SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations which authorize the IRS to disclose certain return information to the U.S. Customs Service.

DATES: The public hearing originally scheduled for Thursday, August 24, 1995, beginning at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 6103(l)(14) of the Internal Revenue Code of 1986. A notice of public hearing appearing in the **Federal Register** for Tuesday, July 18, 1995 (60 FR 36756), announced that the public hearing on proposed regulations under section 6103(l)(14) of the Internal Revenue Code of 1986 would be held on Thursday, August 24, 1995, beginning at 10 a.m., in the Commissioner's Conference room, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C.

The public hearing scheduled for Thursday, August 24, 1995, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit Assistant Chief Counsel (Corporate).

[FR Doc. 95–20493 Filed 8–17–95; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 85

[FRL–5270–5]

Inspection/Maintenance Program Requirement—On-Board Diagnostic Checks

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes revisions to the motor vehicle Inspection/Maintenance (I/M) Program Requirements. The proposed revisions include additions and modifications regarding requirements that I/M inspectors check the on-board diagnostic system as part of the overall inspection. This rule proposes the minimum requirements for inspecting vehicles equipped with on-board diagnostic systems as part of the inspections required in basic and enhanced Inspection/Maintenance programs.

DATES: Written comments on this proposal must be received no later than September 18, 1995.

The Agency will hold a public hearing on this proposed amendment if one is requested on or before September 5, 1995.

If a public hearing is held, comments must be received within 30 days after the hearing.

ADDRESSES: Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A–94–21. It is requested that a duplicate copy be submitted to Eugene J. Tierney at the address in the **FOR FURTHER INFORMATION CONTACT** section below. The docket is located at the Air Docket, Room M–1500 (6102), Waterside Mall, 401 M. Street S.W., Washington, DC 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: Eugene J. Tierney, Office of Mobile Sources, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan, 48105. Telephone (313) 668–4456.

SUPPLEMENTARY INFORMATION:

I. Table of Contents
II. Summary of Proposal
III. Authority
IV. Background of Proposed Rule
V. Discussion of Major Issues
A. Components of the OBD Inspection
1. Test Procedure
2. Anti-Tampering Provisions
B. Standards for Failure of the OBD Inspection
C. OBD Component of the Performance Standard
D. Administrative Program Requirements
1. Data Collection and Analysis
E. State Implementation Plan (SIP) Submissions
F. Implementation Deadlines
VI. Economic Costs and Benefits
VII. Public Participation
A. Comments and the Public Docket
B. Public Hearing
VIII. Administrative Requirements
A. Administrative Designation
B. Reporting and Record Keeping Requirement
C. Regulatory Flexibility Act

II. Summary of Proposal

Motor vehicle inspection and maintenance (I/M) programs are an integral part of the effort to reduce mobile source air pollution. Despite being subject to the most rigorous vehicle pollution control program in the world, vehicles in the United States still create a substantial amount of carbon monoxide, hydrocarbons, nitrogen oxides, and other air pollutants. One reason for this is the fact that the number of vehicle miles traveled on U.S. roads has doubled in the last two decades to 2 trillion miles per year, partially offsetting the technological progress in vehicle emission control made during that time. Projections of continued growth in vehicle travel necessitate continued emission-reduction efforts so that air quality goals may be achieved.

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) is pursuing a three-point strategy for reducing emissions from transportation sources. The first two points involve the development and commercialization of cleaner vehicles and cleaner fuels. The third point focuses on in-use control to ensure that cars in customer use are properly maintained. I/M programs are intended to address this third point. The Act was prescriptive with respect to certain aspects of the I/M program design. In particular, section 202(m)(3) of the Act directs EPA to require on-board diagnostic (OBD) system checks as a component of I/M programs. In addition, section 182(a)(2)(B)(ii) of the Act requires that states revise their I/M programs within two years after promulgation of regulations under section 202(m)(3) to meet the requirements of those regulations.

EPA is proposing today to establish requirements for the inspection of on-board diagnostic systems as part of I/M programs. The purpose of this notice is to propose amendments to those sections of the Inspection/Maintenance Program Requirements in Subpart S, 40 CFR Part 51 (November 5, 1992) that were reserved for OBD requirements and elsewhere, as needed. Specifically, the reserved sections to be modified include § 51.351(c), § 51.352(c), § 51.357(a)(12), § 51.357(b)(4), and § 51.358(b)(4) of Part 51. This notice also proposes additions to sections of Subpart S pertaining to data collection and analysis as well as implementation deadlines. Specifically, these sections include § 51.365, § 51.366, and § 51.373. Finally, this notice proposes additions to Subpart W of 40 CFR Part 85 pertaining to test procedures, test equipment, and standards for failure for purposes of the emission control system performance warranty. These Subpart W changes will provide vehicles subject to the OBD test with emission control performance warranty coverage for OBD test failures.

III. Authority

Authority for the actions proposed in this notice is granted to EPA by sections 182(a)(2)(B)(ii), 182(c)(3), 202(m)(3),

207(b), and 301(a) of the Clean Air Act as amended, 42 U.S.C. 7511a(a)(2)(B)(ii), 7511a(c)(3), 7521(m)(3), 7541(b), and 7601(a).

