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*06-6-3*

**STATE OF CALIFORNIA  
AIR RESOURCES BOARD**

Proposed Amendments to	)	
Regulations for the Availability of	)	Agenda Item: 06-6-3
California Motor Vehicle Service	)	
Information; Title 13 CCR Chapter 1,	)	Hearing Date: June 22, 2006
Section 1969.	)	

**ORAL STATEMENT OF THE  
ENGINE MANUFACTURERS ASSOCIATION**

Good morning/afternoon. My name is Lisa Stegink and I am here today on behalf of the Engine Manufacturers Association. We have worked with Staff over a long period of time on heavy-duty engine service information issues, and we testified before the Board in 2004 when it first adopted some service information requirements applicable to heavy-duty.

The driving factor behind service information requirements is the implementation of on-board diagnostics requirements – which the Board adopted last summer for heavy-duty engines – and the need for service providers to properly diagnose emissions-related problems. In short, what the service information rule is supposed to do is to ensure access to information and tools necessary to properly diagnose and make emission-related engine repairs.

We have discussed with Staff many times what requirements are necessary and reasonable to ensure that access to service information. The Staff's proposal goes far beyond that and, thus, we do not fully support it.

Because of the nature of the heavy-duty industry, manufacturers of heavy-duty engines already make service information and tools available to the independent service industry. Indeed, when ARB first started talking about service information for heavy-duty, representatives from the aftermarket industry themselves assured ARB that the current system was working. Implementing the rule as proposed will not make service information substantially more available to service providers or cheaper to obtain.

The heavy-duty service industry, in contrast with the light-duty industry, operates on a much smaller and more individualized scale. There are far fewer service facilities and, although a limited number of products, an enormous number of variations on how those products may be configured and calibrated. Yet, with all those variations, the light-to heavy-duty vehicle volume ratio is approximately 40 to 1. Given the much smaller heavy-duty industry, the costs of the proposal far outweigh its benefits.

Manufacturers will incur significant costs to develop and maintain Web sites meeting the access requirements of the proposal. Manufacturers also will incur significant costs to re-engineer their service tools (meaning software) to make those tools available to third parties. Yet manufacturers do not anticipate any great demand for those tools. For example, we have learned that one light-duty manufacturer has received on its Web site in one year only 43 requests for yearly service subscriptions and 55 month-long subscriptions on a nationwide basis. Another has received a total of 174 year-long and month-long subscriptions. Based on those combined numbers, in the context of the heavy-duty industry, that would equate to approximately one service subscription per year. At a minimum, ARB should conduct a future review of heavy-duty service information subscription usage to see whether the new requirements are necessary and cost-effective, which we do not believe they are.

While elements of the proposal do make some tools more available, on balance, the proposal is simply much more costly than the benefits it provides. With the increased costs that the rule would impose on manufacturers, fees for access to information would increase. As a result, all subscribers to service information, including aftermarket service providers, would pay more than they do now.

Finally, the legal authority on which ARB relies for its rule was not drafted with the heavy-duty industry in mind. California Senate Bill 1146 was a distinctly light-duty effort negotiated between the light-duty industry and aftermarket service providers. The law was not developed in the context of the heavy-duty industry nor was its intent or focus to fix perceived issues in the heavy-duty industry.

The Staff has proposed a rule which we do not fully support. ARB must find a way to address the issues we've just outlined, as well as the following:

- **Transmission information.** The rule must require heavy-duty engine manufacturers to provide only engine information, not transmission information, as ARB originally proposed. We just learned, however, that ARB would now require engine makers to provide transmission information. EMA opposes this change. EMA had numerous discussions with Staff, including discussions with the aftermarket, in which we explained why it's not appropriate to ask engine manufacturers to provide transmission information. Staff agreed, proposed an approach we support, and now has done a sudden turnabout. Engine manufacturers produce engines, not transmissions, and they cannot provide information for components over which they have no control. The heavy-duty OBD rule, on which service information requirements are based, recognizes that fact and is an engine-only rule. Engine manufacturers should be required to provide only heavy-duty engine service information as well.

- **Definition of “emission-related.”** In addition to excluding transmission information, ARB must revise the definition of “emission-related” to focus on the components that are related to the engine from an emissions standpoint, not every possible component of the engine whether related to emissions or not. ARB’s definition is not appropriate, as it would catch every nut and bolt that is not truly emission-related.
- **Training.** Manufacturers must be allowed to require training as a condition of sale of their service tools, as it provides some protection against misuse of those tools. While Staff seems to support that approach, the conditions that ARB would impose are too burdensome, particularly those that require training to be provided at California locations. Manufacturers currently provide training to authorized service providers at centralized locations, most of which are not in California. Asking them to set up special training that they don’t otherwise make available to authorized service providers is asking for special treatment for aftermarket service providers. That is not the intent of the Proposed Rule. And having to set up special training in California would be far more costly than allowing the current system to continue – requiring trainer travel, renting suitable classroom and lab space sufficient to hold demonstration equipment, and freight transfer of engines and other equipment necessary for the training.
- **Definition of “covered person.”** ARB should adopt a separate definition of “covered person” for heavy-duty purposes in order to assure that only entities in the heavy-duty service business – not light-duty service providers – are entitled to obtain access to heavy-duty service information.
- **Compliance Flexibility.** EMA supports allowing manufacturers of diesel-derived engines used in medium-duty vehicles the option to comply with heavy-duty service information requirements. ARB also must allow manufacturers of heavy-duty engines the option to comply with the light- and medium-duty service information rules.
- **Subscription Periods.** Given the significant differences between the heavy-duty and light-duty service industries, heavy-duty engine manufacturers support flexibility in subscription periods offered for heavy-duty service information compared to those that the light-duty industry may offer. We appreciate Staff’s recognition that such flexibility is appropriate.
- **Liability.** Heavy-duty tools are extremely powerful, allowing service providers to recalibrate engines and reconfigure engine parameters. The potential for misuse – whether unintentional or deliberate – is high.



Engine manufacturers have control over potential misuse by their authorized dealers, but the proposal does not allow manufacturers to maintain that same control when tools are made available to third parties. While training is absolutely essential to alleviate, in part, that concern, it is not enough. Engine manufacturers need confirmation in the regulatory language that they will not be liable for the use and misuse of third party tools.

The Board should acknowledge these significant issues and we ask you to direct the Staff to work with us through the 15-day notice process to address these issues as well as those detailed in our separate written comments.

Thank you. I would be happy to address any questions you may have.