



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2023-0647; FRL-12276-02-R6]

Air Plan Approval; Texas; Vehicle Inspection and Maintenance Plan for Bexar County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving revisions to the Texas State Implementation Plan (SIP) submitted to the EPA by the Texas Commission on Environmental Quality (TCEQ or State) on December 18, 2023. The SIP revisions address Control of Air Pollution from Motor Vehicles and establish a Motor Vehicle Inspection and Maintenance (I/M) program for the San Antonio ozone nonattainment area. The revisions also update definitions and address options for displaying a vehicle's registration as proof of compliance with I/M requirements. Additionally, this final action terminates the EPA's requirement to promulgate a Federal Implementation Plan (FIP) for a Basic I/M program in the San Antonio nonattainment area.

DATES: This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2023-0647. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted

material, is not placed on the Internet. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Mr. Clovis Steib, EPA Region 6 Office, Infrastructure and Ozone Section, 214-665-7566, steib.clovis@epa.gov. Please call or e-mail the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The background for this action is discussed in detail in our October 11, 2024, proposal (89 FR 82550). In that document we proposed to approve revisions to the Texas SIP at 30 TAC Chapter 114, Subchapter A, Sections 114.1 and Section 114.2, and Subchapter C, Sections 114.50, 114.53, and 114.82), pursuant to section 110 and part D of the CAA. Consistent with the CAA section 182(b)(4) and title 40 of the Code of Federal Regulations (CFR), part 51, subpart S, the revisions expand the State’s vehicle I/M program into Bexar County¹ and implement on-board diagnostics (OBD) inspections for vehicles subject to the I/M program requirements beginning on November 1, 2026.² In addition, the revisions incorporate minor changes for the display of a vehicle’s registration insignia to include digital license plates.

We received comments on our October 2024 proposal from five commenters, and our responses to the comments follow.

II. Response to Comments

¹ The “San Antonio 2015 ozone nonattainment area” may also be referred to as the “Bexar County nonattainment area” and includes all of Bexar County. The surrounding counties in the San Antonio area: Atascosa, Bandera, Comal, Guadalupe, Kendall, Medina, and Wilson Counties are designated as attainment/unclassifiable.

² The State proposed to implement their Basic vehicle emissions I/M program six days earlier than the required deadline of November 7, 2026.

Comment: The TCEQ requested that we correct footnote 7 of our October 2024 proposal,³ which incorrectly stated that the revisions establish the maximum fee of \$11.50 instead of the correct dollar amount of \$18.50.

Response: We appreciate the TCEQ's comment and are making the correction in this final rule.

Comment: One anonymous commenter expressed concern that the associated cost of the program to motorists could hinder the implementation of the program. The commenter also suggested that the program should apply to commercial and large vehicle operators.

Response: EPA acknowledges the concerns raised by the commenter regarding the potential impact of the cost of the program to motorists. The TCEQ is responsible for setting and adopting the maximum vehicle emissions inspection fee for individual area I/M programs, and it addressed a similar issue during its public comment as discussed below. In Bexar County, the adopted fee of \$18.50 was established in November 2023, which aligns with the maximum Onboard Diagnostics (OBD) fee of \$18.50 applicable in the Houston-Galveston-Brazoria (HGB) and Dallas-Fort Worth (DFW) program areas. This amount is consistent with the *Bexar County Inspection and Maintenance Program Study Final Report*⁴ that recommended an OBD fee for all program areas between \$18 and \$22. Additionally, under Texas Health and Safety Code (THSC), section 382.202(f), TCEQ reviews the vehicle emissions fee for the I/M program every two years to ensure the fees remain appropriate with the program.⁵ Further, residents of the county had opportunity to provide feedback on the program implementation and its associated costs

³ See 89 FR 82550, 82552.

⁴ Eastern Research Group, Inc., Bexar County Inspection and Maintenance (I/M) Program Study Final Report. Jun. 30, 2020. <https://wayback.archive-it.org/414/20210528194434/https://www.tceq.texas.gov/assets/public/implementation/air/ms/IM/2020%20Bexar%20County%20IM%20Prog%20Study%20Report.pdf>.

