

**Applicant Guidance for
Technical/Engineering Hardship Relief Requests
Under 40 CFR 1039.625**

I. Background

- TPEM provisions (40 CFR 1039.625) allow nonroad equipment manufacturers to exempt part or all of their production from Tier 4 standards for a period of up to 7 years
 - Use of provisions limited to those entities that have primary responsibility for designing and manufacturing equipment and whose manufacturing procedures include installing some engines in the equipment
 - One exemption or allowance per engine power category is allocated to each manufacturer
 - If manufacturer is a subsidiary of a parent company, the allowance is allocated to the parent and must be shared across the parent and all subsidiaries
- Nonroad equipment manufacturers can apply for additional exemptions above and beyond the standard TPEM allowance due to technical or engineering hardship (40 CFR 1039.625(m))

II. Technical/Engineering Hardship Relief (40 CFR 1039.625(m))

- Allows EPA to approve additional exemptions if extreme and unusual circumstances that are clearly outside of the equipment manufacturer's control and that could not have been avoided with reasonable discretion have resulted in technical or engineering problems that prevent them from meeting regulatory requirements
 - Please note that a merger of two companies, or an acquisition of one company by another, where the previously separate companies would have been eligible for separate TPEM allowances, does not alone qualify as an extreme and unusual circumstance outside the control of the resulting parent company – such a circumstance would not meet the regulatory criteria for hardship relief
 - If a company is experiencing technical or engineering circumstances creating hardship, those may be appropriate for the Agency to consider in determining whether to grant hardship relief
- Request needs to be sent to the Designated Compliance Officer before a violation of TPEM requirements occurs:

Director, Diesel Engine Compliance Center
U.S. Environmental Protection Agency
Office of Transportation and Air Quality

U.S. Mail
1200 Pennsylvania Ave, NW
Mailcode 6405A
Washington, DC 20460

Courier (UPS, FedEx, etc.)
1200 Pennsylvania Ave, NW
Room 5512D, WJC Building North
Washington, DC 20460

- Only available to equipment manufacturers not also producing engines for their equipment
- Must use up standard TPEM allowances under 40 CFR § 1039.625(b)(1) or (2) before using any additional allowances
- Additional allowances must be used within the specified seven-year period of 40 CFR § 1039.625(a)
- For manufacturers using the percent-of-production allowance under 40 CFR § 1039.625(b)(1)
 - Additional allowances may not exceed 200 percent for each power category (this is on top of the 80 percent already allowed under TPEM for a combined maximum of 280 percent)
- For manufacturers using the small volume allowance under 40 CFR § 1039.625(b)(2)
 - Additional allowances may not exceed 2,000 units (this is on top of the small volume allowance already allowed under TPEM)
 - Alternatively, may waive annual limits specified in 40 CFR § 1039.625(b)(2) instead of or in addition to increasing the total number of allowances

III. Application

- Include all of the information requested per 40 CFR § 1039.625(m)(2)(i) through (ix)
- Include the following additional information for each equipment model that is a subject of the request:
 - Two Gantt charts illustrating the following:
 - Original plan/schedule for managing redesign of equipment with standard TPEM allowance under 40 CFR § 1039.625(b)(1) or (2)
 - Revised plan/schedule clearly identifying unusual events/circumstances outside of manufacturer's control and the resulting delay on redesign of equipment¹
 - The 12-character EPA engine family name for:
 - The TPEM engine for which you are requesting additional allowances
 - The Tier 4-compliant engine for which you are attempting to redesign your equipment
 - Market place information, including the following:
 - Major competitors in market segment
 - Your share of market segment
 - Production information, including the following:
 - Past 5 years production volumes
 - Projected production volumes for the years in which hardship is anticipated
 - Estimate of when you will exhaust your current TPEM allowance
 - Documentation on the following:
 - Date(s) you ordered Tier 4-compliant prototype engine
 - Date(s) and volumes of Tier 4-compliant production engines ordered
 - Documentation from engine suppliers on the following:
 - Date(s) of delivery or planned delivery of Tier 4-compliant prototype engine
 - Date(s) of delivery or planned delivery of Tier 4-compliant production engines

¹ Please include footnotes on each chart briefly describing the delay. Where applicable, please also include contact information for engine supplier or person with direct knowledge of delay and who can corroborate circumstances.