

40 CFR Parts 59, 80, 85, 86, 600, 1037, 1043, 1051, 1054, 1060, 1065, and 1066

[EPA-HQ-OAR-2011-0135; FRL 9922-32-OAR]

RIN 2060-AS36

Amendments Related to: Tier 3 Motor Vehicle Emission and Fuel Standards, Nonroad Engine and Equipment Programs, and MARPOL Annex VI Implementation

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing this action on several amendments involving technical clarifications for different mobile source regulations. First, we are making a variety of corrections to the Tier 3 motor vehicle emission and fuel standards. These changes generally correct or clarify various provisions from the Tier 3 rule without expanding the Tier 3 program or otherwise making substantive changes. Second, we are revising the test procedures and compliance provisions for nonroad spark-ignition engines at or below 19 kW (and for the corresponding nonroad equipment) to conform to current practices. The changes to evaporative emission test procedures also apply to some degree to other types of nonroad equipment powered by volatile liquid fuels. Third, we are addressing an ambiguity regarding permissible design approaches for portable fuel containers meeting evaporative emission standards. Fourth, we are revising the regulations to more carefully align with current requirements that apply to marine vessels with diesel engines as specified under MARPOL

Annex VI. Fifth, we are correcting typographical errors in regulatory changes finalized in the Voluntary Quality Assurance Program rulemaking.

In the “Rules and Regulations” section of this Federal Register, we are taking direct final action without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: *Comments:* Written comments must be received by **[Insert date 45 days after date of publication in the Federal Register]**.

Public Hearing: If anyone contacts EPA requesting to speak at a public hearing by **[Insert date 5 days after date of publication in the Federal Register]**, a public hearing will be held in Ann Arbor, Michigan on **[Insert date 15 days after date of publication in the Federal Register]**.

Inquire about arrangements for a public hearing as described in “FOR FURTHER INFORMATION CONTACT”.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2011–0135, by one of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.
- Email: A-and-R-Docket@epamail.epa.gov.
- Fax: (202) 566-9744
- Mail: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- Hand Delivery: EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are only accepted

during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2011-0135. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>. For additional instructions on submitting comments, see the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information

whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air and Radiation Docket and Information Center, EPA/DC, EPA WJC West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: Alan Stout, Office of Transportation and Air Quality, Assessment and Standards Division (ASD), Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor MI 48105; Telephone number: (734) 214-4805; stout.alan@epa.gov.

SUPPLEMENTARY INFORMATION:

Why is EPA Issuing This Proposed Rule?

This document proposes to take action on: 1) general corrections and clarifications to various provisions from the Tier 3 motor vehicle emission and fuel standards rule, 2) revisions to the test procedures and compliance provisions for nonroad spark-ignition engines and equipment at or below 19 kW, 3) addressing an ambiguity regarding permissible design approaches for portable fuel containers meeting evaporative emission standards, and 4) revisions to the regulations to more carefully align with MARPOL Annex VI requirements.

We have published a direct final rule in the “Rules and Regulations” section of this Federal Register because we view this as a noncontroversial action and anticipate no adverse

comment. We have explained our reasons for this action in the preamble to the direct final rule; that document also includes draft regulations detailing all the amendments under consideration. The regulatory text from the direct final rule applies equally to this proposed rule and is not reproduced as part of this document.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will publish a timely withdrawal in the Federal Register informing the public that this rule, or the relevant provisions of this rule, will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the ADDRESSES section of this document.

Does this Action Apply to Me?

Entities potentially affected by this proposal include gasoline refiners and importers, ethanol producers, ethanol denaturant producers, butane and pentane producers, gasoline additive manufacturers, transmix processors, terminals and fuel distributors, light-duty vehicle manufacturers, manufacturers of nonroad engines and equipment, manufacturers of marine compression-ignition engines, and owners and operators of ocean-going vessels and other commercial ships, and manufacturers of portable fuel containers.

Potentially regulated categories include:

Category	NAICS ^a Code	Examples of Potentially Affected Entities
Industry	324110	Petroleum refineries (including importers)
Industry	325110	Butane and pentane manufacturers

Industry	325193	Ethyl alcohol manufacturing
Industry	324110, 211112	Ethanol denaturant manufacturers
Industry	211112	Natural gas liquids extraction and fractionation
Industry	325199	Other basic organic chemical manufacturing
Industry	486910	Natural gas liquids pipelines, refined petroleum products pipelines
Industry	424690	Chemical and allied products merchant wholesalers
Industry	325199	Manufacturers of gasoline additives
Industry	424710	Petroleum bulk stations and terminals
Industry	493190	Other warehousing and storage- bulk petroleum storage
Industry	336111, 336112	Light-duty vehicle and light-duty truck manufacturers
Industry	335312, 336312, 336322, 336399, 811198	Alternative fuel converters
Industry	333618, 336120, 336211, 336312	On-highway heavy-duty engine & vehicle (>8,500 lbs GVWR) manufacturers
Industry	336611	Manufacturers of marine vessels
Industry	336612	Manufacturers of marine vessels
Industry	811310	Engine repair and maintenance
Industry	483	Water transportation, freight and passenger
Industry	424710, 424720	Petroleum Bulk Stations and Terminals; Petroleum and Petroleum Products Wholesalers
Industry	483113	Coastal and Great Lakes Freight Transportation
Industry	483114	Coastal and Great Lakes Passenger Transportation
Industry	333618	Manufacturers of new engines
Industry	333112	Manufacturers of lawn and garden tractors (home)
Industry	811112, 811198	Commercial importers of vehicles and vehicle components
Industry	326199, 332431	Portable fuel container manufacturers

^a North American Industry Classification System (NAICS).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this proposed action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your activities are regulated by this action, you should carefully examine the applicability criteria in the referenced regulations. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

What Should I Consider as I Prepare My Comments for EPA?

A. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

B. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- Follow directions - The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

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I. Introduction

In this action we are proposing several amendments that would make technical clarifications to different mobile source regulations. This section provides an overview of the organization of this preamble.

Section II describes proposed amendments to the Tier 3 motor vehicle emission standards. Section III describes proposed amendments to the 40 CFR part 80 fuel standards: including the Tier 3 gasoline sulfur standards, other part 80 fuels regulations that were amended in the Tier 3 final rule, and amendments made in the Quality Assurance Program rulemaking. Section IV describes the proposed changes to the testing and compliance provisions for nonroad spark-ignition engines, and Section V describes how we are proposing to change the evaporative test procedures for nonroad equipment. Section VI describes proposed amendments to the requirements that apply for portable fuel containers. Section VII summarizes the proposed amendments related to our implementation of requirements for marine diesel engines and vessels under MARPOL Annex VI.

II. Tier 3 Motor Vehicle Emission Standards

On April 28, 2014, we published a final rule adopting new emission standards and fuel requirements for motor vehicles and for motor vehicle fuels (79 FR 23414). The final rule included Tier 3 emission standards to reduce exhaust and evaporative emissions from light-duty vehicles, light-duty trucks, and heavy-duty vehicles up to 14,000 pounds GVWR. In addition, the final rule specified corresponding changes to in-use fuel requirements.

