

§ 85.2201

Section 3: Arbitrator's Fee

An arrangement for the compensation of an arbitrator shall be made through discussions by the parties with the AAA and not directly between the parties and the arbitrator. The terms of compensation of arbitrators on a panel shall be identical.

Section 4: Deposits

The AAA may require the parties to deposit in advance of any hearings such sums of money as it deems necessary to defray the expense of the arbitration, including the arbitrator's fee, if any, and shall render an accounting to the parties and return any unexpended balance at the conclusion of the case.

Part E—Expedited Procedures

Section 1: Notice by Telephone

The parties shall accept all notices from the AAA by telephone. Such notices by the AAA shall subsequently be confirmed in writing to the parties. Should there be a failure to confirm in writing any notice hereunder, the proceeding shall nonetheless be valid if notice has, in fact, been given by telephone.

Section 2: Appointment and Qualifications of Arbitrator

The AAA shall submit simultaneously to each party an identical list of five proposed arbitrators drawn from the National Panel of Commercial Arbitrators, from which one arbitrator shall be appointed.

Each party may strike two names from the list on a preemptory basis. The list is returnable to the AAA within seven days from the date of the AAA's mailing of the list to the parties.

If for any reason the appointment of an arbitrator cannot be made from the list, the AAA may make the appointment from among other members of the panel without the submission of additional lists.

The parties will be given notice by the AAA by telephone of the appointment of the arbitrator, who shall be subject to disqualification for the reasons specified in Part A, Section 6. The parties shall notify the AAA, by telephone, within seven days of any objection to the arbitrator appointed. Any objection by a party to the arbitrator shall be confirmed in writing to the AAA with a copy to the other party or parties.

Section 3: Date, Time, and Place of Hearing

The arbitrator shall set the date, time, and place of the hearing. The AAA will notify the parties by telephone, at least seven days in advance of the hearing date. Formal Notice of Hearing will be sent by the AAA to the parties and the MOD Director.

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Section 4: The Hearing

Generally, the hearing shall be completed within one day, unless the dispute is resolved by the submission of documents. The arbitrator, for good cause shown, may schedule an additional hearing to be held within seven days.

Section 5: Time of Award

Unless otherwise agreed by the parties, the award shall be rendered not later than 14 days from the date of the closing of the hearing.

Section 6: Applicability of Rules

Unless explicitly contradicted by the provisions of this part, provisions of other parts of the Rules apply to proceedings conducted under this part.

[54 FR 32593, Aug. 8, 1989, as amended at 70 FR 40432, July 13, 2005]

Subpart W—Emission Control System Performance Warranty Short Tests

SOURCE: 79 FR 23684, Apr. 28, 2014, unless otherwise noted.

§ 85.2201 Applicability.

(a) This subpart describes the test provisions to be employed in conjunction with the Emissions Performance Warranty in subpart V of this part. These provisions generally rely on a vehicle's onboard diagnostic system (OBD) to indicate whether a vehicle passes or fails the test.

(b) The provisions of this subpart may be used to establish warranty eligibility for light-duty vehicles, light-duty trucks, and medium-duty passenger vehicles when tested during the useful life as prescribed in subpart V of this part.

§ 85.2207 Onboard diagnostic test standards.

(a) A vehicle shall fail the OBD test if it is a 1996 or newer vehicle and the vehicle connector is missing, has been tampered with, or is otherwise inoperable.

(b) A vehicle shall fail the OBD test if the malfunction indicator light (MIL) is commanded to be illuminated and it is not visually illuminated according to visual inspection.

(c) A vehicle shall fail the OBD test if the MIL is commanded to be illuminated for one or more diagnostic trouble codes (DTCs), as described in 40 CFR 86.1806.

§ 85.2222 Onboard diagnostic test procedures.

The test sequence for the OBD inspection shall consist of the following steps:

(a) The OBD inspection shall be conducted with the key-on/engine running, with the exception of inspecting for MIL illumination as required in paragraph (d)(4) of this section, during which the inspection shall be conducted with the key-on/engine off.

(b) The inspector shall locate the vehicle connector and plug the test system into the connector.

(c) The test system shall send a Mode \$01, PID \$01 request in accordance with 40 CFR 86.1806 to determine the OBD evaluation status. The test system shall determine what monitors are supported by the OBD system, and perform the readiness evaluation for applicable monitors in accordance with the requirements and specifications in 40 CFR 86.1806.

(1) Coincident with the beginning of mandatory testing, repair, and retesting based upon the OBD test, if the readiness evaluation indicates that any onboard tests are not complete, the customer shall be instructed to return after the vehicle has been run under conditions that allow completion of all applicable onboard tests. If the readiness evaluation again indicates that any onboard test is not complete, the vehicle shall be failed.

(2) An exception to paragraph (c)(1) of this section is allowed for MY 1996 to MY 2000 vehicles, inclusive, with two or fewer unset readiness monitors, and for MY 2001 and newer vehicles with no more than one unset readiness monitor. Vehicles from those model years which would otherwise pass the OBD inspection, but for the unset readiness code in question, may be issued a passing certificate without being required to operate the vehicle in such a way as to activate those particular monitors. Vehicles from those model years with an unset readiness code that also have a DTC stored resulting in an illumi-

nated MIL must be failed, though setting the unset readiness flag in question shall not be a prerequisite for passing the retest.

(d) The test system shall evaluate the MIL status bit and record status information in the vehicle test record.

(1) If the MIL status bit indicates that the MIL has been commanded to be illuminated, the test system shall send a Mode \$03 request in accordance with 40 CFR 86.1806 to determine the stored DTCs. The system shall repeat this cycle until the number of codes reported equals the number expected based on the Mode \$01 response. All DTCs resulting in MIL illumination shall be recorded in the vehicle test record and the vehicle shall fail the OBD inspection.

(2) If the MIL bit is not commanded to be illuminated the vehicle shall pass the OBD inspection, even if DTCs are present.

(3) If the MIL bit is commanded to be illuminated, the inspector shall visually inspect the MIL to determine if it is illuminated. If the MIL is commanded to be illuminated but is not, the vehicle shall fail the OBD inspection.

(4) If the MIL does not illuminate at all when the vehicle is in the key-on/engine-off condition, the vehicle shall fail the OBD inspection, even if no DTCs are present and the MIL has not been commanded on.

§ 85.2223 Onboard diagnostic test report.

(a) Motorists whose vehicles fail the OBD test described in § 85.2222 shall be provided with the OBD test results, including the codes retrieved, the name of the component or system associated with each DTC, the status of the MIL illumination command, and the customer alert statement as stated in paragraph (b) of this section.

(b) In addition to any codes that were retrieved, the test report shall include the following language:

Your vehicle's computerized self-diagnostic system (OBD) registered the faults listed below. The faults are probably an indication of a malfunction of an emission component. However, multiple and/or seemingly unrelated faults