

part 71) amends the Class E airspace area at Lovelock, NV. The development of a GPS SIAP to RWY 1 has made this action necessary. The intended effect of this action is to provide adequate airspace for aircraft executing the GPS RWY 1 SIAP at Lovelock Derby Field, NV.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### **PART 71—[AMENDED]**

1. The authority citation for 14 CFR part 71 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

##### **§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

AWP NV E5 Lovelock, NV [Revised]

Lovelock Derby Field, NV

(Lat. 40°03'59" N, long. 118°33'55" W)

Lovelock VORTAC

(Lat. 40°07'30" N, long. 118°34'40" W)

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of Lovelock Derby Field and within 3.5 miles each side of 349° radial of the Lovelock VORTAC, extending from the 4.3-

mile radius to the 10.4 miles north of the Lovelock VORTAC. That airspace extending upward from 1,200 feet above the surface beginning at lat. 40°37'30" N, long. 118°36'34" W; to lat. 40°12'00" N, long. 118°55'04" W; to lat. 40°03'00" N, long. 118°52'04" N; to lat. 40°22'19" N, long. 118°14'00" W; to lat. 40°32'00" N, long. 118°14'00" W; to lat. 40°23'00" N, long. 118°29'00" W; to lat. 40°27'00" N, long. 118°34'04" W, to the point of beginning and that airspace beginning at lat. 40°05'00" N, long. 118°28'29" W; to lat. 40°06'00" N, long. 118°23'04" W; to lat. 40°03'00" N, long. 118°22'04" W; to lat. 40°00'00" N, long. 118°31'44" W, thence via a 4.3-mile radius of Lovelock Derby Field to the point of beginning and that airspace bounded by a line beginning at lat. 40°23'00" N, long. 118°29'00" W; to lat. 40°32'00" N, long. 118°14'00" W; to lat. 40°22'00" N, long. 118°14'00" W; to lat. 40°18'00" N, long. 118°23'00" W, thence to the point of beginning.

\* \* \* \* \*

Issued in Los Angeles, California, on December 11, 1995.

Richard R. Lien,

*Manager, Air Traffic Division, Western-Pacific Region.*

[FR Doc. 96–58 Filed 1–2–96; 8:45 am]

BILLING CODE 4910–13–M

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Parts 86 and 88**

[AMS–FRL–5347–3]

RIN 2060–AF87

#### **Requirements for Determining Assigned Deterioration Factors for Alternative Fuel Vehicles, Amendments to Labelling Requirements for Inherently Low-Emission Vehicles, and Related Provisions**

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

**ACTION:** Direct final rule (DFRM).

**SUMMARY:** This rulemaking promulgates actions to clarify and streamline existing regulations for certifiers and purchasers of clean-fuel and/or alternative fuel vehicles. This rule reduces the regulatory burden for industry, and it is highly accommodating to their concerns. To temporarily reduce the certification burden of the emerging industry of aftermarket conversions of alternative fuel vehicles, EPA will take action in this rule that will provide flexibility in the regulations for the determination of assigned deterioration factors for alternative fuel vehicles.

To encourage the production of Inherently Low-Emission Vehicles

(ILEVs), this rule also promulgates an amendment to allow additional options for external ILEV label dimensions. Also in this rule, EPA will amend two California Pilot Program (CPP) requirements: the method for determining a manufacturer's clean-fuel vehicle (CFV) sales quota and the method for administering CPP credits. This amendment to the method of administering credits will reduce a manufacturer's reporting requirements by a factor of four. Finally, this rule includes several additional technical amendments to the regulations issued under Clean Fuel Fleet Program and California Pilot Program final rules.

**DATES:** This rule is effective March 4, 1996 unless notice is received by February 2, 1996 that adverse or critical comments will be submitted on a specific element of this rule. EPA will publish a timely document in the Federal Register withdrawing that portion of the rule for which adverse comments were received.

**ADDRESSES:** Interested parties may submit written comments in response to this rule (in duplicate if possible) to Public Docket Nos. A–92–30 and A–92–14 for alternative fuel vehicle provisions, Public Docket No. A–92–30 for ILEV and Clean Fuel Fleet Program provisions, and Public Docket No. A–92–69 for California Pilot Program provisions, at: Air Docket Section, U.S. Environmental Protection Agency, Attention: Docket Nos. A–92–30, A–92–14, or A–92–69, First Floor, Waterside Mall, Room M–1500, 401 M Street SW., Washington, DC 20460. A copy of the comments should also be sent to Mr. Bryan Manning (SRPB–12), U.S. EPA, Regulation Development and Support Division, 2565 Plymouth Road, Ann Arbor, MI 48105.

Materials relevant to this rule have been placed in Docket Nos. A–92–30 and A–92–14 or A–92–69 by EPA. The docket is located at the above address and may be inspected from 8 a.m. to 5:30 p.m. on weekdays. EPA may charge a reasonable fee for copying docket materials.

