

(v) For engines that qualify for the alternate Tier 2 emission standards in §1048.101(d), operation at 90 percent or more of maximum power must be less than 10 percent of the total sampling time. You may request our approval for a different power threshold.

(2) Engine testing may occur under any normal conditions without correcting measured emission levels, subject to the following restrictions:

(i) Barometric pressure must be between 80.0 and 103.3 kPa (600 and 775 mm Hg).

(ii) Ambient air temperature must be between 13° and 35 °C.

[67 FR 68347, Nov. 8, 2002, as amended at 70 FR 40473, July 13, 2005]

### Subpart G—Compliance Provisions

#### § 1048.601 What compliance provisions apply to these engines?

Engine and equipment manufacturers, as well as owners, operators, and rebuilders of engines subject to the requirements of this part, and all other persons, must observe the provisions of this part, the requirements and prohibitions in 40 CFR part 1068, and the provisions of the Act.

[70 FR 40479, July 13, 2005]

#### § 1048.605 What provisions apply to engines certified under the motor-vehicle program?

(a) *General provisions.* If you are an engine manufacturer, this section allows you to introduce new nonroad engines into commerce if they are already certified to the requirements that apply to engines under 40 CFR parts 85 and 86 for the appropriate model year. If you comply with all the provisions of this section, we consider the certificate issued under 40 CFR part 86 for each engine to also be a valid certificate of conformity under this part 1048 for its model year, without a separate application for certification under the requirements of this part 1048. See §1048.610 for similar provisions that apply to engines certified to chassis-based standards for motor vehicles.

(b) *Equipment-manufacturer provisions.* If you are not an engine manufacturer,

you may produce nonroad equipment using motor-vehicle engines under this section as long as you meet all the requirements and conditions specified in paragraph (d) of this section. If you modify the motor-vehicle engine in any of the ways described in paragraph (d)(2) of this section, we will consider you a manufacturer of a new nonroad engine. Such engine modifications prevent you from using the provisions of this section.

(c) *Liability.* Engines for which you meet the requirements of this section are exempt from all the requirements and prohibitions of this part, except for those specified in this section. Engines exempted under this section must meet all the applicable requirements from 40 CFR parts 85 and 86. This applies to engine manufacturers, equipment manufacturers who use these engines, and all other persons as if these engines were used in a motor vehicle. The prohibited acts of 40 CFR 1068.101(a)(1) apply to these new engines and equipment; however, we consider the certificate issued under 40 CFR part 86 for each engine to also be a valid certificate of conformity under this part 1048 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 or 40 CFR 1068.505.

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

(1) Your engine must be covered by a valid certificate of conformity issued under 40 CFR part 86.

(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. 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 (this does not apply to refueling controls).

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(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 nonroad applications. This includes engines used in any application without regard to which company manufactures the vehicle or equipment. Show this 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 this based on its sales information.

(4) You must ensure that the engine has the label we require under 40 CFR part 86.

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

(i) Include the heading: "NONROAD 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 NONROAD USE WITHOUT AFFECTING ITS EMISSION CONTROLS. THE EMISSION-CONTROL SYSTEM DEPENDS ON THE USE OF FUEL MEETING SPECIFICATIONS THAT APPLY FOR MOTOR-VEHICLE APPLICATIONS. OPERATING THE ENGINE ON OTHER FUELS MAY BE A VIOLATION OF FEDERAL LAW.".

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

(6) The original and supplemental labels must be readily visible after the

engine is installed in the equipment or, if the equipment obscures the engine's emission control information label, the equipment manufacturer must attach duplicate labels, as described in 40 CFR 1068.105.

(7) 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 equipment models you expect to produce under this exemption in the coming year.

(iii) State: "We produce each listed [engine or equipment] model for nonroad application without making any changes that could increase its certified emission levels, as described in 40 CFR 1048.605.".

(e) *Failure to comply.* If your engines 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 1048 and the certificate issued under 40 CFR part 86 will not be deemed to also be a certificate issued under this part 1048. Introducing these engines into commerce without a valid exemption or certificate of conformity under this part violates the prohibitions in 40 CFR 1068.101(a)(1).

(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 adapted for nonroad use under this section may generate credits under the ABT provisions in 40 CFR part 86. These engines must use emission credits under 40 CFR part 86 if they are certified to an FEL that exceeds an applicable standard under 40 CFR part 86.

[70 FR 40479, July 13, 2005]

### **§ 1048.610 What provisions apply to vehicles certified under the motor-vehicle program?**

(a) *General provisions.* If you are a motor-vehicle manufacturer, this section allows you to introduce new nonroad engines or equipment into commerce if the vehicle is already certified to the requirements that apply