



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2018-0397; FRL-9990-84-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Basic Inspection and Maintenance Program Certification State Implementation Plan for the Baltimore Nonattainment Area Under the 2008 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Maryland. This SIP revision addresses Clean Air Act (CAA) requirements for enactment of a vehicle emissions inspection and maintenance (I/M) program in the Baltimore area of the state -- where ambient air quality has been classified by EPA as “Moderate” or higher nonattainment of federal ozone national ambient air quality standards (NAAQS) established in 2008 (hereafter referred to as the 2008 ozone NAAQS). The requirements for moderate ozone nonattainment areas under the CAA require the state to demonstrate that they have adopted a basic I/M program (as defined by the CAA), or in the event an I/M program was previously enacted under a prior NAAQS or other CAA requirement, that the existing program meets all applicable federal requirements for a basic I/M program. Maryland’s SIP revision that is the subject of this action pertains to CAA requirements for a basic I/M program in the Baltimore area for the 2008 ozone NAAQS. EPA’s action to propose approval of this SIP revision is being taken under the applicable requirements of the CAA.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2018-0397 at <http://www.regulations.gov>, or via email to Spielberger.susan@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, (215) 814-2176, or by e-mail at rehn.brian@epa.gov.

SUPPLEMENTARY INFORMATION: On March 15, 2018, the Maryland Department of Environment (MDE) submitted a revision to its SIP to certify that the existing Maryland vehicle

emission inspection program implemented in the Baltimore ozone nonattainment area satisfies the CAA section 182(b)(4) requirements for a vehicle inspection program applicable to the Baltimore 2008 moderate ozone nonattainment area.

I. Background

On March 27, 2008, EPA revised the primary and secondary 8-hour ozone NAAQS to 0.075 parts per million (ppm) to provide increased protection of public health and welfare (73 FR 16436). The 2008 8-hour ozone NAAQS replaced the previous 1997 8-hour ozone NAAQS of 0.080 ppm. Those standards are met when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration of all ambient air monitors is less than or equal to 0.075 ppm.

Promulgation of a revised NAAQS triggers a requirement for EPA to designate all areas of the nation as nonattainment, attainment, or unclassifiable for the NAAQS. For the ozone NAAQS, this also involves classifying any nonattainment areas at the time of designation -- per requirements set forth at CAA sections 107(d)(1) and 181(a)(1). Ozone nonattainment areas are classified based on the severity of their ozone levels (as determined based on the area's "design value," which represents the most recent three years of monitored air quality in an area). The CAA-established classifications for ozone nonattainment areas are: Marginal, Moderate, Serious, Severe, and Extreme.¹ Nonattainment areas with a "lower" classification have ozone levels that are closer to the standard than areas with a "higher" classification.² As such, ozone nonattainment areas with lower classification levels have fewer and less stringent mandatory air quality planning and control requirements than those having higher classifications. For each

¹ CAA section 181(a)(1).

² See 40 CFR 51.1103 for the design value thresholds for each classification for the 2008 ozone NAAQS.

higher ozone nonattainment classification, a state needs to comply with all requirements applicable to the next classification, plus additional emissions controls and more expansive nonattainment new source review offset requirements. In addition to nonattainment requirements, the CAA sets out additional specific requirements for states in an established ozone transport region (OTR), regardless of their ozone attainment designation.³ These separate OTR requirements mandate that states in the OTR enact enhanced vehicle I/M programs, based on population of metropolitan areas of the state – but not nonattainment designation.⁴

Under the 2008 ozone NAAQS requirements, Maryland is required to implement a basic I/M program for light-duty motor vehicles in the Baltimore moderate ozone nonattainment area (consisting of Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties and the City of Baltimore). However, due to higher ozone nonattainment classifications (under prior ozone NAAQS) and Maryland's inclusion in the OTR, Maryland currently operates an enhanced I/M program (known in Maryland as the Vehicle Emissions Inspection program, or VEIP) in all I/M-subject regions of the state – including the Baltimore ozone nonattainment area. Maryland's enhanced I/M VEIP program tests gasoline-fueled motor vehicles up to 26,000 pounds gross vehicle weight rating (GVWR), with onboard diagnostic (OBD) testing required for model year 1996 and newer passenger vehicles and light-duty trucks and model year 2008 and newer heavy-duty vehicles up to 14,000 pounds GVWR. VEIP also includes a tailpipe idle and a gas cap test, as well as a catalyst check, for model year 1977 and newer heavy-duty vehicles between 8,500 and 26,000 pounds (that are not otherwise subject to OBD testing).

³ CAA section 184 details specific requirements for states (and the District of Columbia) that make up the Northeast OTR. States in an OTR are required to submit Reasonably Available Control Technology (RACT) SIP revisions and mandate a certain level of emissions control for the pollutants that form ozone, even if the areas in the state meet the ozone standards.

⁴ CAA section 184(b)(1).