The Tier 3 motor vehicle program included extensive changes to emission standards and the regulatory requirements related to certification. This included several provisions to harmonize requirements with a similar set of standards adopted by the California Air Resources Board (California ARB). It also included a wide range of alternative measures intended to facilitate each manufacturer’s efforts to make an orderly transition to meeting the Tier 3 standards nationwide. The resulting Tier 3 regulations accordingly included several variations, alternatives, and ancillary provisions. We have learned since concluding the Tier 3 rulemaking that there are several instances where the regulatory text implementing the Tier 3 program requires correction or clarification to achieve the intended result. None of the proposed amendments are intended to expand the Tier 3 program or otherwise make substantive changes. We are therefore proposing to make the following amendments to the Tier 3 vehicle program regulations:

Regulatory Citation	Description
§85.2108	Remove section to reflect a recent change to Clean Air Act section 207.

<p>§86.101, §1066.301, and §1066.305</p>	<p>Adjust the procedures for determining road-load parameters to more carefully align with current practice, including the option for manufacturers to use alternate methodologies that are consistent with the reference procedure, subject to good engineering judgment and EPA confirmatory testing. We are also restoring provisions describing how to develop road-load parameters for cold testing; the provisions from §86.229 were inadvertently replaced with a default instruction to use the same values for both FTP testing and cold testing. We are also changing terminology from “coastdown” to “road-load determination” for consistency.</p>
<p>§§86.095-35 and 1037.135</p>	<p>Revise the labeling requirement for incomplete heavy-duty vehicles to require designation of maximum fuel tank capacity only in cases where the certifying manufacturer relies on a downstream manufacturer to design and install the vehicle’s fuel tanks. If the certifying manufacturer designs or installs the fuel tank, there is no need for the emission control information label to identify the appropriate fuel tank capacity.</p>
<p>§§86.101 and 86.1844-01</p>	<p>Clarify that reporting drive-cycle metrics to confirm driver accuracy continue to be optional until vehicles are subject to Tier 3 emission standards, and revise terminology for consistency with 40 CFR 1066.425.</p>
<p>§86.101</p>	<p>Clarify that manufacturers may continue to certify in 2022 and later model years based on carryover of emission data generated using the procedures from 40 CFR part 86, subpart B, even though we require new testing in that time frame to use the procedures in 40 CFR part 1066.</p>
<p>§86.113</p>	<p>Revise the format of the volatility specification to rely primarily on psi units and secondarily on kPa units. The kPa figures for non-evaporative testing also need to be corrected to align with the specified psi units. These changes align with the test fuel specifications that were in place before the Tier 3 rule. We are also revising the table format for octane specifications to clarify that the both ASTM D2699 and ASTM D2700 apply for determining octane values and octane sensitivity values.</p>
<p>§86.201</p>	<p>Clarify how the migration to testing under 40 CFR part 1066 works for cold temperature testing. This is analogous to the migration provisions for general testing in §86.101.</p>
<p>§86.213</p>	<p>Revise the specified tolerance for olefin concentration in the test fuel from ± 0.5 percent to ± 5.0 percent. This reverses an inadvertent change made in the Tier 3 final rule. We are also revising the table format for octane specifications to clarify that both ASTM D2699 and ASTM D2700 apply for determining octane values and octane sensitivity values.</p>
<p>§86.513</p>	<p>Correct a typographical error for the 90% point in the distillation curve for gasoline test fuel. This was erroneously published as part of the Tier 3 rule with an extra “1” before the specified temperature of 148.9 °C. This change restores the temperature specification to what applied before we adopted the Tier 3 rule.</p>
<p>§86.513-2004</p>	<p>Remove obsolete section. Fuel specifications for motorcycles are now addressed in §86.513 (with no model year designation), so the 2004 section is removed to avoid confusion.</p>

§86.1801-12	Clarify how the requirements of subpart S relate to the engine and vehicle provisions in 40 CFR part 1036 and part 1037.
§86.1803-01	Revise the definition of “averaging set” to apply to all vehicles, not only heavy-duty vehicles.
§§86.1805-17 and 86.1811-17	Address provisions for LDV above 6,000 pounds GVWR. A new paragraph describes how these vehicles are subject to the same transitional provisions that apply for LDV at or below 6,000 pounds GVWR. We are also clarifying useful life provisions for LDV above 6,000 pounds GVWR. We described the useful life provisions based on a simple cutpoint of 6,000 pounds GVWR, which doesn’t address a small number of LDV models that have higher GVWR values. Instead of changing the useful life values adopted for cold temperature emission standards, we are using the terms LDV and LLDT to characterize the vehicles that are subject to a useful life of 10 years or 120,000 miles. We are also clarifying that MDPVs are the only HDVs subject to standards under §86.1818.
§86.1806-17	Correct the citation to California ARB’s OBD regulations to refer to the entire range of relevant OBD standards.
§86.1810-01	Clarify that the provisions for determining NMOG from measured NMHC values also apply for Tier 2 vehicles, as specified in §1066.635, except that manufacturers may continue to use a fixed adjustment factor of 1.04.
§86.1810-17	Clarify that the provisions for testing flexible fuel vehicles on more than just gasoline or diesel fuel do not apply for greenhouse gas standards.
§86.1811-17(b)(8)	Clarify how to calculate and use credits for manufacturers that certify some vehicles to a useful life of 120,000 miles and other vehicles to a useful life of 150,000 miles. The main point of clarification is that vehicles certified to the shorter useful life on an interim basis may exchange emission credits with vehicles certified to either useful life, but the fleet-average standard for a given set of vehicles must correspond to the averaging set. We are also listing the emission standards that correspond to a 120,000 mile useful life rather than describing how to calculate those standards.
§86.1811-17(b)(8)	Add a provision that Interim Tier 3 vehicles must continue to meet the 4000-mile SFTP standards for NMHC+NOx and CO from Tier 2. This requirement was included in the preamble text for the proposed rule and the final rule, but was inadvertently omitted from the regulatory text.
§86.1811-17(b)(10)	Clarify provisions related to early credits: (1) Early credits may be used interchangeably (without adjustment) for vehicles certified to a useful life of either 120,000 miles or 150,000 miles. (2) Accumulated early credits should be used for demonstrating compliance with model year 2017 standards before doing the calculations to address proportionality relative to California emission credits. (3) Negative credits are subtracted from credit totals during the three-year period for calculating credit caps (rather than ignoring them). (4) The calculation for applying the cap/threshold relative to California credits must be corrected to use the proper baseline quantity.

