



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2025-0130; FRL-11444-01-R3]

### **Air Plan Approval; Pennsylvania; Motor Vehicle Inspection and Maintenance Program Certification for Moderate Nonattainment Under the 2015 Ozone National Ambient Air Quality Standards**

**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 Commonwealth of Pennsylvania. This SIP revision addresses Clean Air Act (CAA) requirements for the enactment of a Basic vehicle emissions inspection and maintenance (I/M) program for the five counties comprising the Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE Moderate nonattainment area (Philadelphia nonattainment area) for the 2015 8-hour ozone national ambient air quality standards (NAAQS).

**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-2025-0130 at [www.regulations.gov](http://www.regulations.gov), or via email to [gordon.mike@epa.gov](mailto:gordon.mike@epa.gov). For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the 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. The 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 EPA's full public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit [www.epa.gov/dockets/commenting-epa-dockets](http://www.epa.gov/dockets/commenting-epa-dockets).

**FOR FURTHER INFORMATION CONTACT:** Brian Rehn, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2176. Mr. Rehn can also be reached via e-mail at [rehn.brian@epa.gov](mailto:rehn.brian@epa.gov).

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## I. Background

On September 28, 2023, Pennsylvania submitted to the EPA a SIP revision request titled "Basic I/M Program Certification" applicable to the Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE Moderate nonattainment area for the 2015 8-hour

ozone NAAQS. I/M programs are required for certain urbanized nonattainment areas classified as Moderate and higher based on criteria detailed in the CAA and the Federal I/M rule at 40 CFR 51 subpart S. The CAA establishes two performance levels of I/M programs: "Basic" and "Enhanced." Enhanced I/M programs are required in areas classified as Serious, Severe, or Extreme for the ozone NAAQS. In addition, all Metropolitan Statistical Areas (MSAs) in an Ozone Transport Region (OTR) as defined in the CAA are required to implement an Enhanced program regardless of air quality designation/classification in areas with a 1980 population greater than 100,000. By virtue of Pennsylvania's inclusion in an OTR, Pennsylvania already operates an Enhanced I/M Program that encompasses the nonattainment area (NAA), as described in Section I.B below.

The Philadelphia-Wilmington-Atlantic City NAA was initially required to demonstrate attainment of the 2015 ozone NAAQS by the Marginal area attainment date of August 3, 2021. However, monitored ozone levels in the area failed to meet the NAAQS by that attainment date, so the area was reclassified by operation of law. In October 2022, the EPA issued a determination confirming that the area was reclassified from Marginal to Moderate nonattainment for the 2015 ozone NAAQS.<sup>1</sup> This Moderate classification subjected the Philadelphia NAA to the CAA requirement for a Basic I/M program -- among other CAA requirements for a Moderate NAA.<sup>2</sup>

#### *A. Clean Air Act I/M Requirements Applicable to Ozone Nonattainment Areas of Select Classification*

Section 182 of the CAA outlines SIP requirements for each classification that are generally cumulative (e.g., areas classified as Moderate ozone nonattainment must meet Moderate requirements in addition to Marginal classification requirements). Section 182(b)(4) requires States with areas classified as Moderate ozone nonattainment to implement a Basic I/M

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<sup>1</sup> 87 FR 60897, October 7, 2022.

<sup>2</sup> Clean Air Act section 182(b).

program. The EPA's Basic I/M regulations are codified at 40 Code of Federal Regulations (CFR) part 51, subpart S. The relevant Federal performance standard<sup>3</sup> for a Basic I/M program for an area classified as Moderate under an 8-hour ozone NAAQS is outlined in 40 CFR 51.352(e). The EPA allows newly classified Moderate NAAs that have an existing I/M program (for example, because of the area's nonattainment status and classification under a prior NAAQS, by virtue of being located in an ozone transport region) to demonstrate with performance standard modeling analysis and a review of applicable requirements in the I/M Rule that the existing EPA-approved I/M program would meet the performance standard for purposes of the new Moderate 2015 ozone NAAQS classification.<sup>4</sup> If the existing I/M program does not meet all requirements for a Basic I/M program as required for the Moderate classification, the State must submit a SIP revision amending the I/M program so that it meets the requirements.<sup>5</sup>

