

(e) The standard-setting part may define uncertified engines/equipment to be “new” upon importation, whether or not they have already been placed into service. This may affect how the provisions of this subpart apply for your engines/equipment. (See the definition of “new” and other relevant terms in the standard-setting part.)

[73 FR 59344, Oct. 8, 2008, as amended at 81 FR 74231, Oct. 25, 2016]

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

(a) You must meet the requirements of the specific exemption or exclusion you intend to use, including any labeling requirements that apply, and complete the appropriate declaration form described in § 1068.301(d).

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

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

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

(3) Identify the make, model, identification number, and original production year of all engines/equipment.

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

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

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

(c) We may ask for more information.

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

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§ 1068.310 Exclusions for imported engines/equipment.

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

(a) *Nonroad engines/equipment used solely for competition.* Nonroad engines/equipment 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 properly labeled. See the standard-setting part for provisions related to this demonstration that may apply. Section 1068.101(b)(4) prohibits anyone from using these excluded engines/equipment for purposes other than competition. We may waive the labeling requirement or allow a removable label for engines/equipment that are being temporarily imported for one or more specific competition events.

(b) *Stationary engines.* The definition of nonroad engine in § 1068.30 does not include certain engines used in stationary applications. Such engines (and equipment containing such engines) may be subject to the standards of 40 CFR part 60. Engines that are excluded from the definition of nonroad engine in this part and are not required to be certified to standards under 40 CFR part 60 are not subject to the restrictions on imports in § 1068.301(b), but only if they are properly labeled and there is clear and convincing evidence that each engine will be used in a stationary application (see paragraph (2)(iii) of the definition of “Nonroad engine”). Section 1068.101 restricts the use of stationary engines for non-stationary purposes unless they are certified under 40 CFR part 60 to the same standards that would apply to nonroad engines for the same model year.

(c) *Hobby engines.* The standard-setting parts exclude engines used in reduced-scale models of vehicles that are not capable of transporting a person.

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

(e) *Labeling.* For engines/equipment imported under paragraph (a) or (b) of this section, you must add a permanent label, consistent with §1068.45, with at least the following items unless the standard-setting part includes other specific labeling requirements or we approve alternate label language that is more accurate for your engine/equipment:

(1) Include the heading “EMISSION CONTROL INFORMATION”.

(2) Include your full corporate name and trademark.

(3) State the engine displacement (in liters or cubic centimeters). We may also require that you include maximum engine power. If the engine's power is not established, state the approximate power.

(4) State: “THIS ENGINE IS EXEMPT FROM THE REQUIREMENTS OF [identify the part referenced in §1068.1(a) that would otherwise apply], AS PROVIDED IN [identify the paragraph authorizing the exemption (for example, “40 CFR 1068.315(a)”). INSTALLING THIS ENGINE IN ANY DIFFERENT APPLICATION MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY.”

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§1068.315 Permanent exemptions for imported engines/equipment.

We may approve a permanent exemption from the restrictions on imports under §1068.301(b) under the following conditions:

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

(b) *Manufacturer-owned engine/equipment exemption.* You may import manufacturer-owned engines/equipment, 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 a family we regulate under the same part as the replacement engine.

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

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

(f) *Equipment-manufacturer hardship exemption.* You may import a nonconforming engine if we grant an exemption for the transition to new or revised emission standards, as described in §1068.255.

(g) [Reserved]

(h) *Identical configuration exemption.* Unless specified otherwise in the standard-setting part, you may import nonconforming engines/equipment if they are identical to certified engines/equipment produced by the same manufacturer, subject to the following provisions:

(1) You must meet all the following criteria:

(i) You have owned the engines/equipment for at least six months.

(ii) You agree not to sell, lease, donate, trade, or otherwise transfer ownership of the engines/equipment for at least five years. During this period, the only acceptable way to dispose of the engines/equipment is to destroy or export them.

(iii) You use data or evidence sufficient to show that the engines/equipment are in a configuration that is identical to engines/equipment the original manufacturer has certified to meet emission standards that apply at the time the manufacturer finished assembling or modifying the engines/equipment in question. If you modify the engines/equipment to make them identical, you must completely follow the original manufacturer's written instructions.

(2) We will tell you in writing if we find the information insufficient to