

Office, 4155 E. Clay St., Vicksburg, Mississippi 39180-3435.

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(g) *Fairway*. A clear channel not less than 175 feet wide as established by the District Engineer shall be left open at all times to permit free and unobstructed navigation by all types of vessels.

Dated: March 25, 1998.

Approved:

**Robert W. Burkhardt,**

*Colonel, Corps of Engineers, Executive Director of Civil Works.*

[FR Doc. 98-11689 Filed 5-1-98; 8:45 am]

BILLING CODE 3710-92-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 51 and 85

[AMS-FRL-6007-3]

RIN 2060-AE19

### IM Program Requirement—On-Board Diagnostic Checks; Amendment to the Final Rule

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** Today's action revises the federal vehicle inspection and maintenance (I/M) rules relating to the implementation deadline by which states are required to begin On-Board Diagnostic Checks (OBD) as a routine part of basic and enhanced I/M programs. This rule change delays to January 1, 2001, the required implementation date for OBD in basic and enhanced I/M program areas in the Ozone Transport Region (OTR) and in all other areas. During this time extension the Agency will generate, collect and analyze the data necessary to accord OBD checks the appropriate level of emission reduction credits. Additionally, certain clarifying amendments are being made to this rule to allow for updates to the Code of Federal Regulations which are cross-referenced in the OBD rule.

**DATES:** This rule change is effective May 4, 1998.

**ADDRESSES:** Materials relevant to this rulemaking are contained in the Public Docket No. A-94-21. The docket is located at the Air Docket, Room M-1500 (6102), Waterside Mall SW, Washington, DC 20460. The docket may be inspected between 8:30 a.m. and 12 noon and between 1:30 p.m. until 5:30 p.m. on weekdays. A reasonable fee may be charged for copying docket material.

### FOR FURTHER INFORMATION CONTACT:

Buddy Polovick, Office of Mobile Sources, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan, 48105. Telephone (734) 741-7928.

**SUPPLEMENTARY INFORMATION:** The preamble, regulatory language and a regulatory announcement are available electronically from the EPA internet Web site. This service is free of charge, except for any cost one may already incur for internet connectivity. An electronic version is made available on the day of publication on the primary Web site listed below. The EPA Office of Mobile Sources also publishes these notices on the secondary Web site listed below.

<http://www.epa.gov/EPA-AIR/> (either select desired date or use Search feature)

<http://www.epa.gov/OMSWWW/> (look in What's New or under the specific rulemaking topic)

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, minor changes in format, pagination, etc. may occur. The version published in the **Federal Register** is the official version of this document.

### Regulated Entities

Entities potentially regulated by the minor amendment to the I/M rule are those which adopt, approve, fund or implement I/M programs. Regulated categories and entities include:

Category	Examples of regulated entities
Local government .....	Local air quality agencies.
State government .....	State air quality agencies responsible for I/M programs.
Federal government ..	DOT.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities of which EPA is now aware that could potentially be regulated by this I/M amendment. Other types of entities not listed in the table could also be regulated. To determine whether your organization is regulated by this action, you should carefully examine the applicability criteria of 40 CFR 51.350 of the I/M rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

### I. Summary of Rule

Under the Clean Air Act as amended in 1990 (the Act), 42 U.S.C. 7401 *et seq.*, the U.S. Environmental Protection Agency (EPA) published in the **Federal Register** on November 5, 1992, (40 CFR part 51, subpart S) rules relating to motor vehicle inspection and maintenance (I/M) programs (hereafter referred to as the I/M rule; see 57 FR 52950). Subsequent to that rule, the EPA published in the **Federal Register** on August 6, 1996, (40 CFR parts 51 and 85) rules relating to the implementation of On-Board Diagnostic (OBD) checks as a routine part of I/M programs (hereafter referred to as the I/M OBD rule; see 61 FR 40940). EPA published a proposed rulemaking proposing changes to those rules in the **Federal Register** on December 22, 1997 (62 FR 66841). For a full description of all relevant background information please see that notice. EPA today takes final action to amend those OBD rules to delay to January 1, 2001, the deadline by which OBD checks must be implemented in I/M programs.