IV. Background of Proposed Rule

During the last two decades, there have been considerable emission control development efforts on the part of both vehicle manufacturers and the federal government. As a result, passenger cars and light-duty trucks produced in recent years emit significantly lower emissions than their predecessors, provided that they are properly operating.

A large body of evidence, however, demonstrates that current generation vehicles are not all operating properly during actual use. Moreover, they are often used under different temperature and driving conditions than are encountered in emission certification tests, and may emit significantly greater emissions when operating at those temperatures and conditions. As manufacturers have achieved significant reductions in the emissions of properly functioning, new vehicles, the lack of equivalent control over malfunctions and during non-standard conditions has become increasingly evident. Emission-related malfunctions do not always cause an outward indication of a problem (e.g., poor driveability or decreased fuel economy) and thus are sometimes difficult to detect and repair.

The Clean Air Act Amendments of 1990, signed into law on November 15, 1990, reflect a recognition of the problems encountered in identifying malfunctioning vehicles and contain several provisions aimed at reducing them. One of these is the requirement for incorporation and inspection of on-board diagnostic systems (OBD) in new vehicles. Section 207 of these amendments added paragraph (m) to section 202 of the Act, directing the EPA to promulgate regulations requiring the installation and inspection of OBD systems.

Section 202(m)(1) of the Act requires OBD systems to monitor emission-related components for malfunctions or deterioration which render vehicles incapable of complying with the emission standards established for such vehicles. On February 19, 1993, EPA promulgated requirements for OBD systems (hereafter, OBD rules) on 1994 and later model year light duty vehicles and light duty trucks (58 FR 9468, February 19, 1993). These regulations (40 CFR 86.094–17) require all vehicle manufacturers to install equipment and establish operating parameters for the purpose of detecting malfunctions or deterioration in performance that would be expected to cause a vehicle to fail federal emission standards. Specifically, the on-board diagnostic system must be capable of identifying catalyst deterioration, engine misfire, oxygen sensor deterioration, and any other deterioration or malfunction within the powertrain which could cause emission increases greater than or exceeding the threshold levels established in § 86.094–17.

A malfunction indicator light (MIL) located in the dashboard of the vehicle is required to be illuminated when the OBD system detects malfunctions. The purpose of the MIL is to inform the vehicle operator of the need for service when the vehicle is operating under potentially high emitting conditions. Once illuminated to indicate a malfunction, the MIL must remain illuminated during all periods of engine operation until the trouble codes stored in the on-board computer are cleared by a service technician or after repeated reevaluation by the OBD system fails to detect a reoccurrence of the problem. The regulations allow the OBD system to extinguish the MIL after three subsequent driving cycles of similar operation in which a system fault does not reoccur. Similar operating conditions are defined as being within ten (10) percent of the load condition and 375 rpm with the same engine warm-up status which existed when the malfunction was first determined (40 CFR 86.094–17).

Codes indicating the likely problem will be stored in the vehicle's on-board computer for ready access by technicians, enabling proper diagnosis and repair. Section 202(m)(4) of the Act requires that OBD system information be unrestricted and accessible to anyone via standardized connectors without requiring access codes or any device only available from the manufacturer. Further, the OBD system information must be usable without need for any unique decoding information or device. In accordance with this mandate, the OBD rules require codes to be standardized to follow the diagnostic trouble code definitions established in Society of Automotive Engineers (SAE) J2012, published in March 1992. EPA allows the computer-stored fault codes to be cleared after forty (40) engine warm-up cycles if the same fault is not reregistered. Anyone desiring more detailed information on the OBD system should refer to the OBD rules and the preamble promulgated on February 19, 1993, (58 FR 9468).

The Act also revised and strengthened EPA's authority to prescribe vehicle inspection and maintenance (I/M) programs for ozone nonattainment areas. Section 182 of the Act requires EPA to review, revise, and republish I/M program requirements, taking into consideration investigations and audits of I/M programs, and the I/M requirements established in the Act.

One of these program requirements is inspection of vehicle OBD systems. The Act requires that OBD inspections be incorporated into all basic and enhanced I/M programs once vehicles with mandated OBD systems become part of the fleet. Section 182(c)(3)(vii) requires that I/M programs include ''inspection of emission control diagnostic systems and the maintenance or repair of malfunctions or systems deterioration identified by or affecting such diagnostic systems.'' Sections 182(a)(2) and 202(m)(3) require states to amend I/M program implementation plans to incorporate the inspection of on-board diagnostic systems within two years after promulgation of regulations requiring such inspection.

EPA's initial rule implementing section 182's I/M requirements (the I/M rule) was promulgated on November 5, 1992. It establishes performance standards and other requirements for basic and enhanced vehicle I/M programs. Several sections of the I/M rule were reserved for OBD requirements, since the OBD rules had not yet been promulgated. This proposed rule addresses those sections of the I/M rule reserved for OBD requirements.