In October 2022, the EPA provided states with guidance on evaluating a specific I/M program against the applicable Federal benchmark program outlined in the CAA and detailed in the I/M rule. This guidance (hereinafter referred to as the EPA guidance or the EPA PSM Guidance) specifies that a performance standard modeling (PSM) analysis is required for an ozone nonattainment area "meeting the criteria for a Basic I/M program upon its reclassification from Marginal to Moderate for the 2015 or subsequent ozone NAAQS regardless of whether the area already operates an existing I/M program under a prior NAAQS."<sup>6</sup> This PSM analysis evaluates the state's selected program against the CAA's applicable benchmark performance standard to demonstrate that the state program design meets CAA minimum performance requirements, as measured against the CAA-established program benchmark.<sup>7</sup> This EPA guidance describes the PSM methodology for that required demonstration, as well as those

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<sup>3</sup> An I/M performance standard is a collection of program design elements which defines a benchmark program to which a state's proposed I/M program is compared in terms of its potential to reduce emissions of the ozone precursors nitrogen oxides (NOx) and volatile organic compounds (VOCs).

<sup>4</sup> See 87 FR 60897, 60906; 87 FR 21842 (April 13, 2022).

<sup>5</sup> *Id.*

<sup>6</sup> EPA, EPA-420-B-22-034, Performance Standard Modeling for New and Existing Vehicle Inspection and Maintenance (I/M) Programs Using the MOVES Mobile Source Emissions Model (2022) (p. 4).

<sup>7</sup> *Id.*

required SIP elements necessary for a state to certify that its SIP-approved, enacted I/M program meets minimum CAA program requirements.<sup>8</sup>

The EPA PSM guidance further specifies that in order to certify that an existing I/M program satisfies CAA I/M requirements, in addition to a PSM analysis, a state must show that all applicable requirements of the EPA's governing I/M regulations (including the eight I/M SIP submission requirements listed in the EPA's I/M rule at 40 CFR 51.372) are met. The certification submission requirements outlined by 40 CFR 51.372 include an implementation schedule with a list of milestones for the state I/M program, discussed later in this document. Additionally, the EPA's PSM guidance references seven additional program elements specified by the EPA's I/M rule that ensure that a state's program meets minimum requirements for an I/M program as discussed later in this document.

#### *B. Philadelphia Ozone Nonattainment and Associated I/M Program Requirements*

On October 26, 2015, the EPA published revised primary and secondary NAAQS for ozone to a level of 0.70 parts per million (ppm) (based on the annual fourth-highest daily maximum 8-hour average concentration, averaged over three years) to provide requisite protection of public health and welfare.<sup>9</sup>

On June 4, 2018 (effective August 3, 2018), the EPA published a final rule that designated the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE area (including Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties as Pennsylvania's portion of the nonattainment area) as nonattainment for the 2015 8-hour ozone NAAQS and classified the area as Marginal with an attainment deadline of August 3, 2021.<sup>10</sup>

On October 7, 2022, the EPA issued a final determination that the Philadelphia NAA failed to attain the 2015 ozone NAAQS by its attainment date, and the area was reclassified from

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<sup>8</sup> *Id.* (pp. 4-5 and 8-3).

<sup>9</sup> 80 FR 65292 (October 26, 2015).

<sup>10</sup> 83 FR. 25776 (June 4, 2018).

Marginal to Moderate, with a new attainment date of August 3, 2024.<sup>11</sup>

### *C. Pennsylvania's Philadelphia Region I/M Program*

To address the Basic I/M certification requirement for the Pennsylvania portion of the Philadelphia NAA, Pennsylvania submitted a SIP revision dated September 28, 2023. Due to the NAA's classifications under previous ozone NAAQS<sup>12</sup> and Pennsylvania's location in a CAA-established OTR, Pennsylvania already implements an Enhanced I/M program in the Philadelphia NAA, which was instituted in the late 1990s and fully enacted by 2004. The EPA issued a final rule in June 1999 fully approving Pennsylvania's Enhanced I/M program SIP, including the program's governing regulations at 67 Pennsylvania (Pa) Code sections 175 and 177.<sup>13</sup> Pennsylvania subsequently revised the I/M program to add on-board diagnostic (OBD) testing requirements and to establish a phase-out schedule for tailpipe I/M testing for older vehicles once they reach 25 years of age. The EPA approved a SIP revision with these program updates in October 2005.<sup>14</sup>

The existing Enhanced I/M program is applicable countywide in each of the five counties comprising Pennsylvania's portion of the multi-state Philadelphia ozone nonattainment area. Pennsylvania operates a decentralized testing program, administered by privately-owned, licensed testing and repair stations, with emissions testing conducted on an annual basis. The emissions inspection requirement for vehicles in the Commonwealth's Philadelphia Region program varies by model year and vehicle type, as listed in Table 1 in this document.

