



May 10, 2022

Pat Huesers
Pam's Auto, Inc.
7505 Ridgewood Road
St. Cloud, MN 56303

NSVRP has reviewed the documentation available from both the U.S. Environmental Protection Agency (EPA), as well as correspondence between PAM's Auto and the EPA over the period of the last 10 years. We have attached many of these documents to this letter as exhibits and believe that our position is well supported by the documentation.

The EPA Federal Rule in 1986¹ reaffirmed its prior position from 1980 that allows for 'certified' catalytic converters but updated the criteria for testing of used converters to meet that standard. These updated standards were incorporated in the final federal rule.

In September 2000 the EPA published an updated document consistent with the 1986 Federal rule titled 'What You Should Know about Using, Installing, or Buying Aftermarket Catalytic Converters'. This guidance document covered two classes of aftermarket converters – new non-OEM aftermarket and used OEM retested converters². The EPA document states that "Re-manufacturers of used converters may only use OE converters and must test each converter on a bench test to show that it is still performing satisfactorily." Specific testing criteria were also included in the Federal Rule and include reporting to the EPA of conduct on a regular basis.

On November 23, 2020 the EPA issued a memorandum reaffirming that the 1986 federal rule guidance is still the current position of the EPA regarding the sale and use of aftermarket catalytic converters. The document explicitly reconfirms the agency support for the use of tested used OEM catalytic converters in making repairs on vehicles³.

Your organization has also provided NSVRP copies of direct correspondence between your company and the EPA starting in 2012 where you engaged with the EPA on setting up your program consistent with the EPA program requirements. We noted that you were given specific directions from the EPA on how to set up your program and for how to report the ongoing results of your program to the EPA and have provided to us copies of transmittal letters and actual reports submitted by your company to the EPA under the directives provided to your company by the EPA in 2012. We have in our possession one of the earliest reports and transmittal letters from January 2013 and a second current reporting and transmittal letter to the EPA covering the 6-month period ending on December 31, 2021. Since the reports are to be filed Semi-annually, these two reports show the activity started shortly after you arranged with the EPA for establishing the testing and marking program under the EPA guidelines and has continued to operate and report to the EPA through the current period.

¹ Federal Register Vol 51, No. 150 Notices FRL-3060-3. Tuesday, August 5, 1986.

² EPA-420-F-00-101 September 2000 (attached).

³ Memorandum issued by the EPA November 23, 2020. EPA Tampering Policy: The EPA Enforcement Policy on Vehicle and Engine Tampering and Aftermarket Defeat Devices under the Clean Air Act (attached). See highlighted pages 2, 6, 7 in attached document.

The National Salvage Vehicle Reporting Program (NSVRP) is a not-for-profit 501 (C) (3). The organization was founded to support law enforcement and to promote and support efforts to advance the National Motor Vehicle Title Information System (NMVTIS). NSVRP's mission is to support initiatives to control auto-theft and title abuse. NSVRP's Board of Directors consists of representatives of major law enforcement groups. The US Department of Justice has applauded NSVRP for developing reporting standards for NMVTIS reporting and has strongly encouraged the operator to adopt these standards as suggested voluntary compliance standards. NSVRP has been recognized both by the Department of Justice and the FBI for 'Exceptional Service in the Public Interest' for its public policy efforts.

80 Urban Street, Stamford, Connecticut 06905-3965
Phone: (203) 975-9889 Fax: (203) 975-9864 administrator@nsvrp.org



Based upon or review of your records and the EPA documentation and correspondence, NSVRP agrees that the program is consistent with the EPA policy, and that except in states that operate under current CARB rules which presently are more restrictive than the Federal rules, that these converters are accepted by the EPA for use in EPA compliant repairs, and that your operation is recognized by the EPA as having been established under its guidance rules, and that the EPA is aware that you are operating and reporting to the EPA on your program consistent with their rules. In order to maintain our impartiality, NSVRP will not accept any payments directly from your business, nor will we accept any revenues resulting from the testing or sale of catalytic converters from your program.

As a result of our analysis, NSVRP is agreeing to oversee an anti-catalytic converter theft marking and registration program that will pre-approve recyclers for being qualified to participate in a catalytic converter marking and testing pilot program to make available pre-vetted parties to submit non-stolen converters for testing, marking and registration in a law enforcement anti-theft database and program to help reduce the costs for replacement of stolen or defective converters with EPA compliant used converters in making more cost effective repairs.

The program will confirm in advance that the participants are known and pre-qualified parties who are known, long term licensed businesses and are operating from a verified fixed location consistent with handling and processing vehicles in an environmentally secure fashion, and who regularly report their acquisitions into the National Motor Vehicle Title Information System and also comply with other agency requirements. Furthermore, before any converter can be accepted for testing, NSVRP will confirm that for each converter submitted, that the VIN for each donor vehicle has been reported into NMVTIS as acquired by that specific business and that the vehicle has not been identified as an active stolen vehicle. Only after each catalytic converter has been cleared by NSVRP will your business be allowed to include the converter in this program.

After being tested, if the converter passes the EPA required testing you will mark the converter with the EPA required labeling, and then also mark the converter with the special anti-theft non-removable serial number labeling and register the converter in the law enforcement anti-theft database before making it available for sale.

Once marked, labeled and registered into the law enforcement database the converter will be available for shipping out for use in a cost effective repair.

Howard Nusbaum, Administrator
National Salvage Vehicle Reporting Program

attachments

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Attachments

EPA Memorandum November 23, 2020 reconfirming use of retested used OEM Catalytic Converters for emissions repairs.

EPA September 2000 guidance on the use of retested used OEM catalytic converters in emissions repairs.

EPA Federal Rule August 1986 regarding the sale and use of aftermarket catalytic converters in in emissions repairs

Correspondence between the EPA and PAM's Auto prior to setting up the EPA compliant testing program

Initial semi-annual reporting of catalytic converter testing program by PAM's Auto to the EPA as established by protocols communicated to PAM's Auto by the EPA (for 6 months ending December 31, 2012)

Most recent semi-annual reporting of catalytic converter testing program by PAM's Auto to the EPA as established by protocols communicated to PAM's Auto by the EPA (for 6 months ending December 31, 2021)

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EPA 2020 memorandum reaffirming 1986 policy on use of retested OEM used catalytic converters in making emissions repairs on vehicles. (See highlighted sections on pages 2, 6, 7 of this memorandum)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

November 23, 2020

MEMORANDUM

SUBJECT: EPA Tampering Policy: The EPA Enforcement Policy on Vehicle and Engine Tampering and Aftermarket Defeat Devices under the Clean Air Act

FROM: Susan Parker Bodine

SUSAN
BODINE

Digitally signed by
SUSAN BODINE
Date: 2020.11.23
11:51:25 -05'00'

This policy concerns the civil enforcement of the Clean Air Act's (Act or CAA) prohibitions on tampering and aftermarket defeat devices. The EPA's goal in issuing this Policy is to ensure we achieve the human and environmental health protections Congress intended by enforcing these prohibitions while not unduly restraining commerce in the aftermarket sales and service industry. The EPA reaffirms its longstanding practice of using enforcement discretion not to pursue conduct that could potentially constitute a violation of the Clean Air Act if the person engaging in that conduct has a documented, reasonable basis to conclude that the conduct does not adversely affect emissions. *See* Mobile Source Enforcement Memorandum 1A (June 25, 1974). The EPA evaluates each case independently, and the absence of such a documented reasonable basis does not in and of itself constitute a violation.

This Policy supersedes and replaces the following: Mobile Source Enforcement Memorandum 1A (June 25, 1974); Exhaust System Repair Guidelines (March 13, 1991); Engine Switching Fact Sheet (March 13, 1991). These former statements of EPA policy, addenda to them, and all statements restating or interpreting them, no longer apply. The EPA has undergone reorganizations since the issuance of these former statements, but each was issued by an office of the EPA that was responsible for (among other things) the civil enforcement of the prohibitions on tampering and aftermarket defeat devices. Based on this history, and in consultation with the EPA's Office of Transportation and Air Quality, this Tampering Policy is issued by the Office of Enforcement and Compliance Assurance.

This Policy is nonbinding and in no way affects the EPA's authority to investigate and enforce compliance with the Act. *E.g.*, CAA §§ 113, 114, 204, 205, 206, 208, 307, 42 U.S.C. §§ 7413, 7414, 7523, 7524, 7525, 7542, 7607. This Policy is not a final agency action. It is direction for EPA personnel regarding the potential investigation and prosecution of civil enforcement actions, and to inform the public. The EPA independently evaluates each case, considers relevant case-specific facts and circumstances, and reserves the discretion to act at variance with this Policy. The EPA also reserves the right to change this Policy at any time. This Policy creates no obligations on regulated parties, but instead describes steps they may take to avoid becoming the subject of an EPA enforcement action.

Questions about this Policy—or tips about conduct that might be illegal activity—may be directed to the EPA's Vehicle and Engine Enforcement Branch. Contact tampering@epa.gov.

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Scope of this Policy

This Policy addresses only potential civil enforcement actions under section 205 of the Act, 42 U.S.C. § 7524, for violations of sections 203(a)(3) or 213(d) of the Act, 42 U.S.C. § 7522(a)(3) and 7547(d), and 40 C.F.R. § 1068.101(b)(1)–(2). Note that state and federal law might apply to actions taken in the course of vehicle maintenance or modification, including the criminal prohibition against tampering with emissions monitoring devices (such as onboard diagnostic systems), in section 113(c)(2)(C) of the Act, 42 U.S.C. § 7413(c)(2)(C).

Section 203(a)(3) of the Act prohibits tampering with emissions controls, and also prohibits making and selling products with a principal effect of bypassing, defeating, or rendering inoperative emissions controls. The prohibitions in section 203(a)(3) apply to all vehicles, engines, and equipment subject to the certification requirements under section 206 of the Act, or other design requirements in the Act or regulations. This includes all motor vehicles (e.g., light-duty vehicles, highway motorcycles, heavy-duty trucks) and motor vehicle engines (e.g., heavy-duty truck engines). Section 213 of the Act and regulations written thereunder apply these prohibitions to nonroad vehicles (e.g., all-terrain vehicles, off-road motorcycles) and nonroad engines (e.g., marine engines, engines used in generators, lawn and garden equipment, agricultural equipment, construction equipment). Certification requirements include those for exhaust or “tailpipe” emissions, evaporative emissions, and onboard diagnostic systems. The prohibitions also apply to those products (e.g., replacement engines under 40 C.F.R. § 1068.240 and products under transition programs like that in 40 C.F.R. § 1039.625) that might be exempt from the Act’s certification requirements but still must have emissions controls and meet standards.

