

a portion of Long Island Sound from 9 p.m. until 10:15 p.m. on July 22, 2000. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The duration of the event is limited; the event is at a late hour; all vessel traffic may safely pass around this safety zone; and extensive, advance maritime advisories will be made.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104-121], we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

Collection of Information

This rule calls for no collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

We have analyzed this rule under Executive Order 13132, and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Government Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard has considered the environmental impact of this rule and concluded that under figure 2-1, paragraph 34(g), of Commandant Instruction, M 16475.C, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; 49 CFR 1.46. Section 165.100 is also issued under authority of Sec. 311, Pub.L. 105-383

2. Add temporary § 165.T01-142 to read as follows:

§165.T01-142 Groton Long Point Yacht Club Display, Main Beach, Groton Long Point, CT.

(a) *Location.* The safety zone includes all waters of Long Island Sound within a 600 foot radius of the launch site located on the Long Island Sound 600 feet south of Main Beach, Groton Long Point, CT in approximate position: 41° - 18'.05"N, 072° - 02'.08"W.

(b) *Effective date.* This section is effective from 9 p.m., on July 22, 2000 until 10:15 p.m., on July 23, 2000.

(c) (1) *Regulations.* The general regulations covering safety zones contained in § 165.23 of this part apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the

designated on scene patrol personnel. U. S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U. S. Coast Guard Vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 25, 2000.

David P. Pekoske,

Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.

[FR Doc. 00-18560 Filed 7-21-00; 8:45 am]

BILLING CODE 4910-15-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL-6735-1]

RIN 2060-AI61

Additional Flexibility Amendments to Vehicle Inspection Maintenance Program Requirements; Amendment to the Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's action revises the Motor Vehicle Inspection/Maintenance (I/M) program requirements to provide additional flexibility to state I/M programs, both in response to the I/M provisions of the National Highway System Designation Act of 1995 (NHSDA), and in compliance with the Clean Air Act requirement that EPA's guidance for such programs be "from time to time revised." Today's action: Modifies the current enhanced I/M performance standard modeling requirements to reflect delays caused by the NHSDA, and to provide states greater flexibility in how they meet the performance standard; removes the I/M rule provision establishing the decentralized, test-and-repair credit discount; revises certain test procedure, standard, and equipment requirements to better accommodate alternative test types and program designs; streamlines the data collection, analysis, and reporting requirements to make them consistent with various alternative test and program types; makes minor revisions to the inspector training requirements also to accommodate various alternative test and program types; revises the requirements for consumer protection and improving repair effectiveness to limit the current requirement to provide diagnostic information to those programs and test types capable of producing such

information, reliably and practically; and expands the options for complying with the on-road testing requirement to accommodate more recent variations, such as clean screening and non-tailpipe based, roadside tests.

DATES: This rule will take effect August 23, 2000.

ADDRESSES: Materials relevant to this rulemaking are contained in the Public Docket No. A-99-19. 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 3:30 p.m. on weekdays. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT:

David Sosnowski, Office of Transportation and Air Quality, Transportation and Regional Programs Division, 2000 Traverwood, Ann Arbor, Michigan, 48105; Telephone (734) 214-4823.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Summary of Proposal
- II. Authority
- III. Public Participation
 - A. Increased Flexibility
 - B. Performance Standard Amendments
 - C. Network Requirement Amendments
 - D. Test Procedure and Related Amendments
 - E. Onboard Diagnostics (OBD) versus Emissions Tests
 - F. On-Road Testing Amendments
- IV. Economic Costs and Benefits
- V. Administrative Requirements
 - A. Administrative Designation
 - B. Reporting and Recordkeeping Requirement
 - C. Regulatory Flexibility Act
 - D. Unfunded Mandates Act
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
 - H. National Technology Transfer and Advancement Act
 - I. Congressional Review Act

I. Summary of Rule

Under the Clean Air Act as amended in 1990 (CAA), 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) a rule related to state air quality implementation plans for Motor Vehicle Inspection and Maintenance (I/M) programs (hereafter referred to as the I/M rule; see 57 FR 52950). EPA is today amending this rule to provide greater flexibility to states to tailor their I/M programs to better meet

local needs. Specifically, today's action: (1) Amends the enhanced I/M performance standard requirements at 40 CFR 51.351 to change the performance standard modeling requirement from demonstrating that the performance standard is met on 2000 and each subsequent milestone (through to and including the attainment deadline) to a requirement that the performance standard be met (within +/- 0.02 grams-per-mile) on 2002, and that the same or better level of emission reduction be demonstrated for the attainment deadline, rounded to the nearest year; (2) deletes 40 CFR 51.353(b) which previously established the decentralized, test-and-repair credit discount, and revises the definition of test-only at 40 CFR 51.353(a) to allow test-only stations to sell self-serve gasoline, pre-packaged oil, and any other items that are not directly related to automotive parts sales and/or service; (3) to better accommodate alternative test types and program designs: (a) Revises the test procedures and standards requirements at 40 CFR 51.357 to clarify that tailpipe exhaust testing is not a universal requirement for all I/M programs, that alternatives to the IM240 drive cycle are allowed under the requirements for transient testing, and that the standard for an acceptable alternative test to the IM240 is comparability in terms of emission reduction potential, not necessarily equivalence, (b) revises the test equipment requirements at 40 CFR 51.358 to make the definition of "computerized test system" less prescriptive and to relax the requirement for a real-time data link for those areas required to do I/M, but which do not need to claim I/M emission reductions to meet their other, non-I/M CAA requirements, and (c) revises the data collection, analysis, and reporting requirements at 40 CFR 51.365 and 40 CFR 51.366 to clarify that the specific elements to be collected and reported are only required where applicable to the test type employed, and to make the requirements less prescriptive with regard to the test types assumed; (4) revises the requirements for consumer protection at 40 CFR 51.368 and improving repair effectiveness at 40 CFR 51.369 to limit the current requirement to provide diagnostic information to those programs and test types capable of producing such information, reliably and practically, and; (5) expands the options for complying with the on-road testing requirement at 40 CFR 51.371 by: (a) Removing language suggesting that such testing must be tailpipe-based, and

(b) inserting language making the out-of-cycle repair requirement optional where on-road testing is used as a clean-screen approach.

