine recorded in the Executive Order for the engine family to which the replacement engine was originally certified. Certified power means the configuration-specific power of the replacement engine as originally identified in the application for certification of the reference engine family (see §1039.205(a)). Advertised power means engine power as stated by the manufacturer in sales literature.

The referencing of similar federal requirements in combination with California references under this provision is permitted.

* * * * *

§ 1068.245 What temporary provisions address hardship due to unusual circumstances?

(a) DELETE,
REPLACE WITH:

(a) After considering the circumstances, we may permit you to introduce into California commerce engines ~~or~~/equipment that do not comply with emission-related requirements for a limited time if all the following conditions apply:

(a)(1) DELETE,
REPLACE WITH:

(a)(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 part~~.

* * * * *

(a)(3) through (f) DELETE,
REPLACE WITH:

(a)(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.~~

(4) Not having the exemption will jeopardize the solvency of your company

(b) If your unusual circumstances are only related to compliance with the model-year provisions of §1068.103(f), we may grant hardship under this section without a demonstration that the solvency of your company is in jeopardy as follows:

(1) You must demonstrate that the conditions specified in paragraphs (a)(1) through (3) of this section apply.

(2) Your engines/equipment must comply with standards and other requirements that would have applied if assembly were completed on schedule.

(3) You may generally request this exemption only for engines/equipment for which assembly has been substantially completed; you may not begin assembly of any additional engines/equipment under this exemption after the cause for delay has occurred. We may make an exception to this general restriction for secondary engine manufacturers.

(4) As an example, if your normal production process involves purchase of partially complete engines and a supplier fails to deliver all the ordered engines in time for your assembly according to your previously established schedule as a result of a fire at its factory, you may request that we treat those engine as if they had been completed on the original schedule. Note that we would grant relief only for those engines where you had a reasonable basis for expecting the engines to be delivered on time based on past performance and terms of purchase.

~~(b)~~(c) To apply for an exemption, you must send the Executive Officer or his/her designee a written request as soon as possible before you are in violation. In your request, show that you meet all the conditions and requirements in paragraph (a) of this section.

~~(c)~~(d) Include in your request a plan showing how you will meet all the applicable requirements as quickly as possible.

~~(d)~~(e) You must give us other relevant information if we ask for it.

~~(e)~~(f) We may include reasonable additional conditions on an approval granted under this section, including provisions to recover or otherwise address the lost environmental benefit or paying fees to offset any economic gain resulting from the exemption. For example, in the case of multiple tiers of emission standards, we may require that you meet the standards from the previous tier whether or not your hardship is granted under paragraph (b) of this section.

~~(f)~~(g) Add a permanent, legible label, ~~written in block letters in English, to a readily visible part of each engine~~ all engines/equipment exempted under this section. ~~This label must include, consistent with the labeling provisions in Title 13, California Code of Regulations, §2424, with 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,~~ or cubic centimeters), certified engine power if available, otherwise advertised power or power category (as applicable), and model year of the engine/equipment, (as applicable); or whom to contact for further information.

(4) ~~One of the following statements: A statement describing the engine's status as an exempted engine:~~

(i) If the engine/equipment does not meet any emission standards: add one of the following statements:

(A) "THIS ENGINE IS EXEMPT UNDER 40 CFR 1068.245 UNDER 13 CCR 2423(f) FROM EMISSION STANDARDS AND RELATED REQUIREMENTS."

(B) "THIS EQUIPMENT IS EXEMPT UNDER 13 CCR 2423(f) FROM EMISSION STANDARDS AND RELATED REQUIREMENTS."

The combining of similar federal statements and/or citations with California statements and/or citations on these labels is permitted with Executive Officer approval.

(ii) If the engines/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.

§ 1068.250 What are the provisions for extending compliance deadlines for small volume manufacturers and small businesses under hardship?

