

Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

AGL ND E5 Cooperstown, ND [New]

Cooperstown Municipal Airport, ND
(Lat. 47°25'22"N, long. 98°06'21"W)

Devils Lake VORTAC
(Lat. 48°06'48"N, long. 98°54'29"W)

Grand Forks Air Force Base, ND
(Lat. 47°57'40"N, long. 97°24'04"W)

Valley City Barnes County Municipal Airport, ND

(Lat. 46°56'28"N, long. 98°01'03"W)

Jamestown VOR/DME
(Lat. 46°55'58"N, long. 98°40'44"W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Cooperstown Municipal Airport and that airspace extending upward from 1,200 feet above the surface within an area bounded on the east by longitude 97°49'30"W, on the south by the 7.9-mile radius of the Valley City Barnes County Municipal Airport and by V2–520, on the southwest by the 16.5-mile radius of the Jamestown VOR/DME and on the west by V561; that airspace bounded on the northwest by the 34-mile arc of the Grand Forks Air Force Base, on the east by V561, on the southwest by the 16.5-mile radius of the Jamestown VOR/DME and V170, and on the west by V55; and that airspace bounded on the north by V430, on the east by the 34-mile arc of the Grand Forks Air Force Base, on the south by V55, on the west by V170, and on the northwest by the 22-mile radius of the Devils Lake VORTAC.

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Issued in Des Plaines, Illinois on November 24, 1997.

David B. Johnson,

Acting Manager, Air Traffic Division.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 55

[AMS–FRL–5938–7]

RIN 2060–AH62

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to change a provision of the federal vehicle inspection and maintenance (I/M) rules relating to the implementation deadline by which states are required to begin On-Board Diagnostic (OBD) checks as a routine part of basic and enhanced I/M programs. The current rule requires Ozone Transport Region (OTR) areas with low enhanced programs to implement OBD checks by January 1, 1999, and all other areas to implement OBD checks by January 1, 1998. This notice proposes to delay for a period of up to three years the required implementation deadline for OBD in those areas. This proposed amendment will set a new implementation date for OBD checks as January 1, 2001 for all areas with basic and enhanced I/M programs. 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 proposed to allow for updates to the Code of Federal Regulations which are cross-referenced in the OBD rule.

DATES: Written comments on this proposal must be received no later than January 6, 1998.

ADDRESSES: Materials relevant to this proposed 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. The preamble, regulatory language and regulatory support document are also 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. The official **Federal Register** 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.

FOR FURTHER INFORMATION CONTACT: Leila Cook, Office of Mobile Sources, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan, 48105. Telephone (313) 741–7820.

SUPPLEMENTARY INFORMATION:

Regulated Entities. Entities potentially regulated by the minor amendment to the I/M rule are those which adopt, approve, or fund 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 proposed 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.

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).

The statutory requirement for OBD checks as an I/M program requirement is found in sections 182(c)(3)(C)(vii) and 202(m)(3) of the Act. Section 182(c)(3)(C)(vii) requires the inspection of emission control diagnostic systems. In the I/M OBD rule, EPA interpreted the statutory requirement to include OBD checks in addition to otherwise required emission testing, and thus promulgated a rule which required both tests as part of the regular I/M test procedure. Per the I/M OBD rule, until January 1, 2000, both OBD and evaporative system tests, where applicable, were to be required on each subject vehicle of model year 1996 and newer. During this period vehicles which fail the OBD check would not automatically fail the I/M test. Only after January 1, 2000, would failure of the OBD test require mandatory repair and retest. The two-year period from when OBD checks were to be started, until they could generate I/M failures, was to be a period during which the Agency would evaluate the relative effectiveness of OBD.

The Agency believes that sufficient data must be generated on which to base an appropriate level of emission reduction credits for OBD. It would be premature at this time, therefore, to require the states to perform OBD checks in addition to the regular exhaust and evaporative testing and attendant costs. EPA now believes that the data needed must be generated by a separate study that compares OBD's emission reduction potential to the Federal Test Procedure, the same procedure used to certify all new automobiles today. The Agency is currently conducting such a study which began October 1, 1997. Two years are needed to ensure ample time for fleet penetration of OBD-equipped vehicles, so that enough vehicles can be recruited for the study. The third year will be needed to allow sufficient time to analyze the data generated by the study and to develop and assign appropriate credits.

Today, EPA is proposing to amend 40 CFR section 51.373 to delay to January 1, 2001 the implementation deadline for OBD checks in OTR low enhanced areas and in all other areas. While these dates were different in the I/M OBD rule, i.e., January 1, 1999 and January 1, 1998, respectively, today's rule delays both to

the same deadline of January 1, 2001. This amounts to a two-year delay for those OTR low enhanced areas and a three year delay for all other areas.

