

**§ 284.403 Code of conduct for persons holding blanket marketing certificates.**

(a) To the extent Seller engages in reporting of transactions to publishers of electricity or natural gas indices, Seller shall provide accurate and factual information, and not knowingly submit false or misleading information or omit material information to any such publisher, by reporting its transactions in a manner consistent with the procedures set forth in the *Policy Statement on Natural Gas and Electric Price Indices*, issued by the Commission

in Docket No. PL03–3–000 and any clarifications thereto. Seller shall notify the Commission as part of its annual reporting requirement in § 260.401 of this chapter whether it reports its transactions to publishers of electricity and natural gas indices. Seller shall notify the Commission within 15 days of any subsequent change to its transaction reporting status. In addition, Seller shall adhere to such other standards and requirements for price reporting as the Commission may order.

\* \* \* \* \*

**Note:** The following Appendix will not be published in the *Code of Federal Regulations*.

**Appendix A to Notice of Proposed Rulemaking—Transparency Provisions of Section 23 of the Natural Gas Act; Transparency Provisions of the Energy Policy Act of 2005, Docket Nos. RM07–10–000 and AD06–11–000: Proposed FERC Form No. [X]**

Provide accurate and complete responses to the following questions.

|                                                                                                                                             | Purchases by number | Purchases by volume (TBtu/Bcf) | Sales by number | Sales by volume (TBtu/Bcf) |
|---------------------------------------------------------------------------------------------------------------------------------------------|---------------------|--------------------------------|-----------------|----------------------------|
| A. How much physical gas,* did you transact in the prior calendar year?                                                                     |                     |                                |                 |                            |
| B. Of the amount reported in Row A, what number and volume are transacted for next-day delivery?                                            |                     |                                |                 |                            |
| C. Of these next-day transactions, what number and volume are priced at a fixed price?                                                      |                     |                                |                 |                            |
| D. Of these next-day transactions, what number and volume are priced at an index price?                                                     |                     |                                |                 |                            |
| E. Of the amount reported in Row A, what number and volume are transacted for delivery in the next month?                                   |                     |                                |                 |                            |
| F. Of your transactions for delivery in the next month, what number and volume are priced at a fixed price during bid week? **              |                     |                                |                 |                            |
| G. Of your transactions for delivery in the next month, what number and volume are priced at an index price?                                |                     |                                |                 |                            |
| H. Of your transactions for delivery beyond next-day or month, what number and volume are priced using next-day or next-month index prices? |                     |                                |                 |                            |

\* Notwithstanding its physical delivery provisions, for the purposes of this form, exclude NYMEX futures contracts or any other physically-settled futures contract unless the contract actually goes to delivery.

\*\* Bid week is defined as the last 5 working days prior to the delivery month. Please include those transactions in this row.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 1051

[EPA–HQ–OAR–2006–0858; FRL–8305–7]

RIN 2060–A035

### Exhaust Emission Test Procedures for All-Terrain Vehicles

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In a rule published November 8, 2002, EPA promulgated new emission standards for recreational vehicles beginning in model year 2006. This included a newly regulated class of nonroad vehicles/engines commonly referred to as all-terrain vehicles. In that

rulemaking, a temporary provision was included allowing manufacturers to certify all-terrain vehicles over a steady-state, engine-based, duty cycle for exhaust emissions prior to the 2009 model year in lieu of the transient, chassis-based, Federal Test Procedure which was effective for 2006 and later model years. In this rulemaking we are proposing to extend the availability of this temporary provision for in some cases up to an additional six model years, after which the chassis-based Federal Test Procedure would become the only available test cycle. More specifically, manufacturers would have to certify exhaust emission engine families representing not less than 50 percent of their U.S.-directed production on the Federal Test Procedure in model year 2014 and 100 percent in 2015. Manufacturers with only one all-terrain vehicle exhaust emission engine family would not be required to use the Federal Test

Procedure until the 2015 model year. For those manufacturers who have not yet done so, this will allow additional time to certify to the previously promulgated Federal Test Procedure-based emission standards using either contract facilities or by obtaining in-house capability.

**DATES:** Written comments must be received by May 29, 2007. Request for a public hearing must be received by May 11, 2007. If we receive a request for a public hearing, we will publish information related to the timing and location of the hearing and the timing of a new deadline for public comments.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0858, by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
- *E-mail:* [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).
- *Fax:* (202) 566–1741.

• **Mail:** Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include two copies.

• **Hand Delivery:** EPA Docket Center (Air Docket), U.S. Environmental Protection Agency, EPA West Building, 1301 Constitution Avenue, NW., Room: 3334, Mail Code: 6102T, Washington, DC. 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-2006-0858. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://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](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://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](http://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>.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://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](http://www.regulations.gov) or in hard copy at the EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue, 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:** Michael Samulski, Assessment and Standards Division, Office of Transportation and Air Quality, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214-4532; fax number: (734) 214-4050; e-mail address: [samulski.michael@epa.gov](mailto:samulski.michael@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

In the "Rules and Regulations" section of this **Federal Register**, we are making these revisions as a direct final rule without prior proposal because we view these revisions as noncontroversial and anticipate no adverse comment.

We have explained our reasons for these revisions in the preamble to the direct final rule. If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment on the rule, we will withdraw the direct final rule. We will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

##### II. Does This Action Apply to Me?

This action will affect companies that manufacture and certify all-terrain vehicles in the United States.

| Category       | NAICS code <sup>a</sup> | Examples of potentially affected entities               |
|----------------|-------------------------|---------------------------------------------------------|
| Industry ..... | 336999                  | Snowmobiles and all-terrain vehicle manufacturers.      |
| Industry ..... | 421110                  | Independent commercial importers of vehicles and parts. |

<sup>a</sup>North American Industry Classification System (NAICS).

To determine whether particular activities may be affected by this action, you should carefully examine the regulations. You may direct questions regarding the applicability of this action as noted in **FOR FURTHER INFORMATION CONTACT**.

### III. 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](http://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.

**2. 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.

#### IV. Summary of Rule

In a rule published November 8, 2002, EPA promulgated new emission standards for all terrain vehicles (ATVs) beginning in model year 2006. In that rulemaking, a temporary provision was included allowing manufacturers to certify ATV exhaust emissions over a steady-state, engine-based, duty cycle prior to the 2009 model year in lieu of the transient, chassis-based, Federal Test Procedure (FTP) which was effective for 2006 and later model years. In the interim the manufacturers, the California Air Resources Board, and EPA were to work together to assess the in-use operating characteristics of ATVs, determine whether the nature of this operation was transient or steady state and, if workable, develop and agree upon an emission test cycle which could replace both the engine-based steady state option and the primary approach, the chassis-based FTP. This work did not result in a mutually satisfactory outcome and agreement could not be reached on an alternate testing approach. Therefore, as prescribed in the 2002 final rule, the chassis-based FTP is to be the sole procedure for exhaust emissions certification in the long term.

As stated above, in the original rulemaking the steady state option expired for the 2009 model year. While many manufacturers have certified using the FTP not all have done so, since there was the possibility of a replacement cycle. To provide appropriate certainty and lead time, in this rulemaking we are proposing to extend the availability of this temporary provision for an additional six model years, after which the chassis-based FTP would become the only available approach. More specifically, we are proposing that manufacturers would have to certify exhaust emission engine families representing not less than 50 percent of their U.S.-directed production on the FTP in model year 2014 and 100 percent in 2015. Manufacturers with only one ATV exhaust emission engine family would not be required to use the FTP until the 2015 model year. For those manufacturers who have not yet done so, this will allow additional time to certify on the FTP by using contract facilities or by obtaining the in-house capability and if a large manufacturer acquires the capability to run the production line testing program.

EPA does not expect that this revision will have any adverse cost impact to the manufacturers in the long term. The requirement was promulgated as part of the 2002 final rule and many off-shore

manufacturers and importers have already complied using excess inhouse capability or contract facilities. We expect this extension will help to ensure compliance costs are minimized and that the emission reductions identified in the 2002 rule are achieved. Even the J1088 test cycle has reduced emissions significantly by eliminating ATVs powered by high emitting two-stroke engines as a new product offering. Adopting the FTP will help to ensure robust emission control in ATVs using 4-stroke engines by including consideration of transient operation and vehicle/engine operation over a wider variety of conditions than that seen in the J1088 cycle.

