

independent attest requirements for the foreign refinery have made the commitments required in paragraphs (f)(3)(iii) and (h)(7)(iii) of this section; and

(v) The foreign refiner has met the bond requirements of paragraph (k) of this section.

(2) In any case where a foreign refiner uses an individual refinery baseline before final approval under paragraph (r)(1) of this section, and the foreign refinery baseline values that ultimately are approved by EPA are more stringent than the early baseline values used by the foreign refiner, the foreign refiner shall recalculate its compliance, ab initio, using the baseline values approved by the EPA, and the foreign refiner shall be liable for any resulting violation of the motor vehicle highway diesel fuel requirements.

(s) *Additional requirements for petitions, reports and certificates.* Any petition for approval to produce diesel fuel subject to the diesel foreign refiner program, any alternative procedures under paragraph (p) of this section, any report or other submission required by paragraphs (c), (f)(2), or (i) of this section, and any certification under paragraph (d)(3) of this section shall be:

(1) Submitted in accordance with procedures specified by the Administrator, including use of any forms that may be specified by the Administrator.

(2) Be signed by the president or owner of the foreign refiner company, or by that person's immediate designee, and shall contain the following declaration:

"I hereby certify: (1) That I have actual authority to sign on behalf of and to bind [insert name of foreign refiner] with regard to all statements contained herein; (2) that I am aware that the information contained herein is being certified, or submitted to the United States Environmental Protection Agency, under the requirements of 40 CFR part 80, subpart I, and that the information is material for determining compliance under these regulations; and (3) that I have read and understand the information being certified or submitted, and this information is true, complete and correct to the best of my knowledge and belief after I have taken reasonable and appropriate steps to verify the accuracy thereof.

"I affirm that I have read and understand the provisions of 40 CFR part 80, subpart I, including 40 CFR 80.620 apply to [insert name of foreign refiner]. Pursuant to Clean Air Act section 113(c) and Title 18, U.S.C. 1001, the penalty for furnishing false, incomplete or misleading information in

this certification or submission is a fine of up to \$10,000 U.S., and/or imprisonment for up to five years."

## **PART 89—CONTROL OF EMISSIONS FROM NEW AND IN-USE NONROAD COMPRESSION-IGNITION ENGINES**

60. The authority citation for part 89 continues to read as follows:

**Authority:** 42 U.S.C. 7521, 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7545, 7547, 7549, 7550, and 7601(a).

61. Section 89.2 is amended by revising the definition of "United States" to read as follows:

### **§ 89.2 Definitions.**

\* \* \* \* \*

*United States* means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, and the U.S. Virgin Islands.

\* \* \* \* \*

62. Section 89.112 is amended by revising the introductory text of paragraph (f)(1) to read as follows:

### **§ 89.112 Oxides of nitrogen, carbon monoxide, hydrocarbon, and particulate matter exhaust emission standards.**

\* \* \* \* \*

(f) \* \* \*

(1) *Voluntary standards.* Engines may be designated "Blue Sky Series" engines by meeting the voluntary standards listed in Table 3, which apply to all certification and in-use testing, as follows:

\* \* \* \* \*

63. Section 89.330 is amended by adding paragraph (e) to read as follows:

### **§ 89.330 Lubricating oil and test fuels.**

(e) *Low sulfur test fuel.* Upon request, for model years 2006 and/or 2007, the diesel test fuel shall be the diesel test fuel specified in 40 CFR 1065.205, with the following exception: The sulfur content must be 300–500 ppm instead of 7–15 ppm, subject to the provisions of this paragraph (e).

(1) To use this option, the manufacturer must:

(i) Ensure that ultimate purchasers of equipment using these engines are informed that the use of fuel meeting the 500 ppm specification is recommended.

(ii) Provide to equipment manufacturers labels to be applied at the fuel inlet recommending 500 ppm fuel.

(2) None of the engines in the engine family may employ sulfur-sensitive technologies.

(3) For engines at or above 130 kW, this option may be used in 2006 and

2007. For engines at or above 75 kW but less than 130 kW, this option may only be used in 2007.

64. A new part 1039 is added to subchapter U of chapter I, to read as follows:

## **SUBCHAPTER U—AIR POLLUTION CONTROLS**

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

### **Subpart A—Overview and Applicability**

Sec.

1039.1 Does this part apply for my engines?

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

1039.10 How is this part organized?

1039.15 Do any other regulation parts apply to me?

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

#### **1039.101 What exhaust emission standards must my engines meet?**

1039.102 What exhaust emission standards must my engines meet before model year 2014?

1039.104 Are there interim provisions that apply only for a limited time?

1039.105 What smoke standards must my engines meet?

1039.107 What evaporative emissions standards and requirements apply?

1039.110 [Reserved]

1039.115 What other requirements must my engines meet?

1039.120 What emission-related warranty requirements apply to me?

1039.125 What maintenance instructions must I give to buyers?

1039.130 What installation instructions must I give to equipment manufacturers?

1039.135 How must I label and identify the engines I produce?

### **Subpart C—Certifying Engine Families**

1039.201 What are the general requirements for obtaining a certificate of conformity?

1039.205 What must I include in my application?

1039.210 May I get preliminary approval before I complete my application?

1039.220 How do I amend the maintenance instructions in my application?

1039.235 What emission testing must I perform for my application for a certificate of conformity?

1039.240 How do I demonstrate that my engine family complies with exhaust emission standards?

1039.245 How do I determine deterioration factors from exhaust durability testing?

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

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

### **Subpart D—[Reserved]**

### **Subpart E—In-use Testing**

1039.401 General provisions.