

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 86**

[AMS-FRL-5651-2]

Extension of Interim Revised Durability Procedures for Light-Duty Vehicles and Light-Duty Trucks**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: On January 12, 1993, EPA published a final rule establishing interim durability procedures used for demonstrating compliance with light duty vehicle and light duty truck emission standards, applicable in model years 1994-1996 only. On July 18, 1994, EPA published a direct final rule extending the applicability of the original rule through model year 1998. Today's direct final rule extends the applicability of those durability procedures indefinitely. The Agency intends to conduct a separate rulemaking to implement a long-term durability program; however, such an action will be linked to others as part of a broad-based streamlining initiative for all vehicle emission compliance activities. It is difficult to predict with any precision when this subsequent action will occur. The Agency currently estimates that new compliance regulations will be promulgated such that they would become effective no earlier than the 2000 model year. Because the current durability regulations expire at the end of the 1998 model year, failure to adopt today's action would result in less effective and inefficient durability regulations beginning with the 1999 model year. The Agency believes that it is appropriate to extend indefinitely the existing interim procedures via a direct final rule because so doing addresses lead time concerns for model year 1999 and beyond, accounts for the uncertainty of the anticipated revised compliance regulations and adds no new requirements, but rather simply allows the continuation of the current program.

DATES: This action will be effective January 14, 1997 unless notice is received by December 16, 1996 that adverse or critical comments will be submitted, or that an opportunity to submit such comments at a public hearing is requested. If adverse comments are received, the Agency will publish a document in the Federal Register withdrawing the rule before the effective date.

ADDRESSES: Interested parties may submit written comments (in duplicate, if possible) to Public Docket No. A-93-46 at: Air Docket Section, U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460.

Materials relevant to this final rule have been placed in Docket No. A-93-46. Additional documents of relevance may be found in Docket No. A-90-24. The docket is located at the above address in room M-1500, Waterside Mall, and may be inspected weekdays between 8:30 a.m. and noon, and between 1:30 p.m. and 3:30 p.m. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT:

Linda Hormes, Vehicle Programs and Compliance Division, U.S. Environmental Protection Agency, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone (313) 668-4502.

SUPPLEMENTARY INFORMATION:**Electronic Availability**

The preamble, regulatory language, and regulatory support document are available electronically on the Technology Transfer Network (TTN), an electronic bulletin board system operated by EPA's Office of Air Quality, Planning and Standards. Users are able to access and download TTN files of their first call. After logging on to TTN, to navigate through the system for the files of interest, the user must enter the appropriate command at each of a series of menus. The steps required to access information on this rulemaking are listed below. The service is free of charge, except for the cost of the phone call.

TTN bulletin board system: (919) 541-5742 (1200-14400 pbs, no parity, 8 data bits, 1 stop bit)

Voice Helpline: (919) 541-5384

Internet access address: TELNET ttnbbs.rtpnc.epa.gov.

Off-line: Mondays from 8:00 AM to 12:00 Noon ET.

1. Technology Transfer Network Top Menu <T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards); Command: T.

2. TTN TECHNICAL INFORMATION AREAS: <M> OMS—Mobile Sources Information; Command: M.

3. OMS BBS === MAIN MENU: <K> Rulemaking & Reporting; Command: K.

4. [1] Light Duty; File Area 2 LD VEHICLE DURABILITY.

At this stage, the system will list all available files. To download a file, select a transfer protocol which will match the terminal software on your

own computer, then set your own software to receive the file using that same protocol.

If unfamiliar with handling compressed (i.e. ZIP'ed) files, go to the TTN top menu, System Utilities (Command: 1) for information and the necessary program to download in order to unZIP the files of interest after downloading to your computer. After getting the files you want onto your computer, you can quit the TTN BBS with the <G>oodbye command.

Internet Access: The preamble, regulatory language and regulatory support document are also available electronically from the following EPA internet sites:

World Wide Web:

<http://www.epa.gov/OMSWWW/>

Gopher:

<gopher://gopher.epa.gov/>

Follow menus for: Offices/Air/OMS

FTP:

<ftp://ftp.epa.gov/>

Change Directory to pub/gopher/OMS

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

I. Background

On January 12, 1993, the Agency published interim procedures for motor vehicle manufacturers to use in demonstrating compliance with emission standards for light-duty vehicles and light-duty trucks (58 FR 3994). That rule, referred to hereafter as the "RDP-I" rule, made the interim procedures applicable to model years 1994 through 1996, but not thereafter. The Agency now plans to revise the RDP-I interim procedures through rulemaking in conjunction with other activities associated with a compliance revision initiative currently being undertaken by the Agency.

The Agency initially planned to promulgate a separate durability regulation, hereafter referred to as "RDP II" which was to become effective beginning with the 1997 model year. However, that became impractical due to lead time constraints for manufacturers wishing to certify vehicles in that model year and the uncertainty that sufficient lead time existed for implementation in the 1998 model year as well. Consequently, the Agency promulgated a direct final rule which extended the applicability of the RDP-I interim rulemaking through model year 1998 (59 FR 36368). This was intended to provide manufacturers with timely notice of the regulations

applicable for certifying vehicles through model year 1998 while EPA continued work on preparing and finalizing further technical and procedural improvements to the RDP II program. While work on the RDP-II rule proceeded, various new events and actions precluded the timely completion of this project. In particular, in 1995 the Agency undertook an initiative to revise the current vehicle compliance program, including the durability protocols. The Agency is currently considering promulgating regulations which would become effective with the 2000 model year. Because these regulations are still under the initial planning stage, it is not possible to provide manufacturers with a firm effective date. Therefore, the Agency believes today's action of indefinitely extending the existing RDP-I regulations will satisfy the industry's need to plan its durability programs and will retain the current durability options which can be improved upon in future actions.

