

Supporting Statement
for
Information Collection Request

Emission Control System Performance Warranty Regulations
and Voluntary Aftermarket Part Certification Program
(Renewal)

ICR 0116.09
OMB 2060-0060

42 USC 7521
40 CFR Part 85

Compliance and Innovative Strategies Division
Office of Transportation and Air Quality
Office of Air and Radiation
U.S. Environmental Protection Agency

PART A

1. Identification of the Information Collection

1(a) Title and Number of the Information Collection

Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program (Renewal), EPA Number 0116.09, OMB Control Number 2060-0060.

1(b) Short Characterization

Under Section 206(a) of the Clean Air Act (CAA, 42 USC 7521), on-highway engine and vehicle manufacturers may not legally introduce their products into US commerce unless EPA has certified that their production complies with applicable emission standards. Under section 207(a), original vehicle manufacturers must warrant that vehicles are free from defects in materials and workmanship that would cause the vehicle not to comply with emission regulations during its useful life. Section 207(a) directs EPA to provide certification to those manufacturers or builders of automotive aftermarket parts who demonstrate that the installation and use of their products will not cause failure of the engine or vehicle to comply with emission standards. An aftermarket part is any part offered for sale for installation in or on a motor vehicle after such vehicle has left the vehicle manufacturer's production line (40 CFR 85.2113(b)). Participation in the aftermarket certification program is voluntary.

Aftermarket part manufacturers electing to participate in the certification program conduct emission and durability testing as described in 40 CFR part 85, subpart V, and submit data about their products and testing procedures.

This information is collected by the Compliance and Innovative Strategies Division (CISD), Office of Transportation and Air Quality (OTAQ), Office of Air and Radiation (OAR), U.S. Environmental Protection Agency (EPA). Besides CISD, this information could be used by the Office of Enforcement and Compliance and the Department of Justice for enforcement purposes. Non-confidential portions of the information submitted to EPA could be disclosed to the public upon request. This information could be used by trade associations, environmental groups, and the public.

Due to the fact that EPA has received only two aftermarket part certification applications since 1989, the Agency does not expect to receive any applications in the next three years. The purpose of this ICR renewal is to preserve EPA's authority to receive such an application in the event that one is submitted. Consequently, for the purposes of this information collection request, EPA has assumed that one manufacturer will apply for aftermarket part certification during the three-year period covered by this collection.

2. Need for and Use of the Collection

2(a) Need/Authority for the Collection

EPA's emission certification programs, including aftermarket part certification, are statutorily mandated; the agency does not have discretion to discontinue these functions. Section 207(a) of the CAA mandates EPA to provide emissions compliance certification for manufacturers of automotive aftermarket parts that wish to certify their products. Regulations implementing this requirement are found at 40 CFR part 85, subpart V.

The information collected under this request is needed to insure that aftermarket parts do not cause vehicles to exceed emission standards and to enforce the CAA's warranty requirements. Original vehicle manufacturers are required to honor warranty claims when a malfunction was caused by a certified aftermarket part. If the aftermarket part had not been certified, the original vehicle manufacturer can deny the claim.

2(b) Practical Utility/Users of the Data

EPA would use the information to investigate warranty claim denials and possible tampering violations and to inform the public about what parts are certified.

The information would be received and used by CISD/OTAQ/OAR. Non-confidential portions of the information submitted would be available to be used by importers, environmental groups, members of the public and local, state and federal government organizations.

3. Nonduplication, Consultations and Other Collection Criteria

3(a) Nonduplication

The information requested under this ICR is required by statute. Because of its specialized nature, the information collected is not available from any other source.

3(b) Public Notice Required Prior to ICR Submission to OMB

A notice of the docket and public comment period for this ICR renewal was published in the Federal Register on January 22, 2010 (75 FR 3723). A copy of the ICR was placed in the docket. No comments were received.

3(c) Consultations

Since no aftermarket part certification applications have been received during the last several years, burden estimates are based on estimates developed in 1986. These estimates were developed using information obtained during informal conversations with Mr. Robert Burch from the Specialty Equipment Marketing Associations (SEMA) and Mr. Joseph Dougherty from the Motor and Equipment Manufacturing Association (MEMA).

3(d) Effects of Less Frequent Collection

The information requested is only collected on occasion, when a manufacturer elects to submit an application for aftermarket part certification.

3(e) General Guidelines

According to 40 CFR 85.2120(a), the information gathered by the manufacturer to compile aftermarket part applications must be kept for five years unless the part has been certified for use exclusively in vehicles with less than five years of emission warranty coverage remaining (see section 4(b)(i)(B) for details). The five-year recordkeeping requirement stems from the CAA mandate that manufacturers recall engines failing to meet emission standards throughout their useful lives.

Under this information collection, manufacturers may submit certain sensitive technical and proprietary information related to part design. This information is kept confidential in accordance with the Freedom of Information Act, EPA regulations at 40 CFR part 2, and class determinations issued by EPA's Office of General Counsel.

No other general guideline is exceeded by this information collection.