The goal of today's action is to bring the rule up-to-date with current policy decisions, technological changes, and statutory requirements, while also providing states the additional flexibility they need to tailor their I/M programs now to better meet their future needs. Among these future needs are: (1) The need to maximize program efficiency and customer convenience by capitalizing on alternative vehicle testing options; (2) the need to accommodate an in-use fleet turning over to newer, cleaner, and more durable vehicle technologies over time; and (3) the need to assess the role I/M should play in areas once they have attained the National Ambient Air Quality Standards (NAAQS). The detailed basis for each amendment was explained in the August 20, 1999 proposal and will not be repeated here except as appropriate in response to comments.

II. Authority

Authority for the today's action is granted to EPA by section 182 of the Clean Air Act as amended (42 U.S.C. 7401, *et seq.*) and by section 348 of the National Highway System Designation Act of 1995 (23 U.S.C. 101).

III. Public Participation

Written comments on the August 20, 1999 proposal were received from four sources prior to the close of the public comment period on September 20, 1999. In response to a request for an extension, on November 16, 1999, the public comment period was re-opened for seven days, and closed again on November 23, 1999. Between September 20, 1999 and November 23, 1999, comments from one additional source were received, while one of the original commenters provided additional comments. The commenters were: Missouri Department of Natural Resources (MDNR), Texas Natural Resource Conservation Commission (TNRCC), the Association of International Automobile Manufacturers (AIAM), the National Automobile Dealers Association (NADA), and Environmental Systems Products, Inc. (ESP), which transmitted comments through the law firm of Hunton and Williams. Of the comments received, only ESP requested that some of the proposed amendments be withdrawn. The main issues raised by the commenters are summarized and addressed below:

A. Increased Flexibility

All commenters—including ESP—indicated their general support for changing the I/M rule to provide states with greater flexibility to tailor I/M programs to meet their local needs. Only ESP suggested that in proposing its flexibility amendments, EPA had exceeded its authority and requested certain aspects of the proposal be withdrawn. The specific objections raised by ESP are addressed under the relevant headings below.

B. Performance Standard Amendments

1. Summary of Proposal

The current I/M rule requires that enhanced I/M programs show through modeling that they can meet the relevant performance standard beginning with a 2000 evaluation date (which was considered the closest modeling equivalent to the Clean Air Act's November 15, 1999 milestone date for Reasonable Further Progress plans) and for each CAA milestone thereafter (also rounded to the nearest evaluation year) through to and including the relevant attainment date. Passage of the National Highway System Designation Act (NHSDA) in 1995—and EPA's own I/M flexibility amendments in 1995 and 1996—contributed to delays by many states required to implement enhanced I/M programs. EPA therefore proposed to change this requirement by delaying the first milestone to 2002 and limiting the number of milestones modeled to a maximum of two: 2002 and, for those areas with post-2002 attainment deadlines, the relevant CAA attainment deadline, rounded up to the nearest year.

2. Summary of Comments

Although all the commenters that chose to address this element of the proposal favored the change, EPA believes there may be some confusion with regard to which of the rule's dates is being changed. At least one commenter seems to suggest that the proposal changes the deadline by which biennial program evaluations are due under 40 CFR 51.353(c) of the I/M rule. This is not the case.

3. Response to Comments

EPA wants to take this opportunity to clarify that we are not proposing to change the deadline by which biennial program evaluations are due under 40 CFR 51.353(c) of the I/M rule and that we are not proposing to change that section of the rule in any way at this time. The first CAA-required biennial program evaluation continues to be due two years after the initial start date of

mandatory testing; subsequent reports continue to be due every two years, thereafter. EPA has only proposed to change the performance standard modeling milestones under 40 CFR 51.351 of the I/M rule. Therefore, in this final action EPA is changing the performance standard modeling milestones as proposed and as supported by all commenters that chose to address this element of the proposal.

C. Network Requirement Amendments

1. Summary of Proposal

The current I/M rule provides for the automatic application of an emission reduction discount on programs that allow the same entity to both test and repair I/M subject vehicles. In 1995, the National Highway System Designation Act (NHSDA) prohibited the automatic discounting of such programs. Nevertheless, the NHSDA still allows EPA to adjust the credit it approves for such programs on a case-by-case basis, based upon program data. EPA therefore proposed to delete 40 CFR 51.353(b) which first established the automatic credit discount for decentralized, test-and-repair I/M programs. Language was also included to clarify that a decentralized, test-and-repair I/M program submitted after the NHSDA's March 27, 1996 deadline for qualifying for an 18-month interim approval can still be granted a 12-month conditional approval on a case-by-case basis.

2. Summary of Comments

MDNR indicated that while it did not agree with the proposed changes based upon its belief that decentralized, test-and-repair programs are prone to inaccuracy and fraud, it nevertheless acknowledged the need for the change to comply with the NHSDA. NADA indicated that it has been pushing for this change since before passage of the original, 1992 I/M rule and therefore welcomed the proposed amendment. TNRCC suggested that EPA change the following statement concerning conditional approvals from the proposed amendment—" * * * the State must demonstrate that the program is achieving the level of effectiveness claimed in the plan within 12 months of the plan's approval"—to " * * * the State must demonstrate that the program is achieving the level of effectiveness claimed in the plan within 12 months of the plan's final approval" (emphasis added).

3. Response to Comments

EPA is taking final action to delete the automatic discount as proposed. In addition, although EPA agrees with

TNRCC that the text cited could be clarified, we believe the proposed revision actually increases confusion, and may lead states to believe that the required demonstration is not a condition for final approval, but rather something submitted after final approval is granted. Therefore, EPA will amend the cited language concerning conditional approvals to read as follows: " * * * the State must demonstrate that the program is achieving the level of effectiveness claimed in the plan within 12 months of the plan's final conditional approval before EPA can convert that approval to a final full approval."

D. Test Procedure and Related Amendments

1. Summary of Proposal

Although EPA has approved a variety of alternative tests for use in I/M programs—such as the gas cap test and the Acceleration Simulation Mode (ASM) test—the language in the current I/M rule with regard to test procedures and related requirements remains heavily biased toward the IM240. Also, the I/M rule as currently written frequently equates emission testing with "tailpipe testing," thus barring by implication alternative designs that have been proposed to EPA that do not rely upon tailpipe testing to meet the applicable performance standard. For example, the State of Louisiana has proposed to meet the low enhanced I/M performance standard with a program that does not include a tailpipe test, employing, instead, a comprehensive visual inspection and evaporative system pressure testing on a wide range of vehicles, up to and including heavy-duty vehicles. EPA therefore proposed to amend the rule to delete language that suggests that non-tailpipe and non-IM240 alternatives are barred from consideration. For the most part, these amendments are limited to deleting the words "tailpipe" and "IM240," and inserting the caveat "where applicable," as needed. EPA also proposed replacing the requirement that alternative tests be equivalent to the tests they replace to a requirement that they be comparable in combination with other program parameters. Similar amendments were proposed elsewhere in the regulatory text, to the extent that the existing text creates the impression that IM240 or tailpipe testing are absolute requirements, or that alternative test methods are otherwise barred. Lastly, EPA proposed to revise the test equipment requirements at 40 CFR 51.358 to make the regulatory definition of "computerized test system" less

prescriptive to allow alternatives like evaporative emission testing devices to qualify as "computerized test systems."

2. Summary of Comments

MDNR did not favor changing "equivalent" to "comparable," but acknowledged the need for the change. TNRCC suggested changing the proposed amendment language from a requirement that computerized analyzers "shall be automated" to a requirement that computerized test systems "shall make automatic pass/fail decisions." AIAM and NADA supported the deletion of references to "tailpipe" and "IM240," and expanding the definition of "computerized test systems." ESP pointed out that the CAA did not require "computerized test systems," but "computerized emission analyzers" (emphasis added). ESP also suggested the proposal to change the criteria for accepting alternative tests from "equivalent" to "comparable" was in conflict with the CAA's requirement that I/M programs be centralized unless decentralized programs can be proven to be "equally effective" (emphasis added). Lastly, ESP suggested that EPA's proposed amendment of 40 CFR 51.357(a)(13) to remove a reference to correlation to the Federal Test Procedure (FTP) violates section 207(b) of the CAA, which requires that I/M tests be "reasonably capable of being correlated" to the FTP.

3. Response to Comments

EPA agrees with the editorial change suggested by TNRCC and will also add the word "emission" to change "computerized test systems" to "computerized emission test systems" in response to ESP's comment. However, EPA does not agree that changing the criteria for accepting alternative tests from equivalence to comparability is in conflict with the CAA's equivalency demonstration for decentralized programs. Specifically, the proposal is to change a requirement for test type, *not* network design. The CAA's equivalency requirement applies only to the latter, and is silent on the former. The rule provisions on network design retain the requirement for equivalency. Lastly, EPA agrees with ESP that reasonable correlation to the FTP is a CAA-mandated requirement for alternative I/M tests and will restore the rule's reference to the FTP that was proposed to be deleted in the proposal.

E. Onboard Diagnostics (OBD) versus Emissions Tests

1. Summary of Proposal

EPA has indicated its belief that OBD testing may one day replace tailpipe testing on OBD-equipped vehicles in several forums, including initially the preamble to the original 1992 I/M rule. Because many of the amendments necessary to allow evaporative system testing in lieu of tailpipe testing¹ are similar to the regulatory changes which will be necessary prior to approving the replacement of tailpipe testing with OBD, in the preamble to the proposal, EPA again reiterated its belief that future I/M programs will rely increasingly on OBD-based testing. Also, because all state I/M programs are required to include OBD testing on vehicles so equipped beginning on January 1, 2001, EPA revised some of its generic I/M test requirements to reflect the fact that OBD is either included or exempted from a given requirement, based upon the nature of the OBD system. It was not, however, EPA's intention to make an affirmative determination that OBD alone can replace all other tests on OBD-equipped vehicles at this time. Nor do we intend to make a finding today that it would be technologically justified to do so. Those determinations will be addressed in a separate rulemaking that EPA intends to propose in the near future.

2. Summary of Comments

Both AIAM and ESP seemed to interpret EPA's proposal as granting approval of OBD checks as a replacement for other I/M tests, effective at the same time as all the other changes proposed. NADA, on the other hand, seemed to read the proposal more as EPA intended—as an indication of the likely shape that future I/M programs will take. Both NADA and AIAM supported the idea of relying upon OBD checks for I/M purposes for vehicles so equipped, although AIAM also indicated that additional regulatory changes would be necessary for states to implement OBD-based I/M testing effectively.

