

**§ 1068.250**

the user, the revised text is set forth as follows:

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

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

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(e) 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.

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

(a) After considering the circumstances, we may extend the compliance deadline for you to meet new or revised emission standards, as long as you meet all the conditions and requirements in this section.

(b) To be eligible for this exemption, you must qualify under the standard-setting part for special provisions for small businesses or small-volume manufacturers.

(c) To apply for an extension, you must send the Designated Officer a written request. In your request, show that all the following conditions and requirements apply:

(1) You have taken all possible business, technical, and economic steps to comply.

(i) In the case of importers of engines produced by other companies, show that you attempted to find a manufacturer capable of supplying complying products as soon as you became aware of the applicable requirements, but were unable to do so.

(ii) For all other manufacturers, show that the burden of compliance costs prevents you from meeting the requirements of this chapter.

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

(3) No other allowances are available under the regulations in this chapter to avoid the impending violation.

(d) In describing the steps you have taken to comply under paragraph (c)(1) of this section, include at least the following information:

(1) Describe your business plan, showing the range of projects active or under consideration.

(2) Describe your current and projected financial standing, with and without the burden of complying fully with the applicable regulations in this chapter.

(3) Describe your efforts to raise capital to comply with regulations in this chapter (this may not apply for importers).

(4) Identify the engineering and technical steps you have taken or plan to take to comply with regulations in this chapter.

(5) Identify the level of compliance you can achieve. For example, you may be able to produce engines that meet a somewhat less stringent emission standard than the regulations in this chapter require.

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

(f) You must give us other relevant information if we ask for it.

(g) An authorized representative of your company must sign the request and include the statement: "All the information in this request is true and accurate, to the best of my knowledge."

(h) Send your request for this extension at least nine months before the relevant deadline. If different deadlines apply to companies that are not small-volume manufacturers, do not send your request before the regulations in question apply to the other manufacturers. Otherwise, do not send your request more than three years before the relevant deadline.

(i) We may include reasonable requirements on an approval granted under this section, including provisions to recover or otherwise address the lost environmental benefit. For example,

we may require that you meet a less stringent emission standard or buy and use available emission credits.

(j) We will approve extensions of up to one year. We may review and revise an extension as reasonable under the circumstances.

(k) Add a permanent, legible label, written in block letters in English, to a readily visible part of each engine exempted under this section. This label must include 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, and model year of the engine or whom to contact for further information.
- (4) The statement "THIS ENGINE IS EXEMPT UNDER 40 CFR 1068.250 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS."

EFFECTIVE DATE NOTE: At 69 FR 39268, June 29, 2004, §1068.250 was amended by revising paragraphs (d)(2), (d)(4), and (j), effective Aug. 30, 2004. For the convenience of the user, the revised text is set forth as follows:

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

\* \* \* \* \*

(d) \* \* \*

(2) Describe your current and projected financial status, with and without the burden of complying fully with the applicable regulations in this chapter.

\* \* \* \* \*

(4) Identify the engineering and technical steps you have taken or those you plan to take to comply with regulations in this chapter.

\* \* \* \* \*

(j) We will approve extensions of up to one model year. We may review and revise an extension as reasonable under the circumstances.

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

This section describes how, in unusual circumstances, we may exempt certain engines to prevent a hardship to an equipment manufacturer or a secondary engine manufacturer. This section does not apply to products that are subject to vehicle-based emission standards.

(a) *Equipment exemption.* As an equipment manufacturer, you may ask for approval to produce exempted equipment for up to 12 months. We will generally limit this to the first year that new or revised emission standards apply. Send the Designated Officer a written request for an exemption before you are in violation. In your request, you must show you are not at fault for the impending violation and that you would face serious economic hardship if we do not grant the exemption. This exemption is not available under this paragraph (a) if you manufacture the engine you need for your own equipment or if complying engines are available from other engine manufacturers that could be used in your equipment, unless we allow it elsewhere in this chapter. We may impose other conditions, including provisions to recover the lost environmental benefit. In determining whether to grant the exemptions, we will consider all relevant factors, including the following:

- (1) The number of engines to be exempted.
- (2) The size of your company and your ability to endure the hardship.
- (3) The amount of time you had to redesign your equipment to accommodate a complying engine.
- (4) Whether there was any breach of contract by an engine supplier.
- (5) The potential for market disruption.

(b) *Engine exemption.* As an engine manufacturer, you may produce non-conforming 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