
40 C.F.R. § 1039.665

Special provisions for use of engines in emergency situations.

This section specifies provisions that allow for temporarily disabling emission controls during qualified emergency situations. For purposes of this section, a qualified emergency situation is one in which the condition of an engine's emission controls poses a significant direct or indirect risk to human life. An example of a direct risk would be an emission control condition that inhibits the performance of an engine being used to rescue a person from a life-threatening situation. An example of an indirect risk would be an emission control condition that inhibits the performance of an engine being used to provide electrical power to a data center that routes "911" emergency response telecommunications.

(a) *Scope.* To facilitate temporarily disabling emission controls during a qualified emergency situation, manufacturers may apply for approval of auxiliary emission control devices (AECDs) under this section. Once activated, an AECD approved under this section may disable any emission controls as necessary to address a qualified emergency situation, subject to the limitations in this section. For the purposes of this section, automatically limiting engine performance to induce an operator to perform emission-related maintenance—such as refilling a DEF tank—is considered an emission control. AECDs approved under this section are not defeat devices, and their proper use during a qualified emergency situation is not prohibited under Clean Air Act section 203 (42 U.S.C. 7522). Manufacturers may apply for AECD approval at any time; however, we encourage manufacturers to obtain preliminary approval before submitting an application for certification. We may allow manufacturers to apply an approved AECD to engines and equipment that have already been placed into service.

(b) *AECD approval criteria.* We will approve an AECD where we determine that the following criteria have been met:

(1) The AECD's design must be consistent with good engineering judgment and the manufacturer must show that the AECD deactivates emission controls only to the extent necessary to address the expected emergency situation.

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