§ 1068.225 What are the provisions for exempting engines for national security?

(a) You are eligible for the exemption for national security only if you are a manufacturer.

(b) Your engine is exempt without a request if you produce it for a piece of equipment owned or used by an agency of the federal government responsible for national defense, where the equipment has armor, permanently attached weaponry, or other substantial features typical of military combat.

(c) You may request a national security exemption for engines not meeting the conditions of paragraph (b) of this section, as long as your request is endorsed by an agency of the federal government responsible for national defense. In your request, explain why you need the exemption.

(d) Add a legible label, written in block letters in English, to each engine exempted under this section. The label must be permanently secured to a readily visible part of the engine needed for normal operation and not normally requiring replacement, such as the engine block. 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, engine family identification (as applicable), and model year of the engine or whom to contact for further information.

(4) The statement ''THIS ENGINE HAS AN EXEMPTION FOR NATIONAL SECURITY UNDER 40 CFR 1068.225.''.

[67 FR 68347, Nov. 8, 2002, as amended at 69 FR 39267, June 29, 2004]

§ 1068.230 What are the provisions for exempting engines for export?

(a) If you export a new engine to a country with emission standards identical to ours, we will not exempt it. These engines must comply with our certification requirements.

(b) If you export an engine to a country with different emission standards or no emission standards, it is exempt from the prohibited acts in this part without a request. If you produce an exempt engine for export and it is sold or offered for sale to someone in the United States (except for export), we will void the exemption.

(c) Label each exempted engine and shipping container with a label or tag showing the engine is not certified for sale or use in the United States. These labels need not be permanently attached to the engines. The label must include at least the statement ''THIS ENGINE IS SOLELY FOR EXPORT AND IS THEREFORE EXEMPT UNDER 40 CFR 1068.230 FROM U.S. EMISSION STANDARDS AND RELATED REQUIREMENTS.''.

[67 FR 68347, Nov. 8, 2002, as amended at 69 FR 39267, June 29, 2004]

§ 1068.235 What are the provisions for exempting engines used solely for competition?

(a) New engines you produce that are used solely for competition are generally excluded from emission standards. See the standard-setting parts for specific provisions where applicable.

(b) If you modify an engine after it has been placed into service in the United States so it will be used solely for competition, it is exempt without request. This exemption applies only to the prohibition in § 1068.101(b)(1) and is valid only as long as the engine is used solely for competition.

(c) If you modify an engine under paragraph (b) of this section, you must destroy the original emission label. If you loan, lease, sell, or give one of these engines to someone else, you must tell the new owner (or operator, if applicable) in writing that it may be used only for competition.

[67 FR 68347, Nov. 8, 2002, as amended at 69 FR 39267, June 29, 2004]

§ 1068.240 What are the provisions for exempting new replacement engines?

(a) You are eligible for the exemption for new replacement engines only if you are a certificate holder.

(b) The prohibitions in § 1068.101(a)(1) do not apply to an engine if all the following conditions apply:

(1) You produce a new engine to replace an engine already placed in service in a piece of equipment.

(2) The engine being replaced was manufactured before the emission

standards that would otherwise apply to the new engine took effect.

(3) You determine that you do not produce an engine certified to meet current requirements that has the appropriate physical or performance characteristics to repower the equipment. If the engine being replaced was made by a different company, you must make this determination also for engines produced by this other company.

(4) You or your agent takes possession of the old engine or confirms that the engine has been destroyed.

(5) You make the replacement engine in a configuration identical in all material respects to the engine being replaced (or that of another certified engine of the same or later model year). This requirement applies only if the old engine was certified to emission standards less stringent than those in effect when you produce the replacement engine.

(c) If the engine being replaced was not certified to any emission standards under this chapter, add a permanent label with your corporate name and trademark and the following language:

THIS ENGINE DOES NOT COMPLY WITH U.S. EPA NONROAD EMISSION REQUIREMENTS. SELLING OR INSTALLING THIS ENGINE FOR ANY PURPOSE OTHER THAN TO REPLACE A NONROAD ENGINE BUILT BEFORE JANUARY 1, [Insert appropriate year reflecting when the earliest tier of standards began to apply to engines of that size and type] MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY.

(d) If the engine being replaced was certified to emission standards less stringent than those in effect when you produce the replacement engine, add a permanent label with your corporate name and trademark and the following language:

THIS ENGINE COMPLIES WITH U.S. EPA NONROAD EMISSION REQUIREMENTS FOR [Insert appropriate year reflecting when the applicable tier of emission standards for the replaced engine began to apply] ENGINES UNDER 40 CFR 1068.240. SELLING OR INSTALLING THIS ENGINE FOR ANY PURPOSE OTHER THAN TO REPLACE A NONROAD ENGINE BUILT BEFORE JANUARY 1, [Insert appropriate year reflecting when the next tier of emission standards began to apply] MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY.

(e) The provisions of this section may not be used to circumvent emission standards that apply to new engines under the standard-setting part.

[67 FR 68347, Nov. 8, 2002, as amended at 69 FR 39267, June 29, 2004; 70 FR 40513, July 13, 2005]

§ 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