stream information to be released three months after model introduction.

Summary of Comments: Some manufacturers argued that EPA lacks the authority to mandate that they provide enhanced equipment or information to the entire vehicle maintenance industry concerning "special" or "enhanced" data streams or tools. Several manufacturers commented that the statute requires information be made available, not enhanced diagnostic tools. They stated that although such information may be provided by manufacturers to their franchised dealers, it isn't necessary to make use of OBD systems or to effectuate emissions control system diagnostics or repair. The manufacturers and NADA stated that a majority of franchised dealers make substantial monetary investments to purchase and train their technicians to use enhanced diagnostic equipment. They argued that EPA must not promulgate a regulation which would undermine these investments and in doing so place dealers at a competitive disadvantage with other segments of the vehicle maintenance industry.

According to Chrysler, the initiative for the company to invest in creating enhanced equipment is to ensure the economic viability of its dealerships. Without this incentive, Chrysler believes that such equipment will likely not be developed.

Several manufacturers asserted that reprogramming capability and proprietary non-emission-related information are an integral part of their enhanced diagnostic equipment. They argued that the design, development and distribution of a separate tool with only emission-related capabilities would be an unnecessary and costly burden for manufacturers.

They also noted that service information contained in manufacturer tools is similar to that which is contained in its service manuals, TSBs, recall notices, and other information which will be made available to the public through the various mechanisms proposed in the NPRM regarding service information availability.

Ford noted that nearly half of all its dealers do not have its Service Bay Diagnostic System (SBDS). Therefore, Ford believes dealers have no advantage in this area

Ford expressed several concerns over any regulation that would require their SBDS to be made available to the aftermarket: (1) higher likelihood that improper calibrations could be installed on vehicles since manufacturers have no control over independent facilities; (2) the reprogramming capabilities of this equipment would provide a powerful

tool for aftermarket performance companies and competitors to reverse engineer the emissions control system which could result in tampering; (3) unauthorized or incorrect calibrations would increase manufacturer liabilities in failing government in-use compliance programs and customers failing I/M programs; and, (4) providing a tool which has the capability to reprogram the control module may make it impossible for manufacturers to meet EPA's tampering prevention provisions. (These issues are addressed in the recalibration/reprogramming section below.)

Several manufacturers stated that generic scan tools will provide the means by which the aftermarket industry can get very specific support for diagnosis and repair of emissionrelated systems and components. While Ford indicated it understands the need for generic tools in the aftermarket arena, it expressed concern that they provide adequate and accurate information and repair capabilities. Manufacturers asserted they cannot be held either directly or indirectly liable if such generic tools incorporate diagnostic protocols which could potentially result in misdiagnosis and/ or unnecessary repairs. Further, they believe it would not be reasonable to require manufacturers to review and approve aftermarket diagnostic tools. Ford suggested that the manufacturers of aftermarket generic diagnostic tools assume full responsibility for the accuracy and completeness of their equipment and software, and that EPA enforce necessary sanctions if deficiencies are identified which result in improper diagnostics or repairs.

Toyota Motor Corporation (Toyota) commented that manufacturers should sell enhanced diagnostic tools to all persons who want to purchase them. However, Toyota indicated that contrary to EPA's proposal, such tools could not be sold to the aftermarket at the same price they are provided to franchised dealers, since the cost of establishing new trading routes and a handling system would increase the price of equipment to independent technicians. As a result, Toyota commented that if the Agency decides that the selling price from manufacturers to dealers must be the same as that to independent facilities, it would have to greatly increase the price to its franchised dealers.

The Automotive Service Industry Association (ASIA) commented that while EPA's proposal that manufacturers' enhanced diagnostic equipment be made available to the aftermarket at the same price it is made

available to franchised dealers has merit, limiting access to such manufacturer equipment alone will prove too costly and cumbersome for small repair facilities. ASIA asserted that under EPA's scenario, a small business currently servicing three lines of motor vehicles would be required to purchase three separate hardware/ software systems if that business wishes to continue servicing its current customer base. According to ASIA, the cost of purchasing three individual systems (at a minimum estimated cost of \$40,000 per unit) would force that repair facility to either significantly increase prices or limit the types of vehicles serviced.

ASIA stated that this impact runs contrary to the intent of section 202(m)(5) as envisioned by Senator John Chafee, who stated during the floor debate that "the purpose of the amendment is to make sure the diagnostic equipment, the manuals, the techniques are available to, in effect, the local gas stations so they they will be more convenient for the automobile owner * * *" Cong. Rec. S3272 (March 27, 1990). ASIA noted that then Senator Gore later added "we want the [manufacturers] to provide information which will allow competition in the aftermarket and allow small business operators to get in the repair business. Otherwise, you force vehicle owners to go only to the major automobile manufacturers' place of business. Consumers get frustrated; they have long waits; they have to pay high prices." Cong. Rec. S3272 (March 27, 1990). Therefore, ASIA asserted that to ensure independent facilities have the ability to service a range of vehicle makes, EPA should require that all diagnostic information provided to manufacturers of tools for vehicle manufacturers should be made available to the aftermarket. In doing so, ASIA believes that EPA would provide small businesses with the option of purchasing individual manufacturer diagnostic tooling systems or a single aftermarket system that possesses diagnostic capabilities for a variety of vehicle models.

One independent technician acknowledged that manufacturers deserve protections that may assist them in securing a return on their investment in equipment. To remedy concerns of the manufacturers, the commenter suggested that the manufacturers make known all of the information that is on the data stream to the aftermarket equipment manufacturers. These manufacturers could, through their own research, determine what diagnostic routines warrant investment to develop