§86.1811-17(b)(11)	Clarify provisions related to early certification to Tier 3 standards: (1) Bin 70 and cleaner vehicles are considered Tier 3 vehicles on a voluntary basis and are therefore subject to the 150,000 mile useful life. (2) The transitional aspects of the Tier 3 program apply equally to vehicles certified early to the Tier 3 standards.
§86.1811-17(g)	Revise the cold temperature testing specifications to clarify that CO and NMHC standards apply equally for certification and in-use testing, for low and high altitude, and for testing gasoline-only configurations of flexible-fuel vehicles.
§86.1813-17	Clarify that no separate fleet-average calculation is required for demonstrating compliance with high-altitude evaporative emission standards. These standards are determined as bin values relative to the standard that applies for testing at low-altitude conditions.
§86.1829-15	Adjust the refueling test waiver to state that it applies only for incomplete heavy-duty vehicles above 10,000 pounds GVWR, and for complete heavy-duty vehicles above 10,000 pounds GVWR with fuel tanks greater than 35 gallons, consistent with the preamble discussion in the final rule. These vehicles are the only ones that are newly subject to refueling emission standards. All smaller vehicles have already been subject to testing and certification requirements.
§86.1829-15	Add a paragraph to preserve the provisions related to measurement of N ₂ O emissions as originally adopted at §86.1829-01(b)(2)(iii)(G).
§86.1829-15	Revise terminology to refer to “durability groups” rather than “durability data groups” for PM testing.
§86.1844-01	Specify that a manufacturer’s application for certification must include a description of leak families in addition to evaporative/refueling families. Since leak families are defined broadly, many manufacturers may have only a single leak family even if they have multiple evaporative/refueling families.
§86.1845-01	Clarify that the PM measurement instructions are limited to vehicles subject to Tier 3 PM standards, as discussed in the final rule.
§86.1846-01	Adjust the exclusion of high-mileage vehicles to the terminology changes to §86.1845-05. This change aligns with the current practice of not including the results from testing the designated high-mileage vehicle at low altitude for making an IUVP determination for the test group.
§86.1861-17	Clarify that the separate averaging set corresponding to 120,000 mile useful life applies only for NMOG+NO _x emission standards.
§§600.116-12 and 1066.501	Clarify that certain portions of SAE J1711 apply separately for charge-depleting and charge-sustaining operation for hybrid-electric vehicles.
§600.117	Adjust the description to more clearly apply the interim allowance for using Tier 2 fuel to determine whether vehicles pass the “litmus test” for using derived 5-cycle testing for fuel economy, as described further below.

§600.117	Revise the description for test fuels to clarify that cold testing may be done with the higher-volatility fuel specified in §86.213, and that the requirement for using a common test fuel related to 5-cycle testing refers to the ethanol content of the fuel, not the whole range of test fuel specifications.
§1037.103	Refer to §86.1805 for useful life values as they apply for evaporative emission standards, rather than referring more broadly to useful life values in 40 CFR part 86 for “criteria pollutants”.
§1037.104	Refer to the useful life values specified in §86.1805 for model year 2014 vehicles for the HD GHG standards. This sets the useful life values for the HD GHG standards to a fixed value, rather than specifying a cross reference to a section of the regulations that describes changing useful life values.
§§1065.10 and 1066.10	Allow for a one-year lead time for upgrading to test procedure changes in 40 CFR part 86 where those changes would otherwise be required immediately with the effective date of the final rule. This is consistent with existing provisions for changes to 40 CFR part 1065 and part 1066. Note that this does not delay implementation of procedures corresponding to new emission standards.
§1065.610	Correct a sample calculation.
§1065.710	Correct the units for specifying hydrocarbon composition. These units were inadvertently changed in the Tier 3 rule from fractional to percent values. We are specifying these values in volume % to align with the associated ASTM procedure.
§1065.710	Revise the format of the volatility specification to include reference values in psi units.
§1066.125	Correct the description of calculating 1 Hz mean values.
§1066.125	Add a parenthetical reference to torque in pound-foot units corresponding to the primary value in Newtons.
§1066.420	Clarify that it is permissible to push the test vehicle onto the dynamometer to prepare for a hot-start or hot-stabilized test, as opposed to driving the vehicle onto the dynamometer.
§1066.605	Revise the sequence of calculations to determine a NO _x result. The proper sequence is to first correct for background concentration, then to correct for intake air humidity.
§1066.615	Correct the equations to properly apply the NO _x humidity correction factor to account for humidity in the background measurement.
§1066.635	Clarify that the appropriate NMOG calculation for plug-in hybrid electric vehicles is based on operation over one full UDDS.
§1066.701	Correct a temperature that was inadvertently identified as 20 °C instead of 20 °F.
§1066.710	Clarify the instructions for heat settings during cold testing to more carefully differentiate between automatic systems that operate either in manual mode or in automatic mode. Automatic systems operating in manual mode should be set to a temperature of 72 °F “or higher” to align with current practice.

§1066.801	Correct an error in the testing flowchart so that the flowchart matches the procedure described in the regulations.
§1066.815	Reorganize the instructions for testing with and without bag 4 to improve the clarity of the test sequence.
§1066.831	Revise the description for testing heavy-duty vehicles at adjusted loaded vehicle weight to exclude MDPVs, which are tested like light-duty trucks.
§1066.835	Add a provision allowing for keeping the vehicle-cooling fan running while the vehicle is stopped if that is necessary for keeping ambient conditions within specified parameters.
§1066.845	Adjust the description of air conditioning settings during the AC17 test to describe how to account for systems with separate rear controls, and for systems that change default settings at key-off.
§1066.1005	Move the prefix “n” to be in the proper order.
Various	Change from “LA-92” to “Hot-LA-92” to allow us to specify that the referenced test procedure is only the first 1435 seconds of what is known as the LA-92 driving schedule. The full cycle is 1735 seconds. This change is necessary to accomplish the intended alignment with the California ARB standards.

We are also proposing various corrections for typographical errors and regulatory cross references. Note that one of these corrections is in the regulations for recreational vehicles at 40 CFR 1051.501 to maintain a proper cross reference to the driving schedules in Appendix I of 40 CFR part 86. We are also correcting a typographical error from §86.529-98 that was published several years ago. The specified range of loaded vehicle masses corresponding to certain road-load force coefficients and inertia weights has an entry that should be listed as applying from 656 to 665 kg; the published entry mistakenly identifies the range as 565 to 665 kg.

One additional issue relates to test fuel for fuel economy testing. In the Tier 3 final rule, EPA changed the certification test fuel for the Tier 3 exhaust emission standards from a 9 psi RVP fuel with no ethanol (E0) (commonly referred to as Tier 2 fuel) to a 9 psi RVP fuel with 10 percent ethanol (E10). As an interim provision, EPA permitted vehicles certifying at levels above Bin 70 to use E0 fuel for Tier 3 certification through model year 2019. The rule also permits early certification to Tier 3 requirements using 7 psi RVP E10 test fuel, commonly

referred to as LEV III fuel since the California LEV III program phase-in begins with model year 2015. The rule also provides manufacturers the option to use EPA 9RVP E0 fuel or 9RVP E10 fuel for certification for cold temperature testing since California does not specify a test fuel for that testing.

