

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?

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(d) * * *

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

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

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(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

§ 1068.260

40 CFR Ch. I (7-1-04 Edition)

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:

- (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 1068.255 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS."

(c) *Secondary engine manufacturers.* As a secondary engine manufacturer, you may ask for approval to produce exempted engines under this section for up to one year. We may require you to certify your engines to compliance levels above the emission standards that apply. For example, if you need an exemption from a second tier of standards, we may require you to meet the standards that applied to earlier model years.

(1) For the purpose of this section, a secondary engine manufacturer is a manufacturer that produces an engine by modifying an engine that is made by a different manufacturer for a different type of application. This includes, for example, automotive engines converted for use in industrial applications, or land-based engines converted for use in marine applications. This applies whether the secondary engine manufacturer is modifying a complete or partially complete engine and whether the engine was previously certified to emission standards or not. To be a secondary engine manufacturer, you must not be controlled by the manufacturer of the base engine (or by an entity that also controls the manufacturer of the base engine). In addition, equipment manufacturers that substantially modify engines become secondary engine manufacturers. For the purpose of this definition, "substantially modify" means changing an engine in a way that could change its emission characteristics.

(2) The provisions in paragraph (a) of this section that apply to equipment manufacturers requesting an exemption apply equally to you, except that you may manufacture the engines. Before we can approve the exemption under this section, you must commit to a plan to make up the lost environmental benefit.

(i) If you produce uncertified engines under this exemption, we will calculate the lost environmental benefit based on our best estimate of uncontrolled emission rates for your engines.

(ii) If you produce engines under this exemption that are certified to a compliance level less stringent than the emission standards that would otherwise apply, we will calculate the lost environmental benefit based on the compliance level you select for your engines.

(3) The labeling requirements in paragraph (b) of this section apply to your exempted engines; however, if you certify engines to specific compliance levels, state on the label the compliance levels that apply to each engine.

EFFECTIVE DATE NOTE: At 69 FR 39268, June 29, 2004, §1068.255 was amended by revising paragraph (c) introductory text, effective Aug. 30, 2004. For the convenience of the user, the revised text is set forth as follows:

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

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(c) *Secondary engine manufacturers.* As a secondary engine manufacturer, you may ask for approval to produce exempted engines under this section for up to 12 months. We may require you to certify your engines to compliance levels above the emission standards that apply. For example, the in the case of multiple tiers of emission standards, we may require you to meet the standards from the previous tier.

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§ 1068.260 What are the provisions for temporarily exempting engines for delegated final assembly?

(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