
40 C.F.R. § 1068.240

Exempting new replacement engines.

The prohibitions in § 1068.101(a)(1) do not apply to a new engine if it is exempt under this section as a replacement engine. For purposes of this section, a replacement engine is a new engine that is used to replace an engine that has already been placed into service (whether the previous engine is replaced in whole or in part with a new engine).

(a) *General provisions.* You are eligible for the exemption for new replacement engines only if you are a certificate holder. Note that this exemption does not apply for locomotives (40 CFR 1033.601) and that unique provisions apply to marine compression-ignition engines (40 CFR 1042.615).

(1) Paragraphs (b) and (c) of this section describe different approaches for exempting new replacement engines where the engines are specially built to correspond to an engine model from an earlier model year that was subject to less stringent standards than those that apply for current production (or is no longer covered by a certificate of conformity). You must comply with the requirements of paragraph (b) of this section for any number of replacement engines you produce in excess of what we allow under paragraph (c) of this section. You must designate engines you produce under this section as tracked engines under paragraph (b) of this section or untracked engines under paragraph (c) of this section by the deadline for the report specified in paragraph (c)(3) of this section.

(2) Paragraph (e) of this section describes a simpler approach for exempting partially complete new replacement engines that are built under a certificate of conformity that is valid for producing engines for the current model year.

(3) For all the different approaches described in paragraphs (b) through (e) of this section, the exemption applies only for equipment that is 40 years old or less at the time of installation.

(b) *Previous-tier replacement engines with tracking.* You may produce any number of new engines to replace an engine already placed into service in a piece of equipment, as follows:

(1) The engine being replaced must have been either not originally subject to emission standards or originally subject to less stringent emission standards than those that apply to a new engine meeting current standards. The provisions of this paragraph (b) also apply for engines that were originally certified to the same standards that apply for the current model year if you no longer have a certificate of conformity to continue producing that engine configuration.

(2) The following requirements and conditions apply for engines exempted under this paragraph (b):

(i) You must 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.

(ii) In the case of premature engine failure, if the old engine was subject to emission standards, you must make the new replacement engine in a configuration identical in all material respects to the old engine and meet the requirements of § 1068.265. You may alternatively make the new replacement engine in a configuration identical in all material respects to another certified engine of the same or later model year as long as the engine is not certified with a family emission limit higher than that of the old engine.

(iii) For cases not involving premature engine failure, you must make a separate determination for your own product line addressing every tier of emission standards that is more stringent than the emission standards for the engine being replaced. For example, if the engine being replaced was built before the Tier 1 standards started to apply and engines of that power category are currently subject to Tier 3 standards, you must also consider whether any Tier 1 or Tier 2 engines that you produce have the appropriate physical and performance characteristics for replacing the old engine; if you produce a Tier 2 engine with the appropriate physical and performance characteristics, you must use it as the replacement engine.

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