§ 86.446–2006  
40 CFR Ch. I (7–1–10 Edition)

avoid the impending violation, excluding those in §86.446.

(b) To apply for an exemption, you must send the Designated Compliance Officer a written request as soon as possible before you are in violation. In your request, show that you meet all the conditions and requirements in paragraph (a) of this section.

(c) Include in your request a plan showing how you will meet all the applicable requirements as quickly as possible.

(d) You must give us other relevant information if we ask for it.

(e) We may include reasonable additional conditions on an approval granted under this section, including provisions to recover or otherwise address the lost environmental benefit or paying fees to offset any economic gain resulting from the exemption. For example, in the case of multiple tiers of emission standards, we may require that you meet the less stringent standards.

(f) Add a permanent, legible label, written in block letters in English, to a readily visible part of each motorcycle exempted under this section. This label must include at least the following items:

1. The label heading “EMISSION CONTROL INFORMATION”.
2. Your corporate name and trademark.
3. Engine displacement (in liters) and model year of the engine or whom to contact for further information.
4. The statement “THIS MOTORCYCLE IS EXEMPT UNDER 40 CFR 86.445–2006 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS.”.

[69 FR 2437, Jan. 15, 2004]

§ 86.446–2006 What are the provisions for extending compliance deadlines for small-volume manufacturers under hardship?

(a) After considering the circumstances, the Director of the Office of Transportation and Air Quality may extend the compliance deadline for you to meet new or revised emission standards, as long as you meet all the conditions and requirements in this section.

(b) To be eligible for this exemption, you must qualify as a small-volume manufacturer under §86.410–2006(e).

(c) To apply for an extension, you must send the Designated Compliance Officer a written request. In your request, show that all the following conditions and requirements apply:

1. You have taken all possible business, technical, and economic steps to comply.
   (i) In the case of importers, show that you attempted to find a manufacturer capable of supplying complying products as soon as you became aware of the applicable requirements, but were unable to do so.
   (ii) For all other manufacturers, show that the burden of compliance costs prevents you from meeting the requirements of this chapter.
2. Not having the exemption will jeopardize the solvency of your company.

3. No other allowances are available under the regulations in this part to avoid the impending violation, excluding those in §86.445.

(d) In describing the steps you have taken to comply under paragraph (c)(1) of this section, include at least the following information:

1. Describe your business plan, showing the range of projects active or under consideration.
2. Describe your current and projected financial standing, with and without the burden of complying fully with the regulations in this part.
3. Describe your efforts to raise capital to comply with regulations in this part (this may not apply for importers).
4. Identify the engineering and technical steps you have taken or plan to take to comply with the regulations in this part.
5. Identify the level of compliance you can achieve. For example, you may be able to produce engines that meet a somewhat less stringent emission standard than the regulations require.

(e) Include in your request a plan showing how you will meet all the applicable requirements as quickly as possible.

(f) You must give us other relevant information if we ask for it.
§ 86.447–2006 What provisions apply to motorcycle engines below 50 cc that are certified under the Small SI program or the Recreational-vehicle program?

(a) General provisions. If you are an engine manufacturer, this section allows you to introduce into commerce a new highway motorcycle (that is, a motorcycle that is a motor vehicle) if it has an engine below 50 cc that is already certified to the requirements that apply to engines or vehicles under 40 CFR part 90 or 1051 for the appropriate model year. If you comply with all the provisions of this section, we consider the certificate issued under 40 CFR part 90 or 1051 for each engine or vehicle to also be a valid certificate of conformity under this part 86 for its model year, without a separate application for certification under the requirements of this part 86. See § 86.448–2006 for similar provisions that apply to vehicles that are certified to chassis-based standards under 40 CFR part 1051.

(b) Vehicle-manufacturer provisions. If you are not an engine manufacturer, you may produce highway motorcycles using nonroad engines below 50 cc under this section as long as you meet all the requirements and conditions specified in paragraph (d) of this section. If you modify the nonroad engine in any of the ways described in paragraph (d)(2) of this section for installation in a highway motorcycle, we will consider you a manufacturer of a new highway motorcycle. Such engine modifications prevent you from using the provisions of this section.

(c) Liability. Engines for which you meet the requirements of this section, and vehicles containing these engines, are exempt from all the requirements and prohibitions of this part, except for those specified in this section. Engines and vehicles exempted under this section must meet all the applicable requirements from 40 CFR part 90 or 1051. This applies to engine manufacturers, vehicle manufacturers who use these engines, and all other persons as if these engines were used in recreational vehicles or other nonroad applications. The prohibited acts of 42 U.S.C. 7522 apply to these new highway motorcycles; however, we consider the certificate issued under 40 CFR part 90 or 1051 for each engine to also be a valid certificate of conformity under this part 86 for its model year. If we make a determination that these engines do not conform to the regulations during their useful life, we may require you to recall them under 40 CFR part 86, 90, or 1068.

(d) Specific requirements. If you are an engine or vehicle manufacturer and meet all the following criteria and requirements regarding your new engine or vehicle, the highway motorcycle is eligible for an exemption under this section:

(g) An authorized representative of your company must sign the request and include the statement: “All the information in this request is true and accurate, to the best of my knowledge.”

(h) Send your request for this extension at least nine months before new standards apply. Do not send your request before the regulations in question apply to other manufacturers.

(i) We may include reasonable requirements on an approval granted under this section, including provisions to recover or otherwise address the lost environmental benefit. For example, we may require that you meet a less stringent emission standard or buy and use available emission credits.

(j) We will approve extensions of up to one year. We may review and revise an extension as reasonable under the circumstances.

(k) Add a permanent, legible label, written in block letters in English, to a readily visible part of each motorcycle exempted under this section. This label must include at least the following items:

(1) The label heading “EMISSION CONTROL INFORMATION”.

(2) Your corporate name and trademark.

(3) Engine displacement (in liters) and model year of the motorcycle or whom to contact for further information.

(4) The statement “THIS MOTORCYCLE IS EXEMPT UNDER 40 CFR 86.446 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS.”.

(69 FR 2437, Jan. 15, 2004)