

Dated: May 17, 2000.

**Carol M. Browner,**  
Administrator.

For the reasons set forth in the preamble, we propose to amend Parts 69, 80 and 86 of chapter I of Title 40 of the Code of Federal Regulations to read as follows:

**PART 69—[AMENDED]**

1. The authority citation for part 69 is revised to read as follows:

**Authority:** 42 U.S.C. 7545(c), (g) and (i), and 7625-1.

**Subpart E—Alaska**

2. Section 69.51 of subpart E is revised to read as follows:

**§ 69.51 Title II exemptions and exclusions.**

(a) Diesel fuel that is designated for use only in Alaska and is used only in Alaska, is exempt from the sulfur standard of 40 CFR 80.29(a)(1)(i) and the dye provisions of 40 CFR 80.29(a)(1)(iii) and 40 CFR 80.29(b) until the implementation dates set out in 40 CFR 80.440, provided that:

(1) The fuel is segregated from non-exempt diesel fuel from the point of such designation; and

(2) On each occasion that any person transfers custody or title to the fuel, except when it is dispensed at a retail outlet or wholesale purchaser-facility, the transferor must provide to the transferee a product transfer document stating:

This diesel fuel is for use only in Alaska. It is exempt from the federal low sulfur standards applicable to motor vehicle diesel fuel and red dye requirements applicable to non-motor vehicle diesel fuel only if it is used in Alaska.

(b) Beginning on the implementation dates set out in § 80.440, diesel fuel that is designated for use only in Alaska or is used only in Alaska, is subject to the applicable provisions of 40 CFR part 80, subpart I, except as provided under paragraph (c) of this section. Alaska may submit for EPA approval an alternative plan for implementing the sulfur standard in Alaska by [date one year after the effective date of the final rule]. EPA shall approve or disapprove the plan within one year of receiving Alaska's submission.

(c) If such diesel fuel is designated as fuel that does not comply with the standards and requirements for motor vehicle diesel fuel under 40 CFR part 80, subpart I, it is exempt from the dye presumption of 40 CFR 80.446(b)(2) provided that:

(1) The fuel is segregated from all motor vehicle diesel fuel.

(2) On each occasion that any person transfers custody or title to the fuel, except when it is dispensed at a retail outlet or wholesale purchaser-facility, the transferor must provide to the transferee a product transfer document complying with the requirements of 40 CFR 80.462(a) and (d) and stating:

This diesel fuel is for use only in Alaska and is not for use in motor vehicles. It is exempt from the red dye requirement applicable to non-motor vehicle diesel fuel only if it is used in Alaska.

(3) Any pump dispensing the fuel must comply with the labeling requirements in 40 CFR 80.453.

**PART 80—[AMENDED]**

3. The authority citation for part 80 continues to read as follows:

**Authority:** Sections 114, 211, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7414, 7545 and 7601(a)).

4. Section 80.2 is amended by revising paragraphs (x) and (y) and adding paragraphs (bb) and (nn), to read as follows:

**§ 80.2 Definitions.**

\* \* \* \* \*

(x) *Diesel fuel* means any fuel sold in any state and suitable for use in diesel motor vehicles, diesel motor vehicle engines or diesel nonroad engines, and which is commonly or commercially known as diesel fuel.

(y) *Motor vehicle diesel fuel* means any diesel fuel, or any distillate product, that is used, intended for use, or made available for use, as a fuel in diesel motor vehicles or diesel motor vehicle engines. Motor vehicles or motor vehicle engines do not include nonroad vehicles or nonroad engines.

\* \* \* \* \*

(bb) *Sulfur percentage* is the percentage of sulfur in diesel fuel by weight, as determined using the applicable sampling and testing methodologies set forth in § 80.461.

\* \* \* \* \*

(nn) *Batch of motor vehicle diesel fuel* means a quantity of diesel fuel which is homogeneous with regard to those properties that are specified for motor vehicle diesel fuel under subpart I of this part.

\* \* \* \* \*

5. Section 80.29 is amended by revising paragraphs (a)(1) introductory text and (b), to read as follows:

**§ 80.29 Controls and prohibitions on diesel fuel quality.**

(a) *Prohibited activities.* (1) Beginning October 1, 1993 and continuing until the implementation dates for subpart I

of this part as specified in § 80.440, except as provided in 40 CFR 69.51, no person, including but not limited to, refiners, importers, distributors, resellers, carriers, retailers or wholesale purchaser-consumers, shall manufacture, introduce into commerce, sell, offer for sale, supply, store, dispense, offer for supply or transport any diesel fuel for use in motor vehicles, unless the diesel fuel:

\* \* \* \* \*

(b) *Determination of compliance.* (1) Any diesel fuel which does not show visible evidence of being dyed with dye solvent red 164 (which has a characteristic red color in diesel fuel) shall be considered to be available for use in diesel motor vehicles and motor vehicle engines, and shall be subject to the prohibitions of paragraph (a) of this section.

(2) Compliance with the sulfur, cetane, and aromatics standards in paragraph (a) of this section shall be determined based on the level of the applicable component or parameter, using the sampling methodologies specified in § 80.330(b), as applicable, and the appropriate testing methodologies specified in § 80.461(a) or (b) for sulfur, § 80.2(w) for cetane index, and § 80.2(z) for aromatic content. Any evidence or information, including the exclusive use of such evidence or information, may be used to establish the level of the applicable component or parameter in the diesel fuel, if the evidence or information is relevant to whether that level would have been in compliance with the standard if the appropriate sampling and testing methodology had been correctly performed. Such evidence may be obtained from any source or location and may include, but is not limited to, test results using methods other than the compliance methods in this paragraph (b), business records, and commercial documents.

(3) Determination of compliance with the requirements of this section other than the standards described in paragraph (a) of this section, and determination of liability for any violation of this section, may be based on information obtained from any source or location. Such information may include, but is not limited to, business records and commercial documents.

\* \* \* \* \*

6. Section 80.30 is amended by revising paragraphs (g)(2)(ii) and (g)(4)(i), and adding paragraph (h), to read as follows:

**§ 80.30 Liability for violations of diesel fuel controls and prohibitions.**

\* \* \* \* \*

(g) *Defenses.* \* \* \*

\* \* \* \* \*

(2) \* \* \*

(ii) Test results, performed in accordance with the applicable sampling and testing methodologies set forth in §§ 80.2(w), 80.2(z), 80.2(bb), and 80.461, which evidence that the diesel fuel determined to be in violation was in compliance with the diesel fuel standards of § 80.29(a) when it was delivered to the next party in the distribution system;

\* \* \* \* \*

(4) \* \* \*

(i) Test results, performed in accordance with the applicable sampling and testing methodologies set forth in §§ 80.2(w), 80.2(z), 80.2(bb), and 80.461, which evidence that the diesel fuel determined to be in violation was in compliance with the diesel fuel standards of § 80.29(a) when it was delivered to the next party in the distribution system;

\* \* \* \* \*

(h) *Detection of violations.* In paragraphs (a) through (f) of this section, the term “is detected at” means that the violation existed at the facility in question, and the existence of the violation at that facility may be established through evidence obtained or created at that facility, at any other location, and by any party.

7. Subpart I is added to read as follows:

**Subpart I—Diesel Fuel Sulfur Control**

Sec.

**General Information**

80.440 What are the implementation dates for the diesel fuel sulfur control program?

80.441 What diesel fuel is subject to the provisions of this subpart?

80.442–80.445 [Reserved]

**Motor Vehicle Diesel Fuel Standards and Requirements**

80.446 What are the standards and dye requirements for motor vehicle diesel fuel?

80.447 What are the standards and identification requirements for additives that are blended into or are offered for sale for use in motor vehicle diesel fuel?

80.448 May used motor oil be dispensed into diesel motor vehicles?

80.449 What diesel fuel designation requirements apply to refiners and importers?

80.450–80.452 [Reserved]

80.453 What labeling requirements apply to retailers and wholesale purchaser-consumers?

80.454–80.460 [Reserved]

**Sampling and Testing**

80.461 What are the sampling and test methods for sulfur?

**Recordkeeping and Reporting Requirements**

80.462 What are the product transfer document requirements for motor vehicle diesel fuel?

80.463 What are the product transfer document requirements for additives to be used in motor vehicle diesel fuel?

80.464 What records must be kept?

80.465 [Reserved]

**Exemptions**

80.466 What are the requirements for obtaining an exemption for motor vehicle diesel fuel used for research, development or testing purposes?

80.467 What are the requirements for an exemption for motor vehicle diesel fuel for use in the Territories?

80.468–80.469 [Reserved]

**Violation Provisions**

80.470 What acts are prohibited under the diesel fuel sulfur control program?

80.471 What evidence may be used to determine compliance with the prohibitions and requirements of this subpart and liability for violations of this subpart?

80.472 Who is liable for violations of this subpart?

80.473 What defenses apply to persons deemed liable for a violation of a prohibited act?

80.474 What penalties apply under this subpart?

**Subpart I—Diesel Fuel Sulfur Control General Information****§ 80.440 What are the implementation dates for the diesel fuel sulfur control program?**

(a) [Reserved]

(b) *Standards applicable to refiners and importers.* Beginning April 1, 2006, standards for motor vehicle diesel fuel under § 80.446 apply to motor vehicle diesel fuel produced by any refinery or imported by any importer.

(c) *Standards applicable downstream of the refinery or importer.* Beginning May 1, 2006, standards for motor vehicle diesel fuel under § 80.446 apply to motor vehicle diesel fuel at any facility in the diesel fuel distribution system downstream of the refinery or importer except at retail outlets and wholesale purchaser-consumer facilities.