* * * * *

(k) DELETE,
REPLACE WITH:

(k) Add a permanent, legible label, ~~written in block letters in English, to a readily visible part of each engine to all engines/equipment~~ exempted under this section. ~~This label must include,~~ consistent with the labeling provisions in Title 13, California Code of Regulations, §2424, with 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,~~ or cubic centimeters), certified engine power if available, otherwise advertised power or power category (as applicable), and model year of the engine/equipment (as applicable); or whom to contact for further information.

~~(4) One of the following statements: A statement describing the engine's status as an exempted engine:~~

~~(i) If the engine/equipment does not meet any emission standards, add one of the following statements:~~

~~(A) "THIS ENGINE IS EXEMPT UNDER 40 CFR 1068.250, 13 CCR 2423(f) FROM EMISSION STANDARDS AND RELATED REQUIREMENTS."~~

~~(B) "THIS EQUIPMENT IS EXEMPT UNDER 13 CCR 2423(f) FROM EMISSION STANDARDS AND RELATED REQUIREMENTS."~~

The combining of similar federal statements and/or citations with California statements and/or citations on these labels is permitted with Executive Officer approval.

(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.

§ 1068.255 What are the provisions for exempting engines and components for hardship for equipment manufacturers and secondary engine manufacturers?

* * * * *

(b) DELETE,
REPLACE WITH:

(b) Engine exemption. As an engine manufacturer, you may produce nonconforming engines for the equipment we exempt in paragraph (a) of this section. You do not have to request this exemption for your engines, but you must have written assurance from equipment manufacturers that they need a certain number of exempted engines under this section. ~~Add a permanent, legible label, written in block letters in English, to a readily visible part of each exempted engine. This label must include at least the following items:~~ Label engines as follows, consistent with the labeling provisions in Title 13, California Code of Regulations, §2424:

(1) Engines. Add a permanent label to all engines/equipment exempted under this section with at least the following items:

~~(1)(i)~~ The label heading "EMISSION CONTROL INFORMATION".

~~(2)(ii)~~ Your corporate name and trademark.

~~(3)(iii)~~ Engine displacement (in liters), rated power, or cubic centimeters), certified engine power if available, otherwise advertised power or power category (as applicable), and model year of the engine/equipment, or whom to contact for further information.

(4) ~~One of the following statements:~~

~~(iv) If the engine does not meet any emission standards: "THIS ENGINE IS EXEMPT UNDER 13 CCR 2423(f) FROM EMISSION STANDARDS AND RELATED REQUIREMENTS."—The referencing of similar federal requirements in combination with California references under this provision is permitted.~~

~~(ii) If the engine meets alternate emission standards as a condition of an exemption under this section:~~

~~"THIS ENGINE COMPLIES WITH U.S. EPA NONROAD EMISSION REQUIREMENTS UNDER 40 CFR 1068.255."~~

The combining of similar federal statements and/or citations with California statements and/or citations on these labels is permitted with Executive Officer approval.

Additionally, 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) [Reserved].

* * * * *

{New section} ADD:

§ 1068.260 What general provisions apply for selling or shipping engines that are not yet in their certified configuration?

Except as specified in paragraph (e) of this section, all new engines in California are presumed to be subject to the prohibitions of §1068.101, which generally require that all new engines be in a certified configuration before being introduced into California 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 clarifications and exemptions related to these requirements for engines. The provisions of this section apply for engine-based standards.

(a) The provisions of this paragraph (a) apply for emission-related components that cannot practically be assembled before shipment because they depend on equipment design parameters.

(1) You do not need an exemption to ship an engine that does not include installation or assembly of certain emission-related components, if those components are shipped along with the engine. For example, you may generally ship aftertreatment devices along with engines rather than installing them on the engine before shipment. We may require you to describe how you plan to use this provision.

(2) You may ask us at the time of certification for an exemption to allow you to ship your engines without emission-related components. If we allow this, 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. See paragraph (d) of this section for additional provisions that apply in certain circumstances.