3(f) Confidentiality

Manufacturers are allowed to assert a claim of confidentiality over information provided to EPA. Confidentiality is provided in accordance with the Freedom of Information Act and EPA regulations at 40 CFR part 2.

3(g) Sensitive Questions

No sensitive questions are asked.

4. Respondents and Information Requested

4(a) Respondents/NAICS Codes

Respondents are manufacturers of on-highway vehicles within the following North American Industry Classification System (NAICS) code:

336312 Gasoline Engine and Engine Parts Manufacturing

4(b) Information Requested

(i) Data Items

Tables A and B list the data items requested under this information collection.

A. Notification of intent to certify

Manufacturers of automotive aftermarket parts who wish to get their product certified need to submit, at least 45 days prior to the sale of the part, a ‘Notification of Intent’ or application with the following information:

Table A
Notification of Intent to Certify

Identification of each part to be certified	85.2115(a)(1)(i)
Identification of the vehicle or engine configurations for which the part is being certified	85.2115(a)(1)(ii)
Technical information requested in 85.2114	85.2115(a)(1)(iii)
Any waivers previously obtained and all correspondence with EPA regarding certification of the part	85.2115(a)(1)(iv)
A description of all tests, techniques, procedures, statistical analysis, etc. used to demonstrate compliance	85.2115(a)(1)(v)
All results and documentation pertaining to durability and emissions tests per 85.2114	85.2115(a)(1)(vi)
A justification for forgoing any part of the Federal Test Procedure, if applicable	85.2115(a)(1)(vii)
A description of the criteria used to select the test part and a statement that the test part is representative of production parts	85.2115(a)(1)(viii)
A description of the vehicle in which the part was tested and an explanation of why it represents the worst emissions case of all configurations for which this part is being certified	85.2115(a)(1)(ix)
The service intervals, including maintenance and replacement intervals, and a statement indicating whether it is different for the original part intervals	85.2115(a)(1)(x)
A description of the label and whether it complies with EPA requirements	85.2115(a)(1)(xi)
Acceptance of the warranty and dispute resolution requirements in 85.2117	85.2115(a)(1)(xii)
A statement of commitment to comply with all terms and conditions of 85.2115	85.2115(a)(1)(xiii)
A statement that the replacement part will not cause a substantial increase in emissions in any normal driving mode not represented during testing	85.2115(a)(1)(xiv)
Contact information	85.2115(a)(1)(xv)

EPA may deny certification if the Agency finds that the manufacturer did not prove compliance or that the documentation submitted was not adequate (85.2116). The Agency may

also de-certify a part if it has reason to believe that the manufacturer did not comply with the regulations (85.2121). In both cases, the affected manufacturer may appeal the decision, in writing, within 20 days of receipt of the decision.

If a part is modified after certification has been granted, the manufacturer must re-certify the part if the modification could affect vehicle emissions and/or the durability of the part or other components of the vehicle (85.2118). There are also labeling requirements (85.2119).

Manufacturers are also required to warrant their products “for the remaining performance warranty period of any vehicle on which the part is installed, or for the warranty period specified for an equivalent original equipment component, if this period is shorter than the remaining warranty period of the vehicle” (85.2117). Manufacturers must also reimburse original vehicle manufacturers for any reasonable expenses incurred by the original vehicle manufacturer as a result of honoring a warranty claim where a certified aftermarket part was found to have caused the problem. 40 CFR 85.2117 and Appendix II to 85 CFR Subpart V contain the procedures an original vehicle manufacturer must follow when pursuing reimbursement from an aftermarket part manufacturer.

A. Recordkeeping

For each certified part, manufacturers must maintain, for five years (85.2120(a)), the following records:

**Table B
Recordkeeping Requirements**

Detailed production drawings	85.2120(a)(1)
A description of the testing program	85.2120(a)(2)
All test data and subsequent analyses	85.2120(a)(3)
Information used to determine equivalency with original parts	85.2120(a)(4)
A description of quality control plans and compliance assurance	85.2120(a)(5)
All data taken during quality control and subsequent analyses	85.2120(a)(6)
A description of all techniques used to determine emission critical parameter specifications	85.2120(a)(7)
Any data, documents, correspondence with vendors and consumers, etc. related to problems found in 25 certified parts or more	85.2120(a)(8)

Records must be made available to EPA upon request. For parts certified only for vehicles with less than five years of emissions warranty remaining, records must be maintain for

three years or until 80% of applicable vehicles are outside the warranty period, whichever occurs later.

(ii) Respondent Activities

The activities manufacturers need to perform to comply with the requirements of each type of report are as follows:

- Review instructions and regulations
- Compile data
- Test aftermarket parts according to regulations
- Prepare and submit report
- Maintain records

5. The Information Collected--Agency Activities, Collection Methodology, and Information Management

5(a) Agency Activities

EPA officials carry out the following activities:

- Review regulations
- Answer respondents' questions
- Review and analyze applications for completeness and compliance with regulations
- Analyze applications
- Request additional information, if needed
- Address requests for confidentiality

5(b) Collection Methodology and Management

The information requested under this collection would be submitted by manufacturers on occasion, when a manufacturer chooses to seek certification for its products. EPA has not received applications for aftermarket part certification in the last several years. In fact, only two applications have been received since 1989. Due to the lack of participation in this program, there is no need to develop electronic forms or databases. Therefore, should EPA receive an application in the next three years, the information will most likely be collected on paper.