OBD systems will allow an inspector to scan for stored malfunction codes at the time of the periodic I/M test by simply attaching a computerized scan tool to the standardized plug provided on all OBD equipped vehicles. The presence of one or more emissions-related codes in a vehicle's OBD system will indicate current or recent existence of a malfunction with the potential to cause high emissions. Furthermore, current emissions problems are also indicated if the MIL is commanded to be illuminated by the OBD system. Thus, EPA proposes that if the MIL is commanded to be illuminated and an emissions-related code is present, the vehicle shall fail the OBD inspection and be required to obtain the repairs indicated by the malfunction code.

On-board diagnostic system inspections are intended to improve the accuracy of I/M programs, thus enhancing air quality benefits. The short emission tests used in I/M programs allow some vehicles that need repair to nevertheless ''pass'' the test. In addition, visual inspections of emission control devices can only determine presence and possibly proper connection but do not necessarily establish that the devices are functioning properly.

Interrogation of the OBD system provides another means of identifying vehicles in need of repair. It also enables more accurate and efficient repairs by identifying vehicle components responsible for emission increases.

A vehicle's failure to pass an approved I/M test may provide the basis for a warranty claim under the Act. Section 207(b) of the Act requires vehicle manufacturers to bear the cost of repairing a failing vehicle such that it passes the I/M test, if: (1) Such vehicle is maintained and operated in accordance with manufacturer instructions; (2) the vehicle fails the test during the appropriate warranty period; and (3) if such nonconformity results in the owner having to bear any penalty or other sanction under state or Federal law. Section 207(b) establishes a mechanism to provide emission control performance warranty coverage for motor vehicles subject to such tests under the circumstance enumerated in the previous sentence (40 CFR Part 85, Subpart V). Section 207(b) requires the Administrator to establish, by regulation, I/M short test procedures to be used for determining whether in-use vehicles comply with Federal emission standards if the Administrator determines that the following three conditions have been met: (1) The short test methods and procedures are ''available'' (i.e., that the necessary equipment may be readily obtained and that the procedure is reasonably expected to serve its function); (2) the procedures are consistent with good engineering practices; and (3) the results are reasonably capable of being correlated with tests conducted under § 206(a)(1), the tests used to certify new vehicles.

The OBD inspection meets these three conditions. Therefore, the Act requires promulgation of regulations to implement the performance warranty for vehicles that fail the OBD inspection. EPA is therefore proposing to incorporate the OBD test procedures, equipment, and standards for failure into its emission warranty short test regulations, Subpart W of Part 85 of Title 40 of the Code of Federal Regulations, in order to extend warranty coverage to failure of the OBD test.

OBD equipped vehicles will not constitute a significant portion of the fleet for several years and existing I/M tests will be identifying malfunctioning vehicles during that time. Therefore, EPA does not attribute substantial air quality benefits to OBD until the year 2005. At this point, EPA believes it is too early to determine whether existing or newly established I/M test procedures may be replaced by OBD or how long it will take to refine the OBD technology to the point where it could substitute for other I/M test procedures. The Agency plans to evaluate the effectiveness of OBD checks to determine whether they can substitute for all or some of the I/M tests otherwise being performed on OBD equipped vehicles. Nevertheless, as long as a significant fraction of the fleet is not OBD equipped, the high-technology I/M tests established in the federal I/M rule will continue to be needed.

V. Discussion of Major Issues

A. Components of the OBD Inspection

1. Test Procedure

When a vehicle arrives at the I/M lane, the inspector must determine whether that vehicle is equipped with an OBD system consistent with § 86.094–17 in order to determine whether an OBD check will be performed during the inspection. In accordance with section 202(m) of the Act, case-by-case waivers are available to any manufacturer that is unable to meet these requirements in 1994 or 1995 model years. Thus, the OBD inspection will apply to all 1996 and later light-duty vehicles and light-duty trucks. Subpart S requires the inspector to determine the model year of the vehicle when inputting other vehicle identification parameters.

After establishing that the vehicle is subject to OBD system requirements, the inspector will perform several steps to complete the test. First, the inspector must locate the vehicle connector (the data link connector) and attach the inspection computer to it. The OBD rules require that the vehicle connector's location, accessibility, design, and function be consistent with SAE J1962 ''Diagnostic Connector,'' published in June 1992.

The connector is required to be located in the passenger compartment in the area bounded by the driver's end of the instrument panel to 300 mm beyond the vehicle centerline. It is to be attached to the instrument panel and accessible from the driver's seat.

The vehicle connector is required to be readily accessible. Removal of the instrument panel cover, connector cover, or any other barriers must not require the use of a tool. The vehicle connector should allow the inspector to employ a one-handed/blind insertion of the mating test equipment connector.

After the test system is connected to the vehicle, EPA proposes that the test system employ the procedure for retrieving codes specified in SAE J1979 ''E/E Diagnostic Test Modes,'' (DEC91), cited in the OBD rules. This involves two steps. Initially, the test system should send to the OBD computer a request to retrieve and record whether the MIL is commanded to be illuminated. Following this, the test equipment should send a request to retrieve and record the specific codes that are stored.

