and market. The commenter also expressed concern over the cost of enhanced equipment. According to the commenter, any such equipment that costs more than \$3,000 should be considered unavailable to independent technicians.

APAA commented that manufacturers will be correcting emission and driveability problems through the use of reprogramming tools. Without access to generic tools that perform the same function, APAA believes independent technicians will be unable to purchase manufacturer enhanced tools due to their high cost and will be in the unenviable position of being dependent on their biggest competitor, i.e., dealerships, for reprogramming services which are critical to emission repairs. APAA further noted that some manufacturers could not guarantee that their franchised dealers would provide reprogramming services to independent technicians in a timely manner.

One commenter noted that unlike dealers with enhanced tools, independent technicians with generic tools only receive malfunction codes which are insufficient to diagnose a fault. According to the commenter, this increases the time it takes to make a repair and the cost.

Aftermarket commenters indicated that independent technicians need access to diagnostic tools and equipment at the same time such tools and equipment are provided to dealerships.

Analysis of Comments: Contrary to manufacturer assertions, EPA believes it has the authority to require manufacturers to provide their enhanced diagnostic tools, because such tools contain important information that may be necessary for making emissionrelated repairs. Section 202(m)(5) of the Act is clear that if such information is provided either directly or indirectly to dealers, it is not covered by the confidentiality protection of section 208 and, therefore, must be provided to aftermarket technicians if it is information for making or diagnosing emission-related repairs. There is little question that the information provided by these tools is likely to increase the ability of a technician to diagnose and make appropriate repairs to vehicles and to make such diagnosis and repairs in considerably less time than it would take without such information. The legislative history clearly indicates that availability of diagnositc equipment was considered by Congress. Moreover, the legislative history clearly shows an intent that if dealerships have access to information that would allow relatively quick and low-cost diagnosis and repair

of vehicles, then the aftermarket should have access to the same information. Moreover, to the extent these advanced diagnostic tools may contain considerable information for making emission-related diagnoses and repairs that are not contained in written performance manuals and updates, the information contained in these tools is clearly covered by this rule.

Regarding Chrysler's argument that enhanced diagnostic tools have been developed to assist the economic viability of dealerships, it must be noted that a major reason for developing these tools has been to increase the ease and decrease the cost and time of repair for manufacturers' vehicles, which increases customer satisfaction. To the extent the wider availability of this information further increases ease of repair, then customer satisfaction is likely to increase further. Moreover, to the extent manufacturers wish to assist the economic viability of dealerships by preventing access by aftermarket technicians to emission-related information, that is exactly the type of behavior that section 202(m)(5) was designed to prevent.

To the extent manufacturers comment that this regulation will force them to either build different types of enhanced diagnostic equipment or to divulge certain information not otherwise required, EPA believes that manufacturers will have to make costrelated determinations regarding how to meet this requirement. If any costs are necessary to ensure that emissionrelated information is provided to the aftermarket to the extent it is provided to dealerships, then section 202(m)(5)requires that such costs be incurred. Moreover, Ford's statement that some of its dealers do not have access to its SBDS system, and that therefore the aftermarket should not have access to the information in that system, is not consistent with section 202(m)(5). The fact that Ford dealerships could choose to avail themselves of this information dictates that aftermarket technicians must have such a choice.

In general, statements of manufacturers regarding the complexity of control strategies and diagnostic information support the need for this information to be made available. The aftermarket must have access to this type of information precisely because vehicle repair has become such a complex and intricate procedure. Without such information, aftermarket technicians would be operating under a significant disadvantage compared to dealerships.

Providing such tools to the aftermarket should not unfairly

jeopardize the economic viability of dealerships. Dealerships already have access to these tools and to manufacturer training and other opportunities not provided to the aftermarket.

Nevertheless, EPA is not requiring manufacturers to make their enhanced diagnostic equipment available to the aftermarket. The primary reason being that the cost of purchasing such equipment for more than twenty manufacturers would be costprohibitive for most, if not all, independent technicians. The total cost would likely make the equipment practically unavailable to independent technicians.

However, manufacturers are required to ensure that the underlying emissionrelated information contained in their enhanced diagnostic equipment is provided to the aftermarket in a reasonable manner. Manufacturers are, therefore, required either to make their advanced diagnostic tools and equipment available at a reasonable cost to independent technicians or to make available to aftermarket tool and equipment companies any and all information, except calibrations and recalibrations, needed to develop and manufacture generic tools that can be used by independent technicians to diagnose, service and repair emissionrelated parts, components and systems.

Section 202(m)(5) states that information for making emission-related diagnosis and repair that is made available either directly or indirectly to dealerships must also be made available to the aftermarket. Any such information provided to dealerships is not proprietary as defined in the CAA. Much of the service and repair information made available to dealerships is done so by its incorporation into diagnostic tools and equipment. To ensure that independent technicians have the same or similar capabilities, manufacturers are required to either provide the information necessary to make such tools and equipment to tool and equipment companies or to make manufacturer tools and equipment available at a reasonable cost (i.e., sold competitively in the marketplace). The reasonable cost requirement is necessary to ensure that the tools and equipment are "available" to the aftermarket.

EPA is not requiring that information provided indirectly to dealerships be provided directly to aftermarket technicians. Where such information contains proprietary materials, EPA is only requiring that such information be provided to aftermarket technicians in the same manner that it is provided to