5(c) Small Entity Flexibility

The information requested is considered to be the minimum needed to effectively maintain the emission control program's integrity and comply with the requirements of the Clean Air Act. Further measures to simplify reporting requirements for small businesses do not appear prudent or necessary.

5(d) Collection Schedule

Applications for aftermarket part certification are collected on occasion only, when a manufacturer chooses to seek certification for its products.

6. Estimating the Burden and Cost of the Collection

6(a) Estimating Respondent Burden

Burden estimates are based on a 1985 burden assessment, updated to incorporate the most recent testing cost estimates and methodology in the certification ICR, EPA ICR number 0783.54 (OMB control number 2060-0104) and the Greenhouse Gases rulemaking (EPA ICR numbers 0783.56 and 2387.01). Since only two applications have been submitted since 1989, EPA continues to rely on these estimates.

6(b) Estimating Respondent Costs

(i) Estimating Labor Costs

Rates for engineering managers, mechanical engineers, and secretaries (except legal, medical, and executive) are from the May 2008 National Industry-Specific Occupational Employment and Wage Estimates (http://www.bls.gov/oes/2008/may/naics4_336100.htm, accessed December 10, 2009). With a 160% overhead multiplier, these are \$87.30, \$60.40, and \$30.50, respectively.

(ii) Estimating Capital and Operations and Maintenance Costs

Operation and Maintenance costs (O&M Costs) associated with this information collection are those for conducting city emissions tests (FTPs). They also include CDs and DVDs, photocopying, postage and other shipping expenses and phone calls. CDs and DVDs are used by manufacturers to submit data electronically and to keep records.

(iii) Capital/Start Up Operations

This ICR estimates an undepreciated capital cost of \$7,467. There are no start-up costs associated with the renewal of this ICR.

(iv) Annualizing Capital Costs

Consistent with EPA ICR number 0783 (OMB 2060-0104), for uniformity of treatment, we are assuming a capital cost for facilities to conduct FTP tests on a per-test basis, assuming no prior capacity, and without regard to whether the testing services are contracted or done in house. On this basis, we estimate an annualized (over ten years) and depreciated (7%) capital cost of \$1,063 for one application under this program.

6(c) Estimating Agency Burden

EPA's labor costs are based on the 2009 yearly wage rate for a GS-9, Step 5 Engineer (\$57,343) based in Ann Arbor, Michigan, and adjusted by a factor of 1.6 to account for benefits and overhead (\$91,749). This rate was obtained from the Office of Personnel Management 2009 General Schedule Locality Pay Tables.

6(d) Estimating the Respondent Universe and Total Burden and Costs

Based on the 1985 assessment mentioned earlier and comments from the industry, EPA estimates that a manufacturer applying for aftermarket part certification will spend 1,640 hours for an aftermarket part certification application covering one part. This estimate included 1,460 hours for the five percent of all parts requiring durability tests, rounded up to one part; 20 hours conducting emissions tests; 30 hours conducting the Federal Test Procedure (FTP); 122 hours of reporting burdens; and 8 hours for recordkeeping. These numbers have been updated to reflect current burden estimates for testing and to cover one part only, for a total of 1,640 hours for one application in the three year period, annualized to 547 hours per year, the majority of which is a very generous allowance for durability testing, which, in fact, would not apply to most applications.

EPA does not expect to receive any application in the next three years. However for the purpose of this ICR, EPA is assuming that one application will be received during that period and annualized the burden estimates.

6(e) Bottom Line Burden Hours and Cost Tables

(i) Respondent Tally (annualized)

Number of Respondents: 1
Total Hours per year: 547
Total Labor Cost per year: \$17,108
Total Capital Costs per year: \$1,063
Total O&M Costs per year: \$892
Total Costs: \$19,063

(ii) The Agency Tally (annualized)

Number of Respondents: 1
Total Hours per year: 4
Total Labor Cost per year: \$184
Total Capital Costs per year: \$0
Total O&M Costs per year: \$5
Total Costs: \$189

6(f) Reasons for change in burden

The hours are the same as in the last renewal. Labor costs have been updated to reflect current labor costs as detailed above. Capital and O&M costs have been slightly adjusted to reflect the most recent estimates for similar cost elements in ICRs developed since the last renewal.

6(g) Burden Statement

The annual public reporting and recordkeeping burden for this collection is estimated to average 547 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID Number EPA-HQ-OAR-2009-0983, which is available for online viewing at www.regulations.gov, or in person viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, D.C. The EPA Docket Center 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 Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566-1742. An electronic version of the public docket is available at www.regulations.gov. This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-OAR-2009-0983 and OMB Control Number 2060-0060 in any correspondence.