

OEM may request, by 1 month following the effective date of the final rule Administrator approval for an alternative means to re-initialize vehicles for some or all model years through the 2007 model year.

The Administrator shall approve the request only after all of the following conditions have been met:

(A) The OEM must demonstrate that the availability of such information to aftermarket service providers would significantly increase the risk of vehicle theft.

(B) The OEM must make available a reasonable alternative means to install computers, or to otherwise repair or replace an emission-related part.

(C) Any alternative means proposed by an OEM cannot require aftermarket technicians to return to an OEM franchised dealership to obtain information or special tools to re-initialize the anti-theft system.

(D) Any alternative means proposed by an OEM must be available to aftermarket technicians at a minimal cost.

(E) Any alternative must be available to aftermarket technicians within twenty-four hours of the initial request.

(F) Any alternative must not require the purchase of a special tool or tools to complete this repair. For example, an OEM who intends to request approval to require the purchase of their OEM-specific tool or some other OEM-specific special tool as their alternate solution through model year 2007 must allow the aftermarket to lease that tool for a short period of time, at appropriate minimal cost, rather than requiring the outright purchase of the tool.

(G) In lieu of leasing their OEM-specific tool to meet this requirement, an OEM may also choose to release the necessary information to equipment and tool manufacturers for incorporation into aftermarket scan tools. Any OEM choosing this option must release the information to equipment and tool manufacturers within 60 days of Administrator approval. OEMs may also choose to comply with this requirement using SAE J2534 for some or all model years through model year 2007.

We believe that it is unreasonable and directly contrary to the intent of section 202(m)(5) to require the aftermarket to purchase numerous and costly tools that they would not have otherwise purchased to perform a relatively infrequent repair. In fact, it is for the same reasons that, as discussed below, EPA is requiring that all OEMs make available generic and enhanced scan tool information to equipment and tool companies. Requiring the purchase of expensive tools for such minimal and

rare repairs would be an especially egregious abuse of the OEMs' monopoly of information in order to charge unreasonable costs.

Regarding the requirement that OEMs provide the information directly to aftermarket technicians, not through dealerships, several OEMs have commented that it is appropriate to limit the information to dealerships because of the greater security concerns associated with providing the information to the aftermarket. These arguments are directly contrary to the letter and intent of section 202 (m)(5). One of the key purposes of that section was to prevent OEMs from giving their dealerships substantial competitive advantages against their competitors in the aftermarket repair industry by giving repair information only to dealerships, leaving aftermarket technicians at the mercy of their competitors. OEMs have not shown that providing a method for aftermarket technicians to re-initialize vehicles will inherently provide less security than providing re-initialization information to their dealerships; nor have they shown that any speculative problems justify the considerable competitive disadvantage caused by providing this information solely to their dealers. Our regulations do not require this information to be provided on the OEM's Web site and allow OEMs to provide the information enabling re-initialization to aftermarket technicians in a secure manner. The Alliance/AIAM comments note that many OEMs already provide such information directly to the aftermarket.

C. Accessibility and Performance Requirements of OEM Web Sites

Summary of Proposal: We proposed that each OEM Web site allow end-users to search its database of emission-related service information by various topics. We proposed that the topics include, but not be limited to, model, model year, key words, phrases, diagnostic procedures, scheduled maintenance and vehicle identification number (VIN). Additionally, we proposed that OEMs must provide information to allow for readily identifying the latest vehicle calibration. Further, while the VIN may be offered as one means of conducting a search, we proposed that OEMs may not require the use of a VIN to initially access the data base. We also proposed that the use of proprietary hardware, software, viewers, browsers and formats for accessing information be prohibited. In other words, OEMs must develop their service information, and provide access to it, in such a way that it can be viewed using software such as Adobe Acrobat Reader

that is readily available to Internet users. The OEM's Home Page must be accessible to anyone and contain instructions on how to access the information. Instructions should include, but not be limited to, minimum hardware and non-proprietary software needed by the end-user and associated costs for accessing and purchasing information. Finally, we proposed that OEMs not limit the modem speed by which aftermarket service providers can access OEM Web sites.

We also proposed performance and reporting requirements for OEM Web sites. We proposed that OEMs submit to the Administrator on an annual basis a report that provides detailed, monthly measurements of the OEM's Web site. Each OEM report is to be submitted to the Administrator beginning one year after the required launch date of OEMs' Web sites (*i.e.*, one year and 6 months after the final rule is issued), or upon request by the Administrator.

Summary of Comments: The Alliance and AIAM, and several individual OEMs commented on EPA's proposal to allow searching of OEM Web sites by VIN. They commented that requiring a Web site to be searchable by VIN will inflate the cost of information without providing a meaningful improvement in accessibility. They further commented that service technicians customarily search for information by make, model and year and that searchability by VIN is only useful for some items such as service campaigns and vehicle calibrations (for some OEMs). The Alliance and AIAM recommend deleting this requirement from the final rule.

APRA and AERA commented that they do not see a need for access by VIN to the OEM Web sites. A technician who knows the VIN of the vehicle they are repairing also knows the model and model year and can access the information in that manner.

Mr. Jerry Truglia of ATTS commented that EPA should require several options for OEM Web site searchability criteria. Mr. Truglia commented that all OEM Web sites should have uniform and consistent search engines. In addition, all OEM Web sites should be searchable by VIN, vehicle system, generic OBD part name, and P0 and P1 diagnostic trouble codes.

The Specialty Equipment Manufacturers Association (SEMA) commented that they strongly support the proposed requirement that service information be searchable by VIN. SEMA commented that this type of search is necessary because many repairs such as service campaigns, field fixes and running changes are