II. Environmental Effects and Economic Impacts

A. Economic Impacts

This action extends an existing program without modification, and as such, the Agency does not expect any new economic impacts over and above those described in the interim rulemaking. In general, the RDP-I interim rulemaking projected annual cost savings with respect to the previously existing program of approximately \$8.6 million, and although this number is highly dependent upon the interaction of several variables, all modeled scenarios resulted in some level of savings. A complete description of those impacts is contained in 58 FR 3994 (January 12, 1993).

B. Environmental and Cost-Benefit Impacts

The RDP I rulemaking revised testing and administrative procedures necessary to determine the compliance of light-duty vehicles and light-duty trucks with the Tier 1 emission standards promulgated in June 1991, and no environmental benefit was claimed over and above that already accounted for in the Tier 1 rule. Today's action will similarly claim no environmental benefit. A detailed discussion of the Tier 1 environmental impacts can be found in 56 FR 25734 (June 5, 1991).

III. Public Participation and Effective Date

The Agency is publishing this action as a direct final rule because it views it as non-controversial and anticipates no adverse comments. This action will be effective January 14, 1997 unless the Agency receives notice by December 16, 1996 that adverse or critical comments will be submitted, or that a party requests the opportunity to submit such oral comments pursuant to section 307(d)(5) of the Clean Air Act, as amended.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent documents. One document will withdraw this final rule and another will begin a new rulemaking by announcing a proposal of the rule and establishing a comment period.

IV. Statutory Authority

Authority for the actions promulgated in this final rule is granted to EPA by sections 202, 203, 205, 206, 207, 208, 215, 216, 217, and 301(a), of the Clean Air Act, as amended (42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7549, 7550, 7552, and 7601(a), and 5 U.S.C. 553(b)).

V. Administrative Designation

Under Executive Order 12866, the Agency must determine whether the regulatory action is "significant" and, therefore, subject to OMB review and the requirements of the Executive Order. The order defines a "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires federal agencies to

identify potentially adverse impacts of federal regulations upon small entities. The Small Business Regulatory Enforcement Fairness Act of 1996 amended these requirements. In instances where significant impacts are possible on a substantial number of these entities, agencies are required to perform a Regulatory Flexibility Analysis.

The Agency has determined that this action will not have an adverse impact on small entities. Moreover, this regulation does not create any new regulatory requirements.

Therefore, under section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, I certify that this regulation does not have a significant impact on a substantial number of small entities. '

VII. Reporting and Recordkeeping Requirements

Under the Paperwork Reduction Act of 1990, 44 U.S.C. 3501 *et seq.*, EPA must obtain Office of Management and Budget clearance for any activity that will involve collecting substantially the same information from ten or more non-Federal respondents. On December 1, 1992, OMB approved collection of information required in 40 CFR 86.094-26 under ICR control number 2060-0104. This regulation does not impose any new information collection requirements and will result in no change in the reporting burden.

VIII. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2) of the APA as amended.

IX. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (signed into law on March 22, 1995) requires that EPA prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by state, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year. Section 203 of the Unfunded Mandates Reform Act requires EPA to establish a plan for obtaining input from and informing, educating and advising any

small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, EPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. EPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless EPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this direct final rule is expected to result in the expenditure by state, local and tribal governments or the private sector of less than \$100 million in any one year, EPA has not prepared a budgetary impact statement or specifically address selection of the least costly, most cost-effective or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, EPA is

not required to develop a plan with regard to small governments.

List of Subjects in 40 CFR Part 86

Environmental protection, Administrative practice and procedure, Confidential business information, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: November 7, 1996.
Carol M. Browner,
Administrator.

For the reasons set forth in the preamble, part 86 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 86—CONTROL OF AIR
POLLUTION FROM NEW AND IN-USE
MOTOR VEHICLES AND NEW AND IN-
USE MOTOR VEHICLE ENGINES:
CERTIFICATION AND TEST
PROCEDURES**

1. The authority citation for part 86 continues to read as follows:

Authority: Secs. 202, 203, 205, 206, 207, 208, 215, 216, 217, and 301(a), of the Clean Air Act, as amended (42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7549, 7550, 7552, and 7601(a)).

§ 86.094–13 [Amended]

2. In § 86.094–13, paragraphs (a)(1), (c)(1), (d)(1), (e)(1), and (f)(1) are amended by revising the words “1994 through 1998” to read “1994 and beyond”.

§ 86.094–26 [Amended]

3. In § 86.094–26, paragraphs (a)(2), (b)(2)(i), and (b)(2)(ii) are amended by revising the words “1994 through 1998” to read “1994 and beyond”.

[FR Doc. 96–29179 Filed 11–14–96; 8:45 am]
BILLING CODE 6560–50–P