comments that much of the information requested for the manufacture of aftermarket parts is in fact information of a more proprietary nature than the information necessary to make diagnoses and repairs. Where information is not needed by repair personnel to repair vehicles and has not been disclosed to dealers, section 202(m)(5) does not require its disclosure.

Aftermarket parts manufacturers have been making such parts for many years, even as cars have become more and more complicated. Though the introduction of new emission requirements, including OBD, will continue the trend of making cars more complex, parts manufacturers' speculation regarding the effects of such requirements on their ability to make aftermarket parts is contradicted by other statements that parts manufacturers will continue to make parts as they have in the past. In any case, parts manufacturers have not shown that Congress intended section 202(m)(5) to require disclosure of information required to make aftermarket parts.

EPA Decision: Information for making emission-related diagnosis and repairs does not include information used to design and manufacture parts.

C. Guidelines

Summary of Proposal: In the NPRM, EPA proposed that "all information needed to make emission-related repairs" be made available to the automotive service industry. EPA did not provide guidelines or specify the types of information that this would encompass. In the June 1992 workshop notice, EPA indicated that interested parties would have an opportunity to present ideas regarding specific types of, or guidelines for determining the information that should be encompassed by the phrase "all information needed to make emissionrelated repairs.'

Summary of Comments: Several commenters responded that EPA should define or provide guidelines as to the information that must be provided. They asserted that failure to do so could result in manufacturers providing different levels of information due to different interpretations of the phrase "all information."

Ford Motor Corporation (Ford) expressed concern that EPA may require more information than is necessary for utilizing the emissions diagnostic system and to perform effective diagnostics and repairs.

Chrysler Motor Corporation (Chrysler) commented that it has and will continue

to provide to the aftermarket the following type of service information related to the repair of emission-related failures: (1) diagnostic information relating to I/M exhaust and evaporative test failures; (2) service repair information for emissions components; (3) wiring diagrams; (4) specifications; and, (5) TSBs. Chrysler believes this information meets the requirements of the CAA.

One manufacturer stated that if manufacturers demonstrate that the same information provided to dealers is made available to the aftermarket (excluding recalibration information), they have satisfied the intent of the law.

Aftermarket commenters argued that EPA's regulations must not permit a closed-ended or specifically limited definition of information that would be available to the entire industry. The aftermarket industry asserted it does not have adequate technical information on future vehicle designs and systems to allow for limitations or restrictions through rules or definitions on the information that will be necessary to effectuate adequate repairs. The Automotive Parts and Accessories Association (APAA) commented that rapidly changing vehicle technology would force EPA to revisit the guidelines on a semi-annual or yearly basis to determine if the proper information is being provided.

APAA indicated it might support guidelines that determine the types of information which must be provided to independent technicians. APAA assumed these guidelines would cover items, such as functional control strategies and wave diagrams, which are necessary elements if manufacturers are to provide all information needed for repair of emissions systems. APAA commented that its major concern is that any regulations regarding guidelines should direct that they be as comprehensive as possible and must explicitly state that such guidelines establish a minimum standard for information.

Analysis of Comments: EPA believes that the concerns of manufacturers are unwarranted under the requirements of the final rule. The requirement to submit a certification plan has been deleted. Therefore, concerns regarding delays in the certification process are no longer pertinent.

Ford stated that without guidelines, EPA could require proprietary and confidential information be made available to the public. EPA does not believe this is a problem. Subsection 202(m)(5) specifies that any information provided to authorized dealerships or others engaged in the service, repair or diagnosis of vehicles is not proprietary. EPA is not requiring that undisclosed proprietary emission-related information be made available as part of this rule.

Regarding Chrysler's comment, other types of emission related information, such as data stream and bi-directional control, are not on Chrysler's list and are required as part of this rule. Contrary to Chrysler's assertion, EPA believes, as discussed elsewhere, it has the authority to require the dissemination of such information.

EPA agrees with aftermarket comments that the regulations must be structured so as to carry out Congress' intent that all information needed to make emission-related diagnosis and repairs be provided, excluding trade secrets, to ensure that there are efficient and effective repairs of emission-related problems. However, EPA is not requiring at this time that manufacturers provide information to independent technicians that is not also supplied to authorized dealers, or other persons engaged in the diagnosis, repair, or servicing of motor vehicles or motor vehicle engines. Depending on the manufacturer, such information might include functional control strategies and wave diagrams, as discussed in section H below.

EPA is concerned that the use of specific guidelines may be incorrectly interpreted as a limitation on the emission-related information that is required to be provided. The Agency is also concerned that such guidelines would require continual updating to ensure they reflect rapidly changing vehicle technology. EPA believes this would be a time-consuming and unnecessary process. At this time, EPA generally agrees with the commenter who stated that if manufacturers provide the same emission-related information to dealers and the aftermarket they will meet the requirements of this rule. The evidence presented did not indicate that any manufacturers withhold necessary information (excluding more complex and high level information, like functional control strategies) regarding emision-related diagnosis and repair from their own dealers. If, through review of this program, it becomes apparent to EPA or others that a particular manufacturer is not providing nonproprietary information necessary to make emission-related diagnosis and repair to the service community (including its own dealers), EPA may take action against such manufacturer through these regulations.

EPA Decision: Manufacturers are required to make available to the