(b) 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.

(c) If you are the certifying manufacturer of record, partially complete engines shipped between two of your facilities are exempt, subject to the provisions of this paragraph (c), as long as you maintain ownership and control of the engines until they reach their destination. We may also allow this where you do not maintain actual ownership and control of the engines (such as hiring a shipping company to transport the engines), but only if you demonstrate that the engines will be transported only according to your specifications. See §1068.261(b) for the provisions that apply instead of this paragraph (c) for the special case of integrated manufacturers using the delegated-assembly exemption. Notify us of your intent to use this exemption in your application for an Executive Order, if applicable. Your exemption is effective when we grant you an Executive Order. You may alternatively request an exemption in a separate submission; for example, this would be necessary if you will not be the certifying manufacturer of record for the engines in question. We may require you to take specific steps to ensure that such engines are in a certified configuration before reaching the ultimate purchaser. Note that since this is a temporary exemption, it does not allow you to sell or otherwise distribute to ultimate purchasers an engine in an uncertified configuration. Note also that the exempted engine remains new and subject to emission standards (see definition of “exempted” in §1068.30) until its title is transferred to the ultimate purchaser or it otherwise ceases to be new.

(d) See §1068.261 for delegated-assembly provisions in which certifying manufacturers of record introduce into U.S. commerce engines that are not yet equipped with certain emission-related components.

(e) Engines used in hobby vehicles are not presumed to be engines subject to the prohibitions of §1068.101. Hobby vehicles are reduced-scale models of vehicles that are not capable of transporting a person. Some gas turbine engines are subject to the prohibitions of §1068.101, but we do not presume that all gas turbine engines are subject to these prohibitions. Other engines that do not have a valid Executive Order 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.

(f) While we presume that new non-hobby engines are subject to the prohibitions of §1068.101, we may determine that a specific engine is not subject to these prohibitions based on information you provide or other information that is available to us. For example, the provisions of this part 1068 and the standard-setting parts provide for

exemptions in certain circumstances. Also, some engines are subject to separate prohibitions under subchapter C instead of the prohibitions of §1068.101 (see for example, §89.1003).

§ 1068.260 DELETE,
REPLACE WITH:

§ 1068.260~~1~~ ~~What general~~ provisions apply for selling or shipping certified engines that are not yet in their certified configuration?

{Entire section text} DELETE,
REPLACE WITH:

This section describes an exemption that allows certifying manufacturers of record to sell or ship engines that are missing certain emission-related components if those components will be installed by an equipment manufacturer. This section does not apply to equipment subject to equipment-based standards. See the standard-setting part to determine whether and how the provisions of this section apply. This exemption is temporary as described in paragraph (f) of this section.

(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 do all the following:~~ subject to the provisions in this section.

(b) 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. For example, you may demonstrate compliance with the requirements of this section by maintaining a database showing how you pair aftertreatment components with the appropriate engines such that the final product is in its certified configuration.

(c) If you include the price of all aftertreatment components in the price of the engine and ship the aftertreatment components directly to the equipment manufacturer, or arrange for separate shipment by the component manufacturer to the equipment manufacturer, all the following conditions apply:

(1) Apply for and receive an Executive Order for the engine and its emission control system before shipment, as described in the standard-setting part. For an existing Executive Order, amend the application for certification by describing your plans to use the provisions of this section as described in paragraph (c)(8) of this section.

(2) Provide installation instructions in enough detail to ensure that the engine will be in its certified configuration if someone follows these instructions. Provide the installation instructions in a timely manner, generally directly after you receive an order for shipping engines or earlier. If you apply removable labels as described in paragraph (c)(7)(i) of this section, include an instruction for the equipment manufacturer to remove the label after installing the appropriate aftertreatment component.

~~(3) Have a contractual agreement with an~~ the 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. final assembly is complete. This agreement must also obligate the equipment manufacturer to provide the affidavits ~~and cooperate with the audits~~ required under paragraph ~~(a)(6)~~ (c)(4) of this section.

