

Environmental Protection Agency

§ 1039.125

hours of operation and years, whichever comes first. You may offer an emission-related warranty more generous than we require. The emission-related warranty for the engine may not be shorter than any published warranty you offer without charge for the engine. Similarly, the emission-related warranty for any component may not

be shorter than any published warranty you offer without charge for that component. If an engine has no hour meter, we base the warranty periods in this paragraph (b) only on the engine's age (in years). The warranty period begins when the engine is placed into service. The minimum warranty periods are shown in the following table:

If your engine is certified as . . .	And its maximum power is . . .	And its rated speed is . . .	Then its warranty period is . . .
Variable speed or constant speed.	kW < 19	Any speed	1,500 hours or two years, whichever comes first.
Constant speed	19 ≤ kW < 37	3,000 rpm or higher	1,500 hours or two years, whichever comes first.
Constant speed	19 ≤ kW < 37	Less than 3,000 rpm	3,000 hours or five years, whichever comes first.
Variable speed	19 ≤ kW < 37	Any speed	3,000 hours or five years, whichever comes first.
Variable speed or constant speed.	kW ≥ 37	Any speed	3,000 hours or five years, whichever comes first.

(c) *Components covered.* The emission-related warranty covers all components whose failure would increase an engine's emissions of any regulated pollutant, including components listed in 40 CFR part 1068, appendix I, and components from any other system you develop to control emissions. The emission-related warranty covers these components even if another company produces the component. Your emission-related warranty does not need to cover components whose failure would not increase an engine's emissions of any regulated pollutant.

(d) *Limited applicability.* You may deny warranty claims under this section if the operator caused the problem through improper maintenance or use, as described in 40 CFR 1068.115.

(e) *Owners manual.* Describe in the owners manual the emission-related warranty provisions from this section that apply to the engine.

[69 FR 39213, June 29, 2004, as amended at 70 FR 40463, July 13, 2005; 75 FR 22989, Apr. 30, 2010]

§ 1039.125 What maintenance instructions must I give to buyers?

Give the ultimate purchaser of each new nonroad engine written instructions for properly maintaining and using the engine, including the emission-control system. The maintenance instructions also apply to service accumulation on your emission-data en-

gines, as described in § 1039.245 and in 40 CFR part 1065.

(a) *Critical emission-related maintenance.* Critical emission-related maintenance includes any adjustment, cleaning, repair, or replacement of critical emission-related components. This may also include additional emission-related maintenance that you determine is critical if we approve it in advance. You may schedule critical emission-related maintenance on these components if you meet the following conditions:

(1) You demonstrate that the maintenance is reasonably likely to be done at the recommended intervals on in-use engines. We will accept scheduled maintenance as reasonably likely to occur if you satisfy any of the following conditions:

(i) You present data showing that, if a lack of maintenance increases emissions, it also unacceptably degrades the engine's performance.

(ii) You present survey data showing that at least 80 percent of engines in the field get the maintenance you specify at the recommended intervals.

(iii) You provide the maintenance free of charge and clearly say so in your maintenance instructions.

(iv) You otherwise show us that the maintenance is reasonably likely to be done at the recommended intervals.

(2) For engines below 130 kW, you may not schedule critical emission-related maintenance more frequently than the following minimum intervals, except as specified in paragraphs (a)(4), (b), and (c) of this section:

(i) For EGR-related filters and coolers, PCV valves, crankcase vent filters, and fuel injector tips (cleaning only), the minimum interval is 1,500 hours.

(ii) For the following components, including associated sensors and actuators, the minimum interval is 3,000 hours: Fuel injectors, turbochargers, catalytic converters, electronic control units, EGR systems (including related components, but excluding filters and coolers), and other add-on components.

(3) For engines at or above 130 kW, you may not schedule critical emission-related maintenance more frequently than the following minimum intervals, except as specified in paragraphs (a)(4), (b), and (c) of this section:

(i) For EGR-related filters and coolers, PCV valves, crankcase vent filters, and fuel injector tips (cleaning only), the minimum interval is 1,500 hours.

(ii) For the following components, including associated sensors and actuators, the minimum interval is 4,500 hours: Fuel injectors, turbochargers, catalytic converters, electronic control units, EGR systems (including related components, but excluding filters and coolers), and other add-on components.

(4) For particulate traps, trap oxidizers, and components related to either of these, scheduled maintenance may include cleaning or repair at the intervals specified in paragraph (a)(2) or (3) of this section, as applicable. Scheduled maintenance may include a shorter interval for cleaning or repair and may also include adjustment or replacement, but only if we approve it. We will approve your request if you provide the maintenance free of charge and clearly state this in your maintenance instructions, and you provide us additional information as needed to convince us that the maintenance will occur.