Today, EPA amends 40 CFR 51.373 to delay the implementation deadline for OBD checks in all I/M areas, including OTR low enhanced areas. Additionally, certain clarifying amendments have been made to allow for updates to Part 86 of the Code of Federal Regulations which are cross-referenced in the OBD rule. The requirement shall remain that states revise their I/M SIPs by August 6, 1998, to include the requirement to implement OBD checks by the January 1, 2001 deadline. For further information on this issue please see the **Public Participation** section of this rule.

Additionally, EPA amends here today two sections of the I/M OBD rule which were not proposed to be amended in the notice of proposed rulemaking for this rule. Those sections, 40 CFR 51.357(b)(4) and 85.2222(c), were inadvertently not identified as sections which also had dates that needed to be realigned with the new testing deadline of January 2001. Those sections indicated that by January 1, 2000, an incomplete readiness evaluation of the automobile's OBD system or a failure of the OBD diagnostic check were required to result in failure of the I/M test. Both of these sections should be amended to require failure under these circumstances by January 1, 2001, to be consistent with the change of the start of OBD testing. EPA regards this late addition to the rules to be amended as noncontroversial because such a timeline was implied by moving the start dates for those tests to January 1, 2001. Obviously vehicles could not be

required to fail before they are required to be tested.

EPA believes that the overall issue of revising dates to conform with delayed OBD testing was sufficiently raised in the rulemaking process and that further comment would be unnecessary. For these reasons, EPA invokes the "good cause" clause of the Administrative Procedure Act 553(b)(B) to make these changes today in this final notice instead of unnecessarily repropounding another rulemaking for these changes, which EPA believes would be contrary to the public interest in achieving prompt, consistent I/M OBD rules.

It is important to note that EPA has not changed the sections that allow for states to implement OBD inspections before the required deadline if desired, and to allow failure of OBD to result in failure of the I/M test, thereby requiring repair in such cases. Both efforts shall remain optional to the states. However, states which choose to conduct OBD checks, on vehicles so equipped, before the new deadline, may earn minimal emission reduction credits for doing so only if they perform the OBD checks in conjunction with the exhaust and (where applicable) evaporative tests. States may not yet earn emissions reductions credits for only OBD checks, in the absence of exhaust and evaporative testing, which are comparable to exhaust and evaporative test credits. Only after the Agency has accorded OBD a defined level of emissions reduction credit can states potentially drop the exhaust and evaporative tests and still earn comparable emission reduction credits for performing only OBD checks on those vehicles. Should EPA and states complete testing and review of OBD systems sooner than expected, the Agency may be able to make credit available for OBD testing without exhaust and evaporative testing, to states which choose to implement I/M OBD checks before January, 2001. Any questions about credit assignments for OBD checks should be directed to the contact person for this rule.

These amendments are consistent with the relevant requirements of the Act. These changes will not result in any change in health and environmental benefits. The only Act-required deadline with regard to OBD testing is that described above, such that states must revise their SIPs by August 6, 1998. [The Act requires such revisions by two years from promulgation of the OBD rules, or August 6, 1996 in this case.] That requirement has been retained in this amendment. The Act does not require a specific deadline for implementation of OBD testing. EPA believes it is

reasonable to extend the previously established deadline pending further study of the effectiveness of OBD testing for the reasons stated above.

## II. Public Participation

The following sections describe the submitted comments and EPA's response thereto.

### A. Request to Extend Comment Period

#### 1. Summary of Comments

One commenter requested an extension of the comment period from the 15 days provided in the NPRM to the full and customary 30 day period. They noted that the timing of the 15 day period coincided with the holidays and did not provide ample time to consider the NPRM and submit full comment.

