

**Federal Register** notice will serve as the final notice of the interim delegation of the implementation and enforcement of this program. The effective date will be 60 days from the date of this publication and no further activity is contemplated in relation to this rule. If EPA receives adverse comments, this direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the accompanying proposed rule which appears in the proposed rule section of this **Federal Register**. However, EPA will not institute a second comment period on this action. Thus, any parties interested in commenting on this action should do so in the next 30 days.

#### Final Action

Pursuant to Section 112(l) of the Clean Air Act, 42 U.S.C. 7412(l), and 40 CFR 63.91, EPA hereby grants interim delegation of its authority for the implementation and enforcement of the following National Emission Standards for Radionuclides for sources subject to part 70 and located, or to be located, in the state of Washington:

(1) National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities (40 CFR part 61, Subpart H); and

(2) National Emission Standards for Radionuclide Emissions From Facilities Licensed by the Nuclear Regulatory Commission and Federal Facilities Not Covered by Subpart H (40 CFR part 61, Subpart I).

This interim delegation is limited to the NESHAP standards and authorities as promulgated in 40 CFR part 61, Subparts H and I, applied to part 70 sources, and incorporated into the law of the state of Washington: the delegation does not extend to any additional state standards. Specifically, EPA's interim delegation applies to WAC 246-247-040(1), to the extent the standards reference the federal standards as promulgated; WAC 246-247-075(1); WAC 246-247-080(2); WAC 246-247-085(1), where it incorporates by reference the monitoring, testing, quality assurance, recordkeeping, reporting, and compliance determination procedures and requirements of the federal standards. The federal requirement to file an application to construct or modify has not been incorporated into Washington state law. Therefore, facilities subject to the federal NESHAPs are still required to submit all such applications to EPA.

Not all authorities for the implementing and enforcing the NESHAPs can be delegated to the state.

For instance, the EPA Administrator retains authority to implement those sections of the NESHAP that require approval of equivalency determinations and alternative test methods, allow waivers for emission testing and compliance, and to promulgate rules to implement 40 CFR part 61.

EPA retains concurrent enforcement authority. In exercising its concurrent authority, EPA is not bound by any state action or determination in carrying out any authority delegated to the state pursuant to section 112(l). If at any time there is a conflict between the state and federal regulations, the federal standards apply if they are more stringent than the state regulations.

This interim delegation, which may not be renewed, extends until November 9, 1996, which is the expiration date of the interim approval of the Washington Title V operating permits program. If EPA grants full approval of the Washington Title V operating permits program, full delegation of these two radionuclide NESHAPs (40 CFR part 61, subparts H and I) for part 70 sources may be incorporated into that approval. If EPA has not granted full delegation to the state by that date, EPA will resume sole authority for implementation of the federal radionuclide NESHAPs in Washington at that time.

#### List of Subjects in 40 CFR Part 61

Environmental protection, Air pollution control, Intergovernmental relations, Radiation protection.

Dated: July 20, 1995.

**Chuck Clarke,**

*Regional Administrator, Region 10.*

[FR Doc. 95-18987 Filed 8-1-95; 8:45 am]

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#### 40 CFR Part 86

[AMS-FRL-5268-6]

RIN 2060-AC65

#### Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Regulations Requiring On-Board Diagnostic Systems—Revision to Requirements for Storage of Engine Conditions Associated With Extinguishing a Malfunction Indicator Light

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** This direct final rulemaking makes certain technical revisions to the requirements associated with on-board diagnostic (OBD) systems, as specified by § 86.094-17. Changes are being made

to the provisions associated with extinguishing an illuminated malfunction indicator light. The current provisions contained in § 86.094-17(d) have proven to be unexpectedly burdensome on the industry and do not provide the expected beneficial effects to vehicle owners, repair shop personnel, or air quality.

**DATES:** This final action will become effective on October 2, 1995, unless notice is received by September 1, 1995, that any person wishes to submit adverse comments. Should EPA receive such notice, EPA will publish one subsequent action in the **Federal Register** withdrawing this final action.

