

number of defects triggering the submission requirement generally rises in proportion to the engine family size. The single threshold in the existing regulations results in reporting of defects in the smallest engine families covered by this regulation very rarely because a relatively high proportion of such engines would have to be known to be defective before reporting is required under a fixed threshold scheme. Therefore, under this proposal, the threshold for reporting for the smallest engine families has been decreased as compared to the current requirements.

We are aware that accumulation of warranty claims and part shipments will likely include many claims and parts that do not represent defects, so we are establishing a relatively high threshold for triggering the manufacturer's responsibility to investigate whether there is, in fact, a real occurrence of an emission-related defect. Manufacturers are not required to count towards the investigation threshold any replacement parts they require to be replaced at specified intervals during the useful life, as specified in the application for certification and maintenance instructions to the owner, because shipment of such parts clearly do not represent defects. All such parts would be excluded from investigation of potential defects and reporting of defects, whether or not any specific part was, in fact, shipped for specified replacement.

This proposal is intended to require manufacturers to use information we would expect them to keep in the normal course of business. We believe in most cases manufacturers would not be required to institute new programs or activities to monitor product quality or performance. A manufacturer that does not keep warranty or replacement part information may ask for our approval to use an alternate defect-reporting methodology that is at least as effective in identifying and tracking potential emissions related defects as the proposed requirements. However, until we approve such a request, the proposed thresholds and procedures continue to apply.

The thresholds for investigation proposed today are 4 percent of total production to date, or 4,000 engines, whichever is less, but never fewer than 40 for any single engine family in one model year. These thresholds are reduced by 50 percent for defects related to any aftertreatment devices, including particulate traps, because these components typically play such a significant role in controlling engine emissions. For example, for an engine

family with a sales volume of 20,000 units in a given model year, the manufacturer would have to investigate potential emission-related defects if there were warranty claims or parts shipments for replacing electronic control units in 800 or more engines; or catalytic converters on 400 or more engines. For an engine family with sales volume of 500 units in a given model year, the manufacturer would have to investigate potential emission-related defects if there were warranty claims or parts shipments of electronic control units in 40 or more engines; or catalytic converters on 20 or more engines. Please note, manufacturers would not investigate for emission related defects until either warranty claims or parts shipments separately reach the investigation threshold. We recognize that a part shipment may ultimately be associated with a particular warranty claim in the manufacturer's database and, therefore, warranty claims and parts shipments would not be aggregated for the purpose of triggering the investigation threshold under this proposal.

In order to carry out an investigation to determine if there is an emission-related defect, manufacturers would have to use available information such as preexisting assessments of warranted parts or other replaced parts. Manufacturers would also have to gather information by assessing previously unexamined parts submitted with warranty claims and replacement parts which are available or become available for examination and analysis. If available parts are deemed too voluminous to conduct a timely investigation, manufacturers would be permitted to employ appropriate statistical analyses of representative data to help draw timely conclusions regarding the existence of a defect. These investigative activities should be summarized in the periodic reports of recently opened or closed investigations as discussed below. It is important to note that EPA does not regard having reached the investigation thresholds as conclusive proof of the existence of a defect, only that initiation of an appropriate investigation is merited to determine whether a defect exists.

The second threshold in this proposal specifies when a manufacturer must report that there is an emission-related defect. This threshold involves a smaller number of engines because each potential defect has been screened to confirm that it is an emission-related defect. In counting engines to compare with the defect-reporting threshold, the manufacturer would consider a single engine family and model year. However,

when a defect report is required, the manufacturer would report all occurrences of the same defect in all engine families and all model years which use the same part. For engines subject to this proposal, the threshold for reporting a defect is 0.25 percent of total production for any single engine family, or 250 defects, whichever is less. The thresholds are reduced 50 percent for reporting defects related to aftertreatment devices. Additionally, this proposal requires a minimum of 5 defects before a report must be filed so that limited isolated parts failures that occur for low volume engine families do not require a defect report. It is important to note that while EPA regards occurrence of the defect threshold as proof of the existence of a reportable defect, it does not regard that occurrence as conclusive proof that recall or other action is merited.

If the number of engines with a specific defect is found to be less than the threshold for submitting a defect report, but information, such as warranty claims or parts shipment data, later indicates additional potentially defective engines, under this proposal the information must be aggregated for the purpose of determining whether the threshold for submitting a defect report has been met. If a manufacturer has actual knowledge from any source that the threshold for submitting a defect report has been met, a defect report would have to be submitted even if the trigger for investigating has not yet been met. For example, if manufacturers receive information from their dealers, technical staff or other field personnel showing conclusively that there is a recurring emission-related defect, they would have to submit a defect report if the submission threshold is reached.

For both the investigation and reporting thresholds, § 1068.501 specifies lower thresholds for very large engines. A defect in these engines can have a much greater impact than defects in smaller engines due to their higher g/hr emission rates and the increased likelihood that such large engines will be used more continuously.

Under this proposal at specified times the manufacturer would also have to report open investigations as well as recently closed investigations that did not require a defect report. We are not proposing a fixed time limit for manufacturers to complete their investigations. The periodic reports required by the regulations, however, will allow us to monitor these investigations and determine if it is necessary or appropriate for us to take further action.