(d) *Standards applicable to retailers and wholesale purchaser-consumers.* Beginning June 1, 2006, standards for motor vehicle diesel fuel under § 80.446 and § 80.453 apply to motor vehicle diesel fuel at any facility in the diesel fuel distribution system.

(e) [Reserved]

(f) *Other provisions.* All other provisions of this subpart apply April 1, 2006.

**§ 80.441 What diesel fuel is subject to the provisions of this subpart?**

(a) *Included fuel.* The provisions of this subpart apply to motor vehicle diesel fuel as defined in § 80.2(y), and to diesel fuel additives and motor oil that are used as fuel in diesel motor vehicles or are blended with diesel fuel for use in diesel motor vehicles at any point downstream of the refinery, as provided in §§ 80.447 and 80.448.

(b) *Excluded fuel.* The provisions of this subpart do not apply to motor vehicle diesel fuel that is designated for export outside the United States, and identified for export by a transfer document as required under § 80.462.

**§§ 80.442–80.445 [Reserved]****Motor Vehicle Diesel Fuel Standards and Requirements****§ 80.446 What are the standards and dye requirements for motor vehicle diesel fuel?**

(a) *Standards.* All motor vehicle diesel fuel is subject to the following per-gallon standards:

(1) *Sulfur content.* 15 parts per million (ppm);

(2) *Cetane index and aromatic content.* (i) A minimum cetane index of 40; or

(ii) A maximum aromatic content cap of 35 volume percent.

(b) *Dye requirements.* (1) All motor vehicle diesel fuel shall be free of visible presence of dye solvent red 164 (which has a characteristic red color in diesel fuel), except for motor vehicle diesel fuel that is used in a manner that is tax exempt under section 4082 of the Internal Revenue Code (26 U.S.C. 4082).

(2) Any diesel fuel that does not show visible presence of dye solvent red 164 shall be considered to be motor vehicle diesel fuel and subject to all the requirements of this subpart for motor vehicle diesel fuel, except for diesel fuel designated for use only in:

(i) Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands as provided under § 80.467;

(ii) The State of Alaska as provided under 40 CFR 69.51; or

(iii) Jet aircraft, research and development testing, or for export.

**§ 80.447 What are the standards and identification requirements for additives that are blended into or are offered for sale for use in motor vehicle diesel fuel?**

(a) Any additive that is blended into motor vehicle diesel fuel downstream of the refinery or is offered for sale for use in diesel motor vehicles shall have a sulfur content not exceeding 15 ppm.

(b) Transfer of the diesel fuel additive shall be accompanied by a transfer document under § 80.463, except as

provided in paragraph (c) of this section.

(c) For additives sold in containers for use by the ultimate consumer of diesel fuel, each transferor shall include on the additive container, in a legible and conspicuous manner, the following accurate printed statement:

This diesel fuel additive complies with the federal sulfur content requirements for use in diesel motor vehicles.

**§ 80.448 May used motor oil be dispensed into diesel motor vehicles?**

No person shall introduce used motor oil, or used motor oil blended with diesel fuel, into model year 2007 or later diesel motor vehicles, unless the following requirements have been met:

(a) The engine manufacturer has received a Certificate of Conformity for the vehicle engine under 40 CFR part 86 that is explicitly based on the addition of motor oil having the greatest sulfur content of any motor oil that is commercially available; and

(b) The oil is added in a manner consistent with the conditions of the certificate.

**§ 80.449 What diesel fuel designation requirements apply to refiners and importers?**

Any refiner or importer shall accurately and clearly designate all fuel it produces or imports for use in motor vehicles as motor vehicle diesel fuel.

**§§ 80.450–80.452 [Reserved]**

**§ 80.453 What labeling requirements apply to retailers and wholesale purchaser-consumers?**

Any retailer or wholesale purchaser-consumer who sells, dispenses, or offers for sale or dispensing, non-road diesel fuel and motor vehicle diesel fuel, must prominently and conspicuously display in the immediate area of each pump stand from such fuel is offered for sale or dispensing, the following legible label, in block letters of no less than 36-point bold type, printed in a color contrasting with the background, and placed in a location that is readily visible to the fuel recipient:

This is high sulfur diesel fuel which is not to be used in any highway motor vehicle. The use of high sulfur diesel fuel in highway motor vehicles may damage emissions controls, harm engine operations, and void your emissions warranty.

**§§ 80.454–80.460 [Reserved]**

**Sampling and Testing**

**§ 80.461 What are the sampling and test methods for sulfur?**

(a) *Diesel fuel.* For purposes of § 80.446, the sulfur content of diesel

fuel is the sulfur content as determined by:

(1) *Sampling method.* The applicable sampling methodology provided in § 80.330(b).

(2) *Test method for sulfur.* The American Society for Testing and Materials (ASTM) standard method D 2622–98, entitled “Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-ray Fluorescence Spectrometry,” modified as follows:

(i)(A) The blank stock used as a diluent for all calibration standards and sample dilutions must be prepared by mixing the following compounds at the specified proportions: 15 grams tert-butylbenzene, 15 grams decane, 15 grams dodecane, 15 grams tetradecane, 15 grams hexadecane, 15 grams tetralin, 5 grams octadecane, 5 grams naphthalene.

(B) The weight tolerances are  $\pm 5$  percent for each compound. The compounds must have a minimum purity of 99 percent.

(ii) Standards must be prepared by gravimetric dilution of the appropriate pure or certified sulfur compounds in the blank stock.

(iii) A standard series of 5 calibration points at standard levels must be run. An additional blank calibration standard must be included using the blank stock prepared pursuant to the requirements of this section.

(iv) A graph of the calibration points must be prepared. This graph must show the calibration data to be linear with minimal deviation from the least squares line. Any deviation from linearity and/or any standard that does not appear to lie on the least squares line must be investigated.

(v) A new regression line must be calculated using the calibration point from the blank and the single standard that falls closest to the least squares line that was derived using all of the calibration points. This is simply a recalculation using the same data, additional standard analyses are not necessary for this recalculation. For this recalculation, it is preferred that the non-zero standard be in the upper portion of the calibration.

(vi) Analyzing the blank as an unknown, the blank must return a zero within  $\pm 1$  ppm.

(vii) The following guidelines are useful in limiting test variability: For ongoing verification when samples are in the single digit range, it is good practice to include more duplicates and include both blank samples and control fluid samples. For higher level samples, it is good practice to analyze samples in batches of 12. One duplicate and one

control fluid sample should be analyzed with each batch of 12 samples. For lower level work, it is good practice to run samples in batches of 6. One duplicate, one control fluid, and one blank should be analyzed with each batch of 6 samples. As a general comment, care must be taken not to pollute the blank with sulfur from higher samples or standards through the process of preparing standards and analyzing the blanks.

(3) *Quality assurance test method.* Any ASTM sulfur test method may be used for quality assurance testing under § 80.473, if the protocols of the ASTM method are followed and the alternative method is correlated to the method provided in paragraph (b) of this section.

(b) *Motor Oil.* For purposes of § 80.448, the sulfur content of unused motor oil for use in diesel fuel is the sulfur content as determined by the use of American Society for Testing and Materials (ASTM) standard method D 6443–99, entitled “Standard Test Method for Determination of Calcium, Chlorine, Copper, Magnesium, Phosphorous, Sulfur, and Zinc, in Unused Lubricating Oils and Additives by Wavelength Dispersive X-ray Fluorescence Spectrometry (Mathematical Correction Procedure).”

(c) *Incorporation by reference.* ASTM Standard Method D 6443–99 is incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Society for Testing and Materials, 100 Bar Harbor Dr., West Conshohocken, PA 19428. Copies may be inspected at the Air Docket Section (LE–131), room M–1500, U.S. Environmental Protection Agency, Docket No. A–99–06, 401 M Street, SW, Washington, DC 20460, or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

**Recordkeeping and Reporting Requirements**

**§ 80.462 What are the product transfer document requirements for motor vehicle diesel fuel?**

On each occasion that any person transfers custody or title to motor vehicle diesel fuel, except when such fuel is dispensed into motor vehicles at a retail outlet or wholesale purchaser-facility, the transferor must provide to the transferee a product transfer document identifying the fuel as motor vehicle diesel fuel, and which:

(a) Identifies the name and address of the transferor and transferee, and the date of transfer;

(b) Except as provided in 40 CFR 69.51, includes an accurate statement, as applicable, that:

(1) "This fuel complies with the 15 ppm sulfur standard for motor vehicle diesel fuel.";

(2) "This is high sulfur motor vehicle diesel fuel for use only in Guam, American Samoa, or the Northern Mariana Islands.";

(3) "This diesel fuel is for export use only."; or

(4) "This diesel fuel is for research, development, or testing purposes only."

(c) For motor vehicle diesel fuel that contains visible evidence of the dye solvent red 164, the following accurate statement:

This fuel is motor vehicle diesel fuel for tax-exempt use only, in accordance with Section 4082 of the Internal Revenue Code.

(d) Except for transfers to truck carriers, retailers or wholesale purchaser-consumers, product codes may be used to convey the information required by paragraph (a) of this section if such codes are clearly understood by each transferee.

**§ 80.463 What are the product transfer document requirements for additives to be used in motor vehicle diesel fuel?**

(a) Except as provided in § 80.447(c), on each occasion that any person transfers custody or title to an additive for use in motor vehicle diesel fuel, to a party in the motor vehicle diesel fuel distribution system downstream of the refiner, the transferor must provide to the transferee a product transfer document which identifies the type of additive, and which:

(1) Identifies the name and address of the transferor and transferee, and the date of transfer; and

(2) Includes the following accurate statement:

This additive complies with the federal 15 ppm sulfur standard for motor vehicle diesel fuel.

(b) Except for transfers of motor vehicle diesel fuel to truck carriers, retailers or wholesale purchaser-consumers, product codes may be used to convey the information required under paragraph (a) of this section, if such codes are clearly understood by each transferee.

**§ 80.464 What records must be kept?**

(a) *Records that must be kept.* Beginning April 1, 2006, any person who produces, imports, sells, offers for sale, dispenses, distributes, supplies, offers for supply, stores, or transports

motor vehicle diesel fuel subject to the provisions of this subpart must keep the following records:

(1) The product transfer documents required under §§ 80.462 and 80.463.

(2) For any sampling and testing for sulfur content, cetane index or aromatics content of motor vehicle diesel fuel or additives, conducted as part of a quality assurance program or otherwise:

(i) The location, date, time and storage tank or truck identification for each sample collected;

(ii) The name and title of the person who collected the sample and the person who performed the testing; and

(iii) The results of the tests for diesel fuel properties as required under this subpart and the volume of product in the storage tank or container from which the sample was taken.

(3) The actions the party has taken, if any, to stop the sale or distribution of any diesel fuel found not to be in compliance with the standards specified in this subpart, and the actions the party has taken, if any, to identify the cause of any noncompliance and prevent future instances of noncompliance.

(4) Business records establishing compliance with the designation and/or segregation requirements pursuant to the requirements of this subpart.

(b) [Reserved]

(c) *Additive distribution system records.* Beginning April 1, 2006, any person who produces, imports, sells, offers for sale, dispenses, distributes, supplies, offers for supply, stores, or transports an additive for use in motor vehicle diesel fuel and who is required to transfer or receive a product transfer document for that additive pursuant to § 80.463, must maintain such documents.

(d) *Length of time records must be kept.* The records required under this section must be maintained for five years from the date they were created.

(e) *Make records available to EPA.* The records required to be maintained under this section must be made available to the Administrator or the Administrator's authorized representative upon request.

**§ 80.465 [Reserved]**

**Exemptions**

**§ 80.466 What are the requirements for obtaining an exemption for motor vehicle diesel fuel used for research, development or testing purposes?**

(a) *Written request for R&D exemption.* Any person may receive an exemption from the provisions of this subpart for motor vehicle diesel fuel used for research, development, or

testing ("R&D") purposes by submitting the information listed in paragraph (c) of this section to:

(1) Director (6406J), Transportation and Regional Programs Division, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (postal mail); or

(2) Director (6406J), Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 501 3rd Street, NW., Washington, DC 20001 (express mail/courier); and

(3) Director (2242A), Air Enforcement Division, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

(b) *Criteria for an R&D exemption.* For an R&D exemption to be granted, the person requesting an exemption must:

(1) Demonstrate a purpose that constitutes an appropriate basis for exemption;

(2) Demonstrate that an exemption is necessary;

(3) Design an R&D program to be reasonable in scope; and

(4) Exercise a degree of control consistent with the purpose of the program and EPA's monitoring requirements.

(c) *Information required to be submitted.* To demonstrate each of the elements in paragraphs (b)(1) through (4) of this section, the person requesting an exemption must include the following information in the written request required under paragraph (a) of this section:

(1) A concise statement of the purpose of the program demonstrating that the program has an appropriate R&D purpose.

(2) An explanation of why the stated purpose of the program cannot be achieved in a practicable manner without performing one or more of the prohibited acts under this subpart.

(3) To demonstrate the reasonableness of the scope of the program:

(i) An estimate of the program's duration in time and, if appropriate, mileage;

(ii) An estimate of the maximum number of vehicles or engines involved in the program;

(iii) The manner in which the information on vehicles and engines used in the program will be recorded and made available to the Administrator upon request; and

(iv) The quantity of diesel fuel which does not comply with the requirements of §§ 80.446 through 80.448.

(4) With regard to control, a demonstration that the program affords EPA a monitoring capability, including:

(i) The site(s) of the program (including facility name, street address, city, county, state, and zip code);

(ii) The manner in which information on vehicles and engines used in the program will be recorded and made available to the Administrator upon request;

(iii) The manner in which information on the diesel fuel used in the program (including quantity, fuel properties, name, address, telephone number and contact person of the supplier, and the date received from the supplier), will be recorded and made available to the Administrator upon request;

(iv) The manner in which the party will ensure that the R&D fuel will be segregated from motor vehicle diesel fuel and fuel pumps will be labeled to ensure proper use of the R&D diesel fuel;

(v) The name, address, telephone number and title of the person(s) in the organization requesting an exemption from whom further information on the application may be obtained; and

(vi) The name, address, telephone number and title of the person(s) in the organization requesting an exemption who is responsible for recording and making available the information specified in this paragraph, and the location where such information will be maintained.

(d) *Additional requirements.* (1) The product transfer documents associated with R&D motor vehicle diesel fuel must comply with requirements of § 80.462(b)(5).

(2) The R&D diesel fuel must be designated by the refiner or supplier, as applicable, as R&D diesel fuel.

(3) The R&D diesel fuel must be kept segregated from non-exempt motor vehicle diesel fuel at all points in the distribution system.

(4) The R&D diesel fuel must not be sold, distributed, offered for sale or distribution, dispensed, supplied, offered for supply, transported to or from, or stored by a diesel fuel retail outlet, or by a wholesale purchaser-consumer facility, unless the wholesale purchaser-consumer facility is associated with the R&D program that uses the diesel fuel.

(5) At the completion of the program, any emission control systems or elements of design which are damaged or rendered inoperative shall be replaced, or the responsible person will be liable for a violation of the Clean Air Act Section 203(a)(3) unless sufficient evidence is supplied that the emission controls or elements of design were not damaged.

(e) [Reserved]

(f) *Mechanism for granting of an exemption.* A request for an R&D exemption will be deemed approved by the earlier of sixty (60) days from the date on which EPA receives the request for exemption, (provided that EPA has not notified the applicant of potential disapproval by that time), or the date on which the applicant receives a written approval letter from EPA.

(1) The volume of diesel fuel subject to the approval shall not exceed the estimated amount in paragraph (c)(3)(iv) of this section, unless EPA grants a greater amount in writing.

(2) Any exemption granted under this section will expire at the completion of the test program or three years from the date of approval, whichever occurs first, and may only be extended upon re-application consistent with all requirements of this section.

(3) The passage of sixty (60) days will not signify the acceptance by EPA of the validity of the information in the request for an exemption. EPA may elect at any time to review the information contained in the request, and where appropriate may notify the responsible person of disapproval of the exemption.

(4) In granting an exemption the Administrator may include terms and conditions, including replacement of emission control devices or elements of design, that the Administrator determines are necessary for monitoring the exemption and for assuring that the purposes of this subpart are met.

(5) Any violation of a term or condition of the exemption, or of any requirement of this section, will cause the exemption to be void *ab initio*.

(6) If any information required under paragraph (c) of this section should change after approval of the exemption, the responsible person must notify EPA in writing immediately. Failure to do so may result in disapproval of the exemption or may make it void *ab initio*, and may make the party liable for a violation of this subpart.

(g) *Effects of exemption.* Motor vehicle diesel fuel that is subject to an R&D exemption under this section is exempt from other provisions of this subpart provided that the fuel is used in a manner that complies with the purpose of the program under paragraph (c) of this section and the requirements of this section.

(h) *Notification of Completion.* The party shall notify EPA in writing within thirty (30) days of completion of the R&D program.

#### § 80.467 What are the requirements for an exemption for motor vehicle diesel fuel for use in the Territories?

The sulfur standards and dye requirement of § 80.446(a)(1) and (b) do not apply to diesel fuel that is produced, imported, sold, offered for sale, supplied, offered for supply, stored, dispensed, or transported for use in the Territories of Guam, American Samoa or the Commonwealth of the Northern Mariana Islands provided that such diesel fuel is:

(a) Designated by the refiner or importer as high sulfur diesel fuel only for use in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands;

(b) Used only in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands;

(c) Accompanied by documentation that complies with the product transfer document requirements of § 80.462(b)(3); and

(d) Segregated from non-exempt highway and other diesel fuel at all points in the distribution system from the point the diesel fuel is designated as exempt fuel only for use in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, while the exempt fuel is in the United States but outside these Territories.

#### §§ 80.468–469 [Reserved]

#### Violation Provisions

#### § 80.470 What acts are prohibited under the diesel fuel sulfur program?

No person shall:

(a) *Standard or dye violation.*

Produce, import, sell, offer for sale, dispense, supply, offer for supply, store or transport motor vehicle diesel fuel that does not comply with the applicable standards and dye requirements under § 80.446.

(b) *Additive violation.* Blend or permit the blending into motor vehicle diesel fuel downstream of the refinery, or use, or permit the use, as motor vehicle diesel fuel, of additives which do not comply with the requirements of § 80.447.

(c) *Motor Oil violation.* Introduce into diesel motor vehicles, or permit the introduction into such vehicles of motor oil, or motor oil blended with diesel fuel, which does not comply with the requirements of § 80.448.

(d) *Introduction violation.* Introduce, or permit the introduction of, fuel into diesel motor vehicles which does not comply with the standards of § 80.446.

