

## Environmental Protection Agency

## § 85.2102

EDITORIAL NOTE: Nomenclature changes affecting subpart V appear at 54 FR 32587, Aug. 8, 1989, and were corrected at 55 FR 25836, June 25, 1990.

### § 85.2101 General applicability.

(a) Sections 85.2101 through 85.2111 are applicable to all 1981 and later model year light-duty vehicles and light-duty trucks.

(b) References in this subpart to engine families and emission control systems shall be deemed to apply to durability groups and test groups as applicable for manufacturers certifying new light-duty vehicles and light-duty trucks under the provisions of 40 CFR part 86, subpart S.

[64 FR 23919, May 4, 1999]

### § 85.2102 Definitions.

(a) As used in §§85.2101 through 85.2111 all terms not defined herein shall have the meaning given them in the Act:

(1) *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.

(2) *Office Director* means the Director for the Office of Mobile Sources—Office of Air and Radiation of the Environmental Protection Agency or other authorized representative of the Office Director.

(3) *Certified Part* means a part certified in accordance with the aftermarket part certification regulations contained in this subpart.

(4) *Emission Performance Warranty* means that warranty given pursuant to this subpart and section 207(b) of the Act.

(5) *Office Director-Approved Emission Test* or *Emission Short Test* means any test prescribed under 40 CFR 85.2201 et seq., and meeting all of the requirements thereunder.

(6) *Model Year* means the manufacturer's annual production period (as determined by the Office Director) which includes January 1 of such calendar year; however, if the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

(7) *Original Equipment Part* means a part present in or on a vehicle at the time the vehicle is sold to the ultimate

purchaser, except for components installed by a dealer which are not manufactured by the vehicle manufacturer or are not installed at the direction of the vehicle manufacturer.

(8) *Owner* means the original purchaser or any subsequent purchaser of a vehicle.

(9) *Owner's Manual* means the instruction booklet normally provided to the purchaser of a vehicle.

(10) *Useful Life* means that period established pursuant to section 202(d) of the Act and regulations promulgated thereunder.

(11) *Vehicle* means a light duty vehicle or a light duty truck.

(12) *Warranty Booklet* means a booklet, separate from the owner's manual, containing all warranties provided with the vehicle.

(13) *Written Instructions for Proper Maintenance and Use* means those maintenance and operation instructions specified in the owner's manual as being necessary to assure compliance of a vehicle with applicable emission standards for the useful life of the vehicle that are:

(i) In accordance with the instructions specified for performance on the manufacturer's prototype vehicle used in certification (including those specified for vehicles used under special circumstances), and

(ii) In compliance with the requirements of 40 CFR 86.094-38 or 86.1808-01 (as appropriate for the applicable model year vehicle/engine classification); and

(iii) In compliance with any other regulations promulgated by the Office Director governing maintenance and use instructions.

(14) *Emission Related Parts* means those parts installed for the specific purpose of controlling emissions or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance.

(15) *Objective Evidence* of an emission related repair means all diagnostic information and data, the actual parts replaced during repair, and any other information directly used to support a warranty claim, or to support denial of such a claim.

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(16) *Valid Emission Performance Warranty Claim* means a claim in which there is no evidence that the vehicle had not been properly maintained and operated in accordance with manufacturer instructions, the vehicle failed to conform to applicable emission standards as measured by an Office Director-approved type of emission warranty test during its useful life and the owner is subject to sanction as a result of the test failure.

(17) *Reasonable Expense* means any expense incurred due to repair of a warranty failure caused by a non-original equipment certified part, including, but not limited to, all charges in any expense categories that would be considered payable by the involved vehicle manufacturer to its authorized dealer under a similar warranty situation where an original equipment part was the cause of the failure. Included in "reasonable expense" are any additional costs incurred specifically due to the processing of a claim involving a certified aftermarket part or parts as covered in these regulations. The direct parts and labor expenses of carrying out repairs is immediately chargeable to the part manufacturer. All charges beyond the actual parts and labor repair expenses must be amortized over the number of claims and/or over a number of years in a manner that would be considered consistent with generally accepted accounting principles. These expense categories shall include but are not limited to the cost of labor, materials, record keeping, special handling, and billing as a result of replacement of a certified aftermarket part.

(18) *MOD Director* means Director of Manufacturers Operations Division, Office of Mobile Sources—Office of Air and Radiation of the Environmental Protection Agency.

[45 FR 34839, May 22, 1980, as amended at 54 FR 32587, Aug. 8, 1989; 64 FR 23919, May 4, 1999]

§ 85.2103 Emission performance warranty.

(a) The manufacturer of each vehicle to which this subpart applies shall warrant in writing that if:

(1) The vehicle is maintained and operated in accordance with the written

instructions for proper maintenance and use and

(2) The vehicle fails to conform at any time during its useful life to the applicable emission standards or family emission limits as determined by an EPA-approved emission test, and

(3) Such nonconformity results or will result in the vehicle owner having to bear any penalty or other sanction (including the denial of the right to use the vehicle) under local, State or Federal law, then the manufacturer shall remedy the nonconformity at no cost to the owner; *except that*, if the vehicle has been in operation for more than 24 months or 24,000 miles, the manufacturer shall be required to remedy only those nonconformities resulting from the failure of components which have been installed in or on the vehicle for the sole or primary purpose of reducing vehicle emissions and that were not in general use prior to model year 1968.

(b) The warranty period shall begin on the date the vehicle is delivered to its ultimate purchaser, or if the vehicle is first placed in service as a "demonstrator" or "company" car prior to delivery, on the date it is first placed in service.

[45 FR 34839, May 22, 1980, as amended at 54 FR 32587, Aug. 8, 1989]

§ 85.2104 Owners' compliance with instructions for proper maintenance and use.

(a) An emission performance warranty claim may be denied on the basis of noncompliance by a vehicle owner with the written instructions for proper maintenance and use.

(b) When determining whether an owner has complied with the written instructions for proper maintenance and use, a vehicle manufacturer may require an owner to submit evidence of compliance only with those written maintenance instructions for which the manufacturer has an objective reason for believing:

(1) Were not performed; and

(2) If not performed could be the cause of the particular vehicle's exceeding applicable emission standards.

(c) Evidence of compliance with a maintenance instruction may consist of: