California Motor Vehicle Service Information Rulemaking Status

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Prepared by:

Air Resources Board Staff

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ABSTRACT:

The service information regulation requires the availability of emission-related service information and tools to aftermarket service technicians, aftermarket part manufacturers, and tool and equipment companies. The Air Resources Board (ARB or Board) originally adopted the regulation in December 2001 pursuant to Health and Safety Code (HSC) section 43105.5, and implementation began on March 30, 2003. As required by HSC section 43105.5(g), this is the third annual report to the State legislature on the effectiveness of the regulation. It covers the 2004 calendar year.

In January 2004, the Board approved amendments to the regulation that expand its applicability to cover 2007 and later model year heavy-duty vehicles. At the Board's direction, the staff reported back before it in May 2004 to address remaining concerns regarding tools availability requirements for heavy-duty vehicles, and access to immobilizer information. Based on the discussions at the May 2004 hearing, the staff agreed to defer heavy-duty vehicle tools availability requirements until the time that revised on-board diagnostic (OBD) system requirements are considered by the Board for 2010 model year and later applications. The ARB staff is scheduled to present its proposals on this matter to the Board this summer. The remaining regulatory amendments became effective on February 6, 2005.

In the short, two-year existence of the regulatory program, implementation of the service information regulation has gone relatively smoothly. Although the staff is working with stakeholders to address cost concerns for manufacturers' enhanced diagnostic tool information, very few concerns over regulatory compliance have been brought to the staff's attention.

BACKGROUND:

The use of sophisticated emission control devices has allowed motor vehicle manufacturers to meet stringent emission standards necessary for California's attainment of ambient air quality goals. However, continued compliance with these low emission levels depends on the proper operation of the emission control systems built into the vehicles. Emission-related malfunctions can cause vehicle emission levels to greatly exceed certification standards. Current light- and medium-duty vehicles sold in California are equipped with OBD systems that detect the occurrence of these malfunctions. Manufacturers of heavy-duty engines are required to meet new OBD requirements beginning with the 2007 model year.

When a malfunction is detected by an OBD system, the "check engine" or "service engine soon" light illuminates on the vehicle's instrument panel, and diagnostic information is stored in the on-board computer. Through the rapid

identification and repair of emission-related problems, the lifetime emissions from motor vehicles can be minimized. However, because emission levels are not reduced until the vehicle is successfully repaired, it is critical that service technicians have access to the information and diagnostic tools necessary to effectively utilize OBD system information, and to carry out necessary repair work for identified problems. The availability of compatible aftermarket replacement parts is also important to the repair process. If there is not an adequate supply of needed replacement parts at reasonable prices, the repair of emission-related malfunctions may be postponed or carried out improperly.

In creating Health and Safety Code section 43105.5, the authorizing Senate Bill 1146 made the finding that "to prevent unnecessary pollution, it is in the best interests of this state to ensure that the ability of California motorists to obtain service, repair, or replacement of faulty emissions-related components of their motor vehicles is not limited by the arbitrary withholding of service, repair, or parts information by motor vehicle manufacturers." Furthermore, the Legislature found that "the withholding of essential service, repair, and parts information and tools by vehicle manufacturers from independent automotive repair technicians and independent aftermarket parts manufacturers may result in improper and needlessly costly repairs that could also endanger the public and result in anticompetitive effects harmful to the best interests of the state."

SUMMARY OF REQUIREMENTS:

The ARB's regulation is codified in title 13, California Code of Regulations (CCR), section 1969 and Title 17, CCR, sections 60060.1 through 60060.34. The main regulatory provisions are described below. Significant amendments made to the regulation during 2004 are denoted in ***BOLD Italic*** type. Details of the ARB's 2004 rulemaking can be found at http://www.arb.ca.gov/msprog/cmvsip/cmvsip.htm.

A. Applicability

The service information regulation applies to 1994 and later model year light- and medium-duty vehicles equipped with OBD systems, ***and to 2007 and later model year heavy-duty engines and vehicles equipped with OBD systems (Implementation of new heavy-duty engine OBD requirements, known as Engine Manufacturer Diagnostics (EMD), is set to begin with the 2007 model year).***

B. Service Information

Most emission-related service information is text-based information routinely used to complete service and repairs on consumer vehicles. This information includes, but is not limited to, service manuals, technical service bulletins, wiring

diagrams, troubleshooting procedures, and training materials. All emission-related service information that is available to franchised dealerships must also be made available to independent technicians and aftermarket part companies. The regulation specifically requires that text-based service information, at a minimum, be made available directly via the Internet.

