

3745-80-01

Definitions.

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see paragraph (M) of this rule titled "referenced materials."]

- (A) "Anti-tampering inspector" means any authorized representative of the director with the authority to investigate, inspect and otherwise determine compliance with sections 3704.16 to 3704.162 of the Revised Code.
- (B) "Clean Air Act Amendments" means the Clean Air Act, and regulations adopted under it.
- (C) "Director" means the director of the Ohio environmental protection agency or the director's authorized representative.
- (D) "Emission control system" means any system designated by the United States environmental protection agency as an emission control system under title II of the Clean Air Act Amendments and includes any device or element of design of the system.
- (E) "Emission system reference manual" means the most current reference manual with emission system application tables available from a source approved by the director or the director's designee.
- (F) "Lessee" means any person who uses a motor vehicle pursuant to a bailment, lease or other contractual arrangement under which a charge is made for its use at a periodic rate for a term of thirty continuous days or more.
- (G) "Motor vehicle facility" means premises owned, operated, rented, leased or otherwise used by any person engaged in the sale, lease, service or rental of motor vehicles or motor vehicle parts.
- (H) "Person" means the state, any political subdivision, public or private corporation, partnership, firm, association, individual, organization or other entity.
- (I) "Renter" means any person who uses a motor vehicle pursuant to a bailment, lease or other contractual arrangement under which a charge is made for use of the motor vehicle at a periodic rate for a term of thirty continuous days or less.
- (J) "Statewide Anti-Tampering Procedures Manual" means the official document issued by the Ohio environmental protection agency to anti-tampering inspectors detailing the procedures to be followed when conducting inspections to determine compliance with sections 3704.16 to 3704.162 of the Revised Code.

- (K) "Tamper with" means to remove permanently or temporarily, except for repair, replacement or converting for use of a clean alternative fuel, to bypass, defeat, or render inoperative, in whole or in part, any emission control system that is installed on or in a motor vehicle, for purposes of defeating, bypassing or otherwise circumventing the requirements of the Clean Air Act Amendments or Chapter 3704. of the Revised Code and the rules promulgated thereunder.
- (L) "Ultimate purchaser" with respect to any new motor vehicle, means the first person, other than a dealer in the capacity as a dealer, who is a good faith purchaser of such new motor vehicle for purposes other than resale.
- (M) Referenced materials. This chapter includes references to certain subject matter or materials. The text of the referenced materials is not included in the rules contained in this chapter. Information on the availability of the referenced materials as well as the date of, or the particular edition or version of the material is included in this rule. For materials subject to change, only the specific version specified in this rule are referenced. Material is referenced as it exists on the effective date of this rule. Except for subsequent annual publication of existing (unmodified) Code of Federal Regulation compilations, any amendment or revision to a referenced document is not applicable unless and until this rule has been amended to specify the new dates.
- (1) Availability. The referenced materials are available as follows:
- ~~(a) Code of Federal Regulations. Information and copies may be obtained by writing to: "U.S. Government Printing Office, PO Box 979050, St. Louis, Mo. 63197-9000." The full text of the CFR is also available in electronic format at <http://www.ecfr.gov>. The CFR compilations are also available for inspection and use at most public libraries and "The State Library of Ohio."~~
 - ~~(b)~~(a) Mobile Source Enforcement Memorandum No. 1A: Information and copies are available by writing to: "U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, D.C. 20460-0001." The full text of the document is also available in electronic format at <http://www.afdc.energy.gov/pdfs/2753.pdf>. The document is also available for inspection and use at most public libraries and "The State Library of Ohio."
 - ~~(c)~~(b) "Statewide Anti-Tampering Procedures Manual." Information and copies may be obtained by writing to: "Mobile Sources Section, Division of Air Pollution Control, Ohio EPA, 50 West Town Street, Suite 700, PO Box 1049, Columbus, Ohio 43216-1049."

(2) Referenced materials.

- (a) 40 CFR, Part 85; "Subpart "V" -- Emissions control system performance warranty regulations and voluntary aftermarket part certification program;" ~~45 FR 34839, May 22, 1980, as amended at 45 FR 78458-78464, November 25, 1980, 46 FR 38692, July 29, 1981, 50 FR 34798, August 27, 1985, 54 FR 32587-32593, August 8, 1989, 58 FR 65554, December 15, 1993, and 64 FR 23919, May 4, 1999, 70 FR 40432, July 13, 2005~~as published in the July 1, 2020 Code of Federal Regulations.
- (b) "Anti-Tampering Procedures Manual"; as published in December, 2014.
- (c) Clean Air Act; contained in 42 USC 7401 to 7671q; "The Public Health and Welfare-Air Pollution Prevention and Control;" published May 19, 2014 in volume 30 of the 2012 edition of the United States Code.
- (d) Mobile Source Enforcement Memorandum No. 1A; "Interim Tampering Enforcement Policy;" dated June 25, 1974, updated April 1997.
- (e) Title II of the Clean Air Act; contained in 42 USC 7521 to 7590; "Emission Standards for Moving Sources;" ~~published May 19, 2014 in volume 30 of the 2012~~as contained in the 2018 edition of the United States Code.

