

## Environmental Protection Agency

## § 85.1407

of § 85.1403(b)(1)(i), the test engine used may be a new unused engine, an in-use engine that has been rebuilt previously, or an in-use engine that has not been rebuilt previously.

(v) (A) To demonstrate compliance with the particulate emission requirements of § 85.1403(b)(2)(i) on engines for which particulate certification data exists, the test engine used may be a new unused engine, an in-use engine that has been rebuilt previously, or an in-use engine that has not been rebuilt previously.

(B) To demonstrate compliance with the particulate emission requirements of § 85.1403(b)(2)(i) on engines for which no particulate certification data exists, the test engine used may be a new unused engine, or an in-use engine that is newly rebuilt to its original configuration.

(b) Diesel test fuel. Federally required low sulfur diesel fuel (with a sulfur content of 0.05 weight percent) shall be used for all new emissions testing required to be performed for certification of retrofit/rebuild equipment for diesel-fueled urban bus engines.

(c) Test equipment selection. Certification shall be based upon tests utilizing representative production equipment selected in a random manner.

(d) Replacing original equipment parts. Installation of any certified retrofit/rebuild equipment shall not result in the permanent removal or rendering inoperative of any original equipment emission related part other than the part(s) being replaced. Furthermore, installation of any certified retrofit/rebuild equipment shall not cause or contribute to an unreasonable risk to the public health, welfare or safety, or result in any additional range of parameter adjustability or accessibility to adjustment than that of the vehicle manufacturer's emission related part.

(e) Affects on engine on-board diagnostic system. Installation of any certified retrofit/rebuild equipment shall not alter or render inoperative any feature of the on-board diagnostic system incorporated by the engine manufacturer. The certified equipment may integrate with the existing diagnostic system if it does not alter or render inoperative any features of the system.

(f) In-use enforcement. (1) As a condition of certification, the equipment certifier agrees to notify operators who have installed this equipment and repair the equipment without cost to the operator when the Agency determines that a substantial number of the equipment kits, when properly maintained and used, and in actual use throughout the in-use compliance period, do not meet emission requirements.

(2) If the equipment certifier disagrees with such determination of non-conformity and so advises the MOD Director, the MOD Director shall afford the equipment certifier and other interested persons an opportunity to present their views and evidence in support thereof at a public hearing conducted in accordance with procedures found in § 85.1807. For purposes of this section, substitute the word "equipment" in place of the phrase "motor vehicles and engines."

### § 85.1407 Notification of intent to certify.

(a) Prior to the sale of any certified retrofit/rebuild equipment, notification of the intent to certify must be approved by the MOD Director.

(1) All notifications shall include:

(i) Identification of the candidate retrofit/rebuild equipment to be certified, including a list of parts and part numbers;

(ii) Identification of all engine configurations for which the equipment is being certified including make(s), engine model(s), model year(s), engine size(s) and all other specific configuration characteristics necessary to assure that the equipment will not be installed in any configuration for which it has not been certified;

(iii) All results and documentation of tests and procedures used by the equipment certifier as evidence of compliance with the emission requirements specified in § 85.1406;

(iv) A description of the test equipment selection criteria used, and a statement that the test equipment used for certification testing is representative production equipment consistent with § 85.1406(c);

(v) A description of the test engine selection criteria used, and rationale that supports the technical judgment

of the equipment certifier that the engine configuration used for certification testing represents worst case with respect to particulate matter emissions of all those configurations for which the retrofit/rebuild equipment is being certified, and all data that supports that conclusion;

(vi) A copy of the written instructions for proper maintenance and use of the equipment, including instructions as to whether the engine must be rebuilt to its original configuration before installing the equipment;

(vii) The scheduled maintenance required for the equipment over the in-use compliance period, including service intervals of the retrofit/rebuild equipment which detail the maintenance and replacement intervals in months and/or miles, as applicable;

(viii) A copy of the warranty language to be provided to the operator pursuant to both §§ 85.1409(a) and 85.1409(b);

(ix) A statement of commitment and willingness to comply with all the relevant terms and conditions of this subpart;

(x) A statement by the equipment certifier that use of its certified equipment will not cause a substantial increase to urban bus engine emissions in any normal driving mode not represented during certification testing; and

(xi) The office or officer of the equipment certifier authorized to receive correspondence regarding certification requirements pursuant to this subpart.

