

The EPA Assistant Administrator and the NHTSA Administrator signed the following withdrawal notice on August 8, 2013. It is being submitted for publication in the *Federal Register*. While EPA has taken steps to ensure the accuracy of this Internet version, it is not the official version of the rule. Please refer to the official version in a forthcoming *Federal Register* publication and on GPO's Web Site. The rule will likely be published in the *Federal Register* by mid-August. You can access the *Federal Register* at: http://www.access.gpo.gov/su_docs/aces/aces140.html. When using this site, note that "text" files may be incomplete because they don't include graphics. Instead, select "Adobe Portable Document File" (PDF) files.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 1037, 1039, 1042, 1068

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 535

[EPA-HQ-OAR-2012-0102; NHTSA-2012-0152; FRL 9772-3]

RIN 2060-AR48; 2127-AL31

Heavy-Duty Engine and Vehicle and Nonroad Technical Amendments

AGENCIES: Environmental Protection Agency (EPA) and National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Partial withdrawal of direct final rule.

SUMMARY: Because EPA and NHTSA, on behalf of the Department of Transportation, received adverse comment on certain elements of the Heavy-Duty Engine and Vehicle and Nonroad Technical Amendments direct final rule published on June 17, 2013, we are withdrawing those elements of the direct final rule. The withdrawal relates to four principal provisions: (1) test requirements for heavy-duty greenhouse gas emissions and fuel efficiency in 40 CFR part 1037, (2) optional chassis certification for heavy-duty greenhouse gas emissions and fuel efficiency in 40 CFR part 1037 and 49 CFR 535.5(a)(6), (3) expanded technical hardship for equipment manufacturers installing nonroad diesel engines, and (4) the replacement engine exemption in 40 CFR part 1068, along with the corresponding changes to 40 CFR 1042.615.

DATES: Effective [**insert date of publication in the Federal Register**], EPA withdraws the amendments to 40 CFR 1037.104(d)(9)(i), 1037.104(d)(9)(iii), 1037.104(g)(3)(iv),

This document is a prepublication version, signed by EPA Assistant Administrator and the NHTSA Administrator on August 8, 2013. We have taken steps to ensure the accuracy of this version, but it is not the official version.

1037.104(g)(7), 1037.150(l), 1039.104(g), 1039.625(m), 1042.615, and 1068.240 introductory text and paragraphs (a) through (d) published at 78 FR 36388 on June 17, 2013, and NHTSA withdraws the amendment to 49 CFR 535.5(a)(6) published at 78 FR 36388 on June 17, 2013.

FOR FURTHER INFORMATION CONTACT: Lily Smith, Office of Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590; telephone: (202) 366-2992. Angela Cullen, Environmental Protection Agency, Office of Transportation and Air Quality, Assessment and Standards Division, 2000 Traverwood Drive, Ann Arbor, Michigan 48105; telephone number: 734-214-4419; email address: cullen.angela@epa.gov.

SUPPLEMENTARY INFORMATION:

Because EPA and NHTSA received adverse comment on certain elements of the Heavy-Duty Engine and Vehicle and Nonroad Technical Amendments direct final rule published on June 17, 2013, we are withdrawing those elements of the direct final rule. The withdrawal relates to four principal EPA provisions and one principal NHTSA provision. The EPA provisions are: (1) test requirements for heavy-duty greenhouse gas emissions in 40 CFR part 1037, (2) optional chassis certification for heavy-duty greenhouse gas emissions in 40 CFR part 1037, (3) expanded technical hardship for equipment manufacturers installing nonroad diesel engines, and (4) the replacement engine exemption in 40 CFR part 1068, along with the corresponding changes to 40 CFR 1042.615. The NHTSA withdrawal relates to the provision for optional chassis certification for heavy-duty fuel efficiency requirements in 49 CFR 535.5(a) (6).

We stated in the direct final rule that if we received adverse comment by July 17, 2013 as to any part of the direct final rule, those parts would be withdrawn by publishing a timely notice in the Federal Register. Because EPA and NHTSA received adverse comment related to certain provisions, we are withdrawing those amendments and they will not take effect. The specific provisions that are being withdrawn are identified below. To avoid any confusion with respect to 40 CFR 1068.240, concerning an exemption for replacement nonroad engines, the effect of this withdrawal is that the current provisions of that section remain in effect through §1068.240(d). The direct final rule also republished paragraphs (e) and (f) and removed paragraph (g) of §1068.240, and these are not being withdrawn.

This document is a prepublication version, signed by EPA Assistant Administrator and the NHTSA Administrator on August 8, 2013. We have taken steps to ensure the accuracy of this version, but it is not the official version.

EPA published a parallel proposed rule on the same day as the direct final rule. The proposed rule invited comment on the substance of the direct final rule with respect to EPA's amendments to 40 CFR parts 1037, 1039, 1042, and 1068. EPA intends to consider the comments received and proceed with a new final rule, including but not limited to addressing the amendments that relate to replacement nonroad engines that are withdrawn by this notice. As stated in the parallel proposal, EPA will not institute a second comment period for the proposed action with respect to the provisions that are withdrawn by this notice. One adverse comment relates to EPA's provision in 40 CFR 1037.150(l) and NHTSA's provision in 49 CFR 535.5(a) (6). NHTSA may issue a notice of proposed rulemaking (NPRM) and provide another opportunity to comment for the withdrawn amendment to 49 CFR 535.5(a) (6). Both agencies would coordinate any final actions on 40 CFR 1037.150(l) and 49 CFR 535.5(a) (6). The amendments for which we did not receive adverse comment are not being withdrawn and will become effective on August 16, 2013, as provided in the June 17, 2013 direct final rule.

Accordingly, the amendments to 40 CFR 1037.104(d)(9)(i), 1037.104(d)(9)(iii), 1037.104(g)(3)(iv), 1037.104(g)(7), 1037.150(l), 1039.104(g), 1039.625(m), 1042.615, and 1068.240 introductory text and paragraphs (a) through (d) published on June 17, 2013 (78 FR 36388) are withdrawn by EPA as of [**insert date of publication in the Federal Register**] and the amendment to 49 CFR 535.5(a)(6) published on June 17, 2013 (78 FR 36388) is withdrawn by DOT as of [**insert date of publication in the Federal Register**].

Dated: August _____

David L. Strickland, Administrator
National Highway Traffic Safety Administration
Department of Transportation

This document is a prepublication version, signed by EPA Assistant Administrator and the NHTSA Administrator on August 8, 2013. We have taken steps to ensure the accuracy of this version, but it is not the official version.

Dated: August _____

Janet G. McCabe, Acting Assistant Administrator

Office of Air and Radiation

Environmental Protection Agency