The Act’s prohibitions on tampering and defeat devices apply for the entire life of vehicles, engines, and equipment. They apply regardless of whether the regulatory “useful life” or warranty period has ended.

This Policy does not address vehicles, engines, or equipment that are excluded from the definitions of motor vehicle, motor vehicle engine, nonroad vehicle, and nonroad engine. *See* 40 C.F.R. § 85.1703 (defining “motor vehicle”). For example, this Policy does not address vehicles originally built and used exclusively for competitive motor sports, which are excluded from the Act’s definitions of motor vehicle and nonroad vehicle. Also, this Policy does not address EPA-certified motor vehicles that are converted into a vehicle used solely for competition motorsports, nor aftermarket parts purportedly manufactured or sold for that purpose.

This Policy does not address conduct that is expressly addressed by regulations. This, for example, includes requirements for certification of new vehicles, engines, and equipment (including the regulatory requirements to disclose auxiliary emissions control devices and demonstrate they are not defeat devices), alternative fuel conversions at 40 C.F.R. Part 85, Subpart F, rebuilds pursuant to 40 C.F.R. § 1068.120, and the conversion of nonroad vehicles and nonroad engines for competition use only pursuant to 40 C.F.R. § 1068.235.

If conduct is addressed in a *general* manner by this Policy but that same conduct is addressed in a *specific* manner by a separate EPA enforcement policy, then the specific policy governs. Under such circumstances, if the EPA withdraws the specific policy, then the EPA Tampering Policy will govern. For example, the EPA has a 1986 enforcement policy that specifically addresses replacement catalysts for light-duty gasoline motor vehicles that are beyond their emissions warranty. *Sale and Use of Aftermarket Catalytic Converters*, 51 Fed. Reg. 28,114 and 51 Fed. Reg. 28,132 (Aug. 5, 1986). The EPA Tampering Policy includes provisions that generally address replacement after-treatment systems like catalysts. If the EPA withdraws this 1986 catalyst policy, then the generally applicable provisions of

the EPA Tampering Policy will apply to replacement catalysts for light-duty gasoline motor vehicles that are beyond their emissions warranty.

This Policy does not address remanufacturing a vehicle, engine, or piece of equipment into a “new” product. As with manufacturing from new components, manufacturing a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine from used components is generally subject to the Act’s certification requirements. Generally, the remanufactured vehicle, engine, or equipment must be covered by an EPA certificate of conformity (either its original certificate or a new certificate) or exempted from the certification requirements before being sold, offered for sale, or placed back into service.

This Policy does not address potential violations of section 203(a)(3) by original equipment manufacturers (OEMs).

Lastly, this Policy addresses only the federal Clean Air Act. Many states also have laws prohibiting tampering with in-use vehicles, and some states also prohibit dealers from selling tampered in-use vehicles. In addition, there are state and local inspection programs that require periodic vehicle inspections to determine the integrity of emissions control systems. This Policy does not affect a person’s obligation to comply with such state and local laws.

Aftermarket Defeat Devices and Tampering

Vehicle manufacturers employ a wide variety of elements of design to control emissions. Examples include fueling strategies, ignition timing, exhaust gas recirculation systems, filters, and catalysts. Aftermarket parts with a principal effect of bypassing, defeating, or rendering inoperative any aspect of these elements might be illegal aftermarket defeat devices. The EPA enforces the Act’s prohibitions on tampering and aftermarket defeat devices to prevent air pollution that harms people’s health, especially oxides of nitrogen and particulate matter, and to maintain a level playing field in the aftermarket parts and service industries. The agency generally focuses its civil enforcement efforts on companies that manufacture or sell aftermarket defeat devices, companies that tamper with commercial fleets of vehicles, and service shops that routinely delete emissions control equipment.

All modern motor vehicles and engines, and many nonroad vehicles, engines, and equipment, are equipped with electronic control units (ECUs). ECUs are computers that process user input (like throttle position), the conditions inside and outside the engine and emissions control systems (like atmospheric conditions, engine load, emissions levels), and other information. Based on this information, and according to their programming, ECUs direct the operation of the engine and emissions control systems. OEMs design fuel injection timing—and fueling strategy generally—to be a primary emissions control device and program the ECU accordingly. As described below, ECUs also commonly manage after-treatment systems and onboard diagnostic systems. Products that change an ECU—commonly known as tuners—might be an illegal aftermarket defeat device, the use or installation of which might constitute illegal tampering.

Besides the ECU, OEMs also employ various emissions control equipment. These include exhaust gas recirculation (EGR) systems, which recirculate an engine’s exhaust back through the engine to reduce emissions. This also includes a variety of after-treatment systems (which are commonly managed by software in the ECU) which treat exhaust from the engine in order to reduce the amount of pollution emitted into the ambient air. Such devices include three-way catalysts, diesel oxidation catalysts, diesel particulate filters, and selective catalytic reduction systems. The manufacture, sale, offering for sale, or installation of hardware that modifies such emissions control equipment might be prohibited by the

Clean Air Act. Common examples are products that block EGR systems and hollow “straight” pipes that replace filters or catalyts that belong in the exhaust system.

Any part or component that changes an onboard diagnostic system (OBD system) might be an illegal aftermarket defeat device, the use or installation of which might constitute illegal tampering. OBD systems are critical to ensure vehicles, engines, and equipment continue to meet emissions standards throughout the product’s life. Egregious examples of aftermarket defeat devices are *delete kits* which include replacement exhaust pipes to remove after-treatment systems and tuners that both reprogram engine function and override the OBD system so the tampered vehicle will operate without any “check engine” light or other result from the OBD system.

Legal Context for This Policy

This Policy concerns the enforcement of Part A of Title II of the Act, 42 U.S.C. §§ 7521–7554, and the regulations promulgated thereunder. These laws reduce air pollution from mobile sources. In creating the Act, Congress found, in part, that “the increasing use of motor vehicles . . . has resulted in mounting dangers to the public health and welfare.” CAA § 101(a)(2), 42 U.S.C. § 7401(a)(2). Congress’ purpose in creating the Act, 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.” CAA § 101(b)(1), 42 U.S.C. § 7401(b)(1).

As required by the Act, the EPA has prescribed standards applicable to the emissions of certain air pollutants from nearly every vehicle, engine, and piece of equipment containing an engine that is introduced into United States commerce. Regulated air pollutants from vehicles, engines, and equipment include oxides of nitrogen, hydrocarbons, carbon monoxide, particulate matter, and greenhouse gases. Regulated products include motor vehicles, motor vehicle engines, nonroad vehicles, nonroad engines, and equipment containing nonroad engines.

To ensure that every vehicle, engine, and piece of equipment introduced into United States commerce satisfies the applicable emissions standards, as required by the Act, the EPA administers a certification program. Under this program, the EPA issues certificates of conformity (COCs), and thereby approves these products for introduction into United States commerce. As described above, OEMs employ many elements of design to meet emissions standards, and pursuant to EPA regulations they must describe these elements in their COC applications and actually employ them in their products to maintain compliance.

The Act requires OEMs to provide emission-related warranties for their products. CAA § 207, 42 U.S.C. § 7541. The EPA has specified warranty requirements by regulation.

The Act’s prohibitions against tampering and aftermarket defeat devices are set forth in section 203(a)(3) of the Act, 42 U.S.C. § 7522(a)(3).¹ The Act directs the EPA to enforce emissions standards

¹ **Tampering:** CAA § 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A), 40 C.F.R. § 1068.101(b)(1): “[The following acts and the causing thereof are prohibited–] for any person to remove 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 this subchapter prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser[.]”

for nonroad vehicles and nonroad engines in the same manner as for motor vehicles and motor vehicle engines. CAA § 213(d), 42 U.S.C. § 7547(d). Accordingly, the EPA has issued regulations prohibiting tampering and aftermarket defeat devices for nonroad vehicles and nonroad engines at 40 C.F.R. § 1068.101(b)(1)–(2). Where this Policy refers to the prohibitions in section 203(a)(3) regarding motor vehicles and motor vehicle engines, unless otherwise noted, it also refers to the prohibitions on tampering and aftermarket defeat devices for nonroad vehicles and nonroad engines in 40 C.F.R. § 1068.101(b)(1)–(2).

Section 203(a)(3)(A) prohibits tampering with emissions controls, including those controls that are in the engine (e.g., fuel injection, exhaust gas recirculation), and those controls that are in the exhaust (e.g., filters and catalysts). Section 203(a)(3)(B) prohibits aftermarket defeat devices. This includes hardware (e.g., modified exhaust pipes) and software (e.g., engine tuners and tunes). Oftentimes, aftermarket defeat devices, while sold as a single product, alter numerous emissions-related elements of design. For such aftermarket defeat devices, multiple violations occur when a person manufactures, sells, offers for sale, or installs them.

The EPA may bring enforcement actions for violations of section 203(a)(3) under its administrative authority or by referring matters to the United States Department of Justice. CAA §§ 204, 205, 42 U.S.C. §§ 7523, 7524. Violations are subject to injunctive relief under section 204 of the Act, 42 U.S.C. § 7523. Persons violating section 203(a)(3) are currently subject to a civil penalty of up to \$48,192 (for manufacturers and dealers) or \$4,819 (for individuals) for each act of tampering, and \$4,819 for each aftermarket defeat device. These amounts periodically increase with inflation. 40 C.F.R. § 19.4.

Aftermarket Defeat Devices: CAA § 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), 40 C.F.R. § 1068.101(b)(2): “[The following acts and the causing thereof are prohibited–] 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 this subchapter, 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[.]”

EPA Enforcement Policy Statement on Tampering and Aftermarket Defeat Devices

The EPA typically does not take enforcement action for conduct that might be a violation of section 203(a)(3) of the Clean Air Act if the person engaging in the conduct has a documented “reasonable basis” to conclude that the conduct (or, where the conduct in question is the manufacturing or sale of a part or component, the installation and use of that part or component) does not and will not adversely affect emissions. This Policy Statement does not apply, however, to conduct affecting an OBD system, which may be subject to enforcement regardless of effect on emissions.

The EPA typically considers the documentation of a reasonable basis to be relevant only if that documentation exists at or before the time the conduct that might be a potential violation of section 203(a)(3) occurs (including sale, installation, and service).

