



OMS

Advisory Circular

SUBJECT: Duration of Certificates of Conformity, Annual Production Period, and Model Year

A. Purpose

The purpose of this advisory circular is to clarify EPA's definitions of model year, annual production period, and the duration of certificates of conformity. Advisory Circular No. 6A is obsolete and should be discarded.

B. Background

Under the Clean Air Act of 1970, a certificate of conformity is to be issued for a period "not in excess of one year." Advisory Circular No. 6A interpreted the phrase "one year" to mean one model year. It did not, however, define all relevant limitations governing the duration of one model year and the annual production period associated with such model year. This advisory circular clarifies the definitions of the terms "model year" and "annual production period" in relation to the coverage of certificates of conformity and to Corporate Average Fuel Economy (CAFE) calculations.

C. Applicability

The definitions provided by this advisory circular are effective immediately and apply to all light-duty vehicles and trucks, heavy-duty vehicles and engines, and motorcycles.

D. Duration of Model Year

A specific model year must always include January 1 of the calendar year for which it is designated and may not include a January 1 of any other calendar year. Thus, the maximum duration of a model year is one calendar year plus 364 days.

E. Definition of Production Period

The "annual production period" for any specific model within an engine family of light-duty vehicles or heavy-duty engines begins either: (1) when such vehicle or engine is first produced, or (2) on January 2 of the calendar year preceding the year for which the model year is designated, whichever date is later. The annual production period ends either: (1) when the last such vehicle or engine is produced, or (2) on December 31 of the calendar year for which the model year is named, whichever date is sooner.



F. Duration and Applicability of Certificates of Conformity

1. Section 206(a)(1) of the Clean Air Act of 1970 provides that certificates of conformity may be issued for a period "not in excess of one year." EPA regulations interpret "year" to mean "model year" (40 CFR 86.085-30(a)(2)). "Model year" is in turn defined by section 202(b)(3)(A)(i) of the Act to mean the manufacturer's annual production period. Therefore, except as provided in paragraph F.2, below, a certificate of conformity is deemed to be effective and covers the vehicles or engines named in such certificate and produced during the annual production period defined in paragraph E.

2. Section 203 of the Clean Air Act prohibits the sale, offering for sale, delivery for introduction into commerce, and introduction into commerce of any new vehicle or engine not covered by a certificate of conformity unless it is an imported vehicle exempted by the Administrator or otherwise authorized jointly by EPA and U.S. Customs service regulations.¹ However, the Act does not prohibit the production of vehicles or engines without a certificate of conformity. Vehicles or engines produced prior to the effective date of a certificate of conformity, as defined in paragraph F.1, may also be covered by the certificate if the following conditions are met:

a. The vehicles or engines conform in all respects to the vehicles or engines described in the application for the certificate of conformity.

b. The vehicles or engines are not sold, offered for sale, introduced into commerce, or delivered for introduction into commerce prior to the effective date of the certificate of conformity.

c. The Agency is notified prior to the beginning of production when such production will start, and the Agency is provided full opportunity to inspect and/or test the vehicles during and after their production. For example, the Agency must have the opportunity to conduct SEA production line testing as if the vehicles had been produced after the effective date of the certificate.

3. Vehicles or engines imported by an original equipment manufacturer after December 31 of the calendar year for which the model year is named are still covered by the certificate of

1. EPA has issued regulations that permit entry of certain imported nonconforming vehicles if they are modified to conform with emission standards even if they are not covered by certification.

conformity as long as the production of the vehicle or engine was completed before December 31 of that year.² (However, see CAFE consideration in Section G.)

4. Vehicles or engines produced after December 31 of the calendar year for which the model year is named are not covered by the certificate of conformity for that model year. A new certificate of conformity demonstrating compliance with currently applicable standards must be obtained for these vehicles or engines, even if they are identical to vehicles or engines built before December 31.

5. The extended coverage period described here for a certificate of conformity (i.e., up to one year plus 364 days) is primarily intended to allow flexibility in the introduction of new models. Under no circumstances should it be interpreted that existing models may "skip" yearly certification by pulling ahead the production of every other model year. While this situation, to our knowledge, has not occurred in the past, a practice of producing vehicles for a two year period would violate Congress's intent of annual certification based upon an annual production period. EPA is not currently setting forth rules for how to determine when abuse has occurred since this has not been a problem to date. However, manufacturers should note our concern in this area and should continue to use normal yearly production periods for existing models.

G. CAFE Considerations

The Motor Vehicle and Cost Savings Act, section 501(9), does not use the concept of "introduction into commerce." Rather, it defines "manufacture" to mean "to produce or assemble in the customs territory of the United States, or to import." The resultant definition of "model year" for CAFE purposes is equivalent to the definition for certification purposes for all vehicles except for those produced before December 31 of the calendar year for which the model year is named but not actually imported until after December 31 of that year. These vehicles, as discussed in paragraph F.3, are included in that model year for certification because they were produced before December 31 of that year. However, they must be included in the subsequent model year CAFE calculation, as they were not "manufactured" (i.e., imported) until after the expiration of that year. As an example, consider the case of a

². This section does not apply to vehicles that may be covered by certificates held by independent commercial importers unless specifically approved by EPA.



