
40 C.F.R. § 86.1103–2016

Criteria for availability of nonconformance penalties.

- (a) *General.* This section describes the three criteria EPA will use to use to evaluate whether NCPs are appropriate under the Clean Air Act for a given pollutant and a given subclass of heavy-duty engines and heavy-duty vehicles. Together, these criteria evaluate the likelihood that a manufacturer will be technologically unable to meet a standard on time. Note that since the first two of these criteria are intended to address the question of whether a given standard creates the possibility for this to occur, they are evaluated before the third criterion that addresses the likelihood that the possibility will actually happen.
- (b) *Criteria.* We will establish NCPs for a given pollutant and subclass when we find that each of the following criteria is met:

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