#### 2. Response to Comments

EPA noted in the NPRM for this rule that the shortened comment period was necessary because of the tight timeline for promulgating these amendments. Considerable advance notice of the Agency's intentions had been provided to all stakeholders months in advance of the NPRM. Because the timing of the rule may have been inconvenient and because the Agency was still reviewing comments, additional time was provided to that commenter to expand their comments. EPA opted to not pursue publishing a formal extension of the comment period for an additional 15 days because that time would likely have lapsed before such a notice would appear in the **Federal Register**. No other commenter expressed concern about needing additional time to amplify their comments. As it turned out, the commenter ultimately notified the Agency that after further reviewing the proposal and its initial comments it did not need to submit additional comments.

### B. The Requirement to Revise I/M SIP Submittals by August 6, 1998

#### 1. Summary of Comments

One commenter noted that while they support EPA's proposal to delay implementation of OBD to January 1, 2001, they recommend that EPA reconsider the requirement that states revise their I/M SIP submittals by August 6, 1998. They believe the requirement will force a commitment of resources to develop OBD programs well before they are required and that requirements may change in the interim. Furthermore, the commenter asserted that more pressing SIP submittals must be made in the near term.

## 2. Response to Comments

EPA recognizes that the new deadline delays a program requirement for a period of time during which I/M program requirements may change. However OBD requirements are projected to change little if any. Test procedures, standards and equipment needs are outlined in the original I/M OBD rule, and implementation guidelines will be available in 1998. EPA does not intend to require states to fully develop their OBD program almost three years before implementation as that is not necessary. However, the Clean Air Act, Section 202 (m)(3), does require that states amend their I/M SIP submittals within two years of promulgation of OBD regulations, to include the OBD checks. As EPA promulgated its original I/M OBD rule on August 6, 1996, by statute states must amend their SIPs by August 6, 1998 to require OBD checks in their I/M programs. To meet this requirement EPA will accept at a minimum, a brief SIP amendment which commits to implementing EPA approved OBD checks, as outlined in the I/M OBD rule, by January 1, 2001. A similar amendment to the applicable state I/M requirements shall be made which indicates that I/M OBD checks consistent with EPA rules are required to be conducted by January 1, 2001. No detailed OBD program submittal is required by August 6, 1998. Any questions about such requirements should be directed to the contact person for this rule.

### C. Tachometer Connectors Without Mandatory OBD Checks

#### 1. Summary of Comments

One of OBD's numerous functions is that it can be used to perform engine speed (RPM) measurements on vehicles so equipped. Because the RPM measurement is necessary for I/M idle tests, it is important for all new vehicles to be equipped with either tachometer connectors or OBD. One commenter noted that current regulations require MY '96 and newer vehicles, which are tested with idle tests, to use the OBD connector to perform the tachometer measurement. They note that because OBD was to be required by 1998, manufacturers may have stopped equipping cars with the tachometer loops used solely for measuring RPM. They are now concerned that without the OBD requirement that EPA may make manufacturers responsible to provide alternate means to perform the RPM measurement. They are concerned that states be permitted to use alternate means to make tachometer

measurements on OBD equipped vehicles during the period of delay. They seek to confirm EPA's policies with regard to RPM measurement for OBD equipped vehicles.

## 2. Response to Comments

EPA has no intention of making manufacturers responsible for resuming installation of tachometer connectors. OBD represents a new era in vehicle technology and nothing would be gained by going back to previous requirements for tachometer connectors on new vehicles. OBD systems offer substantial benefits regardless of I/M requirements, and for these reasons they shall continue to be required on newly manufactured vehicles.

While decentralized stations have the option of using OBD scanners or alternative tach measurement equipment before required OBD testing begins, most should already have OBD scan equipment simply because it is far more useful to them in other capacities, namely as a powerful diagnostic tool. Any test and repair facility which works on 1996 and newer cars will be highly motivated to make the investment in OBD scan tools solely to support the repair side of their shop. EPA maintains that this delay in OBD implementation will cause no additional expense for those stations other than what they would already have incurred as overhead for repairing those newer vehicles. Centralized I/M programs which opt to implement OBD checks before the new deadline have the option to use alternative RPM measurement equipment in that interim as well, however with their high lane throughput they will easily be able to afford OBD scanning equipment, as the per vehicle cost will be nominal.