(2) If an equipment certifier wishes to certify equipment for use under § 85.1403(b) for all affected urban bus operators as specified in § 85.1401, the notification shall also contain all data and documentation used by the equipment certifier as evidence of compliance with the life cycle cost requirements specified in §§ 85.1403(b)(1)(ii) or 85.1403(b)(2)(ii); including:

(i) The price to be charged to an urban bus operator for the equipment, excluding shipping and handling costs and taxes;

(ii) A detailed breakout of the total number of hours necessary to install the equipment, and the number of hours necessary to install the equip-

ment, incremental to a standard rebuild;

(iii) For equipment not requiring a change from on road diesel fuel, the percent change in fuel economy for an urban bus engine retrofitted with the equipment compared to the original engine based on testing performed over the heavy-duty engine Federal test procedure or an approved alternative test procedure prescribed under § 85.1414, including all test data supporting the reported change in fuel economy;

(iv) For alternatively-fueled equipment, the fuel economy of the retrofitted engine based on testing performed over an approved test procedure prescribed under § 85.1414, including all test data supporting the reported fuel economy, and the unit price of the alternative fuel that will be charged to all affected urban bus operators;

(v) For equipment requiring a fuel additive, the amount of fuel additive required per gallon of fuel and the unit price of the fuel additive that will be charged to all affected urban bus operators; and

(vi) A list of the scheduled maintenance for an engine with the retrofit, and a detailed breakdown of the cost of the parts necessary to perform scheduled maintenance, incremental to the cost of the parts necessary for maintenance typically performed on an engine without the equipment.

(3) If an equipment certifier wishes to certify equipment for use under § 85.1403(b), but not for use by all affected urban bus operators as specified in § 85.1401, the notification shall, in addition to the data and documentation specified in paragraph (a)(1) of this section, also contain data and documentation that demonstrate compliance with the life cycle cost requirements specified in § 85.1403(b)(1)(ii) or § 85.1403(b)(2)(ii) including:

(i) A detailed breakout of the total number of hours necessary to install the equipment, and the number of hours necessary to install the equipment, incremental to a standard rebuild;

(ii) The percent change in fuel economy for an urban bus engine retrofitted with the equipment compared to the original engine based on testing

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performed over the heavy-duty engine Federal test procedure or an approved alternative test procedure prescribed under §85.1414, including all test data supporting the reported change in fuel economy;

(iii) A list of the scheduled maintenance for an engine with the retrofit, and a detailed breakdown of the cost of the scheduled maintenance, incremental to the cost of maintenance typically performed on an engine without the equipment;

(iv) For alternatively-fueled equipment, the fuel economy of the retrofitted engine based on testing performed over an approved test procedure prescribed under §85.1414, including all test data supporting the reported fuel economy;

(v) For equipment requiring a fuel additive, the amount of fuel additive required per gallon of fuel; and

(vi) A description of the type of urban bus operator to which the equipment certifier expects to sell the equipment for less than the life cycle cost requirements specified in §85.1403(b)(1)(ii) or §85.1403(b)(2)(ii).

(4) The notification shall be signed by an officer of the equipment certifier attesting to the accuracy and completeness of the information supplied in the notification.

(5) Notification to the Agency shall be by certified mail or another method by which date of receipt can be established.

(6) Two complete and identical copies of the notification and any subsequent

industry comments on any such notification shall be submitted by the equipment certifier to: MOD Director, MOD (6405J), Attention: Retrofit/Rebuild Equipment, 401 "M" Street SW., Washington, DC 20460.

(7) A copy of the notification submitted under paragraph (a)(6) of this section will be placed in a public docket and a summary will be published in the FEDERAL REGISTER. Any party interested in the outcome of the decision as to whether retrofit/rebuild equipment may be certified, may submit comments to the MOD Director on any notice in the public docket for 45 days after the summary of the notification of intent to certify has been published in the FEDERAL REGISTER.

(b)(1) For an urban bus operator to take credit for additional particulate emission reductions for use of a clean diesel fuel under §85.1403(c)(2)(iii)(E), the following information must be submitted to the Agency:

(i) The additional percent reduction in particulate emissions for engines operated on the clean diesel fuel.

