

**STATE OF CALIFORNIA
AIR RESOURCE BOARD**

**Proposed Amendments to California)
Emission Control System Warranty)
Regulations and Maintenance Provisions)
for 2022 and Subsequent Model Year)
On-Road Heavy-Duty Diesel Vehicles)
and Heavy-Duty Engines with Gross)
Vehicle Weight Ratings Greater Than)
14,000 Pounds and Heavy-Duty Diesel)
Engines in Such Vehicles)**

**Hearing Date: June 28, 2018
Agenda Item: 18-5-2**

**COMMENTS OF
THE TRUCK AND ENGINE MANUFACTURERS ASSOCIATION**

June 25, 2018

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Introduction

The Truck and Engine Manufacturers Association (“EMA”) hereby submits its comments regarding the “Proposed Amendments to California Emission Control System Warranty Regulations and Maintenance Provisions for 2022 and Subsequent Model Year On-Road Heavy-Duty Diesel Vehicles and Heavy-Duty Engines with Gross Vehicle Weight Ratings Greater Than 14,000 Pounds and Heavy-Duty Diesel Engines in Such Vehicles” (the “Proposed Extended Warranty and Maintenance Amendments”). The California Air Resources Board (“CARB”) published the Proposed Extended Warranty and Maintenance Amendments, along with the accompanying Initial Statement of Reasons (“ISOR”), on May 8, 2018.

EMA is the trade association that represents the world’s leading manufacturers of internal combustion engines, including heavy-duty on-highway (“HDOH”) diesel engines, and the heavy-duty and medium-duty vehicles in which those HDOH diesel engines are installed. EMA has a direct and significant interest in the Extended Warranty and Maintenance Amendments, since those amendments target the HDOH diesel-fueled vehicles and engines that EMA’s members design and manufacture.

As an initial matter, EMA appreciates the work that CARB staff have expended in developing the proposed Amendments over a nearly two-year period. Throughout that thorough rule-development process, CARB staff have listened and responded to EMA’s comments and concerns in a cooperative manner, which, over each iteration of the proposed Amendments, has resulted in improved draft regulatory language. EMA and its members want to duly note CARB staff’s diligence and good faith efforts in that regard. Notwithstanding the professionalism of CARB staff in this rulemaking process, EMA has a number of remaining concerns, as detailed below.

First, as EMA has stated from the outset, EMA believes that the Proposed Extended Warranty and Maintenance Amendments should be deferred so that they are components of the more comprehensive suite of HDOH low-NO_x regulations that CARB staff are anticipating for adoption at the end of 2019. Extended warranties and maintenance intervals can be evaluated in a much better light *after* the applicable future HDOH emission standards — and the components of the relevant future compliant emission-control systems — become more fully known, not before. Stated differently, by adopting extended warranty and maintenance intervals before considering what the applicable low-NO_x emission requirements will be in 2024 and beyond, CARB is not proceeding in what would otherwise be the proper logical order. That out-of-order sequencing threatens to create feasibility issues for future emissions-related components by locking in their durability and maintenance requirements before we know what the design features of those future components might be and how they might perform in production vehicles and engines. Thus, EMA reiterates its original request that CARB defer consideration of the Proposed Extended Warranty and Maintenance Amendments until the other elements of CARB’s HDOH low-NO_x program are more fully developed.

In that regard, EMA cautions CARB to give due consideration to whether the other elements of CARB’s envisioned HDOH low-NO_x and OBD programs are likely to threaten the viability of HDOH diesel engine sales in California after 2022. For example, the Proposed Extended Warranty and Maintenance Amendments likely will add approximately \$4,000 to the cost of HDOH diesel engines sold in California. Even more troubling, the anticipated HD OBD amendments (scheduled for the November Board hearing) — which include very costly in-use testing requirements and a 9-fold increase in the cost of OBD “deficiencies” — could add over \$7,000 to the cost of HDOH diesel engines sold in California. That is even before considering the per-engine costs of any new California-only HDOH ultra-low NO_x standards, in-use requirements, and low-load test cycles. All in, the dramatically increased future marginal costs of selling HDOH diesel engines in California after 2022 (engines that likely would carry a fuel-economy penalty as well) could have very significant impacts on product viability and availability in the State. CARB leadership, including Board members, need to reflect carefully on the very serious ramifications that may result from CARB’s current regulatory agenda.