(5) You may ask us to approve a maintenance interval shorter than that specified in paragraphs (a)(2) and (3) of this section under §1039.210, including emission-related components that were

not in widespread use with nonroad compression-ignition engines before 2011. In your request you must describe the proposed maintenance step, recommend the maximum feasible interval for this maintenance, include your rationale with supporting evidence to support the need for the maintenance at the recommended interval, and demonstrate that the maintenance will be done at the recommended interval on in-use engines. In considering your request, we will evaluate the information you provide and any other available information to establish alternate specifications for maintenance intervals, if appropriate. We will announce any decision we make under this paragraph (a)(5) in the FEDERAL REGISTER. Anyone may request a hearing regarding such a decision (*see* §1039.820).

(6) If your engine family has an alternate useful life under §1039.101(g) that is shorter than the period specified in paragraph (a)(2) or (a)(3) of this section, you may not schedule critical emission-related maintenance more frequently than the alternate useful life, except as specified in paragraph (c) of this section.

(b) *Recommended additional maintenance.* You may recommend any additional amount of maintenance on the components listed in paragraph (a) of this section, as long as you state clearly that these maintenance steps are not necessary to keep the emission-related warranty valid. If operators do the maintenance specified in paragraph (a) of this section, but not the recommended additional maintenance, this does not allow you to disqualify those engines from in-use testing or deny a warranty claim. Do not take these maintenance steps during service accumulation on your emission-data engines.

(c) *Special maintenance.* You may specify more frequent maintenance to address problems related to special situations, such as atypical engine operation. You must clearly state that this additional maintenance is associated with the special situation you are addressing. We may disapprove your maintenance instructions if we determine that you have specified special maintenance steps to address engine operation that is not atypical, or that

the maintenance is unlikely to occur in use. If we determine that certain maintenance items do not qualify as special maintenance under this paragraph (c), you may identify this as recommended additional maintenance under paragraph (b) of this section.

(d) *Noncritical emission-related maintenance.* Subject to the provisions of this paragraph (d), you may schedule any amount of emission-related inspection or maintenance that is not covered by paragraph (a) of this section (that is, maintenance that is neither explicitly identified as critical emission-related maintenance, nor that we approve as critical emission-related maintenance). Noncritical emission-related maintenance generally includes maintenance on the components we specify in 40 CFR part 1068, appendix I, that is not covered in paragraph (a) of this section. You must state in the owners manual that these steps are not necessary to keep the emission-related warranty valid. If operators fail to do this maintenance, this does not allow you to disqualify those engines from in-use testing or deny a warranty claim. Do not take these inspection or maintenance steps during service accumulation on your emission-data engines.

(e) *Maintenance that is not emission-related.* For maintenance unrelated to emission controls, you may schedule any amount of inspection or maintenance. You may also take these inspection or maintenance steps during service accumulation on your emission-data engines, as long as they are reasonable and technologically necessary. This might include adding engine oil, changing air, fuel, or oil filters, servicing engine-cooling systems, and adjusting idle speed, governor, engine bolt torque, valve lash, or injector lash. You may perform this nonemission-related maintenance on emission-data engines at the least frequent intervals that you recommend to the ultimate purchaser (but not the intervals recommended for severe service).

(f) *Source of parts and repairs.* State clearly on the first page of your written maintenance instructions that a repair shop or person of the owner's choosing may maintain, replace, or repair emission-control devices and sys-

tems. Your instructions may not require components or service identified by brand, trade, or corporate name. Also, do not directly or indirectly condition your warranty on a requirement that the engine be serviced by your franchised dealers or any other service establishments with which you have a commercial relationship. You may disregard the requirements in this paragraph (f) if you do one of two things:

(1) Provide a component or service without charge under the purchase agreement.

(2) Get us to waive this prohibition in the public's interest by convincing us the engine will work properly only with the identified component or service.

(g) *Payment for scheduled maintenance.* Owners are responsible for properly maintaining their engines. This generally includes paying for scheduled maintenance. However, manufacturers must pay for scheduled maintenance during the useful life if the regulations require it or if it meets all the following criteria:

(1) Each affected component was not in general use on similar engines before the applicable dates shown in paragraph (6) of the definition of *new nonroad engine* in § 1039.801.

(2) The primary function of each affected component is to reduce emissions.

(3) The cost of the scheduled maintenance is more than 2 percent of the price of the engine.

(4) Failure to perform the maintenance would not cause clear problems that would significantly degrade the engine's performance.

(h) *Owners manual.* Explain the owner's responsibility for proper maintenance in the owners manual.

[69 FR 39213, June 29, 2004, as amended at 70 FR 40463, July 13, 2005; 72 FR 53130, Sept. 18, 2007; 73 FR 59191, Oct. 8, 2008; 75 FR 22989, Apr. 30, 2010]

§ 1039.130 What installation instructions must I give to equipment manufacturers?

(a) If you sell an engine for someone else to install in a piece of nonroad equipment, give the engine installer instructions for installing it consistent