

## Environmental Protection Agency

## § 85.2113

model vehicle, the manufacturer may submit copies for a single model vehicle with a statement that such copies are complete and accurate representation of the warranty information provided with all other specified models.

(1) The owner's manuals and warranty booklets should be received by EPA 60 days prior to the introduction of the vehicle for sale.

(2) If the manuals and warranty booklets are not in their final printed format 60 days prior to the introduction of the vehicle for sale, a manufacturer may submit the most recent draft at that time, provided that final versions are submitted within 15 days of the final printing.

(b) All materials described in paragraph (a) of this section shall be sent to: Director, Field Operations and Support Division (6406J), Environmental Protection Agency, 401 "M" Street, SW., Washington, DC 20460 (Attention: Warranty Booklet).

[45 FR 34839, May 22, 1980, as amended at 58 FR 65554, Dec. 15, 1993]

### § 85.2111 Warranty enforcement.

The following acts are prohibited and may subject a manufacturer to up to a \$32,500 civil penalty for each offense, except as noted in paragraph (d) of this section:

(a) Selling or leasing a light duty vehicle without providing in writing the warranty information required by § 85.2109;

(b) Failing or refusing to comply with the terms and conditions of the Emission Performance Warranty with respect to any vehicle to which this subpart applies. Acts constituting such a failure or refusal shall include, but are not limited to, the following,

(1) Failure to honor a valid warranty claim,

(2) Performance of a warranty repair in a manner which cannot reasonably be expected to allow the vehicle to meet applicable emission standards for the remainder of its useful life,

(3) Failure of a manufacturer to reimburse a dealer or other designated agent for performance of a vehicle repair made pursuant to this subpart, and

(4) Failure of a manufacturer to supply a part necessary to perform a war-

ranty repair within the time limit specified under § 85.2106(d), unless such failure is for a reason not attributable to the vehicle manufacturer or the warranty repair facility;

(c) To provide directly or indirectly in any communication to the ultimate purchaser or any subsequent purchaser that the emission performance warranty coverage is conditioned upon the use of any name brand part, component, or system or upon service (other than a component or service provided without charge under the terms of the purchase agreement), unless the communication is made pursuant to a written waiver by the Office Director.

(d) The maximum penalty value listed in this section is shown for calendar year 2004. Maximum penalty limits for later years may be adjusted based on the Consumer Price Index. The specific regulatory provisions for changing the maximum penalties, published in 40 CFR part 19, reference the applicable U.S. Code citation on which the prohibited action is based.

[45 FR 34839, May 22, 1980, as amended at 58 FR 65554, Dec. 15, 1993; 70 FR 40432, July 13, 2005]

### § 85.2112 Applicability.

The provisions of §§ 85.2112 through 85.2122 apply to emission related automotive aftermarket parts which are to be installed in or on 1968 and later model year light-duty vehicles and light-duty trucks.

[54 FR 32588, Aug. 8, 1989]

### § 85.2113 Definitions.

As used in this subpart, all terms not defined shall have the meaning given them in the Act:

(a) *Act* means Part A of Title II of the Clean Air Act, 42 U.S.C. 7421 *et seq.* (formerly 42 U.S.C. 1857 *et seq.*) as amended.

(b) *Aftermarket Part* means any part offered for sale for installation in or on a motor vehicle after such vehicle has left the vehicle manufacturer's production line.

(c) *Aftermarket Part Manufacturer* means:

(1) A manufacturer of an aftermarket part or,

(2) A party that markets aftermarket parts under its own brand name, or,

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(3) A rebuilder of original equipment or aftermarket parts, or

(4) A party that licenses others to sell its parts.

(d) *Agency* means the Environmental Protection Agency.

(e) *Certified Aftermarket Part* means any aftermarket part which has been certified pursuant to this subpart.

(f) *Emission Warranty* means those warranties given by vehicle manufacturers pursuant to section 207 of the Act.

(g) *Emission-Critical Parameters* means those critical parameters and tolerances which, if equivalent from one part to another, will not cause the vehicle to exceed applicable emission standards with such parts installed.

(h) *Engine Family* means the basic classification unit of a vehicle's product line for a single model year used for the purpose of emission-data vehicle or engine selection and as determined in accordance with 40 CFR 86.078-24.

(i) *Vehicle or Engine Configuration* means the specific subclassification unit of an engine family or certified part application group as determined by engine displacement, fuel system, engine code, transmission and inertia weight class, as applicable.

(j) *Certification Vehicle Emission Margin* for a certified engine family means the difference between the EPA emission standards and the average FTP emission test results of that engine family's emission-data vehicles at the projected applicable useful life mileage point (i.e., useful life mileage for light-duty vehicles is 50,000 miles and for light-duty trucks is 120,000 miles for 1985 and later model years or 50,000 miles for 1984 and earlier model years).

(k) *Applications* means all vehicle or engine configurations for which one part is being certified as set forth in the aftermarket part manufacturer's notification of intent to certify pursuant to §85.2115(a)(1).

[45 FR 78458, Nov. 25, 1980, as amended at 54 FR 32588, Aug. 8, 1989]

**§85.2114 Basis of certification.**

(a) *Prior to certifying*, the aftermarket part manufacturer must determine:

(1) Whether the part to be certified is an emission related part as defined in

§85.2102. The MOD Director shall deny certification to any parts which he or she determines is not an emission related part.

(2) The vehicle or engine configurations for which this part is being certified. These are the vehicle and engine designs for which the aftermarket part manufacturer intends to sell the certified aftermarket part.

(3) Whether the part qualifies under one of the part categories, listed in §85.2122 of this subpart that are eligible to certify using emission critical parameters and, if so, whether the manufacturer elects to demonstrate certification using emission critical parameters. An aftermarket part may be certified under this category only if the part's emission-critical parameters, as set forth in §85.2122, are equivalent to those of the original equipment or previously certified part it is to replace. Compliance with the emission-critical parameters discussed in paragraph (b) of this section may be demonstrated by compliance with the relevant test procedures and criteria specified in appendix I to this subpart. The requirements of this paragraph apply to all on-road vehicles and engines. Alternatively, the manufacturer may elect to demonstrate certification compliance according to the emission test procedures described in paragraph (c) of this section.

(b) *For parts eligible to certify using emission-critical parameters, certification compliance can be demonstrated as follows.* (1) The durability procedure contained in appendix I to this subpart can be used. As an alternative, the aftermarket part manufacturer may use a different durability procedure if it can demonstrate to the MOD Director that the alternative procedure results in an improved technical evaluation of the part's influence on vehicle or engine emissions for its useful life mileage interval, or results in a significant cost savings to the aftermarket part manufacturer with no loss in technical validity compared to the recommended durability procedure. The aftermarket part manufacturer shall receive the written approval from the MOD Director prior to implementation of the alternative procedures.