§ 85.2103 Emission performance warranty.

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

(1) The vehicle is maintained and operated in accordance with the written instructions for proper maintenance and use;

(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]
§ 85.2105 Aftermarket parts.

(a) No valid emission performance warranty claim shall be denied on the basis of the use of a properly installed certified aftermarket part in the maintenance or repair of a vehicle. A vehicle manufacturer that honors a valid emission performance warranty claim involving a certified aftermarket part may seek reimbursement for reasonable expenses incurred in honoring the claim by following the warranty claim procedures listed in § 85.2107(c).

(b) Except as provided in § 85.2104(h), a vehicle manufacturer may deny an emission performance warranty claim on the basis of an uncertified aftermarket part used in the maintenance or repair of a vehicle if the vehicle manufacturer can demonstrate that the vehicle’s failure to meet emission standards was caused by use of the uncertified part. A warranty claim may be denied if the vehicle manufacturer submits a written document to the vehicle owner that the vehicle owner is unable or unwilling to refute. The document must:

(1) Establish a causal connection between the emissions short test failure and use of the uncertified part, and,
(2) Assert that:

(1) Warranty work or predelivery service performed by any facility authorized by the vehicle manufacturer to perform such work or service;
(2) Work performed in an emergency situation to rectify an unsafe condition, including an unsafe driveability condition, attributable to the manufacturer, provided the vehicle owner has taken steps to put the vehicle back in a conforming condition in a timely manner; or
(3) The use of any uncertified part or non-compliance with any written instruction for proper maintenance and use which is not relevant to the reason that the vehicle failed to comply with applicable emission standards; or
(4) Any cause attributable to the vehicle manufacturer; or
(5) The use of any fuel which is commonly available in the geographical area in which the vehicle or engine is located, unless the written instructions for proper maintenance and use specify that the use of that fuel would adversely affect the emission control devices and systems of the vehicle, and there is commonly available information for the owner to identify the proper fuel to be used.

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