When determining whether service performed on an element of an emissions control system was illegal tampering, the EPA typically compares the element after the service to the element’s fully-functioning certified configuration (or, if not certified, the original configuration), rather than to the element’s configuration prior to the service. Where a person is asked to perform service on an element of an emissions control system that has already been tampered with, the EPA will generally take no enforcement action against that person for their subsequent conduct if the person restores the element to its certified configuration or declines to perform the service.

The EPA has identified several ways that a person may document a reasonable basis to conclude their conduct does not adversely affect emissions. The list on the following pages is meant to be illustrative and is not exhaustive. Insofar as this Policy describes a reasonable basis or other consideration partly in terms of specific numbers, test methods, or other criteria, they reflect the EPA’s anticipated judgment in distinguishing between those situations where the EPA would likely investigate further and those situations where the EPA would likely exercise enforcement discretion based on the information available and take no further action. The EPA retains discretion to vary from those criteria. In considering whether to bring an enforcement action under section 203(a)(3), the EPA considers each case independently, taking into account all relevant case-specific facts and circumstances.

- A. **Identical to Certified Configuration:** The EPA will typically find that a person has a reasonable basis for conduct if that conduct:
- (1) is solely for the maintenance, repair, rebuild, or replacement of an emissions-related element of design; and
 - (2) restores that element of design to be identical in all emissions-related respects to the certified configuration (or, if not certified, the original configuration) of the vehicle, engine, or piece of equipment.

Notes on Reasonable Basis A:

- i. The conduct (e.g., maintenance, repair, rebuild, or replacement) should be performed according to instructions from the OEM of the vehicle, engine, or equipment.
- ii. The “certified configuration” of a vehicle, engine, or piece of equipment is the design for which the EPA has issued a certificate of conformity. The “original configuration” means the design of the emissions-related elements of design to which the OEM manufactured the product. The appropriate source for technical information regarding the certified or original configuration of a product is the product’s OEM.
- iii. In the case of a replacement part, the part manufacturer should represent in writing that the replacement part will perform identically with respect to emissions control as the OEM’s part to be replaced, and should make available either: (a) documentation that the replacement part is identical in all emissions-related respects to the replaced part (including engineering drawings or similar showing identical dimensions, materials, and design), or (b) test results that support the representation. Such written representations may be in literature that accompanies the product, or in a publicly available source such as a product catalogue or website.
- iv. In the case of replacement parts, this reasonable basis applies equally to new parts as to used or remanufactured parts.
- v. In the case of engine switching, the person installing an engine into a different vehicle or piece of equipment would have a reasonable basis if they could demonstrate that the resulting vehicle or piece of equipment is: (a) in the same product category (e.g., light-duty vehicle) as the engine originally powered, and (b) identical (with regard to all emissions-related elements of design) to a certified configuration of the same or newer model year as the vehicle chassis or equipment. Alternatively, one may show through emissions testing that there is a reasonable basis for an engine switch under Reasonable Basis D (Emissions Testing), below. Note that there are substantial practical limitations on switching engines. Vehicle chassis and engine designs of one vehicle manufacturer are distinct from those of another, such that it is generally not possible to put an engine into a chassis of a different manufacturer and have it conform to a certified configuration.

- B. Emissions Testing for Replacement After-Treatment Systems for Older Vehicles, Engines, and Equipment:** The EPA will typically find that a person has a reasonable basis for conduct if:
- (1) that conduct involves a replacement after-treatment system, the replacement after-treatment system is used to replace the same kind of system on a vehicle, engine, or piece of equipment, and that replaced system is beyond its emissions warranty; and
 - (2) emissions testing shows that the vehicle, engine, or piece of equipment with the replacement after-treatment system meets or would meet all applicable emissions standards for an amount of time or distance (as applicable) that is equivalent to at least 50% of the regulatory useful life for that category of vehicle, engine, or piece of equipment; and
 - (3) the replacement after-treatment system bears a permanent label stating the name of the manufacturer of the system, the part number or identifier, the date of manufacture, and the suitable applications for the system.

Notes on Reasonable Basis B:

- i. This reasonable basis applies equally to new replacement after-treatment systems as to used or remanufactured replacement after-treatment systems.
- ii. The EPA is unlikely to find that there is a reasonable basis if the system sold, offered for sale, or installed on a vehicle, engine, or piece of equipment is not on a list of applications approved by the after-treatment system manufacturer.
- iii. In demonstrating the durability of a replacement after-treatment system, one may employ accelerated aging techniques and OEM deterioration factors (as specified in the pertinent application for EPA certification) if doing so is consistent with good engineering judgment and is acceptable by the California Air Resources Board for purposes of obtaining an Executive Order for that kind of replacement after-treatment system.
- iv. In screening replacement after-treatment systems for potential investigation or enforcement action, EPA enforcement personnel will typically consider whether the system is covered by a warranty from its manufacturer (in terms of both emissions performance and structural integrity). The EPA generally views a warranty as providing further support for an identified reasonable basis, as described above, if the warranty lasts for a distance (or operating hours, as applicable) equivalent to at least 50% of the useful life of that category of vehicle, engine, or piece of equipment. In the case of replacement after-treatment systems for motor vehicles and motor vehicle engines, the EPA generally views a warranty as providing further support for an identified reasonable basis, as described above, if the warranty lasts at least until whichever of the following occurs first: 2 years (for heavy-duty applications) or 5 years (for light-duty applications), or 50% of the useful life of that category of motor vehicle or motor vehicle engine.

- C. New After-Treatment Systems that Decrease Emissions:** The EPA will typically find that a person has a reasonable basis for conduct if:
- (1) that conduct involves mechanically adding an after-treatment system;
 - (2) the system is added into the exhaust of a vehicle, engine, or piece of equipment;
 - (3) the vehicle, engine, or piece of equipment is EPA-certified as having no such system and originally manufactured without any such system; and
 - (4) any person familiar with emissions control system design and function would reasonably believe adding the system would decrease emissions.

- D. Emissions Testing:** The EPA will typically find that a person has a reasonable basis for conduct if:
- (1) that conduct alters a vehicle, engine, or piece of equipment;
 - (2) emissions testing of an appropriate test vehicle, engine, or piece of equipment that had been identically altered by the conduct shows that the vehicle, engine, or piece of equipment will comply with all applicable regulations including emissions standards for its full useful life; and
 - (3) (where the conduct includes the manufacture, sale, or offering for sale of a part or component) that part or component is marketed as suitable only to those vehicles, engines, or pieces of equipment that are appropriately represented by the tested product.
- E. EPA Certification:** The EPA will typically find that a person has a reasonable basis for conduct that has been certified by the EPA under 40 C.F.R. Part 85 Subpart V (or any other applicable EPA certification or exemption program).

Notes on Reasonable Basis E:

- i. This reasonable basis is subject to the same terms and limitations that the EPA issues with any such certification. E.g., 40 C.F.R. Part 85, Subpart V.
- ii. In the case of an EPA-certified aftermarket part or component, a reasonable basis generally would exist only if: the part or component is manufactured, sold, offered for sale, or installed on the vehicle, engine, or equipment for which the aftermarket part or component is certified; the installation is performed according to manufacturer instructions; the part or component has not been altered or customized; and the part or component remains identical to the EPA-certified part or component.

- F. CARB Exemption:** The EPA will typically find that a person has a reasonable basis for conduct if the emissions-related element of design that is the object of the conduct (or the conduct itself) has been exempted by the California Air Resources Board (CARB).

Notes on Reasonable Basis F:

- i. This reasonable basis is subject to the same terms and limitations that CARB imposes with any such exemption. Generally, the conduct must be legal in California.
- ii. In the case of an aftermarket part or component, the EPA considers exemption from CARB to be relevant even where the exemption for that part or component is no longer in effect due solely to passage of time.
- iii. In the case of a replacement after-treatment system, the EPA considers exemption from CARB to be relevant even where the vehicle, engine, or equipment on which the system is installed is not among the vehicles, engines, or equipment covered by the CARB exemption, provided that the manufacturer of that replacement system, using good engineering judgment, represents that the system will not adversely affect emissions when used on the other vehicles, engines, or equipment (e.g., because as compared to the vehicles, engines, or equipment covered by the CARB exemption the other vehicles, engines, or equipment are certified to an equivalent or less stringent emission tier level, have the same exhaust configuration, and have similar or less demanding physical characteristics including vehicle weight and engine displacement).

General Notes on Emissions Testing:

- i. Where the above-described reasonable bases under the Policy Statement involve emissions testing, unless otherwise noted, the EPA expects that testing to be consistent with the following in order to form a reasonable basis.
- ii. The emissions testing may be performed by someone other than the person engaging in the conduct (such as an aftermarket parts manufacturer), but the person performing the conduct should have all documentation of the reasonable basis at or before the time the conduct occurs. Such documentation may be in literature that accompanies the product, or in a publicly available source such as a product catalogue or website.
- iii. The emissions testing and documentation are generally the same as the testing and documentation required by regulation (e.g., 40 C.F.R. Part 1065) for the purposes of original EPA certification of the vehicle, engine, or equipment at issue. Accelerated aging techniques and in-use testing are acceptable only insofar as they are acceptable for purposes of original EPA certification. One may employ OEM deterioration factors as specified in the pertinent application for EPA certification if doing so is consistent with good engineering judgment.
- iv. The applicable emissions standards are either the emissions standards on the Emissions Control Information Label on the product (such as any stated family emission limit, or FEL), or if there is no such label, the fleet standards for the product category and model year. To select test vehicles or test engines where EPA regulations do not otherwise prescribe how to do so for purposes of original EPA certification of the vehicle, engine, or equipment at issue, one should choose the “worst case” product from among all the products for which the part or component is intended. The appropriate source for worst-case technical information is the product’s OEM.
- v. The EPA expects that the vehicle, engine, or equipment, as altered by the conduct, would perform identically both on and off the test(s), and should have no element of design that is not substantially included in the test(s).

