

§ 1068.245

40 CFR Ch. I (7–1–06 Edition)

§ 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:

(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.

(2) You exercised prudent planning and were not able to avoid the violation; you have taken all reasonable steps to minimize the extent of the nonconformity.

(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.

(b) To apply for an exemption, you must send the Designated Officer 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) Include in your request a plan showing how you will meet all the applicable requirements as quickly as possible.

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

(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.

(f) 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) One of the following statements:

(i) If the engine does not meet any emission standards: “THIS ENGINE IS EXEMPT UNDER 40 CFR 1068.245 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS.”

(ii) 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.

[67 FR 68347, Nov. 8, 2002, as amended at 69 FR 39268, June 29, 2004; 70 FR 40513, July 13, 2005]

§ 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 status, 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 those you 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 model 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) One of the following statements:

(i) If the engine does not meet any emission standards: "THIS ENGINE IS EXEMPT UNDER 40 CFR 1068.250 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS."

(ii) 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.

[67 FR 68347, Nov. 8, 2002, as amended at 69 FR 39268, June 29, 2004; 70 FR 40514, July 13, 2005]

§ 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