The tachometer measurement on OBD equipped vehicles which do not have tach connectors can be made without querying the OBD system. Equipment is already available in the field to monitor the engine RPM. Radio frequency units and other technologies are used successfully and could easily take the place of OBD scanners for stations which choose not to invest in those units until required testing begins.

### *D. Ability of Aftermarket Business to Participate in Repair of OBD Failed Vehicles*

## 1. Summary of Comments

One commenter noted their support for the delayed implementation of OBD checks but is concerned that once testing begins in 2001, failure of the OBD check shall mean automatic failure of the I/M test, thereby requiring repair.

They oppose such mandatory OBD testing and repair for failed vehicles unless all independent aftermarket businesses can participate in the service and repair of such vehicles. They do not believe that aftermarket parts manufacturers currently have the information they need to manufacture the parts for these repairs. They feel EPA should use the extra time during the delay to ensure that such information is available.

## 2. Response to Comments

This comment is not directly related to the proposal to delay implementation of OBD checks because manufacturer information requirements are not affected. The commenter's information availability concerns have been addressed previously in another EPA rulemaking, the Service Information Rules, 60 FR 40474, published August 9, 1995. Those rules require automobile manufacturers to provide aftermarket service providers with information needed to make use of the OBD system and to make emission related repairs. Any further questions about those requirements should be directed to Holly Pugliese (734) 214-4288.

### *E. OBD Readiness Code Failures and Voluntary I/M Failure for OBD Checks*

## 1. Summary of Comments

One commenter expressed support for EPA's proposal to delay implementation of OBD checks for many of the reasons cited above, namely that because OBD is a new technology a period of study is warranted so that program implementation and success is not compromised by startup problems. However the commenter did note several concerns with the I/M OBD rule and its requirements. One concern was that EPA left unchanged sections of the rule which allow for states to begin OBD checks before the proposed new deadline and to allow failure of the OBD check to trigger failure of the I/M test and require repair in such cases. They note that linking the I/M pass/fail decision to the OBD check before EPA's field evaluation is completed would be premature if there are technology and startup problems and could lead to consumer dissatisfaction and could adversely affect I/M programs. The commenter noted their concern with another section of the rule left unchanged which requires vehicles to be failed for the OBD check if the system's "readiness evaluation" is not completed at the time of inspection. They believe that rather than failing a vehicle for a readiness problem, the rule should require that if readiness codes

are not set the default pass/fail determination should be made by an alternative tailpipe and/or evaporative test. Lastly the commenter noted that they believe EPA will have to reconsider the January 1, 2001 deadline if the field studies warrant it and they request that EPA commit to revisit the rules before then, if that is the case.

## 2. Response to Comments

EPA agrees there are both risks and benefits for states which begin OBD checks before the proposed new deadline of January 1, 2001 and before EPA has completed its field evaluation. States would benefit from increased consumer knowledge and acceptance of OBD while at the same time having the opportunity to work out startup problems such as complications with equipment and network compatibility. There may be some risk associated with failing vehicles for the I/M test if indicated only by the OBD check. [For instance, technical problems with certain OBD systems or other implementation problems may lead to some false failures. EPA believes that such risks are minimal considering the advanced nature of OBD technology, but these are normal for infant technology.] Furthermore, EPA is developing implementation guidelines for OBD checks and intends to make those guidelines final by late 1998.

EPA believes that states generally are sensitive to the integral nature of each I/M program element and are equally concerned with ensuring success of their programs in order to achieve the maximum air quality benefits. It would therefore not be expected that states would choose to implement OBD prematurely if doing so would place the broader I/M program at risk. EPA has and will continue to work with states individually to provide the guidance and information needed to optimize OBD's potential. It is important to note that under Section 116 of the Act states may make their I/M programs as stringent as they choose as long as they meet the minimum requirements set by EPA. Therefore they may opt to fail vehicles from their I/M test based on OBD failure alone, before the requirement to do so begins. EPA is confident that states can make the assessment whether or not it is beneficial for them to do so on an individual basis and we will endeavor to share useful information with those interested states.

With regard to the commenter's concerns about EPA rules requiring OBD failure for incomplete readiness status, EPA stands by its original requirement. EPA did not propose to

amend this requirement and does not believe it would be prudent to do so. The "readiness evaluation" means that the OBD system queries each of the individual emissions control monitor components during certain operating modes or conditions to ensure that the monitors are functioning properly. Once these determinations are made the readiness code is set to confirm that relevant monitors have successfully been queried. This feature is designed as such so that when a technician scans the OBD system and sees that all the readiness codes are set, they can be confident of the validity of any diagnostic trouble codes (DTCs) that may or may not be set. While a non functioning readiness monitor does not necessarily mean that a vehicle is operating dirty, it provides no assurance that the OBD system has fully evaluated the emissions performance of the vehicle and that the absence of DTCs indicates a properly functioning system. Without operational readiness criteria, a vehicle or component may be failing but a monitor will not have had the opportunity to evaluate operation and set DTCs as appropriate. Additionally, in such circumstances, the technician will not have an indicator of an emission component problem, unless he or she performs a tailpipe or evaporative emission test.

EPA does not believe states should be put in a position where they should have to rely on other I/M tailpipe or evaporative tests to make a pass fail decision for OBD equipped vehicles. Nor does EPA believe that the public should bear the burden of any readiness deficiencies. OBD has the potential to vastly streamline I/M testing and this cannot be achieved unless readiness criteria are included in the list of potential failure triggers. By January, 2001 manufacturers will have built at least 5 model years of OBD equipped vehicles and EPA believes that is ample time to correct any initial design or technical problems with the systems. To create special test requirements for readiness deficient vehicles runs the risk of fundamentally weakening I/M programs, particularly OBD's future. It would promote the idea throughout the I/M community and amongst vehicle owners that OBD technology is not as good as it was intended to be. It could erode the integrity of OBD sufficiently to draw public criticism. A vehicle owner may not understand why their OBD equipped vehicle must be subjected to a more time consuming and intrusive tailpipe or evaporative check when others are not. Furthermore, keeping the readiness failure criteria

provides vehicle owners one more measure of a vehicle's performance, ensuring that manufacturers design and build the cleanest vehicles possible. For all the reasons noted above, EPA believes it is absolutely essential that readiness criteria remain as one of the triggers for failure of the OBD test once testing becomes mandatory in 2001. EPA declines to accept the commenter's recommendation to do otherwise. However, just as states have the flexibility to voluntarily implement OBD before January 2001, they are not bound to fail vehicles for OBD readiness deficiencies alone during these interim years. They may choose to confirm readiness code failures with alternate tailpipe and evaporative tests.

It is important to note that technicians in I/M lanes may encounter another type of readiness deficiency, not a problem of a design or technical nature but rather a situation where the vehicle which is presented for testing simply has not had the chance to operate each of its monitors. Generally each monitor can only be triggered while the vehicle is operating under certain conditions or operating modes, e.g., certain highway speeds, coolant temperatures, start/stop sequences, etc. If a vehicle owner drives only short distances or low speeds (for instance, because they may live near work or the test center), certain monitors may not get the opportunity to operate before the vehicle is presented for testing. As a result, the technician cannot complete the OBD check and will have to direct the vehicle owner to return after operating the vehicle in such a manner that all monitors have been operated. Evidence thus far indicates that such scenarios are rare. In most cases this means owners may have to operate on the highway for a certain period of time. This extra step is akin to what often occurs in traditional I/M testing (which requires the vehicle to be fully warmed before testing), whereby owners who present "cold" vehicles may be turned away to drive their vehicles until fully warmed. This particular type of readiness deficiency scenario is not expected to have a qualitative impact on the success of OBD but will be addressed in the implementation guidance.

Finally, the commenter's request that EPA commit to reconsider the deadline before the arrival of the January 1, 2001 deadline, should EPA determine the field studies warrant it, can be answered simply. EPA has no intention of implementing any program before it is ready, especially if such premature implementations would place the current benefits of an I/M program at risk. That is precisely one of the reasons

for the delay promulgated here today. While it is too early to state definitively that no problems with OBD warranting further delay will be found, EPA is confident that the three year delay will be adequate to determine the state of the technology.