~~(4) Include the cost of all aftertreatment components in the cost of the engine.~~

~~(5) Ship the aftertreatment components directly to the equipment manufacturer, or arrange for separate shipment by the component manufacturer to the equipment manufacturer.~~

~~(6)~~ (4) Take appropriate additional steps to ensure that all engines will be in their a certified configuration when installed by the equipment manufacturer. At a minimum do the following:

(i), you must obtain annual affidavits from every equipment manufacturer to whom which you sell engines under this section. Include engines that you sell through to 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 and include confirmation that the number of aftertreatment devices received were sufficient for the number of engines involved.

~~(ii) If you sell more than 50~~

(5) [Reserved]

(6) Keep records to document how many engines per you produce under this exemption. Also, keep records to document your contractual agreements under paragraph (c)(3) of this section. Keep all these records for five years after the end of the applicable model year under this and make them available to us upon request.

(7) Make sure the engine has the emission control information label we require under the standard-setting part. Include additional labeling using one of the following approaches:

(i) Apply an additional removable label in a way that makes it unlikely that the engine will be installed in equipment other than in its certified configuration. The label must identify the engine as incomplete and include a clear statement that failing to install the aftertreatment device, or otherwise failing to bring the engine into its certified configuration, is a violation of federal law subject to civil penalty.

(ii) Add the statement "DELEGATED ASSEMBLY" to the permanent emission control information label. You may alternatively add the abbreviated statement "DEL ASSY" if there is not enough room on the label.

(8) 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 (d)(3) of this section, if applicable.

(iii) All other steps you plan to take under paragraph (c)(4) of this section.

(9) If one of your engines produced under this section is selected for production-line testing or a selective enforcement audit, you must arrange to get a randomly selected aftertreatment component from either the equipment manufacturer or the equipment manufacturer's supplier. You may keep an inventory of these randomly selected parts, consistent with good engineering judgment and the intent of this section. You may obtain such aftertreatment components from any point in the normal distribution from the aftertreatment component manufacturer to the equipment manufacturer. Keep records describing how you randomly selected these aftertreatment components, consistent with the requirements specified in the standard-setting part.

(10) Note that for purposes of importation, you may itemize your invoice to identify separate costs for engines and 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 for the engine that also include the value of aftertreatment components.

(d) If you do not include the price of all aftertreatment components in the price of the engine, you must meet all the conditions described in paragraphs (c)(1) through (9) of this section, with the following additional provisions:

(1) The contractual agreement described in paragraph (c)(3) of this section must include a commitment that the equipment manufacturer will do the following things:

(i) Purchase the aftertreatment components you have specified in your application for certification and keep records to document these purchases.

(ii) Cooperate with the audits described in paragraph (d)(3) of this section.

(2) You must have written confirmation that the equipment manufacturer has ordered the appropriate type of aftertreatment components for an initial shipment of engines under this section. For the purpose of this paragraph (d)(2), initial shipment means the first shipment of engines that are subject to new or more stringent emissions standard (or the first shipment of engines using the provisions of this section) to a given equipment manufacturer for a given engine family. For the purpose of this paragraph (d)(2), you may treat as a single engine family those engine families from different model years that differ only with respect to model year or other characteristics unrelated

to emissions. You must receive the written confirmation within 30 days after shipment. If you do not receive written confirmation within 30 days, you may not ship any more engines from that engine family to that equipment manufacturer until you have the written confirmation. Note that it may be appropriate to obtain subsequent written confirmations to ensure compliance with this section, as described in paragraph (c)(4) of this section.

(3) You must perform or arrange for audits of equipment manufacturers as follows:

(i) If you sell engines to 16 or more equipment manufacturers under the provisions of this section, you must annually ~~audit~~ perform or arrange for audits of 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~~ selected for auditing 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.