Other Conditions and Notes:

- i. The documentation of the above-described reasonable bases under this Policy Statement must be provided to the EPA upon request, based on the EPA’s authority to require information to determine compliance. CAA § 208, 42 U.S.C. § 7542.
- ii. The EPA will review reasonable bases as set forth in this Policy in the context of an investigation, and does not issue pre-approvals of reasonable bases.
- iii. A reasonable basis consistent with this Policy does not constitute a certification, accreditation, approval, or any other type of endorsement by the EPA (except in cases where an EPA Certification itself constitutes the reasonable basis). No claims of any kind, such as “Approved [or certified] by the Environmental Protection Agency,” may be made on the basis of this Policy. This includes written and oral advertisements and other communication. However, if true on the basis of this Policy, statements such as the following may be made: “Has no adverse effect on emissions, consistent with the EPA Tampering Policy (2019).”

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
AIR AND RADIATION

WHAT YOU SHOULD KNOW ABOUT USING, INSTALLING, OR BUYING AFTERMARKET CATALYTIC CONVERTERS

As of January 1, 1988, all persons engaged in the business of automotive service and repair, as well as other parties named in section 203(a)(3) of the Clean Air Act*, are prohibited from installing or selling aftermarket catalytic converters which have not met the criteria of EPA's interim enforcement policy entitled 'Sale and Use of Aftermarket Catalytic Converters'* (published on August 5, 1986). The installation of non-complying converters by a named party will be considered a violation of section 203(a)(3) of the Clean Air Act, and the violator may be subject to a civil penalty of up to \$25,000 for each improper installation.

EPA's aftermarket converter policy also requires installers to maintain certain records pertaining to the aftermarket converters they install.

This fact sheet has been prepared by the EPA to explain the aftermarket converter policy and to answer questions you are likely to have. If you need any further information about this policy, please call EPA at (202) 564-9240. If you have a complaint about someone who may have violated these requirements, please call (202) 564-1032 or (202) 564-1033.

(1) Why are there special requirements for aftermarket converters?

The catalytic converter is the most important pollution control device on a vehicle. Catalytic converters have been installed on most 1975 and newer passenger cars and light-duty trucks by the manufacturers to reduce exhaust emissions and allow the vehicles to meet Federal standards. The original converters are designed to last the life of properly tuned and maintained vehicles. Some vehicles have not been properly tuned and maintained, however, and their converters have been ruined or even removed. If the vehicle is out of warranty, the price of a new original equipment converter (or set of converters) could cost anywhere from \$300 to \$1,000. Because of this problem and the sometimes scarce availability of the new original equipment converters, EPA believes that less expensive yet still effective aftermarket converters give vehicle owners more incentive to replace their worn-out converters, keeping our air cleaner.

Since the effectiveness of converters depends on their durability, performance, and proper application, EPA has required aftermarket converters to meet certain minimum performance standards while also requiring installers to install the appropriate converters. These requirements make

* The 1990 Amendments to the Clean Air Act expanded this prohibition to "any person" and not just individuals in the service and repair industry.

everyone 'play by the same rules' while maximizing the air quality benefits obtained. The policy contains other warranty, reporting and record keeping requirements which make it possible for EPA to enforce the requirements and ensure that the customers get what they pay for.

(2) When did the requirements take effect?

The policy itself was effective when it was published on August 5, 1986. Converters manufactured or re-manufactured after December 18, 1986, were required to meet the standards imposed by EPA. As of January 1, 1988, only converters meeting the requirements can be sold and installed.

(3) How do aftermarket converters differ?

There are two categories of aftermarket converters: new and used. New universal converters usually cover a wide variety of vehicles within certain limits. Used converters are usually "reconditioned" OE converters, and can only be installed on the type of vehicle or vehicles for which they were originally intended. New converters are required to have warranties, but used converters are not.

Both new and used converters can be one of 3 general types: oxidation converters, three-way converters, and three-way-plus-oxidation converters. Oxidation converters are the early generation of converters that were designed to reduce hydrocarbons (HC) and carbon monoxide (CO). Oxidation converters usually contain platinum and/or palladium. In 1980 or 1981 (earlier on some California vehicles) most vehicle manufacturers began using converters which were designed to reduce nitrogen oxides (NOx) in addition to HC and CO. Along with these converters, computer control systems and oxygen sensors were also usually employed to precisely control the air to fuel (A/F) ratio and mixture controls. These converters are referred to as three-way converters (TWC) and usually contain the additional noble metal rhodium.

Some converters have a three-way and an oxidation catalyst together in one housing or "can" and are called three-way-plus-oxidation (TW + OC) or dual-bed converters. These converters have air injected between the two sections to help the two different chemical reactions occur. (Three-way catalysts require a slightly richer mixture while the oxidation converter requires a lean-mixture, hence air is injected after the three-way "bed" and before the oxidation "bed".)

It is important to install the correct converter type for it to operate effectively and not adversely affect the performance of the vehicle or its emission control systems.

(4) How can I tell if an aftermarket converter meets EPA requirements?

Any converter which meets EPA requirements must be properly labeled and warranted to meet Federal durability and performance standards. New aftermarket converters are required to have a 5 year/50,000 mile warranty on the converter shell and end pipes. They are also required to

be warranted to meet EPA's emission performance standards for 25,000 miles when the vehicle is properly used and maintained. Used converters are only required to meet the performance requirements at the time of sale; no additional warranty is required. All manufacturers who meet the requirements also must state that fact in writing. Usually this is stated in the warranty information or application catalog.

Required labels on the converters will have a series of letters and numbers and be in the following format:

N/XX/YYYY/ZZZZ for new ones
U/XX/YYYY/ZZZZ for used

where N - indicates a new converter

U - indicates a used converter

XX - is the manufacturer's code issued by EPA

YYYY - is usually a numerical designation of the vehicle application or part number

ZZZZ - is the month and year of manufacture (i.e., "0187" for January 1987)

Note: Converters manufactured for sale in California may have the letters "CA" in place of the "N" or "U". Since California standards are more stringent than EPA's, these converters will also meet EPA requirements.

Many of the trade publications will also carry information about which companies have converters which meet EPA requirements. If you're not sure, you can call EPA at the number listed earlier.

(5) What about using converters from salvage yards or junked cars?

EPA considers it a violation of the policy to install a used converter from a salvage yard or sell it for reuse **unless it has been properly tested and labeled**. Similarly, it is a violation to install an untested used converter brought in *by* a customer, even if the customer insists that the used converter came off his/her vehicle.

Salvage or junk yards also would be considered liable for causing tampering **if they sell converters that have not been tested or do not meet the requirements outlined in the policy** and if the converters are subsequently installed by parties named in the Clean Air Act as prohibited from tampering.

(6) When can I install an aftermarket converter?

Generally, there are only 3 situations when you can install an aftermarket converter. They are:

- (1) if the converter is missing from the vehicle when brought in for exhaust system repair; or
- (2) if a State or local inspection program has determined the existing converter has been lead poisoned, damaged, or otherwise needs replacement; or
- (3) if the vehicle is more than 5 years old or has more than 50,000 miles* (8 years/80,000 miles for 1995 and newer vehicles) and a legitimate need for replacement has been established and appropriately documented (e.g., a plugged converter or unrepairable exhaust leaks).

Any other converter replacement **must be with a 'certified' or new original equipment (OE) or equivalent converter.**

Aftermarket converters subject to the enforcement policy requirements cannot be used for replacement if:

- (1) the existing converter is present and functioning properly; or
- (2) the replacement is under recall or warranty; or
- (3) the vehicle is returning from overseas use.

(7) In general, what are the requirements for manufacturers?

Manufacturers of new converters are required to run two worst-case vehicles with their converters installed for 25,000 miles each and then conduct testing. The testing must show that the converters will meet certain performance levels for reduction of emissions.

Re-manufacturers of used converters may only use OE converters and must test each converter on a bench test to show that it is still performing satisfactorily.

Both new and used converter manufacturers must comply with certain record keeping and reporting requirements. They must also have a system to notify installers of the requirements and

* (Vehicles with less age or mileage may be entitled to **free** repairs by the vehicle manufacturer under the emissions warranty if the original converter was defective.)

restrictions which apply. Manufacturers of new converters are also required to provide a warranty on the converter shell and end pipes for 5 years or 50,000 miles, whichever comes first, and for 25,000 miles on converter emission performance.

All converters are required to be labeled as previously outlined.

(8) What are the requirements for installers?

Besides installing aftermarket converters only in the 3 situations outlined in response to question (6), other requirements and restrictions also apply. These include completely documenting the need for converter replacement, properly installing the correct one on the vehicle, and informing the customer of his rights and certain restrictions.

Specifically, these requirements are as follows:

- (1) If the replacement is not required by a State or local program, both customer and installer must sign a statement concerning why the converter was replaced. (Manufacturers either provide such a statement with the converter or have an example in their catalogs.)
- (2) If the replacement is required by a State or local program, the installer must keep a copy of the statement or order by the program representative.
- (3) The invoice for replacement must include the customer's name and complete address, and the vehicle's make, model year, and mileage, as well as the reason for replacement.
- (4) Retain copies of the above invoices and statements for 6 months and the replaced converters for 15 days (converters must be identified or marked as to which customer's car they came from).
- (5) Install the converter in the same location as the original.
- (6) Install the same type of converter as the original (oxidation, 3-way, or 3-way-plus-oxidation (dual-bed)). This information is sometimes available on the emission tune-up label or from the manufacturer's application catalog.
- (7) Install the proper converter for the vehicle as determined and specified by the converter manufacturer. There are engine size and vehicle weight limitations which make it inappropriate to install certain converters on certain vehicles. Newer vehicles with On-Board Diagnostic (OBD) systems may not always operate properly with certain aftermarket products. Therefore, the catalog should always be consulted for the correct application.

- (8) The converter must always be properly connected to any existing air injection components.
- (9) Install all the other required converters the vehicle would have originally come with unless the converter manufacturer has stated in writing that the aftermarket converter is designed to replace more than one converter.
- (10) For new aftermarket converters, the installer must fill out the warranty information card supplied by the manufacturer and give it to the vehicle owner or operator.

- (9) What should customers know about buying converters for their cars?

First and most importantly, the original converter on a car or truck was designed to last the life of the vehicle if it is properly used and maintained, and is warranted by the vehicle manufacturer to last for at least 5 years or 50,000 miles (8 years or 80,000 miles on 1995 and newer cars and trucks), whichever comes first. See the vehicle warranty booklet for more information.

An original equipment converter is designed as an integral part of the vehicle's emission and engine system to achieve the lowest possible emissions and optimal performance. New aftermarket converters are generally designed to be installed on a wide range of vehicles so that the backpressure changes created by the converters may, in some cases, adversely affect vehicle and engine performance. Used converters are not required to have a warranty, and their performance and remaining life is dependent on their prior use history. In general, aftermarket converters are not designed to perform as well as the converter(s) originally on the vehicle. Aftermarket converters, however, will usually provide acceptable performance at a lower cost.