ESP vigorously opposed the idea of replacing traditional I/M tests with OBD-only checks and requested that EPA retract any portion of the proposal that would either allow this or create the impression that this was being allowed. In support of their opposition, they suggested the following: (1) OBD

¹ States opting to rely upon evaporative system testing in lieu of tailpipe testing must still demonstrate that they meet the applicable I/M performance standard prior to EPA approving such a plan.

monitors individual components but does not directly measure emissions and therefore does not qualify as an emission test; (2) the CAA lists "[c]omputerized emission analyzers" and "[i]nspection of emission control diagnostic systems" separately, suggesting that the two approaches are different; and (3) the CAA's requirement that all enhanced I/M programs use "[c]omputerized emission analyzers" effectively prohibits the substitution of traditional I/M tests with checks of the OBD system. ESP also pointed out that the proposal's docket lacked data supporting the conclusion that OBD checks can replace other tests, and suggested that the public was not afforded an adequate opportunity to review the basis for EPA's proposal. Lastly, ESP maintained that EPA and the states do not have unlimited flexibility in designing I/M programs, specifically stating that "[i]n the case of enhanced I/M programs, for example, tailpipe emission testing has long been considered an essential element of I/M programs, even under the Agency's low-enhanced I/M performance standard."

3. Response to Comments

As indicated in the "Summary of Proposal" above, EPA is not today making an affirmative determination that states can use OBD checks as a replacement for other I/M inspections on vehicles equipped with OBD. Such a determination would require a separate docket including technical support documentation assessing how much emission reduction credit OBD-only I/M testing of OBD-equipped vehicles warrants. Until that time, any area that seeks to rely upon OBD-only I/M testing of model year 1996+ OBD-equipped vehicles may find it difficult to meet the applicable I/M performance standard or other CAA state implementation planning (SIP) goals for which I/M-related emission reduction credits are needed. The reason for this is because OBD-only I/M testing is not currently credited in the MOBILE emission factor model used for SIP development and evaluation. As a result, performing OBD-only I/M testing on 1996+ OBD-equipped vehicles would be the SIP equivalent of completely exempting those vehicles from the program.

ESP is correct in its observation that the docket does not contain the data necessary to support such an affirmative determination. Efforts to gather and analyze that data are ongoing and although the preliminary results look promising, EPA is not in this rulemaking making a conclusion that OBD checks alone are an adequate replacement for other I/M tests for OBD-

equipped vehicles. EPA will in the near future publish a document addressing the results of our data analysis. This notice of proposed rulemaking would be subject to public comment, and would include a docket containing the data and analyses EPA considered in reaching its conclusion. Given the implementation deadline of January 1, 2001 for I/M programs to begin OBD-based I/M testing, EPA expects to publish a notice of proposed rulemaking addressing OBD implementation in I/M programs very soon.

This said, EPA agrees that at least one instance of proposed amendment language was premature with regard to OBD. EPA is therefore deleting the following, proposed caveat from 40 CFR 51.358(a): "With the exception of test procedures relying upon a vehicle's onboard diagnostic (OBD) system (which is certified as part of the overall vehicle certification process) . . ." This language was included in a section indicating the performance features of computerized emission test systems and is premature because EPA has not yet concluded that any such system can rely exclusively upon OBD checks. EPA is taking final action now on the other proposed flexibilities because they are necessary to allow states to adopt evaporative emission testing as their primary emission test in lieu of tailpipe emission testing.

Concerning ESP's comments regarding the limits on EPA's flexibility with regard to I/M programs, EPA agrees that its authority is constrained by the requirements of the Clean Air Act. Regarding ESP's claims concerning the essential nature of tailpipe testing to such programs, however, we disagree. The CAA requires emission testing but does not specify tailpipe emission testing versus evaporative emission testing.

Lastly, regarding ESP's implication that EPA and the states are similarly constrained by the CAA with regard to the flexibility it afforded each in the selection of I/M program elements, we offer the following clarification. While the CAA did impose certain minimum model year coverage requirements upon EPA in its development of the I/M performance standards, it did not specify such coverage requirements for the state programs designed to meet those performance standards. As a practical matter, states have more flexibility than EPA when it comes to determining which vehicles to cover by what test(s) in their I/M programs—provided they can still meet the relevant performance standard which EPA developed considering all subject vehicles. In fact, states routinely exempt

the newest and/or oldest model year vehicles from testing, or otherwise exempt vehicles through a variety of clean-screening strategies. EPA believes that it is erroneous to suggest that states do not have this flexibility available to them, or that exempting certain classes of vehicles from specific state I/M program elements is somehow in violation of the CAA.

F. On-Road Testing Amendments

1. Summary of Proposal

The CAA requires that enhanced I/M programs include "on-road testing devices." In its 1992 I/M rule, EPA indicated that this requirement could be met by either using remote sensing devices (RSD) or by conducting road-side pull-over, tailpipe testing. In either case, however, vehicles which failed the test were required to get out-of-cycle repairs, the presumption being that the purpose of such testing was to identify dirty vehicles in need of such repairs. EPA proposed to expand the range of options for meeting the on-road testing requirement to include non-tailpipe tests like evaporative system testing and also to include options like clean-screening which use RSD readings as one basis for exempting clean vehicles from the regular inspection (and do not, therefore, support the notion of out-of-cycle repairs).