(ii) 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~~ perform or arrange for audits of each equipment manufacturer on average once every four model years. ~~—Audits~~

(iii) Starting with the 2019 model year, if you sell engines to fewer than 40 equipment manufacturers under the provisions of this section, you may ask us to approve a reduced auditing rate. We may approve an alternate plan that involves audits of each equipment manufacturer on average once every ten model years as long as you show that you have met the auditing requirements in preceding years without finding noncompliance or improper procedures.

(iv) To meet these audit requirements, you or your agent ~~must involve~~ at a minimum ~~inspect~~ the assembling ~~companies' facilities,~~ ~~companies'~~ procedures, and production records to monitor their compliance with your instructions, ~~must include investigation of~~ ~~investigate~~ some assembled engines, and ~~must~~ confirm that the number of aftertreatment devices shipped were sufficient for the number of engines produced. Where an equipment manufacturer is not located in the United States, you may conduct the audit at a distribution or port facility in the United States. ~~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 (d) of this section.~~

(iii) If you sell up to 50 engines per model year under this section, you must conduct audits as described in paragraph (a)(6)(ii) of this section or propose an alternative plan for ensuring that equipment manufacturers properly install aftertreatment devices.

~~(iv) If you produce engines and use them to produce equipment under the provisions of this section, you must take steps to ensure that your facilities, procedures, and production records are set up to ensure compliance with the provisions of this section, but you may meet your auditing responsibilities under this paragraph (a)(6) by maintaining a database showing how you pair aftertreatment components with the appropriate engines.~~

~~(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 (a)(6) of this section.~~

~~(iii) All other steps you plan to take under paragraph (a)(6) of this section.~~

~~(8) Keep records to document how many engines you produce under this exemption. Also,~~

~~(v) You must keep records to document your contractual agreements under paragraph (a)(3) of this section. Keep all of these records audits for five years after the end of the applicable 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~~

~~(e) The following provisions apply if you ship engines without air filters or other portions of the air intake system that are specifically identified by part. Apply an additional temporary label number (or tag in a way that makes it unlikely that the engine will be installed in equipment other than specific part reference) in the application for certification such that the shipped engine is not in its certified configuration. The label or tag must identify the You do not need an exemption under this section to ship engines without air intake system components if you instead describe in your installation instructions how equipment manufacturers should use components meeting certain functional specifications.~~

~~(1) If you are using the provisions of this section to ship an engine without aftertreatment, apply all the provisions of this section to ensure that each engine as incomplete and include a clear statement that failing to install the aftertreatment device, or otherwise bring the engine into, including its intake system, is in its certified configuration, is before it reaches the ultimate purchaser.~~

~~(2) If you are not using the provisions of this section to ship an engine without aftertreatment, shipping an engine without air-intake components that you have specified as part of its certified configuration will not be a violation of federal law subject to civil penalty the prohibitions in §1068.101(a) if you follow the provisions specified in~~

paragraph (b) or paragraphs (c)(1) through (9) of this section. We may require you to perform audits as specified in paragraph (d)(3) of this section should we have reason to suspect you have employed the provisions of this section improperly.

~~(b)~~ An engine you produce under this section becomes new when it is fully assembled, except for aftertreatment devices, for the first time. Use this date to determine the engine's model year.

~~(e)~~(f) 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 40 CFR 1068.101, §1068.101. Note that the engine's model year does not change based on the date the equipment manufacturer adds the aftertreatment device and/or air filter under this section.

~~(d)~~(g) You may use the provisions of this section for engines you sell to a distributor as described in this paragraph (g) using one of the following approaches:

(1) You may sell engines through a distributor if you comply with the provisions of paragraph (d) of this section with respect to the equipment manufacturer.

