



August 25, 2020

Clerk's Office  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

RE: Comments on Proposed Heavy-Duty Engine and Vehicle Omnibus Regulation and Associated Amendments

Allison Transmission, Inc. ("Allison") is pleased to comment on the Proposed Heavy-Duty Engine and Vehicle Omnibus Regulation and Associated Amendments ("Heavy-Duty Omnibus") and elements of the proposed rule which could impact the market for heavy-duty vehicles, including those incorporating advanced technologies.

Allison is the world's largest manufacturer of fully automatic transmissions for medium- and heavy-duty commercial vehicles and is a leader in hybrid propulsion systems for city buses. With a market presence in more than 80 countries, Allison's products are specified by over 250 of the world's leading vehicle manufacturers and are used in a variety of applications including refuse, construction, fire, pick-up and delivery, distribution, bus, motorhomes, defense and energy. Allison is headquartered in Indianapolis, Indiana and has over 1,000 dealer and distributor locations in the United States.

In 2014, Allison was the first electric hybrid-propulsion system to be certified for transit buses and coaches in California. The Allison H 40/50 EP retained this certification over the last five years and has achieved a fuel economy up to 25 percent greater than similar diesel buses. In 2019, Allison moved into fully electrified propulsion and connected vehicle technologies for medium- and heavy-duty vehicles. Allison's AXE Electric Axle Series™ offers a "bolt-in" solution for current vehicle frames, suspensions and well ends that features fully integrated electric motors and a multi-speed gearbox. The AXE Electric Axle Series™ is compatible with full battery electric vehicles and fuel cell vehicles as well as hybrid applications.

The California Air Resources Board's ("CARB's") proposed Heavy-Duty Omnibus is of great interest to our company both with respect to our automatic transmission product line, hybrid propulsion systems and our newer electric propulsion systems. Our concerns over the proposed rule, in general, do not center on exhaust emission standards or proposed revisions to testing programs. Rather, as our more detailed comments below evidence, we have noted several issues attendant to CARB's proposed revision of warranty provisions and related Emissions Warranty Information and Reporting ("EWIR") regulations. Specifically:

- Allison supports keeping greenhouse gas emission warranties separate from those applicable to criteria pollutants.

- CARB should not adopt a “one size fits all” approach for emissions warranty and useful life. Both from a technical perspective, in terms of configuration and systems, and from a policy perspective, CARB is correct to recognize that warranties for heavy-duty systems need to be tailored the product line.
- CARB should revise proposed changes to emission warranty reporting and enforcement provisions. However, CARB’s proposed large reduction for the defined reporting threshold is a 50% step down and CARB should not finalize regulations which would automatically trigger recall or corrective actions based solely on exceedance of reporting thresholds. Instead, CARB must assess whether any defects are significant and/or significantly impact emissions.
- CARB should not finalize provisions that would extend emission warranty provisions to vehicles registered outside of the State of California. Such an action is both unsupported in the administrative record and contrary to law. CARB has not cited adequate statutory authority for this action, and extraterritorial application of California warranties to business and individuals in other states raises issues.

We thank you for your attention to our views on the proposed regulation and hope that adjustments can be made in the proposed regulations prior to finalization. If there are any questions concerning this submission, please contact Barbara Chance at 317-280-6371 or at [Barbara.chance@allisontransmission.com](mailto:Barbara.chance@allisontransmission.com).

Sincerely,



Barbara Chance  
Allison Transmission, Inc.  
Director, Mobile Source Emissions  
Regulatory Compliance

cc: Chair Mary Nichols

**Comments of Allison Transmission Inc.**  
**Proposed Heavy-Duty Engine and Vehicle Omnibus Regulation and Associated**  
**Amendments**  
**August 25, 2020**

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**I. CARB Correctly Recognizes that Warranty Issues are Different for Greenhouse Gas versus Criteria Air Pollutant Issues**

Allison supports CARB’s decision to maintain the distinction between warranted parts for criteria and greenhouse gas emissions. Specifically, CARB has not proposed changes to the definition of “warranted part” with respect to heavy-duty vehicles certified to greenhouse gas emission standards.<sup>1</sup> CARB is maintaining the existing cross-reference to parts contained in federal regulations for greenhouse gas pollutants (40 C.F.R. §1037.102).

**II. CARB Should Not Adopt a “One Size Fits All” Approach to Emission Warranty and Useful Life Periods**

Allison supports further investigation of mechanisms which would “vary the length of warranty coverage across different types of components.”<sup>2</sup> It may not be possible in all cases to design, or cost-effectively design, every emission-related component to reach the same useful life period required with respect to a new engine. Moreover, consideration must be given to the upfront costs that could be experienced in adopting a singular focus on ensuring that all components meet the same useful life periods.<sup>3</sup>

Allison believes that while CARB should consider longer regulatory useful life periods and warranties, the Agency should not move forward without a thorough consideration of individual components and systems. To meet the much more stringent emission levels contemplated, it is likely that new technologies may be needed. Not all technologies are created equally; major emission control systems and their components will not age in uniform manner.

**III. Proposed Revisions to California’s Emission Warranty Information Reporting (EWIR) Program are Unwarranted, Overly Burdensome**

California’s EWIR program requires manufacturers to keep records and if the number of claims made for emissions-related components control components exceed certain thresholds, file a report for vehicles within a family or test group.<sup>4</sup> On the basis of EWIR data, manufacturers are also required to file a field information report (“FIR”) containing unscreened warranty claims for a specific emission related component.<sup>5</sup> Under current regulations, additional actions may also flow

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<sup>1</sup> 13 CCR §2035(c)(3).

<sup>2</sup> 85 Federal Register at 3,325

<sup>3</sup> CARB received comments during its Post –September 26 [2019] Workshop that there could be “[large projected cost increases to cover warranty out to proposed periods.” See page 7 of workshop presentation.

<sup>4</sup> §2144(a)

<sup>5</sup> §2145(a)

from this data such as corrective actions, recall or the provision of extended warranties. CARB is proposing that the reporting threshold for EWIR reports be reduced from 1% or 25 claims to 1% or 12 claims, whichever is greater starting in 2022. CARB is also proposing that EWIR reporting continue throughout the useful life of a component.

In a substantial change from past requirements, CARB is additionally proposing that recalls be mandated when failure levels exceed certain levels (4 percent or 25 vehicles (whichever is greater) for 2024-2026 vehicles and the same levels for 2027 to 2030 Model Year vehicles for the first 5 years of the warranty period).<sup>6</sup> Currently, such vehicles were “subject to” recall by CARB, but recall is not automatically imposed. CARB is also proposing that such vehicles either be recalled or subject to other corrective action based on exceeding the percentage/number of vehicle levels.<sup>7</sup> The combined effect of these provisions is to create a default mechanism wherein recalls/corrective actions are imposed based on warranty claim occurrence only without a further assessment of the magnitude of the impact of any failure on actual emissions. Manufacturers would be required to submit a corrective action plan within 90 days of exceeding a corrective action threshold,<sup>8</sup> and required recalls and corrective actions be automatically imposed “when the number of valid failures meets or exceeds the corrective action thresholds.”<sup>9</sup>

This default mechanism carries with it substantial and potentially expensive consequences. Under the proposed regulations, manufacturers would be required to recall and take corrective actions “including, but not limited to, providing an extended warranty as defined in Section 2166.1, to correct the systematic failure of certain identified vehicle components when the number of valid failures meet or exceed the corrective action thresholds.”<sup>10</sup> For emission-related components, manufacturers are required to perform corrective actions based again solely on exceedance of the applicable threshold. Initiating corrective action for emission-related components would be required within 30 days of the corrective action plan approval, unless the manufacturer has shown good cause for the deadline to be extended.”<sup>11</sup>

CARB justifies this large change in the current system as necessary to address several issues. CARB claims the reduction in reporting thresholds for EWIR reports is to account for small volume engine manufacturers.<sup>12</sup> At the same time, however, CARB does not proportionately “scale” the reporting threshold and allow higher levels for larger manufacturers, a result that would logically flow from CARB’s stated purpose. With regard to the overarching rationale to not consider the impact on failure rates on emissions, CARB indicates that:

- Currently, identifying potentially defective emission control components by warranty reporting requirements and the process of negotiating corrective action with manufacturers and determining the emissions impact of a component failure is lengthy, which can delay

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<sup>6</sup> Proposed amendments to §2143, Appendix A-1, Title 13 Proposed Regulation Order at 98.

<sup>7</sup> *Id.*

<sup>8</sup> Proposed amendment to §2146(a)(1), Appendix A-1 at 103.

<sup>9</sup> Proposed §2167(a), Appendix A-1 at 113.

<sup>10</sup> Proposed §2168(a), Appendix A-1 at 114.

<sup>11</sup> ISOR at III-65.

<sup>12</sup> *Id.* at 152.

corrective action and allow vehicles to operate with defective or faulty components with elevated emissions for years.<sup>13</sup>

- [M]anufacturers, particularly heavy-duty engine manufacturers, have generally not corrected problems for emission control components experiencing failure rates (CARB, 2016d). This is likely due to the limited amount of HDIUC testing conducted by CARB, the cost of recall and/or other factors such as bad publicity over faulty quality.<sup>14</sup>
- [T]he process of negotiating corrective actions with manufacturers and determining the emissions impact of a component failure is a lengthy process that can delay implementation of a corrective action for years. Consequently, heavy-duty vehicles can operate with defective components for extended periods of time, thereby emitting excessive levels of emissions over those time periods.<sup>15</sup>
- [I]f a manufacturer contests the need for a recall, even if CARB has identified a defective emissions control component, CARB then has the burden of proving that defective component could cause a substantial number of the vehicles or engines containing that defective component to exceed applicable emission standards over their useful lives.<sup>16</sup>

CARB indicates that amendments to the current process are needed to “clarify manufacturer responsibilities.”<sup>17</sup> But the proposed amendments are not a mere “clarification.” They are instead a fundamental shift away from an enforcement strategy that is focused on emissions to one that is based solely on numbers, no matter whether any emission impacts are significant. Under the proposed amendments, there would be no evaluation of the actual need for a recall pursuant to 13 CCR §2148 for any model year vehicle 2024 and later.<sup>18</sup>

#### **IV. CARB Should Not Finalize Proposed Regulations Extending Warranty and Useful Life Requirements to Vehicles Registered Outside of California**

CARB proposes to amend current regulations (13 CCR §2035(b)) that apply warranties to California vehicles that are registered in the state “regardless of their original point of registration.” Starting in 2027, warranty provisions would apply to a California-certified vehicle “*regardless of whether they are registered in California.*”<sup>19</sup>

Instead, while the legal authority cited by CARB grants authority over the regulation of vehicles within the state, this authority is silent with respect to control of out-of-state vehicles and those

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<sup>13</sup> *Id.*, ES-7.

<sup>14</sup> *Id.*, II-19.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*, II-20.

<sup>17</sup> *Id.*

<sup>18</sup> The proposed amendments to 13 CCR §2143 do not cross-reference 13 CCR §2148(a) or (b) for 2024 and later heavy-duty diesel and Otto-cycle engines, and heavy duty vehicles. Nor do the amendments provide for any determination of necessity that is allowed for earlier model years under the current 13 CCR §2143.

<sup>19</sup> 13 CCR §2035(b)(1)(C) (emphasis added). This change would also apply to California-certified trailers model years 2020 and later. *Id.* §2035(b)(3). See Appendix A-1, Title 13 Proposed Regulation Order.

located and registered (perhaps permanently) in other states. Indeed, none of Health and Safety Code sections cited in the ISOR actually address vehicle registration at all. None of these provisions indicates that requirements for certification extend to entities that exist and/or operate beyond the borders of the state, much less that vehicles owned and registered in other states must comply with California vehicle warranty provisions simply by virtue of having obtained certification that vehicle meets California emission standards.

Applying California warranty provisions to vehicles owned by companies or persons outside of the state and registered in state other than California – as CARB’s proposed regulations attempt to do – imposes measurable costs and burdens on such owners even if they never travel into the state of California. CARB attempts to justify the burden on the basis that such vehicles “*may* travel within the state in their normal operations.”<sup>20</sup> Indeed, *some* vehicles registered out-of-state *may* travel into California, but assuredly *all* vehicles will *not*. California’s proposed regulation is thus overly-inclusive.

Finally, CARB conjectures that California warranties on out-of-state vehicles will increase their value and thereby benefit their owners who sell the vehicles after having incurred higher up-front costs of purchasing the vehicle versus comparable non-California certified vehicles. There are numerous issues with this last claim including that CARB provides no quantification of the up-front costs to out-of-state buyers and operators. Instead, CARB assumes that there will be some cost-recovery of these costs when a vehicle owner sells a depreciated used vehicle solely on the basis that it holds a California warranty. But this obviously does not: (a) account for vehicles that are not subsequently sold; (b) vehicles that are sold past the time that a warranty applies. Nor is there any analysis of used-vehicle purchasers “willingness to pay” for the conjectured benefit of a California versus federal warranty.

## V. Conclusion

Allison appreciates the opportunity to submit comments on the Heavy-Duty Omnibus. As noted at the outset of our comments, we believe CARB is correct to maintain current differential treatment as between conventional and greenhouse gas pollutants. CARB should, however, revise warranty provisions to apply solely to vehicles registered within the state and further maintain a system whereby recalls and corrective actions are imposed on the basis of an assessment of their effect on emissions. Such an approach with regard to the applicability of California regulations is required under applicable law; such an approach to recalls and corrective actions is more squarely aligned with CARB’s charge to protect the public from the harmful effects of air pollution and to address climate change.

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<sup>20</sup> ISOR at III-42 (emphasis added).