C. On-Board Diagnostic System Descriptions

Motor vehicle manufacturers must make available general descriptions of the design and operation of their OBD systems. These descriptions include the system monitoring parameters, diagnostic trouble codes, enabling conditions, monitoring sequence, malfunction thresholds, and "mode 6" data. ***Heavy-duty vehicle manufacturers must likewise make available all EMD descriptions. Manufacturers must also make available all existing monitor-specific drive cycle information for all major OBD monitors.*** This information helps service technicians to better understand the conditions under which malfunctions are indicated.

D. Diagnostic Tools and Reprogramming Equipment

Manufacturers must offer for sale the same emission-related diagnostic tools that are provided to franchised dealerships and authorized service networks. This ensures the availability of dealership-quality tools to the aftermarket and provides for improved diagnosis and repair of emission-related malfunctions.

The regulation also requires motor vehicle manufacturers to make emission-related enhanced data stream information[1] and bi-directional control information[2] used in dealer tools available to aftermarket tool manufacturers. This information enables automotive diagnostic tool manufacturers to incorporate similar functionality into their generic tools.

Heavy-duty engine and transmission manufacturers are currently exempt from both of the above requirements. However, the ARB staff plans to propose tools availability requirements for 2010 and later model year heavy-duty vehicles for Board consideration later this year.

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[1] "Enhanced data stream information" is defined as data stream information that is specific for an original equipment manufacturer's brand of tools and equipment. Data stream information available to technicians through a diagnostic tool typically consists of real time data from sensors and the on-board computer regarding the operating conditions of the vehicle.

[2] "Bi-directional control information" typically consist of commands issued by a technician using a scan tool to override normal vehicle operation in order to activate a device or computer routine for diagnostic purposes.

E. Immobilizer Information

Motor vehicle manufacturers are required to make available to the service and repair industry initialization procedures used by dealerships for vehicles equipped with integrated anti-theft systems known as immobilizers. A manufacturer is required to provide such procedures when necessary for installation of on-board computers, or for repair or replacement of other emission-related parts. ***The procedures must rely on commonly available tools in order to prevent the need to purchase special tools.***

An issue related to the release of special immobilizer information to remanufacturers of on-board computers has been a concern since the December 2001 hearing, and discussion of the issue continued through both the January 2004 and May 2004 hearings. The Board concluded during the May 2004 hearing that access to special information should not be required as part of the regulation.

F. Cost of Service Information

All required service information and diagnostic tools must be offered for sale at "fair, reasonable, and nondiscriminatory prices" to ensure equal access to service information and tools. Actual prices for service information and tools are not specified by the ARB in the regulation. Instead, manufacturers are required to apply factors to their prices to determine if they are appropriate. These include the costs to prepare and distribute the information, the costs charged by other vehicle manufacturers, and the ability of an aftermarket technician to afford the information.

G. Trade Secret Disclosure

The regulation contains provisions for manufacturers to withhold trade secret information that would otherwise have to be disclosed. It permits manufacturers to initially withhold information that it believes to be trade secret (as defined in the Uniform Trade Secret Act contained in Title 5 of the California Civil Code). This information must be identified on the manufacturer's service information website. Covered persons that believe the information is not a trade secret may request the motor vehicle manufacturer in writing to make the information available. If resolution cannot be reached informally, the motor vehicle manufacturer would be required to petition the California superior court to obtain an exemption from disclosure.

H. Compliance Review Procedures

The regulation allows the ARB to review a motor vehicle manufacturer's compliance with its requirements by conducting periodic audits of motor vehicle manufacturer websites. A covered person may also request the ARB to conduct an audit. The ARB will conduct the audit if: (1) the request, on its face,

establishes reasonable cause to believe that the manufacturer is in noncompliance with the regulation, and (2) the covered person has made reasonable efforts to resolve the matter informally with the manufacturer. At the conclusion of the audit, the ARB will issue a written determination as to whether the motor vehicle manufacturer is in compliance with the regulations.

I. Administrative Hearing Procedures

Health and Safety Code section 43105.5(f) requires the ARB to establish administrative hearing procedures for the review of Executive Officer determinations of non-compliance with the regulation. The hearing procedures for this purpose are provided in title 17, CCR, sections 60060.1 through 60060.34. After considering the record and arguments submitted by the parties, a hearing officer issues a written decision and order within 30 days. The hearing officer's decision is considered the final decision of the ARB, subject to review by the superior court.

