

## § 85.2120

## 40 CFR Ch. I (7-1-24 Edition)

(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 made to the Agency in the notification of intent to certify. The unique symbol shall not be used on any uncertified or decertified part built or assembled after the date of decertification.

(c) The package in which the certified aftermarket part is contained must have the following information conspicuously placed thereon:

(1) The statement “Certified by (name of manufacturer or warranter) to EPA Emission Standards”;

(2) A list of the vehicles or engines (in accordance with § 85.2115(a)(1)(ii)) for which the part has been certified;

(3) A statement of the maintenance or replacement interval for which the part has been certified, if the interval is of a shorter duration than the interval specified in the written instructions for proper maintenance and use for the original equipment;

(4) A description of the maintenance necessary to be performed on the part in the proper maintenance and use of the part, if such maintenance is in addition to or different from that maintenance necessary on the original equipment part, and

(5) The instructions for proper installation if different from the vehicle manufacturer’s recommended installation instruction for that part.

(d) The information required by paragraphs (c)(4) and (5) of this section may be provided on a written insert with the certified aftermarket part if the insert also contains the information required in paragraphs (c) (1), (2) and (3) of this section.

(e) The information required by paragraph (c)(2) of this section may be provided in a catalog rather than on the package or on an insert: *Provided*, That access to the catalog is readily available to purchasers and installers of the part.

(f) When an aftermarket part manufacturer desires to certify existing in-

service stocks of its products, it may do so provided:

(1) The part does not differ in any operational or durability characteristic from the aftermarket parts specified in the notification made pursuant to § 85.2115, and

(2) A supplemental information sheet is made available to all parties selling the part.

(i) The supplemental sheet shall be made available in sufficient quantities so that it can be provided with all parts sold as certified, and

(ii) The supplemental sheet shall contain all of the information specified in paragraph (c) of this section.

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

### § 85.2120 Maintenance and submittal of records.

(a) For each certified aftermarket part, the aftermarket part manufacturer must establish, maintain and retain for 5 years the following adequately organized and indexed records:

(1) Detailed production drawings showing all dimensions, tolerances, performance requirements and material specifications and any other information necessary to completely describe the part;

(2) A description of the testing program, including all production part sampling techniques used to verify compliance of the certified aftermarket part with the applicable Emission-Critical Parameters and durability requirements;

(3) All data obtained during testing of the part and subsequent analyses based on that data, including the mileage and the vehicle or engine configuration determinants if emission testing is utilized as the basis for certification;

(4) All information used in determining those vehicles for which the part is represented as being equivalent from an emissions standpoint to the original equipment part;

(5) A description of the quality control plan used to monitor production and assure compliance of the part with the applicable certification requirements;

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(6) All data taken in implementing the quality control plan, and any subsequent analyses of that data;

(7) A description of all the methodology, analysis, testing and/or sampling techniques used to ascertain the emission critical parameter specifications of the original equipment part; and

(8) All in-service data, analyses performed by the manufacturer and correspondence with vendors, distributors, consumers, retail outlets or vehicle manufacturers regarding any design, production or in-service problems associated with 25 or more of any certified part.

(b) The records required to be maintained in paragraph (a) of this section shall be made available to the Agency upon the written request of the MOD Director.

(c) For parts certified only for vehicles with less than 5 years of emission performance warranty coverage remaining, records must be kept for 3 years or until they determine that approximately 80% of the applicable vehicles are outside the warranty period, whichever occurs second.

(d) This section shall expire 5 years from the effective date of this regulation unless renewed prior to that date.

[45 FR 78461, Nov. 25, 1980]

### § 85.2121 Decertification.

(a) The MOD Director may notify an aftermarket part manufacturer that the Agency has made a preliminary determination that one or more parts should be decertified.

(1) Such a preliminary determination may be made if there is reason to believe that the part manufactured has failed to comply with §§ 85.2112 through 85.2122. Information upon which such a determination will be made includes but is not limited to the following.

(i) Tests required to be performed to demonstrate compliance of the part with the applicable Emission-Critical Parameters

(A) Were not performed on the part(s), or

(B) Were insufficient to demonstrate compliance;

(ii) The part was certified on the basis of emission tests, and

(A) The procedures used in such tests were not in substantial compliance with a portion or portions of the Federal Test Procedure which were not waived pursuant to § 85.2114(d);

(B) The emission results were not in compliance with the requirements of § 85.2114(d); or

(C) The procedures used for part aging for durability demonstration were not in substantial compliance with the durability cycle required by § 85.2114.

(iii) Use of the certified part is causing vehicle emissions to exceed emission requirements for any regulated pollutant;

(iv) Use of the certified part causes or contributes to an unreasonable risk to public health, welfare or safety or severely degrades drivability operation or function;

(v) The part has been modified in a manner requiring recertification pursuant to § 85.2118; or

(vi) The manufacturer of such parts has not established, maintained or retained the records required pursuant to § 85.2120 or fails to make the records available to the MOD Director upon written request pursuant to § 85.2120.

(vii) Documentation required to support the type of durability demonstration used for a part under § 85.2114:

(A) Were not submitted for the part, or

(B) Were insufficient to justify a claim of durability exemption status.

(viii) The aftermarket part manufacturer failed to pay a lost arbitration settlement within 30 days of the arbitrator's decision or within 30 days after completion of judicial review, if any.

(2) Notice of a preliminary determination to decertify shall contain:

(i) A description of the noncomplying part(s);

(ii) The basis for the MOD Director's preliminary decision; and

(iii) The date by which the manufacturer must

(A) Terminate the sale of the part as a certified part, or

(B) Make the necessary change (if so recommended by the Agency), and

(C) Request an opportunity in writing to dispute the allegations of the preliminary decertification.