⁵ The latest fee analysis study can be found at <https://www.tceq.texas.gov/downloads/air-quality/mobile-source/2024-im-fee-analysis.pdf>.

during TCEQ's 45-day public comment period which closed on July 17, 2023. During the 45-day public comment period, the Alamo Area Council of Governments (AACOG), San Antonio Auto Service, LLC (SAAS), Official Inspection Station (OIS), Texas State Inspection Association (TSIA), Rema Investment Group, LLC (REI), and 13 individuals provided input to TCEQ on the maximum fees set for individual emissions inspections in Texas. AACOG commented during the TCEQ's public comment period that local elected officials were concerned about the impact the emissions inspection fee would have on residents. The TCEQ responded that the comments received were taken into consideration when setting said fees.

With regard to the commenter's suggestion that commercial and large vehicle operators should also be subject to the State's vehicle I/M program, it is important to note that Texas' vehicle emissions I/M program only applies to gasoline-powered, passenger and light-duty vehicles—those with a gross vehicle weight rating (GVWR) of 14,000 pounds or less. Texas' I/M program is projected to reduce vehicle emissions of oxides of nitrogen and volatile organic compounds, which are precursors to ozone formation.

Heavy-duty commercial vehicles (HDCV)—those greater than 14,000 pounds GVWR such as larger trucks, buses and freight vehicles (both diesel and gasoline-powered), are not subject to the same vehicle emissions inspection requirements under Texas' state program. States generally have limited authority to regulate emissions from HDCVs because these vehicles are often engaged in interstate commerce, which falls under federal jurisdiction. These larger commercial vehicles are, however, subject to federal emissions standards regulated by the EPA,⁶ rather than the state's emissions inspection program.

Comment: One anonymous commenter stated that an ongoing assessment of whether Bexar County is meeting the National Ambient Air Quality Standards (NAAQS)

⁶ 40 CFR 86.007-11.

should be completed after the program's implementation, and that the NAAQS should continue to be re-evaluated every five years.

Response: Bexar County has three regulatory monitors⁷ in place that provide a design value to compare with the NAAQS for commonly occurring pollutants known as criteria pollutants. These criteria pollutants are ozone, particulate matter (PM), sulfur dioxide (SO₂), nitrogen dioxide (NO₂), carbon monoxide (CO), and lead (Pb). These monitors operate daily and data from these monitors are posted on the TCEQ's website for access by the public.⁸ The EPA posts the annual design values (for comparison to the NAAQS) for Texas and all other areas of the United States with regulatory monitors for access by the public.⁹ The San Antonio ozone nonattainment area is classified as Serious and accordingly, must attain the 2015 ozone NAAQS no later than September 24, 2027.¹⁰ The CAA requires that, within six months following the applicable attainment date (including any extension thereof) for an ozone nonattainment area, the EPA shall determine, based on the area's design value (as of the attainment date), whether the area attained the standard by that date.¹¹

Texas submits an annual I/M quality assurance report of its Vehicle Emissions Inspection and Maintenance programs to EPA for review and evaluation as to whether their programs are in compliance with all associated data analysis and reporting requirements for all federally mandated I/M programs under 40 CFR 51.366. These state reports cover many aspects of I/M programs, including the number of vehicles tested and the number and percentage of passed, failed, and/or waived vehicles by model year.

⁷ See TCEQ, Texas Air Quality Modeling – Monitoring Sites, <https://www.tceq.texas.gov/airquality/airmod/data/tx/site>.

⁸ For example, see TCEQ, Compliance with Eight-Hour Ozone Standard, https://www.tceq.texas.gov/cgi-bin/compliance/monops/8hr_attainment.pl.

⁹ See EPA, Air Quality Design Values, <https://www.epa.gov/air-trends/air-quality-design-values>.

¹⁰ 89 FR 51829 (June 20, 2024).

¹¹ See CAA section 181(b)(2).

These reports contain data that can be useful in assessing the effectiveness of an I/M program.

Finally, CAA section 109(d) requires the EPA to review, and revise, if necessary, each of the NAAQS at five-year intervals. The status of EPA's review of each of the NAAQS can be viewed at <https://www.epa.gov/naaqs>.

Comment: One anonymous commenter inquired whether there are any financial assistance or waiver programs available to low-income motorists and those who repeatedly fail an emissions test, to ensure some motorists are not disproportionately impacted.

Response: Vehicle I/M programs help improve air quality by identifying cars and trucks with high emissions and that may need repairs. Owners or operators of vehicles with high emissions are notified to make any repairs so that emissions are within legal limits. Vehicle emissions inspections waivers and time extensions may be available from the Texas Department of Public Safety for eligible vehicle owners.¹²

Comment: One anonymous commenter asked if there are currently any vulnerable populations living in Bexar County. The commenter also suggested that there should be an ongoing Environmental Justice assessment in Bexar County after the program's implementation.

Response: EPA acknowledges the commenter's concern over vulnerable populations residing in Bexar County. However, federal CAA requirements do not require an evaluation and we direct commenter to general state census information.

While we acknowledge the commenter's Environmental Justice concerns, we note that by Executive Order 14148, "Initial Rescission of Harmful Executive Orders and Actions" (90 FR 8237, January 28, 2025), certain past Executive orders were revoked

¹² See Texas Department of Public Safety, Waivers and Time Extensions, <https://www.dps.texas.gov/section/vehicle-inspection/waivers-and-time-extensions>.

that specifically pertain to environmental justice policies (E.O. 12898, E.O. 14094).

Federal CAA requirements do not require consideration of those past policies as part of EPA's processing of this final action. Under the CAA, the EPA is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations therefore such past policies and E.O.'s are outside the legal scope for consideration.

III. Final Action

EPA is approving revisions to the Texas SIP, submitted to the EPA on December 18, 2023. Specifically, we are approving the revisions addressing 30 TAC Chapter 114, Subchapter A, Sections 114.1 and Section 114.2, and Subchapter C, Sections 114.50, 114.53, and 114.82. The submitted revisions describe and demonstrate how CAA requirements for a Basic vehicle I/M program (CAA section 182(b)(4) and 40 CFR part 51, subpart S) meets the requirements for 2015 ozone NAAQS for the San Antonio ozone nonattainment area; and incorporates minor changes for the display of a vehicle's registration insignia. This final action is being taken pursuant to section 110 and part D of the CAA and terminates the EPA's requirement to promulgate a FIP for a Basic I/M program in the San Antonio nonattainment area.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference the revisions to the Texas regulations as described in section III of this preamble (Final Action). The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are

fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act 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 Clean Air Act. 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 action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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 Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: March 12, 2025.

Walter Mason,
Regional Administrator, Region 6.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40

CFR part 52 as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION
PLANS**

1. The authority citation for part 52 continues to read as follows:

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

Subpart SS – Texas

2. In §52.2270:

a. In paragraph (c), the table titled “EPA Approved Regulations in the Texas SIP” is amended by revising the entries for sections 114.1, 114.2, 114.50, 114.53, and 114.82.

b. In paragraph (e), the table titled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP” is amended by adding an entry at the end for “Basic I/M requirement for the 2015 Ozone NAAQS.”

The revisions and addition read as follows:

§52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/Subject	State approval/ submittal date	EPA approval date	Explanation
* * * * *	* * *			
CHAPTER 114 (REG 4) – CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES				
SUBCHAPTER A - DEFINITIONS				
Section 114.1	Definitions	12/18/2023	[Insert the date of publication in the Federal Register], [Insert Federal Register citation]	

Section 114.2	Inspection and Maintenance Definitions	12/18/2023	[Insert the date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
SUBCHAPTER C-VEHICLE INSPECTION AND MAINTENANCE; LOW INCOME VEHICLE REPAIR ASSISTANCE, RETROFIT, AND ACCELERATED VEHICLE RETIREMENT PROGRAM; AND EARLY ACTION COMPACT COUNTIES				
DIVISION 1: VEHICLE INSPECTION AND MAINTENANCE				
Section 114.50	Vehicle Emissions Inspection Requirements	12/18/2023	[Insert the date of publication in the Federal Register], [Insert Federal Register citation]	Subsection 114.50(b)(2) is NOT part of the approved SIP.
* * * * *				
Section 114.53	Inspection and Maintenance Fee	12/18/ 2023	[Insert the date of publication in the Federal Register], [Insert Federal Register citation]	
DIVISION 3: EARLY ACTION COMPACT COUNTIES				
* * * * *				
Section 114.82	Control Requirements	12/18/ 2023	[Insert the date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				

* * * * *

(e) * * *

**EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES
IN THE TEXAS SIP**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Comments
* * * * *				

Basic I/M requirement for the 2015 Ozone NAAQS	Bexar County, TX	12/18/2023	[Insert the date of publication in the Federal Register], [Insert Federal Register citation]	For the Moderate classification.
--	------------------	------------	---	----------------------------------

* * * * *

[FR Doc. 2025-05928 Filed: 4/7/2025 8:45 am; Publication Date: 4/8/2025]