A copy of this action is available through the Technology Transfer Network Bulletin Board System (TTNBBS) under OMS, Rulemaking and Reporting, Alternative Fuels, Clean Fuel Fleets. TTNBBS is available 24 hours a day, 7 days a week except Monday morning from 8–12 EST, when the system is down for maintenance and backup. For help in accessing the system, call the systems operator at 919–541–5384 in Research Triangle Park, North Carolina, during normal business hours EST.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bryan Manning (SRPB-12), U.S. EPA, Regulation Development and Support Division, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 741-7832; FAX: 313-741-7816.

**SUPPLEMENTARY INFORMATION:** Because EPA considers this action to be noncontroversial, we are finalizing it without prior proposal. The action will become effective March 4, 1996 unless adverse comments are received by February 2, 1996. If EPA receives adverse comments, only the affected portions of the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule (please see proposed rule entitled, "Sales Volume Limit Provisions for Small-Volume Manufacturers Certification of Clean-Fuel and Conventional Vehicle Conversions and Related Provisions," published simultaneously in the "Proposed Rules" section of this Federal Register).

#### I. Description of Action

The alternative fuel vehicle industry is likely to expand considerably over the next several years in response to Clean Air Act (CAA), the Energy Policy Act, and other alternative fuel fleet and vehicle programs at the state and local levels. Nevertheless, EPA believes alternative fuel vehicles will still have limited sales in comparison to conventional vehicles. Thus, due to this potential inequity in sales, EPA believes it may be difficult for aftermarket converters of alternative fuel vehicles to recover their certification cost over the next several years. Since EPA encourages the production of certified alternative fuel vehicles for air quality purposes, EPA believes it will be wise to temporarily reduce the certification burden for aftermarket converters of alternate fuel vehicles as described below.

##### A. Flexibility in Certification Procedure for Determining Deterioration Factors

As is shown in 40 CFR 86.094-14, the Small-Volume Manufacturers (SVM) Certification Program exempts entities seeking a Certificate of Conformity with total annual vehicle/engine sales less than 10,000 from EPA's full certification program. Specifically, the SVM provisions relieve such entities from some elements otherwise required to demonstrate the durability of emissions over the life of the vehicle. Instead of accumulating mileage on actual prototype vehicles, the SVM program in some cases permits the use of EPA-assigned values for emission

deterioration. This can be of significant economic benefit to entities manufacturing or converting relatively few vehicles. The standard protocol EPA uses to assign deterioration factors is described in EPA Advisory Circular No. 51-C.

Currently, small volume manufacturers with aggregated sales of less than 301 vehicles per year or without durability data may use assigned deterioration factors of the 70th percentile deterioration factors from industry-wide data based on previously completed durability data vehicles. In addition, manufacturers with aggregated sales from 301 to 9,999 may calculate and use assigned deterioration factors, but these assigned deterioration factors must be no less than either the 70th percentile or the average of all the manufacturer's deterioration factor data (whichever is less). (See 40 CFR 86.094-14(c)(7)(i)(C)). However, since alternative fuel vehicles are an emerging industry, manufacturers of these vehicles and EPA currently have an extremely limited database from which to calculate assigned deterioration factors. According to current EPA regulations, many small-volume manufacturers of alternative fuel vehicles would be required to determine deterioration factors by conducting full useful-life tests since there is an insufficient database of previously-certified vehicles on which to base deterioration factors.

To enable certifiers of alternative fuel vehicles to avoid the burden of full certification testing for the economic reasons discussed above and to support the development of alternative fuel vehicle technology, EPA believes it is wise to provide flexibility in the regulations for the determination of assigned deterioration factors for alternative fuel vehicles. Thus, EPA will permit manufacturers to use assigned deterioration factors that the Administrator determines by alternative methods if no deterioration factor data (either the manufacturer's or industry-wide deterioration factor data) are available, as detailed in section 86.094-14(a)(2) of the regulations associated with today's rule. Following promulgation of this provision, EPA expects to issue guidance describing the specific alternative methods used in determining assigned deterioration factors for gaseous-fueled vehicles through model year 2000.<sup>1</sup>

<sup>1</sup> The assigned deterioration factors for gaseous-fueled vehicles and the specific methods used to determine these factors are expected to be specified in a "Dear Manufacturer" letter (advisory letter) that would be available in docket A-92-14 and A-92-30 and on TTNBBS.

##### B. Amendments to the Required Dimensions of Inherently Low-Emission Vehicle (ILEV) Exterior Labels

In the regulations for the Clean Fuel Fleet (CFF) Credit Program final rule, EPA specified size and shape requirements for ILEV exterior identification labels. The manufacturer or dealer of an ILEV is required to attach one label on the rear of the vehicle and one on each of two sides of the vehicle if requested by a qualifying fleet purchaser. In February 1995, Ford commented<sup>2</sup> that the required dimensions for the rear ILEV labels are inappropriate for certain vehicle models since their vehicle body design makes the placement of such labels on these vehicles difficult or impossible. Ford also stated that safety requirements for lighting and bumpers affect the vehicle body design; in addition, for natural gas vehicles, a separate label is required on the lower right rear of the vehicle by the National Fire Protection Association Safety Standard 52. In April 1995 Ford suggested a much smaller alternative ILEV label design for such vehicle models, which American Automobile Manufacturer's Association (AAMA) agreed to in May 1995.<sup>3</sup> Ford also suggested that the problem of reduced space on the rear of passenger cars also exists for the side of vehicles since fleet advertisements often take up much of the space available on the side of the vehicle.

As indicated in the preamble for the Clean Fuel Fleet Credit Program final rule, EPA intends for ILEVs to be specially and clearly identified since properly labeled ILEVs may be exempt from transportation control measure (TCM) requirements, including high-occupancy vehicle (HOV) lane restrictions. EPA expected ILEVs to look much like conventional vehicles, and thus, the Agency intended for ILEVs to have special labels to clearly indicate to law enforcement officers, as well as the general public, that these vehicles are not violating TCM ordinances.

EPA believes that the distinctive design and shape of AAMA's suggested ILEV label would be consistent with EPA's intent to have ILEVs clearly identified by law enforcement officials, as well as the general public. At the time the CFF Credits/ILEV rule was finalized, EPA was unaware of any vehicle models that would have a conflict with the ILEV

<sup>2</sup> Ford Motor Company, Comments on Reconsideration of ILEV Labelling Requirements, letter from Kelly M. Brown to Margo T. Oge of the U.S. Environmental Protection Agency, February 2, 1995.

<sup>3</sup> Ford Motor Company, "ILEV Labels", Facsimile from Sarah Rudy to Bryan Manning of the U.S. Environmental Protection Agency, April 21, 1995.

labeling requirements. Since EPA encourages the production of ILEVs for air quality purposes, EPA will amend the ILEV label regulations in a manner similar to that suggested by AAMA in order to provide additional flexibility for ILEV manufacturers, thus reducing some of the certification burden. To meet industry's vehicle body space concerns while maintaining a label that is clearly identifiable, EPA will provide new optional ILEV labels of smaller dimensions. Specifically, for the sides and rear of an ILEV, EPA will provide an optional ILEV label of smaller dimensions than the existing primary ILEV label and in the distinctive shape of a truncated circle, as specified in 88.312(a)(1) of the regulations in today's rule.

For the rear of an ILEV, existing regulations provide an option to choose a smaller rectangular label, if the larger primary (side) rectangular label cannot be attached to the rear of an ILEV. Today's rule will provide two optional rear labels which could be chosen if neither of the primary labels described above and in section 88.312(a)(1) of the regulations cannot be attached to the rear of an ILEV. One of these rear label options is the existing smaller rectangular label (see section 88.312(c)(2)(ii)(A) of the regulations in today's rule), and the other option is a smaller version of the truncated circular label described above, as detailed in section 88.312(c)(2)(ii)(B) of the regulations associated with today's rule.

#### *C. Method for Determining Each Manufacturer's CFV Sales Requirement Under the Federal California Pilot Program*

The California Pilot Program requires that California sales figures from two model years earlier be used to calculate required CFV sales shares (see California Pilot Test Program (CPP) final rule, 59 FR 50066, September 30, 1994). In the proposal for the rulemaking (58 FR 34727, June 29, 1993), EPA requested comment as to whether a manufacturer's share of required CFV sales should be calculated based on sales in the previous model year or sales two model years prior. No comments were received from manufacturers. EPA decided to use model year (MY) sales data from two years prior rather than from the previous model year to provide manufacturers with more time to plan their CFV production.

However, after the CPP rule was finalized, the AAMA notified EPA of their view that basing the calculation on data from two years prior is not

practical.<sup>4</sup> According to AAMA, this is because the production volumes would not be established early enough to allow auto manufacturers sufficient planning time to comply with the CFV sales requirements in the California Pilot Program. AAMA suggested that at least a three-year lead time is needed for the completion of the annual production reports, EPA calculation of the manufacturer total sales, and subsequent certification strategy or sales planning by the manufacturers. More specifically, AAMA suggested that a manufacturer's share of CFV sales be the average of two consecutive years based on data from model years three and four years earlier than the model year in question. AAMA believes a two-year average would help level out any fluctuations in the market.

EPA has considered these comments and agrees that using data from the model year two years prior to the year in question does not provide manufacturers enough time to adequately plan their production, since production for the model year in question could be well underway before sales data is available for production planning. (Production under a certificate may begin on January 2 of the calendar year prior to the model year of the certificate and may continue through December 31 of the certification model year.)

Thus, EPA will require that the average California sales figures from three and four model years earlier than the current model year be used by each manufacturer to calculate their required CFV sales share. For example, for the 1997 model year, the average of sales figures from 1993 and 1994 model years would be used to calculate the CFV sales share. This change will have no impact on the overall number of CFVs sold in California; the allocation of those vehicles among manufacturers may change slightly. This change will also reduce the regulatory burden for manufacturers, and EPA believes it is highly accommodating to manufacturers considering that manufacturers did not comment on the method proposed.

#### *D. Reporting Requirements for the Credit Program of the California Pilot Test Program*

In the information collection request<sup>5</sup> for the Credit Program for California

<sup>4</sup> American Automobile Manufacturers Association (AAMA), Recommendation on Determination of Manufacturer Quotas for the California Pilot Test Program, Letter from Marcel L. Halberstadt to Tad Wysor of the U.S. Environmental Protection Agency, February 17, 1995.

<sup>5</sup> U.S. Environmental Protection Agency, Office of Information Collection Request—California Pilot Test Program, Supporting Statement for

Pilot Test Program Final Rule (57 FR 60038, December 17, 1992), EPA had requested quarterly reporting of credit use and balance statements to administer the credit program. However, EPA has reevaluated this request and does not believe quarterly reporting is a necessary requirement for administering the CPP credit program. The Agency does not expect the volume or frequency of credit transactions to be substantial enough so as to require such frequent monitoring. EPA now believes that annual reports from the manufacturers of credit use and balances will be sufficient for EPA to adequately administer and enforce the CPP credit program and verify the proper use of traded CPP credits. Thus, EPA will require annual reporting of credit use and balances for the CPP credit program. (See section 88.205-94 (d)(1) and (d)(3)(iii) of the regulations associated with today's rule for further detail.) This change will reduce the manufacturer reporting burden by a factor of four, and thus, EPA believes it is highly accommodating to manufacturers.

#### *E. Technical Amendments to CFV Emission Standards Rulemaking and CFF and CPP Credit Program Rulemakings*

##### *1. Redesignation of Paragraph Specifying Methane Analyzer Method Within Description of Exhaust Analytical System*

In the regulations for the Clean-Fuel Vehicle Emission Standards final rulemaking (59 FR 50042, September 30, 1994), the specifications for the measurement of methane from heavy-duty exhaust samples, paragraph (b)(2)(iii) of section 86.1311-94 ("Exhaust gas analytical system; CVS bag sample"), were incorrectly designated as a sub-paragraph of paragraph (b)(2), which contains the specifications for the measurement of carbon monoxide from heavy-duty exhaust samples. Thus, in today's action, EPA will redesignate paragraph (b)(2)(iii) as paragraph (b)(3) in section 86.1311-94.

##### *2. Clarification of Applicable Test Procedures for CFV Exhaust Standards for Light-duty Vehicles and Light-duty Trucks*

In paragraph (k) of section 88.104-94 of the regulations for the Clean-Fuel Vehicle Standards final rulemaking, EPA specifies that CFV tailpipe emission standards for light-duty vehicles and light-duty trucks shall

Information Collection Request—California Pilot Test Program: Vehicle Credit Program, May 1991.

comply with the following requirement: “\* \* \* standards in this paragraph shall be administered and enforced in accordance with the California Regulatory Requirements \* \* \*.” However, in paragraph (l) of section 88.104–94 EPA incorrectly specified that CFV standards for light-duty vehicles and light-duty trucks shall be “\* \* \* tested in accordance with test procedures set forth in 40 CFR part 86 \* \* \*.” (In this same paragraph, EPA correctly specified that NMOG emissions are to be measured in accordance with the California Regulatory Requirements which were incorporated by reference in paragraph (k) of the same section.) Thus, EPA wishes to clarify that all CFV standards set forth in section 88.104–94 for light-duty vehicles and light-duty trucks shall be administered and enforced in accordance with California requirements by deleting paragraph (l) of section 88.104–94.

### 3. Corrections to Specifications for Emission Standards for Inherently Low-Emission Vehicle (ILEV)

In the regulations for the Clean-Fuel Vehicle final rulemaking, EPA specified in paragraph (c) of section 88.311–93 that exhaust emissions for ILEVs in light-duty vehicle and light-duty truck classes “\* \* \* shall be measured in accordance with the test procedures specified in § 88.104(l).” As mentioned above in section I.E.2., EPA is deleting paragraph (l) in section 88.104–94. Thus, EPA today wishes to clarify that exhaust emissions for ILEVs in light-duty vehicle and light-duty truck classes shall be measured in accordance with test procedures specified in section 88.104–94(k) (California Regulatory Requirements). Thus, section 88.311–93(c) will be amended accordingly.

For heavy-duty ILEVs, EPA incorrectly specified in section 88.311–93(d) that exhaust emissions “\* \* \* shall be measured in accordance with the test procedures specified in § 88.105(d).” However, paragraph (d) specifies only the exhaust standards but not the exhaust test procedures for heavy-duty ILEVs. The exhaust emission test procedures for ILEVs are specified in § 88.105(e). Thus, EPA today revises this section to require that the exhaust emissions for heavy-duty ILEVs be measured in accordance with the test procedures specified in § 88.105(e).

Further, in paragraph (d) of section 88.311–93, the requirements that heavy-duty (HD) ILEVs “\* \* \* have exhaust emissions with combined non-methane hydrocarbon and oxides of nitrogen \* \* \* which do not exceed the exhaust

emission standards \* \* \* in § 88.105” may be misleading. Not only are HD ILEVs required to meet exhaust emission standards in section 88.105(d) for combined non-methane hydrocarbon and oxides of nitrogen emissions, but HD ILEVs are also required to meet exhaust emission standards in section 88.105(d) for carbon monoxide, particulate matter, and formaldehyde emissions. Thus, EPA wishes to clarify that HD ILEVs shall have exhaust emissions which do not exceed any of the exhaust emission standards specified in section 88.105(d).

### 4. Correction to Clean Fuel Fleet Credit Table Applying When a Fleet Purchases More Clean-Fuel Vehicles Than Required

Due to an editorial error, in Table C94–1.1 of the regulations for the Clean Fuel Fleet Credit Program final rule (58 FR 11888, March 1, 1993) and the CFV Emission Standards final rule, the two vehicle-equivalent credits for ULEVs in the two heavy light-duty truck (HLDT) classes greater than 3,750 pounds ALVW were incorrectly specified as 1.29 and 1.47 respectively. For Table C94–1.1, EPA today corrects these values to 1.26 and 1.56, respectively.

Within this same table, EPA incorrectly specified in the last column heading for HLDTs greater than 5750 ALVW pounds that the ALVW parameter was “K5750” pounds. The “K” prefix added to 5750 pounds is an editorial error and may be misleading. EPA today changes the column heading to “LDT >6000 GVWR, >5750 ALVW”.

### 5. Correction to Early Credits Requirements for Heavy Light-Duty Trucks in the CPP

In the regulations for the Credit Program for the CPP final rule, EPA incorrectly excluded heavy LDTs that meet CFV standards from being eligible for early credits during model years 1996 and 1997. (For the CPP, a manufacturer’s share of required CFV annual sales for model years 1996 and 1997 is based on LDVs and light LDTs sales only; however, a manufacturer’s share of required CFV annual sales beginning in 1998 is also based on heavy LDTs sales.) In the final rule, EPA allowed early credits for LDVs and all LDTs up to the beginning of CPP sales requirements in 1996. To provide heavy LDT manufacturers with a similar opportunity to earn early credits, EPA had intended to allow manufacturers to earn early credits for heavy LDTs up to the beginning of their sales requirements in 1998. Thus, to rectify this inconsistency for heavy LDTs in the CPP, EPA wishes to clarify that heavy

LDTs certified to CFV standards shall be eligible for early credits up to model year 1998. Today’s action changes section 88.205(g) of the regulations accordingly.

## II. Environmental and Economic Impacts

The nature of today’s provisions for the determination of assigned deterioration factors for alternative fuel vehicles are such that no impact on air quality should result. If and when an entity (converter or original equipment manufacturer) certifies an alternative fuel vehicle, these actions will not seriously compromise EPA’s confidence that certified emission levels are being met in use. While some loss of control could theoretically occur if the reduced durability demonstration were in serious error, the Agency does not believe that this is likely to be common and in any event the numbers of vehicles involved is not large in comparison to conventional vehicle production. In addition, these provisions should significantly reduce the cost of certifying an alternative fuel engine family, thus encouraging the development of such vehicles.

For the relaxed ILEV labelling requirements, EPA believes that if the smaller but distinctive ILEV labels are used on an ILEV, they will still be able to be clearly identified by law enforcement officials. EPA expects that these changes will help encourage manufacturers to develop and produce ILEVs, which will in turn have a positive environmental impact relative to conventional vehicles.

With these changes to the CPP, EPA will ease the certification burden for manufacturers with no effect on air quality. This result will occur because the same number of vehicles will be sold under the CPP industry-wide; only the relative allocations among manufacturers might change.

In today’s rule, EPA will reduce the regulatory burden on industry without effecting air quality. EPA believes this rule is highly accommodating to industry’s concerns.

## III. Public Participation

EPA believes the provisions of today’s action are non-controversial and will make the affected provisions less burdensome and more effective. Nonetheless, if public comments are to be submitted, the Agency requests wherever applicable, full supporting data and detailed analysis should be submitted to allow EPA to make maximum use of the comments. Commenters should provide specific suggestions for any changes to any

aspect of the regulations that they believe need to be modified or improved. All comments should be directed to EPA Air Docket, Docket No. A-92-30 and A-92-14 for the certification flexibility provisions and Docket No. A-92-69 for the CPP provisions (See ADDRESSES). The official comment period will last for 30 days following publication of this direct final rule.