(2) You may treat the distributor as the equipment manufacturer as described in this paragraph (g)(2) for all applicable requirements and prohibitions, except that flexibility engine allocations normally afforded to equipment manufacturers under the provisions in §§1039.625 and 1039.626 would not apply, unless the distributor also qualifies as an equipment manufacturer under §1039.625. Such distributors must bring engines into their final certified configuration. This may include shipping the engine with the appropriate aftertreatment device and/or air filter, but without completing the assembly with all the components. The exemptions expire for such engines when the distributor no longer has control of them.

(h) You must notify us within 15 days if you find from an audit or another source that engines produced under this section are not in a certified configuration at the point of final assembly or that an equipment manufacturer has otherwise failed to meet its obligations under this section. If this occurs, send us a report describing the circumstances related to the noncompliance within 75 days after you notify us.

~~(e)~~(i) We may suspend, revoke, or void an exemption under this section, as follows:

(1) We may suspend or revoke your exemption for the entire engine family if we determine that a specific equipment manufacturer if any of the engines are not in their a certified configuration after installation in the equipment, or if you fail that manufacturer's equipment, or if we determine that the equipment manufacturer has otherwise failed to comply with the requirements of this section. We may also suspend or revoke your exemption for other engine families with respect to the equipment manufacturer unless you demonstrate that the noncompliance is limited to a specific engine family. You may

not use this exemption for future shipments to the affected equipment manufacturer without taking action beyond the minimum steps specified in this section, such as performing on-site audits.

(2) We may suspend or revoke your exemption for the entire engine family if we determine that you have failed to comply with the requirements of this section. If we suspend or revoke make an adverse decision with respect to the exemption for any of your engine families under this paragraph ~~(d)~~(i), this exemption will not apply for future certificates unless you ~~demonstrate~~ convince us that the factors causing the ~~nonconformity~~ noncompliance do not apply to the other engine families. We may suspend or revoke the exemption for shipments to a single facility where final assembly occurs also set additional conditions beyond the provisions specified in this section.

~~(2)~~(3) We may void your exemption for the entire engine family if you intentionally submit false or incomplete information or fail to keep and provide to EPA the records required by this section. Note that all records and reports required under this section (whether generated by the engine manufacturer, equipment manufacturer, or others) are subject to the prohibition in §1068.101(a)(2), which prohibits the submission of false or incomplete information. For example, the affidavits required by this section are considered a submission.

~~(f)~~(j) Engine manufacturers are liable for the in-use compliance, including misbuilds, of any engine that is exempt under this section.

~~(g)~~(k) It is a violation of the California Health and Safety Code, Division 26, and corresponding regulations and §1068.101(a)(1) for any person to ~~complete assembly of the~~ introduce into California commerce a previously exempted engine, including as part of a piece of equipment, without complying fully with the installation instructions.

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§ 1068.265 What provisions apply to engines/equipment that are conditionally exempted from certification?

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Subpart D – Imports

§ 1068.301 What general provisions apply?

{Entire section text} DELETE,
REPLACE WITH:

The provisions in Title 40, Code of Federal Regulations, §1068 Subpart D (76 FR 37977, June 28, 2011) apply for equipment introduced into commerce in California, but produced outside the United States. ARB may seek independent enforcement action against manufacturers for violations of this subpart D per the provisions of California

Health and Safety Code, Division 26, and corresponding regulations, which may include civil penalties and/or the revoking of Executive Orders.

§ 1068.305 How do I get an exemption or exclusion for imported engines/equipment?

{Entire section text} DELETE,
REPLACE WITH:
The provisions in §1068.301 apply.

* * * * *

(e) ADD:
(f)(e) For any engine whose destination is California, send the completed form to the Executive Officer of the Air Resources Board.

§ 1068.310 What are the exclusions for imported engines/equipment?

{Entire section text} DELETE,
REPLACE WITH:
The provisions in §1068.301 apply.

§ 1068.315 What are the permanent exemptions for imported engines/equipment?

{Entire section text} DELETE,
REPLACE WITH:
The provisions in §1068.301 apply.

§ 1068.320 How must I label an imported engine with a permanent exemption?