Additionally, EPA is proposing to reserve 40 CFR 85.2207 (a) and (e) which address failure of the OBD test as a basis for failure of the I/M test. EPA proposes to reserve these subsections pending resolution of the appropriate level of emission reduction credits for OBD.

Additionally, certain clarifying amendments are being proposed to allow for updates to the Code of Federal Regulations which are cross-referenced in the OBD rule. Part 86 of the CFR, which includes the technical specifications for OBD systems, is periodically updated to include new requirements for these systems. The current rule requires compliance with certain I/M program requirements pursuant to section 86.094-17. As this section has now been amended to include new subsections which also apply to OBD systems, this action proposes to amend the sections of the OBD rule where that subsection is referenced to obviate the need for future amendments in this regard. Where section 86.094-17 was referenced before, this action proposes to amend such language to refer simply to certain vehicles with "certified OBD systems".

The requirement shall remain that states revise their I/M SIPs by August 6, 1998, to implement OBD. This is due to the Act's requirement in section 202(m)(3) that states revise their SIPs within two years after promulgation of the regulations to provide for OBD inspections. As the I/M OBD rule was promulgated on August 6, 1996, states must adopt rules, by two years from that date, which require OBD checks. Only the date for the start of testing is proposed for delay here.

Also unchanged, are the sections that allow for states to implement OBD inspections before December 31, 1999, and to allow failure of OBD to result in failure of the I/M test, thereby requiring repair. Both efforts shall remain optional to the states. States which choose to add OBD checks to their regular tailpipe and evaporative tests should be able to do so without regulatory hindrance. Those states should benefit from increased consumer acceptance of the technology and the resolution of implementation problems commonly associated with the startup of a new testing technology. However, states which choose to conduct OBD checks, on vehicles so equipped, before the proposed new deadline, cannot earn emission reduction credits for doing so unless they also perform the exhaust

and (where applicable) evaporative tests. 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 emission reduction credits for performing 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 credits available to states who choose to implement OBD I/M checks prior to the proposed deadline.

These proposed amendments are consistent with the relevant requirements of the Clean Air Act. These changes will not result in any change in health and environmental benefits. The only Act-required deadline with regards to OBD testing is that described above, such that states must revise their SIPs by the date certain and that requirement has been retained in this amendment. The Act does not include a specific deadline for implementation of OBD testing. EPA believes it is reasonable to extend that deadline for the reasons stated above.

EPA here solicits comments on this proposal. Anyone wishing to comment on the proposal should do so at this time. Because the current deadline for implementation of OBD is January 1, 1998, and because time is needed to accept and respond to comment, time is of the essence in the promulgation of this rule. For the reasons stated above it will be necessary to limit the comment period for this proposal to fifteen days. A thirty day comment period would not allow the Agency to promulgate a final rulemaking action until after the January 1, 1998 deadline. The agency will make every effort to ensure that this proposed rule is distributed by every available mechanism so that concerned stakeholders will have ample time to comment.

Administrative Requirements

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), I certify that 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. A small entity may include a small government entity or jurisdiction. 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 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, that is, governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000. The I/M rule applies only to urbanized areas with populations in excess of 100,000 or 200,000 depending upon location.

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, as explained above, this rule is not estimated to impose costs in excess of \$100 million. Therefore, EPA has not prepared a statement with respect to budgetary impacts.

Paperwork Reduction Act

This regulatory action does not contain any information collection requirements requiring approval by the office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12866

It has been determined that this proposed amendment to the I/M OBD rule is not a significant regulatory action under the terms of Executive Order 12866 and has been waived from Office of Management and Budget (OMB) review.

List of Subjects

40 CFR Part 85

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, Sulfur oxides, Volatile organic compounds.

40 CFR Part 85

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

Dated: December 16, 1997.

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 is proposed to be amended as follows:

PART 51—[AMENDED]

1. The authority citation for Part 51 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

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 51.373 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]

5. The authority citation for Part 85 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

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

7. 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.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NY 26-2-176b, FRL-5936-7]

Determination of Attainment of the One-Hour Ozone Standard for the Poughkeepsie, New York Nonattainment Area and Determination Regarding Applicability of Certain Reasonable Further Progress and Attainment Demonstration Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to find that the Poughkeepsie ozone nonattainment area in New York has attained the one-hour National Ambient Air Quality Standard (NAAQS) for ozone and that certain reasonable further progress and attainment demonstration requirements, along with certain related requirements of Part D of Title I of the Clean Air Act are not applicable for as long as the area continues to attain the one-hour ozone standard. In the Final Rules section of this **Federal Register**, EPA is making these determinations without prior proposal because the Agency views this as a noncontroversial activity and anticipates no adverse comments. A detailed rationale for this activity is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties