

the aftermarket currently has access to anti-theft reinitialization in some form for many OEMs. The Alliance and AIAM commented that it is not clear from EPA's proposal if OEMs would be required to make these special codes available on the OEM Web sites. Rather, the Alliance and AIAM assumed that OEM Web sites would be required to inform aftermarket service providers on how to obtain the code from the OEM. The Alliance and AIAM further commented that enhanced data stream information that will be available to scan tool manufacturers would allow an aftermarket scan tool to complete the re-initialization process with the additional information that would be available from the OEM.

The Alliance and AIAM also commented on the impact that the proposed release of anti-theft information could have on other requirements that OEMs are subject to in the U.S. and internationally. For some OEMs, implementing EPA's proposed anti-theft provision would require redesigning the vehicle's anti-theft system in order to stay in compliance with requirements in place by other Agencies. Because of these factors, the Alliance and AIAM recommended that EPA finalize a phase-in for this requirement with full implementation in 2007. The Alliance and AIAM further comment that many OEMs already comply with the proposed requirement and that allowing sufficient lead time for a minority of OEMs will allow for sufficient time to implement changes without jeopardizing vehicle security or compliance with other regulations. The Alliance and AIAM additionally commented that EPA and CARB should work closely with the National Highway Traffic Safety Administration (NHTSA) in determining whether a component or system qualifies as a vehicle security system and whether providing this information would circumvent the anti-theft system.

The Automotive Service Association (ASA) also provided comments on the release of anti-theft information. ASA supports finalizing a provision that would make this information available to aftermarket service providers, but recommends that EPA be more specific about how aftermarket service providers can obtain anti-theft information and the timeliness of receiving the information. ASA commented that, if the information is protected to the degree that aftermarket service providers cannot immediately obtain the information, EPA should finalize a provision that requires the OEMs to make this information available on the

same day it is requested. ASA submitted similar comments in their written submission.

APRA and AERA also commented that repairers and rebuilders of the OBD computer itself also need specific information which will allow them to re-initialize a computer when it is being repaired after being removed from the vehicle. APRA and AERA commented that the proposed rule is not specific enough and that EPA should extend the anti-theft provisions to starting the computer if it has been removed from the vehicle.

The National Automobile Dealers Association (NADA) commented that EPA lacks the authority to require "unfettered dissemination" of anti-theft information. NADA further commented that EPA did not consult with the National Highway Traffic Safety Administration, the U.S. Customs Service, the National Insurance Crime Bureau or other vehicle theft experts before drafting the proposal. NADA recommends that EPA develop a process that is very carefully controlled to address the restarting of vehicles disabled by anti-theft systems during emissions-related repairs.

The Automotive Aftermarket Industry Association (AAIA) and the Automotive Warehouse Distributors Association (AWDA) commented that they support a provision that will mandate OEMs to provide aftermarket service providers with the ability to reinitialize anti-theft systems after the completion of emissions-related repairs. AAIA and AWDA further commented that the proposal does not go far enough. AAIA and AWDA are particularly concerned about rebuilt ECUs that must be removed from the vehicle that are sent off-site for the rebuilding process. AAIA and AWDA comment that OEMs should enter into licensing agreements with the few companies who rebuild ECUs to ensure that they have the codes or "black boxes" which contain the codes.

One independent aftermarket service provider commented that the mandated release of anti-theft information to aftermarket service providers would be detrimental to the driving public. Rather than making anti-theft information directly available to the aftermarket, Mr. Porcaro further commented that OEMs should be required to inform aftermarket service providers which vehicle systems are impacted by anti-theft systems. To the extent that those vehicle systems cannot be reprogrammed without anti-theft system information, OEMs should be required to have their respective dealer networks available for quick and inexpensive reprogramming.

SEMA commented that anti-theft information is necessary to validate repairs, allow for product development and to verify the remanufacture of an ECU or similar electronic components. SEMA further commented that this information must be available not only through the scan tool but also via the OEM Web sites. SEMA agrees with other commenters that security issues related to the release of this information is an important concern. However, SEMA commented that vehicle owners must have the ability to provide anti-theft information to an independent facility and the independent facility must have the ability to use the information obtained from, or authorized by, the owner to complete the repair. SEMA believes that this combination should minimize concerns about the inappropriate release of anti-theft system information to the aftermarket.

Nissan of North America commented that the release of anti-theft information would seriously compromise the intent of the anti-theft system and opposes any provision that would require this information to be made available to aftermarket service providers.

BMW commented that they generally agree with comments submitted by the Alliance and AIAM on this issue. BMW commented that they prefer not to see any provision at all that would require the release of this information, but that if EPA decides to move forward, the Agency should allow for sufficient lead time for implementation. BMW further commented that there appears to be some discrepancy between the proposed preamble language and proposed regulatory language. Specifically, BMW is concerned that the preamble refers to information and tools needed to start the vehicle after the completion of an emissions-related repair, whereas the proposed regulatory language makes no mention of tools. This is of particular concern to BMW because BMW does not have "information" in the traditional sense that would allow an aftermarket service provider to re-set the security system after an emissions-related repair for 1993–2003 model year vehicles. Rather, BMW has the functionality built into their OEM-specific scan tools that allow for re-initialization of the (ECU) which, for BMW, only occurs when the ECU is replaced. BMW also commented that EPA should adopt the anti-theft language proposed by CARB.

Volkswagen of America (VW) submitted written comments requesting that anti-theft provisions be removed from the final rulemaking. VW commented that this issue should be discussed in a separate effort that would allow for a thorough discussion with all