

Title 13, California Code of Regulations, Sections 2035, 2037, and 2038, Emission Control System Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines

Article 6. Emission Control System Warranty

§2035. Purpose, Applicability, and Definitions.

(a) *Purpose.*

The purpose of this article is to interpret and make specific the statutory emissions warranty set forth in Health and Safety Code sections 43205, and 43205.5 by clarifying the rights and responsibilities of individual motor vehicle and motor vehicle engine owners, motor vehicle and motor vehicle engine manufacturers, and the service industry.

(b) *Applicability.*

This article shall apply to:

- (1) California-certified 1979 and subsequent model motorcycles, passenger cars, light-duty trucks, medium-duty vehicles, and heavy-duty vehicles, registered in California, regardless of their original point of registration; and
- (2) California certified motor vehicle engines used in such vehicles.

(c) *Definitions.*

For the purposes of this article, the following definitions shall apply:

- (1) “*Warrantable condition*” means any condition of a vehicle or engine which triggers the responsibility of the manufacturer to take corrective action pursuant to sections 2036, 2037, or 2038.
- (2) “*Warranted Part*” means:
 - (A) in the case of 1979 through 1989 model year passenger cars, light-duty trucks, and medium-duty vehicles, 1979 and later model year motorcycles and heavy-duty vehicles, and 1990 and subsequent model year passenger cars, light-duty trucks, and medium duty vehicles produced before January 24, 1991, any emission-related part installed on a motor vehicle or motor vehicle engine by the vehicle or engine manufacturer, or installed in a warranty repair, which is included on the “Emissions Warranty Parts List” required by section 2036(f) and approved for the vehicle or engine by the Executive Officer; and
 - (B) in the case of 1990 and subsequent model year passenger cars, light- duty trucks, and medium-duty vehicles other than those identified in subparagraph (A) of this definition, any part installed on a motor vehicle or motor vehicle engine by the vehicle or engine manufacturer, or installed in a warranty repair, which affects any regulated emission from a motor vehicle or engine which is subject to California emission standards.
- (3) “*Warranty period*” means the period of time and mileage that the vehicle, engine, or part are covered by the warranty provisions.
- (4) “*Warranty station*” means a service facility authorized by the vehicle or engine manufacturer to perform warranty repairs. This shall include all of the manufacturer's dealerships which are franchised to service the subject vehicles or engines.

(5) “*Vehicle or engine manufacturer*” means the manufacturer granted certification for a motor vehicle or motor vehicle engine. In the case of motor vehicles for which certification of the exhaust and evaporative emissions control systems is granted to different manufacturers, the warranty responsibility shall be assigned accordingly.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code.
Reference: Sections 43106, 43204, 43205, and 43205.5, Health and Safety Code.

§ 2037. Defects Warranty Requirements for 1990 and Subsequent Model Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles, and Motor Vehicle Engines Used in Such Vehicles.

(a) Applicability.

This section shall apply to 1990 and subsequent model passenger cars, light-duty trucks, medium-duty vehicles, and motor vehicle engines used in such vehicles. The warranty period shall begin on the date the vehicle is delivered to an ultimate purchaser, or if the vehicle is first placed in service as a “demonstrator” or “company” car prior to delivery, on the date it is first placed in service.

(b) General Emissions Warranty Coverage.

The manufacturer of each motor vehicle or motor vehicle engine shall warrant to the ultimate purchaser and each subsequent purchaser that the vehicle or engine is:

- (1) Designed, built, and equipped so as to conform with all applicable regulations adopted by the Air Resources Board pursuant to its authority in chapters 1 and 2, part 5, division 26 of the Health and Safety Code; and
- (2) Free from defects in materials and workmanship which cause the failure of a warranted part to be identical in all material respects to the part as described in the vehicle or engine manufacturer's application for certification, including any defect in materials or workmanship which would cause the vehicle's on-board diagnostic malfunction indicator light to illuminate, for a period of three years or 50,000 miles, whichever first occurs; and
- (3) Free from defects in materials and workmanship which cause the failure of a warranted part described in section (c) below for seven years or 70,000 miles, whichever first occurs.

(c) “High-Priced” Warranted Parts.

- (1) Each manufacturer shall identify in its application for certification the “high-priced” warranted parts which are:
 - (A) For 1990 through 2007 model year vehicles: [i] included on the Board's “Emissions Warranty Parts List” as last amended February 22, 1985, incorporated herein by reference, and; [ii] have an individual replacement cost at the time of certification exceeding the cost limit defined in section (c)(3);
 - (B) For 2008 and subsequent model year vehicles: [i] subject to coverage as a warranted part in section (b)(2) above, and; [ii] have an individual replacement cost at the time of certification exceeding the cost limit defined in section (c)(3).
- (2) The replacement cost shall be the retail cost to a vehicle owner and include the cost of the part, labor, and standard diagnosis. The costs shall be those of the highest-cost metropolitan area of California.
- (3) The cost limit shall be calculated using the following equation:

$$\text{Cost limit}_n = \$300 \times (\text{CPI}_{n-2} / 118.3)$$

Cost limit_n is the cost limit for the applicable model year of the vehicle rounded to the nearest ten dollars.

N is the model year of the new vehicles.

n-2 is the calendar year two years prior to the model year of the new vehicles.

CPI is the annual average nationwide urban consumer price index published by the United States Bureau of Labor Statistics.

- (4) The cost limit shall be revised annually by the Executive Officer. The highest-cost metropolitan area in California shall be identified by the Executive Officer for use in this section. If a manufacturer seeks certification of a vehicle before the applicable annual average CPI is available, the cost limit shall be calculated using the average of the monthly nationwide urban CPI figures for the most recent twelve month period for which figures have been published by the United States Bureau of Labor Statistics.
 - (5) Each manufacturer shall submit to the Executive Officer the documentation used to identify the "high-priced" warranted parts required in this section. The documentation shall include the estimated retail parts costs, labor rates in dollars per hour, and the labor hours necessary to diagnose and replace the parts. The documentation is not required for vehicles certified before January 24, 1991.
 - (6) The Executive Officer may reject or require modification of the manufacturer's list of "high-priced" warranted parts to ensure that such list includes all emission-related parts whose replacement cost exceeds the cost limit defined in section (c)(3)
- (d) Subject to the conditions and exclusions of section (i), the warranty on emission-related parts shall be interpreted as follows:
- (1) Any warranted part which is not scheduled for replacement as required maintenance in the written instructions required by section (e) shall be warranted for the applicable warranty period defined in section (b)(2) or (3). If any such part fails during the period of warranty coverage, it shall be repaired or replaced by the vehicle or engine manufacturer according to section (d)(4) below. Any such part repaired or replaced under the warranty shall be warranted for the remaining warranty period.
 - (2) Any warranted part which is scheduled only for regular inspection in the written instructions required by section (e) shall be warranted for the applicable warranty period defined in section (b)(2) or (3). A statement in such written instructions to the effect of "repair or replace as necessary" shall not reduce the period of warranty coverage. Any such part required or replaced under warranty shall be warranted for the remaining warranty period.
 - (3) Any warranted part which is scheduled for replacement as required maintenance in the written instructions required by section (e) shall be warranted for the period of time or mileage, whichever first occurs, prior to the first scheduled replacement point for that part. If the part fails prior to the first scheduled replacement, the part shall be repaired or replaced by the vehicle or engine manufacturer according to section (d)(4) below. Any such part required or replaced under warranty shall be warranted for the remainder of the period prior to the first scheduled replacement point for the part.
 - (4) Repair or replacement of any warranted part under the warranty provisions of this article shall be performed at no charge to the vehicle or engine owner at a

warranty station, except in the case of an emergency when a warranted part or a warranty station is not reasonably available to the vehicle or engine owner. In an emergency, repairs may be performed at any available service establishment, or by the owner, using any replacement part. The manufacturer shall reimburse the owner for his or her expenses including diagnostic charges for such emergency repair or replacement, not to exceed the manufacturer's suggested retail price for all warranted parts replaced and labor charges based on the manufacturer's recommended time allowance for the warranty repair and the geographically appropriate hourly labor rate. A vehicle or engine owner may reasonably be required to keep receipts and failed parts in order to receive compensation for warranted repairs reimbursable due to an emergency, provided the manufacturer's written instructions required by section (e) advise the owner of this obligation.

- (5) Notwithstanding the provisions of subsection (d)(4) above, warranty services or repairs shall be provided at all of a manufacturer's dealerships which are franchised to service the subject vehicles or engines.
- (6) The vehicle or engine owner shall not be charged for diagnostic labor which leads to the determination that a warranted part is defective, provided that such diagnostic work is performed at a warranty station.
- (7) The vehicle or engine manufacturer shall be liable for damages to other vehicle components proximately caused by a failure under warranty of any warranted part.
- (8) Throughout the vehicle or engine's warranty period defined in section (b)(2) and (b)(3), the vehicle or engine manufacturer shall maintain a supply of warranted parts sufficient to meet the expected demand for such parts. The lack of availability of such parts or the incompleteness of repairs within a reasonable time period, not to exceed 30 days from the time the vehicle or engine is initially presented to the warranty station for repair, shall constitute an emergency for purposes of section (d)(4) above.
- (9) Any replacement part may be used in the performance of any maintenance or repairs. Any replacement part designated by a manufacturer may be used in warranty repairs provided without charge to the vehicle owner. Such use shall not reduce the warranty obligations of the vehicle or engine manufacturer, except that the vehicle or engine manufacturer shall not be liable under this article for repair or replacement of any replacement part which is not a warranted part (except as provided under section (d)(7) above).
- (10) Any add-on or modified part exempted by the Air Resources Board from the prohibitions of Vehicle Code section 27156 may be used on a vehicle or engine. Such use, in and of itself, shall not be grounds for disallowing a warranty claim made in accordance with this article. The vehicle or engine manufacturer shall not be liable under this article to warrant failures of warranted parts caused by the use of such an add-on or modified part.
- (11) The Executive Officer may request and, in such case, the vehicle or engine manufacturer shall provide, any documents which describe the manufacturer's warranty procedures or policies.

- (e) Each manufacturer shall furnish with each new vehicle or engine, written instructions for the maintenance and use of the vehicle or engine by the owner and the instructions shall be consistent with this article and applicable regulations in article 2 of this subchapter.
- (f) Each manufacturer shall furnish with each new vehicle or engine a list of the “high-priced” warranted parts established by section (c).
- (g) Prior to the 2001 model year, each manufacturer shall submit the documents required by sections (c)(5), (e), and (f) with the manufacturer's preliminary application for new vehicle or engine certification for approval by the Executive Officer. For 2001 and subsequent model years, each manufacturer shall submit the documents required by section (c)(5), (e), and (f) with the Part 2 Application for Certification pursuant to the “California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles,” incorporated by reference in title 13, CCR section 1961(d). The Executive Officer may reject or require modification of any of the documents required by sections (c), (e), and (f) for, among other reasons, incompleteness and lack of clarity. Approval by the Executive Officer of the documents required by sections (c), (e), and (f) shall be a condition of certification. The Executive Officer shall approve or disapprove the documents required by sections (c), (e), and (f) within 90 days of the date such documents are received from the manufacturer. Any disapproval shall be accompanied by a statement of the reasons thereof. In the event of disapproval, the manufacturer may petition the Board to review the decision of the Executive Officer.
- (h) *Vehicle Inspection Program.*
 - (1) This section applies to 1990 and subsequent model passenger cars, light-duty trucks, and medium-duty vehicles which fail to pass a smog check inspection pursuant to Health and Safety Code section 44012 after the warranty period of three years or 50,000 miles, whichever occurs first, has expired, but before the warranty period of seven years or 70,000 miles, whichever occurs first, has expired. The provisions of this section shall be contained in the warranty statement required pursuant to title 13, CCR section 2039.
 - (2) The owner of a vehicle which fails an inspection during the period described in section (h)(1) may choose to have the vehicle repaired at a warranty station.
 - (A) If the warranty station identifies that the inspection failure was caused by the failure or malfunction of a “high-priced” part defined in section (c), then the vehicle manufacturer shall be liable for expenses involved in detecting and correcting the part failure or malfunction, unless the warranty station demonstrates that the part failure or malfunction was caused by abuse, neglect, or improper maintenance as specified in section (i).
 - (B) If the warranty station demonstrates that the inspection failure was caused by one or more conditions excluded from warranty coverage pursuant to section (i), the vehicle owner shall be liable for all diagnostic and repair expenses.

Such expenses shall not exceed the maximum repair costs permissible under the inspection program.

(C) If the warranty station determines that the inspection failure was caused by one or more defects covered under warranty pursuant to these regulations and in combination with one or more conditions excluded from warranty coverage pursuant to section (i), then the vehicle owner shall not be charged for the diagnostic and repair costs related to detecting and repairing the warrantable defects.

(3) In the alternative, the owner of a vehicle which fails the inspection may choose to have the vehicle repaired at other than a warranty station. If a warrantable defect is found, the vehicle owner may deliver the vehicle to a warranty station and have the defect corrected free of charge. The vehicle manufacturer shall not be liable for any expenses incurred at a service establishment not authorized to perform warranty repairs, except in the case of an emergency as defined in section (d)(4). If the vehicle owner chooses to have a warrantable defect repaired at other than a warranty station, the upper cost limit pursuant to Health and Safety Code section 44017 shall not apply to the repair.

(i) *Exclusions.*

The repair or replacement of any warranted part otherwise eligible for warranty coverage under sections (d) and (h) shall be excluded from such warranty coverage if the vehicle or engine manufacturer demonstrates that the vehicle or engine has been abused, neglected, or improperly maintained, and that such abuse, neglect, or improper maintenance was the direct cause of the need for the repair or replacement of the part.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code.

Reference: Sections 43106, 43204, 43205, 44004, 44010, 44011, 44012, 44015, and 44017, Health and Safety Code.

§ 2038. Performance Warranty Requirements for 1990 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles, and Motor Vehicle Engines Used in Such Vehicles.

(a) Applicability.

This section shall apply to 1990 and subsequent model passenger cars, light-duty trucks, and medium-duty vehicles, and motor vehicle engines used in such vehicles required to be inspected under any California statutorily authorized motor vehicle emissions inspection and maintenance program. The warranty period shall begin on the date the vehicle is delivered to an ultimate purchaser, or if the vehicle is first placed in service as a “demonstrator” or “company” car prior to delivery, on the date it is first placed in service.

(b) General Emissions Warranty Coverage.

The manufacturer of each passenger car, light-duty truck, and medium-duty vehicle shall warrant to the ultimate purchaser and each subsequent purchaser that the vehicle or engine:

- (1) Is designed, built, and equipped so as to conform with all applicable regulations adopted by the Air Resources Board pursuant to its authority in chapters 1 and 2, part 5, division 26 of the Health and Safety Code; and
- (2) Will, for a period of three years or 50,000 miles, whichever first occurs, pass an inspection established under section 44012 of the Health and Safety Code (“inspection”).

(c) Written Instructions.

- (1) Each vehicle or engine manufacturer shall furnish with each new vehicle or engine, written instructions for the required maintenance and use of this vehicle or engine by the vehicle owner (written instructions) and the written instructions shall be consistent with this article and applicable regulations in article 2 of this subchapter.
- (2) Prior to the 2001 model year, each vehicle or engine manufacturer shall submit the documents required by section (c)(1) with the vehicle or engine manufacturer's preliminary application for new vehicle or engine certification for approval by the Executive Officer.
- (3) For 2001 and subsequent model years, each vehicle or engine manufacturer shall submit the documents required by section (c)(1) with the Part 2 Application for Certification pursuant to the “California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles,” incorporated by reference in title 13, CCR section 1961(d).
- (4) The Executive Officer may reject or require modification of written instructions for, among other reasons, incompleteness or lack of clarity. Approval by the Executive Officer of the written instructions shall be a condition of certification. The Executive Officer shall approve or disapprove the written instructions within 90 days of the date such documents are received from the vehicle or engine manufacturer. Any disapproval shall be accompanied by a statement of the

reasons therefore. In the event of disapproval, the engine or vehicle manufacturer may petition the Board to review the decision of the Executive Officer.

(d) *Proper Use and Maintenance.*

- (1) An emission performance warranty claim may be denied if the vehicle or engine manufacturer demonstrates that the vehicle or engine's failure of the inspection was directly caused by abuse, neglect, or improper maintenance as reflected by a failure to maintain or use the vehicle or engine in accordance with the written instructions .
- (2) Except as provided in section (d)(5), a vehicle or engine manufacturer may deny an emission performance warranty claim on the basis of noncompliance with the written instructions only if:
 - (A) An owner is not able to comply with a request by a manufacturer for evidence pursuant to section (d)(4); or
 - (B) Notwithstanding the evidence presented pursuant to section (d)(4), the vehicle or engine manufacturer is able to prove that the vehicle failed an inspection because the vehicle was abused, the required maintenance and use was performed in a manner resulting in a component being improperly installed or a component or related parameter being adjusted substantially outside of the vehicle or engine manufacturer's specifications, or maintenance was performed on a vehicle which resulted in the removing or rendering inoperative of any component affecting the vehicle's emissions.
- (3) When determining whether an owner has complied with the written instructions, a vehicle or engine manufacturer may require a owner to submit evidence of compliance only with those written instructions for which the vehicle or engine manufacturer has an objective reason for believing:
 - (A) Were not performed, and;
 - (B) If not performed, could be the cause of the particular vehicle's failed inspection.
- (4) Evidence of compliance with a maintenance instruction may consist of:
 - (A) A maintenance log book which has been validated at the approximate time or mileage intervals specified in the written instructions by someone who regularly engages in the business of servicing automobiles for the relevant maintenance; or
 - (B) A repair order, sales receipt, or similar evidence showing that the vehicle has been submitted for scheduled maintenance at the approximate time or mileage intervals specified in the written instructions to someone who regularly engages in the business of servicing automobiles for the purpose of performing the relevant maintenance; or
 - (C) A statement by the vehicle owner that the maintenance was performed at the approximate time or mileage interval specified in the written instructions using proper replacement parts.
- (5) In no case may a vehicle or engine manufacturer deny an emission performance warranty claim on the basis of:

- (A) Warranty work or predelivery service performed by any facility authorized by the vehicle or engine manufacturer to perform such work or service; or
 - (B) Work performed in an emergency situation to rectify an unsafe condition, including an unsafe driveability condition, attributable to the vehicle or engine manufacturer, provided the vehicle owner has taken steps to put the vehicle back in a conforming condition in a timely manner; or
 - (C) Any cause attributable to the vehicle or engine manufacturer; or
 - (D) The use of any fuel which is commonly available in the geographical area in which the vehicle or engine is located, unless the written instructions specify that the use of that fuel would adversely affect the emission control devices and systems of the vehicle, and there is commonly available information for the vehicle owner to identify the proper fuel to be used.
- (6) The vehicle owner may perform maintenance or have maintenance performed more frequently than required in the written instructions.
- (7) Except as specified in section (d)(2)(B) above, failure of the vehicle or engine owner to ensure the performance of such scheduled maintenance or to keep maintenance records shall not, per se, be grounds for disallowing a warranty claim.
- (e) Repair, adjustment, or replacement of any part under the warranty provisions of this article shall be performed at no charge to the vehicle or engine owner at a warranty station, except where a warranted part is not available to the vehicle or engine owner within a reasonable time (in no case more than 30 days) after the vehicle or engine is initially presented to the warranty station for repair. In case of such unavailability, repairs may be performed at any available service establishment, or by the owner, using any replacement part. The manufacturer shall reimburse the owner for his or her expenses including diagnostic charges for such repair or replacement, not to exceed the manufacturer's suggested retail price for all warranted parts replaced and labor charges based on the manufacturer's recommended time allowance for the warranty repair and the geographically appropriate hourly labor rate. A vehicle or engine owner may reasonably be required to keep receipts and failed parts in order to receive reimbursement due to such unavailability, provided the manufacturer's written instructions advise the owner of this obligation.
- (f) The vehicle or engine manufacturer shall be liable for damages to other vehicle components proximately caused by a failure under warranty of any warranted part.
- (g) Any replacement part may be used in the performance of any maintenance or repairs. Any replacement part designated by a vehicle or engine manufacturer may be used in warranty repairs provided without charge to the vehicle owner. Such use shall not reduce the warranty obligations of the vehicle or engine manufacturer, except that the vehicle or engine manufacturer shall not be liable under this article for repair or replacement of any replacement part which is not a warranted part (except as provided under section (d) above).

- (h) Any add-on or modified part exempted by the Air Resources Board from the prohibitions of Vehicle Code section 27156 may be used on a vehicle or engine. Such use, in and of itself, shall not be grounds for disallowing a warranty claim made in accordance with this article. The vehicle or engine manufacturer shall not be liable under this article to warrant failures of warranted parts caused by the use of such an add-on or modified part.
- (i) *Warranty Claim Procedures.*
- (1) A warranty claim may be submitted by bringing a vehicle to any repair facility authorized by the vehicle or engine manufacturer to service that vehicle.
 - (2) The manufacturer of each vehicle or engine to which the warranty is applicable shall establish procedures as to the manner in which a claim under the emission performance warranty is to be processed. The procedures shall provide for a final decision and repair of a warrantable condition by the vehicle or engine manufacturer within a reasonable time, not to exceed 30 days from the time at which the vehicle is initially presented for repair, or unless a delay:
 - (A) is requested by the vehicle owner, or
 - (B) is caused by an event not attributable to the vehicle or engine manufacturer or the warranty station.
 - (3) Within the time period specified in section (i)(2), the manufacturer shall provide the owner, in writing, with an explanation as to why the claim is being denied.
 - (4) Failure to notify a vehicle owner that a warrantable condition does not exist within the required time period of section (i)(2), for reasons other than those provided for in sections (i)(2)(A) and (B), shall result in the vehicle or engine manufacturer being responsible for repairing the vehicle free of charge to the vehicle owner.
 - (5) The vehicle or engine manufacturer shall incur all costs associated with a determination that an emission performance warranty claim is valid.
- (j) Warranty services or repairs shall be provided at all of a vehicle or engine manufacturer's dealerships which are franchised to service the subject vehicles or engines.
- (k) The vehicle owner shall not be charged for diagnostic labor which leads to the determination of a warrantable condition provided that such diagnostic work is performed at a warranty station.
- (l) Throughout the vehicle or engine's warranty period defined in section (b), the vehicle or engine manufacturer shall maintain a supply of warranted parts sufficient to meet the expected demand for such parts. The lack of availability of such parts or the incompleteness of the repairs within a reasonable time period, not to exceed 30 days from the time the vehicle or engine is initially presented to the warranty station for repair, shall constitute an unavailability of parts for purposes of section (e).
- (m) The Executive Officer may request and, in such case, the vehicle or engine manufacturer shall provide, any documents which describe the vehicle or engine manufacturer's warranty procedures or policies.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code.
Reference: Sections 43106, 43204, 43205, 44004, 44010, 44011, 44012, 44014, and
44015, Health and Safety Code.