J. Non-Compliance Penalties

The regulation authorizes a hearing officer to assess civil penalties against a manufacturer for continued noncompliance. Such penalties may be assessed if the manufacturer fails to come into compliance within 30 days from the date of a hearing officer's compliance order, or such later date that the hearing officer deems appropriate. The penalties can be as high as $25,000 per violation per day that the violation continues.

COMPARABLE FEDERAL REGULATIONS:

The United States Environmental Protection Agency (U.S. EPA) finalized significant amendments to the existing federal service information requirements in June 2003.[3] The ARB staff worked closely with the U.S. EPA during development of each agency's regulations to ensure that California and federal requirements are harmonized as much as possible to minimize the regulatory burden on manufacturers.

Highlighting the primary remaining differences between the regulations, the federal regulation does not currently apply to heavy-duty vehicles as defined by the ARB (i.e., greater than 14,000 pounds), although the U.S. EPA has stated its intent to expand its regulation to do so in the near future. Further, the federal regulation ensures information access only to the service and repair industry, while the ARB's service information regulation also requires the aftermarket parts industry to be entitled to information and tools. With respect to enforcement, the provisions in ARB's regulation to ensure that manufacturers comply with

[3] Federal Register, Vol. 68, No. 124, June 27, 2003.

California's service information requirements are significantly different from those under federal law. The Health and Safety Code mandates the broader scope of the California regulation and the framework for the regulation's enforcement.

In November 2004, the U.S. EPA announced its plans to start a project that would allow non-dealer technicians the opportunity to evaluate light-duty manufacturer websites for service information. The purpose of this project is to evaluate how complete and effective manufacturers' websites are in making available the required information and tools. The ARB staff is participating with the U.S. EPA in this effort.

To facilitate this project, a steering committee was created to draft the application and website evaluation forms for the participants. Technicians will be asked to rate the website they are auditing by answering approximately 50 questions using a scale of 1-10. These questions center on the website's ease of use and the ability to find targeted service information. As of the date of this report, interest in participating in the program has risen to over 230 technicians, satisfying the target for the desired number of participants (200-250). Detailed information about the program, as well as the forms, can be found at http://www.oemaudit.com. Actual technician evaluations of the websites should start in April 2005 and are expected to be completed by June 2005. Afterwards, the results will be compiled into a final report.

IMPLEMENTATION STATUS:

As required by the service information regulation, all major light- and medium-duty vehicle manufacturers now have operational service information websites on the Internet. Heavy-duty manufacturers are not required to do so until the 2007 model year. Most manufacturers offer time-based subscriptions that range in length from 24 hours to one year. Seven manufacturers charge for service information per document, and one manufacturer is still offering free access to emissions-related service information. Table 1 contains a list of manufacturers' websites and access charges:

Table 1
Service Information Websites
(as of March 2005)

Manufacturer	Website Address	Pricing		
		Short-Term	Month	Year
Acura	https://www.serviceexpress.honda.com	$20.00 (72 hr)	$50.00	$500.00
AM General*	http://www.amgeneralcorp.com	Documents Individually Priced		
Audi	http://erwin.audi.com	Documents Individually Priced		
BMW	http://www.bmwtechinfo.com	$25.00 (24 hr)	$300.00	$2,500.00
Bentley*	http://www.bentleytechinfo.com	Documents Individually Priced		
Chrysler	http://www.techauthority.com	$20.00 (24 hr)	$200.00	$1,500.00
Ferrari*	http://www.ferraritechinfo.com/	Documents Individually Priced		
Ford	http://www.motorcraftservice.com	$19.95 (72 hr)	$299.95	$2,499.95
General Motors	http://service.gm.com	$20.00 (24 hr); $45.00 (5 day)	$150.00	$1,200.00
Honda	https://www.serviceexpress.honda.com	$20.00 (72 hr)	$50.00	$500.00
Hyundai	http://www.hmaservice.com	Free		
Infiniti	http://www.infinititechinfo.com	$19.99 (24 hr)	$299.98	$2,499.98
Isuzu	http://www.isuzusource.com	$20.00 (24 hr)	$150.00	$1,650.00
Jaguar	http://www.jaguartechinfo.com	$35.00 (24 hr)	$211.00	$1,228.00
Kia	http://www.kiatechinfo.com	$10.00 (72 hr) $19.00 (7 day)	$29.00	$299.00
Lamborghini*	http://www.lamborghini.com	Documents Individually Priced		
Land Rover	http://www.landrovertechinfo.com	$20.00 (24 hr)	$150.00	$500.00
Lexus	http://techinfo.lexus.com	$10.00 (24 hr)	$50.00	$350.00
Lotus	http://66.139.73.25/amember/index.php	$25.00 (24 hr)	$300.00	$2,500.00
Mazda	http://www.mazdatechinfo.com	19.95 (24 hr)	$199.95; $900 (6 mo)	$1,500.00
Maserati*	http://www.maseratitechinfo.com/	Documents Individually Priced		
Mercedes-Benz	http://www.startekinfo.com	$18.00 (24 hr) $95.00 (7 day)	$275.00	$2,950.00
Mini	http://www.minitechinfo.com	$25.00 (24 hr)	$300.00	$2,500.00
Mitsubishi	http://www.mitsubishitechinfo.com	$19.95 (24 hr) $99.95 (7 day)	$249.99; $999.99 (6 mo)	$1,499.95