2. Summary of Comments

MDNR, TNRCC, and NADA all supported the proposed changes for on-road testing requirements, citing the additional flexibility it allows states. TNRCC further suggested changing 40 CFR 51.371(b)(3) which states that "emission reduction credit for on-road testing programs shall be granted for a program designed to obtain significant emission reductions over and above those already predicted to be achieved by other aspects of the I/M program." TNRCC suggested replacing the word "significant" with "measurable."

3. Response to Comments

EPA is taking final action as proposed and supported by the commenters. EPA agrees with TNRCC's suggestion and will incorporate that word change.

IV. Economic Costs and Benefits

Today's action provides states additional flexibility that lessens rather than increases the potential economic burden on states. Furthermore, states are under no obligation, legal or otherwise, to modify existing plans meeting the previously applicable requirements as a result of today's action.

V. Administrative Requirements

A. Administrative Designation

It has been determined that today's amendments to the I/M rule do not constitute a significant regulatory action under the terms of Executive Order 12866 and this action is therefore not subject to OMB review. Any impacts associated with these revisions do not constitute additional burdens when compared to the existing I/M requirements published in the **Federal Register** on November 5, 1992 (57 FR 52950) as amended. Nor does this action create an annual effect on the economy of \$100 million or more or otherwise adversely affect the economy or the environment. It is not inconsistent with nor does it interfere with actions by other agencies. It does not alter budgetary impacts of entitlements or other programs, and it does not raise any new or unusual legal or policy issues.

B. Reporting and Recordkeeping Requirement

There are no additional information requirements in today's action which require the approval of the Office of Management and Budget under the Paperwork Reduction Act 44 U.S.C. 3501 *et seq.*

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies 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. This certification is based on the fact that the I/M areas impacted by today's action 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 basic and enhanced I/M requirements only apply to urbanized areas with population in excess of either 100,000 or 200,000 depending on location. Furthermore, the impact created by today's action does not increase the preexisting burden of the existing rules which this action amends.

D. 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 today's 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 action is not estimated to impose costs in excess of \$100 million. Therefore, EPA has not prepared a statement with respect to budgetary impacts. As noted above, this rule offers opportunities to states that would enable them to lower economic burdens from those resulting from the currently existing I/M rule.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various

levels of government, as specified in Executive Order 13132. On the contrary, the intent of today's final rule is to provide states greater flexibility with regard to pre-existing regulatory and statutory requirements for vehicle inspection and maintenance (I/M) programs. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Today's rule does not create a mandate on tribal governments or create any additional burden or requirements for tribal government. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be economically significant as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria,

the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it is not economically significant under Executive Order 12866 and because it is based on technology performance and not on health or safety risks.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, material specifications, test methods, sampling and analytical procedures, business practices, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, with explanations when an agency decides not to use available and applicable voluntary consensus standards.

Today's rule does not set new technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

I. Congressional Review Act

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).

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Transportation.

Dated: July 5, 2000.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, part 51 of title 40 of the Code of Federal Regulations is amended to read as follows:

PART 51—[AMENDED]

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

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

2. Section 51.350 is amended by revising paragraph (c) to read as follows:

§ 51.350 Applicability.

* * * * *

(c) Requirements after attainment. All I/M programs shall provide that the program will remain effective, even if the area is redesignated to attainment status or the standard is otherwise rendered no longer applicable, until the State submits and EPA approves a SIP revision which convincingly demonstrates that the area can maintain the relevant standard(s) without benefit of the emission reductions attributable to the I/M program. The State shall commit to fully implement and enforce the program until such a demonstration can be made and approved by EPA. At a minimum, for the purposes of SIP approval, legislation authorizing the program shall not sunset prior to the attainment deadline for the applicable National Ambient Air Quality Standards (NAAQS).

* * * * *

3. Section 51.351 is amended by removing and reserving paragraph (a) and by revising paragraphs (b), (f) introductory text, (f)(13), (g)(13) and (h)(11) to read as follows:

§ 51.351 Enhanced I/M performance standard.

(a) [Reserved]

(b) *On-road testing.* The performance standard shall include on-road testing (including out-of-cycle repairs in the case of confirmed failures) of at least 0.5% of the subject vehicle population, or 20,000 vehicles whichever is less, as a supplement to the periodic inspection

required in paragraphs (f), (g), and (h) of this section. Specific requirements are listed in § 51.371 of this subpart.

* * * * *

(f) *High Enhanced Performance Standard.* Enhanced I/M programs shall be designed and implemented to meet or exceed a minimum performance standard, which is expressed as emission levels in area-wide average grams per mile (gpm), achieved from highway mobile sources as a result of the program. The emission levels achieved by the State's program design shall be calculated using the most current version, at the time of submittal, of the EPA mobile source emission factor model or an alternative model approved by the Administrator, and shall meet the minimum performance standard both in operation and for SIP approval. Areas shall meet the performance standard for the pollutants which cause them to be subject to enhanced I/M requirements. In the case of ozone nonattainment areas subject to enhanced I/M and subject areas in the Ozone Transport Region, the performance standard must be met for both oxides of nitrogen (NOx) and volatile organic compounds (VOCs), except as provided in paragraph (d) of this section. Except as provided in paragraphs (g) and (h) of this section, the model program elements for the enhanced I/M performance standard shall be as follows:

* * * * *

(13) *Evaluation date.* Enhanced I/M program areas subject to the provisions of this paragraph shall be shown to obtain the same or lower emission levels as the model program described in this paragraph by January 1, 2002 to within +/- 0.02 gpm. Subject programs shall demonstrate through modeling the ability to maintain this level of emission reduction (or better) through their attainment deadline for the applicable NAAQS standard(s).

