

aftermarket should *at a minimum* have access to the same information as dealerships, section 202(m)(5) does not preclude EPA from requiring OEMs to provide additional information to be made available to both dealerships and the aftermarket. Nothing in section 202(m)(5) of the Clean Air Act makes reference to limiting information availability to that which is made available to dealerships. On the contrary, section 202(m)(5) requires OEMs to provide "any and all" information needed to use the OBD system and "such other information including instructions for making emission related diagnosis and repairs," including at a minimum all information given to dealerships. EPA is instructed by section 202(m)(5) to promulgate regulations requiring OEMs to provide such information. EPA has broad authority to require all information needed to use the OBD system and make emission related diagnosis and repairs, including requiring OEMs to provide specific information needed for emission related diagnosis and repairs.

Regarding the comments submitted by the Alliance and AIAM and BMW that the proposal goes beyond EPA's authority and may very well require the release of proprietary OEM calibrations, EPA appreciates the concerns of these commenters. It was not EPA's intent to require any information that would be considered a trade secret or would jeopardize the integrity of the OBD system. We believed that the general language in the proposal regarding what would be considered OBD system operational information would be sufficient to express the level of information EPA believes is needed to be made available from all OEMs without jeopardizing OEM proprietary information. EPA also agrees with the comments of the Alliance, AIAM, and BMW that the OBD system descriptors required by the service information regulations finalized by the California Air Resources Board provide a sufficient list of the types of OBD diagnostic information needed to service and repair OBD-equipped vehicles and is in essence exactly the level of information EPA was seeking to be made available by using the term "OBD system operational information." Therefore, EPA will finalize a list of required information to parallel the list finalized by CARB in their September 2002 Final Rule. OEMs shall make available for purchase to all covered persons, a general description of each OBD system used in 1996 and subsequent model-year vehicles, which shall include the following:

(A) A general description of the operation of each monitor, including a description of the parameter that is being monitored.

(B) A listing of all typical OBD diagnostic trouble codes associated with each monitor.

(C) A description of the typical enabling conditions for each monitor to execute during vehicle operation, including, but not limited to, minimum and maximum intake air and engine coolant temperature, vehicle speed range, and time after engine startup.

(D) A listing of each monitor sequence, execution frequency and typical duration.

(E) A listing of typical malfunction thresholds for each monitor.

(F) For OBD parameters for specific vehicles that deviate from the typical parameters, the OBD description shall indicate the deviation and provide a separate listing of the typical values for those vehicles.

(G) A listing of monitor-specific OBD drive cycle information for all major OBD monitors as equipped including, but not limited to, catalyst, catalyst heater), oxygen sensor, oxygen sensor heater, evaporative system, exhaust gas re-circulation (EGR), secondary air, and air conditioning system. Additionally, for diesel vehicles under 14,000 pounds GVWR which also perform misfire, fuel system and comprehensive component monitoring under specific driving conditions (*i.e.*, non-continuous monitoring; as opposed to spark ignition engines that monitor these systems under all conditions or continuous monitoring), the OEM shall make available monitor-specific generic drive cycles for these monitors. Any OEM who develops generic drive cycles, either in addition to, or instead of, monitor-specific drive cycles shall also make these available in full-text on OEM Web sites.

(H) Identification and scaling information necessary to interpret and understand data available to a generic scan tool through "mode 6", pursuant to Society of Automotive Engineers SAE J1979.

EPA believes that this list meets the concerns of aftermarket service providers that not all OEMs provided complete information for the service and repair of emissions related problems. As discussed in the NPRM, we believe that a greater number of OEMs are providing this very information to both their franchised dealerships as well as the aftermarket which provides a strong indication that EPA should incorporate a more specific list of what EPA believes should be made available by all OEMs. We believe

that the comprehensive list being finalized in today's action will ensure that more complete emissions-related information is available from all OEMs.

We are also finalizing a provision that requires the development of the information described above by the OEM even if this information does not already exist in some form for its dealerships. EPA is making this distinction to reiterate our position that there is a need for an increased consistency in the level of information made available across all OEMs. In the past, we have generally agreed that whatever information is made available to OEM dealerships provided an adequate basis to determine what information should be made available to the aftermarket. However, experience in implementing the 1995 regulations has underscored the need for EPA to be more specific in its definition of emissions-related information as discussed in great detail above. This increased specificity of our definitions ultimately requires that all of the information required by these regulations be made available, regardless of whether or not it is currently made available to dealerships. In other words, OEMs may not make the claim that they do not have to make certain information required by this regulation available to the aftermarket because they do not even make it available to dealerships.

#### *B. Anti-Theft Information*

*Summary of Proposal:* EPA proposed that information needed to start the vehicle when the vehicle is equipped with an anti-theft or similar system that disables the engine also be made available to the aftermarket.

*Summary of Comments:* The Alliance and AIAM commented that they recognize the need to be able to start a vehicle after an emissions-related repair, but they have some concern with making this information available to aftermarket service providers in the manner proposed by EPA. The Alliance and AIAM also acknowledge that aftermarket service providers already have the ability to access this capability for a majority of their member companies. The Alliance and AIAM explained that some OEM anti-theft systems require a serial data message to be sent to the vehicle on the OBD data link (SAE J1962) that contains a PIN (personal identification number) or key that is unique to each specific vehicle. This vehicle specific code may be obtained from information that should be retained by the vehicle owner or may be obtained from an assistance center controlled by the OEM. In other words,