Because of the effects of backpressure and heat created during operation and the effectiveness and compatibility of some emission systems with certain converters, it is important to make sure that the converter installed is the proper one for a customer's car or truck. Every installer should have access to and check the application catalog which describes the vehicles each converter can be installed on.

Next to installing the proper converter, probably the best way to keep the converter operating properly and under warranty is to make sure the vehicle is properly tuned. A properly tuned and operated vehicle is critical for a long converter life. Otherwise, you may ruin the converter, void your warranty, and possibly cause engine damage along with higher emissions.

- (10) How do I determine the correct converter for a car or truck?

Remember, as discussed above, that converters can be one of three general types. The applications catalog from the converter manufacturer should be checked to determine the proper converter for the vehicle. Keep in mind that particularly large vehicles and engines may not be covered by most manufacturers. Newer vehicles may not work properly with some aftermarket

converters. After you have determined the correct type of converter for the vehicle, the engine size and vehicle weight limitations must be considered. If the converter was not designed to cover a large enough vehicle or engine, the converter may be destroyed or cause vehicle engine problems along with voiding the converter warranty and violating Federal law.

(11) What may happen if I don't use the correct converter?

First, it is a violation of Federal law because it is likely to increase the amount of pollution coming out of the vehicle. Penalties for violations by individuals, service or repair shops or fleet operators are up to \$2,500 per violation. (Each improper installation is considered a violation.) New car dealers can be penalized up to \$25,000 per violation. Any person who causes a violation could be subject to the same penalty as the installer.

Vehicle performance can also be affected by the use of the wrong converter and, in some severe cases, converter or engine overheating could occur, resulting in unsafe operation and possibly engine damage. The conditions or even simply the use of the wrong part on a vehicle may allow the converter manufacturer to not honor the 25,000 mile of the 5 year/50,000 mile warranty,

9/00

requirements of Section 3 of the Executive Order 12291.

List of Subjects in 40 CFR Part 65

Air pollution control.

Authority: 42 U.S.C. 7413, 7601.

Dated: July 24, 1986.

James M. Seif,

Regional Administrator, Region III.

[FR Doc. 86-17560 Filed 8-4-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 85

[FRL-2974-4]

Sale and Use of Aftermarket Catalytic Converters

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed enforcement policy.

SUMMARY: This action announces a proposed enforcement policy regarding the sale and use of replacement catalytic converters ("converters") for motor vehicles. The installation, sale or manufacture of a converter which is ineffective or less effective than the new original equipment (OE) converter could constitute tampering or causing tampering under section 203(a)(3) of the Clean Air Act. Although permitting only new OE converters to be used as replacements would ensure full effectiveness, these parts are generally quite expensive and some State and local vehicle Inspection/Maintenance (I/M) program officials are reluctant to require converter replacement for missing or damaged converters because of this expense. The proposed enforcement policy is intended to encourage the development of inexpensive, multiple-application converters, and to ensure the effectiveness of these products, by allowing their use as replacement converters in certain circumstances provided they meet specified criteria.

DATES: Comments or requests for public hearing must be received on or before November 3, 1986.

ADDRESS: All comments and information should be submitted to Public Docket No. A-84-31, located at the Environmental Protection Agency, Central Docket Section, West Tower Lobby, Galley I, LE-131, 401 M Street, SW., Washington, DC 20460. The docket may be inspected weekdays between 8:00 a.m. and 4:00 p.m. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Janet Murphy or Steve Albrink (202) 382-2640, Field Operation and Support

Division (EN-397F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Most light-duty motor vehicles built since 1975 have been certified to meet Federal or California emission standards with catalytic converters ("converters"). The converter is the major emission control device used by vehicle manufacturers on light-duty vehicles primarily to reduce hydrocarbons and carbon monoxide emissions. Three-way converters, which have been used widely since 1981, also help control oxides or nitrogen emissions. If a vehicle is properly maintained and not operated on leaded gasoline, the converter should not require replacement for the entire life of the vehicle. However, improper maintenance, converter removal, accidents or the repeated use of leaded fuel can damage or destroy the effectiveness of the converter so that the vehicle is unsafe, noisy, or cannot comply with emissions standards or local inspection requirements, thus necessitating the installation of a replacement converter.

On November 25, 1980, EPA published regulations regarding the voluntary certification of aftermarket parts pursuant to section 207(a)(2) of the Clean Air Act (see 40 CFR Part 85, Subpart V). These regulations contain testing procedures for certifying oxidizing catalytic converters and essentially were designed to require certified aftermarket converters to be as good as or better than the OE converters they are to replace. (To this date, no one has certified converters under the program.) The purpose of these regulations is to protect vehicle owners' emissions performance warranty rights under section 207(b)(2) of the Act¹ if they use such "certified" parts, and to protect service and repair facility operators installing "certified" parts from liability for "tampering" violations under section 203(a)(3) of the Clean Air Act.

The proper use of a converter certified to meet the voluntary aftermarket parts certification regulations will protect the vehicle owner's emissions performance warranty rights and can be installed anytime without subjecting the installer to liability for violating section 203(a)(3).

¹ Under Section 207(b)(2), if a vehicle has been properly maintained and used, yet fails at any time during its useful life to conform to applicable emission standards (e.g., by failing an eligible state or local emissions test), and thus causes the owner to bear some sanction, the vehicle manufacturer is required to correct the failure at its expense.

On December 5, 1984 EPA issued a notice announcing public workshops to explore the possibility of establishing alternative testing procedures or aftermarket converters and requesting information and comments on the subject. 49 FR 47550 (1984). That notice stated that the workshops might result in the amendment of the voluntary aftermarket parts certification regulations. The notice also included draft converter test procedures and criteria to help initiate the discussion of topics. Workshops were subsequently held in January 1985 to discuss the relevant issues. Written comments were invited for a period of 30 days after the last workshop.

After reviewing the information received, EPA decided against amending the regulations with regard to the test procedures and acceptance criteria for catalytic converters to be "certified" under section 207(a)(2).² However, as discussed below, EPA has developed a proposed enforcement policy (guidelines) on how it will enforce section 203(a)(3) with regard to the installation of aftermarket converters. Although the proposed enforcement guidelines merely reflect EPA intended exercise of its enforcement discretion and are not regulations, EPA proposes to add those guidelines to 40 CFR Part 85 of Appendix IX, for the convenience of any persons who may choose to follow the guidelines.

In addition, as discussed elsewhere in today's Federal Register, the proposed guidelines described here will be, from the date of publication of this notice, the interim policy of EPA with regard to the enforcement of the tampering prohibition against sellers, installers, and manufacturers of aftermarket catalytic converters. Although the final policy may be issued with substantial modifications, or not at all, depending on the comments received, no installer, seller, or manufacturer voluntarily complying with the interim guidelines will be prosecuted for tampering as a result of following the guidelines during the interim period before the final policy is published or this proposal is withdrawn. However, the installation or sale of a converter not complying with the interim guidelines, and which is not a new OE converter or its equivalent (as defined in the proposed policy) or a

² EPA is, however, preparing another proposal to amend certain aspects of the aftermarket parts certification regulation in accordance with a court order in *Specialty Equipment Manufacturers Association v. Ruckelshaus*, 720 F.2d 124 (D.C. Cir. 1983). The provisions subject to that proposal are not at issue here.

"certified" converter, may be considered tampering or the causing thereof.

Section 203(a)(3) of the Clean Air Act, 42 U.S.C. 7522(a)(3), prohibits parties named in the statute from tampering with emission control systems on motor vehicles and prohibits any person from causing tampering. Specifically, section 203(a)(3) prohibits vehicle manufacturers, dealerships, service and repair facilities and fleet operators from removing or rendering inoperative any emission control device or element of design installed on or in a motor vehicle. In addition, section 203(a) prohibits any person from causing such tampering. Tampering with emission controls can include removing, disabling or destroying a part of the emission control system, or installing an incorrect or ineffective part in or on any motor vehicle designed to meet Federal or California emissions standards. The installation of a new OE converter identical to that with which the vehicle was originally manufactured would not be a violation of the Act.

Many urban areas have air pollution problems caused primarily by motor vehicles. The majority of these areas have been or will be implementing vehicle inspection or testing programs. EPA's 1984 Tampering survey revealed that 16% of all vehicles have had their converters removed or have used leaded gasoline, which in effect ruined the converters' ability to lower emissions. Many of these vehicles are now or soon will be subject to inspection or testing programs.

EPA is actively promoting state and local tampering inspection programs which would require converter replacement where missing or lead-poisoned converters are discovered. There is no question that effective converters in place of lead-poisoned or missing converters would directly improve compliance with emission standards and benefit air quality. However, the Agency believes that some inspection officials have been or will be extremely reluctant to require converter replacement because OE (or equivalent) converters are relatively quite expensive (e.g., between \$300 and \$500 installed). Thus, EPA has decided that its success in persuading State and local governments to implement such programs depends, in part, on the availability and cost of replacement converters. EPA is also concerned that replacement converters used in any such program be of sufficient quality to provide vehicles with a reasonable opportunity to comply with applicable standards and to provide as much air quality benefit as reasonably possible.

It has been suggested that the major reason that new OE converters cost so much is that they are engineered and designed only for specific applications. If aftermarket converters could be consolidated into a limited number of multiple-application converters, then the costs to the consumer could be reduced considerably. Thus, the proposed enforcement policy is intended to foster the development and allow the use of less expensive, multiple-application replacement converters.

The proposed performance criteria are based on EPA data on the performance of properly maintained OE converters with less than 50,000 miles of use. The criteria for new aftermarket converters require such converters to perform effectively for up to 25,000 miles of use, as demonstrated by testing on worst case vehicles, so that the emissions reduction benefits for the average vehicle and the total fleet that receive them would be greater than the criteria might indicate. While the proposed policy specifies that prototype converter aging is to be by vehicle mileage accumulation, it also allows for accelerated aging if it can be demonstrated that the procedures are as stringent as vehicle mileage accumulation. The Agency is working with the industry to develop such an aging alternative which could be available for the final policy.

The performance criteria for used aftermarket converters are designed to screen out the used OE converters which have obviously been extensively fuel switched or whose performance has been severely affected by prior use. As a result, each used converter must be tested by a bench test procedure under the proposed criteria.

