

(i) Total successful requests (measured in number of files including graphic interchange formats (GIFs) and joint photographic expert group (JPEG) images, *i.e.* electronic images such as wiring or other diagrams or pictures). This is defined as the total successful request counts of all the files which have been requested, including pages, graphics, etc.

(ii) Total failed requests (measured in number of files). This is defined as the total failed request counts of all the files which were requested but failed because they could not be found or were read-protected. This includes pages, graphics, etc.

(iii) Average data transferred per day (measured by bytes). This is defined as average amount of data transferred per day from one place to another.

(iv) Daily Summary (measured in number of files/pages by day of week). This is defined as the total number of requests each day of the week, over the time period given at the beginning of the report.

(v) Daily report (measured in number of files/pages by the day of the month). This is defined as how many requests there were in each day of a specific month.

(vi) Browser Summary (measured in number of files/pages by browser type, *i.e.*, Netscape, Internet Explorer). This is defined as the versions of a browser by vendor.

(vii) Any other information deemed necessary by the Administrator to determine the adequacy of a manufacturer Web site.

(19) *Prohibited acts, liability and remedies.* (i) It is a prohibited act for any person to fail to promptly provide or cause a failure to promptly provide information as required by this paragraph (g), or to otherwise fail to comply or cause a failure to comply with any provision of this paragraph (g).

(ii) Any person who fails or causes the failure to comply with any provision of this paragraph (g) is liable for a violation of that provision. A corporation is presumed liable for any violations of this subpart that are committed by any of its subsidiaries, affiliates or parents that are substantially owned by it or substantially under its control.

(iii) Any person who violates a provision of this paragraph (g) shall be subject to a civil penalty of not more than \$ 31,500 per day for each violation. This maximum penalty is shown for calendar year 2002. Maximum penalty limits for later years may be set higher based on the Consumer Price Index, as specified in 40 CFR part 19. In addition, such person shall be liable for all other remedies set forth in Title II of the Clean

Air Act, remedies pertaining to provisions of Title II of the Clean Air Act, or other applicable provisions of law.

■ 7. Section 86.004–38 is amended by revising the introductory text of this section and paragraph (g) to read as follows:

§ 86.004–38 Maintenance instructions.

This section includes text that specifies requirements that differ from those specified in § 86.096–38. Where a paragraph in § 86.096–38 is identical and applicable to § 86.004–38, this may be indicated by specifying the corresponding paragraph and the statement “[Reserved]. For guidance see § 86.096–38.”.

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(g) [Reserved]. For guidance see § 86.096–38. For incorporation by reference see §§ 86.1 and 86.096–38.

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■ 8. Section 86.007–38 is amended by revising the introductory text of this section and paragraph (g) to read as follows:

§ 86.007–38 Maintenance instructions.

This section includes text that specifies requirements that differ from those specified in § 86.096–38 or § 86.004–38. Where a paragraph in § 86.096–38 or § 86.004–38 is identical and applicable to § 86.007–38, this may be indicated by specifying the corresponding paragraph and the statement “[Reserved]. For guidance see § 86.096–38., or [Reserved]. For guidance see § 86.004–38.”.

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(g) [Reserved]. For guidance see § 86.096–38. For incorporation by reference see §§ 86.1 and 86.096–38.

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■ 9. Section 86.1801–01 is amended by revising paragraph (f) to read as follows:

§ 86.1808–01 Maintenance instructions.

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(f) Emission control diagnostic service information:

(1) Manufacturers are subject to the provisions of this paragraph (f) beginning in the 2001 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 on-board diagnostic system and such other information, including instructions for making emission-related diagnoses and repairs, including but not limited to service manuals, technical service bulletins, recall service information, bi-directional control information, and training information, unless such information is protected by section 208(c) of the Act 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 (f):

(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 more communication wires. The information is broadcast over the communication wires for use by the OBD system to gather information on emissions-related components or systems and from other vehicle modules that may impact emissions, including but not limited to systems such as chassis or transmission. For the purposes of this section, data stream information does not include engine calibration related information, or any data stream information from systems or modules that do not impact emissions.

(D) Emissions-related information means any information related to the diagnosis, service, and repair of emissions-related components. Emissions-related information includes, but is not limited to, information regarding any system, component or