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Mark Palermo,

Thanks for your response to my letter. Your rebuttal did not address my question with references to the written code. Businesses in the USA only have the written code as reference to ensure products meet government guidelines. I cannot find a single reference in the code of federal regulations stating that emission compliance or tampering go on for the entire time a vehicle is in use.

Tampering is covered under CFR Title 40, subchapter C, Part 86, Subpart S, 86.1854-12. Within that statute (a)(3)(ii) I am listing below:

For any person to manufacture, sell or offer to sell, or install, any part or component intended for use with, or as part of, any vehicle or 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 vehicle or engine in compliance with regulations issued under this subpart, and where the person knows or should know that the part or component is being offered for sale or installed for this use or put to such use.

The highlight sentence is important as it references limits of the statute to vehicles or engines in compliance with regulations.

Let me move on to the applicability of these standards as covered in CFR, Title 40.86.1801-12. I will reference the first paragraph here:

(a) **Applicability.** The provisions of this subpart apply to certain types of new vehicles as described in this [paragraph \(a\)](#). Where the provisions apply for a type of vehicle, they apply for vehicles powered by any fuel, unless otherwise specified. In cases where a provision applies only to a certain vehicle group based on its model year, vehicle class, motor fuel, engine type, or other distinguishing characteristics, the limited applicability is cited in the appropriate section. Testing references in this subpart generally apply to Tier 2 and older vehicles, while testing references to [40 CFR part 1066](#) generally apply to Tier 3 and newer vehicles; see [§ 86.101](#) for detailed provisions related to this transition.

The highlighted portion here limits the applicability of the subpart to that referenced in each section.

CFR, Title 40.86.1805-04, discusses vehicle useful life and applies limitations for Tier II and Tier III applications. I am copying paragraphs (a) and (b) below:

(a) Except as required under [paragraph \(b\)](#) of this section or permitted under [paragraphs \(d\), \(e\) and \(f\)](#) of this section, the full useful life for all LDVs, LDT1s and LDT2s is a period of use of 10 years or 120,000 miles, whichever occurs first. For all HLDTs, MDPVs, and complete heavy-duty vehicles full useful life is a period of 11 years or 120,000 miles, whichever occurs first. This full useful life applies to all exhaust, evaporative and refueling emission requirements except for standards which are specified to only be applicable at the time of certification.

(b) Manufacturers may elect to optionally certify a test group to the Tier 2 exhaust emission standards for 150,000 miles to gain additional NO<sub>x</sub> credits, as permitted in [§ 86.1860-04\(g\)](#), or to opt out of

intermediate life standards as permitted in [§ 86.1811-04\(c\)](#). In such cases, useful life is a period of use of 15 years or 150,000 miles, whichever occurs first, **for all exhaust, evaporative and refueling emission requirements** except for cold CO standards and standards which are applicable only at the time of certification.

The highlighted portions above are very clear that emission requirements and compliance are limited to full useful life.

These are the only written rules I have found in Code of Federal Regulations pertaining to this subject matter. The Clean Air Act as written is a bit dated, but it is also very clear about stipulating regulatory limits based on useful life. These are referenced in 42 U.S.C., Title 42, Ch. 85, subchapter II, Part A, Sec. 7521, Sec. 7522 and Sec. 7541.

I would like to see your references in our federal code stating your contention of tampering rules going on into infinity as long as a vehicle is in use. If it is not clearly written in our CFR or in CAA, then EPA is overstepping on its authority.

In your response, you mentioned EPA talking points about excess NOx. This is disingenuous as there is no such thing as excess NOx. NO and NO2 are unstable compounds and never accumulate on our planet. They break down into nitrogen and oxygen in a matter of hours to a couple days. Lightning makes more NOx every year than the entire automotive sector. The human body creates NOx in our sinuses with every breath. CO2 on the other hand is a stable compound with a half-life of 300 years. EPA should be more focused on CO2.

I look forward to hearing from you on this matter.

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