EMA’s other comments regarding the Proposed Extended Warranty and Maintenance Amendments are more specific in nature, as follows:

1. The Proposed Extended Warranty and Maintenance Amendments constitute standards relating to the control of emissions from new motor vehicles or new motor vehicle engines. Thus, prior to attempting to enforce the Extended Warranty and Maintenance Amendments, CARB will need to obtain and receive a preemption waiver from U.S. EPA under section 209(b)(1) of the Federal Clean Air Act (“CAA”). (42 U.S.C. §7543(b)(1).) To obtain such a waiver, CARB will need to demonstrate that the Proposed Extended Warranty and Maintenance Amendments are, among other things, consistent with section 202(a) of the CAA, which section includes (among other things) a 4-year leadtime requirement. CARB should explicitly confirm in its Final Statement of Reasons (“FSOR”) that it will not attempt to enforce the Proposed Extended Warranty and Maintenance Amendments prior to receiving a formal preemption waiver from U.S. EPA.

2. While the ISOR states that “there are no proposed modifications to the warranty periods specific to greenhouse gas components” (ISOR, pp. 5, III-7), the draft regulatory provisions (see, e.g., proposed sections 2035 (c)(2)(C) and 2036 (f)(1)(A)) do not make that sufficiently clear. CARB should add explicit regulatory language stating that the emissions warranty and maintenance periods specifically applicable to greenhouse gas components shall remain the same as those in effect prior to June 28, 2018.
3. In proposed section 2036(c)(4)(B), CARB has included language stating that “[e]xtended warranties on select parts do not extend the emission warranty requirements for the entire engine, but only for those parts.” That language is fine as far as it goes, but it should go farther.

More specifically, where a manufacturer elects to provide an extended warranty for certain parts beyond the regulatorily-required warranty, any warranty claims that may occur during that extended period should not be included in calculating percentage claims rates for EWIR purposes (e.g., 2% claims rate based on unscreened claims and 4% claims rate based on screened claims for EWIR reporting). The EWIR thresholds were set with the regulatory warranty periods in mind, not extended warranty periods, which means that warranty claims that might occur during extended warranty periods should not be included for EWIR purposes. Otherwise, manifestly unfair and overly-inclusive EWIR results will arise and manufacturers will be deterred from offering extended warranties, which would be a clearly undesirable outcome. Accordingly, CARB should make it clear in the final regulations that any warranty claims for parts that are covered by extended warranties will not be included in calculating any warranty claims rates for EWIR purposes.

4. Proposed section 2036(f)(1)(B) is unclear and overly broad. First, that section includes the phrase “in addition to the parts indicated in section (f)(1),” which phrase is inherently confusing because the provision at issue is itself contained in section (f)(1). The self-reflective reference to section (f)(1) appears to be an error. Second, and more importantly, the provision would require manufacturers to include in their lists of warranty-covered parts “any emissions-related part that can cause the vehicle’s on-board diagnostic malfunction indicator light to illuminate.” This language remains unduly broad and ambiguous, and could lead to unnecessary disputes at the time of HDOH engine/vehicle certification regarding whether a given manufacturer’s list is sufficiently inclusive of emissions-related parts, especially in the case of non-integrated manufacturers that may not know all of the vehicle (or engine) components that might activate an OBD MIL.

To help resolve this remaining ambiguity and to avoid the many potential implementation issues that are likely to arise at the time of certification, CARB should include a specific commitment in the FSOR that CARB staff will work with engine manufacturers (through EMA) to develop an appropriate list, at least in general terms, of the relevant emissions-related parts that can cause an HDOH vehicle’s OBD MIL to illuminate. Similarly, CARB staff should work with engine manufacturers to reach consensus on which emission-related components should not be on that list, including, for example, downstream OEM add-on components that may cause various ECM communication protocol issues. Having that type of general standardized list will help obviate the numerous certification issues that otherwise are likely to impede the timely issuance of Executive Orders.

EMA appreciates the opportunity to submit these comments on the Proposed Extended Warranty and Maintenance Amendments, and, as noted above, is greatly appreciative of Staff's collaborative and cooperative efforts in this rulemaking process.

Respectfully submitted,

TRUCK & ENGINE
MANUFACTURERS ASSOCIATION