

Web based access to information. As of this writing, Volvo is charging about \$1,700 per model per year for access to their site, which covers both emissions and non-emissions related information. Mr. Haven suggests that Hyundai, who currently allows access to their Web based service information free of charge is the model that all OEMs should be required to adhere to.

Vincent J. Porcaro commented that the price caps proposed by EPA are excessive. Mr. Porcaro further commented that it would cost an excess of \$10,000 per year to have access to Ford, GM, Chrysler and one import for one year. Mr. Porcaro commented that more reasonable price caps would be \$15 for 24 hour access, \$45 for 30 day access and \$250 for yearly access. Mr. Porcaro commented that his proposed pricing structure would be more consistent with current sources of information utilized by the aftermarket. Mr. Porcaro also commented that phrase "reasonable cost" must be revisited because the phrase has many interpretations. What is reasonable to one may not be reasonable to another and EPA must allow the aftermarket repair industry reasonable access to the needed information and tools. Mr. Porcaro commented that the ability to have the aftermarket scan tool manufacturers receive generic and enhanced information for a reasonable fee must be part of the federal certification of all vehicles for sale in the public market otherwise the information may not be released in a timely manner. Further, Mr. Porcaro states that the phrase "reasonable cost" must be revisited as this phrase has many interpretations. Further, EPA must allow the aftermarket repair industry reasonable access to the needed information and tools.

The National Automobile Dealers Association (NADA) submitted written comments that EPA has no justification, statutory or otherwise, to regulate the cost of OBD information and that any attempt to do so exceeds EPA's authority. Further, NADA commented that EPA must take into consideration the cost to OEM dealerships for the same or similar information when determining if OBD service information is being made available at a fair and reasonable price to the aftermarket and that this factor should be included in the final regulations. NADA also included in their written comments responses to a survey they conducted at dealerships to provide EPA with an idea of what dealers are paying for tools, training, and information. Lastly, NADA commented that it takes a significant investment in tools, training, and

information in order to service "high tech" vehicles and that any vehicle maintenance facility unwilling or unable to make those investments should be dissuaded, if not prohibited, from working on OBD repairs.

ETI commented that the Alliance and AIAM submitted nearly 4 pages of unsupportive comment on the issue of the cost of service information. ETI contends that this demonstrates the OEMs lack of interest in trying to provide the most information at the least cost. ETI further commented that OEMs should be concentrating more on whether their vehicles are being adequately serviced and about whether the customer is having a positive service experience. To this end, ETI commented that they do not understand why OEMs don't try to use every means possible to make sure that everyone has the required information they need.

The Aftermarket Consortium commented that, while section 202 (m)(5) of the Clean Air Act does not specifically include a reference to cost, it was evident that Congress clearly understood the importance of cost as it relates to the availability of information. They also commented that EPA also understood the importance of cost when finalizing the 1995 rule by connecting the availability of information to the ability to afford information. The industry associations also proposed that EPA adopt the criteria that the California Air Resources Board (CARB) is considering to help define the reasonable cost of service information. The industry associations also supported the comments made by AERA and APRA that the final rule should say that EPA "will" consider certain criteria when making reasonable cost determinations as to the language used in the proposed rule that EPA "may" consider certain criteria when making such determinations.

The industry associations also commented that they support EPA's tiered approach for aftermarket access to the OEM Web sites. However, they do express concern that the price caps proposed by EPA will be beyond the means of most independent service facilities. Because most shops specialize in numerous makes and models, EPA's pricing structure could mean it would cost a shop tens of thousands of dollars in annual Web access fees, and these costs don't even include tools or other information updates, or non-emissions related information. They also expressed concerns that the caps may encourage all OEMs to charge the maximum amount allowed under by the caps. Finally, they commented that EPA should lower the proposed cap limits to

take into consideration the factors outlined in their comments on this issue.

Mr. Bob Clark of Clark Automotive Systems submitted written comments suggesting that all information needed to service a vehicle should become the property of the owner of the vehicle when it is purchased. Mr. Clark commented that the meaning of "available" and "reasonably priced" service information must maintain the consumer's right to choose in a competitive market place. Mr. Clark further commented that if the OEMs are allowed to restrain trade in the automotive repair industry by claiming intellectual property rights to their information, the result will be a reduction in a consumer's choice in where their vehicle is diagnosed and serviced.

EPA Decision: On the general issue of cost, EPA has said since our initial regulation of service information availability that cost is an integral factor influencing the availability of service information. The legislative history of this provision supports the view that Congress was concerned regarding the cost of service information and did not want service information to become a profit center for OEMs. The Clean Air Act requires that service information must be made available to *any* person engaged in the repairing or servicing of motor vehicles. This includes persons who service motor vehicles at large repair facilities, as well as service personnel at the smallest gas stations; it includes facilities that specialize in servicing a single vehicle brand, as well as shops that work on multiple vehicle brands. The legislative history explains this intent:

The purpose of the amendment is to make sure that * * * the manuals, the techniques, are available to, in effect the local gas stations so that they will be more convenient for the automobile owner, that the automobile owner will not have to trek off to some dealer 30 miles away in order to be able to correct problems that have arisen with his automobile. * * * We want [manufacturers] to provide the information which will allow competition in the after market and allow small business operators to get in the repair business. 36 Cong. Rec. 3272 (1990).

We believe the Act's mandate will have been met only if the emission control service information is available to persons in all of these situations.

While the Clean Air Act does not specify the price that OEMs should be allowed to charge for service information, it does appear that Congress intended that the price of obtaining this information should not be so high that it significantly affects