

John Cabaniss
06-11-06

Association of International Automobile Manufacturers

Comments on Proposed Amendments to California Emission Warranty Information
Reporting and Recall Regulations and Emission Test Procedures

December 7, 2006

The Association of International Automobile Manufacturers (AIAM) is a trade association representing 14 international motor vehicle manufacturers which account for half of all passenger cars and light trucks sold annually in California. AIAM members include Aston Martin, Ferrari, Honda, Hyundai, Isuzu, Kia, Maserati, Mitsubishi, Nissan, Peugeot, Renault, Subaru, Suzuki and Toyota. AIAM also represents original equipment suppliers and other automotive-related trade associations.

AIAM appreciates the opportunity to provide comments to the California Air Resources Board (ARB) on the Initial Statement of Reasons (ISOR) released on October 20, 2006 for this proposed rulemaking.

AIAM understands ARB's motivation for amending the regulations to facilitate expeditious determinations of when and how defect remedies should be implemented. However, we believe the proposed amendments go significantly beyond what is necessary to resolve ARB's fundamental concerns. AIAM's detailed comments follow by topic.

A. Certification

Under the proposal, ARB would add language to the certification regulations that would require a manufacturer to "demonstrate" that all emission related components will be sufficiently durable to work properly for the full useful life without exceeding a 4% in-use failure rate. Similarly, on page 19, the ISOR "at certification, manufacturers must present data proving" that in-use failures will not exceed 4%.

First, AIAM believes that it is not technically possible to demonstrate component failure rates through the certification durability demonstration process. The purpose of the certification durability program is to demonstrate emission compliance and component durability over the useful life, not to predict the rate at which emission components fail on the margin in use.

Furthermore, AIAM is concerned that linking in-use component failure rates to certification, as proposed, will lead to roadblocks in the certification process. Manufacturers cannot accept the repercussions that could result from delays in certification, such as shutting down assembly lines or delaying delivery of vehicles to dealers. Manufacturers must have an orderly, predictable process for certification.

It is our understanding that ARB's intent here is not to change the current certification process, but instead to recognize that in the current process manufacturers are already documenting that their vehicles are designed to comply with emissions standards during the defined useful life period. However, there is nothing in the ISOR which explains this position, nor anything stating that these regulatory changes will not affect the current certification process.

For these reasons, AIAM does not support ARB's proposal to create a link between the certification durability demonstration and in-use defect reporting/remedy requirements, and we recommend that ARB delete the proposed amendments in all of the "Test Procedures" sections.

B. Emissions Impacts

While AIAM understands ARB's concerns that the current requirement for ARB to consider emissions impacts has resulted in significant delays in addressing a few in-use emissions issues, AIAM believes it is essential that emissions impacts be considered in cases involving remedial actions to address emissions defects. During earlier discussions between ARB and industry, AIAM believes the parties were close to reaching an agreement on an approach to use engineering evaluations along with emissions testing to identify representative scenarios for analyzing the emissions impacts of specific part failures. Such an approach is needed for ARB and the affected manufacturer to better assess the need and options for cost-effective remedial actions.

Therefore, we recommend that ARB revise the amendments to maintain emissions impacts as a criterion for judging defects and the need for remedial action and that ARB renew its discussions with industry on an acceptable approach for identifying and analyzing the emissions impact of defective components and the need for resultant remedial actions.

C. Definition of a "Valid" Defect

ARB must clearly define what it believes is a "valid" defect.

A "valid" defect of an emission component is one that would cause a vehicle to fail an emissions standard. There are clearly many warranty claims which do not have any significant emissions performance impact, such as those involving noise, appearance, driveability, or misdiagnosis, and there needs to be a way to filter out such warranty claims from those that cause a vehicle to fail an emissions standard.

Therefore, AIAM recommends that ARB adopt the following definition:

"Valid warranty claim" means a warranty claim for a defective emission component that causes a vehicle to fail an emissions standard.

D. Duration of an Extended Warranty

Under ARB's proposal the required remedial action would be to extend warranties to 15 years or 150,000 miles in many cases. Throughout the proposal as explained in the ISOR, ARB has consistently applied the philosophy of trying to establish a linkage between certification and in-use performance. However, in the case of the duration of an extended warranty, ARB seems to be disregarding the fact that for non-PZEVs, the regulatory useful life for certification is limited to 12 years or 120,000 miles.

Additionally, in the certification program, "useful life" is based on the average vehicle in the fleet. As a result, both ARB and EPA have limited in-use recall testing of vehicles to 75% of a vehicle's useful life period (i.e., 90,000 miles for a vehicle with a 120,000-mile certification useful life period), recognizing that some vehicles in-use will be subject to harsher driving conditions and may age naturally earlier than other vehicles in the fleet.¹

Therefore, using ARB's own logic, AIAM believes it is reasonable to apply this same approach to an extended warranty and limit warranty extensions to 9 years or 90,000 miles; whichever occurs first.

E. Administrative Process

The ARB proposal would limit the manufacturers' right to request an administrative hearing to cases where a potential recall was being proposed, but not allow such a request in extended warranty cases. AIAM understands this distinction is based upon a narrow interpretation of the California statutes that apply the "right" to a hearing only to recall cases. Nevertheless, AIAM believes it would facilitate due process by also allowing manufacturers to request a hearing for extended warranty cases. Allowing such hearings is not prohibited in the statute, and doing so would provide a more transparent process.

Thank you for the opportunity to provide these comments.

¹ There is also a question as to whether ARB has legal authority to require manufacturers to extend warranties as a remedial action.