### III. Administrative Requirements

#### A. Regulatory Flexibility

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and small government jurisdictions. A small government jurisdiction is defined as governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000. This action will not have a significant economic impact on a substantial number of small entities and, therefore, is not subject to the requirement of a Regulatory Impact Analysis. This certification is based on the fact that the I/M areas impacted by this rulemaking do not meet the definition of a small government jurisdiction. The I/M rule applies only to urbanized areas with populations in excess of 100,000 or 200,000 depending upon location.

#### B. Unfunded Mandates Act

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule where the estimated costs to State, local, or tribal governments, or to the private sector, will be \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objective of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly impacted by the rule. To the extent that the requirements in this action would impose any mandate at all as defined in Section 101 of the Unfunded Mandates Act upon the state, local, or tribal governments, or the private sector, this rule is not estimated to impose costs in excess of \$100 million. Therefore, EPA is not required to and has not prepared a statement with respect to budgetary impacts. As noted above, this rule offers

opportunities to states to delay implementation of certain requirements and thus enables them to lower economic burdens from those resulting from the currently existing I/M rule.

#### *C. Submission to Congress and the General Accounting Office*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### *D. Executive Order 12866*

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budget impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this final action is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

#### *E. Reporting and Recordkeeping Requirements*

This regulatory action does not contain any information collection requirements which require the approval of the Office of Management

and Budget under the Paperwork Reduction Act 44 U.S.C. 3501 *et seq.*

#### **IV. Effective Date**

This rule will take effect May 4, 1998. EPA finds good cause to have the rule take effect immediately because it relieves a restriction, which for the reasons described above EPA believes is inappropriate at this time, which took effect January 1, 1998. It would not be in the public interest to keep that restriction in effect once EPA has acted to relieve it.

#### **List of Subjects**

##### *40 CFR Part 51*

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Motor vehicle pollution, Nitrogen oxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulphur oxides, Transportation, Volatile organic compounds.

##### *40 CFR Part 85*

Confidential business information, Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

Dated: April 27, 1998.

**Carol M. Browner,**  
*Administrator.*

For the reasons set out in the preamble, parts 51 and 85 of chapter I of title 40 of the Code of Federal Regulations are amended as follows:

#### **PART 51—[AMENDED]**

1. The authority citation for part 51 is revised to read as follows:

**Authority:** 42 U.S.C. 7401, 7411, 7412, 7413, 7414, 7470–7479, 7501–7508, 7601, and 7602.

2. Section 51.351 is amended by revising paragraph (c) to read as follows:

##### **§ 51.351 Enhanced I/M performance standard.**

\* \* \* \* \*

(c) *On-board diagnostics (OBD).* The performance standard shall include inspection of all 1996 and later light-duty vehicles and light-duty trucks equipped with certified on-board diagnostic systems, and repair of malfunctions or system deterioration identified by or affecting OBD systems as specified in § 51.357.

\* \* \* \* \*

3. Section 51.352 is amended by revising paragraph (c) to read as follows:

##### **§ 51.352 Basic I/M performance standard.**

\* \* \* \* \*

(c) *On-board diagnostics (OBD).* The performance standard shall include inspection of all 1996 and later light-duty vehicles and light-duty trucks equipped with certified on-board diagnostic systems, and repair of malfunctions or system deterioration identified by or affecting OBD systems as specified in § 51.357.

\* \* \* \* \*

4. Section 51.357 is amended by revising paragraph (b)(4) to read as follows:

##### **§ 51.357 Test procedures and standards.**

\* \* \* \* \*

(b) \* \* \*

(4) *On-board diagnostics test standards.* Vehicles shall fail the on-board diagnostic test if they fail to meet the requirements of 40 CFR 85.2207, at a minimum. Failure of the on-board diagnostic test need not result in failure of the vehicle inspection/maintenance test until January 1, 2001.

