

Sec. 86.094-38 paragraph (g)(21)

(g) Emission control diagnostic service information:

(1) Manufacturers are subject to the provisions of this subsection beginning in the 1996 model year for manufacturers of light-duty vehicles and light-duty trucks, and beginning in the 2005 model year for manufacturers of heavy-duty vehicles and heavy-duty engines weighing 14,000 pounds gross vehicle weight (GVW) and less that are subject to the OBD requirements of this part.

(2) General Requirements

(i) Manufacturers shall furnish or cause to be furnished to any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines, or the Administrator upon request, any and all information needed to make use of the onboard diagnostic system and such other information, including instructions for making emission-related diagnosis and repairs, including but not limited to service manuals, technical service bulletins, recall service information, data stream information, bidirectional control information, and training information, unless such information is protected by section 208(c) as a trade secret. No such information may be withheld under section 208(c) of the Act if that information is provided (directly or indirectly) by the manufacturer to franchised dealers or other persons engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines.

(ii) Definitions. The following definitions apply for this paragraph (g):

(A) Aftermarket service provider means any individual or business engaged in the diagnosis, service, and repair of a motor vehicle or engine who is not directly affiliated with a manufacturer or manufacturer franchised dealership.

(B) Bi-directional control means the capability of a diagnostic tool to send messages on the data bus that temporarily overrides the module's control over a sensor or actuator and gives control to the diagnostic tool operator. Bi-directional controls do not create permanent changes to engine or component calibrations.

(C) Data stream information means information (i.e., messages and parameters) originated within the vehicle by a module or intelligent sensors (i.e., a sensor that contains and is controlled by its own module) and transmitted between a network of modules and/or intelligent sensors connected in parallel with either one or two communication wires. The information is broadcast over the communication wires for use by other modules (e.g., chassis, transmission, etc.) to conduct normal vehicle operation or for use by diagnostic tools. Data stream information does not include engine calibration related information.

(D) Emissions-related information means any information related to the diagnosis, service, and repair of emissions-related components.

(E) Emissions-related training information means any information related training or instruction for the purpose of the diagnosis, service, and repair of emissions-related components. Emissions-related information includes, but is not limited to:

(i) Manuals, including subsystem and component manuals, technical service bulletins (TSBs), recall service information, diagrams, charts, and training materials;

(ii) OBD system operational information that describes functional characteristics of the OBD system and emission-related components. OBD system operational information includes, but is not limited to, OBD generic drive cycle information, component operating ranges, and system logic flow diagrams. Algorithms, look-up tables, or any values associated with look-up tables are not required to be made available;

(iii) Emission-related diagnostic procedures. Manufacturers who utilize their manufacturer-specific scan tool to provide emissions-related diagnostic procedures cannot require connection to the vehicle to access this information. Additionally, manufacturers shall also make any emissions-related diagnostic procedures incorporated into their manufacturer-specific scan tools available to aftermarket service providers on their respective manufacturer Web sites;

(iv) Any information on other systems that can directly effect the emission system within a multiplexed system (including how information is sent between emission-related system modules and other modules on a multiplexed bus);

(v) Any information regarding any system, component, or part of a vehicle monitored by the OBD system that could in a failure mode cause the OBD system to illuminate the malfunction indicator light (MIL) and;

(vi) Information needed to start the vehicle when the vehicle is equipped with an anti-theft system or other systems that disables the engine and prevents it from starting after the completion of an emissions-related repair.

(vii) Manufacturer-specific emissions-related diagnostic trouble codes (DTCs) and any related service bulletins, trouble shooting guides, and/or repair procedures associated with these manufacturer-specific DTCs.

(F) Enhanced service and repair information means information which is specific for an original equipment manufacturer's brand of tools and equipment.

(G) Generic service and repair information means information which is not specific for an original equipment manufacturer's brand of tools and equipment.

(H) Indirect information means any information that is not specifically contained in the service literature, but is contained in items such as tools or equipment provided to franchised dealers (or others).

(I) Intermediary means any individual or entity, other than an original equipment manufacturer, which provides service or equipment to aftermarket service providers.

(J) Manufacturer franchised dealership means any service provider with which an manufacturer has a direct business relationship.

(K) Third party information provider means any individual or entity, other than an original equipment manufacturer, who consolidates manufacturer service information and makes this information available to aftermarket service providers.

(L) Third party training provider means any individual or entity, other than an original equipment manufacturer who develops and/or delivers instructional and educational material for automotive training courses.

(3) Information dissemination. By [insert date six months after the effective date of this rulemaking], each manufacturer shall provide or cause to be provided a manufacturerspecific World Wide Web site available to the persons specified in paragraph (g)(2)(i) of this section and to any other interested parties containing in the information specified in paragraph (g)(2)(i) of this section for 1996 and later model year vehicles which have been offered for sale; this requirement does not apply to indirect information, including the information specified in paragraph (g)(11) through paragraph (g)(15) of this section.

Each manufacturer Web site shall:

(i) Provide access in full-text to all of the information specified in paragraph (g)(5) of this section.

(ii) Be updated at the same time as dealership World Wide Web sites, but in no instance less than 14 days after new information or changes to existing information have been changed or updated on the manufacturer's dealership site.

(iii) Provide users with a description of the minimum computer hardware and software needed by the user to access that manufacturer's information (e.g., computer processor speed and operating system software). This description shall appear when users first log-on to the home page of the manufacturer's Web site.