**ADDRESSES:** Written comments should be submitted (in duplicate if possible) to: The Air Docket, room M-1500 (Mail Code 6102), Waterside Mall, Attention: Docket No. A-90-35, 401 M Street, SW., Washington, DC 20460. Materials relevant to this rulemaking are contained in Docket No. A-90-35, and are available for public inspection and photocopying between 8:00 a.m. and 5:30 p.m. Monday through Friday. The telephone number is (202) 260-7548 and the facsimile number is (202) 260-4400. A reasonable fee may be charged by EPA for copying docket material. Those wishing to notify EPA of their intent to submit adverse comments on this action should contact Todd Sherwood, Certification Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

**FOR FURTHER INFORMATION CONTACT:** Todd Sherwood, (313) 668-4405.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction and Background

On February 19, 1993, the EPA promulgated a final rulemaking requiring manufacturers of light-duty vehicles and light-duty trucks to install on-board emission control diagnostics (OBD) systems on such vehicles beginning in model year 1994.<sup>1</sup> The regulations promulgated in that final rulemaking require that, "If a malfunction has previously been detected, the MIL may be extinguished if the malfunction does not reoccur during three subsequent sequential trips during which engine speed is within 375 rpm, engine load is within 10 percent, and the engine's warm-up status is the same as that under which the malfunction was first detected, and no new malfunctions have been detected."<sup>2</sup> The State of California, in its second phase of OBD requirements

<sup>1</sup> 58 FR 9468, February 19, 1993.

<sup>2</sup> 40 CFR 86.094-17(d).

(OBD II),<sup>3</sup> had adopted the same requirement, but limited its applicability to fuel system and engine misfire malfunctions. In contrast, the federal requirement applies to all malfunctions. For non-fuel system and non-misfire related malfunctions, the OBD II regulation allowed the MIL to be extinguished after undergoing three subsequent trips without recurrence of the malfunction, regardless of whether or not the vehicle experienced similar engine conditions (i.e., engine speed, engine load, engine warm-up as described above) during the subsequent trips.

The intent behind the federal OBD provision was to have the MIL illuminated for any and all malfunctions unless it could be verified that the malfunction was not valid, or that the malfunction was only intermittent and no longer existed. Pursuant to that intent, EPA decided to require that the MIL must remain illuminated until the vehicle takes three subsequent trips during which engine conditions are similar and the malfunction does not reappear. This decision was made assuming that usually only one malfunction, and no more than two or three malfunctions, would exist on a vehicle at any given time with one malfunction trouble code stored for each. However, because of the way most OBD systems are designed, one real malfunction may cause storage of several different trouble codes; and, a set of "similar operating conditions" are, by manufacturer design not by regulation, stored for each trouble code, not one set for each malfunction. Consequently, according to auto manufacturers, two or three malfunctions could result in storage of as many as 15 trouble codes, with a set of similar operating conditions stored in the memory bank of the on-board computer for each of 15 trouble codes, rather than each of three malfunctions. As a result, auto manufacturers have stated that they are forced to dedicate enough computer memory to store similar engine conditions for as many as 50 to 200 trouble codes, depending on the number of codes used by the manufacturer, because they cannot risk having insufficient storage capacity in the unlikely event that such a high number of malfunctions are detected and trouble codes stored. Such computer memory requirements are costly, are inconsistent with California OBD II computer memory requirements, and, as explained below, are not

necessary to achieve a highly effective OBD system.

## II. Requirements of this Direct Final Rulemaking

This direct final rulemaking restricts the applicability of the requirement preventing the MIL from being extinguished unless the vehicle takes three subsequent sequential trips where similar engine operating conditions occur and the malfunction does not reoccur. The "similar engine conditions" requirement shall be restricted solely to the fuel system and engine misfire related malfunctions. For all other malfunctions, the MIL may be extinguished if the vehicle experiences three subsequent sequential trips where the malfunction does not reoccur, regardless of engine conditions.