\* \* \* \* \*

5. Section 51.373 is amended by revising paragraph (g) to read as follows:

##### **§ 51.373 Implementation deadlines.**

\* \* \* \* \*

(g) On-Board Diagnostic checks shall be implemented in all basic, low enhanced and high enhanced areas as part of the I/M program by January 1, 2001.

#### **PART 85—[AMENDED]**

6. The authority citation for part 85 is revised to read as follows:

**Authority:** 42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7601(a).

##### **§ 85.2207 [Amended]**

7. Section 85.2207 is amended by removing and reserving paragraphs (a) and (e).

8. Section 85.2222 is amended by revising paragraph (c) to read as follows:

##### **§ 85.2222 On-board diagnostic test procedures.**

\* \* \* \* \*

(c) The test system shall send a Mode \$01, PID \$01 request in accordance with SAE J1979 to determine the evaluation status of the vehicle's on-board diagnostic system. The test system shall determine what monitors are supported by the on-board diagnostic system, and the readiness evaluation for applicable monitors in accordance with SAE J1979. The procedure shall be done in accordance with SAE J1979 "E/E Diagnostic Test Modes," (DEC91). This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of SAE

J1979 may be obtained from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096-0001. Copies may be inspected at the EPA Docket No. A-94-21 at EPA's Air Docket (LE-131), Room 1500 M, 1st Floor, Waterside Mall, 401 M Street SW, Washington, DC, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. Beginning January 1, 2001, if the readiness evaluation indicates that any on-board tests are not complete the customer shall be instructed to return after the vehicle has been run under conditions that allow completion of all applicable on-board tests. If the readiness evaluation again indicates that any on-board test is not complete the vehicle shall be failed.

\* \* \* \* \*

9. Section 85.2231 is amended by revising paragraph (b) to read as follows:

**§ 85.2231 On-board diagnostic test equipment requirements.**

\* \* \* \* \*

(b) The test system shall be capable of communicating with the standard data link connector of vehicles with certified OBD systems.

\* \* \* \* \*

[FR Doc. 98-11751 Filed 5-1-98; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[AZ059-0005; FRL-6004-5]

#### Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County Environmental Services Department

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve a revision to the Arizona State Implementation Plan (SIP). The revision concerns Maricopa County's Ordinance P-7, Maricopa County Trip Reduction Ordinance. This approval action will incorporate this ordinance into the federally-approved SIP. The intended effect of approving this ordinance is to reduce emissions of volatile organic compounds, nitrogen oxides, carbon monoxide, and particulate matter by reducing the number of single-occupant-vehicle commute trips in the Phoenix, Arizona, metropolitan area. EPA is finalizing the approval of this revision into the Arizona SIP under provisions of

the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

**EFFECTIVE DATE:** June 3, 1998.

**ADDRESSES:** Copies of the SIP revision and supporting information are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following location: Office of Air Planning (AIR-2), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

**FOR FURTHER INFORMATION CONTACT:** Frances Wicker, Office of Air Planning, AIR-2, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1248.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On December 9, 1997 at 62 FR 64794, EPA proposed to approve Maricopa County's Ordinance P-7, Maricopa County Trip Reduction Ordinance which was revised by the Maricopa County, Arizona, Board of Supervisors on May 26, 1994 and submitted as a SIP revision to EPA by the Arizona Department of Environmental Quality on August 31, 1995. A discussion of the ordinance and EPA's proposed approval action can be found in the notice of proposed rulemaking (NPRM) cited above.

EPA has evaluated this ordinance for consistency with the requirements of the CAA and EPA regulations and EPA's interpretation of these requirements as expressed in the various Agency policy guidance documents referenced in the NPRM. EPA has found that the ordinance meets the applicable EPA requirements.

##### II. Public Comments

No comments were received on the proposed approval during the 30-day public comment period that was provided in 62 FR 64794.

##### III. EPA Action

EPA is approving the above submitted ordinance for inclusion into the federally-approved Arizona SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state

implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

#### IV. Administrative Requirements

##### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

##### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

##### C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that