(e) *Cause another party to violate.* Cause another person to commit an act in violation of paragraphs (a) through (d) of this section.

(f) *Cause violating fuel or additive to be in the distribution system.* Cause diesel fuel to be in the diesel fuel distribution system which does not comply with the applicable standard or dye requirements of § 80.446, or cause any diesel fuel additive to be in the distribution system which does not comply with the sulfur standard of § 80.447.

**§ 80.471 What evidence may be used to determine compliance with the prohibitions and requirements of this subpart and liability for violations of this subpart?**

(a) *Compliance with sulfur, cetane, and aromatics standards.* Compliance with the standards in §§ 80.446 and 80.448 shall be determined based on the level of the applicable component or parameter, using the sampling methodologies specified in § 80.330(b), as applicable, and the appropriate testing methodologies specified in § 80.461(a) or (b) for sulfur, § 80.2(w) for cetane index, and § 80.2(z) for aromatic content. Any evidence or information, including the exclusive use of such evidence or information, may be used to establish the level of the applicable component or parameter in the diesel fuel, or motor oil to be used in diesel fuel, if the evidence or information is relevant to whether that level would have been in compliance with the standard if the appropriate sampling and testing methodology had been correctly performed. Such evidence may be obtained from any source or location and may include, but is not limited to, test results using methods other than the compliance methods in this paragraph, business records, and commercial documents.

(b) *Compliance with other requirements.* Determination of compliance with the requirements of this subpart other than the standards described in paragraph (a) of this section and in §§ 80.446 and 80.448, and determination of liability for any violation of this subpart, may be based on information obtained from any source or location. Such information may include, but is not limited to, business records and commercial documents.

**§ 80.472 Who is liable for violations of this subpart?**

(a) *Persons liable for violations of prohibited acts.*—(1) *Standard, dye, additives, motor oil, and introduction violations.* (i) Any refiner, importer, distributor, reseller, carrier, retailer, or wholesale purchaser-consumer who owned, leased, operated, controlled or supervised a facility where a violation of § 80.470(a) through (d) occurred, is

deemed liable for the applicable violation.

(ii) Any person who violates § 80.470(a) through (d) is liable for the violation.

(iii) Any person who causes another person to violate § 80.470(a) through (d) is liable for a violation of § 80.470(e).

(iv) Any refiner, importer, distributor, reseller, carrier, retailer, or wholesale purchaser-consumer who produced, imported, sold, offered for sale, dispensed, supplied, offered to supply, stored, transported, or caused the transportation or storage of, diesel fuel that violates § 80.470(a), is deemed in violation of § 80.470(e).

(2) *Cause violating diesel fuel or additive to be in the distribution system.* Any refiner, importer, distributor, reseller, carrier, retailer, or wholesale purchaser-consumer who owned, leased, operated, controlled or supervised a facility from which motor vehicle diesel fuel or additive was released into the distribution system which does not comply with the applicable standards or dye requirement of § 80.446 or § 80.447, is deemed in violation of § 80.470(f).

(3) *Branded refiner/importer liability.* Any refiner or importer whose corporate, trade, or brand name, or whose marketing subsidiary's corporate, trade, or brand name appeared at a facility where a violation of § 80.470(a) occurred, is deemed in violation of § 80.470(a).

(4) *Carrier causation.* In order for a carrier to be liable under paragraph (a)(1)(iii) or (iv) of this section, EPA must demonstrate, by reasonably specific showing by direct or circumstantial evidence, that the carrier caused the violation.

(5) *Parent corporation.* Any parent corporation is liable for any violations of this subpart that are committed by any subsidiary.

(6) *Joint venture.* Each partner to a joint venture is jointly and severally liable for any violation of this subpart that occurs at the joint venture facility or is committed by the joint venture operation.

(b) *Persons liable for failure to meet other provisions of this subpart.* Any refiner, importer, distributor, reseller, carrier, retailer, or wholesale purchaser-consumer who:

(1) Fails to meet a provision of this subpart not addressed in paragraph (a) of this section is liable for a violation of that provision; or

(2) Causes another person to fail to meet a provision of this subpart not addressed in paragraph (a) of this section, is liable for causing a violation of that provision.

**§ 80.473 What defenses apply to persons deemed liable for a violation of a prohibited act?**

(a) *Presumptive liability defenses.* Any person deemed liable for a violation of a prohibition under § 80.472 (a)(1)(i) or (a)(1)(iv), (a)(2) or (a)(3), will not be deemed in violation if the person demonstrates that:

(1) The violation was not caused by the person or the person's employee or agent;

(2) Product transfer documents account for fuel or additive found to be in violation and indicate that the violating product had met the applicable requirements when it was under the party's control; and

(3) The person conducted a quality assurance sampling and testing program, as described in paragraph (d) of this section. A carrier may rely on the quality assurance program carried out by another party, including the party who owns the diesel fuel in question, provided that the quality assurance program is carried out properly. Retailers and wholesale purchaser-consumers are not required to conduct quality assurance programs.

(b) *Branded refiner defenses.* In the case of a violation found at a facility operating under the corporate, trade or brand name of a refiner or importer, or a refiner's or importer's marketing subsidiary, the refiner or importer must show, in addition to the defense elements required under paragraphs (a)(1) and (a)(2) of this section, that the violation was caused by:

(1) An act in violation of law (other than the Clean Air Act or this part 80), or an act of sabotage or vandalism;

(2) The action of any refiner, importer, retailer, distributor, reseller, oxygenate blender, carrier, retailer or wholesale purchaser-consumer in violation of a contractual agreement between the branded refiner or importer and the person designed to prevent such action, and despite periodic sampling and testing by the branded refiner or importer to ensure compliance with such contractual obligation; or

(3) The action of any carrier or other distributor not subject to a contract with the refiner or importer, but engaged for transportation of diesel fuel, despite specifications or inspections of procedures and equipment which are reasonably calculated to prevent such action.

(c) *Causation demonstration.* Under paragraph (a)(1) of this section for any person to show that a violation was not caused by that person, or under paragraph (b) of this section to show that a violation was caused by any of the specified actions, the person must

demonstrate by reasonably specific showing, by direct or circumstantial evidence, that the violation was caused or must have been caused by another person and that the person asserting the defense did not contribute to that other person's causation.

(d) *Quality assurance and testing program.* (1) To demonstrate an acceptable quality assurance program under paragraph (a)(2) of this section, a person must present evidence of the following:

(i) A periodic sampling and testing program to ensure the motor vehicle diesel fuel or additive the person sold, dispensed, supplied, stored, or transported, meets the applicable standards; and

(ii) On each occasion when motor vehicle diesel fuel or additive is found not in compliance with the applicable standard:

(A) The person immediately ceases selling, offering for sale, dispensing, supplying, offering for supply, storing or transporting the non-complying product; and

(B) The person promptly remedies the violation and the factors that caused the violation (for example, by removing the non-complying product from the distribution system until the applicable standard is achieved and taking steps to prevent future violations of a similar nature from occurring).

(2) For any carrier who transports motor vehicle diesel fuel or additive in a tank truck, the quality assurance program required under this paragraph (d) need not include periodic sampling and testing of the motor vehicle diesel fuel or additive in the tank truck, but in lieu of such tank truck sampling and testing, the carrier shall demonstrate evidence of an oversight program for monitoring compliance with the requirements of this subpart relating to the transport or storage of such product by tank truck, such as appropriate guidance to drivers regarding compliance with the applicable sulfur standard and product transfer document requirements, and the periodic review of records received in the ordinary course of business concerning motor vehicle diesel fuel or additive quality and delivery.

**§ 80.474 What penalties apply under this subpart?**

(a) Any person liable for a violation under § 80.472 is subject to civil penalties as specified in section 205 of the Clean Air Act for every day of each such violation and the amount of economic benefit or savings resulting from each violation.

(b)(1) Any person liable under § 80.472(a)(1) for a violation of an applicable standard or requirement under § 80.446, or of causing another party to violate such standard or requirement, is subject to a separate day of violation for each and every day the non-complying motor vehicle diesel fuel remains any place in the distribution system.

(2) Any person liable under § 80.472(a)(2) for causing motor vehicle diesel fuel to be in the distribution system which does not comply with an applicable standard or requirement of § 80.446, is subject to a separate day of violation for each and every day that the non-complying motor vehicle diesel fuel remains any place in the motor vehicle diesel fuel distribution system.

(3) For purposes of this paragraph (b), the length of time the motor vehicle diesel fuel in question remained in the motor vehicle diesel fuel distribution system is deemed to be twenty-five days, unless a person subject to liability or EPA demonstrates by reasonably specific showings, by direct or circumstantial evidence, that the non-complying motor vehicle diesel fuel remained in the distribution system for fewer than or more than twenty-five days.

(c) Any person liable under § 80.472(a)(1) for blending into motor vehicle diesel fuel an additive violating the sulfur standard under § 80.447(a)(1), or of causing another party to violate that requirement, is subject to a separate day of violation for each and every day the non-complying motor vehicle diesel fuel remains any place in the system.

(d) Any person liable under § 80.472(b) for failure to meet, or causing a failure to meet, a provision of this subpart is liable for a separate day of violation for each and every day such provision remains unfulfilled.

**PART 86—[AMENDED]**

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

**Authority:** 42 U.S.C. 7401–7671q.

9. Section 86.004–2 of subpart A is amended by adding in alphabetical order a definition of “U.S.-directed production” to read as follows:

**§ 86.004–2 Definitions.**

\* \* \* \* \*

*U.S.-directed production* means the engines or vehicles produced by a manufacturer for which the manufacturer has reasonable assurance that sale was or will be made to ultimate purchasers in the United States.

