

Environmental Protection Agency

§ 85.1716

notification. Your notification is considered to be your agreement to comply with all the requirements of this section.

(d) Engine manufacturers choosing to use the provisions of this section may opt out by sending us written notice that they will no longer introduce into U.S. commerce engines exempted under this section.

[73 FR 59178, Oct. 8, 2008]

§ 85.1715 Aircraft meeting the definition of motor vehicle.

This section applies for aircraft meeting the definition of motor vehicle in § 85.1703.

(a) For the purpose of this section, aircraft means any vehicle capable of sustained air travel above treetop heights.

(b) The standards, requirements, and prohibitions of 40 CFR part 86 do not apply for aircraft or aircraft engines. Standards apply separately to certain aircraft engines, as described in 40 CFR part 87.

[75 FR 22977, Apr. 30, 2010]

§ 85.1716 Approval of an emergency vehicle field modification (EVFM).

This section describes how you may implement design changes for an emergency vehicle that has already been placed into service to ensure that the vehicle will perform properly in emergency situations. This applies for any light-duty vehicle, light-duty truck, or heavy-duty vehicle meeting the definition of *emergency vehicle* in 40 CFR 86.004-2 or 86.1803. In this section, “you” refers to the certifying manufacturer and “we” refers to the EPA Administrator and any authorized representatives.

(a) You must notify us in writing of your intent to install or distribute an emergency vehicle field modification (EVFM). In some cases you may install or distribute an EVFM only with our advance approval, as specified in this section.

(b) Include in your notification a full description of the EVFM and any documentation to support your determination that the EVFM is necessary to prevent the vehicle from losing speed, torque, or power due to abnormal con-

ditions of its emission control system, or to prevent such abnormal conditions from occurring during operation related to emergency response. Examples of such abnormal conditions may include excessive exhaust backpressure from an overloaded particulate trap, or running out of diesel exhaust fluid for engines that rely on urea-based selective catalytic reduction. Your determination must be based on an engineering evaluation or testing or both.

(c) You may need our advance approval for your EVFM, as follows:

(1) Where the proposed EVFM is identical to an AECD we approved under this part for an engine family currently in production, no approval of the proposed EVFM is necessary.

(2) Where the proposed EVFM is for an engine family currently in production but the applicable demonstration is based on an AECD we approved under this part for an engine family no longer in production, you must describe to us how your proposed EVFM differs from the approved AECD. Unless we say otherwise, your proposed EVFM is deemed approved 30 days after you notify us.

(3) If we have not approved an EVFM comparable to the one you are proposing, you must get our approval before installing or distributing it. In this case, we may request additional information to support your determination under paragraph (b) of this section, as follows:

(i) If we request additional information and you do not provide it within 30 days after we ask, we may deem that you have retracted your request for our approval; however, we may extend this deadline for submitting the additional information.

(ii) We will deny your request if we determine that the EVFM is not necessary to prevent the vehicle from losing speed, torque, or power due to abnormal conditions of the emission control system, or to prevent such abnormal conditions from occurring, during operation related to emergency response.

(iii) Unless we say otherwise, your proposed EVFM is deemed approved 30 days after we acknowledge that you have provided us with all the additional information we have specified.

§ 85.1801

40 CFR Ch. I (7–1–12 Edition)

(4) If your proposed EVFM is deemed to be approved under paragraph (c)(2) or (3) of this section and we find later that your EVFM in fact does not meet the requirements of this section, we may require you to no longer install or distribute it.

[77 FR 34145, June 8, 2012]

EFFECTIVE DATE NOTE: At 77 FR 34145, June 8, 2012, § 85.1716 was added effective August 7, 2012.

Subpart S—Recall Regulations

AUTHORITY: Sec. 301(a), Clean Air Act, 81 Stat. 504, as amended by sec. 15(c), 84 Stat. 1713 (42 U.S.C. 1857g(a)). The regulations implement sec. 207(c) (1)–(2), Clean Air Act, 84 Stat. 1697 (42 U.S.C. 1847f–5a(c)(1)–(2)); sec. 208(a), Clean Air Act, 81 Stat. 501, as renumbered by sec. 8(a), 84 Stat. 1694 (42 U.S.C. 1857f–6(a)).

SOURCE: 39 FR 44375, Dec. 23, 1974, unless otherwise noted.

§ 85.1801 Definitions.

For the purposes of this subpart, except as otherwise provided, words shall be defined as provided for by sections 214 and 302 of the Clean Air Act, 42 U.S.C. 1857, as amended.

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

(b) *Days* shall mean calendar days.

§ 85.1802 Notice to manufacturer of nonconformity; submission of Remedial Plan.

(a) A manufacturer will be notified whenever the Administrator has determined that a substantial number of a class or category of vehicles or engines produced by that manufacturer, although properly maintained and used, do not conform to the regulations prescribed under section 202 of the Act in effect during (and applicable to) the model year of such vehicle. The notification will include a description of each class or category of vehicles or engines encompassed by the determination of nonconformity, will give the factual basis for the determination of nonconformity (except information previously provided the manufacturer by the Agency), and will designate a date, no sooner than 45 days from the date of receipt of such notification, by which the manufacturer shall have sub-

mitted a plan to remedy the nonconformity.

(b) Unless a hearing is requested pursuant to § 85.1807, the remedial plan shall be submitted to the Administrator within the time limit specified in the Administrator's notification, provided that the Administrator may grant the manufacturer an extension upon good cause shown.

(c) If a manufacturer requests a public hearing pursuant to § 85.1807, unless as a result of such hearing the Administrator withdraws his determination of nonconformity, the manufacturer shall submit the remedial plan within 30 days of the end of such hearing.

[39 FR 44375, Dec. 23, 1974, as amended at 42 FR 36456, July 15, 1977]

§ 85.1803 Remedial Plan.

(a) When any manufacturer is notified by the Administrator that a substantial number of any class or category of vehicles or engines, although properly maintained and used, do not conform to the regulations (including emission standards) or family particulate emission limits, as defined in part 86 promulgated under section 202 of the Act and in effect during (and applicable to) the model year of such class or classes of vehicles or engines, the manufacturer shall submit a plan to the Administrator to remedy such nonconformity. The plan shall contain the following:

(1) A description of each class or category of vehicle or engine to be recalled including the model year, the make, the model, and such other information as may be required to identify the vehicles or engines to be recalled.

(2) A description of the specific modifications, alterations, repairs, corrections, adjustments or other changes to be made to bring the vehicles or engines into conformity including a brief summary of the data and technical studies which support the manufacturer's decision as to the particular remedial changes to be used in correcting the nonconformity.

(3) A description of the method by which the manufacturer will determine the names and addresses of vehicle or engine owners.

(4) A description of the proper maintenance or use, if any, upon which the