Commenters desiring to submit proprietary information for consideration should clearly distinguish such information from other comments to the greatest possible extent, and clearly label it "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the contact person listed above, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket.

Information covered by such a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it may be made available to the public without further notice to the commenter.

#### IV. Statutory Authority

The statutory authority for this action is granted by Sections 202, 203, 206, 207, 241, 242, 243, 244, 245, 246, 247, 249, and 301(a) of the Clean Air Act.

#### V. Administrative Designation and Regulatory Analysis

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether this regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the

President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, EPA believes that this action is not a "significant regulatory action" within the meaning of the Executive Order. Today's action provides greater flexibility in the certification process for manufacturers of alternate fuel vehicles, thus eliminating some of the certification burden. ILEV labelling requirements have been relaxed, reducing some of the certification burden. Today's action also reduces the certification burden for manufacturers required to produce CFVs under the CPP, by providing more flexibility in CFV production planning and credit reporting.

#### VI. Compliance with Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 requires federal agencies to examine the effects of federal regulations and to identify significant adverse impacts on a substantial number of small entities. Because the RFA does not provide concrete definitions of "small entity", "significant impact", or "substantial number", EPA has established guidelines setting the standards to be used in evaluating impacts on small businesses.<sup>6</sup> Section 604 of the Regulatory Flexibility Act requires EPA to prepare a Regulatory Flexibility Analysis when the Agency determines that there is a significant adverse impact on a substantial number of small entities.

Today's action will provide regulatory flexibility to converters of alternative fuel vehicles in the determination of assigned deterioration factors. EPA has evaluated the effects of today's regulations and the Administrator of EPA certifies that there will not be an adverse impact on a substantial number of small entities; in fact, most small converters of alternative fuel vehicles will experience an economic benefit. Therefore, a Regulatory Flexibility Analysis has not been performed for this rule.

#### VII. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed

<sup>6</sup> U.S. Environmental Protection Agency Memorandum to Assistant Administrators, "Compliance With the Regulatory Flexibility Act", EPA Office of Policy, Planning, and Evaluation, 1984. In addition, U.S. Environmental Protection Agency, Memorandum to Assistant Administrators, "Agency's Revised Guidelines for Implementing the Regulatory Flexibility Act", EPA Office of Policy, Planning, and Evaluation, 1992.

into law on March 22, 1995, EPA must prepare a written statement to accompany any rule where the estimated costs to State, local, or tribal governments, or to the private sector will be \$100 million or more in any one year. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objective of the rule and that is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly and uniquely impacted by the rule.

EPA estimates that the costs to State, local, or tribal governments, or the private sector, from this rule will be less than \$100 million. EPA has determined that this rule will reduce the regulatory burden imposed on certifiers of clean-fuel and/or alternative fuel vehicles (especially converters of such vehicles). EPA has determined that an unfunded mandates statement therefore is unnecessary.

#### VIII. Paperwork Reduction Act

Today's rule does not add any mandatory information collection requirements for certifiers of alternative fuel vehicles or any other entity, and EPA has not prepared an Information Collection Request document for this rule.

The information collection requirements of the Credit Program for California Pilot Test Program have been amended to reflect today's relaxation of the credit reporting requirements. These amended requirements have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., and have been assigned OMB control number 2060-0229. A copy of the Information Collection Request document (ICR No. 1590) may be obtained from Sandy Farmer, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2136); 401 M St. S.W.; Washington, DC 20460 or by calling (202) 260-2740.

Send comments regarding this collection of information to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2136); 401 M. St., S.W.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence.

List of Subjects

40 CFR Part 86

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

40 CFR Part 88

Environmental protection, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: November 27, 1995.

Carol M. Browner, Administrator.

For the reasons set forth in the preamble, part 86 and 88 of title 40 of the Code of Federal Regulations are amended as follows:

**PART 86—CONTROL OF AIR POLLUTION FROM NEW AND IN-USE MOTOR VEHICLES AND NEW AND IN-USE MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES**

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

Authority: Secs. 202, 203, 205, 206, 207, 208, 215, 216, 217, and 301(a), Clean Air Act as amended (42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7549, 7550, 7552, and 7601(a)).

2. Section 86.094–14 of subpart A is amended by redesignating paragraph (a) as paragraph (a)(1) and adding paragraph (a)(2) to read as follows:

**§ 86.094–14 Small-volume manufacturers certification procedures.**

(a)(1) \* \* \*

(2) To satisfy the durability data requirements of the small-volume manufacturers certification procedures, manufacturers of vehicles (or engines) as described in paragraph (b) of this section may use assigned deterioration factors that the Administrator determines by methods described in paragraph (c)(7)(i)(C) of this section. However, if no deterioration factor data (either the manufacturer's or industry-wide deterioration factor data) are available from previously completed durability data vehicles or engines used for certification, manufacturers of vehicles (or engines) as described in paragraph (b) of this section or with new technology not previously certified may use assigned deterioration factors that the Administrator determines by alternative methods, based on good engineering judgement. The factors that the Administrator determines by alternative methods will be published in an advisory letter or advisory circular.