EPA proposes that the State establish in its test procedure the condition the vehicle shall be in during the OBD inspection: ''key-on/engine-off'' (KOEO) or ''key-on/engine-running'' (KOER). This must be clearly specified in the State's test procedure to allow for consistency among all State test sites.

Finally, this proposal does not specify whether the OBD inspection should take place before or after the other I/M tests. EPA is allowing the states to determine the placement of the OBD test within the I/M lane. In addition, EPA is seeking comments on the feasibility of conducting OBD inspections while the IM240 test is being conducted, and thus seeks information on manufacturer specifications for accessing OBD systems. Individuals with information relevant to this inquiry are requested to submit such information during the public comment period.

2. Anti-Tampering Provisions

In addition to providing data pertaining to stored OBD codes, the information provided by the test equipment's initial request provides a safeguard against any tampering with the OBD system immediately prior to the test. The OBD rules require that a readiness code be stored in the on-board computer to indicate when the diagnostic system has completed all monitoring checks and determined that all monitored systems are functioning properly. This will enable I/M inspectors to be certain that malfunction codes have not merely been cleared, without actual repair of the malfunction, since the last OBD check of the vehicle's emission-related control systems. If the vehicle's OBD system indicates that the on-board diagnostic evaluation of any module is incomplete, EPA proposes that the information contained in the OBD system be considered void and the driver instructed to return after the vehicle has been run long enough to allow the test cycle of all supported modules to be completed.

B. Standards for Failure of the OBD Inspection

Inspection of the OBD system requires the presence of a properly functioning vehicle connector. Therefore, if the inspector has determined that the

vehicle is subject to OBD inspections but the vehicle connector is missing or has been tampered with, EPA proposes that the vehicle shall fail the inspection.

Section 202(m)(4) of the CAAA requires that OBD system information be unrestricted and accessible via standardized connectors and not dependent on access codes or any device provided only by the manufacturer. The information obtained from the OBD system must be usable without need for any unique decoding information or device.

To satisfy these mandates, EPA requires manufacturers to conform to uniform industry standards adopted through the Society of Automotive Engineers (SAE). The OBD rules require that diagnostic trouble codes be consistent with SAE J2012 ''Recommended Format and Messages for Diagnostic Trouble Code Definitions,'' published in March 1992.

The standardization of diagnostic codes allows failing codes to be specifically identified in this proposal. EPA has developed a list of all emission-related powertrain diagnostic trouble codes which will result in failure of the OBD test if present when the MIL is commanded to be illuminated. Thus, EPA is proposing that the vehicle shall fail inspection if the vehicle's MIL is commanded to be illuminated as a result of a failure related to the emission control system. Emission-related failures are determined by the presence of an emission-related trouble code.

Trouble codes may be present due to temporary, reversible conditions. As discussed above, EPA regulations require trouble codes to continue to be stored, once registered, unless 40 engine warm-ups occur without the fault of being redetected, while the regulations allow the MIL to be extinguished after three driving cycles of similar operation in which the fault does not reoccur. EPA is proposing to limit the potential for false I/M failures by proposing that vehicles fail the OBD inspection only if both (1) emission-related failure codes are present and (2) the MIL is commanded to be illuminated.

Furthermore, if the MIL is commanded to be illuminated, EPA proposes that the inspector visually inspect the MIL. EPA proposes that the vehicle also fail the OBD inspection if the MIL is commanded to be illuminated and is not illuminated.

Note that the list generated for the purpose of this rule does not define what constitutes ''emission-related'' for the purpose of any other regulation. This list defines what constitutes I/M failures. EPA's proposed list of codes resulting in I/M failure includes all codes related to fuel and air metering, the ignition system or misfire, auxiliary emission controls, and the computer and output circuits. Some of the codes related to the transmission are also included. For example, power steering codes are included because power steering affects fuel and air management during certain vehicle operations, such as turning right or left. However, codes pertaining to air conditioning and cruise control are not included.

The OBD rule in § 86.094–17(h)(2) specifically requires fault codes to be consistent with SAE J2012, Part C, of March 1992. However, the proposed list of codes was generated using the March 1994 version of J2012. This version is currently on the ballot for SAE approval. If it is not approved, the final rule will use the March 1992 version.

SAE is likely to continue to update J2012, primarily in response to changes in automotive technology and industry needs. Therefore, EPA shall make revisions to this rule as SAE J2012 is revised. As the list of diagnostic trouble code definitions is updated by SAE and EPA through rulemaking, EPA expects states to revise the list of codes used to determine vehicle pass/fail status.

C. OBD Component of the Performance Standard

Since OBD inspections are an element of the I/M performance standard as established in the rule promulgated on November 5, 1992 and a specifically required component of the program, OBD inspections do not generate emission reduction surpluses relative to the performance standard, i.e., they are not substitutes for achieving required emissions reductions but rather required supplements. However, while including OBD inspections does not generate additional credit toward the I/M performance standard, it may generate additional benefit. The actual magnitude of benefits were estimated in the OBD rule itself (58 FR 9482–9483). EPA will be assessing the contribution the OBD inspection actually makes once testing starts and will revise future revisions of the MOBILE emissions model to account for these benefits. Due to the timing of this requirement, OBD checks will play no significant role in attaining 15% reductions by 1996.

