

**§ 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.

(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 in all material respects 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. The only acceptable way to dispose of the engines/equipment during this five-year period 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 in all material respects 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 show that the engines/equipment are eligible for the identical configuration exemption. We will then not consider your request further until you address our concerns.

[73 FR 59344, Oct. 8, 2008, as amended at 81 FR 74231, Oct. 25, 2016; 88 FR 4717, Jan. 24, 2023]

**§ 1068.325 Temporary exemptions for imported engines/equipment.**

You may import engines/equipment under certain temporary exemptions, subject to the conditions in this section. We may ask U.S. Customs and Border Protection to require a specific bond amount to make sure you comply with the requirements of this subpart. You may not sell or lease one of these exempted engines/equipment while it is in the United States except as specified in this section or § 1068.201(i). You must eventually export the engine/equipment as we describe in this section unless it conforms to a certificate of conformity or it qualifies for one of the permanent exemptions in § 1068.315 or the standard-setting part.

(a) *Exemption for repairs or alterations.* You may temporarily import nonconforming engines/equipment solely for repair or alteration, subject to our advance approval as described in paragraph (j) of this section. You may operate the engine/equipment in the United States only as necessary to repair it, alter it, or ship it to or from the service location. Export the engine/equipment directly after servicing is complete, or confirm that it has been destroyed.

(b) *Testing exemption.* You may temporarily import nonconforming engines/equipment for testing if you follow the requirements of § 1068.210, subject to our advance approval as described in paragraph (j) of this section. You may operate the engines/equipment in the United States only as needed to perform tests. The testing exemption expires one year after you import the engine/equipment unless we approve an extension. The engine/equipment must be exported before the exemption expires. You may sell or lease the engines/equipment consistent with the provisions of § 1068.210.

(c) *Display exemption.* You may temporarily import nonconforming engines/equipment for display if you follow the requirements of § 1068.220, subject to our advance approval as described in paragraph (j) of this section. The display exemption expires one year after you import the engine/equipment, unless we approve your request for an extension. The engine/equipment must be exported (or destroyed) by the time the exemption expires or directly after the display concludes, whichever comes first.

(d) *Export exemption.* You may temporarily import nonconforming engines/equipment to export them, as described in § 1068.230. Label the engine/equipment as described in § 1068.230. You may sell or lease the engines/equipment for operation outside the United States consistent with the provisions of § 1068.230.

(e) *Diplomatic or military exemption.* You may temporarily import nonconforming engines/equipment if you represent a foreign government in a diplomatic or military capacity. U.S. Customs and Border Protection may require that you show your written confirmation from the U.S. State Department that you qualify for the diplomatic or military exemption or a copy of your orders for military duty in the United States. We will rely on the State Department or your military orders to determine when your diplomatic or military status expires, at which time you must export your exempt engines/equipment.

(f) *Delegated-assembly exemption.* You may import a nonconforming engine for final assembly under the provisions

of § 1068.261. You may sell or lease the engines/equipment consistent with the provisions of § 1068.261.

(g) *Exemption for partially complete engines.* The following provisions apply for importing partially complete engines and used engines that become new as a result of importation:

(1) You may import a partially complete engine by shipping it from one of your facilities to another under the provisions of § 1068.260(c) if you also apply a removable label meeting the requirements of § 1068.45 that identifies your corporate name and states that the engine is exempt under the provisions of § 1068.325(g).

(2) You may import an engine if another company already has a certificate of conformity and will be modifying the engine to be in its final certified configuration or a final exempt configuration if you meet the labeling and other requirements of § 1068.262. If you are importing a used engine that becomes new as a result of importation, you must meet all the requirements that apply to original engine manufacturers under § 1068.262. You may sell or lease the engines consistent with the provisions of § 1068.262.

(h)–(i) [Reserved]

(j) *Approvals.* For the exemptions in this section requiring our approval, you must send a request to the Designated Compliance Officer before importing the engines/equipment. We will approve your request if you meet all the applicable requirements and conditions. If another section separately requires that you request approval for the exemption, you may combine the information requirements in a single request. Include the following information in your request:

(1) Identify the importer of the engine/equipment and the applicable postal address, e-mail address, and telephone number.

(2) Identify the engine/equipment owner and the applicable postal address, e-mail address, and telephone number.

(3) Identify the engine/equipment by model number (or name), serial number, and original production year.

(4) Identify the specific regulatory provision under which you are seeking an exemption.

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(5) Acknowledge that EPA enforcement officers may conduct inspections or testing as allowed under the Clean Air Act.

(6) Include any additional information we specify for demonstrating that you qualify for the exemption.

[76 FR 57489, Sept. 15, 2011; 81 FR 74231, Oct. 25, 2016; 88 FR 4717, Jan. 24, 2023]

### § 1068.335 Penalties for violations.

(a) *All imported engines/equipment.* Unless you comply with the provisions of this subpart, importation of nonconforming engines/equipment violates sections 203 and 213(d) of the Clean Air Act (42 U.S.C. 7522 and 7547(d)). You may then have to export the engines/equipment, pay civil penalties, or both. U.S. Customs and Border Protection may seize unlawfully imported engines and equipment.

(b) *Temporarily imported engines/equipment.* If you do not comply with the provisions of this subpart for a temporary exemption under § 1068.325, you may forfeit the total amount of the bond in addition to the sanctions we identify in paragraph (a) of this section. We will consider an engine or piece of equipment to be exported if it has been destroyed or delivered to U.S. Customs and Border Protection for export or other disposition under applicable Customs laws and regulations. EPA or U.S. Customs and Border Protection may offer you a grace period to allow you to export temporarily exempted engines/equipment without penalty after the exemption expires.

### § 1068.360 Restrictions for assigning a model year to imported engines and equipment.

This section includes limitations on assigning a model year to engines and equipment that are imported in a year later than the model year in which they were manufactured, except as specified in paragraph (e) of this section.

(a) The term “model year” is defined in each of the standard-setting parts. These definitions may vary slightly to address the different categories of engines and equipment. Except as specified in paragraphs (b) and (c) of this section, the emission standards and other emission-related requirements

that apply for an imported engine or piece of equipment are determined by the model year as defined in the applicable standard-setting part and the provisions of 40 CFR 1068.105(a).

(b) This paragraph (b) applies for the importation of engines and equipment that have not been placed into service, where the importation occurs in any calendar year that is more than one year after the named model year of the engine or equipment when emission control requirements applying to current engines are different than for engines or equipment in the named model year, unless they are imported under special provisions for Independent Commercial Importers as allowed under the standard-setting part. Regardless of what other provisions of this subchapter U specify for the model year of the engine or equipment, such engines and equipment are deemed to have an applicable model year no more than one year earlier than the calendar year in which they are imported. For example, a new engine identified as a 2007 model-year product that is imported on January 31, 2010 will be treated as a 2009 model-year engine; the same engine will be treated as a 2010 model-year engine if it is imported any time in calendar year 2011.

(c) If you claim that an engine or piece of equipment is not subject to standards—or is subject to standards less stringent than those currently in place—based on its original manufacture date because it has already been placed into service, you must provide clear and convincing evidence that it has already been placed into service. Such evidence must generally include, but not be limited to, documentary evidence of purchase and maintenance history and visible wear that is consistent with the reported manufacture date. Importing products for resale or importing more than one engine or piece of equipment at a time would generally require a greater degree of evidence under this paragraph (c). If you do not satisfactorily demonstrate that the engine or equipment has already been placed into service, the provisions of paragraph (b) of this section apply.

(d) Nothing in this section should be interpreted to allow circumvention of the requirements of this part by mis-