DELETE:

§ 1068.325 What are the temporary exemptions for imported engines/equipment?

{Entire section text} DELETE,
REPLACE WITH:
The provisions in §1068.301 apply.

§ 1068.330 DELETE.

§ 1068.335 What are the penalties for violations?

{Entire section text} DELETE,
REPLACE WITH:
The provisions in §1068.301 apply.

* * * * *

ADD:

(c) Under § 43017 of the California Health and Safety Code, the Air Resources Board may enjoin any violation of any provision of Subpart D of this part 1068.

§ 1068.360 What restrictions apply to assigning a model year to imported engines and equipment?

{Entire section text} DELETE,
REPLACE WITH:
The provisions in §1068.301 apply.

Subpart E – Selective Enforcement Auditing

§ 1068.401 What is a selective enforcement audit?

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§ 1068.405 What is in a test order?

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§ 1068.410 How must I select and prepare my engines?

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(e)(1) DELETE,
REPLACE WITH:

~~(e)(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. [Reserved]~~

* * * * *

(f) DELETE,
REPLACE WITH:

(f) Stabilizing emission levels. (1) Before you test production-line engines, you may operate the engine to stabilize the emission levels. Using good engineering judgment, operate your engines in a way that represents the way production engines will be used. You may operate each engine for no more than the greater of two periods:

(4i) 50 hours.

(2ii) The number of hours you operated your emission-data engine for certifying the engine family (see 40 CFR part 1065, subpart E, 76 FR 37977, June 28, 2011, 2010).

(2) [Reserved]

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§ 1068.415 How do I test my engines?

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(d) DELETE,
REPLACE WITH:

(d) Accumulate service on test engines at a minimum rate of 6 hours per engine during each 24-hour period. The first 24-hour period for service accumulation begins when you finish preparing an engine 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 engine operation for accumulating operating hours on your test engines to represent normal in-use engine operation for the engine family.

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§ 1068.420 How do I know when my engine family fails an SEA?

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§ 1068.425 What happens if one of my production-line engines exceeds the emission standards?

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§ 1068.430 What happens if an engine family fails an SEA?

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(c) DELETE,
REPLACE WITH:

~~(c) Up to 15 days after we suspend the certificate for an engine family, y~~ You may ask for a hearing to determine whether the tests and sampling methods were proper (see subpart G of this part)- up to 15 days after we suspend the Executive Order for a family. If we agree ~~before a hearing~~ that we used erroneous information in deciding to suspend the Executive Order before a hearing is held, we will reinstate the Executive Order.

§ 1068.435 May I sell engines from an engine family with a suspended Executive Order?

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§ 1068.440 How do I ask ARB to reinstate my suspended Executive Order?

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§ 1068.445 When may ARB revoke my Executive Order under this subpart and how may I sell these engines again?

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§ 1068.450 What records must I send to ARB?

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§ 1068.455 What records must I keep?

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Appendix A to Subpart E of Part 1068-Plans for Selective Enforcement Auditing

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Subpart F – Reporting Defects and Recalling Engines/Equipment

§ 1068.501 How do I report emission-related defects?

{Entire section text} DELETE,
REPLACE WITH:

The provisions in Title 40, Code of Federal Regulations, §1068.501 (76 FR 37977, June 28, 2011) apply.

§ 1068.505 How does the recall program work?

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§ 1068.510 How do I prepare and apply my remedial plan?

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§ 1068.515 How do I mark or label repaired engines/equipment?

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§ 1068.520 How do I notify affected owners?

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§ 1068.525 What records must I send to ARB?

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§ 1068.530 What records must I keep?

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§ 1068.535 How can I do a voluntary recall for emission-related problems?

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Subpart G – Hearings

§ 1068.601 What are the procedures for hearings?

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Appendix I to Part 1068 – Emission-Related Components

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Appendix II to Part 1068 – Emission-Related Parameters and Specifications

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