EPA has determined that it is unnecessary and inappropriate to require "similar engine conditions" to be present for three trips before extinguishing the MIL for all non-fuel system and non-misfire related malfunctions. The similar engine conditions required for storage relate to engine operating speed and load. Under the regulations initially promulgated, these conditions would need to be stored for all malfunctions so that a vehicle passing through these same conditions without re-detecting the malfunction would be allowed to extinguish the MIL under the presumption that the first detection was not a valid detection. However, only fuel system and engine misfire related malfunctions are likely to occur exclusively at certain speed and load conditions. Therefore, only for malfunctions associated with the fuel system or engine misfire is it appropriate to assure the vehicle has been operated over the same speed and load conditions before determining the malfunction is not recurring. For all other malfunctions, the engine speed and load are not pertinent to the decision of whether the first malfunction detection was correct or incorrect. Therefore, for malfunctions other than those associated with fuel system or engine misfire, the vehicle will still have to undergo three trips without re-detecting the malfunction, but the engine speed and load would not be considered and, therefore, would not have to be stored in computer memory.

It is important to note that recent revisions to the California OBD II regulation specify three "driving cycles" rather than three "trips" prior to

extinguishing the MIL.<sup>4</sup> The revised OBD II requirements define a driving cycle as "engine startup, and engine shutoff," while a "trip" is specified as vehicle operation of sufficient length such that all components other than the catalyst and evaporative system are monitored. The federal OBD regulation specifies that all components be monitored periodically, but no less frequently than once per Urban Dynamometer Driving Schedule (UDDS) or similar "trip." The preamble to the Agency's final rulemaking also states that all components monitored by the OBD system shall be evaluated at least once every trip, with one CVS-72 driving cycle qualifying as a trip.<sup>5</sup>

Therefore, under the OBD II regulation, MIL illumination associated with a specific malfunction can effectively be extinguished after three successful monitoring events provided the malfunction is not again detected<sup>6</sup>, regardless of whether or not every component has been monitored. Under the federal OBD use of the term "trip," the same holds true. The intent being that three subsequent sequential successful monitoring events occur without again detecting the malfunction prior to extinguishing an illuminated MIL associated with that malfunction.

## III. Public Participation and Effective Date

The Agency is publishing this action as a direct final rule because it views the changes contained herein as noncontroversial and anticipates no adverse or critical comments. This direct final rulemaking alters an existing provision by reducing the required memory of vehicle computers and having no resultant impact on OBD effectiveness or air quality.

This action will be effective on October 2, 1995, unless EPA is notified by September 1, 1995, that adverse or critical comments will be submitted. Should EPA receive such notice, EPA will publish one action withdrawing this final action and another proposing this action and requesting comments.

<sup>4</sup> California Air Resources Board Mail-Out #95-03.

<sup>5</sup> The CVS-72 driving cycle is equivalent to the UDDS as defined in 40 CFR part 86, Appendix I, paragraph (a).

<sup>6</sup> Specifically, the MIL may be extinguished after three subsequent sequential driving cycles during which the monitoring system responsible for illuminating the MIL functions without detecting the malfunction.

<sup>3</sup> Title 13, California Code of Regulations, § 1968.1(d).

#### IV. Administrative Requirements

##### A. Administrative Designation

Under Executive Order 12866,<sup>7</sup> 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 "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, a sector of 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. Also, this rule is not subject to the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, because it does not have costs of \$100 million or more.

##### B. Reporting and Recordkeeping Requirements

This direct final rulemaking does not change the information collection requirements submitted to and approved by OMB in association with the OBD final rulemaking.<sup>8</sup>

##### C. Impact on Small Entities

The Regulatory Flexibility Act of 1980 requires Federal agencies to identify potentially adverse impacts of federal regulations upon small entities. This direct final rulemaking will provide a small cost savings to both large and small volume automobile manufacturers by reducing the required computer memory capacity of their vehicle computers. This direct final rulemaking will have no impact on businesses which manufacture, rebuild, distribute, or sell automotive parts, nor those involved in automotive service and repair.

Therefore, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(B) *et seq.*, the Administrator

certifies that this regulation will not have a significant impact on a substantial number of small entities.

##### D. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and implementing regulations, 5 CFR Part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

##### E. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate; or by the private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the action promulgated today does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local or tribal governments in the aggregate, or to the private sector. This action has the net effect of reducing burden of the on-board diagnostic systems on regulated entities. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

##### F. Electronic Copies of Rulemaking Documents

Electronic copies of the preamble and the regulatory text of this direct final rulemaking are available on the Office of Air Quality Planning and Standards (OAQPS) Technology Transfer Network bulletin Board System (TTNBBS). Instructions for accessing TTNBBS and downloading the relevant files are described below.