\* \* \* \* \*

10. Section 86.004–40 of subpart A is amended by revising the introductory text to read as follows:

**§ 86.004–40 Heavy-duty engine rebuilding practices.**

The provisions of this section are applicable to heavy-duty engines subject to model year 2004 or later standards and are applicable to the process of engine rebuilding (or rebuilding a portion of an engine or engine system). The process of engine rebuilding generally includes disassembly, replacement of multiple parts due to wear, and reassembly, and also may include the removal of the engine from the vehicle and other acts associated with rebuilding an engine. Any deviation from the provisions contained in this section is a prohibited act under section 203(a)(3) of the Clean Air Act (42 U.S.C. 7522(a)(3)).

\* \* \* \* \*

11. A new § 86.007–10 is added to subpart A to read as follows:

**§ 86.007–10 Emission standards for 2007 and later model year Otto-cycle heavy-duty engines and vehicles.**

This § 86.007–10 includes text that specifies requirements that differ from § 86.099–10. Where a paragraph in § 86.099–10 is identical and applicable to § 86.007–10, this may be indicated by specifying the corresponding paragraph and the statement “[Reserved]. For guidance see § 86.099–10.”

(a)(1) Exhaust emissions from new 2007 and later model year Otto-cycle HDEs shall not exceed:

(i)(A) *Oxides of Nitrogen (NO<sub>x</sub>)*. 0.20 grams per brake horsepower-hour (0.075 grams per megajoule).

(B) A manufacturer may elect to include any or all of its Otto-cycle HDE families in any or all of the NO<sub>x</sub> and NO<sub>x</sub> plus NMHC emissions ABT programs for HDEs, within the restrictions described in § 86.007–15 or § 86.004–15. If the manufacturer elects to include engine families in any of these programs, the NO<sub>x</sub> FEL may not exceed 0.50 grams per brake horsepower-hour (0.19 grams per megajoule). This ceiling value applies whether credits for the family are derived from averaging, banking, or trading programs.

(ii)(A) *Non-methane Hydrocarbons (NMHC) for engines fueled with either gasoline, natural gas, or liquefied petroleum gas*. 0.14 grams per brake horsepower-hour (0.052 gram per megajoule).

(B) *Non-methane Hydrocarbon Equivalent (NMHCE) for engines fueled with methanol*. 0.14 grams per brake



horsepower-hour (0.052 gram per megajoule).

(iii)(A) *Carbon monoxide*. 14.4 grams per brake horsepower-hour (5.36 grams per megajoule).

(B) *Idle Carbon Monoxide*. For all Otto-cycle HDEs utilizing aftertreatment technology: 0.50 percent of exhaust gas flow at curb idle.

(iv) *Particulate*. 0.01 gram per brake horsepower-hour (0.0037 gram per megajoule).

(v) *Formaldehyde*. 0.016 grams per brake horsepower-hour (0.0060 gram per megajoule)

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over the operating schedule set forth in paragraph (f)(1) of appendix I to this part, and measured and calculated in accordance with the procedures set forth in subpart N or P of this part.

(3) [Reserved]

(4) [Reserved]

(b) Evaporative emissions from heavy-duty vehicles shall not exceed the following standards. The standards apply equally to certification and in-use vehicles. The spitback standard also applies to newly assembled vehicles. For certification vehicles only, manufacturers may conduct testing to quantify a level of nonfuel background emissions for an individual test vehicle. Such a demonstration must include a description of the source(s) of emissions and an estimated decay rate. The demonstrated level of nonfuel background emissions may be subtracted from emission test results from certification vehicles if approved in advance by the Administrator.

(1) Hydrocarbons (for vehicles equipped with gasoline-fueled, natural gas-fueled or liquefied petroleum gas-fueled engines). (i) For vehicles with a Gross Vehicle Weight Rating of up to 14,000 lbs:

(A)(1) For the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 1.4 grams per test.

(2) For the supplemental two-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements (gasoline-fueled vehicles only): 1.75 grams per test.

(B) Running loss test (gasoline-fueled vehicles only): 0.05 grams per mile.

(C) Fuel dispensing spitback test (gasoline-fueled vehicles only): 1.0 gram per test.

(ii) For vehicles with a Gross Vehicle Weight Rating of greater than 14,000 lbs:

(A)(1) For the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 1.9 grams per test.

(2) For the supplemental two-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements (gasoline-fueled vehicles only): 2.3 grams per test.

(B) Running loss test (gasoline-fueled vehicles only): 0.05 grams per mile.

(2) Total Hydrocarbon Equivalent (for vehicles equipped with methanol-fueled engines). (i) For vehicles with a Gross Vehicle Weight Rating of up to 14,000 lbs:

(A)(1) For the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 1.4 grams carbon per test.

(2) For the supplemental two-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 1.75 grams carbon per test.

(B) Running loss test: 0.05 grams carbon per mile.

(C) Fuel dispensing spitback test: 1.0 gram carbon per test.

(ii) For vehicles with a Gross Vehicle Weight Rating of greater than 14,000 lbs:

(A)(1) For the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 1.9 grams carbon per test.

(2) For the supplemental two-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 2.3 grams carbon per test.

(B) Running loss test: 0.05 grams carbon per mile.

(3)(i) For vehicles with a Gross Vehicle Weight Rating of up to 26,000 lbs, the standards set forth in paragraphs (b)(1) and (b)(2) of this section refer to a composite sample of evaporative emissions collected under the conditions and measured in accordance with the procedures set forth in subpart M of this part.

(ii) For vehicles with a Gross Vehicle Weight Rating of greater than 26,000 lbs., the standards set forth in paragraphs (b)(1)(ii) and (b)(2)(ii) of this section refer to the manufacturer's engineering design evaluation using good engineering practice (a statement of which is required in § 86.098–23(b)(4)(ii)).

(4) All fuel vapor generated in a gasoline-or methanol-fueled heavy-duty vehicle during in-use operations shall be routed exclusively to the evaporative control system (e.g., either canister or engine purge). The only exception to this requirement shall be for emergencies.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 2007 or later model year Otto-cycle HDE.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to

taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in subpart N or P of this part to ascertain that such test engines meet the requirements of this section.

(e)[Reserved]. For guidance see § 86.099–10.

12. A new § 86.007–11 is added to subpart A to read as follows:

**§ 86.007–11 Emission standards for 2007 and later model year diesel heavy-duty engines and vehicles.**

Section 86.007–11 includes text that specifies requirements that differ from § 86.004–11. Where a paragraph in § 86.004–11 is identical and applicable to § 86.007–11, this may be indicated by specifying the corresponding paragraph and the statement “[Reserved]. For guidance see § 86.004–11.”

(a)(1) Exhaust emissions from new 2007 and later model year diesel HDEs shall not exceed the following:

(i)(A) *Oxides of Nitrogen (NO<sub>x</sub>)*. 0.20 grams per brake horsepower-hour (0.075 gram per megajoule).

(B) A manufacturer may elect to include any or all of its diesel HDE families in any or all of the NO<sub>x</sub> and NO<sub>x</sub> plus NMHC emissions ABT programs for HDEs, within the restrictions described in § 86.007–15 or § 86.004–15. If the manufacturer elects to include engine families in any of these programs, the NO<sub>x</sub> FELs may not exceed 0.50 grams per brake horsepower-hour (0.19 grams per megajoule). This ceiling value applies whether credits for the family are derived from averaging, banking, or trading programs.

(ii)(A) *Non-methane Hydrocarbons (NMHC) for engines fueled with either diesel fuel, natural gas, or liquefied petroleum gas*. 0.14 grams per brake horsepower-hour (0.052 gram per megajoule).

(B) *Non-methane Hydrocarbon Equivalent (NMHCE) for engines fueled with methanol*. 0.14 grams per brake horsepower-hour (0.052 gram per megajoule).

(iii) *Carbon monoxide*. (A) 15.5 grams per brake horsepower-hour (5.77 grams per megajoule).

(B) 0.50 percent of exhaust gas flow at curb idle (methanol-, natural gas-, and liquefied petroleum gas-fueled diesel HDEs only).

(iv) *Particulate*. (A) 0.01 gram per brake horsepower-hour (0.0037 gram per megajoule).

(B) A manufacturer may elect to include any or all of its diesel HDE families in any or all of the particulate ABT programs for HDEs, within the



restrictions described in § 86.007–15 or superseding applicable sections. If the manufacturer elects to include engine families in any of these programs, the particulate FEL may not exceed 0.02 gram per brake horsepower-hour (0.0075 gram per megajoule).

(v) *Formaldehyde*. 0.016 grams per brake horsepower-hour (0.0060 gram per megajoule).

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over the operating schedule set forth in paragraph (f)(2) of appendix I to this part, and measured and calculated in accordance with the procedures set forth in subpart N or P of this part, except as noted in § 86.007–23(c)(2).

(3)(i) The weighted average exhaust emissions, as determined under § 86.1360–2004(e)(5) pertaining to the supplemental steady-state test cycle, for each regulated pollutant shall not exceed 1.0 times the applicable emission standards or FELs specified in paragraph (a)(1) of this section.

(ii) Exhaust emissions shall not exceed the Maximum Allowable Emission Limits (for the corresponding speed and load), as determined under § 86.1360–2004(f), when the engine is operated in the steady-state control area defined under § 86.1360–2004(d).

