§ 1068.262  What are the provisions for temporarily exempting engines for shipment to secondary engine manufacturers?

This section specifies when manufacturers may introduce into U.S. commerce partially complete engines that have an exemption or a certificate of conformity held by a secondary engine manufacturer and are not yet in a certified configuration. See the standard-setting part to determine whether and how the provisions of this section apply. (Note: See §1068.261 for provisions related to manufacturers introducing into U.S. commerce partially complete engines for which they hold the certificate of conformity.) This exemption is temporary as described in paragraph (g) of this section.

(a) The provisions of this section generally apply where the secondary engine manufacturer has substantial control over the design and assembly of emission controls. In determining whether a manufacturer has substantial control over the design and assembly of emission controls, we would consider the degree to which the secondary engine manufacturer would be able to ensure that the engine will conform to the regulations in its final configuration. Such secondary engine manufacturers may finish assembly of partially complete engines in the following cases:
(1) You obtain an engine that is not fully assembled with the intent to manufacture a complete engine.

(2) You obtain an engine with the intent to modify it before it reaches the ultimate purchaser.

(3) You obtain an engine with the intent to install it in equipment that will be subject to equipment-based standards.

(b) Manufacturers may introduce into U.S. commerce partially complete engines as described in this section if they have a written request for such engines from a secondary engine manufacturer that has certified the engine and will finish the engine assembly. The written request must include a statement that the secondary engine manufacturer has a certificate of conformity for the engine and identify a valid engine family name associated with each engine model ordered (or the basis for an exemption if applicable, as specified in paragraph (e) of this section). The original engine manufacturer must apply a removable label meeting the requirements of §1068.45 that identifies the corporate name of the original engine manufacturer and states that the engine is exempt under the provisions of §1068.262. The name of the certifying manufacturer must also be on the label or, alternatively, on the bill of lading that accompanies the engines during shipment. The original engine manufacturer may not apply a permanent emission control information label identifying the engine’s eventual status as a certified engine.

(c) The manufacturer that will hold the certificate must include the following information in its application for certification:

(1) Identify the original engine manufacturer of the partially complete engine or of the complete engine you will modify.

(2) Describe briefly how and where final assembly will be completed. Specify how you have the ability to ensure that the engines will conform to the regulations in their final configuration. (Note: Paragraph (a) of this section prohibits using the provisions of this section unless you have substantial control over the design and assembly of emission controls.)

(3) State unconditionally that you will not distribute the engines without conforming to all applicable regulations.

(d) If you are a certificate holder, you may receive shipment of partially complete engines after you apply for a certificate of conformity but before the certificate’s effective date. In this case, all the provisions of §1068.103(c)(1) through (3) apply. This exemption allows the original manufacturer to ship engines after you have applied for a certificate of conformity. Manufacturers may introduce into U.S. commerce partially complete engines as described in this paragraph (d) if they have a written request for such engines from a secondary engine manufacturer stating that the application for certification has been submitted (instead of the information we specify in paragraph (b) of this section). We may set additional conditions under this paragraph (d) to prevent circumvention of regulatory requirements. Consistent with §1068.103(c), we may also revoke an exemption under this paragraph (d) if we have reason to believe that the application for certification will not be approved or that the engines will otherwise not reach a certified configuration before reaching the ultimate purchaser. This may require that you export the engines.

(e) The provisions of this section also apply for shipping partially complete engines if the engine is covered by a valid exemption and there is no valid engine family name that could be used to represent the engine model. Unless we approve otherwise in advance, you may do this only when shipping engines to secondary engine manufacturers that are certificate holders. In this case, the secondary engine manufacturer must identify the regulatory cite identifying the applicable exemption instead of a valid engine family name when ordering engines from the original engine manufacturer. If secondary engine manufacturers determine after receiving an engine under this section that the engine will not be covered by a certificate or exemption as planned, they may ask us to allow for shipment of the engines back to the original engine manufacturer or to another secondary engine manufacturer.
manufacturer. This might occur in the case of an incorrect shipment or excess inventory. We may modify the provisions of this section as appropriate to address these cases.

(g) Both original and secondary engine manufacturers must keep the records described in this section for at least five years, including the written request for engines and the bill of lading for each shipment (if applicable). The written request is deemed to be a submission to EPA and is thus subject to the reporting requirements of 40 CFR 1068.101(a)(2).

(h) These provisions are intended only to allow you to obtain or transport engines in the specific circumstances identified in this section so any exemption under this section expires when the engine reaches the point of final assembly identified in accordance paragraph (c)(2) of this section.

(i) For purposes of this section, an allowance to introduce engines into U.S. commerce includes a conditional allowance to sell, introduce, or deliver such partially complete engines into commerce in the United States or import them into the United States. It does not include a general allowance to offer such partially complete engines for sale because this exemption is intended to apply only for cases in which the certificate holder already has an arrangement to purchase the engines from the original engine manufacturer. This exemption does not apply for any individual engines that are not labeled as specified in this section or which are shipped to someone who is not a certificate holder.

(j) We may suspend, revoke, or void your exemption if you fail to meet the requirements of this section, as follows:

(1) We may suspend or revoke your exemption if you fail to meet the requirements of this section. We may suspend or revoke your exemption for a specific secondary engine manufacturer if that manufacturer sells engines that are in not in a certified configuration in violation of the regulations. We may disallow this exemption for future shipments to the affected secondary engine manufacturer or set additional conditions to ensure that engines will be assembled in the certified configuration.

(2) We may void your exemption for all the affected engines if you intentionally submit false or incomplete information or fail to keep and provide to EPA the records required by this section.

(3) The exemption is void for an engine that is shipped to a company that is not a certificate holder or for an engine that is shipped to a secondary engine manufacturer that is not in compliance with the requirements of this section.

(k) No exemption is needed to import equipment that does not include an engine. No exemption is available under this section for equipment subject to equipment-based standards if the engine has been installed.

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

In some cases, exempted engines may need to meet alternate emission standards as a condition of the exemption. For example, replacement engines exempted under §1068.240 in many cases need to meet the same standards as the engines they are replacing. The standard-setting part may similarly exempt engines/equipment from all certification requirements, or allow us to exempt engines/equipment from all certification requirements for certain cases, but require the engines/equipment to meet alternate standards. In these cases, all the following provisions apply:

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

(b) You need not apply for and receive a certificate for the exempt engines/equipment. However, you must comply with all the requirements and obligations that would apply to the engines/equipment if you had received a