TTNBBS can be accessed using a dial-in telephone line (919) 541-5742 and a 1200, 2400, or 9600 bps modem (equipment up to 14.4 Kbps can be accommodated). The parity of the modem should be set to N or none, the data bits to 8, and the stop bits to 1. When first signing on the bulletin board, the user will be required to answer some basic informational questions to register into the system. After registering,

proceed through the following options from a series of menus:

- (T) Gateway to TTN Technical Areas (Bulletin Boards)
- (M) OMS
- (K) Rulemaking and Reporting

At this point, the system will list all available files in the chosen category in chronological order with brief descriptions. File information can be obtained from the "READ.ME" file. To download a file, the user needs to choose a file transfer protocol appropriate for the user's computer from the options listed on the terminal.

TTNBBS is available 24 hours a day, 7 days a week except Monday morning from 8-12 Eastern Time, when the system is down for maintenance and backup. For help in accessing the system, call the systems operator at (919) 541-5384 in Research Triangle Park, North Carolina, during normal business hours Eastern Time.

##### List of Subjects in 40 CFR Part 86

Environmental protection, Administrative practice and procedure, Air pollution control, Gasoline, Motor vehicles, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: July 25, 1995.

**Carol M. Browner,**  
Administrator.

For the reasons set out in the preamble, part 86 of 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), Clean Air Act, as amended (42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7549, 7550, 7552, and 7601(a)).

##### **Subpart A—[Amended]**

2. Section 86.094-17 is amended by revising paragraph (d) to read as follows:

#### **§ 86.094-17 Emission control diagnostic system for 1994 and later light-duty vehicles and light-duty trucks.**

\* \* \* \* \*

(d) The MIL shall illuminate and remain illuminated when any of the conditions specified in paragraphs (a) and (b) of this section are met, or

<sup>7</sup> 58 FR 51735 (October 4, 1993).

<sup>8</sup> 58 FR 9468, February 19, 1993; and, 59 FR 38372, July 28, 1994.

whenever the engine control enters a default or secondary mode of operation. The MIL shall blink under any period of operation during which engine misfire is occurring at a level likely to cause catalyst damage as determined by the manufacturer. The MIL shall also illuminate when the vehicle's ignition is in the "key-on" position before engine starting or cranking and extinguish after engine starting if no malfunction has previously been detected. If a fuel system or engine misfire malfunction has previously been detected, the MIL may be extinguished if the malfunction does not reoccur during three subsequent sequential trips during which engine speed is within 375 rpm, engine load is within 10 percent, and the engine's warm-up status is the same as that under which the malfunction was first detected, and no new malfunctions have been detected. If any malfunction other than a fuel system or engine misfire malfunction has been detected, the MIL may be extinguished if the malfunction does not reoccur during three subsequent sequential trips during which the monitoring system responsible for illuminating the MIL functions without detecting the malfunction, and no new malfunctions have been detected.

\* \* \* \* \*

[FR Doc. 95-18990 Filed 8-1-95; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 46 CFR Parts 30 and 150

[CGD 95-900]

RIN 2115-AF07

#### Bulk Hazardous Materials; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction to final rule.

**SUMMARY:** This Document contains corrections to the final rule [CGD 95-900], which was published Thursday, June 29, 1995, (60 FR 34043). The rule amends the regulations on carriage of bulk hazardous materials by adding cargoes recently authorized for carriage or added to the International Maritime Organization's Chemical Codes.

**EFFECTIVE DATE:** This rule is effective on August 2, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. Curtis G. Payne, Hazardous Materials Branch, (202) 267-1577.

#### SUPPLEMENTARY INFORMATION:

##### Need for Correction

As published, the final rule contains typographical errors and omissions which may prove to be misleading and are in need correction.

##### Correction of Publication

Accordingly, the publication on June 29, 1995, of the final rule [CGD 95-900], which was the subject of FR Doc. 95-15749, is corrected as follows:

1. On page 34045, in the second column, in paragraph 2.c. fourth line, paragraph 2.e. third line, paragraph 2.f. fourth line, paragraph 2.h. fourth line, and paragraph 2.i. third line, the superscript period "·" should be a bullet "•".

