
40 C.F.R. § 1039.625

What requirements apply under the program for equipment-manufacturer flexibility?

The provisions of this section allow equipment manufacturers to produce equipment with engines that are subject to less stringent emission standards after the Tier 4 emission standards begin to apply. To be eligible to use the provisions of this section, you must follow all the instructions in this section. See § 1039.626 for requirements that apply specifically to companies that manufacture equipment outside the United States and to companies that import such equipment without manufacturing it. Engines and equipment you produce under this section are exempt from the prohibitions in 40 CFR 1068.101(a)(1), subject to the provisions of this section.

(a) *General.* If you are an equipment manufacturer, you may introduce into commerce in the United States limited numbers of nonroad equipment with engines exempted under this section. You may use the exemptions in this section only if you have primary responsibility for designing and manufacturing equipment and your manufacturing procedures include installing some engines in this equipment. Consider all U.S.-directed equipment sales in showing that you meet the requirements of this section, including those from any parent or subsidiary companies and those from any other companies you license to produce equipment for you. If you produce a type of equipment that has more than one engine, count each engine separately. These provisions are available over the following periods:

(1) These provisions are available for the years shown in the following table, except as provided in paragraph (a)(2) of this section:

Table 1 of § 1039.625—General Availability of Allowances

Power category	Calendar years
kW <19	2008–2014
19 ≤kW <56	2008–2014
56 ≤kW <130	2012–2018
130 ≤kW ≤560	2011–2017
kW >560	2011–2017

(2) If you do not use any allowances in a power category before the earliest dates shown in the following table, you may delay the start of the seven-year period for using allowances under this section as follows:

Table 2 of § 1039.625—Availability of Delayed Allowances

Power category	Calendar years
kW <19	
19 ≤kW <56	2012-2018
56 ≤kW <130	2014-2020
130 ≤kW ≤560	2014-2020
kW >560	2015-2021

(b) *Allowances.* You may choose one of the following options for each power category to produce equipment with exempted engines under this section, except as allowed under § 1039.627:

(1) *Percent-of-production allowances.* You may produce a certain number of units with exempted engines calculated using a percentage of your total sales within a power category relative to your total U.S.-directed production volume. The sum of these percentages within a power category during the seven-year period specified in paragraph (a) of this section may not exceed 80 percent, except as allowed under paragraph (b)(2) or (m) of this section.

(2) *Small-volume allowances.* You may determine an alternate allowance for a specific number of exempted engines under this section using one of the following approaches for your U.S.-directed production volumes:

(i) You may produce up to 700 units with exempted engines within a power category during the seven-year period specified in paragraph (a) of this section, with no more than 200 units in any single year within a power category, except as provided in paragraph (m) of this section. Engines within a power category that are exempted under this section must be from a single engine family within a given year.

(ii) For engines below 130 kW, you may produce up to 525 units with exempted engines within a power category during the seven-year period specified in paragraph (a) of this section, with no more than 150 units in any single year within a power category, except as provided in paragraph (m) of this section. For engines at or above 130 kW, you may produce up to 350 units with exempted engines within a power category during the seven-year period, with no more than 100 units in any single year within a power category. Exemptions under this paragraph (b)(2)(ii) may apply to engines from multiple engine families in a given year.

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