

Environmental Protection Agency

§ 85.1903

has accurately deleted the confidential information from this second copy.

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Environmental Appeals Board only to the extent and by means of the procedures set forth in part 2, subpart B, of this chapter.

(e) Information provided without a claim of confidentiality at the time of submission may be made available to the public by EPA without further notice to the submitter, in accordance with 40 CFR 2.204(c)(2)(i)(A).

[50 FR 34797, Aug. 27, 1985, as amended at 57 FR 5330, Feb. 13, 1992]

APPENDIX A TO SUBPART S OF PART 85— INTERPRETIVE RULING FOR §85.1803— REMEDIAL PLANS

The purpose of this rule is to set forth EPA's interpretation regarding one aspect of a motor vehicle or motor vehicle engine manufacturer's recall liability under section 207(c)(1) of the Clean Air Act, 42 U.S.C. 7641(c)(1). This rule will provide guidance to vehicle and engine manufacturers to better enable them to submit acceptable remedial plans.

Section 207(c)(1) requires the Administrator to base a recall order on a determination that a substantial number of in-use vehicles or engines within a given class or category of vehicles or engines, although properly maintained and used, fail to conform to the regulations prescribed under section 202 when in actual use throughout their useful lives. After making such a determination, he shall require the manufacturer to submit a plan to remedy the nonconformity of any such vehicles or engines. The plan shall provide that the manufacturer will remedy, at the manufacturer's expense, all properly maintained and used vehicles which experienced the nonconformity during their useful lives regardless of their age or mileage at the time of repair.

(Secs. 207 and 301(a), Clean Air Act, as amended, 42 U.S.C. 7541 and 7601(a))

[45 FR 36398, May 30, 1980]

Subpart T—Emission Defect Reporting Requirements

AUTHORITY: Secs. 208(a) and 301(a), Clean Air Act, as amended (42 U.S.C. 1857f-6(a) and 1857g(a)).

SOURCE: 42 FR 28128, June 2, 1977, unless otherwise noted.

§ 85.1901 Applicability.

The requirements of this subpart shall be applicable to all 1972 and later model year vehicles and engines. The requirement to report emission-related defects affecting a given class or category of vehicles or engines shall remain applicable for five years from the end of the model year in which such vehicles or engines were manufactured.

§ 85.1902 Definitions.

For the purposes of this subpart and unless otherwise noted:

(a) *Act* shall mean the Clean Air Act, 42 U.S.C. 1857, as amended.

(b) The phrase emission-related defect shall mean a defect in design, materials, or workmanship in a device, system, or assembly described in the approved Application for Certification (required by 40 CFR 86.1843-01 and 86.1844-01, 40 CFR 86.098-22 and like provisions of subpart A of this part and 40 CFR part 86) which affects any parameter or specification enumerated in Appendix VIII of this part.

(c) The phrase *useful life* shall be given the meaning ascribed to it by section 202(d) of the Act and regulations promulgated thereunder.

(d) The phrase *Voluntary Emissions Recall* shall mean a repair, adjustment, or modification program voluntarily initiated and conducted by a manufacturer to remedy any emission-related defect for which direct notification of vehicle or engine owners has been provided.

(e) The phrase *ultimate purchaser* shall be given the meaning ascribed to it by section 214 of the Act.

(f) The term *manufacturer* shall be given the meaning ascribed to it by section 214 of the Act.

[42 FR 28128, June 2, 1977, as amended at 64 FR 23919, May 4, 1999]

§ 85.1903 Emissions defect information report.

(a) A manufacturer shall file a defect information report whenever, on the basis of data obtained subsequent to the effective date of these regulations:

(1) The manufacturer determines in accordance with procedures established