(iv) Provide Short-Term (< 24 hours), Mid-Term (30 day period), and Long-Term (365 day period) Web site subscription options to any person specified in paragraph (g)(1) of this section at a fair and reasonable cost as specified in paragraph (g)(6) of this section for each of the options. (v) Allow the user to search the manufacturer Web site by various topics including but not limited to model, model year, key words or phrases, vehicle identification number (VIN), etc., while allowing ready identification of the latest vehicle calibration.

(vi) Provide accessibility using common, readily available software and shall not require the use of proprietary software, hardware, viewers, or browsers. Manufacturers shall also provide hyperlinks to any plug-ins, viewers or browsers (e.g. Adobe Acrobat or Netscape) needed to access the manufacturer Web site.

(vii) Allow simple hyper-linking to the manufacturer Web site from Government Web sites and automotive-related Web sites.

(viii) Allow access to the manufacturer Web sites with no limits on the modem speed by which aftermarket service providers or other interested parties can connect to the manufacturer Web site.

(4) Small volume provisions for information dissemination. (i) Manufacturers with annual sales of less than 5,000 vehicles shall have until 12 months after the effective date of the final rule to launch their individual Web sites as required by paragraph (g)(2) of this section.

(ii) Manufacturers with annual sales of less than 1,000 vehicles may, in lieu of meeting the requirement of paragraph (g)(3) of this section, request the Administrator to approve an alternative method by which the required emissions-related information can be obtained by the persons specified in paragraph (g)(1) of this section.

(5) Required information. All information relevant to the diagnosis and completion of emissions-related repairs shall be posted on manufacturer Web sites excluding indirect information specified in paragraphs (g)(11) through (g)(15) of this section. The required information includes, but is not limited to:

(i) Manuals, including subsystem and component manuals, technical service bulletins (TSBs), recall service information, diagrams, charts, and training materials;

(ii) OBD system operational information that describes functional characteristics of the OBD system and emission-related components; OBD system operational information includes, but is not limited to, OBD generic drive cycle information, component operating ranges, and system logic flow diagrams. Algorithms, look-up tables, or any values associated with look-up tables are not required to be made available;

(iii) Emission-related diagnostic procedures; manufacturers who utilize their manufacturer-specific scan tool to provide emissions-related diagnostic procedures cannot require connection to the vehicle to access this information and shall make such information available to aftermarket service providers on their respective manufacturer Web sites;

(iv) Any information on other systems that can directly effect the emission system within a multiplexed system (including how information is sent between emission-related system modules and other modules on a multiplexed bus);

(v) Any information regarding any system, component, or part of a vehicle monitored by the OBD system that could in a failure mode cause the OBD system to illuminate the malfunction indicator light (MIL); and (vi) Information needed to start the vehicle when the vehicle is equipped with an anti-theft system or other systems that disables the engine and prevents it from starting after the completion of an emissions-related repair.

(6) Cost of required information. All information required to be made available by this section shall be made available at a fair and reasonable price to any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines. In determining whether a price is fair and reasonable, consideration may be given to relevant factors,

including, but not limited to, the cost to the manufacturer of preparing and/or providing the information, the type of information, the format in which it is provided, the price charged by other manufacturers for similar information, the differences that exist among manufacturers (e.g., the size of the manufacturer), the quantity of material contained in a publication, the level of detail of the information, the cost of the information prior to [insert effective date of this paragraph], volume discounts, and inflation.

(7) Unavailable information. Any information which is not provided at a fair and reasonable price shall be considered unavailable, in violation of these regulations and section 202(m)(5) of the Clean Air Act.

(8) Third party information providers. By [insert date 6 months after publication], manufacturers shall, for model year 2002 and later vehicles and engines, provide the required emissions-related information as specified in paragraph (g)(5) of this section (1) directly to third-party information providers as defined in paragraph (g)(2)(ii) of this section in electronic format such as diskette or CD-ROM using non-proprietary software, in English, or (2) indirectly via a Web site other than that required by paragraph (g)(3) of this section for aftermarket service providers.

(9) Required emissions-related training information. By [insert date 6 months after publication], for emissions-related training information, manufacturers shall:

(i) Provide on the manufacturer Web site an index of all emissions-related training information available for purchase by aftermarket service providers for 1994 and newer vehicles. The index shall describe the title of the course or instructional session, the cost of the video tape or duplicate, and information on how to order the item(s) from the manufacturer Web site.

(ii) Video tape or otherwise duplicate any emissions-related training courses and instructional sessions that are made available to manufacturer dealerships via satellite or the World Wide Web and make these items available for purchase as described in paragraph (g)(3) of this section. Additionally, manufacturers shall tape or otherwise duplicate any emissions-related class-room training courses made available to manufacturer franchised dealerships and make those duplicates available for sale at a fair and reasonable price on the manufacturers Web site.

(iii) Provide access to third party training providers as defined in paragraph (g)(2)(ii) of this section all emission-related training courses transmitted via satellite or Internet offered to their franchised dealerships

(10) Timeliness and maintenance of information dissemination. Manufacturers must make the information required under paragraphs (g)(5) and (g)(8) of this section available to any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines on their Web site within three

months of model introduction. After this three month period, the information must be available and updated on the manufacturer Web site at the same time that the information is made available and updated to manufacturer franchised dealerships, except as otherwise specified in this section. Beginning with the 1996 model year, manufacturers must maintain the required information on their Web sites in full-text as defined in paragraph (g)(2)(ii) for a minimum of 15 years after model introduction. Subsequent to this fifteen year period, manufacturers may archive the information in the manufacturer's format of choice and provide an index of the archived information on the manufacturer Web site and how it can be obtained by interested parties. Archived information must be made available on demand and at a fair and reasonable price.