1987 model year vehicle "produced" on December 15, 1987 but not "imported" until January 21, 1988. This vehicle would still be covered by the 1987 certificate, as it was produced before December 31 of the calendar year for which the model year is named. However, it must be included in the 1988 model year CAFE calculations, as it was imported, and thus "manufactured" for CAFE purposes, after the expiration of the 1987 calendar year.

A handwritten signature in black ink, appearing to read "Richard D. Wilson".

Richard D. Wilson
Director, Office of Mobile Sources



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**SUBJECT INDEX AND TABLE OF CONTENTS TO
OMS ADVISORY CIRCULAR SYSTEM**

Attached is an updated cross-reference subject index and an updated table of contents to the OMS Advisory Circular (A/C) System. These documents reflect additions and replacements of A/C's. This index and table of contents supersede those issued November 17, 1982 which are obsolete and should be discarded.

The index and table of contents reflect deletion of several A/C's which have been superseded or are no longer necessary as explained in the attached list.



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ADVISORY CIRCULAR DELETIONS

<u>A/C No.</u>	<u>Deletions to the Table of Contents</u>
11	<u>Importation of Certification Test Vehicles: Approval of Operation on the Public Roads.</u> This A/C was adopted on May 5, 1972; it has been superseded by 40 CFR 85.1701, et seq.
16	<u>Approval of Emission Control Modifications for High Altitudes on New Motor Vehicles or Engines.</u> This A/C was issued on June 8, 1972. Subsequently there have been two Clean Air Act revisions, 1974 and 1977, as well as numerous regulation changes. This A/C has been completely superseded by the subsequent high-altitude rulemaking; Subpart Q of Part 86 (Altitude Performance Adjustments) issued in 1980.
19B	<u>"Zero Miles."</u> The requirement for a zero mile test was deleted many years ago; there are no continuing zero mile requirements.
24-1	<u>Modifications to High-Altitude Vehicles for Temporary Operation at Low Altitudes; Prohibition of Use of Emission Control Defeat Devices.</u> This A/C, issued August 27, 1976, expands upon A/C No. 24 issued December 11, 1972 prohibiting the use of defeat devices. It is directed at altitude adjustment devices or maintenance instructions for modifying vehicles for low altitude operation. This A/C has been superseded by the subsequent Clean Air Act amendments and high-altitude regulations.
25	<u>Quarterly Production Reports.</u> Quarterly Production Reports are no longer required under our regulations.

- 27 Public Release of Information Contained in Applications for Certification of Light-Duty Vehicles and Heavy-Duty Engines.
This A/C, issued March 19, 1973, contains an outdated fee schedule and does not reflect changes in the Freedom of Information regulations in the past several years.
- 29-1 Emission Testing of Certification Vehicles.
This A/C is concerned with testing prior to the "zero mile" test as well as other emission tests performed during the life of an emission data or durability vehicle. Our regulations have been amended to allow manufacturers more flexibility in how they conduct their test programs.
- 30A Use of Unleaded Fuel in Noncatalyst Equipped Vehicles.
Published on March 24, 1975, this A/C prohibited manufacturers from gaining an advantage by using unleaded fuel in test vehicles representing production vehicles which would use leaded fuel. Our fuels regulations, 40 CFR 80.24, were subsequently amended to accomplish the same result.
- 32B/32B1 Compliance with Fuel Requirements of Lead Regulations Regarding Unleaded Fuel.
These two A/C's were published shortly after vehicles requiring unleaded fuel were available. They add very little to the labeling and immediate shut off requirements in 40 CFR 80.24.
- 60 EPA Leaded Gasoline Test Fuels.
Adopted on November 15, 1976, this A/C describes a change in EPA test fuel. Applicable regulations were subsequently adopted.
- 71/71-1 Criterion for Obtaining Exemption from Running Change Fuel Economy Data Requirements.
These A/C's, adopted December 22, 1977 and April 11, 1979 have been superseded by subsequent fuel economy regulations.

- 74 Adjustment of Governors on Gasoline Fueled Heavy-Duty Certification Engines.
This A/C concerns the effect of engine governors on the heavy-duty durability cycle. Since there is no longer a specified durability procedure and manufacturers develop their own deterioration factors, this A/C is no longer necessary.
- 78 1979 Model Year Fuel Economy Labeling Program.
This A/C has been superseded by the subsequent regulations and by A/C No. 83A.
- 80 Altitude Performance Adjustments for Vehicles In Use.
This A/C was adopted December 8, 1978 and deals with voluntary submissions to EPA of high-altitude adjustments under section 215 of the amended Clean Air Act. This, by its own statement, was an interim A/C and was superseded by Subpart Q of Part 85, which was adopted on October 8, 1980.
- 85 1980 Model Year Fuel Economy Label Format.
The latest fuel economy regulation provided new requirements for label formats; this A/C has been entirely superseded.
- 87 Guidelines for Submitting Supplemental Running Change Fuel Economy Data.
This A/C was adopted September 11, 1979. As with other fuel economy A/C's, this A/C has been superseded by the subsequent fuel economy regulation changes.
- 90 Guidelines for the Submission of Preliminary Corporate Average Fuel Economy Report.
The PCAFE report has been eliminated.