D. Administrative Program Requirements

1. Data Collection and Analysis

The proposed regulations included in today's action set out specific requirements for data collection and analysis to include information which will enable an analysis of OBD's role in the I/M program.

Inconsistent data collection has often hampered analysis of program operation: some programs have been unable to calculate basic statistics such as the number of vehicles tested and failed because of incomplete data collection. Even in programs where data collection has occurred, data analysis has not been used extensively in program evaluation. Subpart S establishes specific data collection requirements for I/M programs. This action proposes additional data collection and analysis requirements for vehicles subject to OBD inspection. This will allow the results of the OBD check to be compared with those of the emission test. Specifically, these data include the number of vehicles that fail the OBD test and pass the emission test and the number of vehicles which pass the OBD test and fail the emission test. This action also proposes that the number of vehicles which have consistent test results (i.e., fail or pass both tests) be reported.

EPA is also proposing the collection and analysis of data pertaining to the MIL. Specifically, these data include the number of vehicles whose MIL is commanded to be illuminated but who have no codes stored and the number of vehicles whose MIL is not commanded to be illuminated but who have codes stored. This action also proposes that data collection include the number of vehicles whose MIL is commanded to be illuminated and who have OBD codes stored, and the number of vehicles whose MIL is not commanded to be illuminated and who have no OBD codes stored.

OBD inspections can be viewed as a supplement to the inspection regime which improves its effectiveness in finding high emitting vehicles, but also as a possible long-term replacement to the other tests for identifying high emitting vehicles. The analysis of the estimated emission reductions associated with OBD assumes that OBD will ultimately identify and cause to be repaired those vehicles in all I/M areas which are capable of being identified by an enhanced I/M test, specifically the IM240, purge and pressure tests. This will be verified by data collection and analysis during the initial years of OBD implementation. Thus, this information is essential to evaluating the present and future role of IM240, purge, pressure, and OBD tests in I/M programs.

E. State Implementation Plan (SIP) Submissions

Section 202(m)(3) of the Act requires states to amend I/M program

implementation plans to incorporate the inspection of on-board diagnostic systems within two years after promulgation of regulations requiring such inspection. Thus, in order to be considered complete and fully approvable, I/M SIP submittals must include OBD inspections within two years after final promulgation of this rule.

F. Implementation Deadlines

The incorporation of OBD inspections into both basic and enhanced I/M programs should be implemented as expeditiously as possible. This action proposes that OBD requirements for I/M programs be fully implemented with respect to all administrative details by January 1, 1998. However, there will be some variation depending upon model year coverage of the local I/M program.

VI. Economic Costs and Benefits

Code inspections will not add significantly to the time or cost for an inspection due to the rapid connection and data transfer capabilities which have been developed by industry and are required by EPA's OBD rule. Each I/M lane will need to purchase the equipment necessary for OBD interrogation. However, this equipment is relatively inexpensive and these costs may be distributed over thousands of tests. For enhanced I/M programs, the capital and maintenance costs associated with conducting OBD tests have been calculated to be $0.05 per test. The OBD cost for basic centralized I/M programs is only $0.025 per test due to the higher volume of cars that can be inspected in these lanes. The total cost of incorporating OBD inspections into enhanced and basic centralized programs nationwide has been calculated to be about $1.7 million.

Very few states continue to operate decentralized test-and-repair I/M programs. Assuming that 1200 tests will be conducted with every scan tool, the incorporation of OBD inspections into test-and-repair programs has been calculated to be about $2 million. Thus, the total cost of incorporating OBD inspections into all I/M programs is $3.7 million.

In addition to improving the identification of high emitting vehicles in an I/M program, OBD systems will also be of great utility in the repair of vehicles which fail the inspection, including the exhaust emission test. OBD will speed identification of the responsible component, and help avoid trial and error replacement of components.

In addition to providing information about malfunctions which result in excess emissions, OBD code inspections will provide information about other faulty vehicle components. EPA recommends that this information be provided to the vehicle owner even if the vehicle passes the OBD test, enabling the owner to more efficiently repair any malfunctioning components.

VII. Public Participation

A. Comments and the Public Docket

EPA desires full public participation in arriving at final decisions in this Rulemaking action. EPA solicits comments on all aspects of this proposal from all interested parties. Wherever applicable, full supporting data and detailed analysis should also be submitted to allow EPA to make maximum use of the comments. All comments should be directed to the Air Docket, Docket No. A–94–21.

Commenters are especially encouraged to provide information on manufacturer specifications for accessing OBD systems. Commenters who wish to submit proprietary information for consideration should clearly separate such information from other comments by—

- Labeling proprietary information ''Confidential Business Information'' and
- Sending proprietary information directly to the contact person listed (see **FOR FURTHER INFORMATION CONTACT**) and not to the public docket.

