

§ 1068.265 What provisions apply to engines that are conditionally exempted from certification?

Engines produced under an exemption for replacement engines (§1068.240) or for hardship (§1068.245, §1068.250, or §1068.255) may need to meet alternate emission standards as a condition of the exemption. The standard-setting part may similarly exempt engines from all certification requirements, or allow us to exempt engines from all certification requirements for certain cases, but require the engines to meet alternate standards. In these cases, all the following provisions apply:

(a) Your engines must meet the alternate standards we specify in (or pursuant to) the exemption section, and all other requirements applicable to engines that are subject to such standards.

(b) You need not apply for and receive a certificate for the exempt engines. However, you must comply with all the requirements and obligations that would apply to the engines if you had received a certificate of conformity for them, unless we specifically waive certain requirements.

(c) You must have emission data from test engines using the appropriate procedures that demonstrate compliance with the alternate standards, unless the engines are identical in all material respects to engines that you have previously certified to standards that are the same as, or more stringent than, the alternate standards.

(d) Unless we specify otherwise elsewhere in the standard-setting part, you must meet the labeling requirements in the standard-setting part, with the following exceptions:

(1) Modify the engine-family designation by eliminating the character that identifies the model year.

(2) See the provisions of the applicable exemption for appropriate language to replace the compliance statement otherwise required in the standard-setting part.

(e) You may not generate emission credits for averaging, banking, or trading with engines meeting requirements under the provisions of this section.

(f) Keep records to show that you meet the alternate standards, as follows:

(1) If your exempted engines are identical to previously certified engines, keep your most recent application for certification for the certified engine family.

(2) If you previously certified a similar engine family, but have modified the exempted engine in a way that changes it from its previously certified configuration, keep your most recent application for certification for the certified engine family, a description of the relevant changes, and any test data or engineering evaluations that support your conclusions.

(3) If you have not previously certified a similar engine family, keep all the records we specify for the application for certification and any additional records the standard-setting part requires you to keep.

(g) We may require you to send us an annual report of the engines you produce under this section.

[70 FR 40515, July 13, 2005]

Subpart D—Imports**§ 1068.301 Does this subpart apply to me?**

(a) This subpart applies to you if you import into the United States engines or equipment subject to our emission standards or equipment containing engines subject to our emission standards.

(b) In general, engines that you import must be covered by a certificate of conformity unless they were built before emission standards started to apply. This subpart describes the limited cases where we allow importation of exempt or excluded engines.

(c) The U.S. Customs Service may prevent you from importing an engine if you do not meet the requirements of this subpart. In addition, U.S. Customs Service regulations may contain other requirements for engines imported into the United States (see 19 CFR Chapter I).

§ 1068.305 How do I get an exemption or exclusion for imported engines?

(a) Complete the appropriate EPA declaration form before importing any nonconforming engine. These forms are available on the Internet at <http://>

§ 1068.310

www.epa.gov/OTAQ/imports/ or by phone at 734-214-4100.

(b) If we ask for it, prepare a written request in which you do the following:

(1) Give your name, address, telephone number, and taxpayer identification number.

(2) Give the engine owner's name, address, telephone number, and taxpayer identification number.

(3) Identify the make, model, identification number, and original production year of each engine.

(4) Identify which exemption or exclusion in this subpart allows you to import a nonconforming engine and describe how your engine qualifies.

(5) Tell us where you will keep your engines if you might need to store them until we approve your request.

(6) Authorize us to inspect or test your engines as the Act allows.

(c) We may ask for more information.

(d) You may import the nonconforming engines you identify in your request if you get prior written approval from us. The U.S. Customs Service may require you to show them the approval letter. We may temporarily or permanently approve the exemptions or exclusions, as described in this subpart.

(e) Meet the requirements specified for the appropriate exemption in this part or the standard-setting part, including any labeling requirements that apply.

[67 FR 68347, Nov. 8, 2002, as amended at 69 FR 39269, June 29, 2004; 70 FR 40551, July 13, 2005]

§ 1068.310 What are the exclusions for imported engines?

If you show us that your engines qualify under one of the paragraphs of this section, we will approve your request to import such excluded engines. You must have our approval to import an engine under paragraph (a) of this section. You may, but are not required to request our approval to import the engines under paragraph (b) or (c) of this section. The following engines are excluded:

(a) *Engines used solely for competition.* Engines that you demonstrate will be used solely for competition are excluded from the restrictions on imports in §1068.301(b), but only if they are

40 CFR Ch. I (7-1-06 Edition)

properly labeled. See the standard-setting part for provisions related to this demonstration. Section 1068.101(b)(4) prohibits anyone from using these excluded engines for purposes other than competition.

(b) *Stationary engines.* The definition of nonroad engine in 40 CFR 1068.30 does not include certain engines used in stationary applications. Such engines are not subject to the restrictions on imports in §1068.301(b), but only if they are properly labeled. Section 1068.101 restricts the use of stationary engines for non-stationary purposes.

(c) *Other engines.* The standard-setting parts may exclude engines used in certain applications. For example, engines used in aircraft and very small engines used in hobby vehicles are generally excluded. Engines used in underground mining are excluded if they are regulated by the Mine Safety and Health Administration.

[67 FR 68347, Nov. 8, 2002, as amended at 69 FR 39269, June 29, 2004]

§ 1068.315 What are the permanent exemptions for imported engines?

We may approve a permanent exemption from the restrictions on imports under §1039.301(b) under the following conditions:

(a) *National security exemption.* You may import an engine under the national security exemption in §1068.225, but only if it is properly labeled.

(b) *Manufacturer-owned engine exemption.* You may import a manufacturer-owned engine, as described in §1068.215.

(c) *Replacement engine exemption.* You may import a nonconforming replacement engine as described in §1068.240. To use this exemption, you must be a certificate holder for an engine family we regulate under the same part as the replacement engine.

(d) *Extraordinary circumstances exemption.* You may import a nonconforming engine if we grant hardship relief as described in §1068.245.

(e) *Small-volume manufacturer exemption.* You may import a nonconforming engine if we grant hardship relief for a small-volume manufacturer, as described in §1068.250.