

(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]

§ 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:

(1) Your engine must be below 50 cc and must be covered by a valid certificate of conformity for Class II engines issued under 40 CFR part 90 or for recreational vehicles under 40 CFR part 1051.

(2) You must not make any changes to the certified engine that could reasonably be expected to increase its exhaust emissions for any pollutant, or its evaporative emissions, if applicable. For example, if you make any of the following changes to one of these engines, you do not qualify for this exemption:

(i) Change any fuel system or evaporative system parameters from the certified configuration.

(ii) Change, remove, or fail to properly install any other component, element of design, or calibration specified in the engine manufacturer's application for certification. This includes aftertreatment devices and all related components.

(iii) Modify or design the engine cooling system so that temperatures or heat rejection rates are outside the original engine manufacturer's specified ranges.

(3) You must show that fewer than 50 percent of the engine family's total sales in the United States are used in highway motorcycles. This includes engines used in any application, without regard to which company manufactures the vehicle or equipment. In addition, if you manufacture highway motorcycles, you must show that fewer than 50 percent of the engine family's total sales in the United States are highway motorcycles. Show that you meet the engine-sales criterion as follows:

(i) If you are the original manufacturer of the engine, base this showing on your sales information.

(ii) In all other cases, you must get the original manufacturer of the engine to confirm the engine sales volumes based on its sales information.

(4) You must ensure that the engine has the label we require under 40 CFR part 90 or 1051.

(5) You must add a permanent supplemental label to the engine in a position where it will remain clearly visible after installation in the vehicle. In the supplemental label, do the following:

(i) Include the heading: "HIGHWAY MOTORCYCLE ENGINE EMISSION CONTROL INFORMATION".

(ii) Include your full corporate name and trademark. You may instead include the full corporate name and trademark of another company you choose to designate.

(iii) State: "THIS ENGINE WAS ADAPTED FOR HIGHWAY USE WITHOUT AFFECTING ITS EMISSION CONTROLS."

(iv) State the date you finished installation (month and year), if applicable.

(6) Send the Designated Compliance Officer a signed letter by the end of each calendar year (or less often if we tell you) with all the following information:

(i) Identify your full corporate name, address, and telephone number.

(ii) List the engine or vehicle models you expect to produce under this exemption in the coming year.

(iii) State: "We produce each listed [engine or vehicle] model for without making any changes that could increase its certified emission levels, as described in 40 CFR 86.447-2006."

(e) *Failure to comply.* If your highway motorcycles do not meet the criteria listed in paragraph (d) of this section, they will be subject to the standards, requirements, and prohibitions of this part 86 and the certificate issued under 40 CFR part 90 or 1051 will not be deemed to also be a certificate issued under this part 86. Introducing these engines into commerce without a valid exemption or certificate of conformity under this part violates the prohibitions in 40 CFR part 85.

(f) *Data submission.* We may require you to send us emission test data on any applicable nonroad duty cycles.

(g) *Participation in averaging, banking and trading.* Engines or vehicles adapted for recreational use under this section may not generate or use emission credits under this part 86. These engines or vehicles may generate credits under the ABT provisions in 40 CFR part 90 or 1051. These engines or vehicles must use emission credits under 40 CFR part 90 or 1051 if they are certified to an FEL that exceeds an applicable standard.

[70 FR 40435, July 13, 2005]