\* \* \* \* \*

**§ 86.1311–94 [Amended]**

3. Section 86.1311–94 of subpart N is amended by redesignating paragraph (b)(2)(iii) as paragraph (b)(3) preceding figure N94–1.

**PART 88—CLEAN-FUEL VEHICLES**

4. The authority citation for Part 88 continues to read as follows:

Authority: 42 U.S.C. 7410, 7418, 7581, 7582, 7583, 7584, 7586, 7588, 7589, and 7601(a).

5. In § 88.104–94, paragraph (l), which precedes the tables to the section, is removed.

5a. A center heading is added immediately preceding the tables to the section to read as follows:

Tables to § 88.104–94

6. Section 88.204–94 of subpart B is amended by revising the introductory text of paragraph (c)(2) and paragraph (c)(2)(ii) to read as follows:

**§ 88.204–94 Sales requirements for the California Pilot Test Program.**

\* \* \* \* \*

(c) \* \* \*

(2) The required annual clean fuel vehicle sales volume for a given manufacturer is expressed in the following equation rounded to the nearest whole number:

$$RMS = \frac{MS}{TS} \times TCPPS$$

Where:

RMS=a manufacturer's required sales in a given model year.

MS=the average of a manufacturer's total LDV and light LDT sales in California three and four model years earlier than year in question (for MY 1996 and 1997 RMS calculations).

=the average of a manufacturer's total LDV and LDT sales in California three and four model years earlier than year in question (for MY 1998 and later RMS calculations).

TS=the average of total LDV and light LDT sales in California of all manufacturers three and four model years earlier than the year in question (for MY 1996 and 1997 RMS calculations). Sales of manufacturers which meet the criteria of (d) of this paragraph will not be included.

=the average of total LDV and LDT sales in California of all manufacturers three and four model years earlier than the year in question (for MY 1998 and later RMS calculations). Sales of manufacturers which meet the criteria of (d) of this paragraph will not be included.

TCPPS=Pilot program annual CFV sales requirement (either 150,000 or 300,000) for the model year in question.

(i) \* \* \*

(ii) A manufacturer certifying for the first time in California shall calculate annual required sales share based on

projected California sales for the model year in question. In the second year, the manufacturer shall use actual sales from the previous year. In the third year, the manufacturer will use sales from two model years prior to the year in question. In the fourth year, the manufacturer will use sales from three years prior to the year in question. In the fifth year and subsequent years, the manufacturer will use average sales from three and four years prior to the year in question.

\* \* \* \* \*

7. Section 88.205–94 of subpart B is amended by revising paragraphs (d)(1), (d)(3)(iii), and (g) to read as follows:

**§ 88.205–94 California Pilot Test Program Credits Program.**

\* \* \* \* \*

(d) \* \* \*

(1) During certification, the manufacturer shall calculate the projected credits, if any, based on required sales projections.

\* \* \* \* \*

(3) \* \* \*

(iii) Maintain the records required under this subpart.

\* \* \* \* \*

(g) *Early credits.* Beginning in model year 1992 appropriate credits, as determined from the given credit table, will be given for the sale of vehicles certified to the clean-fuel vehicle standards for TLEVs, LEVs, ULEVs, and ZEVs, where appropriate. For LDVs and light LDTs (<6000 lbs GVWR), early credits can be earned from model year 1992 to the beginning of the Pilot Program sales requirements in 1996. For heavy LDTs (>6000 lbs GVWR), early credits can be earned from model years 1992 through 1997. The actual calculation of early credits shall not begin until model year 1996.

8. Section 88.311–93 of subpart C is amended by revising paragraphs (c) and (d) to read as follows:

**§ 88.311–93 Emissions standards for Inherently Low-Emission Vehicles.**

\* \* \* \* \*

(c) *Light-duty vehicles and light-duty trucks.* ILEVs in LDV and LDT classes shall have exhaust emissions which do not exceed the LEV exhaust emission standards for NMOG, CO, HCHO, and PM and the ULEV exhaust emission standards for NO<sub>x</sub> listed in Tables A104–1 through A104–6 for light-duty CFVs. Exhaust emissions shall be measured in accordance with the test procedures specified in § 88.104–94(k).

An ILEV must be able to operate on only one fuel, or must be certified as an ILEV on all fuels on which it can operate. These vehicles shall also comply with all requirements of 40 CFR part 86 which are applicable to conventional gasoline-fueled, methanol-fueled, diesel-fueled, natural gas-fueled or liquified petroleum gas-fueled LDVs/LDTs of the same vehicle class and model year.