(g) * * *

(13) *Evaluation date.* Enhanced I/M program areas subject to the provisions of this paragraph (g) shall be shown to obtain the same or lower emission levels as the model program described in this paragraph by January 1, 2002 to within +/- 0.02 gpm. Subject programs shall demonstrate through modeling the ability to maintain this level of emission reduction (or better) through their attainment deadline for the applicable NAAQS standard(s).

(h) * * *

(11) *Evaluation date.* Enhanced I/M program areas subject to the provisions of this paragraph shall be shown to obtain the same or lower VOC and NOx

emission levels as the model program described in this paragraph (h) by January 1, 2002 to within +/- 0.02 gpm. Subject programs shall demonstrate through modeling the ability to maintain this level of emission reduction (or better) through their attainment deadline for the applicable NAAQS standard(s). Equality of substituted emission reductions to the benefits of the low enhanced performance standard must be demonstrated for the same evaluation date.

4. Section 51.353 is amended by revising the introductory text and paragraph (a) and by removing and reserving paragraph (b) to read as follows:

§ 51.353 Network type and program evaluation.

Basic and enhanced I/M programs can be centralized, decentralized, or a hybrid of the two at the State's discretion, but shall be demonstrated to achieve the same (or better) level of emission reduction as the applicable performance standard described in either § 51.351 or 51.352 of this subpart. For decentralized programs other than those meeting the design characteristics described in paragraph (a) of this section, the State must demonstrate that the program is achieving the level of effectiveness claimed in the plan within 12 months of the plan's final conditional approval before EPA can convert that approval to a final full approval. The adequacy of these demonstrations will be judged by the Administrator on a case-by-case basis through notice-and-comment rulemaking.

(a) Presumptive equivalency. A decentralized network consisting of stations that only perform official I/M testing (which may include safety-related inspections) and in which owners and employees of those stations, or companies owning those stations, are contractually or legally barred from engaging in motor vehicle repair or service, motor vehicle parts sales, and motor vehicle sale and leasing, either directly or indirectly, and are barred from referring vehicle owners to particular providers of motor vehicle repair services (except as provided in § 51.369(b)(1) of this subpart) shall be considered presumptively equivalent to a centralized, test-only system including comparable test elements. States may allow such stations to engage in the full range of sales not covered by the above prohibition, including self-serve gasoline, pre-packaged oil, or other, non-automotive, convenience store items. At the State's discretion, such

stations may also fulfill other functions typically carried out by the State such as renewal of vehicle registration and driver's licenses, or tax and fee collections.

(b) [Reserved]

* * * * *

5. Section 51.357 is amended by revising paragraphs (a)(3), (a)(4), (a)(6), (a)(11), and (a)(13) as follows:

§ 51.357 Test procedures and standards.

* * * * *

(a) * * *

(3) An official test, once initiated, shall be performed in its entirety regardless of intermediate outcomes except in the case of invalid test condition, unsafe conditions, fast pass/fail algorithms, or, in the case of the on-board diagnostic (OBD) system check, unset readiness codes.

(4) Tests involving measurement shall be performed with program-approved equipment that has been calibrated according to the quality procedures contained in appendix A to this subpart.

* * * * *

(6) Vehicles shall be retested after repair for any portion of the inspection that is failed on the previous test to determine if repairs were effective. To the extent that repair to correct a previous failure could lead to failure of another portion of the test, that portion shall also be retested. Evaporative system repairs shall trigger an exhaust emissions retest (in programs which conduct an exhaust emission test as part of the initial inspection).

* * * * *

(11) Transient emission test. The transient emission test shall consist of mass emission measurement using a constant volume sampler (or an Administrator-approved alternative methodology for accounting for exhaust volume) while the vehicle is driven through a computer-monitored driving cycle on a dynamometer. The driving cycle shall include acceleration, deceleration, and idle operating modes as specified in appendix E to this subpart (or an approved alternative). The driving cycle may be ended earlier using approved fast pass or fast fail algorithms and multiple pass/fail algorithms may be used during the test cycle to eliminate false failures. The transient test procedure, including algorithms and other procedural details, shall be approved by the Administrator prior to use in an I/M program.

* * * * *

(13) Approval of alternative tests. Alternative test procedures may be approved if the Administrator finds that such procedures show a reasonable

correlation with the Federal Test Procedure and are capable of identifying comparable emission reductions from the I/M program as a whole, in combination with other program elements, as would be identified by the test(s) which they are intended to replace.

* * * * *

6. Section 51.358 is amended by revising the introductory text, paragraphs (a) introductory text, (a)(2)(i), (a)(2)(ii), (a)(2)(iv), (a)(3) introductory text, (a)(3)(iv), (a)(3)(vi), (a)(3)(ix), (b) introductory text, (b)(2) and (c) and by removing and reserving (b)(1) and (3) to read as follows:

§ 51.358 Test equipment.

Computerized emission test systems are required for performing an official emissions test on subject vehicles.

(a) Performance features of computerized emission test systems. The emission test equipment shall be certified by the program, and newly acquired emission test systems shall be subjected to acceptance test procedures to ensure compliance with program specifications.

* * * * *

(2) * * *

(i) Shall make automatic pass/fail decisions;

(ii) Shall be secured from tampering and/or abuse;

* * * * *

(iv) Shall be capable of simultaneously sampling dual exhaust vehicles in the case of tailpipe-based emission test equipment.