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Manufacturer	Website Address	Pricing		
		Short-Term	Month	Year
Nissan	http://www.nissantechinfo.com	$19.99 (24 hr)	$299.98	$2,499.98
Porsche	https://techinfo.porsche.com	$110/document	N/A	$5,200.00
Rolls-Royce*	http://www.rrtis.com	Documents Individually Priced		
Saab	http://www.saabtechinfo.com	$10.00	$75.00; $180.00 (3 mo)	$500.00
Subaru	http://techinfo.subaru.com	$34.95 (72 hr)	$299.95	$2,499.95
Suzuki	http://www.suzukitechinfo.com	$19.99 (24 hr)	$99.99; $299.99 (6 mo)	$499.99
Toyota	http://techinfo.toyota.com	$10.00 (24 hr)	$50.00	$350.00
Volkswagen	https://erwin.volkswagen.de	Documents Individually Priced		
Volvo	http://www.volvotechinfo.com	$49.50 (72 hr)	$322.50	$3,225.00

* Small volume manufacturer. Information is not required to be made available for online purchasing and viewing/downloading.

Subscription pricing for the above manufacturers has remained relatively unchanged since 2003. One manufacturer, Kia Motors, stopped providing its service information for free, and several others added various daily and monthly subscription options to their websites.

The ARB is currently investigating the pricing policies of two light-duty manufacturers for their data stream and bi-directional control information. The staff is concerned that the manufacturers' prices for this information may not fall within the definition of "fair, reasonable, and nondiscriminatory price," especially when weighed under the criteria of the regulation. Staff is working with these manufacturers to ensure appropriate pricing for the information.

Minor omissions of information identified by ARB staff have been quickly resolved. The ARB has not heard any complaints from the aftermarket regarding any difficulty in accessing desired service information. It is likely that manufacturers are either not receiving any such complaints, or are dealing directly with the aftermarket about them in the same manner the ARB did.

In reviewing manufacturer annual reports regarding their websites, staff has found that they have been successful in complying with the requirements outlined in the regulation despite the few aforementioned problems. Subscription information from large-volume vehicle manufacturers generally indicates that demand for the websites has been on a steady climb, especially for daily subscriptions. General Motors, in particular, nearly doubled its daily subscription rate during 2004. Overall, daily subscriptions outnumber monthly and yearly subscriptions by factor of about ten. This seems to indicate that most subscribers

do not require extended subscriptions and are instead continuing to rely on third-party service information providers such as Mitchell1, Chilton, and ALLDATA for most of their day-to-day needs. The only exception to this is the Volvo website where the yearly subscriptions are approximately equal to daily subscriptions.

Overall, the manufacturers reported that their websites generally have an uptime of about 99 percent. Three manufacturer websites were offline for up to three days during the year for emergency maintenance issues. In those instances, the ARB was notified via email or telephone, and no complaints were logged by subscribers. Website access varies widely among manufacturers, ranging from 30 to 500 visits daily. No manufacturer had a successful "hit" percentage lower than 95 percent, with most averaging 99 percent. The ARB staff will continue to work with manufacturers to minimize website downtime issues and to address any other obstacles to fast and reliable access to website information.

CONTACTS:

Questions or concerns regarding issues related to the service information availability program may be directed to the following ARB staff:

Mr. Allen Lyons
Chief, Mobile Source Operations Division
(626) 450-6150
Email: alyons@arb.ca.gov

Mr. Michael Terris
Legal Counsel
(916) 445-9815
Email: mterris@arb.ca.gov

Mr. Dean Hermano
Staff Engineer
(626) 459-4487
Email: dhermano@arb.ca.gov