

§ 85.1408

40 CFR Ch. I (7-1-03 Edition)

(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.

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(1) The decision by the MOD Director shall be provided to the certifier after receipt of all necessary information by the certifier or interested parties, or of the date of any oral presentation regarding the certification, whichever occurs second.

(2) A copy of the decision shall be sent to all interested parties identified in paragraphs (b)(3) and (b)(4) of this section.

(3) Within 20 days of receipt of a decision made pursuant to paragraph (c) of this section, any party may file a written appeal to the Office Director. The Office Director may, in his or her discretion, allow additional oral or written submissions, prior to rendering a final decision. The schedule for such submission shall be in accordance with the schedule specified in § 85.1408(b).

(4) If no party files an appeal with the Office Director within 20 days, then the decision of the MOD Director shall be final.

(5) The Office Director shall make a final decision regarding the certification of equipment after receipt of all necessary information by the equipment certifier or from the date of any oral presentation, whichever occurs later.

(6) A copy of all final decisions made under this section shall be published in the FEDERAL REGISTER.

§ 85.1409 Warranty.

(a) As a condition of certification, the retrofit/rebuild equipment certifier shall warrant that if the certified equipment is properly installed and maintained as stated in the written instructions for proper maintenance and use, the equipment will not cause an urban bus engine to exceed the emission requirements of this subpart and the emission standards set forth in 40 CFR part 86. This retrofit/rebuild equipment warranty shall extend for a period of 150,000 miles from when the equipment is installed.

(b) As a condition of certification, the retrofit/rebuild equipment certifier shall provide an emissions defect warranty that if the certified equipment is properly installed and maintained as stated in the written instructions for proper maintenance and use, the equipment certifier will replace all defective

parts, free of charge. This emissions defect warranty shall extend for a period of 100,000 miles from when the equipment is installed.

§ 85.1410 Changes after certification.

The equipment certifier shall recertify any retrofit/rebuild equipment which was certified pursuant to § 85.1406 and to which modifications are made affect emissions or the capability of the equipment to meet any other requirement of this subpart.

§ 85.1411 Labeling requirements.

(a) All retrofit/rebuild equipment certified pursuant to this subpart shall contain a label that shall be affixed to the rebuilt engine which states, "Certified to EPA Urban Bus Engine Rebuild Standards," the model and serial number of the equipment, the particulate emissions certification level of the equipment, and the name of the equipment certifier or other party designated to determine the validity of warranty claims. The label containing the information must be made durable and readable for at least the in-use compliance period of the equipment.

(b) The package in which the certified retrofit/rebuild equipment is contained, or an insert as described in paragraph (c) of this section, must have the following information conspicuously placed thereon:

(1) The statement "Certified by (name of certifier or warranter) to EPA Urban Bus Engine Rebuild Emission Standards"; and

(2) A list of the vehicles or engines (in accordance with § 85.1407(a)(1)(ii)) for which the equipment is certified, unless such information is provided as specified in paragraph (d) of this section.

(c) The package in which the certified retrofit/rebuild equipment is contained must include the following information provided on a written insert:

(1) A list of the vehicles or engines (in accordance with § 85.1407(a)(1)(ii)) for which the equipment is certified, unless such information is provided as specified in paragraph (d) of this section;

(2) A list of all of the parts and identification numbers for the parts included in the package;