(4)(i) The weighted average emissions, as determined under § 86.1370 pertaining to the not-to-exceed test procedures, for each regulated pollutant shall not exceed 1.25 times the applicable emission standards or FELs specified in paragraph (a)(1) of this section, except as noted in paragraph (a)(4)(ii) of this section.

(ii) Exhaust emissions shall not exceed either the Maximum Allowable Emission Limits (for the corresponding speed and load), as determined under § 86.1360(f) or the exhaust emissions specified in paragraph (a)(4)(i) of this section, whichever is numerically lower, when the engine is operated in the steady-state control area defined under § 86.1360(d).

(b)[Reserved]. For guidance see § 86.004–11.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 2007 or later model year diesel HDE.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in subpart I or N of this part to ascertain that such test engines meet the

requirements of paragraphs (a), (b), (c), and (d) of this section.

(e)[Reserved]. For guidance see § 86.004–11.

(f) Optional phase-in provisions. For model years 2007, 2008, and 2009, manufacturers may certify some of their engine families to the combined NO<sub>x</sub> plus NMHC standard applicable to model year 2006 engines under § 86.004–11, in lieu of the separate NO<sub>x</sub>, NMHC, and formaldehyde standards specified in this section. These engines must comply with all other requirements applicable to model year 2007 engines.

(1) The following sales limits apply:

(i) For model year 2007, the combined number of engines in the engine families certified to the 2006 combined NO<sub>x</sub> plus NMHC standard may not exceed 75 percent of the manufacturer's U.S.-directed production of heavy-duty diesel motor vehicle engines for model year 2007.

(ii) For model year 2008, the combined number of engines in the engine families certified to the 2006 combined NO<sub>x</sub> plus NMHC standard may not exceed 50 percent of the manufacturer's U.S.-directed production of heavy-duty diesel motor vehicle engines for model year 2008.

(iii) For model year 2009, the combined number of engines in the engine families certified to the 2006 combined NO<sub>x</sub> plus NMHC standard may not exceed 25 percent of the manufacturer's U.S.-directed production of heavy-duty diesel motor vehicle engines for model year 2009.

(2) During the phase-in period, manufacturers may not average together (as part of the ABT program) engine families certified to the NO<sub>x</sub> plus NMHC standards applicable to model year 2006 and engine families certified to the separate NO<sub>x</sub> and NMHC standards specified in this section.

(g)(1) Diesel heavy-duty engines and vehicles for sale in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall be subject to the same standards and requirements as apply to 2006 model year diesel heavy-duty engines and vehicles, but only if the vehicle or engine bears a permanently affixed label stating:

THIS ENGINE (or VEHICLE, as applicable) CONFORMS TO US EPA EMISSION STANDARDS APPLICABLE TO MODEL YEAR 2006. THIS ENGINE (or VEHICLE, as applicable) DOES NOT CONFORM TO US EPA EMISSION REQUIREMENTS IN EFFECT AT TIME OF PRODUCTION AND MAY NOT BE IMPORTED INTO THE UNITED STATES OR ANY TERRITORY OF THE UNITED STATES EXCEPT GUAM,

AMERICAN SAMOA, OR THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(2) The importation or sale of such a vehicle or engine for use at any location other than Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall be considered a violation of section 203(a)(1) of the Clean Air Act. In addition, vehicles or vehicle engines subject to this exemption may not subsequently be imported or sold into any state or territory of the United States other than Guam, American Samoa, or Commonwealth of the Northern Mariana Islands.

13. A new § 86.007–15 is added to Subpart A to read as follows:

**§ 86.007–15 NO<sub>x</sub> and particulate averaging, trading, and banking for heavy-duty engines.**

Section 86.007–15 includes text that specifies requirements that differ from § 86.004–15. Where a paragraph in § 86.004–15 is identical and applicable to § 86.007–15, this may be indicated by specifying the corresponding paragraph and the statement “[Reserved]. For guidance see § 86.004–15.”

(a) through (k) [Reserved]. For guidance see § 86.004–15.

(1) The following provisions apply for model year 2007 and later engines. These provisions apply instead of the provisions of § 86.004–15 (a) through (k) to the extent that they are in conflict.

(1) Credits are calculated as NO<sub>x</sub> credits. Banked NO<sub>x</sub> plus NMHC credits and PM credits generated in prior model years (before 2007) may not be used in the 2007 and later NO<sub>x</sub> and PM averaging programs, unless:

(i) The engines generating the credits meet all of the applicable standards listed in § 86.007–10 (a)(1) or § 86.007–11 (a)(1); or

(ii) The engines using the credits are certified under the § 86.007–11(f).

(2) The FEL must be expressed to the same number of decimal places as the standard (one-hundredth of a gram per brake horsepower-hour).

(3) Credits are rounded to the nearest one-hundredth of a Megagram.

(4) Credits generated for 2007 and later model year engine families are not discounted, and do not expire.

14. A new § 86.007–23 is added to Subpart A to read as follows:

**§ 86.007–23 Required data.**

Section 86.007–23 includes text that specifies requirements that differ from § 86.095–23, § 86.098–23, or § 86.001–23. Where a paragraph in § 86.095–23, § 86.098–23, or § 86.001–23 is identical and applicable to § 86.007–23, this may

be indicated by specifying the corresponding paragraph and the statement “[Reserved]. For guidance see § 86.095–23.”, “[Reserved]. For guidance see § 86.098–23.”, or “[Reserved]. For guidance see § 86.001–23.”.

(a) through (b)(1) [Reserved]. For guidance see § 86.098–23.

(b)(2) [Reserved]. For guidance see § 86.001–23.

(b)(3) and (b)(4) [Reserved]. For guidance see § 86.098–23.

(c) *Emission data*—(1) *Certification vehicles*. The manufacturer shall submit emission data (including, methane, methanol, formaldehyde, and hydrocarbon equivalent, as applicable) on such vehicles tested in accordance with applicable test procedures and in such numbers as specified. These data shall include zero-mile data, if generated, and emission data generated for certification as required under § 86.000–26(a)(3). In lieu of providing emission data the Administrator may, on request of the manufacturer, allow the manufacturer to demonstrate (on the basis of previous emission tests, development tests, or other information) that the engine will conform with certain applicable emission standards of this part. Standards eligible for such manufacturer requests are those for idle CO emissions, smoke emissions, or particulate emissions from methanol-fueled diesel-cycle certification vehicles, those for particulate emissions from gasoline-fueled or methanol-fueled Otto-cycle certification vehicles, and those for formaldehyde emissions from petroleum-fueled vehicles. Also eligible for such requests are standards for total hydrocarbon emissions from model year 1994 and later certification vehicles. By separate request, including appropriate supporting test data, the manufacturer may request that the Administrator also waive the requirement to measure particulate or formaldehyde emissions when conducting Selective Enforcement Audit testing of Otto-cycle vehicles.

(2) *Certification engines*. The manufacturer shall submit emission data on such engines tested in accordance with applicable emission test procedures of this subpart and in such numbers as specified. These data shall include zero-hour data, if generated, and emission data generated for certification as required under § 86.000–26(c)(4). In lieu of providing emission data on idle CO emissions or particulate emissions from methanol-fueled diesel-cycle certification engines, on particulate emissions from Otto-cycle engines, on CO emissions from

diesel certification engines, or on formaldehyde emissions from petroleum-fueled engines the Administrator may, on request of the manufacturer, allow the manufacturer to demonstrate (on the basis of previous emission tests, development tests, or other information) that the engine will conform with the applicable emission standards of this part. In lieu of providing emission data on smoke emissions from methanol-fueled or petroleum-fueled diesel certification engines, the Administrator may, on the request of the manufacturer, allow the manufacturer to demonstrate (on the basis of previous emission tests, development tests, or other information) that the engine will conform with the applicable emissions standards of this part. In lieu of providing emissions data on smoke emissions from petroleum-fueled or methanol-fueled diesel engines, or on formaldehyde emissions from petroleum-fueled engines when conducting Selective Enforcement Audit testing under subpart K of this part, the Administrator may, on separate request of the manufacturer, allow the manufacturer to demonstrate (on the basis of previous emission tests, development tests, or other information) that the engine will conform with the applicable smoke emissions standards of this part.

(d) through (e)(1) [Reserved]. For guidance see § 86.098–23.

(e)(2) and (e)(3) [Reserved]. For guidance see § 86.001–23.

(f) through (g) [Reserved]. For guidance see § 86.095–23.

(h) through (k) [Reserved]. For guidance see § 86.098–23.

(l) [Reserved]. For guidance see § 86.095–23.

(m) [Reserved]. For guidance see § 86.098–23.

15. A new § 86.007–25 is added to Subpart A to read as follows:

**§ 86.007–25 Maintenance.**

Section 86.007–25 includes text that specifies requirements that differ from § 86.094–25, § 86.098–25, or § 86.004–25. Where a paragraph in § 86.094–25, § 86.098–25, or § 86.004–25 is identical and applicable to § 86.007–25, this may be indicated by specifying the corresponding paragraph and the statement “[Reserved]. For guidance see § 86.094–25.”, “[Reserved]. For guidance see § 86.098–25.”, or “[Reserved]. For guidance see § 86.004–25.”

(a) through (b)(3)(v)(H) [Reserved]. For guidance see § 86.004–25.

(b)(3)(vi)(A) through (b)(3)(vi)(D) [Reserved]. For guidance see § 86.094–25.

(b)(3)(vi)(E) through (b)(3)(vi)(J) [Reserved]. For guidance see § 86.098–25.