EPA recognizes that converters which meet the proposed criteria of these guidelines may not perform at the same level over as extended a period as the new converters installed by the vehicle manufacturer and that their use therefore may not completely protect the vehicle owner's emissions warranty rights under section 207 of the Act.³ In

³ Under section 207(b)(2)(A) of the Act, an owner who has removed or poisoned his original converter by misfueling probably has already voided the manufacturer's performance warranty for the catalyst itself by failing to properly maintain the vehicle. Of course, if an owner wishes to preserve whatever performance warranty rights remain with regard to emission-related parts affected by converter performance, the owner could elect to replace the converter with an OE or certified converter. Under the 207(a) warranty, if the use of anything but an OE or equivalent or certified converter has caused the malfunction of any other emission part or emission-related part, that part should not be considered "defective" and may not be covered under that warranty.

such cases, EPA believes that the substantial emissions control provided by converters meeting the criteria of this policy would be a great improvement compared to the lack of control caused by missing or poisoned converters. Thus, the primary purpose of the proposed policy is to support state and local antitampering inspection programs by encouraging them to require converter replacement where the converter is missing, lead poisoned, or otherwise ineffective.

EPA does not intend to permit the use of aftermarket converters meeting the criteria discussed below to restore the emission control capabilities of vehicles originally equipped with converters and operated outside the U.S., Canada or Mexico and subsequently brought back to the U.S. pursuant to 40 CFR 85.1509, or to replace properly operating OE converters, or as replacement converters for warranty or recall purposes. Since properly maintained converters normally would not require replacement for the life of the vehicle, such uses will be considered violations of section 203(a)(3) of the Act.

EPA also recognizes that in some limited circumstances the original converters may fail or be damaged and require replacement for reasons other than misfueling or converter removal. Under these circumstances, if the vehicle is less than 5 years old, has accumulated less than 50,000 miles, and a state or local inspection program has not determined that the existing converter needs replacement, the vehicle's expected remaining useful life may be significant and should require replacement with a new OE or equivalent converter. Moreover, the 5 year/50,000 mile emissions warranty presumably would be applicable to those vehicles. For vehicles over 5 years old or with more than 50,000 miles, on the other hand, it may be appropriate to allow the use of aftermarket converters meeting the criteria of these guidelines if there is a legitimate need for replacement, even though not due to removal or poisoning of the converter, and even if the state or local inspection program has not ordered replacement.

Thus, this proposed and interim policy only applies to converters that meet the criteria described in the attached guidelines and that are used as replacement converters: (1) On a vehicle which is missing a converter; or (2) pursuant to a determination by a State or local inspection program that the existing converter has been lead-poisoned or damaged or otherwise needs replacement; or (3) for vehicles over 5 years or 50,000 miles old where a

legitimate need for replacement has been established and documented. All other converter replacements by regulated parties are potentially subject to enforcement actions under section 203(a)(3) and, thus, the replacement converters must be OE or equivalent or certified converters. In order to prevent converters meeting the criteria in this proposal from being improperly used to replace properly operating converters, EPA will be monitoring their use. If it becomes apparent that abuses are occurring, EPA may change the final policy, or eliminate the policy entirely, so that the use of such converters by named parties may be considered a violation of section 203(a)(3) under any circumstances.

The proposed policy is intended to supersede EPA's Mobile Source Enforcement Memorandum 1A only with regard to new or used aftermarket converters.

Additional Information

Under Executive Order 12291, EPA must judge whether an action is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This action is not major because it is not likely to result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (3) Significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In fact, the proposed policy will allow additional businesses to enter the converter replacement market to produce, market, or install acceptable quality replacement converters. It will also lower costs to consumers and increase competition since vehicle manufacturer's dealerships will no longer be the only suppliers of acceptable converters.

This action was submitted to the Office of Management and Budget (OMB) for review under Executive Order 12291. Any comments from OMB and any EPA response to such comments are available for public inspection in the docket.

Finally, the proposed policy will impose reporting and recordkeeping requirements for those companies which voluntarily enter this market. Information collection requirements affected by the notice have been submitted to OMB for review under the provisions of the Paperwork Reduction Act. Any written

comments from OMB or response from EPA will be included in the docket.

List of Subjects in 40 CFR Part 85

Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

EPA proposes to amend the table of contents to 40 CFR Part 85 by adding a reference to Appendix IX, entitled Enforcement Policy For Sale and Use of Aftermarket Catalytic Converters.

Dated: July 25, 1986.

Don R. Clay,

Assistant Administrator.

PART 85—[AMENDED]

1. The authority citation for part 85 continues to read as follows:

Authority: 42 U.S.C. 7522(a)(3).

2. EPA proposes to amend 40 CFR Part 85 by adding a new Appendix IX, to read as follows:

Appendix IX—Enforcement Policy for Sale and Use of Aftermarket Catalytic Converters

A. General Requirements

Regulated parties shall install new or used aftermarket catalytic converters ("converters") on motor vehicles only if the converters are represented in writing by the distributor or manufacturer to have been tested according to the following procedures and to have met the performance criteria specified below, or are certified (under 40 CFR Part 85, subpart V) or are new or equivalent to new original equipment (OE) converters. "Regulated parties" means any person engaged in the business of repairing, servicing, selling, leasing or trading motor vehicles or motor vehicle engines, or who operates a fleet of motor vehicles. "Equivalent" means identical or better in all emission related respects as determined by the U.S. Environmental Protection Agency (EPA).

New or used aftermarket converters that meet the performance criteria specified herein may be installed in the following situations: (1) If the vehicle is missing a converter; (2) if a state or local inspection program has determined the existing converter has been lead-poisoned or damaged or otherwise needs replacement; or, (3) if the vehicle is more than five (5) years old or has more than 50,000 miles and a legitimate need for replacement has been established and documented. The third situation normally would include only plugged converters or those damaged to the point where unrepairable exhaust leaks are present. Any other converter replacement must be with a certified or new OE or equivalent converter or it will be considered tampering.

In order to establish and document that the circumstances permitting replacement of an original or missing converter with an aftermarket converter meeting the required performance criteria exist, the installer must include the customer's name, complete address, and the make, model year and

mileage of the vehicle on the service invoice along with a stated reason for replacement. Where a state or local government has determined that a converter is damaged or needs replacement, the service or repair facility also must retain a copy of the written statement or order by a proper government representative which indicates that the converter should be replaced and attach it to the invoice. Where the replacement need has not been verified by a proper state or local government representative, the customer and a representative of the service or repair facility must sign a statement verifying that replacement is justified. This statement, which may be contained on the invoice or separately, shall consist of the following:

Catalytic converters are emission control devices which are designed to last the life of the vehicle and do not normally require replacement. Furthermore, if the vehicle is properly used and maintained, original converters are covered by the emissions control warranty for 5 years or 50,000 miles. Federal law prohibits repair businesses from replacing these devices except under certain limited circumstances.

In order to verify that the proper circumstances exist, the owner of the vehicle on which such repairs are made and a facility representative must sign the following statement.

—The vehicle is over 5 years old or has more than 50,000 miles on it and the catalytic converter required replacement because _____.

OR

—The vehicle's catalytic converter was missing when the vehicle was brought in.

Vehicle Owner's Signature _____

Facility Representative's Signature _____

Installers must retain copies of the invoices and statements for six (6) months, and the replaced converters (if any) for at least 15 days from the date of installation of the replacement converters. Replaced converters must be marked in such a way that they can be identified with particular customer invoices and statements and be available for EPA inspection.

All other converter replacements or installations, such as on vehicles imported without converters pursuant to 40 CFR 85.1509, or on vehicles covered under warranty or being recalled also must be with new OE or equivalent or "certified" converters. Persons who install or sell aftermarket converters that do not meet the criteria and conditions specified in these guidelines may be considered liable for tampering or causing tampering.

These guidelines shall be effective for all aftermarket converters manufactured or recycled after [insert 90 days from publication] and apply to converters which meet the definitions of and criteria for new or used aftermarket converters as stated below.

B. Test Procedures and Performance Criteria

1. New Aftermarket Converters

A new aftermarket converter is defined for purposes of these guidelines to be a converter

which has: (1) All new materials; or, (2) any new materials which make the converter not equivalent to an OE converter; or, (3) any construction which makes the converter not equivalent to an OE converter. New converters require limited vehicle durability testing by the converter manufacturer on worst case vehicles in each application category and the converters must meet the exhaust emission control efficiency requirements listed below. The converter manufacturer must demonstrate that the converters meet applicable performance standards as described below after 25,000 miles, which is considered half their useful lives.

(a) Two vehicles in each application category are normally required to conduct the mileage accumulation and testing. The application category is to be defined by the converter manufacturer. Application category can refer to the types of vehicles and/or engines the converters are to be installed on, or the types of OE converters the aftermarket converters are to replace. In addition, the converters must be identified as one of the following: (1) Oxidation converter, (2) three-way converter; or (3) three-way-plus-oxidation converter.

(b) The vehicles for which the converter is an appropriate installation are to be defined by the converter manufacturer. The converter manufacturers must supply this information with each converter so that the installer can easily and clearly know the vehicle application(s).

(c) The worst case vehicles in each application category are required to be tested by the converter manufacturer. Absent any information supplied by the converter manufacturer, the worst case for each application category will be the highest test weight/largest engine displacement within the application category. This combination is determined by selecting the largest engine displacement within the highest test weight class. Test weight is described in 40 CFR 86.129-80. Information on test vehicle/engine selection is available from EPA's certification summary data.

(d) Durability mileage accumulation shall be conducted on at least two test converters for 25,000 miles each, using the mileage cycle in Appendix IV of 40 CFR part 86 for track mileage accumulation or one that is typical of in-use operation and equal to that cycle for road mileage accumulation. Commercially available unleaded fuel and oils of the grade and quality specified by the manufacturers in the owner's manual shall be used. The vehicles shall be set to manufacturer's specifications, equipped with the test converters for the entire mileage accumulation and records of all vehicle and engine maintenance shall be kept. No maintenance of the converters is permitted. Different vehicles may be used for mileage accumulation and testing if they are equal with respect to emission related parameters (i.e., "slave" vehicle(s) may be used for testing).

(e) As an alternative to vehicle mileage accumulation, accelerated bench testing which simulates the 25,000 miles accumulation may be used if it can be demonstrated to EPA in advance that the

procedures are at least as stringent as vehicle mileage accumulation.

