

§ 85.2106

40 CFR Ch. I (7-1-07 Edition)

§ 85.2106 Warranty claim procedures.

(a) A claim under the emission performance warranty may be raised immediately upon the failure of an EPA-approved emission test if, as a result of that failure, an owner is required to take action of any kind in order to avoid imposition of a penalty or sanction. An owner need not suffer the loss of the right to use a vehicle, be fined, incur repair expenses, or actually bear any penalty or sanction to satisfy the requirement of § 85.2103(a)(3). That requirement shall be met if a test failure sets a procedure in motion under which the owner will bear a penalty or sanction if a vehicle is not brought into conformity or repaired to some specified extent within some specified period of time.

(b) A warranty claim may be submitted by bringing a vehicle to:

(1) Any repair facility authorized by the vehicle manufacturer to service that model vehicle, or

(2) Any repair facility authorized by the vehicle manufacturer to perform emission performance warranty repairs for that model vehicle.

(c) To the extent required by any Federal or State law, whether statutory or common law, a vehicle manufacturer shall be required to provide a means for non-franchised repair facilities to perform emission performance warranty repairs.

(d) The manufacturer of each vehicle to which the warranty is applicable shall establish procedures as to the manner in which a claim under the emission performance warranty is to be processed. The procedures shall:

(1) Provide for a final decision by the vehicle manufacturer within a reasonable time, not to exceed 30 days from the time at which the vehicle is initially presented for repair or within the time period during which an owner is required by local, State or federal law to have the vehicle repaired without incurring further penalties or sanctions (whichever is shorter), unless a delay

(i) Is requested by the vehicle owner, or

(ii) Is caused by an event not attributable to the vehicle manufacturer or the warranty repair facility; and

(2) Require that if the facility at which the vehicle is initially presented for repair is unable for any reason to honor the particular claim, then, unless this requirement is waived in writing by the vehicle owner, the repair facility shall forward the claim to an individual or office authorized to make emission performance warranty determinations for the manufacturer.

(e) Within the time period specified in paragraph (d) of this section the manufacturer shall:

(1) Notify the owner that it will honor the claim; or

(2) Provide the owner, in writing, with an explanation of the basis upon which the claim is being denied; or

(3) If the basis of the claim denial involves use of an uncertified part, provide the owner in writing with an explanation of the basis upon which the claim is being denied according to all criteria specified in § 85.2105(b).

(f) Failure to notify an owner within the required time period (as determined under paragraph (d) of this section) for reasons that are not attributable to the vehicle owner or events which are not beyond the control of the vehicle manufacturer or the repair facility, shall result in the vehicle manufacturer being responsible for repairing the warranted items free of charge to the vehicle owner.

(g) The vehicle manufacturer shall incur all costs associated with a determination that an emission performance warranty claim is valid.

[45 FR 34839, May 22, 1980, as amended at 54 FR 32588, Aug. 8, 1989]

§ 85.2107 Warranty remedy.

(a) The manufacturer's obligation under the emission performance warranty shall be to make all adjustments, repairs or replacements necessary to assure that the vehicle complies with applicable emission standards of the U.S. Environmental Protection Agency, that it will continue to comply for the remainder of its useful life (if proper maintenance and operation are continued), and that it will operate in a safe manner. The manufacturer shall bear all costs incurred as a result of the above obligation, *except that* after the first 24 months or 24,000 miles