

§ 85.1801

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 submitted 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]

40 CFR Ch. I (7-1-10 Edition)

§ 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 manufacturer conditions eligibility for repair under the remedial plan, an explanation of the manufacturer's reasons for imposing any such condition, and a description of the proof to be required of a vehicle or engine owner to demonstrate compliance with any such condition. Eligibility may not be denied solely on the basis that the vehicle or engine owner used parts not manufactured by the original equipment vehicle manufacturer, or had repairs performed by outlets other than the vehicle manufacturer's franchised dealers. No maintenance or use condition may be imposed unless it is, in the judgement of the Administrator, demonstrably related to preventing the nonconformity.