

devices which were in general use with locomotives or locomotive engines prior to 1999. For diesel engines, this would generally include replacement or cleaning of the fuel delivery and injection system.

**§ 92.1108 In-use compliance provisions.**

(a) Effective with respect to locomotives and locomotive engines subject to the requirements of this part:

(1) If the Administrator determines that a substantial number of any class or category of locomotives or locomotive engines, although properly maintained and used, do not conform to the regulations prescribed under section 213 of the Act when in actual use throughout their useful life period (as defined under § 92.2), the Administrator shall immediately notify the manufacturer or remanufacturer of such nonconformity and require the manufacturer or remanufacturer to submit a plan for remedying the nonconformity of the locomotives or locomotive engines with respect to which such notification is given.

(i) The manufacturer's or remanufacturer's plan shall provide that the nonconformity of any such locomotives or locomotive engines which are properly used and maintained will be remedied at the expense of the manufacturer or remanufacturer.

(ii) If the manufacturer or remanufacturer disagrees with such determination of nonconformity and so advises the Administrator, the Administrator shall afford the manufacturer or remanufacturer and other interested persons an opportunity to present their views and evidence in support thereof at a public hearing. Unless, as a result of such hearing, the Administrator withdraws such determination of nonconformity, the Administrator shall, within 60 days after the completion of such hearing, order the manufacturer or remanufacturer to provide prompt notification of such nonconformity in accordance with paragraph (a)(2) of this section. The manufacturer or remanufacturer shall comply in all respects with the requirements of subpart G of this part.

(2) Any notification required to be given by the manufacturer or remanufacturer under paragraph (a)(1) of this

section with respect to any class or category of locomotives or locomotive engines shall be given to ultimate purchasers, subsequent purchasers (if known), and dealers (as applicable) in such manner and containing such information as required in Subparts E and H of this part.

(3)(i) The certifying manufacturer or remanufacturer shall furnish with each new locomotive or locomotive engine written instructions for the proper maintenance and use of the engine by the ultimate purchaser as required under § 92.211.

(ii) The instruction under paragraph (a)(3)(i) of this section must not include any condition on the ultimate purchaser's using, in connection with such locomotive or locomotive engine, any component or service (other than a component or service provided without charge under the terms of the purchase agreement) which is identified by brand, trade, or corporate name. Such instructions also must not directly or indirectly distinguish between service performed by the franchised dealers of such manufacturer or remanufacturer, or any other service establishments with which such manufacturer or remanufacturer has a commercial relationship, and service performed by independent locomotive or locomotive engine repair facilities with which such manufacturer or remanufacturer has no commercial relationship.

(iii) The prohibition of paragraph (a)(3)(ii) of this section may be waived by the Administrator if:

(A) The manufacturer or remanufacturer satisfies the Administrator that the locomotive or locomotive engine will function properly only if the component or service so identified is used in connection with such engine; and

(B) The Administrator finds that such a waiver is in the public interest.

(iv) In addition, the manufacturer or remanufacturer shall indicate by means of a label or tag permanently affixed to the locomotive and to the engine that the locomotive and/or the locomotive engine is covered by a certificate of conformity issued for the purpose of assuring achievement of emission standards prescribed under section 213 of the Act. This label or tag shall also contain information relating to

control of emissions as prescribed under §92.212.

(b) The manufacturer or remanufacturer bears all cost obligation any dealer incurs as a result of a requirement imposed by paragraph (a) of this section. The transfer of any such cost obligation from a manufacturer or remanufacturer to a dealer through franchise or other agreement is prohibited.

(c) If a manufacturer or remanufacturer includes in an advertisement a statement respecting the cost or value of emission control devices or systems, the manufacturer or remanufacturer shall set forth in the statement the cost or value attributed to these devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his or her representatives, has the same access for this purpose to the books, documents, papers, and records of a manufacturer or remanufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 311 of the Act.

#### APPENDIX I TO PART 92—EMISSION RELATED LOCOMOTIVE AND ENGINE PARAMETERS AND SPECIFICATIONS

- I. Basic Engine Parameters—Reciprocating Engines.
  1. Compression ratio.
  2. Type of air aspiration (natural, Roots blown, supercharged, turbocharged).
  3. Valves (intake and exhaust).
    - a. Head diameter dimension.
    - b. Valve lifter or actuator type and valve lash dimension.
  4. Camshaft timing.
    - a. Valve opening—intake exhaust (degrees from TDC or BDC).
    - b. Valve closing—intake exhaust (degrees from TDC or BDC).
    - c. Valve overlap (degrees).
  5. Ports—two stroke engines (intake and/or exhaust).
    - a. Flow area.
    - b. Opening timing (degrees from TDC or BDC).
    - c. Closing timing (degrees from TDC or BDC).
- II. Intake Air System.
  1. Roots blower/supercharger/turbocharger calibration.
  2. Charge air cooling.
    - a. Type (air-to-air; air-to-liquid).
    - b. Type of liquid cooling (engine coolant, dedicated cooling system).
    - c. Performance (charge air delivery temperature ( °F) at rated power and one

other power level under ambient conditions of 80 °F and 110 °F, and 3 minutes and 15 minutes after selecting rated power, and 3 minutes and 5 minutes after selecting other power level).

3. Temperature control system calibration.
  4. Maximum allowable inlet air restriction.
- III. Fuel System.
    1. General.
      - a. Engine idle speed.
    2. Carburetion.
      - a. Air-fuel flow calibration.
      - b. Idle mixture.
      - c. Transient enrichment system calibration.
      - d. Starting enrichment system calibration.
      - e. Altitude compensation system calibration.
      - f. Hot idle compensation system calibration.
    3. Fuel injection—non-compression ignition engines.
      - a. Control parameters and calibrations.
      - b. Idle mixture.
      - c. Fuel shutoff system calibration.
      - d. Starting enrichment system calibration.
      - e. Transient enrichment system calibration.
      - f. Air-fuel flow calibration.
      - g. Altitude compensation system calibration.
      - h. Operating pressure(s).
      - i. Injector timing calibration.
    4. Fuel injection—compression ignition engines.
      - a. Control parameters and calibrations.
      - b. Transient enrichment system calibration.
      - c. Air-fuel flow calibration.
      - d. Altitude compensation system calibration.
      - e. Operating pressure(s).
      - f. Injector timing calibration.
  - IV. Ignition System—non-compression ignition engines.
    1. Control parameters and calibration.
    2. Initial timing setting.
    3. Dwell setting.
    4. Altitude compensation system calibration.
    5. Spark plug voltage.
  - V. Engine Cooling System.
    1. Thermostat calibration.
  - VI. Exhaust System.
    1. Maximum allowable back pressure.
  - VII. Exhaust Emission Control System.
    1. Air injection system.
      - a. Control parameters and calibrations.
      - b. Pump flow rate.
    2. EGR system.
      - a. Control parameters and calibrations.
      - b. EGR valve flow calibration.
    3. Catalytic converter system.
      - a. Active surface area.
      - b. Volume of catalyst.