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Certification

07/26/2021

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3745-80-02

Tampering prohibitions.

- (A) No person shall sell, offer for sale, possess for sale, advertise, manufacture, install or use any part or component intended, by such person, for use with or as part of any motor vehicle when a purpose is to bypass, defeat, or render inoperative, in whole or part, the emission control system.
- (B) No person shall introduce leaded fuel into a motor vehicle that is designed, manufactured or certified by the United States environmental protection agency to use only unleaded fuels.
- (C) No person shall tamper with any emission control system installed on or in a motor vehicle prior to the sale and delivery to the ultimate purchaser or lessee.
- (D) No person shall knowingly operate a motor vehicle that has been tampered with.
- (E) No person shall knowingly sell, lease, rent or offer to sell, lease, or rent or offer to transfer title or a right to possession of a motor vehicle that has been tampered with. In the case of a motor vehicle dealer licensed under Chapter 4517. of the Revised Code, a motor vehicle is considered to be offered for sale, lease or rental at a motor vehicle facility unless the motor vehicle is separated or otherwise segregated from other motor vehicles being offered for sale, lease or rental, or unless a placard meeting the following requirements is displayed on the vehicle's windshield.
- (1) The statement "~~this~~ This vehicle is not being offered for sale, lease or rental at this time" shall be printed on the placard using block letters of no less than forty point bold type.
- (2) The dimensions of the placard shall be at least eight and one half inches by eleven inches.
- (F) No person shall knowingly tamper with any emission control system installed on or in a motor vehicle after sale, lease, or rental and delivery of the motor vehicle to the ultimate purchaser, lessee or renter.
- (G) Any person who witnesses any violation of this rule or of sections 3704.16 to 3704.162 of the Revised Code, or suspects a violation has occurred, may report the alleged violation by contacting the mobile sources section of Ohio environmental protection agency or the appropriate Ohio environmental protection agency district office or local air pollution control agency.
- (H) The following motor vehicles are exempt from this rule:
- (1) Race motor vehicles which are operated off of public roads and highways one hundred per cent of the time.

- (2) Motor vehicles for which salvage certificates of title have been issued under division (C) of section 4505.11 of the Revised Code.

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3745-80-03

Anti-tampering inspection procedures and requirements.

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see paragraph (M) of rule 3745-80-01 of the Administrative Code titled "referenced materials."]

- (A) For the purposes of investigating reported tampering violations and conducting routine audits to determine compliance with sections 3704.16 to 3704.162 of the Revised Code, the director may inspect, during normal business hours, any motor vehicle or documents located at a motor vehicle facility.
- (B) All anti-tampering inspectors shall satisfactorily complete the training required to receive a designation of authorized representative of the United States environmental protection agency for the purpose of conducting anti-tampering investigations or other motor vehicle anti-tampering training approved by the director. Each anti-tampering inspector who satisfactorily completes the training shall be issued a certificate by the Ohio environmental protection agency. The certificate shall be valid for three years from the date of issuance. Renewal anti-tampering training may be required in order to renew the certificate. If an inspector fails to satisfactorily complete any required renewal training prior to the certificate expiration date, the inspector shall surrender the certificate.
- (C) Upon receipt of a reported anti-tampering violation regarding a motor vehicle facility, or for the purpose of inspecting a motor vehicle facility to determine compliance with sections 3704.16 to 3704.162 of the Revised Code, anti-tampering inspectors shall inspect a variety of motor vehicle makes, model years and types so as to provide an adequate cross section of the motor vehicles offered for sale at the motor vehicle facility.
- (D) During motor vehicle facility investigations, or investigations of reported violations, pursuant to paragraph (G) of rule 3745-80-02 of the Administrative Code, anti-tampering inspectors shall inspect the motor vehicle emission systems in accordance with the procedures listed in the statewide anti-tampering procedures manual. Motor vehicles shall be inspected for compliance with the original manufacturer's United States environmental protection agency design specifications. After-market replacement parts and add-on and modified parts meeting the performance criteria specified in volume 40 of the Code of Federal Regulations, Part 85, Subpart V; the requirements of the United States environmental protection agency policy document, memorandum 1A or have not otherwise been found in violation of the anti-tampering provisions of the Clean Air Act, are considered to be in compliance with this chapter.
- (E) The emission system reference manual or the motor vehicle emission control information (VECI) label located on each motor vehicle shall be used to determine the

motor vehicle emissions systems requiring inspection. If a conflict exists, the VECI label shall take precedence. The emission systems subject to inspection may include, but not be limited to the following:

- (1) Catalytic converter system.
- (2) Evaporative emission system.
- (3) Fuel inlet restrictor.
- (4) Positive crankcase ventilation system.
- (5) Thermostatic air intake system.
- (6) Air injection reaction system.
- (7) Exhaust gas recirculation system.
- (8) Oxygen sensor.
- (9) Computer control system.
- (10) Diesel particulate filter.
- (11) Selective catalytic reduction (for diesels).

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