(3) The vehicle owner or driver shall be provided with a record of test results, including all of the items listed in 40 CFR part 85, subpart W as being required on the test record (as applicable). The test report shall include:

* * * * *

(iv) The type(s) of test(s) performed;

* * * * *

(vi) The test results, by test, and, where applicable, by pollutant;

* * * * *

(ix) For vehicles that fail the emission test, information on the possible cause(s) of the failure.

(b) Functional characteristics of computerized emission test systems. The test system is composed of motor vehicle test equipment controlled by a computerized processor and shall make automatic pass/fail decisions.

(1) [Reserved]

(2) Test systems in enhanced I/M programs shall include a real-time data link to a host computer that prevents unauthorized multiple initial tests on

the same vehicle in a test cycle and to insure test record accuracy. For areas which have demonstrated the ability to meet their other, non-I/M Clean Air Act requirements without relying on emission reductions from the I/M program (and which have also elected to employ stand-alone test equipment as part of the I/M program), such areas may adopt alternative methods for preventing multiple initial tests, subject to approval by the Administrator.

(3) [Reserved]

* * * * *

(c) SIP requirements. The SIP shall include written technical specifications for all test equipment used in the program and shall address each of the above requirements (as applicable). The specifications shall describe the testing process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures.

7. Section 51.359 is amended by revising the introductory text, paragraphs (a)(1), (c) and (d) and removing and reserving paragraph (a)(3) to read as follows:

§ 51.359 Quality control.

Quality control measures shall insure that emission testing equipment is calibrated and maintained properly, and that inspection, calibration records, and control charts are accurately created, recorded and maintained (where applicable).

(a) General requirements. (1) The practices described in this section and in appendix A to this subpart shall be followed for those tests (or portions of tests) which fall into the testing categories identified. Alternatives or exceptions to these procedures or frequencies may be approved by the Administrator based on a demonstration of comparable performance.

* * * * *

(3) [Reserved]

* * * * *

(c) *Requirements for transient exhaust emission test equipment.* Equipment shall be maintained according to demonstrated good engineering practices to assure test accuracy. Computer control of quality assurance checks and quality control charts shall be used whenever possible. Exceptions to the procedures and the frequency of the checks described in appendix A of this subpart may be approved by the Administrator based on a demonstration of comparable performance.

(d) Requirements for evaporative system functional test equipment. Equipment shall be maintained according to demonstrated good

engineering practices to assure test accuracy. Computer control of quality assurance checks and quality control charts shall be used whenever possible. Exceptions to the procedures and the frequency of the checks described in appendix A of this subpart may be approved by the Administrator based on a demonstration of comparable performance.

8. Section 51.362 is amended by revising paragraphs (a)(2) and (b)(4) to read as follows:

§ 51.362 Motorist compliance enforcement program oversight.

(2) Facilitation of accurate critical test data and vehicle identifier collection through the use of automatic data capture systems such as bar-code scanners or optical character readers, or through redundant data entry (where applicable);

(4) Maintain and ensure the accuracy of the testing database through periodic internal and/or third-party review;

9. Section 51.363 is amended by revising paragraphs (a)(4)(vii), (b)(1), (c)(10), (d)(1)(i) to read as follows:

§ 51.363 Quality assurance.

(vii) Where applicable, access to on-line inspection databases by State personnel to permit the creation and maintenance of covert vehicle records.

(1) Automated record analysis to identify statistical inconsistencies, unusual patterns, and other discrepancies;

(10) A check of the pressure monitoring devices used to perform the evaporative canister pressure test(s); and

(i) The use of test equipment and/or procedures;

10. Section 51.365 is amended by revising the introductory text and paragraphs (a)(3), (a)(23), (a)(24), (a)(25), and (b) to read as follows:

§ 51.365 Data collection.

Accurate data collection is essential to the management, evaluation, and

enforcement of an I/M program. The program shall gather test data on individual vehicles, as well as quality control data on test equipment (with the exception of test procedures for which either no testing equipment is required or those test procedures relying upon a vehicle's OBD system).

(3) Test system number (where applicable);

(23) Results of the evaporative system pressure test(s) expressed as a pass or fail;

(24) Results of the evaporative system purge test expressed as a pass or fail along with the total purge flow in liters achieved during the test (where applicable); and

(25) Results of the on-board diagnostic check expressed as a pass or fail along with the diagnostic trouble codes revealed (where applicable).

(b) Quality control data. At a minimum, the program shall gather and report the results of the quality control checks required under § 51.359 of this subpart, identifying each check by station number, system number, date, and start time. The data report shall also contain the concentration values of the calibration gases used to perform the gas characterization portion of the quality control checks (where applicable).

11. Section 51.366 is amended by revising paragraphs (a)(2)(i), (a)(2)(ii), (a)(2)(iii), (a)(2)(iv), (a)(2)(v), (a)(2)(vi), and (b)(3), and by removing and reserving (a)(2)(vii), (a)(2)(viii), (a)(2)(ix), (a)(2)(x), (b)(3)(v), (b)(3)(vi), (b)(3)(vii), and (b)(3)(viii) to read as follows:

§ 51.366 Data analysis and reporting.

(i) Failing initially, per test type; (ii) Failing the first retest per test type; (iii) Passing the first retest per test type;

(iv) Initially failed vehicles passing the second or subsequent retest per test type;

(v) Initially failed vehicles receiving a waiver; and

(vi) Vehicles with no known final outcome (regardless of reason).

(vii) [Reserved] (viii) [Reserved] (ix) [Reserved] (x) [Reserved]

(3) The number of covert audits:

(i) Conducted with the vehicle set to fail per test type;

(ii) Conducted with the vehicle set to fail any combination of two or more test types;

(iii) Resulting in a false pass per test type;

(iv) Resulting in a false pass for any combination of two or more test types;

12. Section 51.367 is amended by revising paragraphs (a)(1)(vi) and (a)(3) to read as follows:

§ 51.367 Inspector training and licensing or certification.