This will help insure that proprietary information is not inadvertently placed in the docket. If a commenter wants EPA to use a submission labeled as confidential business information as part of the basis of the final rule, then a nonconfidential version of the document, which summarizes the key data or information, should be sent to the docket.

Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, the submission may be made available to the public without notifying the commenters.

B. Public Hearing

Anyone wishing to present testimony about this proposal at the public hearing (see **DATES**) should, if possible, notify the contact person (see **FOR FURTHER INFORMATION CONTACT**) at least seven days prior to the day of the hearing. The contact person should be given an estimate of the time required for the presentation of testimony and notification of any need for audio/visual equipment. A sign-up sheet will be available at the registration table the morning of the hearing for scheduling those who have not notified the contact earlier. This testimony will be scheduled on a first-come, first-serve basis to follow the previously scheduled testimony.

EPA requests that approximately 50 copies of the statement or material to be presented be brought to the hearing for distribution to the audience. In addition, EPA would find it helpful to receive an advance copy of any statement or material to be presented at the hearing at least one week before the scheduled hearing date. This is to give EPA staff adequate time to review such material before the hearing. Such advance copies should be submitted to the contact person listed.

The official records of the hearing will be kept open for 30 days following the hearing to allow submission of rebuttal and supplementary testimony. All such submittals should be directed to the Air Docket, Docket No. A–94–21 (see **ADDRESSES**).

The hearing will be conducted informally, and technical rules of evidence will not apply. A written transcript of the hearing will be placed in the above docket for review. Anyone desiring to purchase a copy of the transcript should make individual arrangements with the court reporter recording the proceeding.

VIII. Administrative Requirements

A. Administrative Designation

Under Executive Order 12866 [58 **Federal Register** 51,735 (October 4, 1993)], the Agency must determine whether the regulatory action is ''significant'' and therefore subject to 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 budgetary impact of entitlements, 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 rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review. Any impacts associated with these requirements do not exceed the impacts that were dealt with in the I/M requirements published in the **Federal Register** on November 5, 1992 (57 FR 52950). This regulation is not expected to be controversial. This regulation does not raise any of the issues associated with ''significant regulatory actions.'' It does not create an annual effect on the economy of $100 million or more or otherwise adversely affect the economy or the environment. The total cost of incorporating OBD inspections into all I/M programs nationwide has been calculated to be less than $4 million. 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. Accordingly, it is appropriate to consider this a ''non-significant'' or ''minor'' rule action and it should be exempt from OMB review.

B. Reporting and Record Keeping Requirement

This proposal only marginally increases the existing burden through the addition of requirements to electronically capture and store one additional data element (existing diagnostic trouble codes) and to provide EPA with eight additional summary statistics based on this information. The existing collection has been approved (OMB no. 2060–0252) through February 28, 1996. This additional burden will not be imposed until after the current Information Collection Request has been renewed. When the current Information Collection Request is renewed, any modifications necessary to incorporate OBD inspection data collection will be made. These few additional elements will not add a measurable amount to the existing estimated burden of 85 hours.

Send comments regarding the burden estimate or any other aspect of this collection information, including suggestions for reducing this burden to Chief, Information Policy Branch, EPA, 401 M. Street S.W. (Mail Code 2136), Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

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 proposal 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 the proposed 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.''

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, Sulfur oxides, Volatile organic compounds.

40 CFR Part 85

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

Dated: July 25, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, parts 51 and 85 of title 40 of the Code of Federal Regulations are proposed to be amended to read as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401(a)(2), 7475(e), 7502 (a) and (b), 7503, 7601(a)(1) and 7602. Q04

2. Section 51.351 is proposed to be amended by adding text to 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 newer light duty vehicles and light duty trucks equipped with certified on-board diagnostic systems pursuant to 40 CFR 86.094–17, and repair of malfunctions or system deterioration identified by or affecting OBD systems as specified in 40 CFR 51.357.

* * * * *

3. Section 51.352 is proposed to be amended by adding text to 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 newer light duty vehicles and light duty trucks equipped with certified OBD systems pursuant to 40 CFR 86.094–17, and repair of malfunctions or system deterioration identified by or affecting OBD systems as specified in 40 CFR 51.357.

* * * * *

4. Section 51.357 is proposed to be amended by adding text to paragraphs (a)(12) and (b)(4) to read as follows:

§ 51.357 Test Procedures and Standards.

(a) * * *

(12) *On-board diagnostic checks.* Inspection of the on-board diagnostic system shall be according to the procedure described in 40 CFR 85.2223, at a minimum.

* * * * *

(b) * * *

(4) *On-board diagnostics test standards.* Vehicles shall fail if the vehicle connector has been tampered with, or if the malfunction indicator light is commanded to be illuminated and any of the diagnostic trouble codes listed in 40 CFR 85.2207 are present, at a minimum.

* * * * *

5. Section 51.358 is proposed to be amended by adding text to paragraph (b)(4) to read as follows:

§ 51.358 Test Equipment.

* * * * *

(b) * * *

(4) *On-board diagnostic test equipment requirements.* The test equipment used to perform on-board diagnostic inspections shall function as specified in 40 CFR 85.2231.

* * * * *

6. Section 51.365 is proposed to be amended by adding (a)(25) as follows:

§ 51.365 Data collection.

(a) * * *

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

* * * * *

7. Section 51.366 is proposed to be amended by adding (a)(2)(xi) through (xviii) to read as follows:

§ 51.366 Data Analysis and Reporting.

* * * * *

(a) * * *

(2) * * *

(xi) Passing the on-board diagnostic check and failing the I/M emission tests.

(xii) Failing the on-board diagnostic check and passing the I/M emission tests.

(xiii) Passing both the on-board diagnostic check and I/M emission tests.

(xiv) Failing both the on-board diagnostic check and I/M emission tests.

(xv) MIL is commanded on and no codes are stored.

(xvi) MIL is not commanded on and codes are stored.

(xvii) MIL is commanded on and codes are stored.

(xviii) MIL is not commanded on and codes are not stored.

* * * * *

8. Section 51.372 is proposed to be amended by revising paragraph (b)(3) to read as follows:

§ 51.372 State implementation plan submissions.

* * * * *

(b) * * *

(3) States shall revise SIPs as EPA develops further regulations. Revisions to incorporate on-board diagnostic checks in the I/M program shall be submitted by (two years after publication of final rule).

* * * * *

9. Section 51.373 is proposed to be amended by adding paragraph (f) as follows:

§ 51.373 Implementation Deadlines.

* * * * *

(f) On-board diagnostic checks shall be implemented as part of I/M programs by January 1, 1998.

PART 85—CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES AND MOTOR VEHICLE ENGINES

10. The authority citation for part 85 continues to read as follows:

Authority: 42 U.S.C. 7507, 7522, 7524, 7525, 7541, 7542, 7543, 7547, 7601(a), unless otherwise noted.

11–12. A new § 85.2207 is proposed to be added to subpart W to read as follows:

§ 85.2207 On-Board Diagnostics Test Standards.

(a) A vehicle shall fail the on-board diagnostics test if it is a 1996 or newer vehicle and the vehicle connector is missing or has been tampered with.

(b) A vehicle shall fail the on-board diagnostics test if the malfunction indicator light is commanded to be illuminated and it is not illuminated.

(c) A vehicle shall fail the on-board diagnostics test if the malfunction indicator light is commanded to be illuminated and any of the following OBD codes, as defined by SAE J2012 ''Recommended Format and Messages for Diagnostic Trouble Code Definitions,'' (MAR94) Part C, are present (where X refers to any digit). Copies of SAE J2012 may be obtained from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096–0001:

(1) Any PX1XX Fuel and Air Metering codes.

(2) Any PX2XX Fuel and Air Metering codes.

(3) Any PX3XX Ignition System or Misfire codes.

(4) Any PX4XX Auxiliary Emission Controls codes.

(5) P0500 Vehicle Speed Sensor Malfunction.

(6) P0501 Vehicle Speed Sensor Range/Malfunction.

(7) P0502 Vehicle Speed Sensor Circuit Low Input.

(8) P0503 Vehicle Speed Sensor Intermittent/Erratic/High.

(9) P0505 Idle Control System Malfunction.

(10) P0506 Idle Control System RPM Lower Than Expected.

(11) P0507 Idle Control System RPM Higher Than Expected.

(12) P0510 Closed Throttle Position Switch Malfunction.

(13) P0550 Power Steering Pressure Sensor Circuit Malfunction.

(14) P0551 Power Steering Pressure Sensor Circuit Malfunction.

(15) P0552 Power Steering Pressure Sensor Circuit Low Input.

(16) P0553 Power Steering Pressure Sensor Circuit Intermittent.

(17) P0554 Power Steering Pressure Sensor Circuit Intermittent.

(18) P0560 System Voltage Malfunction.

(19) P0561 System Voltage Unstable.

(20) P0562 System Voltage Low.

(21) P0563 System Voltage High.

(22) Any PX6XX Computer and Output Circuits codes.

(23) P0703 Brake Switch Input Malfunction.

(24) P0705 Transmission Range Sensor Circuit Malfunction (PRNDL Input).

(25) P0706 Transmission Range Sensor Circuit. Range/Performance.

(26) P0707 Transmission Range Sensor Circuit Low Input.

(27) P0708 Transmission Range Sensor Circuit High Input.

(28) P0709 Transmission Range Sensor Circuit Intermittent.

(29) P0719 Torque Converter/Brake Switch ''B'' Circuit Low.

(30) P0720 Output Speed Sensor Circuit Malfunction.

(31) P0721 Output Speed Sensor Circuit Range/Performance.

(32) P0722 Output Speed Sensor Circuit No Signal.

(33) P0723 Output Speed Sensor Circuit Intermittent.

(34) P0724 Torque Converter/Brake Switch ''B'' Circuit High.

(35) P0725 Engine Speed Input Circuit Malfunction.