(b)(4) introductory text through (b)(4)(iii)(C) [Reserved]. For guidance see § 86.004–25.

(b)(4)(iii)(D) Particulate trap or trap oxidizer systems including related components (adjustment and cleaning only for filter element, replacement of the filter element is not allowed during the useful life).

(b)(4)(iii)(E) [Reserved]. For guidance see § 86.004–25.

(F) Catalytic converter (adjustment and cleaning only for catalyst beds, replacement of the bed is not allowed during the useful life).

(b)(4)(iii)(G) through (b)(6) [Reserved]. For guidance see § 86.004–25.

(b)(7) through (h) [Reserved]. For guidance see § 86.094–25.

16. A new § 86.007–35 is added to Subpart A to read as follows:

**§ 86.007–35 Labeling.**

Section 86.007–35 includes text that specifies requirements that differ from § 86.095–35. Where a paragraph in § 86.095–35 is identical and applicable to § 86.007–35, this may be indicated by specifying the corresponding paragraph and the statement “[Reserved]. For guidance see § 86.095–35.”

(a) Introductory text through (a)(1)(iii)(L) [Reserved]. For guidance see § 86.095–35.

(a)(1)(iii)(M) [Reserved]

(a)(1)(iii)(N)(1) For vehicles exempted from compliance with certain revised performance warranty procedures, as specified in § 86.096–21(j), a statement indicating the specific performance warranty test(s) of 40 CFR part 85, subpart W, not to be performed.

(2) For vehicles exempted from compliance with all revised performance warranty procedures, as specified in § 86.096–21(k), a statement indicating:

(i) That none of the performance warranty tests of 40 CFR part 85, subpart W, is to be performed, and

(ii) The name of the Administrator-approved alternative test procedure to be performed.

(2) Light-duty truck and heavy-duty vehicles optionally certified in accordance with the light-duty truck provisions.

(i) A legible, permanent label shall be affixed in a readily visible position in the engine compartment.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not

be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(A) The label heading: Important Vehicle Information;

(B) Full corporate name and trademark of the manufacturer;

(C) Engine displacement (in cubic inches or liters), engine family identification, and evaporative/refueling family;

(a)(2)(iii)(D) through (a)(2)(iii)(E) [Reserved]. For guidance see § 86.095–35.

(a)(2)(iii)(F) [Reserved]

(a)(2)(iii)(G) through (a)(2)(iii)(K) [Reserved]. For guidance see § 86.095–35.

(a)(2)(iii)(L) [Reserved]

(a)(2)(iii)(M) through (a)(2)(iii)(N) [Reserved]. For guidance see § 86.095–35.

(a)(2)(iii)(O)(1) For vehicles exempted from compliance with certain revised performance warranty procedures, as specified in § 86.096–21(j), a statement indicating the specific performance warranty test(s) of 40 CFR part 85, subpart W, not to be performed.

(2) For vehicles exempted from compliance with all revised performance warranty procedures, as specified in § 86.096–21(k), a statement indicating:

(i) That none of the performance warranty tests of 40 CFR part 85, subpart W, is to be performed, and

(ii) The name of the Administrator-approved alternative test procedure to be performed.

(a)(3) heading through (b) [Reserved]. For guidance see § 86.095–35.

(c) Model year 2007 and later diesel heavy-duty vehicles, and diesel-fueled Tier 2 vehicles as defined in Subpart S of this Part, must include permanent readily visible labels on the dashboard (or instrument panel) and near the fuel inlet that states “Ultra Low Sulfur Diesel Fuel Only”.

(d) through (i) [Reserved]. For guidance see § 86.095–35.

17. A new § 86.007–38 is added to Subpart A to read as follows:

**§ 86.007–38 Maintenance Instructions.**

Section 86.007–38 includes text that specifies requirements that differ from those specified in § 86.094–38 or § 86.004–38. Where a paragraph in § 86.094–38 or § 86.004–38 is identical and applicable to § 86.007–38, this may be indicated by specifying the corresponding paragraph and the statement “[Reserved]. For guidance see § 86.094–38.”, or “[Reserved]. For guidance see § 86.004–38.”

(a) through (f) [Reserved]. For guidance see § 86.004–38.

(g) [Reserved]. For guidance see § 86.094–38.

(h) [Reserved]. For guidance see § 86.004–38.

(i) For each new diesel-fueled engine subject to the standards prescribed in § 86.007–11, as applicable, the manufacturer shall furnish or cause to be furnished to the ultimate purchaser a statement that “This engine must be operated only with ultra low sulfur diesel fuel (i.e., diesel fuel meeting EPA specifications for highway diesel fuel, including a 15 ppm sulfur cap).”

18. A new § 86.113–07 is added to subpart B to read as follows:

**§ 86.113–07 Fuel specifications.**

Section 86.113–07 includes text that specifies requirements that differ from § 86.113–94 or § 86.113–04. Where a paragraph in § 86.113–94 or § 86.113–04 is identical and applicable to § 86.113–07, this may be indicated by specifying the corresponding paragraph and the statement “[Reserved]. For guidance see § 86.113–94 or “[Reserved]. For guidance see § 86.113–04”.

(a) [Reserved]. For guidance see § 86.113–04.

(b)(1) [Reserved]. For guidance see § 86.113–94.

(b)(2) Petroleum fuel for diesel vehicles meeting the following specifications, or substantially equivalent specifications approved by the Administrator, must be used in exhaust emissions testing. The grade of petroleum diesel fuel recommended by the engine manufacturer, commercially designated as “Type 2-D” grade diesel, must be used:

Item		ASTM test method No.	Type 2–D
(i) Cetane Number .....		D613	40–50
(ii) Cetane Index .....		D976	40–50
(iii) Distillation range:			
(A) IBP .....	°F (°C)	D86	340–400 (171.1–204.4)
(B) 10 pct. point .....	°F (°C)	D86	400–460 (204.4–237.8)
(C) 50 pct. point .....	°F (°C)	D86	470–540 (243.3–282.2)
(D) 90 pct. point .....	°F (°C)	D86	560–630 (293.3–332.2)
(E) EP .....	°F (°C)	D86	610–690 (321.1–365.6)
(iv) Gravity .....	°API	D287	32–37
(v) Total sulfur .....	ppm	D2622	7–15
(vi) Hydrocarbon composition: Aromatics, minimum (Remainder shall be paraffins, naphthenes, and olefins) .....	pct.	D5186	27

Item		ASTM test method No.	Type 2-D
(vii) Flashpoint, min. ....	°F (°C)	D93	130 (54.4)
(viii) Viscosity .....	centistokes	D445	2.0-3.2

(3) Petroleum fuel for diesel vehicles meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of petroleum diesel fuel recommended by the engine manufacturer, commercially designated as "Type 2-D" grade diesel fuel, shall be used:

Item		ASTM test method No.	Type 2-D
(i) Cetane Number .....		D613	38-58
(ii) Cetane Index .....		D976	min. 40
(iii) Distillation range: 90 pct. point .....	°F	D86	540-630
(iv) Gravity .....	°API	D287	30-39
(v) Total sulfur .....	ppm	D2622	7-15
(vi) Flashpoint, min. ....	°F (°C)	D93	130 (54.4)
(vii) Viscosity .....	centistokes	D445	1.5-4.5

(b)(4) through (g) [Reserved]. For guidance see § 86.113-94.

19. A new § 86.1313-07 of subpart N is added to read as follows:

**§ 86.1313-07 Fuel specifications.**

Section 86.1313-07 includes text that specifies requirements that differ from § 86.1313-94. Where a paragraph in § 86.1313-94 is identical and applicable to § 86.1313-07, this may be indicated by specifying the corresponding paragraph and the statement

“[Reserved]. For guidance see § 86.1313-94.”.

(a) through (b)(1) [Reserved]. For guidance see § 86.1313-94.

(b)(2) Petroleum fuel for diesel engines meeting the specifications in Table N07-2, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emissions testing. The grade of petroleum fuel used shall be commercially designated as "Type 2-D" grade diesel fuel except that fuel commercially designated as "Type 1-D"

grade diesel fuel may be substituted provided that the manufacturer has submitted evidence to the Administrator demonstrating to the Administrator's satisfaction that this fuel will be the predominant in-use fuel. Such evidence could include such things as copies of signed contracts from customers indicating the intent to purchase and use "Type 1-D" grade diesel fuel as the primary fuel for use in the engines or other evidence acceptable to the Administrator. Table N07-2 follows:

TABLE N07-2

Item		ASTM test method No.	Type 1-D	Type 2-D
(i) Cetane Number .....		D613	40-54	40-50
(ii) Cetane Index .....		D976	40-54	40-50
(iii) Distillation range: (A) IBP .....	°F (°C)	D86	330-390 (165.6-198.9)	340-400 (171.1-204.4)
(B) 10 pct. point .....	°F (°C)	D86	370-430 (187.8-221.1)	400-460 (204.4-237.8)
(C) 50 pct. point .....	°F (°C)	D86	410-480 (210.0-248.9)	470-540 (243.3-282.2)

TABLE N07-2—Continued

Item		ASTM test method No.	Type 1-D	Type 2-D
(D) 90 pct. point .....	°F (°C)	D86	460-520 (237.8-271-1)	560-630 (293.3-332.2)
(E) EP .....	°F (°C)	D86	500-560 (260.0-293.3)	610-690 (321.1-365.6)
(iv) Gravity .....	°API	D287	40-44	32-37
(v) Total sulfur .....	ppm	D2622	7-15	7-15
(vi) Hydrocarbon composition: Aromatics, minimum (Remainder shall be paraffins, naphthenes, and olefins).	pct	D5186	8	27
(vii) Flashpoint, min .....	°F (°C)	93	120 (48.9)	130 (54.4)
(viii) Viscosity .....	centistokes	D445	1.6-2.0	2.0-3.2