(f) At the end of the mileage accumulation, two cold start Federal Test Procedures ("FTP") tests (including the heat-build portion of the evaporative test) described in 40 CFR part 86 shall be performed on each vehicle. The pair of test results will be considered consistent if they are within 10% for HC and CO and 15% for NO_x. If the results are consistent, the results shall be averaged to obtain the with-converter (w/c) emissions. If the pair are not consistent i.e., not within 10% for HC and CO and 15% for NO_x, a third test may be run. The results of the third test may be averaged with either of the first two tests if the resulting pair is consistent, i.e., within 10% for HC and CO and 15% for NO_x. If the third test does not result in a consistent pair, then the design will not be acceptable unless the manufacturer can demonstrate to EPA's satisfaction that the first three tests were not repeatable due to non-converter problems (e.g., test equipment, etc.) and that there is repeatability on subsequent tests.

(g) If the w/c tests produce a consistent pair, the aftermarket converter shall then be removed and replaced with an exhaust pipe which adequately simulates the exhaust backpressure characteristics of the converter. No other maintenance or modification to the vehicles is permitted between with- and without-converter configurations. Two more cold start FTP tests shall be run on each vehicle with converter removed. The results shall be averaged (if they meet the above consistency requirements) to obtain the without-converter (wo/c) baseline values.

(h) The converter efficiency shall be determined using the following formula:

$$\text{efficiency} = \frac{100 (\text{emissions (wo/c)} - \text{emission (w/c)})}{\text{emissions (wo-c)}}$$

In order to be an acceptable converter, the converter efficiency determined above must be greater than or equal to the values shown in the following table for each of the two converters.

TABLE 1

Application	Minimum efficiency for (in percent)—		
	HC	CO	NO _x
Oxidation converter	70	70	(1)
Three-way converter	70	70	30
Three-way-plus-oxidation	70	70	30

¹ No requirement.

(i) Converters produced after the qualification process has been successfully completed and shall be identical to the qualified converters in all material respects. A listing of these characteristics and the information to be supplied to EPA shall include the following:

- (1) Catalyst supplier and address.
- (2) General type of converter (e.g., oxidation, reduction, three-way, etc.).
- (3) Number of each type of catalyst used per can (each individual monolith unit or "biscuit" is considered to be a separate

catalyst for purposes of determining the number of catalysts per can).

(4) Substrate (e.g., monolithic, pelleted)—give configuration construction technique (e.g., extruded, laid-up, formed, Dravo disk, etc.), composition, supplier and address, composition of active constituents in substrate (grams or troy ounces); for monolithic substrates, give number of cells per square inch of frontal area and design tolerances, nominal cell wall thickness (e.g., in mils); for pelleted substrates, give pellet shape and dimensions, pellet bulk density, specify (if applicable) the use of more than one type of pellet (e.g., Rh or Pt/Pd), specify any geometrical distribution of pellets, and (if this is controlled in production) specify the mean impregnation depth (e.g., in microns) of active materials and include production tolerances.

(5) Washcoat—give composition of active constituents, and total active material loading (grams or troy-oz) in washcoat.

(6) Active material—give composition of active constituents, loading of each active material including design tolerances, total active material loading including design tolerances (grams or troy-oz).

(7) Container—dimensions, volume, materials used, technique of containment and restraint, method of constructing container, canner (if different from catalyst supplier), and insulation and shielding (converter and/or vehicle).

(8) Physical description—dimensions (e.g., length, width, height, etc.), weight (lbs), volume including design tolerances, active surface area (BET), and total active surface area including design tolerances.

(j) The converter manufacturer shall enclose with each converter a statement that it has been designed and manufactured to meet the EPA emission reduction requirements for the designated type of converter and shall warrant that when the vehicle is properly maintained, the converter will meet the emission reduction requirements specified in paragraph (h) for 25,000 miles and that the converter will not constitute a safety hazard.

(k) To ensure that new aftermarket converters have adequate external durability which will make them effective alternatives to OE converters, the converter manufacturer must design and warrant the external converter shell, including the end pipes, to last for five (5) years or 50,000 miles (whichever comes first) from the date of installation.

(l) The converter manufacturer shall enclose with each converter the specific vehicle applications of that converter and a warranty application card to be returned to the converter manufacturer which will include the vehicle owner's name and address, phone number, the make, model, year and mileage of the vehicle, the date of installation, the installing dealer's name and address and the part number(s) installed. All such cards or applications must be retained by the converter manufacturer for a period of five (5) years.

(m) New converter manufacturers shall report to EPA semi-annually the information contained on the warranty cards received

and the number of each type of converter produced during the period. The warranty card information shall consist of either a listing of the names and addresses of dealerships purchasing new converters, and the number of each type of converter sold or installed by each dealer or copies of all completed warranty cards received by the manufacturer. In either case, such information shall be submitted within 30 days of the end of each period. The reporting periods shall end on June 30th and December 31st of each year.

2. Used Converters

A used converter is defined for purposes of these guidelines as a previously used OE converter which does not meet the definition of a new converter. This includes used pelleted OE converters which have had the pellets replaced with new or used OE equivalent pellets. For used converters, no durability testing is required but each converter must be tested as specified below. Only used OE converters can qualify under this procedure. The types of tests are: (1) Container mechanical integrity check, (2) substrate mechanical integrity check, and (3) performance test.

(a) Each converter must be identified with respect to application category. The application category is defined as those vehicles for which the converter was the original production converter.

(b) The converter shall be inspected by the remanufacturer to determine which type of converter it is—oxidation converter, three-way converter or three-way plus-oxidation converter—and that the container (the "can") is structurally sound. There must be no leak paths in the can. The can must have acceptable backpressure characteristics, i.e., not be plugged. The substrate must be sound and not be melted or attrited. It shall not rattle.

(c) The performance test which shall be used for used converters is similar to the General Motors "Cell 102" test, and is as follows: A converter originally at room temperature is subjected to an exhaust flow of known composition and temperature. Because of the exothermal chemical reactions that occur, the converter heats up. Therefore two important converter parameters, light-off and stabilized efficiency, are measured on the same test. Each converter is tested and the exhaust gas constituents are read before and after the converter. Converter efficiency values for HC and CO conversion are computed at 120 seconds and 200 seconds. A light-off test and stabilized efficiency test can be performed consecutively. The exhaust is set to the control parameters while bypassing the converter through a pipe set to a backpressure equal to the test system. At time=zero, the exhaust stream is switched into the converter system and a strip chart records exhaust gas constituents (before and after the converter) versus time. From this chart the conversion efficiency vs. time curve can be established. Each converter must meet all applicable requirements in Table 2.

TABLE 2.—LIGHT-OFF AND STABILIZED CONVERSION EFFICIENCY VALUES FOR USED OE CONVERTERS

Converter type	(In percent)			
	Minimum efficiency at 120 seconds		Minimum efficiency at 200 seconds	
	HC	CO	HC	CO
Oxidation.....	50	50	75	75
Three-way.....	50	50	75	75
Three-way-plus oxidation.....	50	50	75	75

The control parameters for this test are:

1. Engine type and Displacement: V-8, 350 to 360 CID.
2. Engine speed: 1800 ± 20 RPM.
3. Converter Inlet CO: 2% ± 0.05% CO.
4. Converter Inlet Temperature: 730° ± 40° F (set using engine load).
5. Air Injection Pump: 20 CID, (Maximum).
6. Air Injection Drive Ratio: 1.5:1 (Maximum).
7. Converter Mounting: The converter may not be located closer than two (2) feet from the location in the exhaust system where the exhaust from the two engine banks is joined together.

8. Converter pre-test temperature: 90° F (maximum normally, 100° F if room temperature makes it necessary due to outside ambient temperatures above 90° F).

(d) At the option of the used converter remanufacturer, small size converters (less than 100 cubic inches of converter volume) may be tested using a smaller engine if the following additional requirements are met: The oxygen concentration at the converter inlet is 5 percent ± 0.5 percent, and the converter space velocity is not less than 25,000 hr⁻¹.

(e) The converter remanufacturer shall enclose with each used converter a statement that it has been tested according to the test procedures for used converters and meets all applicable requirements at the time of testing.

(f) The converter remanufacturer shall enclose with each used converter the specific application(s) of that converter.

(g) The converter remanufacturer shall report to EPA on a semi-annual basis the names and complete addresses of the persons or companies to whom it distributes along with the number of each type converter sold to each. This information shall be submitted within 30 days of the end of each period. The reporting periods shall end on June 30th and December 31st of each year.

C. Labeling

The converter manufacturer or remanufacturer shall label each new or used converter with a visible, permanent, nondestructible label or stamp, which will identify the manufacturer's code (to be issued by EPA when requested by letter), vehicle application code (to be supplied by the manufacturer to EPA), the month and year of manufacture, and information about whether the converter is new or used. The label information shall be in the following formats:

- (1) New Converters—N/XX/YYYY/ZZZZ
- (2) Used Converters—U/XX/YYYY/ZZZZ

N—is for a new converter designation
U—is for a used converter designation

XX—is the manufacturer code issued by EPA
YYYY—is to be a numerical designation of the vehicle application(s)
ZZZZ—is the month and year of manufacture (i.e., "0186" for January, 1986)

D. Manufacturer's and Remanufacturer's Representations

A manufacturer's or remanufacturer's determination that its converters meet EPA's acceptance criteria does not constitute a certification, accreditation, approval, or any other type of endorsement by the Environmental Protection Agency of any claims concerning pollution control or any other alleged benefits. No claim of any kind, such as "Approved [or Certified]" by the Environmental Protection Agency, may be made in any advertising or other oral or written communications. If true, statements such as the following may be made: "meets the emissions reductions requirements and criteria required by the U.S. Environmental Protection Agency which would allow the proper installation of the converter without the installer being liable for violating the tampering prohibition of the Clean Air Act."

E. Confirmatory Testing or Auditing by EPA

EPA reserves the right to inspect facilities and records, to observe testing and to run confirmatory tests to validate any part of the qualification process. If EPA finds that a manufacturer's or remanufacturer's converters do not meet the applicable criteria, EPA shall notify the manufacturer or remanufacturer of such finding, and that the manufacturer or remanufacturer may be liable for causing tampering for any applicable converter installations (past or future) and that the continued installation of the converters by regulated parties may make those parties liable for violations of section 203(a)(3) of the Clean Air Act.

F. Installation Requirements

In order for the installation by a regulated entity of an aftermarket converter meeting the conditions described in A through E, above, not to be considered a violation of section 203(a)(3) of the Act, the converter must:

- (1) Be installed only in situations as defined in A above;
- (2) Be in the same location as the original converter;
- (3) Be the same type of converter as the original converter (i.e., oxidation, three-way or three-way-plus oxidation);
- (4) Be the proper converter for the vehicle application as determined and specified by the manufacturer;
- (5) Be connected properly to any existing air injection components on the vehicle;
- (6) Be installed with all the other required converters for the particular application if more than one converter was installed originally by the vehicle manufacturer or, in the case of new aftermarket converters, if more than one converter was specified by the converter manufacturer; and
- (7) Be accompanied by the warranty information card, filled in by the installer, if the converter is a new converter.

G. Notification of EPA by Catalyst Manufacturers and Remanufacturers

Any converter manufacturer or remanufacturer which markets converters under these guidelines must notify EPA of its intent to do so thirty (30) days prior to the actual introduction of each product line. New converter manufacturers must include or have submitted a summary of test results including vehicles tested, method of mileage accumulation, name and location of testing facility, test results, intended vehicle application(s), and the converter information specified in B.1.(i). Used converter remanufacturers must include a description of the test facility and its location and the intended vehicle applications of the converters. The information shall be sent to EPA (EN-397F), 401 M Street, S.W., Washington, D.C. 20460. Manufacturers and remanufacturers shall include any other information which they deem relevant to a determination that the subject converters meet the requirements set forth in these guidelines.

H. Notification of Dealers and Distributors by Converter Manufacturers and Remanufacturers.

Any converter manufacturer or remanufacturer which markets under these rules shall have a system in place to notify and shall notify all of its known dealers and distributors of the proper installation requirements and restrictions which are applicable to parties named in section 203(a)(3) of the Clean Air Act as they apply to the use of its converters. If the manufacturer or remanufacturer is notified by the EPA that converters produced or sold by it do not meet the applicable acceptance criteria described above, the manufacturer or remanufacturer shall promptly notify all of its known dealers and distributors of that fact and that the continued installation of the affected converters may be considered to be violations of section 203(a)(3) of the Clean Air Act.

[FR Doc. 86-17555 Filed 8-4-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 721

[OPTS-50537; FRL-2945-8]

PBBs and TRIS; Proposed Determination of Significant New Use**Correction**

In FR Doc. 86-15170 beginning on page 24555 in the issue of Monday, July 7, 1986, make the following corrections:

1. On page 24555, in the second column, in the fifth line of the second paragraph, the section reference should read "5(a)(1)(A)".

2. On the same page, in the third column, in the ninth line of the first complete paragraph, "PBBs for Tris" should read "PBBs or Tris".

§ 721.230 [Corrected]

3. On page 24558, in the third column, the ninth line of § 721.230(a)(1) should read "(CAS No. 27753-52-2)";

BILLING CODE 1505-01-M

40 CFR Part 721

[OPTS-50556; FRL-3054-3]

Benzenamine, 3-Chloro-2,6-Dinitro-N,N-Dipropyl-4-(Trifluoromethyl)-; Proposed Determination of Significant New Uses**Correction**

In FR Doc. 86-16648, beginning on page 26557, in the issue of Thursday, July 24, 1986, make the following corrections:

1. On page 26557, second column, in the "Summary", second line, "signification" should read "significant."

2. On the same page, third column, in the "Address", second paragraph, eighth line, "Rm. NE-6004" should read "Rm. NE-G004".

3. On the same page, third column, in "Supplementary Information", first paragraph, ninth line, "in" should read "is".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY**44 CFR Part 81****Purchase of Insurance and Adjustment of Claims; State Listings**

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Further notice of proposed rule.

SUMMARY: This document amends a proposed rule, published on July 25, 1986, 51 FR 26726, which listed the States in which there exists a critical crime insurance availability problem which has not been resolved at the State level and deleted the States of Arkansas, Iowa, Louisiana, Maryland, Massachusetts, North Carolina, Ohio, and Pennsylvania, as of September 17, 1986; Colorado, as of September 30,

1986, and Missouri and Virginia, as of October 31, 1986.

In order to provide more adequate time for all of these States to prepare for resolving any crime insurance availability problem at the State level, all of the dates listed above are revised by specifying that the deletion of all such States will become effective on the same date, namely, December 31, 1986.

DATE: The date for comments is extended from September 23, 1986 to October 6, 1986.

FOR FURTHER INFORMATION CONTACT: Robert J. De Henzel, (202) 646-3440.

SUPPLEMENTARY INFORMATION: Other parts of the preamble remain the same.

PART 81—PURCHASE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Item 2 of the document published at 51 FR 26726 is amended to read:

2. Section 81.1(b) is revised to read as follows:

§ 81.1 [Amended]

(b) On the basis of the information available, the Federal Insurance Administration has determined that the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and the States set forth in this paragraph have an unresolved critical market availability situation that requires the operation of the Federal Crime Insurance Program therein as of December 31, 1986, should the Program be continued by Congress past its current statutory expiration date of September 30, 1986.

Accordingly, the Program, if extended, is in operation in the following jurisdictions after December 31, 1986.

Alabama	Illinois	District of
California	Kansas	Columbia
Connecticut	New Jersey	Puerto Rico
Delaware	New York	Virgin Islands
Florida	Rhode Island	
Georgia	Tennessee	

Dated: July 31, 1986.

Francis V. Reilly,

Deputy Federal Insurance Administrator,
Federal Insurance Administration.

[FR Doc. 86-17527 Filed 8-4-86; 8:45 am]

BILLING CODE 6718-01-M

Correspondence between the EPA and PAM's prior to setting up EPA compliant testing program in 2012

From: Frederick Hart <Hart.Frederick@epamail.epa.gov>
Sent: Thursday, April 19, 2012 7:45 AM
To: Pat Huesers <pat@pamsauto.com>
Subject: RE: Catalytic Converter requirements and programs

Email all your data and info to me. Thanks.

From: "Pat Huesers" <pat@pamsauto.com>
To: Frederick Hart/AA/USEPA/US@EPA
Date: 04/19/2012 08:28 AM
Subject: RE: Catalytic Converter requirements and programs

Fred-

I did not see any requirements for any type of application.

The only reference I saw was that we needed to notify the EPA 30 days prior to beginning sale of a new product line. In this notification we needed to submit the description of the test facility, it location, and the vehicles applications that the convertor will fit.

I did see the reporting requirements. If the EPA can accept this data electronically, I would need the data specifications before our first reporting period.

Thanks, Pat

Pat Huesers
PAM's Auto, Inc.
7505 Ridgewood Road
St Cloud MN 56303

800.560.7336 Toll Free
320.363.9222 Direct
320.363.9232 Fax

From: Frederick Hart [<mailto:Hart.Frederick@epamail.epa.gov>]
Sent: Thursday, April 19, 2012 7:17 AM
To: Pat Huesers
Subject: RE: Catalytic Converter requirements and programs

Are you referring to submitting your application to the Agency? As for question 2 we do not issue ID numbers, the label you affix to the used convertor is sufficient.

From: "Pat Huesers" <pat@pamsauto.com>
To: Frederick Hart/AA/USEPA/US@EPA
Date: 04/18/2012 05:29 PM
Subject: RE: Catalytic Converter requirements and programs

Fred-

I understand the requirements as set forth for the sale of a used catalytic convertor. I have a few questions.

1. In the Federal Register (file: Amccpolicy FR Notice_Complete) on page 28119 section G the information required by a facility to be submitted.
 - a. Can this information be emailed?
 - b. If so what email address?
 - c. If it cannot be emailed what is the correct mail address to submit to?
2. I cannot find in the documentation the procedure for obtaining an ID number to affix to the used convertor prior to resale. What is required to do this?

Thanks, Pat

Pat Huesers
PAM's Auto, Inc.
7505 Ridgewood Road
St Cloud MN 56303

800.560.7336 Toll Free
320.363.9222 Direct
320.363.9232 Fax

From: Frederick Hart [<mailto:Hart.Frederick@epamail.epa.gov>]
Sent: Wednesday, April 18, 2012 3:16 PM
To: pat@pamsauto.com
Subject: Fw: Catalytic Converter requirements and programs

Here are some documents that should explain most of our requirements and our programs. Let me know if you have any questions. I've included some information from California too.

Some diesel retrofit web sites that you should review if your client wishes to be involved in the Diesel Retrofit program for heavy duty and nonroad diesels.

<http://www.epa.gov/otaq/retrofit/>

Fred Hart of our Ann Arbor office handles certification and aftermarket converter enforcement policy requirements. His contact information is: hart.frederick@epa.gov and 734-214-4877

Steve Albrink
U.S. Environmental Protection Agency
Office of Transportation and Air Quality
Compliance and Innovative Strategies Division (6405J)
Washington, D.C. 20460
(202) 343-9671 phone
(202) 343-2804 fax

Courier Mailing Address:
1310 L Street, N.W. (6405J)
Room 304A
Washington, D.C. 20005-4113

First Semi-Annual Report from PAM' s to the EPA under the EPA compliant testing program (for year end 2012)

[REDACTED]

[REDACTED]

Attachments:

[REDACTED]

Convertor Numbers 2013.xlsx

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Pat Huesers <pat@recatalitico.com>
Sent: Sunday, January 6, 2013 9:40 PM
To: 'Frederick Hart' <Hart.Frederick@epamail.epa.gov>
Subject: 2013 Part Numbers

Fred-

Attached is our most up to date part number and application catalog. This replaces older lists you may have.

Thanks, Pat

Pat Huesers
reCatalitico
7505 Ridgewood Road
St Cloud MN 56303

320.363.9222 Direct

Most current Semi-Annual PAM's report to the EPA under EPA compliant testing program (for year end 2021)

[Redacted]

[Redacted]

[Redacted]

Attachments:

reCatalitico Converter Catalog Numbers 2021.xlsx; reCatalitico 2021 2nd half Reporting.xlsx

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

From: pat@pamsauto.com <pat@pamsauto.com>
Sent: Monday, January 3, 2022 7:51 AM
To: 'Hart.Frederick@epamail.epa.gov' <Hart.Frederick@epamail.epa.gov>
Subject: 2021 Second half reporting

Fred-

Here are the second half of 2021 numbers for reCatalitico.

Thanks, Pat

Pat Huesers