FACT SHEET

Clean Air Act
Vehicle Aftermarket
Defeat Devices and Tampering

March 2020

U.S. Environmental Protection Agency

INTRODUCTION

The U.S. Environmental Protection Agency (EPA) 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 for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor* vehicle *or motor vehicle engine in compliance with regulations under [Title II of the CAA], and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use*"[3] The CAA also has a companion anti-tampering provision that does not allow 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, EPA is concerned with the sale and use of aftermarket parts *that increase emissions*. EPA generally takes no enforcement for the sale and use of aftermarket parts if the person can demonstrate

[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)

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. 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 EPA.
3. By producing an Executive Order from the California Air Resources Board (CARB) 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 CARB 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 penalties of up to the statutory civil penalties. As of January 13, 2020, the statutory civil penalties are $48,192 per violative vehicle or engine for manufacturers and dealers and $4,819 per violative vehicle or engine or defeat device for any person other than a manufacturer or dealer.[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

Mobile source air enforcement policy, guidance, and publications, such as Memo 1A (1997), which provides guidance on what constitutes a "reasonable basis," and the Exhaust System Repair Guidelines (1991), can be found at https://www.epa.gov/enforcement/air-enforcement-policy-guidance-and-publications#Mobile.

[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)