For additional discussion of the proposed rule changes, see the direct final rule EPA has published in the "Rules and Regulations" section of today's **Federal Register**. This proposal incorporates by reference all the reasoning, explanation, and regulatory text from the direct final rule.

#### V. Statutory and Executive Order Reviews

##### A. Executive Order 12866: Regulatory Planning and Review

This proposed rule is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Order. This proposed rule merely gives an extension of time in which a temporary optional test duty cycle may be used. There are no new costs associated with this proposed rule relative to the original final rule.

##### B. Paperwork Reduction Act

This action does not impose any new information collection burden. This proposed rule does not include any new collection requirements, as it merely gives an extension of time in which a temporary optional test duty cycle may be used. There are no new paperwork requirements associated with this rule. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations 40 CFR 1051; 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566-1672.

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 in 40 CFR are listed in 40 CFR part 9.

##### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this proposed rule on small entities, a small entity is defined as: (1) A small business that meet the definition for business based on SBA size standards at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities." 5 U.S.C. 603 and 604. Thus, 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, or otherwise has a positive

economic effect on all of the small entities subject to the rule.

This proposed rule would give an extension of time in which a temporary optional test duty cycle may be used. We have therefore concluded that today's proposed rule will relieve regulatory burden for all affected small entities and will not have a significant economic impact on a substantial number of small entities if the rule. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

#### *D. Unfunded Mandates Reform Act*

This proposed rule contains no federal mandates for state, local, or tribal governments or the private sector as defined by the provisions of Title II of the UMRA. The proposed rule imposes no enforceable duties on any of these governmental entities. Nothing in the proposed rule would significantly or uniquely affect small governments. EPA has determined that this proposed rule contains no federal mandates that may result in expenditures of more than \$100 million to the private sector in any single year. Thus, this rule is not subject to the requirements of sections 2020 and 205 of the UMRA. This proposed rule merely gives an extension of time in which a temporary optional test duty cycle may be used. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. See the direct final rule EPA has published in the "Rules and Regulations" section of today's **Federal Register** for a more extensive discussion of UMRA policy.

#### *E. Executive Order 13132: Federalism*

This proposed rule 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, as specified in Executive Order 13132. This proposed rule would give an extension of the time in which a temporary optional test duty cycle may be used. Thus, Executive Order 13132 does not apply to this rule.

See the direct final rule EPA has published in the "Rules and Regulations" section of today's **Federal Register** for a more extensive discussion of Executive Order 13132.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This proposed rule does not uniquely affect the communities of Indian Tribal Governments. Further, no circumstances specific to such communities exist that would cause an impact on these communities beyond those discussed in the other sections of this rule. This proposed rule would give an extension of the time in which a temporary optional test duty cycle may be used. Thus, Executive Order 13175 does not apply to this rule. See the direct final rule EPA has published in the "Rules and Regulations" section of today's **Federal Register** for a more extensive discussion of Executive Order 13132.

#### *G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This proposed rule is not subject to the Executive Order because it is not economically significant, and does not involve decisions on environmental health or safety risks that may disproportionately affect children. See the direct final rule EPA has published in the "Rules and Regulations" section of today's **Federal Register** for a more extensive discussion of Executive Order 13045.

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

This proposed rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866. This proposed rule would give an extension of the time in which a temporary optional test duty cycle may be used.

#### *I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104-113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise

impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rule does not involve technical standards. This proposed rule would merely give an extension of the time in which a temporary optional test duty cycle may be used. Therefore, EPA is not considering the use of any voluntary consensus standards. See the direct final rule EPA has published in the "Rules and Regulations" section of today's **Federal Register** for a more extensive discussion of NTTAA policy.

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

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. See the direct final rule EPA has published in the "Rules and Regulations" section of today's **Federal Register** for a more extensive discussion of Executive Order 13045.

#### *K. Statutory Authority*

The statutory authority for this action comes from section 213 of the Clean Air Act as amended (42 U.S.C. 7547). This action is a notice of proposed rulemaking subject to the provisions of Clean Air Act section 307(d). See 42 U.S.C. 7607(d).

#### **List of Subjects in 40 CFR Part 1051**

Environmental protection, Air pollution control, Exhaust emission testing, Recreational vehicle, All-terrain vehicle.

Dated: April 19, 2007.

**Stephen L. Johnson,**

*Administrator.*

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