EPA requirements for I/M programs are set forth in EPA's Inspection and Maintenance Program Requirements Rule (or I/M rule), codified in the Code of Federal Regulations, at 40 CFR Part 51, Subpart S. Requirements for minimum performance of enhanced I/M programs are established in 40 CFR 51.351 and those of a basic I/M programs are set forth in 40 CFR 51.352. EPA's I/M rule delineates more stringent transient tailpipe testing methods and tighter testing limits (or equivalent) and on-road testing for enhanced I/M programs, as well as vehicle evaporative system functional testing (or equivalent).

II. Summary of Maryland's SIP Revision and EPA's Evaluation of the SIP Revision

Maryland's enhanced I/M program under the 1990 CAA was first approved by EPA into the Maryland SIP via a final conditional approval published in the July 31, 1997 **Federal Register** (62 FR 40938). Upon remedy of deficiencies underlying that conditional approval action, EPA converted the conditional approval to a final approval via a final rule published in the October 29, 1999 **Federal Register** (64 FR 58340). Maryland has since made several modifications to its enhanced I/M program to accommodate CAA requirements and changing state interests, to update testing methods to reflect changes in vehicle technology -- such as implementation of OBD testing. As part of the OTR, Maryland is required to implement an enhanced I/M program in specific areas, as required by CAA section 184(b)(1).

Maryland submitted a SIP revision on March 15, 2018 to attest and to certify that its existing enhanced I/M program meets requirements established by EPA's I/M rule for a basic I/M program. Maryland also demonstrates, through use of EPA's Motor Vehicle Emission Simulator (MOVES), that the VEIP enhanced I/M program will outperform a basic I/M program in reducing ozone precursor emissions (i.e., nitrogen oxides (NOx) and volatile organic compounds

(VOCs)). Maryland used MOVES version 2014a to model both the current Baltimore area VEIP enhanced I/M program and the EPA basic performance standard⁵ that applies to areas newly designated nonattainment under the 2008 ozone NAAQS. The MDE evaluated the benefits of the existing enhanced VEIP program in Baltimore against a hypothetical basic program for a 2012 evaluation date (which corresponds to the date of classification of Baltimore as a Serious area for the 2008 ozone NAAQS, under Subpart 2 of Part D of the CAA) and again with a 2018 evaluation date (which corresponds to the Baltimore 2008 ozone NAAQS attainment deadline, six years after EPA classification under the 2008 ozone NAAQS). The results of this MOVES model comparison between the existing enhanced I/M VEIP program and EPA’s basic performance standard are summarized in Table 1. Maryland found that for both the 2012 and 2018 evaluation years, modelled emissions were shown to be higher than the existing VEIP I/M program for both NOx and VOC, as well as combined NOx and VOC, for the Baltimore nonattainment area under EPA’s basic performance standard.

Table 1. Comparison Between MOVES2014a Modelled Emissions of Maryland’s Enhanced VEIP I/M Program versus EPA’s Basic I/M Performance Standard for the Baltimore Nonattainment Area, in tons per day (tpd)

2012 Evaluation Date Scenario	VOC (tpd)	NOx (tpd)	VOC + NOx (tpd)
Basic I/M Performance Standard for Baltimore Area	39.94	95.97	135.91
Existing VEIP I/M Program for Baltimore Area	38.063	92.977	131.04
Difference between Basic Performance Standard and Existing VEIP Program	1.88	2.99	4.87
2018 Evaluation Date Scenario	VOC (tpd)	NOx (tpd)	VOC + NOx (tpd)
Basic I/M Performance Standard for Baltimore Area	25.884	52.214	78.098

⁵ As defined at 40 CFR 51.352(e), entitled “Basic performance standard for areas designated non-attainment for the 8-hour ozone standard,” promulgated by EPA on April 7, 2006 (71 FR 17705). This action revised the I/M rule specifically to update I/M program submission and implementation requirements for areas potentially newly subject to I/M requirements as a result of being designated and classified under the 2008 8-hour ozone NAAQS.

Existing VEIP I/M Program for Baltimore Area	25.153	50.738	75.891
Difference between Basic Performance Standard and Existing VEIP Program	0.731	1.476	2.207

Maryland has shown that by previously enacting a high enhanced I/M program in the Baltimore area to meet I/M requirements for the prior 1-hour severe ozone NAAQS (as well as separate enhanced I/M requirements applicable in the OTR), the existing VEIP program satisfies basic I/M requirements applicable because Baltimore was subsequently designated moderate nonattainment under the 2008 8-hour ozone NAAQS. Under the CAA I/M framework, enhanced I/M programs are more stringent than basic programs, and exceed EPA established program requirements for testing, administration, and oversight applicable to basic I/M programs.

III. Proposed Action

EPA is proposing to approve the motor vehicle emissions I/M program certification submitted by Maryland on March 15, 2018 for the Baltimore 2008 ozone nonattainment area to satisfy the applicable CAA requirements to enact a basic I/M program.

EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may submit written comments to this proposed rulemaking by following the instructions listed in the ADDRESSES section of this **Federal Register**.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided

that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule to approve Maryland's certification that it meets CAA applicable requirements for a basic I/M program in the Baltimore area does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Nitrogen Dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq.

Dated: March 5, 2019.

Cosmo Servidio,
Regional Administrator,
Region III.

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