(3) Petroleum diesel fuel for diesel engines meeting the specifications in table N07-3, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of petroleum diesel fuel used shall be commercially designated as "Type 2-D" grade diesel

fuel except that fuel commercially designated as "Type 1-D" grade diesel fuel may be substituted provided that the manufacturer has submitted evidence to the Administrator demonstrating to the Administrator's satisfaction that this fuel will be the predominant in-use fuel. Such evidence

could include such things as copies of signed contracts from customers indicating the intent to purchase and use "Type 1-D" grade diesel fuel as the primary fuel for use in the engines or other evidence acceptable to the Administrator. Table N07-03 follows:

TABLE N07-3

Item		ASTM test method No.	Type 1-D	Type 2-D
(i) Cetane Number .....		D613	40-56	38-58
(ii) Cetane Index .....		D976	min. 40	min. 40
(iii) Distillation range: 90 pct. point .....	°F (°C)	D86	440-530 (226.7-276-7)	540-630 (293.3-332.2)
(iv) Gravity .....	°API	D287	39-45	30-39
(v) Total sulfur .....	ppm	D2622	7-15	7-15
(vi) Flashpoint, min. ....	°F (°C)	D93	130 (54.4)	130 (54.4)
(vii) Viscosity .....	centistokes	D445	1.2-2.2	1.5-4.5

(b)(4) through (g) [Reserved]. For guidance see § 86.1313-94.

20. A new § 86.1337-07 is added to subpart N to read as follows:

**§ 86.1337-07 Engine dynamometer test run.**

Section 86.1337-07 includes text that specifies requirements that differ from § 86.1337-96. Where a paragraph in § 86.1337-96 is identical and applicable to § 86.1337-07, this may be indicated by specifying the corresponding

paragraph and the statement "[Reserved]. For guidance see § 86.1337-96."

(a) through (c) [Reserved]. For guidance see § 86.1337-96.

(d) For engines equipped with an aftertreatment device that is intermittently regenerated:

- (1) Repeat the "hot start cycle" until the regeneration event occurs;
- (2) Complete the "hot start cycle" in which the regeneration event occurs;

(3) Measure emission during each of the "hot start cycles"; and

(4) Use the measured emission values for the "hot start cycle" with the highest emissions as the "hot start cycle" emissions for calculations in § 86.1342. (Note: If the highest emission values for each pollutant do not occur in the same "hot start cycle", then use the emissions for the cycle in which the emissions come closest to causing an exceedance of an applicable standard.)

21. A new § 86.1808–07 is added to subpart S to read as follows:

**§ 86.1808–07 Maintenance instructions.**

Section 86.1808–07 includes text that specifies requirements that differ from those specified in § 86.1808–01. Where a paragraph in § 86.1808–01 is identical and applicable to § 86.1808–07, this may be indicated by specifying the corresponding paragraph and the statement “[Reserved]. For guidance see § 86.1808–01.”.

(a) through (f) [Reserved]. For guidance see § 86.1808–01.

(g) For each new diesel-fueled Tier 2 vehicle, the manufacturer shall furnish or cause to be furnished to the purchaser a statement that “This vehicle must be operated only with ultra low sulfur diesel fuel (i.e., diesel fuel meeting EPA specifications for highway diesel fuel, including a 15 ppm sulfur cap).”.

22. Section 86.1810–01 is amended by revising the introductory text to read as follows:

**§ 86.1810–01 General standards; increase in emissions; unsafe conditions; waivers.**

This section applies to model year 2001 and later light-duty vehicles and light-duty trucks fueled by gasoline, diesel, methanol, natural gas and liquefied petroleum gas fuels. This section also applies to complete heavy-duty vehicles certified according to the provisions of this subpart. Multi-fueled vehicles (including dual-fueled and flexible-fueled vehicles) shall comply with all requirements established for each consumed fuel (or blend of fuels in the case of flexible fueled vehicles). The standards of this subpart apply to both certification and in-use vehicles unless otherwise indicated. For Tier 2 and interim non-Tier 2 vehicles, this section also applies to hybrid electric vehicles and zero emission vehicles. Unless otherwise specified, requirements and provisions of this subpart applicable to methanol fueled vehicles are also applicable to Tier 2 and interim non-Tier 2 ethanol fueled vehicles.

\* \* \* \* \*

23. A new § 86.1816–07 is added to subpart S, to read as follows:

**§ 86.1816–07 Emission standards for complete heavy-duty vehicles.**

Section 86.1816–07 includes text that specifies requirements that differ from those specified in § 86.1816–04.<sup>1</sup> Where a paragraph in § 86.1816–04 is identical and applicable to § 86.1816–07, this may be indicated by specifying the corresponding paragraph and the statement “[Reserved]. For guidance see § 86.1816–04.” This section applies to 2007 and later model year complete heavy-duty vehicles (excluding MDPVs) fueled by gasoline, methanol, natural gas and liquefied petroleum gas fuels except as noted. Multi-fueled vehicles shall comply with all requirements established for each consumed fuel. For methanol fueled vehicles, references in this section to hydrocarbons or total hydrocarbons shall mean total hydrocarbon equivalents and references to non-methane hydrocarbons shall mean non-methane hydrocarbon equivalents.

(a) *Exhaust emission standards.* (1) Exhaust emissions from 2007 and later model year complete heavy-duty vehicles at and above 8,500 pounds Gross Vehicle Weight Rating but equal to or less than 10,000 Gross Vehicle Weight Rating pounds shall not exceed the following standards at full useful life:

(i) [Reserved]

(ii) *Non-methane hydrocarbons.* 0.195 grams per mile; this requirement may be satisfied by measurement of non-methane hydrocarbons or total hydrocarbons, at the manufacturer’s option.

(iii) *Carbon monoxide.* 7.3 grams per mile.

(iv) *Oxides of nitrogen.* 0.20 grams per mile.

(v) *Particulate.* 0.02 grams per mile.

(vi) *Formaldehyde.* 0.016 grams per mile.

(2) Exhaust emissions from 2007 and later model year complete heavy-duty vehicles above 10,000 pounds Gross Vehicle Weight Rating but less than 14,000 pounds Gross Vehicle Weight Rating shall not exceed the following standards at full useful life:

(i) [Reserved]

(ii) *Non-methane hydrocarbons.* 0.23 grams per mile; this requirement may be

<sup>1</sup> Section 86.1816–04 was proposed to be added at 64 FR 58559, October 29, 1999.

satisfied by measurement of non-methane hydrocarbons or total hydrocarbons, at the manufacturer’s option.

(iii) *Carbon monoxide.* 8.1 grams per mile.

(iv) *Oxides of nitrogen.* 0.40 grams per mile.

(v) *Particulate.* 0.02 grams per mile.

(vi) *Formaldehyde.* 0.021 grams per mile.

(b) [Reserved]

(c) [Reserved]

(d) *Evaporative emissions.*

Evaporative hydrocarbon emissions from gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled, and methanol-fueled complete heavy-duty vehicles shall not exceed the following standards. The standards apply equally to certification and in-use vehicles. The spitback standard also applies to newly assembled vehicles.

(1) For the full three-diurnal test sequence, diurnal plus hot soak measurements: 1.4 grams per test.

(2) Gasoline and methanol fuel only. For the supplemental two-diurnal test sequence, diurnal plus hot soak measurements: 1.75 grams per test.

(3) Gasoline and methanol fuel only. Running loss test: 0.05 grams per mile.

(4) Gasoline and methanol fuel only. Fuel dispensing spitback test: 1.0 grams per test.

(e) through (h) [Reserved]. For guidance see § 86.1816–04.

24. A new § 86.1824–07 is added to subpart S, to read as follows:

**§ 86.1824–07 Durability demonstration procedures for evaporative emissions.**

Section 86.1824–07 includes text that specifies requirements that differ from those specified in § 86.1801–01. Where a paragraph in § 86.1824–01 is identical and applicable to § 86.1824–07, this may be indicated by specifying the corresponding paragraph and the statement “[Reserved]. For guidance see § 86.1824–01.”. This section applies to gasoline-, methanol-, natural gas- and liquefied petroleum gas-fueled LDV/Ts, MDPVs, and HDVs.

(a) through (f) [Reserved]. For guidance see § 86.1824–01.

25. Section 86.1829–01 is amended by revising paragraph (b)(1)(iii)(B) and adding paragraph (b)(1)(iii)(F) to read as follows:

**§ 86.1829-01 Durability and emission testing requirements; waivers.**

\* \* \* \* \*

(b) \* \* \* (1) \* \* \*

(iii) \* \* \*

(B) In lieu of testing an Otto-cycle light-duty vehicle, light-duty truck, or heavy-duty vehicle for particulate emissions for certification, a manufacturer may provide a statement in its application for certification that such vehicles comply with the applicable standards. Such a statement must be based on previous emission tests, development tests, or other appropriate information.

\* \* \* \* \*

(F) In lieu of testing a petroleum-fueled heavy-duty vehicle for formaldehyde emissions for certification, a manufacturer may provide a statement in its application for certification that such vehicles comply with the applicable standards. Such a statement must be based on previous emission tests, development tests, or other appropriate information.

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