Under the fuel economy regulations, manufacturers use the results of their exhaust emission tests as the basis for calculating litmus test evaluations (see 40 CFR 600.115-11). However, in the Tier 3 rule EPA did not change the fuel economy test fuel specifications from E0 to E10 as was done for Tier 3 exhaust emissions. The preamble to the final rule recognized that the difference in the emission and fuel economy test fuels has the potential to require extra emission testing for the fuel economy evaluations. To minimize this burden, EPA included several provisions in the regulations to minimize this potential burden (see 40 CFR 600.117) and indicated a commitment to make any appropriate adjustments to the fuel economy regulations to accommodate the change to an E10 test fuel when the needed emission data become available.

As is discussed in the final rule (79 FR 23531- 23533, April 28, 2014), central to the litmus test evaluation is the requirement that data be available for all five emission test cycles and that the data be generated using the same test fuel on each cycle. Some confusion has arisen as to what cold FTP test fuel should be used in the litmus evaluations for early Tier 3 certifications using LEV III test fuel and for Tier 3 certification above Bin 70 before model year 2020. This occurs because California ARB does not specify a cold FTP test fuel and, as a transitional measure, EPA permits certification to Tier 3 Bin 125 and Bin 160 using Tier 2 fuel. This proposed amendment clarifies that the fuel economy test fuel requirements govern for the litmus test evaluations. As indicated in the preamble to the final rule at 79 FR 23533, manufacturers may use LEV III fuel (California Phase 3) in lieu of Tier 3 fuel, but any cold FTP

testing must be done using the Tier 3 cold FTP fuel. Thus, for purposes of the litmus test cold temperature testing, manufacturers must use the same test fuel (E10) as used for the other four cycles. For early Tier 3 certifications using LEV III test fuel, the cold FTP test data must be generated using Tier 3 cold FTP test fuel and in the case of the higher bins in the Tier 3 program as discussed above, the cold FTP must be based on the same fuel as used for the other four test cycles. The flexibility afforded for exhaust emission certification does not carry over to the litmus test evaluations.

III. 40 CFR Part 80 Fuel Standards

After promulgation of the Tier 3 final rulemaking (79 FR 23414, April 28, 2014), we discovered some typographical errors and other areas in the part 80 regulations that we believe would benefit from some additional clarity. The following sections discuss proposed amendments to remedy these concerns.

A. Performance-Based Measurement Systems (PBMS)

Section	Description of Proposed Change
§80.8(e)(1)(iii)	Amended to update IBR to most recent ASTM standard practice D5842-14 (Standard Practice for Sampling and Handling for Fuels for Volatility Measurement, approved January 15, 2014).
§80.46(d)	Amended to clarify that distillation precision criterion is based on the reproducibility of Table 10 Groups 2, 3 and 4 (Automated Method) contained in ASTM D86-07 – clarifying note added to state that precision estimates in ASTM D86-12 do not apply.
§80.46(b)(1), (c)(2), (d), (e), (f)(1), and (g)(1)	Amended to clarify beginning January 1, 2016 a test method approved under §80.47 “must” be used, rather than “may” be used, by the regulated community for demonstrating compliance measurements to EPA fuels standards.
§80.47(a)(7)	Amended to correct typographical error (“referee” to “reference”).

§80.47(b)(1), (c)(1), (d)(1), (e)(1), (f)(1), (g)(1), (h)(1), (i)(1), (j)(1)	Amended to correct typographical error (“emissions” to “omissions”); and to add the statement “tests may be arranged into no fewer than five batches of four or fewer tests each, with only one such batch allowed per day over the minimum of 20 days”.
§80.47(c)(1), (c)(2)(i), (c)(2)(ii)	Amended to correct the examples listed for precision and accuracy demonstration for sulfur in butane to be consistent with the sulfur in gasoline 10 ppm average.
§80.47(h)(1)	Amended to: correct typographical errors; clarify that distillation precision criterion is based on the reproducibility of Table 10 Groups 2, 3 and 4 (Automated Method) contained in ASTM D86-07 (clarifying note added stating that precision estimates in D86-12 do not apply); and revise IBR of D86 to the 2007 version.
§80.47(i)(1)	Revised benzene precision criteria to 0.15 times R, rather than 0.3 times R to be consistent with preamble discussion.
§80.47(l)	Amended to revise section heading and add paragraphs (l)(1)(ii) and (l)(2)(ii) to allow for Non-Voluntary Consensus Standard Based (non-VCSB) absolute fuel parameter of sulfur in gasoline and butane. Also clarifying that either a “test facility or VCSB” must meet the requirements of §80.47(l).
§80.47(m)(6)	Amended to correct reference for the use of the term “cross-method reproducibility” in ASTM D6708 from “as required” to “as recommended” and replaced the term “cross-method reproducibility” with “between methods reproducibility” to be consistent with D6708-13.
§80.47(n)(2)(i), (o)(2)(i), (p)(3)(i)	Amended to correct references to D6299-13 with regards to use of a quality control material (paragraph 3.2.3 changed to 3.2.8), I Chart (section 7 changed to section 8) and MR charts (section A1.5.2 changed to A1.5.4).
§80.47(n)(2)(ii), (o)(2)(ii), (p)(3)(ii)	Amended to correct references to D6299-13 with regards to use of an I Chart (changed section 7 to section 8.7).
§80.47(n)(2)(iv), (o)(2)(iv), (p)(2)(iv); and (n)(1)(ii), (o)(1)(ii), (p)(1)(ii)	Amended to move the phrase “The expanded uncertainty of the accepted reference value of consensus named fuels shall have the following accuracy qualification criterion: Accuracy qualification criterion = square root $[(0.75R)^2+(0.75R)^2/L]$, where L = the number of single results obtained from different labs used to calculate the consensus ARV.” from paragraphs (n)(2)(iv), (o)(2)(iv), (p)(2)(iv) to paragraphs (n)(1)(ii), (o)(1)(ii), (p)(1)(ii), respectively.
§80.47(o)(1)	Amended to clarify value of ARV when not provided in an Inter Laboratory Crosscheck Program, by adding the following: “Facilities using a VCSB alternative method defined test method must use the Accepted Reference Value of the check standard as determined in a VCSB Inter Laboratory Crosscheck Program (ILCP) or a commercially available ILCP following the guidelines of ASTM D6299. If the Accepted Reference Value is not provided in the ILCP, accuracy must be assessed based upon the respective EPA designated test method using appropriate production samples.”