(d) *Heavy-duty vehicles.* ILEVs in the HDV class shall have exhaust emissions which do not exceed the exhaust emission standards in grams per brake horsepower-hour listed in § 88.105-94(d). Exhaust emissions shall be measured in accordance with the test procedures specified in § 88.105-94(e). An ILEV must be able to operate on only one fuel, or must be certified as an ILEV on all fuels on which it can operate. These vehicles shall also comply with all requirements of 40 CFR part 86 which are applicable in the case of conventional gasoline-fueled, methanol-fueled, diesel-fueled, natural gas-fueled or liquified petroleum gas-fueled HDVs of the same weight class and model year.

\* \* \* \* \*

9. Section 88.312-93 of subpart C is amended by revising paragraphs (a)(1) and (c)(2)(ii) to read as follows:

**§ 88.312-93 Inherently Low-Emission Vehicle Labeling.**

\* \* \* \* \*

(a) *Label design.* (1) Label design shall consist of either of the following specifications:

(i) The label shall consist of a white rectangular background, approximately 12 inches (30 centimeters) high by 18

inches (45 centimeters) wide, with "CLEAN AIR VEHICLE" printed in contrasting block capital letters at least 4.3 inches (10.6 centimeters) tall and 1.8 inches (4.4 centimeters) wide with a stroke width not less than 0.5 inches (1.3 centimeters). In addition, the words "INHERENTLY LOW-EMISSION VEHICLE" must be present in lettering no smaller than 1 inch (2.5 centimeters) high. Nothing shall be added to the label which impairs readability. Labels shall include a serialized identification number; or

(ii) The label shall consist of a white truncated-circular background, approximately 10 inches (25 centimeters) in diameter by 7 inches (17.5 centimeters) in height. The bottom edge of the truncated-circular background shall be approximately 2 inches (5 centimeters) from the center. The acronym "ILEV" shall be printed on the label in contrasting block capital letters at least 2 inches (5 centimeters) tall and 1.5 inches (3.8 centimeters) wide with a stroke width not less than 0.4 inches (1.0 centimeter). In addition, the words "CLEAN AIR VEHICLE" must be present in lettering no smaller than 0.8 inches (2.0 centimeters) high. Nothing shall be added to the label which impairs readability. Labels shall include a serialized identification number.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(ii) In the case that an ILEV label of the proportions specified in paragraph (a)(1) of this section cannot be attached to the rear of the ILEV, the manufacturer or the manufacturer's agent shall attach

to the rear of the vehicle an ILEV label of either of the following proportions:

(A) The label shall consist of a white rectangular background, approximately 4 inches (10 centimeters) high by 24 inches (60 centimeters) wide, with "CLEAN AIR VEHICLE" printed in contrasting block capital letters at least 2.8 inches (7 centimeters) tall and 1.3 inches (3.3 centimeters) wide with a stroke width not less than 0.3 inches (0.8 centimeter). In addition, the words "INHERENTLY LOW-EMISSION VEHICLE" must be present in lettering no smaller than 0.6 inches (1.5 centimeters) high. Nothing shall be added to the label which impairs readability. Labels shall include a serialized identification number; or

(B) The label shall consist of a white truncated-circular background, approximately 5 inches (12.5 centimeters) in diameter by 3.5 inches (8.8 centimeters) in height. The bottom edge of the truncated-circular background shall be approximately 1 inch (2.5 centimeters) from the center. The acronym "ILEV" shall be printed on the label in contrasting block capital letters at least 1 inch (2.5 centimeters) tall and 0.8 inches (2.0 centimeters) wide with a stroke width not less than 0.3 inches (0.8 centimeters). In addition, the words "CLEAN AIR VEHICLE" must be present in lettering no smaller than 0.4 inches (1.0 centimeter) high. Nothing shall be added to the label which impairs readability. Labels shall include a serialized identification number.

\* \* \* \* \*

10. Table C94-1.1 to subpart C of part 88 is revised to read as follows:

Tables to Subpart C of Part 88

TABLE C94-1.—FLEET CREDIT TABLE BASED ON REDUCTION IN NMOG. VEHICLE EQUIVALENTS FOR LIGHT-DUTY VEHICLES AND LIGHT-DUTY TRUCKS

TABLE C94-1.1.—CREDIT GENERATION: PURCHASING MORE CLEAN-FUEL VEHICLES THAN REQUIRED BY THE MANDATE

NMOG	LDV, LDT ≤6000 GVWR, ≤3750 LVW	LDT ≤6000 GVWR, >3750 LVW ≤5750 LVW	LDT >6000 GVWR, ≤3750 ALVW	LDT >6000 GVWR, >3750 ALVW ≤5750 ALVW	LDT >6000 GVWR, >5750 ALVW
LEV .....	1.00	1.26	0.71	0.91	1.11
ULEV .....	1.20	1.54	1.00	1.26	1.56
ZEV .....	1.43	1.83	1.43	1.83	2.23

\* \* \* \* \*