

J. Congressional Review Act

I. Electronic Availability

Today's action is available electronically on the day of publication from EPA's **Federal Register** Internet Web site listed below. Electronic copies of this preamble, regulatory language, and other documents associated with today's direct final rule are available from the EPA Office of Transportation and Air Quality Web site listed below shortly after the rule is signed by the Administrator. This service is free of charge, except any cost that you already incur for connecting to the Internet.

EPA **Federal Register** Web site: <http://www.epa.gov/docs/fedrgstr/epa-air/>.

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II. Introduction and Background

On February 19, 1993, pursuant to Clean Air Act (CAA) section 202(m), 42 U.S.C. 7521(m), EPA published a final rulemaking (58 FR 9468) requiring manufacturers of light-duty vehicles (LDVs) and light-duty trucks (LDTs) to install on-board diagnostic (OBD) systems on such vehicles beginning with the 1994 model year. The regulations promulgated in that final rulemaking require that manufacturers install OBD systems which monitor emission control components for any malfunction or deterioration causing exceedance of certain emission thresholds, and alert the vehicle operator to the need for repair. That rulemaking also requires that, when a malfunction occurs, diagnostic information must be stored in the vehicle's computer to assist the technician in diagnosis and repair.

Additionally, this original OBD regulation provided an allowance for manufacturers to satisfy federal OBD requirements through the 1998 model year by installing OBD systems satisfying the California OBD II requirements pertaining to those model years. On December 22, 1998 (63 FR 70681), EPA revised the federal OBD regulations such that the allowance of compliance with the California OBD II regulations (excluding anti-tampering provisions) extended indefinitely, rather than applying only through the 1998 model year. In addition, EPA updated the allowed version of the California OBD II regulations to the most recently published version, at that time, CARB Mail-Out #97-24 (December 9, 1997).

California has recently issued revisions to their OBD II requirements as described in CARB Mail-Out MSCD #02-11 (internet posting date October 7, 2002) and Attachment II, Modifications to Malfunction and Diagnostic System

Requirements for 2004 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines (OBD II), Section 1968.2, Title 13, California Code of Regulations. In today's action, EPA is revising the federal OBD regulations to update the allowed version of the California OBD II regulations to the most recently issued version noted above, such that the allowance of compliance with the California OBD II regulations (with the exclusion of certain provisions as noted below) continues to be accepted. EPA is making this revision, and continuing to allow manufacturers to demonstrate compliance with California's OBD regulations, to encourage broader OBD development and calibration efforts. EPA believes that the benefits of a robust OBD program outweigh the benefits of the unique requirements of the federal OBD regulations. EPA also believes, as was noted in an August 30, 1996 final rule (61 FR 45898), that the California OBD II program fully meets the requirements of the Clean Air Act (CAA) and fulfills the intent of the federal OBD program.

Today's action also updates the incorporation by reference of standardized practices developed by the Society of Automotive Engineers (SAE) and the International Organization for Standardization (ISO) to recently published versions. EPA believes that by including these standardized practices in our regulations we ensure continuity and uniformity in the design of OBD II systems, which was mandated in section 202(m)(4) of the CAA. As a result, changes and updates to these standardized practices must be recognized by revising our regulations to incorporate by reference the latest versions of these documents.

Today's action also incorporates a new, optional standardized communication protocol, ISO 15765-4.3:2001, December 14, 2001, "Road Vehicles-Diagnostics on Controller Area Network (CAN)—Part 4: Requirements for emission-related systems", that can be used by manufacturers to design OBD systems. The standardized communication protocols provide a uniform language structure that facilitates compatibility between OBD II equipped vehicles and OBD II-related equipment. Manufacturers are planning to implement this new protocol on vehicles as early as the 2004 MY. In addition, EPA is requiring that commencing in the 2008 model year the only allowable protocol will be this new communication protocol, ISO 15765-4.3. With the 2008 model year, the other, currently-accepted protocols: SAE J1850, ISO 9141-2 and ISO 14230-4;

will no longer be accepted and all manufacturers must implement OBD systems using only ISO 15765-4.3.

III. Requirements of the Direct Final Rule

Following are the provisions promulgated by this direct final rulemaking.

A. Update of Provision for Acceptance of California Air Resources Board (CARB) OBD II as Satisfying Federal OBD Requirements

EPA is revising the existing provisions that allow indefinite optional compliance with the California OBD II requirements, excluding the California OBD II anti-tampering provisions, as satisfying federal OBD. Although the existing allowances continue indefinitely, the referenced CARB mail-out (and corresponding regulation) has been revised by California and is thus outdated. Thus, rather than the currently allowed CARB Mail-Out #97-24 (December 9, 1997), the allowed version will be CARB's recently updated version contained in CARB Mail-Out MSCD #02-11 (internet posting date October 7, 2002) and Attachment II, Modifications to Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines (OBD II), Section 1968.2, Title 13, California Code of Regulations. EPA recognizes that CARB may continue to make minor modifications to 13 CCR section 1968.2 before its full implementation. However, EPA believes it appropriate to revise its regulations at this time to reference the most recent version of CARB's requirements and EPA anticipates it will make the appropriate updated references by technical amendment or other appropriate rulemaking. Before such updated references occur, EPA believes that any changes made by CARB in its regulations would be minor and therefore the manufacturers will be able to utilize EPA's existing deficiency provisions in the rare circumstances where those CARB requirements that EPA references by today's action are more stringent than the OBD requirements met by the manufacturer under revised CARB regulations. Thus by today's rulemaking EPA is amending paragraph (j) as found respectively in 40 CFR 86.005-17 and 86.1806-05, to reflect CARB's most recent version of the OBD II requirements. In addition, because EPA's Tier 2 requirements commence in model year 2004, EPA is adding a new section (86.1806-04) to reflect the OBD requirements applicable