



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
NATIONAL VEHICLE AND FUEL EMISSIONS LABORATORY
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OFFICE OF
AIR AND RADIATION

July 13, 2020

CD-2020-09 (HDV, HDE, NRCI, Marine CI)

SUBJECT: COVID-19 Impacts to Diesel Engine Compliance Center Certification and Compliance Activities

Dear Manufacturer:

EPA recognizes that public health concerns and associated legal restrictions arising from the COVID-19 pandemic have resulted in facility closures and testing limitations that may have significantly hampered the ability of manufacturers to undertake engine, vehicle and equipment certification and compliance activities. The purpose of this letter is to provide guidance to Heavy-Duty Compression-Ignition Highway Engine, Heavy-Duty Highway Vehicle, Nonroad Compression-Ignition Engine and Marine Compression-Ignition Engine manufacturers regarding potential COVID-19 related impediments to certification and compliance activities. On a case-by-case basis, after notification by a manufacturer, EPA will assess the circumstances that may delay the manufacturer from meeting Clean Air Act requirements for certification and compliance in 40 C.F.R. Parts 86, 1036, 1037, 1039, 1042, 1065 and 1068. The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

EPA is aware that manufacturers may be delayed in submitting information under 40 C.F.R. Parts 86, 1036, 1039, and 1042 that is required for carryover certification and running change decisions and intends to work with manufacturers to ensure timely certification decisions. EPA requests that manufacturers experiencing these delays submit certification-related data even if such data does not yet constitute the complete dataset necessary for the final certification application. Manufacturers should also submit specific requests for flexibilities and an explanation of the use, if any, of sound engineering judgment, and provide a proposed solution to meet regulatory requirements for any certification or compliance issue for agency consideration. Manufacturers requesting a certificate for model year (MY) 2021 carryover families where carryover changes are emissions critical should provide updated emissions certification test data in the certification application. Please contact your certification representative regarding anticipated delay, or certification and compliance issues, as soon as possible.

Manufacturers intending to update infrequent regeneration adjustment factors (IRAF) for MY 2021 certificates in accordance with 40 C.F.R. §§ 1036.501, 1039.525 and 1042.525, should

utilize the most recently published procedures in 40 C.F.R. § 1065.680 for IRAF recalculations, consistent with EPA's authority in 40 C.F.R. § 1065.10 for alternate procedures, and those standard-setting parts. If carryover engine families have not been recalibrated from the previous year, a manufacturer may utilize existing data to generate updated IRAF values consistent with regulatory requirements, *e.g.* 40 C.F.R. § 86.004-28(j). If you are concerned that the data set you intend to submit with your application for certification is not complete, please contact your certification representative so that EPA may assist you.

EPA recognizes that long lead time deterioration factor (DF) testing described in 40 C.F.R. §§ 86.004-26(c)(2), 1036.241, 1039.245 and 1042.245, may be affected by facility closures and testing limitations due to COVID-19. If so, please contact your certification representative as soon as possible. EPA will work with manufacturers to determine alternate approaches consistent with 40 C.F.R. §§ 1036.210, 1039.210 and 1042.210. Options may include modifying a previously accepted DF plan, re-assessing carry-over and carry-across options, or the use of assigned DF values for eligible manufacturers. EPA will consider flexibilities using good engineering practices, but the nature of those flexibilities will depend on the specific data a manufacturer may submit.

For voluntary recalls that have been initiated under 40 C.F.R. § 1068.535, manufacturers may request to modify these voluntary recall agreements. EPA understands that necessary testing, root-cause analysis, validation testing, and other efforts needed to design and confirm corrective action plans may be delayed due to laboratory closures. EPA intends to consider alternate test data and sound engineering analysis (where applicable and reasonable) in its review of manufacturers' plans and requests related to corrective action issues in these voluntary agreements.

EPA recognizes the potential for delays in submitting compliance reporting information. If a manufacturer is unable to submit a complete compliance report, EPA recommends submitting a placeholder document describing the reason for delay into EV-CIS under reporting requirement of interest. Please refer to CD-2020-05, and for additional information or questions, contact your certification representative.

At this time, EPA is not prioritizing resources to issue Heavy-Duty (HD) In-Use Testing (IUT) orders under 40 C.F.R. § 86.1901. When determining which testing should be performed, EPA intends to issue test orders in a manner that minimizes the potential for manufacturer testing resources to be overwhelmed by requests that overlap model years. EPA will communicate with manufacturers and monitor readiness for in-use testing. Please specifically contact Fakhri Hamady (hamady.fakhri@epa.gov; 734-214-4330) or Allen Duncan (contact information below) if there are any questions or concerns regarding the HD IUT program.

EPA recognizes the potential for impacts to HD Greenhouse Gas (GHG) Phase 2 certification in 40 C.F.R. § 1037.201. EPA is assessing the certification needs of the HD highway engine and vehicle sector by continuing to communicate with manufacturers daily. EPA will work with manufacturers to determine what, if any, actions are necessary to better ensure that complete applications for MY 2021 certificates can be submitted and reviewed in a timely manner. In working with individual manufacturers, EPA will consider the use of any available regulatory flexibilities regarding the timing and content of required data and information necessary for GHG certification. Consistent with 40 C.F.R. § 1037.525, EPA may allow alternative aerodynamic testing methods, which requires an adjustment factor ($F_{\text{alt-aero}}$). For initial

certification of an application, consistent with 40 C.F.R. 1037.525(a)(1), EPA will consider estimated values for $F_{alt-aero}$ that use good engineering judgment. Manufacturers may submit running changes as necessary when testing can be completed. Any manufacturers that have not yet generated their engine maps for MY 2021 and believe that they will be unable to complete the maps in time for certification, should propose a certification plan consistent with the regulations. Please contact your certification representative with any concerns.

Nothing in this letter changes any regulatory requirement and manufacturers should plan to complete all required testing and reporting as soon as circumstances allow.

If you have any questions, please contact your certification representative or Allen Duncan, Director, Diesel Engine Compliance Center, at duncan.allen@epa.gov or 734-214-4815.

Sincerely,

A handwritten signature in black ink, appearing to read "Byron J. Bunker", is positioned above the typed name.

Byron J. Bunker, Director
Compliance Division
Office of Transportation and Air Quality