(36) P0726 Engine Speed Input Circuit Range/Performance.

(37) P0727 Engine Speed Input Circuit No Signal.

(38) P0728 Engine Speed Input Circuit Intermittent.

(39) P0740 Torque Converter Clutch System Malfunction.

(40) P0741 Torque Converter System Performance or Stuck Off.

(41) P0742 Torque Converter Clutch System Stuck On.

(42) P0743 Torque Converter Clutch System Electrical.

(43) P0744 Torque Converter Clutch Circuit Intermittent.

(d) The list of codes shall be updated with future revisions of this rule, in conjunction with changes to 40 CFR 86.094–17(h) (3).

13. A new § 85.2223 is proposed to be added to subpart W to read as follows:

§ 85.2223 On-Board Diagnostic Test Procedures.

(a) The test sequence for the inspection of on-board diagnostic systems on 1996 and newer light-duty vehicles and light-duty trucks shall consist of the following steps:

(1) The on-board diagnostic inspection shall be conducted either with key-on/engine-off or key-on/engine-running.

(2) The inspector shall locate the vehicle connector and plug the test system into the connector.

(3) The test system shall send a Mode $01, PID $01 request to determine the evaluation status of the vehicle's on-board diagnostic system. The vehicle shall be automatically rejected from testing if Data B, Data C, and Data D indicate that the evaluation is not complete for any module supported by on-board diagnostic evaluation. The customer shall be instructed to return

after the vehicle has been run long enough to allow the testing of all supported modules to be completed. If Data B, Data C, and Data D again indicate that the vehicle should be rejected when it returns, the vehicle shall be failed.

(4) If Data B, Data C, and Data D indicate that the vehicle's on-board diagnostic evaluation is complete, the test system shall determine the status of the MIL illumination bit and record status information in the vehicle test record.

(i) If the malfunction indicator light bit is commanded to be illuminated and any of the codes listed at 40 CFR 85.2207(c) are present, the test system shall retrieve and record the codes in the vehicle test record. The vehicle shall fail the on-board diagnostic inspection.

(ii) If the malfunction indicator light bit is not commanded to be illuminated and any of the codes listed at 40 CFR 85.2207(c) are present, the test system shall retrieve and record the codes in the vehicle test record. The vehicle shall pass the on-board diagnostic inspection.

(iii) If the malfunction indicator light bit is commanded to be illuminated, the inspector shall inspect the MIL to determine if it is illuminated. The status of the MIL shall be recorded in the vehicle test record. If the MIL is commanded to be illuminated but is not, the vehicle shall fail the on-board diagnostic inspection.

(5) The motorist shall be provided with the on-board diagnostic test results, including the codes retrieved, the status of the MIL illumination command, and the pass or fail result.

14. A new § 85.2231 is proposed to be added to subpart W to read as follows:

§ 85.2231 On-board diagnostic test equipment requirements.

(a) The test system interface to the vehicle shall include a plug that conforms to SAE J1962 ''Diagnostic Connector.''

(b) The test system shall meet all vehicle electrical/electronic compatibility requirements for ''OBD II Scan Tools'' as specified in SAE J1978 and J2201, including the length of the electrical cable between the vehicle and the test system.

(c) The test system shall be capable of performing all communication functions as specified in SAE J1978, J1979, and J2205. Specifically, the system shall be capable of checking for the systems supported by the on-board diagnostic system and the evaluation status of supported systems (test complete/test not complete) in Mode $01 PID $01, as well as be able to request the codes, as specified in SAE J1979. In addition, the system shall have the capability to include bi-directional communication, when such features are available, and allow for non-intrusive pressure and purge checks. Copies of all of the SAE documents cited above may be obtained from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096–0001.

(d) The test system shall automatically make a pass, fail, or reject decision, as specified in the test procedure in 40 CFR 85.2223(a).

[FR Doc. 95–20539 Filed 8–17–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[PA62–1–7023b; FRL–5272–5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County: USX Clairton Works

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a State implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision requires the availability and maintenance of certain air pollution control equipment at the USX Corporation's Clairton Works in Allegheny County, Pennsylvania. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this 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. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by September 18, 1995.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and, Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: David J. Campbell, Technical Assessment Section (3AT22), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, phone: 215 597–9781.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title, ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County: USX Clairton Works'', which is located in the Rules and Regulations Section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Reporting and recordkeeping requirements, Sulfur Oxides.

Authority: 42 U.S.C. 7401–7671q.

Dated: July 25, 1995.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 95–20485 Filed 8–17–95; 8:45 am]

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40 CFR Part 52

[IN48–1–6761b; FRL–5279–2]

Approval and Promulgation of Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve the State implementation plan (SIP) revision submitted by the State of Indiana for its Federally Enforceable State Operating Permits (FESOP) regulation and an Enhanced New Source Review (NSR) regulation. The USEPA made a finding of completeness in a letter dated November 25, 1994. The USEPA proposes to approve Indiana's FESOP regulation as an acceptable mechanism for establishing federally enforceable State operating permits for the purpose of creating