(a) * * * (1) * * *

(vi) Test equipment operation, calibration, and maintenance (with the exception of test procedures which either do not require the use of special equipment or which rely upon a vehicle's OBD system);

(3) In order to complete the training requirement, a trainee shall pass (i.e., a minimum of 80% of correct responses or lower if an occupational analysis justifies it) a written test covering all aspects of the training. In addition, a hands-on test shall be administered in which the trainee demonstrates without assistance the ability to conduct a proper inspection and to follow other required procedures. Inability to properly conduct all test procedures shall constitute failure of the test. The program shall take appropriate steps to insure the security and integrity of the testing process.

13. Section 51.368 is amended by revising paragraph (a) as follows:

§ 51.368 Public information and consumer protection.

(a) Public awareness. The SIP shall include a plan for informing the public on an ongoing basis throughout the life of the I/M program of the air quality problem, the requirements of Federal and State law, the role of motor vehicles in the air quality problem, the need for and benefits of an inspection program, how to maintain a vehicle in a low-emission condition, how to find a qualified repair technician, and the requirements of the I/M program. Motorists that fail the I/M test in enhanced I/M areas shall be offered a list of repair facilities in the area and information on the results of repairs performed by repair facilities in the area, as described in § 51.369(b)(1) of this subpart. Motorists that fail the I/M test shall also be provided with information concerning the possible

cause(s) for failing the particular portions of the test that were failed.

* * * * *

14. Section 51.369 is amended by revising paragraphs (c)(2) and (c)(3) to read as follows:

§ 51.369 Improving repair effectiveness.

* * * * *

(c) * * *

(2) The application of emission control theory and diagnostic data to the diagnosis and repair of failures on the transient emission test and the evaporative system functional checks (where applicable);

(3) Utilization of diagnostic information on systematic or repeated failures observed in the transient emission test and the evaporative system functional checks (where applicable); and

* * * * *

15. Section 51.371 is amended by revising the introductory text, paragraphs (a)(2), (a)(3), (b)(2) and (b)(3) to read as follows:

§ 51.371 On-road testing.

On-road testing is defined as testing of vehicles for conditions impacting the emission of HC, CO, NO_x and/or CO₂ emissions on any road or roadside in the nonattainment area or the I/M program area. On-road testing is required in enhanced I/M areas and is an option for basic I/M areas.

(a) * * *

(1) * * *

(2) On-road testing is not required in every season or on every vehicle but shall evaluate the emission performance of 0.5% of the subject fleet statewide or 20,000 vehicles, whichever is less, per inspection cycle.

(3) The on-road testing program shall provide information about the performance of in-use vehicles, by measuring on-road emissions through the use of remote sensing devices or by assessing vehicle emission performance through roadside pullovers including tailpipe or evaporative emission testing or a check of the onboard diagnostic

(OBD) system for vehicles so equipped. The program shall collect, analyze and report on-road testing data.

* * * * *

(b) * * *

(1) * * *

(2) The SIP shall include the legal authority necessary to implement the on-road testing program, including the authority to enforce off-cycle inspection and repair requirements (where applicable).

(3) Emission reduction credit for on-road testing programs shall be granted for a program designed to obtain measurable emission reductions over and above those already predicted to be achieved by other aspects of the I/M program. Emission reduction credit will only be granted to those programs which require out-of-cycle repairs for confirmed high-emitting vehicles identified under the on-road testing program. The SIP shall include technical support for the claimed additional emission reductions.

[FR Doc. 00-17749 Filed 7-21-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 712

[OPPTS-82055; FRL-6597-3]

RIN 2070-AB08

Preliminary Assessment Information Reporting; Addition of Certain Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule addresses the recommendations of the 42nd TSCA Interagency Testing Committee (ITC) Report by adding 3-amino-5-mercapto-1,2,4-triazole, methylal, glycoluril, and ethyl silicate to the Toxic Substances Control Act (TSCA) section 8(a) Preliminary Assessment Information

Reporting (PAIR) rule. The ITC recommendations are given priority consideration by EPA in promulgating TSCA section 4 test rules. This PAIR rule will require manufacturers (including importers) of the four substances identified in this document to report certain production, importation, use, and exposure-related information to EPA.

DATES: This rule is effective on August 23, 2000. Any person who believes that section 8(a) reporting required by this rule is not warranted, should submit to EPA on or before August 7, 2000, detailed reasons for that belief. Any person reporting under this document must meet the reporting requirements no later than October 23, 2000, as specified in Unit V.

FOR FURTHER INFORMATION CONTACT: For general information contact: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Paul Campanella, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260-8130; fax number: (202) 401-3672; e-mail address: ccd.citb@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you manufacture (defined by statute to include import) any of the chemical substances that are listed in § 712.30(d) of the regulatory text portion of this document. Entities potentially affected by this action may include, but are not limited to:

B. How Can I Get Additional Information or Copies of this Document or Other Documents?

1. *Electronically.* You may obtain electronic copies of this document and other documents from the EPA Internet EPA Home Page at <http://www.epa.gov/>. On the Home Page select "Law and

Category	SIC codes	NAICS codes	Examples of potentially affected entities
Chemical manufacturers (including importers)	28, 2911	325, 32411	Persons who manufacture (defined by statute to include import) one or more of the subject chemical substances.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. The Standard Industrial Classification (SIC) codes and the North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not

this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**