as lean fuel/air ratio, bad wiring or sparkplugs.

Moreover, EPA believes that the language of section 202(m)(5) requiring manufacturers to provide "all information needed to make use of the emission control diagnostic system \* \* \* and such other information including instructions for making emission-related diagnosis and repairs" [emphasis added] makes it clear that other information pertinent to making emission-related repairs, in addition to information needed to make OBDrelated repairs, must be provided to aftermarket service providers. Had Congress wished to limit the information availability requirement only to those repairs necessary to make full use of the OBD system, it need not have included the second phrase of the requirement, relating to other information for making emission-related repairs, or could have limited the second phrase to those repairs necessary to make repairs related to MIL illumination. Instead the second phrase broadly refers to "emission-related diagnosis and repairs." Therefore, EPA believes it is reasonable to require manufacturers to provide information required for any emission-related repairs to be made available.

EPA has adopted a description of emission-related information that is consistent with previous definitions of emission-related maintenance, as set forth in EPA's "allowable maintenance" regulations. See 40 CFR § 86.088-2. Those regulations specify maintenance which may be performed on certification vehicles and establish an interpretation of "properly maintained vehicle" for use in the recall program. EPA made clear in those regulations that any maintenance that is likely to affect emissions would be considered emission-related:

Emission-related maintenance means that maintenance which does substantially affect emissions or which is likely to affect the emissions deterioration of the vehicle or engine during normal in-use operation, even if the maintenance is performed at some time other than that which is recommended. 40 CFR § 86.088-2

Contrary to the suggestion of some manufacturers, EPA is not providing a specific or suggested list of parts, components or systems for which information must be provided. Such lists may be interpreted by some manufacturers as the maximum emission-related information that must be made available. In addition, continually evolving vehicle technology will result in ongoing changes as to what constitutes emission-related information. Therefore, it would not be

reasonable to select a point in time and say that emission-related information is defined by what exists at that point.

Contrary to comments from some aftermarket commenters, the Agency only has the authority to require manufacturers to provide emissionrelated information. As previously indicated, this includes anything that is likely to affect emissions. If the Agency initially determines that a part, component or systems impacts emissions, it will notify the manufacturers who will be provided an opportunity to demonstrate otherwise if

it disagrees.

EPA Decision: Emission-related information includes, but is not limited to, information regarding any system, component or part of a vehicle that controls emissions and any system, components and/or parts associated with the powertrain system, including, but not limited to, the fuel system and ignition system. Information must also be provided for any system, component, or part that is likely to impact emissions, such as transmission systems. In addition, EPA will monitor the results of I/M programs for failures resulting from systems, components or parts other than those described here. If EPA determines that a substantial number of I/M failures are occurring due to systems, components or parts other than those described here, the extent of emission-related service information will be expanded to include such items. EPA will notify any affected manufacturer(s) of its concerns and will allow such manufacturers to reply to these concerns prior to making any such determinations. Affected manufacturers will be notified of any such EPA determinations.

## B. Information Used To Manufacture Aftermarket Parts

Summary of Proposal: EPA did not propose that vehicle manufacturers provide aftermarket parts manufacturers with information to design and manufacture parts.

Summary of Comments: A group of aftermarket associations commented on the importance of information used to design and manufacture parts. According to these commenters, competition in the service industry would be threatened if parts manufacturers are not provided sufficient information to produce quality aftermarket parts which work with emissions control systems, OBD systems, and computers. They stated that independent service and repair facilities depend on the availability of affordably priced quality aftermarket parts to compete with dealers for service

and repair. Without such competition, the associations believe that the only source of parts becomes the manufacturers which then have the ability to increase prices and limit availability. According to the commenters, in Japan, where an independently produced supply of replacement parts does not exist, repair prices are two and one half times more than what the U.S. car owner pays. The commenters believe that a failure to assure that parts producers can design and manufacture aftermarket parts will import the Japanese system to America and have a staggering effect on the ability of American motorists to properly maintain their vehicles.

These commenters also argued that parts producers need access to information used to design and manufacture parts, including functional control strategies and component calibrations, to produce emissionsrelated components that work within sophisticated emissions and diagnostic systems. The commenters indicated that engine calibration information also is required both to produce certain critical aftermarket parts and to test that the replacement parts will not cause failure of the emissions system or improperly

trigger the MIL.

Analysis of Comments: Information used to manufacture and design parts does not constitute information needed to make emission-related diagnosis and repairs as defined in section 202(m)(5). Therefore, such information is not addressed in this rulemaking. The purpose of section 202(m)(5) is to ensure that independent technicians have access to information needed to service and repair vehicles, thereby ensuring consumers with freedom of choice in where to take their vehicles for repairs. Manufacturers are only required to provide information in order for persons to service and repair vehicles. They are not required to provide recalibration information that is not needed to make emissions-related diagnosis and repairs, even if such information may be useful for the manufacture of aftermarket parts. Nothing in the language of the statute itself or in the legislative history indicates that Congress intended section 202(m)(5) to assure access and information for the manufacture of aftermarket parts. On the contrary, the legislative history speaks only of the need to ensure equal access for vehicle repair facilities.

It is important to note that Congress limited the manufacturers' information requirement such that trade secrets protected by section 208(c) need not be made available. It is clear from the