2. On the same page, in the second column, in paragraph 2., the following words should be in bold face type:

a. Paragraph 2.c., fifth line, the word "alkyl".

b. Paragraph 2.d., starting on the fifth line, the words "Poly(2-8)alkylene glycol monoalkyl (C1-C6) ether acetate."

c. Paragraph 2.e., fifth line, the word "Polydimethylsiloxane".

d. Paragraph 2.f., fifth line, the word "mixture".

e. Paragraph 2.i., fourth line, the words "Alcohols (C13+)".

3. On the same page, in the third column, in paragraph 6.d., "(c10+)" should read "(C10+)".

4. On page 34046, in the first column, in paragraph q., seventh line, add a quotation mark before the word "Related".

5. On the same page, in the second column, fourth line, the number "7" should be "8".

6. On the same page, in the second column, paragraph s. should read as follows:

s. In the "Chemical name" column, remove the words "Ethylene glycol ethyl ether" and add, in their place, the words "Ethylene glycol ethyl ether, see Polk(2-8)alkylene glycol monoalkyl (C1-C6) ether", and in the "Related CHRIS codes" column for the new entry, add the code "PAG".

7. On the same page, in the second column, in paragraph t., second and third lines, add a quotation mark before the word "Diethyl".

8. On the same page, in the third column, first line, add "2-" before the word "Ethoxyethyl".

9. On the same page, in the third column, paragraph ee., fourth line, add a quotation mark before the word "Ethylene".

10. On page 34047, in Table 1, in the entry for "Ammonia, aqueous, see

Ammonium hydroxide", the letters "AMH" should be removed from the "CHRIS code" column to the "Related CHRIS codes" column; and, in the entry for "Glycidyl ester of C10 trialkyl acetic acid, see Glycidyl ester of tridecyl acetic acid", the letters "GILT" should be moved from the "CHRIS code" column to the "Related CHRIS codes" column.

11. On page 34048, in Table 1, in the entry for "Octyl phthalate, see Dialkyl (C7-C13) pathalates", the letters "DAN" should be moved from the "CHRIS code" column to the "Related CHRIS codes" column; and, in the entry for "Oils, edible: Maize", the letters "LEO/OCO" should be moved from the "CHRIS code" column to the "Related CHRIS codes" column.

12. On page 34049, in Table 1, in the entry for "Soyabean oil (epoxidized)", the letters "OSC/EVO" should be moved from the "CHRIS code" column to the "Related CHRIS codes" column; in the entry for "Tetraprophylbenzene, see Alkyl(69+)benzens", the letters "AKB" should be moved from the "CHRIS code" column to the "Related CHRIS codes" column; in the entry "1,3,5-Trioxane", in the "Group No." column, replace the number "242" with "241"; in the entry for "Trixylyl phosphate, see Trixylyl phosphate", the letters "TRP" should be moved from the "CHRIS code" column to the "Related CHRIS codes" column; and, in the entry for "Urea solution", the letters "URE" should be moved from the "CHRIS code" column to the "Related CHRIS codes" column.

13. On the same page, in the third column, in paragraph e., third line, add a quotation mark before the second letter "N-"; and in paragraph f., first line, "Phonols" should be "Phenols";

14. On page 34051, in Table 1, in column a., the entry—

"Bromochlorone-thane" should read "Bromochloromethane";

"Dibromo-methane" should read "Dibromomethane";

"3,4-Dichloro-1-butene" should "3,4-Dichloro-1-butene";

"N-(2-Methoxy-1-ethyl)-2-ethyl-6-methyl chloro-acetanilide, see Metolachlor" should read "N-(2-Methoxy-1-methyl-ethyl)-2-ethyl-6-methyl chloroacetanilide, see Metolachlor";

"Nitro propane (20%), Nitroethane (80%) 7" should read "Nitropropane (20%), Nitroethane (80%) 7"; and

"Potassium polysulfide, Potassium thiosulfate solution (41% or less)" should read "Potassium polysulfide, Potassium thiosulfate solution (41% or less)".