

## Environmental Protection Agency

## § 86.1605

### § 86.1604 Conditions for disapproval.

(a) The Administrator shall not approve altitude performance adjustments that will:

(1) Cause any regulated pollutant emission level to increase if the emission level exceeded the appropriate emission standard before adjustment was made.

(2) Cause any regulated pollutant emission level to exceed the appropriate emission standard if the emission level did not exceed the emission standard before the adjustment was made.

(3) For light-duty vehicles, light-duty trucks, motorcycles, heavy-duty gasoline-fueled engines, cause any reduction of vehicle performance (as evaluated by the manufacturer) such that vehicle drivers will likely complain.

(4) Be of such technical complexity or require such complex, expensive, or exclusive equipment that a competent mechanic in an average service establishment cannot perform the adjustments correctly. Adjustment procedures should not require knowledge or training beyond that required to perform normal engine maintenance. All required equipment must be available to any service establishment at competitive cost.

(5) Require the use of manufacturer parts, unless they are necessary to ensure emission control performance and unless the Administrator grants a waiver under section 207(c)(3)(B) of the Act.

(6) Removes or defeats the parameter adjustment controls for the parameters listed in §§ 86.081-22(e)(1)(i) and 86.082-22(e)(1)(i) for light-duty vehicles and light-duty trucks, and § 86.428-80(d) for motorcycles unless:

(i) The manufacturer determines that it is reasonable to restore the parameter adjustment control in use and provides appropriate instruction as part of the high-altitude performance adjustment instructions, or

(ii) The manufacturer determines that it is not reasonable to restore the parameter adjustment control in use and alternatively includes on the label required in § 86.1606 a statement to the effect that the labeled vehicle can be adjusted but that adjustment to other

than manufacturer specification may be considered violation of Federal law.

(b) If the Administrator determines that the altitude performance adjustment instructions cannot be approved, the Administrator shall notify the manufacturer in writing of the disapproval. This notification shall explain the reasons for the disapproval.

(1) Within 20 working days of the date of a notification of disapproval, the manufacturer may file a written appeal to the Administrator. The Administrator may allow additional oral or written testimony prior to rendering a final decision.

(2) If the manufacturer files no appeal with the Administrator, the disapproval becomes final.

(3) Within 30 days following the Administrator's final decision of disapproval, the manufacturer must submit new altitude performance adjustment instructions applying to all of the vehicles for which the disapproved instructions applied. If these new instructions are not submitted within 30 days, EPA may take action under sections 203(a)(3) and 205 of the Act. If the new altitude performance adjustment instructions are disapproved by the Administrator, the manufacturer may follow the appeal procedures under paragraphs (b)(1) and (b)(2) of this section.

(c) If the Administrator makes a final decision to disapprove the new instructions, EPA may take action under sections 203(a)(3) and 205 of the Act.

### § 86.1605 Information to be submitted.

(a) Manufacturers shall submit to the Administrator the text of the altitude performance adjustment instructions to be provided to vehicle owners and service establishments. Each set of altitude performance adjustment instructions must set forth the adjustment procedure (including the installation of the label required by § 86.1606) to be followed and identify the vehicles for which the instructions are applicable. At a minimum, each set of instructions shall identify the vehicle applicability by manufacturer, car line, model year, engine displacement, engine family, and exhaust emission control systems. Manufacturers may specify vehicle applicability in greater detail if necessary, but such specifications must