



FACT SHEET

Clean Air Act Vehicle Aftermarket Defeat Devices and Tampering March 2019

REGION 7: Iowa, Kansas, Missouri, Nebraska and Nine Tribal Nations

INTRODUCTION

The U.S. Environmental Protection Agency (EPA) Region 7 is providing the following information to the regulated community regarding the vehicle tampering provisions of the Clean Air Act (CAA).

BACKGROUND

In creating the CAA, Congress found, in part, that “the increasing use of motor vehicles...has resulted in mounting dangers to the public health and welfare.”¹ Congress’ purpose in creating the CAA, in part, was “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population...”² As an element of these protections, the CAA prohibits tampering with or defeating emission controls on EPA-certified vehicles.

DEFEAT DEVICES AND TAMPERING

The CAA makes it a violation “for any person to manufacture or sell, or offer to sell, or install, any part or component intended...where a principal effect...is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle...”³ The Act also has a companion anti-tampering provision that prohibits any person to “knowingly remove or render inoperative any device or element installed on or in a motor vehicle or motor vehicle engine” after sale of the vehicle to the consumer.⁴

AIR QUALITY AND PUBLIC HEALTH

EPA testing demonstrates that vehicles equipped with emission control defeat devices can produce significantly more emissions than compliant vehicles. The amount of emissions depends on the device and the extent of the work done on the vehicle.

Removing emission controls from vehicles presents a threat to public health. Increased emissions are linked to:

- Premature death in people with heart or lung disease
- Nonfatal heart attacks
- Irregular heartbeat
- Aggravated asthma
- Decreased lung function
- Increased respiratory symptoms, such as irritation of the airways, coughing or difficulty breathing

AFTERMARKET PARTS AND SERVICE

As a matter of enforcement discretion, the EPA is concerned with the sale and use of aftermarket parts **that increase emissions**. The EPA generally takes no enforcement for the sale and use of aftermarket parts **if** the person can demonstrate a reasonable basis for knowing that such use will not adversely affect emissions performance. One may prove a reasonable basis in one of the following ways:

¹ CAA § 101(a)(2), 42 U.S.C. § 7401(a)(2)

² CAA § 101(b)(1)-(2), 42 U.S.C. § 7401(b)(1)-(2)

³ CAA § 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B)

⁴ CAA § 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A)

1. The aftermarket part is identical in design and function to the part it is replacing.
2. The vehicle, as modified, meets emissions standards when tested on the same tests as the original vehicle manufacturer used to certify the vehicle with the EPA.
3. By producing an Executive Order from the California Air Resources Board that covers the same device on the same vehicle on which the device is installed.

TO ENSURE COMPLIANCE BEFORE YOU SELL AFTERMARKET PARTS

Have proof that the parts will not increase emissions (for example, emissions test results or an Executive Order from California Resources Board demonstrating no illegal emissions increase for the intended use of the part).

TO ENSURE COMPLIANCE BEFORE YOU INSTALL AFTERMARKET PARTS

Have proof that the vehicle will be returned to its original, stock configuration after installation; or have proof that the parts will not increase emissions.

PENALTY AMOUNTS

Violation of the anti-tampering and defeat device provisions of the CAA may result in fines for manufacturers and dealers up to \$47,357 per violative vehicle or engine. For repair facilities, commercial mechanics, and fleet operators, individuals may be fined up to \$4,735 per violative vehicle or engine; \$4,735 per defeat device.⁵

CRIMINAL PROHIBITIONS

It is a crime to knowingly falsify, tamper with, render inaccurate, or fail to install any “monitoring device or method” required under the CAA.⁶

WARRANTY ISSUES

Tampering can void manufacturer warranties and insurance agreements.

REPORT PROBLEMS

If you suspect someone is manufacturing, selling or installing illegal defeat devices, or is tampering with emissions controls, tell EPA by writing to: tampering@epa.gov

FOR MORE INFORMATION

If you have questions or want to receive further information, please contact:

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⁵ CAA § 205, 42 U.S.C. § 7524; 40 C.F.R. § 19.4.

⁶ CAA § 113(c)(2)(C), 42 U.S.C. § 7413(c)(2)(C)