§80.47(o)(1)	Amended to clarify that ILCPs are acceptable, by adding the following: “(Examples of ILCP: ASTM Reformulated Gasoline ILCP or ASTM motor gasoline ILCP)”.
§80.47(p)(1)	Amended to clarify value of ARV when not provided in ILCP, by adding the following: “Facilities using a Non-VCSB alternative method defined test method must use the Accepted Reference Value of the check standard as determined in either a VCSB Inter Laboratory Crosscheck Program (ILCP) or a commercially available ILCP following the guidelines of ASTM D6299. If the Accepted Reference Value is not provided in the ILCP, accuracy must be assessed based upon the respective EPA designated test method using appropriate production samples.”
§80.47(p)(1)	Amended to address concern that reproducibility is not established with Non-VCSB test methods, by adding the following: “The facility must construct “MR” and “I” charts with control lines as described in section 8.4 and appropriate Annex sections of this standard practice. In circumstances where the absolute difference between the mean of multiple back-to-back tests of the standard reference material and the accepted reference value of the standard reference material is greater than 0.75 times the published reproducibility of the fuel parameter’s respective designated test method must be investigated by the facility.”
§80.47(r)(1)(i)	Amended to revise IBR of ASTM D86 to the 2007 version.
§80.330(b)(1)(i), (b)(1)(ii), (b)(2)	Amended to update IBR to most recent ASTM standard practice D5842-14 (Standard Practice for Sampling and Handling for Fuels for Volatility Measurement, approved January 15, 2014), and for consistency with IBR language throughout subpart O.
§80.584(a)(1) through (a)(3)	Amended to correct inconsistencies with PBMS in §80.47 regarding requirements for PBMS for sulfur in diesel fuel and ECA Marine Fuel at §80.584 with regards to frequency of testing for the precision demonstration and VCSB self-qualification starting January 1, 2016.
§80.584(a)(1) through (a)(3)	Amended to insert phrase “(tests may be arranged into no fewer than five batches of four or fewer tests each, with only one such batch allowed per day over the minimum of 20 days)” in applicable areas for diesel and ECA marine fuel to be consistent with frequency of testing for precision demonstration at §80.47.
§80.585(a)	Amended to revise diesel and ECA marine fuel sulfur qualification regulations to be consistent with PBMS (i.e., starting January 1, 2016), VCSB test methods self-qualify and need not be reported to the Agency for approval.
§80.585(a), (e)(1), (e)(4), (f)	Amended to correct inconsistencies with PBMS in §80.47 regarding requirements for PBMS for sulfur in diesel fuel and ECA marine fuel at §80.584 with regards to frequency of testing for the precision demonstration and VCSB self-qualification starting January 1, 2016; and to add a new paragraph (f) for IBR.

§80.585(e)(1), (e)(2), (e)(4), (f)	Amended to update IBR and reference for use on ASTM D6299-13 in applicable diesel and ECA marine fuel sulfur regulations to be consistent with reference of use of ASTM D6299-13 in PBMS regulations at §80.47, and to make minor formatting changes for IBR consistency throughout part 80.
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B. Quality Assurance Program Amendments

This action also proposes minor technical amendments to regulatory changes finalized in the Voluntary Quality Assurance Program Rulemaking (“QAP Rule”, 79 FR 42078, July 18, 2014). We are proposing to revise §80.1471(d)(1) to reflect a change that industry widely requested and the public supported. In the final rulemaking we agreed to extend the notification period by an auditor for potentially invalid RINs from “within the next business day” to “within five business days.” We inadvertently neglected to change this reference in §80.1471(d)(1) to the new “within five business days” language.

In the Notice of Proposed Rulemaking for the QAP Rule, we proposed a new section at §80.1433 that would have changed the way parties that redesignated renewable fuels for non-qualifying uses would have to retire RINs, and we proposed new product transfer document (PTD) language at §80.1453(a)(12) to help convey the requirement to separate and/or retire RINs for parties that wished to redesignate renewable fuel for a non-qualifying use. After careful consideration of the public comments received, we chose not to finalize the proposed §80.1433 requirements. This action proposes to remove the extraneous reference to §80.1433 in §80.1453.

Additionally, we are proposing to amend the PTD requirements at §80.1453(a) to make the scope of these requirements consistent with similar requirements in other fuels programs. When we altered the scope of the PTD requirements at §80.1453 to include both neat and blended renewable fuels, we did not intend to expand the scope of these PTD requirements to

convey the information at §80.1453 to the consumer of such fuels, in most cases. In the preamble to the final QAP Rule, we noted that these requirements were meant to apply to regulated parties (79 FR 42105, July 18, 2014).

Historically, EPA has required applicable information on PTDs accompanying fuels to be conveyed through to retail stations and wholesale purchaser-consumers. The EPA has, in most cases, included language that exempts parties that are transferring title or custody of fuel to the ultimate consumer (e.g., the PTD requirements for detergents at §80.158 and for E15 at §80.1503) or dispensing the fuel from a retail station or wholesale purchaser-consumer’s tank to a motor vehicle or nonroad engine (e.g., the PTD requirements for diesel and gasoline sulfur at §§80.590 and 80.1651, respectively). Requiring PTD language to convey information all the way down to consumers fueling at a retail station or homes receiving heating oil has little benefit to the effectiveness of EPA’s fuels programs and could be quite costly for retail stations and home heating oil distributors. Therefore, we are proposing to add an exemption to the PTD requirements for renewable fuels dispensed into motor vehicles and nonroad vehicles, engines, and equipment (to include jet engines and home heating units) to clarify the scope of §80.1453.

Section	Description
80.1426(c)(7)	Amended to correct typographical error (“§80.1451(b)(1)(ii)(T)(3)” to “§80.1451(b)(1)(ii)(T)(2)”).
80.1453(a) introductory text	Amended for clarity in scope of requirements.
80.1453(a)(12) introductory text	Amended to remove extraneous reference to 80.1433.
80.1471(d)	Amended to add to “within five business days”, consistent with the intent stated in the QAP rule preamble.

C. Tier 3 Rulemaking Provisions Minor Technical Amendments

As mentioned above, this rule proposes to correct minor typographical errors that were discovered following the promulgation of the Tier 3 final rule (both within 40 CFR part 80, subpart O, as well as additional 40 CFR part 80 provisions that were finalized as part of our regulatory streamlining efforts in the Tier 3 rulemaking). The following table contains a list of these proposed amendments and a description of the proposed change:

Section	Description of Proposed Change
§80.2(cccc)	Removed new definition of natural gas, as this definition already exists at §80.2(tt).
§80.75(a)(2)(xi)(G)	Amended to correct reference from “§80.82(c) or (d)” to “§80.86(a)(3) or (a)(4)”.
§80.82(e)(1)	Amended to clarify that the provisions of an EPA-approved State Implementation Plan (SIP) apply to butane blenders.
§80.85(a)	Amended introductory text to correct typographical errors (“refinery” to “refiner”).
§80.85(i)	Amended to correct typographical errors (“they” to “it”, “comply” to “complies”).
§80.86(b)(2)(iv) and (b)(3)(iii)	Amended to correct typographical errors (“complaint” to “compliant”).
§80.86(c)	Amended to clarify that the PTD for pentane used by pentane blenders must contain the pentane producer or importer company name and facility registration number issued by EPA and the name and address of the transferor and transferee consistent with other part 80 PTD requirements.
§§80.315(b)(1)(iii), 80.1295(b)(1)(ii)	The Tier 3 rulemaking changed the due date for annual reports and credits from the end of February to March 31 for all 40 CFR part 80 fuels programs; these paragraphs are being amended because the February date was inadvertently left in §§ 80.315(b)(1)(iii) and 80.1295(b)(1)(ii).
§80.330(c)(1), (d)(2)	Amended to correct year (“December 31, 20” to “December 31, 2015”).
§80.597(d)(3)	Amended to correct reference from paragraph (d) to paragraph (d)(3).
§80.1270(b)(2)	Amended to clarify that butane blenders using the provisions of §80.82 and pentane blenders using the provisions of §80.85 may not generate benzene credits.
§80.1609(a)	Amended to correct typographical error and to correct a regulatory cite.
§80.1611(a)(1),	Amended to improve the clarity in cases where producers of certified ethanol denaturants produce product to a lower sulfur maximum than the required 300 ppm maximum.
§80.1611(c) introductory text, (c)(1), and (c)(2)	Amended for improved clarity and to correct typographical errors.
§80.1611(d)	Amended to correct typographical error (“denaturant” instead of “oxygenate”).

§80.1613(a)	Amended to correct typographical error (“less than 1.0” replaces “1.0 or less”).
§80.1613(b)(3)	Added to clarify that it is a violation to exceed an additive manufacturer’s recommended treatment level when doing so would contribute more than 3 ppm to the sulfur content of the resulting finished gasoline.
§80.1615(d)(1), (d)(2)	Revised for clarity by moving the phrase “From January 1, 2017 through December 31, 2019” to the beginning of each paragraph.
§80.1616(a)(4)	Amended to add a “Reserved” paragraph (a)(4) to fix numbering error.
§80.1616(b)(2)	Amended language to clarify that credits expire on December 31 and are reported the following March 31.
§80.1620(d)	Revised to correct year to 2012.
§80.1620(e)(1), (e)(2), (f)(1)	Revised to correct dates to 2013.
§80.1621(c), (d)	Reserved paragraph (c); added paragraph (d), which was inadvertently deleted from the regulations, but is referred to in the preamble and in §80.1622(e).
§80.1640(a)(2)	Amended to correct reference from paragraph (a)(5) to paragraph (a)(1).
§80.1642(c)(3)	Amended paragraph to correct typographical errors.
§80.1650	Amended to remove phrase “whichever is earlier” from paragraphs specifying the dates by which reports must be submitted, as this would contradict the ability of parties to register after the initial date that parties involved in a given activity must be registered.
§80.1652(c)	Amended to correct word error (“producer” instead of “refiner”).
§80.1667(c)(1)	Removed paragraph (c)(1) to match the intentions of §80.1615(a) that refiners – including gasoline blenders (excluding those specified in §80.1615(a)(3)) – may generate Tier 3 credits beginning in 2014.

IV. Small SI Test Fuel and Bonding Provisions

On June 17, 2013, EPA modified the test procedures for measuring exhaust emissions from land-based nonroad small spark-ignition engines (small SI engines) to allow for exhaust emission certification testing with a test fuel that has 10 percent ethanol as specified by California ARB (78 FR 36370). We adopted that provision on an interim basis, through model year 2019, with the expectation that we would further evaluate the appropriate test fuel for onroad and nonroad applications. The Tier 3 motor vehicle emission standards include a new certification test fuel specification that is much like California ARB’s Phase 3 test fuel in that it includes 10 percent ethanol (E10).

Small SI manufacturers have requested that we address the test fuel questions in a way that does not leave them uncertain about certification test fuel options starting in model year 2020. While the effort to adopt the new EPA nonroad test fuel specification lies ahead, we agree with the manufacturers that the new ethanol-based test fuel associated with the Tier 3 motor vehicle emission standards allows us to take the step of removing the expiration of the provision allowing for the use of the similar California ARB Phase 3 test fuel for small SI engines. In the future, we expect to go through a rulemaking to incorporate EPA's Tier 3 test fuel into the emission programs for small spark-ignition engines, including an assessment of how the changing test fuel relates to the stringency of the emission standards.

When we adopted Phase 3 exhaust emission standards for Small SI engines in 2008, we included a new set of requirements for manufacturers to post a bond as a means of ensuring compliance with regulatory requirements (73 FR 59034, October 8, 2008). Manufacturers have been complying with the bond requirements since 2010. The bond provisions are generally working as expected, but we have found several items that we are proposing to adjust or clarify to help with ongoing implementation, as follows:

- Clarify that bonds are intended to cover any improperly funded compliance obligations relative only to engines that must comply with 40 CFR part 1054. The bond provisions are not intended to extend to engines that a manufacturer certifies under other EPA programs.
- Specify that small-volume engine manufacturers and small-volume equipment manufacturers (collectively small-volume manufacturers, as defined in 40 CFR 1054.801) are subject to an alternate minimum bond value of \$25,000, rather than the

\$500,000 minimum that applies for other manufacturers. This arrangement has been the working policy under the broader allowance specified in §1054.635(d). Codifying these terms allows us to streamline the process and remove uncertainty for small-volume manufacturers.

- Adopt a cap on the bond value that corresponds to the applicable bond-waiver threshold. Since U.S.-based assets are roughly analogous to bond values as a measure of our ability to compel compliance (or remedy deficiencies) for the different kinds of companies, this approach provides a measure of parity or fairness between those that must post bond and those that qualify for a bond waiver based on their assets in the United States. This is consistent with the approach we took on an interim basis to specify a maximum bond value of \$10 million. The new provision replaces the \$10 million cap in §1054.145(o).
- Clarify how bond values may change within a given year, and in future years: (1) bond values may be adjusted for a given year any time before the first importation or sale for that year; (2) once a bond value is fixed for a given year, that value may not be decreased during the year, even if sales volumes are less than anticipated; and (3) bond values may be reset with each new year, but these values must reflect actual sales volumes for the preceding three years. This arrangement allows a manufacturer to take a deliberate approach to resetting bond values if sales volumes change substantially over time.
- Change the protocol for adjusting thresholds and bond values for inflation. Small, annual changes create confusion and an implementation burden, with very small incremental benefit. To streamline that process and still account for the cumulative effects of inflation, we are specifying that we will adjust the thresholds and bond values in 2020,

and every ten years after that, using a less precise rounding protocol. These changes will not require rulemaking to take effect, but we will likely modify the regulation to reflect these periodic adjustments.

V. Evaporative Test Procedures for Nonroad Equipment

We specify evaporative emission standards, test procedures, and certification requirements in 40 CFR part 1060. This includes measurement procedures for fuel permeation through fuel lines and fuel tanks, and for diurnal emissions from fuel tanks. We are proposing the following changes to these regulations:

- Clarify that boat builders and other equipment manufacturers that install uncertified components are required to certify those fuel-system components as if they were component manufacturers. The original regulatory language described a requirement for equipment manufacturers to certify as equipment manufacturers if they were installing uncertified components, but we have found that the certification process is most straightforward if we treat them as component manufacturers.
- The test procedures originally allowed for manufacturers to use good engineering judgment to address technical concerns related to measuring emissions from narrow-diameter fuel lines. In 2013, SAE published a voluntary consensus standard (SAE J2996) specifying measurement procedures for these narrow-diameter fuel lines. We agree that the SAE standard reflects good engineering judgment in the effort to measure emissions and are therefore incorporating this standard by reference in §1060.515. This alternative SAE standard was designed for Small SI products, but it may be used in other applications as well; note, however, that U.S. Coast Guard requires measurements based

on SAE J1527 in some cases. We are including the following clarifications and adjustments related to the specified SAE standards for all fuel-line permeation testing: (1) The test requires emission sampling over a 14-day period; (2) Two days of non-testing per week are allowed to accommodate weekend work schedules; (3) To remove any ambiguity from the published SAE standards, we are stating in our regulations that testing must occur at 23 ± 2 °C; and (4) The final test result is based on a simple arithmetic average of measured emission values over the 14-day sampling period. These changes allow for internal consistency, and generally align with the procedures adopted by California ARB. To the extent that there are remaining differences, manufacturers may ask for approval to use different procedures under §1060.505(c)(2) or (c)(3).

- Correct a typographical error in the kPa pressure value for preconditioning fuel tanks for a permeation measurement. The psi value in the regulation is correct.
- Correct the sample calculation for determining an emission result from a diurnal emission test.
- Adjust the procedure to account for buoyancy effects in tank permeation measurements by replacing the requirement to use two identical tanks with a requirement to use a second tank that has a total volume that is within 5 percent of the test tank's total volume. This will allow manufacturers and test labs to rely on a smaller number of stock fuel tanks to make the necessary but minor corrections that result from fluctuating atmospheric pressure.

- Adjust and clarify diurnal test procedures: (1) Add a specification for in-tank thermocouples for tracking fuel temperature for testing marine fuel tanks; (2) Replace the hourly profile of fuel temperatures with clearer specification about tracking test fuel temperature from a specified starting point to a specified (calculated) endpoint. The vapor generation should be nearly constant between test runs as long as fuel temperature continues to increase from the low temperature to the high temperature; (3) Standardize the procedure for purging the evaporative canister to prepare for testing based on a simulation of the in-use experience; this is based on engine purge for land-based applications, and on passive (ambient) purge for marine applications. This canister preconditioning is a necessary step to establish a known starting point for designing a system that meets the diurnal emission standard; and (4) Include temperature tolerance bands for the diurnal temperature cycle. Note that we are not proposing or requesting comment on changing the test procedure for marine fuel tanks to base the temperature profile on ambient temperatures instead of fuel temperatures.
- Establish a gravimetric test method for determining mass of emissions for tanks with a diurnal emission standard of at least 2.0 grams of hydrocarbon. Emission test procedures involving an emission standard of less than 2.0 grams of hydrocarbon need the more accurate measurements available from using a flame ionization detector (FID) within a sealed enclosure.

VI. Portable Fuel Containers

On February 26, 2007, EPA adopted a set of requirements to reduce emissions from portable fuel containers (PFC) at 40 CFR part 59, subpart F (72 FR 8533). EPA review of PFC

designs and discussions with PFC manufacturers suggest that the manufacturers may have read the provisions of 40 CFR 59, subpart F, too narrowly and that their interpretations may have unnecessarily constrained some design approaches that may have otherwise allowed for improved in-use performance and consumer satisfaction. EPA did not intend to impact manufacturer design approaches beyond those deemed by the manufacturer as necessary to meet the emission control requirements as otherwise specified in 40 CFR part 59, and is including language in this rule to clarify regulatory requirements that apply to PFCs. Specifically, the revised regulation states that it is allowable for manufacturers to design PFCs with vents to relieve pressure, provided that the venting device is in place during emission testing, and provided that the venting device closes automatically when not in use.

The proposed modifications to 40 CFR 59, subpart F, do not change the regulatory requirements with regard to emission standards and test procedures, but better define some elements of design and clarify how various approaches would be considered in testing. Upon seeing these modifications to the regulations, PFC manufacturers may elect to pursue design approaches they deem appropriate, which they may have thought were not available to them previously.

VII. MARPOL Annex VI Implementation

The Act to Prevent Pollution from Ships (APPS) implements the provisions of the International Convention for the Prevention of Pollution from Ships (MARPOL) Annex VI for the United States (33 U.S.C. 1901-1912). EPA adopted regulations in 2010 to summarize these requirements and to describe engine certification procedures and other relevant provisions as specified in APPS (75 FR 22896, April 30, 2010). MARPOL Annex VI has been amended since

issuance of that Federal Register notice to include designation of the North American ECA and the U.S. Caribbean Sea ECA and various other changes. We are proposing to amend 40 CFR part 1043 in this rulemaking to align the regulations with the amendments of MARPOL Annex VI to facilitate stakeholder compliance, and to correct certain technical errors.

First, the most fundamental step in the proposed updates to 40 CFR part 1043 is to cite the 2013 publication of MARPOL Annex VI and the further amendments concluded at MEPC 66 in April 2014 (see 40 CFR 1043.100). Likewise, MARPOL Annex VI was recently amended to waive the fuel-sulfur requirements for certain steamships until January 1, 2020. Part 1043 already includes such a waiver for steamships operating in the Great Lakes. We are proposing to codify the additional temporary steamship exemption in §1043.97. Note that covered steamships would be required to comply with the relevant sulfur limits when the exemption expires on January 1, 2020.

Second, we inadvertently adopted regulatory language in 40 CFR part 1043 that differs from the language of Annex VI. For example, we originally adopted the provisions in 40 CFR part 1043 with an erroneous date, stating that the 0.10 % fuel-sulfur standard applies starting January 1, 2016, which should be January 1, 2015. The Annex VI specification is enforceable with or without this correction in 40 CFR part 1043, but we are proposing this change to avoid any possible confusion. We also identified the NO_x standards based on an engine's model year; this should identify the applicability of NO_x standards based on the build date of new vessels, or on the date of major modifications in other circumstances. We are proposing to correct these errors in part 1043.

Third, we are proposing the addition of clarifying language relating to public vessels. MARPOL Annex VI exempts public vessels from engine standards and fuel requirements. Public vessels are defined as “warships, naval auxiliary vessels, and other vessels owned or operated by a sovereign country when engaged in noncommercial service.” We want to clarify that any vessel that has a national security exemption (for engines or fuel) is automatically considered a public vessel.

Fourth, we are proposing to clarify regulatory provisions to address whether or how emission credits apply for EPA certificates and EIAPP certificates. Engine manufacturers are interested in getting an EPA certificate under 40 CFR part 1042 and an EIAPP certificate under 40 CFR part 1043 for the same engine. This would allow them maximum flexibility in selling engines to boat builders for installation in vessels used in domestic or international service. Certification to EPA standards under 40 CFR part 1042 allows manufacturers to use emission credits to make some engines with emission levels that are above the specified standard. MARPOL Annex VI and 40 CFR part 1043 do not have such an allowance. We are proposing to modify the regulation to clarify that an engine may not be covered by both an EPA certificate and an EIAPP certificate if its certification under 40 CFR part 1042 depends on using emission credits to allow for an emission level above the specified standard. If an engine has emission levels below the specified standard and it is used to generate emission credits under 40 CFR part 1042, this would not disqualify an engine from also getting an EIAPP certificate under 40 CFR part 1043.

Lastly, we are making clarifying edits to the fuels regulations under 40 CFR part 80 for MARPOL Annex VI implementation; the table below lists these edits. While some of these edits are purely corrections to typographical errors, we are also making edits to clarify the treatment of

fuels under MARPOL Annex VI, Regulation 3 and Regulation 4. Regulation 3 authorizes trial programs that involve a permit allowing a ship operator to use fuel that exceeds the fuel-sulfur standards that would otherwise apply. Regulation 4 allows for flag states to approve the use of high-sulfur fuel for vessels that are equipped with technology that allows for an equivalent level of control. Specifically, we are amending the definition of “ECA marine fuel” at 40 CFR 80.2(ttt) to clarify that vessels with Regulation 3 permits or Regulation 4 equivalencies can in fact use fuel that exceeds the ECA marine fuel sulfur standard. Further, to provide producers, distributors, and marketers of fuel for use under a Regulation 3 permit or a Regulation 4 equivalency the ability to denote such fuel on their PTDs, we are amending 40 CFR 80.590 to provide these parties with express PTD statements that may be used in lieu of the statements that are currently in the regulations.

MARPOL Annex VI-related Amendments to 40 CFR Part 80, Subpart I	
Section	Description of Change
§80.2(ttt)	Amended the definition of ECA marine fuel to clarify that fuel allowed by MARPOL Annex VI Regulation 3 permits or Regulation 4 equivalencies under 40 CFR part 1043 is not required to meet the ECA marine fuel requirements.
80.510 section heading	Amending to clarify that this section applies to refiners and importers.
80.510(k) and 80.511(b)(9)	Amending to clarify that fuel allowed by Regulation 3 permits or Regulation 4 equivalencies is not required to meet the ECA marine fuel requirements.
§80.574(b)	Amended to update the address for submitting ECA marine fuel alternative label requests.
§80.590(b)	Amended to allow for PTD statements for use with fuel permitted for use under MARPOL Annex VI Regulation 3, Regulation 4, or both.
§80.607 (a), (c), (d), (f)	Amended to remove references to ECA marine fuel, as research and development permits are separate from Regulation 3 permits under 40 CFR part 1043.
§80.608(d)	Amended to correct minor typographical errors.

VIII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act

This action does not impose any new information collection burden under the PRA, since it merely clarifies and corrects existing regulatory language. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control numbers as noted in the table below.

Regulatory Citation	Item	OMB Control Number
40 CFR part 86	Light-duty vehicle standards	2060-0104
40 CFR part 86	Heavy-duty vehicle standards	2060-0287
40 CFR part 86	In-use verification program	2060-0086
40 CFR part 80	In-use fuel standards	2060-0437
40 CFR part 1043	MARPOL Annex VI	2060-0641
40 CFR part 1054	Small SI exhaust emission standards	2060-0338
40 CFR part 1060	Nonroad SI evaporative emission standards	2060-0321, 2060-0338

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule

relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This rule merely clarifies and corrects existing regulatory language. We therefore anticipate no costs and therefore no regulatory burden associated with this rule. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments. Requirements for the private sector do not exceed \$100 million in any one year.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. This rule merely corrects and clarifies regulatory provisions. Tribal governments would be affected only to the extent they purchase and use regulated vehicles or engines. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

This action involves technical standards. EPA has decided to use the following voluntary consensus standards:

Organization	Standard	Available from
SAE International	SAE J2996, Small Diameter Fuel Line Permeation Test Procedure, Issued January 2013	www.sae.org
ASTM International	ASTM D86-07, Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure, approved January 15, 2007	www.astm.org
ASTM International	ASTM standard practice D4057-12, Standard Practice for Manual Sampling of Petroleum and Petroleum Products, approved December 1, 2012	www.astm.org
ASTM International	ASTM standard practice D4177-95 (Reapproved 2010), Standard Practice for Automatic Sampling of Petroleum and Petroleum Products, approved May 1, 2010.	www.astm.org
ASTM International	ASTM standard practice D5842-14, Standard Practice for Sampling and Handling for Fuels for Volatility Measurement, approved January 15, 2014	www.astm.org

ASTM International	ASTM standard practice D6299-13, Standard Practice for Applying Statistical Quality Assurance and Control Charting Techniques to Evaluate Analytical Measurement System Performance, approved October 1, 2013	www.astm.org
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This action also involves technical standards for marine diesel engines. There are no voluntary consensus documents that address these technical standards. EPA has therefore decided to use the following standards from the International Maritime Organization:

Organization	Standard	Available from
International Maritime Organization	MARPOL Annex VI, Regulations for the Prevention of Pollution from Ships, Third Edition, 2013	www.imo.org
International Maritime Organization	NOx Technical Code 2008, 2013 Edition	www.imo.org
International Maritime Organization	Annex 12, Resolution MEPC.251(66) from the Report of the Marine Environment Protection Committee on its Sixty-Sixth Session, April 25, 2014	www.imo.org

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

This action is not expected to have any adverse human health or environmental impacts; as a result, the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations.

IX. Statutory Provisions and Legal Authority

Statutory authority for this action comes from 42 U.S.C. 7401-7671q and 33 U.S.C. 1901-1912.

List of Subjects

40 CFR Part 59

Environmental protection, Air pollution control, Confidential business information, Labeling, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 80

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential Business Information, Diesel fuel, Fuel additives, Gasoline, Imports, Incorporation by reference, Labeling, Motor vehicle pollution, Penalties, Petroleum, Reporting and recordkeeping requirements.

40 CFR Part 85

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential Business Information, Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

40 CFR Part 86

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential Business Information, Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Warranties.

40 CFR Part 600

Environmental protection, Administrative practice and procedure, Electric power, Fuel economy, Labeling, Reporting and recordkeeping requirements.

40 CFR Part 1037

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

40 CFR Part 1043

Environmental protection, Administrative practice and procedure, Air pollution control, Imports, Incorporation by reference, Vessels, Reporting and recordkeeping requirements.

40 CFR Parts 1051 and 1054

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Labeling, Penalties, Reporting and recordkeeping requirements, Warranties.

40 CFR Part 1060

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Incorporation by reference, Labeling, Penalties, Reporting and recordkeeping requirements, Warranties.

40 CFR Parts 1065 and 1066

Environmental protection, Administrative practice and procedure, Reporting and recordkeeping requirements, Research.

Dated: February 2, 2015.

Gina McCarthy,
Administrator.

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