

provide the price of each item listed, as well as the price of items ordered on a subscription basis. To the extent that any additional information is added or changed for these model years, OEMs shall update the index as appropriate. OEMs will be responsible for ensuring that their information distributors do so within one regular business day of receiving the order. Items that are less than 20 pages (e.g. technical service bulletins) shall be faxed to the requestor and distributors are required to deliver the information overnight if requested and paid for by the ordering party. Archived information must be made available upon demand at a fair and reasonable price.

8. Other Media

We are finalizing this provision as proposed which requires OEMs to make available for ordering the required information in some format approved by the Administrator directly from their Web site after the required full-text window of 15 years has expired. Each OEM shall index their available information with a title that adequately describes the contents of the document to which it refers. In the alternate, OEMs may allow for the ordering of information directly from their Web site, or from a Web site hyperlinked to the OEM Web site. OEMs are required to list a phone number and address where aftermarket service providers can call or write to obtain the desired information. OEMs must also provide the price of each item listed, as well as the price of items ordered on a subscription basis. To the extent that any additional information is added or changed for these model years, OEMs shall update the index as appropriate. OEMs will be responsible for ensuring that their information distributors update information within one regular business day of receiving the updated information for the index. Items are less than 20 pages (e.g. technical service bulletins) shall be faxed to the requestor and distributors are required to deliver the information overnight if requested and paid for by the ordering party.

9. Small Volume Provisions for OEM Web Sites

Today's action finalizes a provision that requires OEMs who are issued certificates of conformity with annual sales of less than one thousand vehicles are exempt from the full-text Internet requirements, provided they present to the Administrator and obtain approval for an alternative method by which emissions-related information can be obtained by the aftermarket or other interested parties.

These small-volume flexibilities are limited to the distribution and availability of service information via the World Wide Web under paragraph (3) of the regulations. All OEMs, regardless of volume, must comply with all other provisions as finalized in this rulemaking.

C. What Provisions Are Being Finalized for Service Information for Third Party Information Providers?

Today's action finalizes a provision that will require OEMs who currently have, or in the future engage in, licensing or business arrangements with third party information providers, as defined in the regulations, to provide information to those parties in an electronic format in English that utilizes non-proprietary software. Because of the timing of the finalization of this rule, information will have already been transmitted to third party information providers for the 2002, and probably the 2003 model years. Therefore, this provision applies to information for models 2004 and later. Any OEM licensing or business arrangements with third party information providers are subject to fair and reasonable cost requirements. We expect that OEMs will develop pricing structures for access to this information that make it affordable to any third party information providers with which they do business.

D. What Requirements Are Being Finalized for the Availability of Training Information?

1. Purchase of Training Materials for OEM Web Sites

Today's action finalizes two provisions for access to OEM training on OEM Web sites. First, OEMs will be required to make available for purchase on their Web sites the following items: training manuals, training videos, and interactive, multimedia CD's or similar training tools available to franchised dealerships. Second, we are finalizing a provision that OEMs who transmit emissions-related training via satellite or the Internet must tape these transmissions and make them available for purchase on their Web sites within 30 days after the first transmission to franchised dealerships. Further, all of the items included in this provision must be shipped within 24 hours of the order being placed and are to be made available at a reasonable price. We understand OEM concerns about the potential for increased demand of OEM training materials once the indices are posted on Web sites. Therefore, we will also finalize a provision that will allow for an exception to the 24 hour shipping

requirement in those circumstances where orders exceed supply and additional time is needed by the distributor to reproduce the item being ordered. These requirements apply for 1996 and later model year vehicles starting 4 months following the effective date of the Final Rule. For subsequent model years, the required information must be made available for purchase within three months of model introduction, and then be made available at the same time it is made available to franchised dealerships.

2. Third Party Access to OEM Training Material

We will finalize a provision that will require OEMs who utilize Internet and satellite transmissions to present emissions-related training to their dealerships to make these same transmissions available to third party training providers. In this way, we believe we are providing at least one opportunity for aftermarket technicians to receive similar emissions-related training information as provided to dealerships, thus furthering the goals and letter of section 202(m)(5). This requirement only requires OEMs to provide the same information to legitimate aftermarket training providers as is provided to dealerships and aftermarket service providers. It is not a requirement to license OEM copyrighted materials to these entities.

OEMs may take reasonable steps to protect their copyright to the extent some or all of this material may be copyrighted and may refuse to do business with any party that does not agree to such steps. However, we do expect OEMs to use fair business practices in its dealings with these third parties, in keeping with the "fair and reasonable price" requirements in these regulations. OEMs may not charge unreasonable up-front fees for access to these transmissions, but OEMs may require a royalty, percentage or other arranged fee based limits on a per-use or enrollment subscription basis.

E. What Requirements Are Being Finalized for the Reprogramming of Pre-*SAE J2534* Model Year Vehicles?

Today's action finalizes a provision that allows OEMs to use J2534 technology on 1996 through 2003 model year vehicles as long as OEMs make all necessary additional hardware (i.e. cables) available for sale at a fair and reasonable price to the aftermarket to allow for the reprogramming of these vehicles. OEMs must make this additional hardware available for sale independently and cannot require the purchase of their OEM specific scan tool