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(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 and describe your basis for meeting the sales restrictions of paragraph (d)(3) of this section.

(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, as amended at 73 FR 59241, Oct. 8, 2008]

§ 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 under 40 CFR parts 85 and 86 for the appropriate model year. If you comply with all of the provisions of this section, we consider the certificate issued under 40 CFR part 86 for each motor vehicle to also be a valid certificate of conformity for the engine under this part 1048 for its model year, without a

separate application for certification under the requirements of this part 1048. See §1048.605 or similar provisions that apply to motor-vehicle engines produced for nonroad equipment. The provisions of this section do not apply to engines certified to meet the requirements for highway motorcycles.

(b) *Equipment-manufacturer provisions.* If you are not a motor-vehicle manufacturer, you may produce nonroad equipment from motor vehicles 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 or its 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 modifications prevent you from using the provisions of this section.

(c) *Liability.* Engines, vehicles, and equipment 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, and all other persons as if the nonroad equipment were motor vehicles. The prohibited acts of 40 CFR 1068.101(a)(1) apply to these new pieces of equipment; however, we consider the certificate issued under 40 CFR part 86 for each motor vehicle to also be a valid certificate of conformity for the engine under this part 1048 for its model year. If we make a determination that these engines, vehicles, or equipment 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 a motor-vehicle manufacturer and meet all the following criteria and requirements regarding your new nonroad equipment and its engine, the engine is eligible for an exemption under this section:

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

(2) You must not make any changes to the certified vehicle that we could reasonably expect to increase its exhaust emissions for any pollutant, or its evaporative emissions if it is subject to evaporative-emission standards. For example, if you make any of the following changes, you do not qualify for this exemption:

(i) Change any fuel system or evaporative system parameters from the certified configuration, including refueling emission controls.

(ii) Change, remove, or fail to properly install any other component, element of design, or calibration specified in the vehicle 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 vehicle manufacturer's specified ranges.

(iv) Add more than 500 pounds to the curb weight of the originally certified motor vehicle.

(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 any type of vehicle, without regard to which company completes the manufacturing of the nonroad equipment. Show this as follows:

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

(ii) In all other cases, you must get the original manufacturer of the vehicle to confirm this based on their sales information.

(4) The equipment must have the vehicle emission control information and fuel labels we require under 40 CFR 86.007-35.

(5) You must add a permanent supplemental label to the equipment in a position where it will remain clearly visible. 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

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trademark of another company you choose to designate.

(iii) State: "THIS VEHICLE 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 vehicle (month and year), if applicable.

(6) The original and supplemental labels must be readily visible in the fully assembled equipment.

(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 equipment models you expect to produce under this exemption in the coming year and describe your basis for meeting the sales restrictions of paragraph (d)(3) of this section.

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

(iii) State: "We produced 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 1048.610."

(e) *Failure to comply.* If your engines, vehicles, or equipment do not meet the criteria listed in paragraph (d) of this section, the engines 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.* Vehicles adapted for nonroad use under this section may generate credits under the ABT provi-

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sions in 40 CFR part 86. These vehicles must be included in the calculation of the applicable fleet average in 40 CFR part 86.

[70 FR 40480, July 13, 2005, as amended at 73 FR 59241, Oct. 8, 2008]

§ 1048.612 What is the exemption for delegated final assembly?

The provisions of 40 CFR 1068.261 related to delegated final assembly apply for engines certified under this part 1048, with the following exceptions and clarifications:

(a) The provisions related to reduced auditing rates in 40 CFR 1068.261(d)(3)(iii) apply starting with the 2014 model year.

(b) [Reserved]

[73 FR 59242, Oct. 8, 2008]

§ 1048.615 What are the provisions for exempting engines designed for lawn and garden applications?

This section is intended for engines designed for lawn and garden applications, but it applies to any engines meeting the criteria in paragraph (a) of this section.

(a) If an engine meets all the following criteria, it is exempt from the requirements of this part:

(1) The engine must have a nominal displacement of 1000 cc or less.

(2) The engine must have a maximum engine power at or below 30 kW.

(3) The engine must be in an engine family that has a valid certificate of conformity showing that it meets emission standards for Class II engines under 40 CFR part 90 or 1054 for the appropriate model year.

(b) The only requirements or prohibitions from this part that apply to an engine that meets the criteria in paragraph (a) of this section are in this section.

(c) If your engines do not meet the criteria listed in paragraph (a) of this section, they will be subject to the provisions of this part. Introducing these engines into commerce without a valid exemption or certificate of conformity violates the prohibitions in 40 CFR 1068.101.

(d) Engines exempted under this section are subject to all the requirements affecting engines under 40 CFR part 90