(A) The additional percent reduction in particulate emissions shall be calculated based on the results of emission tests performed on urban bus engines using federally required low sulfur fuel and the fuel for which the certifier is demonstrating addition emission reductions.

(B) The additional percent reduction in particulate emissions shall be calculated based on the following equation:

Percent reduction of particulate emissions

$$= \frac{\left( \begin{array}{c} \text{Particulate emissions} \\ \text{for engines operated} \\ \text{on Federally required} \\ \text{low sulfur fuel} \end{array} \right) - \left( \begin{array}{c} \text{Particulate emissions} \\ \text{for engines operated} \\ \text{on clean diesel fuel} \end{array} \right)}{\left( \begin{array}{c} \text{Particulate emissions} \\ \text{for engines operated} \\ \text{on Federally required} \\ \text{low sulfur fuel} \end{array} \right)}$$

(ii) The emission testing results for hydrocarbons, carbon monoxide, and oxides of nitrogen. The results must

show that use of the clean diesel fuel does not lead to increases in any of these emissions.

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(2) Emission test results must be submitted for all of the engine models for which an urban bus operator wishes to claim additional particulate emission reductions.

(3) Emissions test results shall be measured over the heavy-duty engine Federal test procedure or an approved alternative test procedure prescribed under § 85.1414.

(c) The MOD Director reserves the right to review an application to determine if the submitted documents adequately meet all the requirements for certification specified in §§ 85.1406 and 85.1407. The MOD Director shall determine and will publish in the FEDERAL REGISTER the effective date of certification of the candidate equipment. Equipment may be sold as certified after the effective date of certification.

**EFFECTIVE DATE NOTE:** Information collection requirements in § 85.1407 have not been approved by the Office of Management and Budget (OMB) and are not effective until OMB has approved them.

**§ 85.1408 Objections to certification.**

(a) At any time prior to certification, the MOD Director may notify the equipment certifier that such equipment shall not be certified pending further investigation. The basis upon which this notification shall be made may include, but not be limited to, information or test results submitted by the equipment certifier, or public comments submitted on the equipment which indicate:

(1) The test procedure used to demonstrate compliance with the particulate matter emission standard or percent reduction of § 85.1403 was not in compliance with the heavy-duty engine Federal Test Procedure of 40 CFR part 86 or an alternative test procedure approved by the Agency under § 85.1414; or

(2) Use of the candidate equipment may cause an urban bus engine to exceed any applicable emission requirements; or

(3) Use of the candidate equipment could cause or contribute to an unreasonable risk to public health, welfare or safety in its operation or function; or

(4) Installation of the candidate equipment requires procedures or materials which would likely cause such

equipment to be improperly installed under normal conditions or would likely result in an urban bus engine being misadjusted; or

(5) Information and/or data required to be in the notification of intent to certify as provided by § 85.1407 have not been provided or may be inadequate; or

(6) The life cycle cost estimates provided by the equipment certifier do not accurately reflect the true life cycle costs for the candidate equipment.

(b) The equipment certifier must respond in writing to the statements made in the notification by the MOD Director, or the MOD Director shall withdraw the equipment certifier's notification of intent to certify. A copy of the certifier's response will be placed in the public docket.

(1) Any party interested in the outcome of a decision as to whether retrofit/rebuild equipment may be certified may provide the MOD Director with any relevant written information up to ten days after the certifier responds to the MOD Director's objection.

(2) Any interested party may request additional time to respond to the information submitted by the equipment certifier. The MOD Director upon a showing of good cause by the interested party may grant an extension of time to reply up to 30 days.

(3) The equipment certifier may reply to information submitted by interested parties. Notification of intent to reply shall be submitted to the MOD Director within 10 days of the date information from interested parties is submitted to the MOD Director.

(4) The MOD Director may, at his or her discretion, allow oral presentations by the equipment certifier or any interested party in connection with contested equipment certification.

(c) If notification has been provided to an equipment certifier pursuant to paragraph (a) of this section, the MOD Director shall, after reviewing all pertinent data and information, render a decision and inform the equipment certifier in writing as to whether such equipment may be certified and, if so, under what conditions the equipment may be certified. The written decision shall include an explanation of the reasons therefor.