

date of any oral presentation regarding the certification, whichever occurs second.

(2) A copy of the decision shall be sent to all identified interested parties.

(3) Within 20 days of receipt of a decision made pursuant to this subsection, any party may file a written appeal to the Office Director. The Office Director may, in his or her discretion, allow additional oral or written submissions, prior to rendering a final decision. The schedule for such submission shall be in accordance with the schedule specified in § 85.2116(b).

(4) If no party files an appeal with the Office Director within 20 days, then the decision of the MOD Director shall be final.

(5) The Office Director shall make a final decision regarding the certification of a part within 30 working days of receipt of all necessary information by the part manufacturer or from the date of any oral presentation, whichever occurs later.

(6) A copy of all final decisions made under this section shall be published in the FEDERAL REGISTER.

[45 FR 78460, Nov. 25, 1980, as amended at 54 FR 32592, Aug. 8, 1989]

§ 85.2117 Warranty and dispute resolution.

(a) *Warranty.* (1) As a condition of certification, the aftermarket part manufacturer shall warrant that if the certified part is properly installed it will not cause a vehicle to exceed Federal emission requirements as determined by an emission test approved by EPA under section 207(b)(1) of the Act. This aftermarket part warranty shall extend for the remaining performance warranty period of any vehicle on which the part is installed, or for the warranty period specified for an equivalent original equipment component, if this period is shorter than the remaining warranty period of the vehicle.

(2) The aftermarket part manufacturer's minimum obligation under this warranty shall be to reimburse vehicle manufacturers for all reasonable expenses incurred as a result of honoring a valid emission performance warranty claim which arises because of the use of the certified aftermarket part.

(3) The procedure used to process a certified aftermarket part warranty claim is as follows. The time requirements are in units of calendar days.

(i) The vehicle manufacturer shall submit, by certified mail or another method by which date of receipt can be established, a bill for reasonable expenses incurred to the part manufacturer for reimbursement. Accompanying the bill shall be a letter to the part manufacturer with an explanation of how the certified part caused the failure and a copy of the warranty repair order or receipt establishing the date that the performance repair was initiated by the vehicle owner.

(ii) The parts retained pursuant to § 85.2107(c)(1) shall be retained until the reimbursement process is resolved. The vehicle manufacturer shall store these parts or transfer these parts to the involved certified part manufacturer for storage. If the vehicle manufacturer transfers these parts to the certified part manufacturer, the part manufacturer shall retain these parts:

(A) For at least one year from the date of repair involving these parts, if the part manufacturer does not receive a bill from the vehicle manufacturer within that time period, or

(B) Until the claim reimbursement process has been resolved, if the part manufacturer receives a bill from the vehicle manufacturer within one year of the date of repair involving these parts.

(iii) If the vehicle manufacturer transfers the parts retained pursuant to paragraph (a)(3)(ii) of this section to the part manufacturer, a bill shall be submitted to the part manufacturer within one year of the date of initiation of the actual repair by the vehicle owner. If this requirement is not met, the vehicle manufacturer shall forfeit all rights to the reimbursement provisions provided in this regulation.

(iv) Storage costs are not reimbursable as part of a performance warranty claim.

(b) *Dispute resolution.* (1) The part manufacturer shall respond to the vehicle manufacturer within 30 days of receipt of the bill by paying the claim or requesting a meeting to resolve any disagreement. A meeting shall occur within the next two week period. At

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this meeting the parties shall, in all good faith, attempt to resolve their disagreement. Discussions should be completed within 60 days of receipt of the bill for the warranty claim by the part manufacturer.

(2) If the parties cannot resolve their disagreement within 60 days, either party may file for arbitration. Neither party may file for arbitration within 60 days unless both parties agree to seek arbitration prior to the end of the 60-day period. If, after 60 days, either party files, then both parties shall submit to arbitration.

(3) This arbitration shall be carried out pursuant to the Arbitration Rules contained in appendix II of this subpart which are based on Commercial Arbitration Rules published by the American Arbitration Association, revised and in effect as of September 1, 1988. The Arbitration Rules detail the procedures to be followed by the parties and the arbitrator in resolving disputes under this section. They can be varied only with the agreement of both parties. If either involved manufacturer refuses to participate in the arbitration process, that party is treated as if it had lost the arbitration and is required to pay all reasonable expenses.

(4) Any party losing the arbitration has the right to resort to an appropriate federal district court or state court, subject to the established rules of that court regarding subject matter jurisdiction and personal jurisdiction.

(5) If the vehicle manufacturer wins the arbitration, the part manufacturer must provide reimbursement in accordance with the arbitrator's award and decision. Such reimbursement must be made within 30 days of the award and decision.

(6)(i) If the part manufacturer refuses to pay a lost arbitration award, the involved part will be decertified pursuant to 40 CFR 85.2121, provided that if the part manufacturer resorts to a court of competent jurisdiction, decertification will be withheld pending the outcome of such judicial determination.

(ii) In addition, under these circumstances, the vehicle manufacturer has the right to bring an enforcement action on the arbitration award and decision in the appropriate federal district court or state court, subject to

the established rules of that court regarding subject matter jurisdiction and personal jurisdiction. If this court agrees with the arbitrator's award and decision, reimbursement shall be made within 30 days of the court's decision unless the court orders otherwise.

[54 FR 32592, Aug. 8, 1989]

§ 85.2118 Changes after certification.

The aftermarket part manufacturer shall be required to recertify any part which:

(a) Was certified pursuant to § 85.2114(b) and to which modifications are subsequently made which could affect the results of any test or judgment made that the part meets all of the applicable Emission-Critical Parameters;

(b) Was certified pursuant to § 85.2114(c) and to which modifications are made which are likely to affect emissions or the capability of the part to meet any other requirement of this subpart; or

(c) Was certified and is subsequently modified in a manner affecting the durability of the part or any emission control device, engine or the vehicle upon which such part is installed.

[45 FR 78461, Nov. 25, 1980, as amended at 54 FR 32593, Aug. 8, 1989]

§ 85.2119 Labeling requirements.

(a) Except as specified in paragraph (b) of this section, each part certified pursuant to these regulations shall have "Certified to EPA Standards" and the name of the aftermarket part manufacturer or other party designated to determine the validity of warranty claims placed on the part. The name of the aftermarket part manufacturer or other party and the statement, "Certified to EPA Standards," must be made durable and readable for at least the useful life mileage interval of the part.

(b) In lieu of the name of the aftermarket part manufacturer or other party and "Certified to EPA Standards," the part may contain unique identification markings. A description of the marking and statement that such marking is intended in lieu of the name of the aftermarket part manufacturer or other party and "Certified to EPA Standards," shall be