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Dated: December 18, 2008.

**Richard B. Ossias,**

*Associate General Counsel.*

[FR Doc. E8-30677 Filed 12-23-08; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8756-5]

### Control of Emissions From New and In-use Highway Vehicles and Engines: Approval of New Scheduled Maintenance for Exhaust Recirculation Valves in Certain Applications

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

**ACTION:** Notice.

**SUMMARY:** This notice announces that EPA has granted an engine manufacturer a new and limited variation in the emission-related scheduled maintenance interval for the exhaust gas recirculation (EGR) valve for some heavy duty engine families for model years 2007-2009. Diesel EGR valve cleaning is considered critical emission-related maintenance.

**FOR FURTHER INFORMATION CONTACT:** Laura Baker, Compliance and Innovative Strategies Division, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, Michigan 48105. Telephone: (734) 214-4592. E-mail Address: [baker.laura@epa.gov](mailto:baker.laura@epa.gov).

**SUPPLEMENTARY INFORMATION:** The Agency adopted new emission standards for complete heavy-duty vehicles fueled by gasoline, methanol gas, and liquefied petroleum gas fuels in 2001. (66 FR 5002; January 18, 2001; 40 CFR 86.1816-08). The new standards have stimulated new emission control technologies, including new NO<sub>x</sub> absorption technology for heavy-duty vehicles which are still subject to the emission-related scheduled maintenance intervals.

However, under § 86.1834-01(b)(7)(ii) a manufacturer may request EPA approval for any new scheduled maintenance the manufacturer wishes to recommend. "New scheduled maintenance" is maintenance which did not exist prior to the 1980 model year. A manufacturer's request must include

(1) Detailed evidence, supportive data, and other substantiation as well as (2) a subject maintenance category (i.e., emission-related or non-emission-related, critical or non-critical) recommendation and (3) the suggested emission maintenance interval.

EPA received information from Cummins Power Generation Incorporated (Cummins), a heavy duty engine manufacturer, indicating that it was technologically necessary to perform cleaning and maintenance to the EGR valve more frequently than 100,000 miles, as is prescribed in 40 CFR 86.1834-01(b)(3)(vi)(H), to meet the emission standards. In part, this minimum service interval is included in the regulations to ensure that the control of emissions is not compromised by a manufacturer's overly frequent scheduling of emission-related maintenance.

The Agency received information from Cummins indicating that its NO<sub>x</sub> aftertreatment system, which utilizes cooled EGR and a NO<sub>x</sub> adsorber catalyst, a technology that did not exist prior to 1980, and thus "new." The information received from Cummins indicates that the EGR valve requires cleaning to maintain the performance of NO<sub>x</sub> adsorption technology for emission compliance. Sulfur regeneration requires a net rich air/fuel mixture which can produce significant amounts of unburned hydrocarbon and carbon in the exhaust gas. These unburned hydrocarbons (soot) can adhere to engine components including the EGR valve which ultimately affects engine and emission performance. Therefore the EGR valve requires cleaning maintenance to remove the soot build-up prior to the 100,000 mile maintenance interval prescribed in 40 CFR 86.1834-01(b)(3)(vi)(H).

An EGR valve is defined as a critical emission-related component under 40 CFR 86.1834(b)(6)(i)(D) and thus the scheduled maintenance must have a reasonable likelihood of being performed while in use, according to § 86.1834(b)(6)(ii). To this effect, Cummins has equipped all vehicles covered by this approval with a messaging system alerting drivers to "Perform Service" as well as providing vehicles with on-board diagnostic (OBD) systems to detect when required maintenance has not been performed and illuminate an independent check engine light.

Therefore, EPA has approved the 67,500 mile service emission maintenance interval as suggested by Cummins. However, the Agency has limited this approval to the 2007-2009 model years due to the expectation that

EGR valve related technologies compatible to NO<sub>x</sub> adsorption technology will be developed by the 2010 model year.

Dated: December 16, 2008.

**Robert J. Meyers,**

*Principal Deputy Assistant Administrator, Office of Air and Radiation.*

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-RCRA-2008-0645; FRL-8756-7]

RIN 2050-ZA04

### Notice of Data Availability on Spent Oil Shale From Above Ground Retorting Operations

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

**ACTION:** Notice of Data Availability.

**SUMMARY:** The Agency recognizes that there may have been some uncertainty regarding the Bevill status of spent oil shale from above ground retorting operations. This notice reiterates that spent oil shale from the above ground retorting of oil shale is not a Bevill waste excluded from regulation under Subtitle C of the Resource Conservation and Recovery Act (RCRA). However, the fact that such material is not excluded from regulation as Bevill waste does not mean that it is regulated under Subtitle C of RCRA. In fact, the notice summarizes, for comment, available analytical data on the characteristics of spent shale from oil shale above ground retorting operations (especially leachate characteristics), which indicate that this material is unlikely to exhibit a hazardous characteristic under Subtitle C of RCRA. This Notice does not reopen any prior EPA rulemakings which address the Bevill status of wastes from the extraction, beneficiation, or processing of ores and minerals.

**DATES:** Submit comments on or before January 23, 2009.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-RCRA-2008-0645 by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail*: Comments may be sent by electronic mail (e-mail) to [rcra-docket@epa.gov](mailto:rcra-docket@epa.gov) Attention Docket ID No. EPA-HQ-RCRA-2008-0645.

- *Fax*: Comments may be faxed to 202-566-9744. Attention Docket ID No. EPA-HQ-RCRA-2008-0645.