*Automotive Aftermarket Industry Alliance*
*4600 East-West Highway*
*Suite 300*
*Bethesda, Maryland 20814*

*Automotive Engine Rebuilders Association*
*330 Lexington Drive*
*Buffalo Grove IL 60089*

*Automotive Parts Remanufacturers Association*
*4215 Lafayette Center*
*Suite 3*
*Chantilly, VA 20151-1243*

*Automotive Warehouse Distributors Association*
*4600 East-West Highway*
*Bethesda, Maryland 20814*

*Heavy Vehicle Maintenance Group*
*1818 N Street, N.W., Suite 400*
*Washington, D.C. 20036*

June 19, 2006

**VIA FACSIMILE (916) 322-3928**

Clerk of the Board
Air Resources Board
1001 "I" Street
23rd Floor
Sacramento, CA 95814

**Re: Amendments To Regulations For the Availability of California Motor Vehicle Service Information**

Dear Sir or Madam:

The undersigned trade associations are hereby submitting comments to express our concerns about several sections of the proposed amendments to the Regulations For the Availability of California Motor Vehicle Service Information which are to be considered by the Board on June 22, 2006. These concerns significantly affect the rights of members of our associations; their ability to effectively repair heavy duty engine emissions problems, and their ability to compete with the franchised dealers and authorized service networks of the heavy duty engine manufacturers.

Our associations have been actively involved in this regulatory process since it was announced in the spring of 2003. Over the past several months we have participated in ongoing discussions with the staff and the heavy duty engine manufacturers in an attempt to craft amendments which would comply with the requirements of Senate Bill 1146, serve the service information needs of heavy duty owners and aftermarket facilities, and address the concerns of the engine manufacturers. We are very appreciative of the substantial efforts ARB staff in involving interested parties in the formulation of these amendments and highly commend them for trying to accommodate the interests of all parties. For the most part, the proposed amendments are successful in achieving that goal. However, in a few instances they not only fail to achieve this goal, but fail to even comply with the requirements of S.B. 1146.

Heavy Duty Service Information

By far the most serious deficiency in the proposed final rule is the definition of "emission-related engine information" in subsection (d)(8). This definition fixes the scope of the service information which has to be made available to aftermarket facilities by heavy duty engine manufacturers. This new definition is far more limited than the similar definition for the types of information which must be made available for light and medium duty vehicles in subsection (d)(7). The light duty definition tracks the language of the statute. However, the information which must be provided for heavy duty vehicles veers sharply from the statutory requirements. It is different in two significant ways. First, the light duty definition requires that information on all systems "associated with the powertrain system" be provided. However, the heavy duty definition limits aftermarket availability only to information on all systems "associated with the engine system". Moreover, the heavy duty definition specifically excludes information related to the transmission system. Second, the requirement in the light duty definition that any information related to "[a]ny original equipment system or component that is likely to impact emissions, including but not limited to, the transmission system" has been entirely deleted. The effect of these two changes is to limit the access of aftermarket facilities to non-engine systems and parts, particularly the transmission system, and will prevent them from making emissions-related repairs which result from problems with those parts or systems.

Staff bases both of these changes on its opinion that heavy duty transmission manufacturers should not be subject to the rule because heavy-duty transmission manufacturers are not subject to ARB emission standards or certification requirements. But that is not the point. The statute (and the current regulation) only imposes requirements on vehicles and engine manufacturers. Transmission manufacturers were never subject to the rule, and we are not asserting that they should be. However, we believe that the statute was intended to impose information availability requirements on vehicle and engine manufacturers, not only to the extent that they have information on their own engines, but to the extent they have information from any source on parts which could adversely impact emissions and which information they make available to their franchised dealers and authorized service networks to ensure proper repair of emissions-related problems.

Staff also opines, without any justification, that the legislature could not have intended for those other systems and parts, including transmissions, to be covered because there was no heavy-duty OBD regulation in effect when S.B. 1146 was passed. However, there is nothing in the statute which supports such a finding. In fact everything in the statute dictates otherwise. The statute refers to "motor vehicles" in general, not just light and medium duty vehicles. It refers to "engines" as well as "vehicles" and therefore must apply to heavy duty because only heavy duty engines (and a few medium duty engines) are certified separate from a vehicle. It refers to Section 43104, the test provision for both vehicles and engines. Therefore, there is every indication that the legislature intended the law to apply to every motor vehicle and engine, light-duty, medium-duty and heavy-duty, and there is no support for the staff's convoluted interpretation which would limit the information available to the heavy duty aftermarket.

The intent of S.B. 1146 was to create a level playing field so that consumers would have a choice where they wanted emissions-related problems repaired – by a dealer or an independent. The legislation also was intended to make sure that independent shops had sufficient access to both the tools and information to ensure that consumer's vehicles were conveniently and effectively repaired. By denying independent providers who are covered persons under the rule some of the information which the manufacturers can make available to their franchised competitors, the aftermarket and the vehicle owners are once again being disadvantaged in the emissions repair aftermarket. We urge the Board to amend the definition of "emissions-related engine information" in subsection (d)(8) so that it is the same as that for "emissions-related motor vehicle information" in subsection (d)(7).

Enhanced Diagnostic and Reprogramming Tools

The proposed rule requires that, except for tools which may be currently available to the aftermarket, no enhanced diagnostic, recalibration and reconfiguration tools have to be made available to the aftermarket until model year 2013. There is no justification for this delay.

The engine manufacturers raised concerns about the safety of these tools in the hands of the heavy duty aftermarket claiming that they would be used to improperly to change the engine settings affecting performance and/or emissions. As a result, training requirements were added to the rule so that now, before an aftermarket provider can purchase these tools, it must undergo any training required by the manufacturer. While many in the aftermarket were skeptical of the need for this training, we acquiesced in the training requirements as a reasonable accommodation to address the safety concerns of the manufacturers. Now, we are still being denied access, ostensibly to give the engine manufacturers time to build additional safeguards into these tools. But if the training that is required for safety is available now, and is a requirement for purchasing these tools, why are any additional safeguards necessary? Franchised dealers and authorized service network providers have access to these tools now, without any additional safety measures being required. It makes no sense to delay making these tools available to aftermarket facilities who do the same work. If this provision is allowed to stand as proposed, it will be an additional seven years before the aftermarket can have access to these tools, even though their competitors, the dealers, will. Once again the purpose of the statute is being frustrated.

We urge the Board to give all covered persons full and immediate access to all tools available to franchised dealers and authorized service networks, subject to undergoing the required training.

Training.

As state previously, most heavy duty aftermarket service technicians were highly skeptical of the need for any significant special training to use these heavy duty enhanced tools. However, the industry agreed to the training, provided that it was given timely, conveniently, at a reasonable cost and was the same as that required of the franchised dealers. The proposed regulation addresses all of these concerns. Although we still believe that the six month time

frame for providing training is too long and the requirement that the training be in only California is not geographically limited enough, we are not asking for any changes in these requirements. However, we would strongly oppose any change to the training requirement which would increase the time when, or enlarge the geographical area where, the timing must be given.

We appreciate the opportunity to comment on these proposed amendments, and ask that the Board seriously consider the changes we request.

Very truly yours,

*Automotive Aftermarket Industry Association*
*Aaron Lowe, Vice President*
*Government Affairs*

*Automotive Engine Rebuilders Association*
*John Goodman, President*

*Automotive Parts Remanufacturers Association*
*William C. Gager, President*

*Automotive Warehouse Distributors Association*
*Aaron Lowe, Vice President*
*Government Affairs*

*Heavy Vehicle Maintenance Group*
*Michael J. Conlon, President*