*Table 1 - Pennsylvania I/M Program Subject Vehicles and Inspection Tests*

<b>I/M Program</b>	<b>Vehicle Model Years Tested</b>	<b>I/M Test Performed</b>
	1975 – 1995	Visual anti-tampering inspection Gas cap pressure test

<sup>11</sup> 87 FR 60897 (October 7, 2022).

<sup>12</sup> The Philadelphia-Wilmington-Trenton NAA was previously classified as Severe nonattainment under the now revoked 1979 ozone NAAQS.

<sup>13</sup> 64 FR 32411 (June 17, 1999).

<sup>14</sup> 70 FR 58313 (October 6, 2005).

Vehicles weighing up to 8,500 lbs. GVWR	1996-and-newer	OBD inspection Gas cap pressure test
Vehicles weighing 8,501 to 9,000 lbs. GVWR	1996 and newer	Two-speed idle tailpipe test Visual anti-tampering inspection Gas cap pressure test
Emission Inspections Exemptions	Pre-1975 vehicles Vehicles powered by other than gasoline Vehicles over 9,000 lbs. GVWR New vehicles initially registered (for up to 1 year) Vehicles driven fewer than 5,000 miles per year Special mobile equipment Implements of husbandry Classic, antique or collectible motor vehicles Street rods Motorcycles Motorized pedal cycles Buses with a seating capacity of 16 or more Specially constructed vehicles	

## **II. Summary of Pennsylvania’s September 2023 Basic I/M Certification SIP Revision and the EPA’s Analysis**

### *A. Description of Pennsylvania’s September 2023 I/M Certification SIP*

On September 28, 2023, Pennsylvania submitted its “Basic I/M Program Certification for the Pennsylvania Portion of the Philadelphia-Wilmington-Atlantic City PA-NJ-MD-DE Moderate Nonattainment Area for the 2015 8-Hour Ozone NAASQ” (or I/M Certification SIP) as a revision to the Pennsylvania SIP, for the purpose of demonstrating that Pennsylvania’s existing, SIP-approved Enhanced I/M program meets applicable requirements for a Basic I/M program required for newly classified Moderate ozone NAAs, per CAA section 182(b) and 40 CFR 51.372(a)(1) through (8).

Because Pennsylvania has already adopted and implemented an Enhanced I/M program that the EPA has approved as described above in section I.C, the Commonwealth’s September 2023 SIP revision contains a Basic PSM demonstration certifying that the existing Enhanced I/M program meets all relevant requirements for a Basic I/M program applicable to the NAA under the 2015 ozone NAAQS Moderate classification.

The EPA will further summarize applicable Federal I/M requirements and our review of

Pennsylvania's means of addressing these requirements in their SIP submission below.

*B. Summary and EPA Review of the Required Elements of the Philadelphia Region I/M Program*

1. Performance Standard Analysis for the Philadelphia Region for the Basic I/M Program

The PSM demonstration, as required by the EPA's I/M rule at 40 CFR 51.372(a)(2), must have a modeling analysis of ozone precursor emission level targets using the most current EPA mobile source emission model (or an alternative approved by the Administrator) showing that the program meets the applicable Basic performance standard described in 40 CFR 51.352.

An I/M performance standard is a benchmark of program design elements established by the CAA and the EPA I/M rule, to which a state's I/M program can be compared for its potential to reduce emissions of the ozone precursors. This analysis is performed using the most recent version of the EPA's Motor Vehicle Emissions Simulator Model (MOVES) available at the time of analysis. The PSM demonstration compares the resultant MOVES-derived emissions levels, expressed as a comparison of tons per day, of the ozone precursors nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOCs) from onroad mobile sources in the I/M area.<sup>15</sup>

Pennsylvania's methodology used to produce the emission data conforms to the recommendations provided in the EPA's MOVES Technical Guidance.<sup>16</sup> Model inputs for the PSM demonstration were based on a mix of local data and national default data. Local data were used for the primary data items that have a significant impact on emissions, including: vehicle miles of travel (VMT) by vehicle type; average speed distribution; vehicle type distributions; source type population (for light-duty vehicles); vehicle age distribution; hourly distributions; meteorology data; and the specific design elements of the Commonwealth's Inspection/Maintenance program. Most local data inputs to the analysis process reflect the latest planning assumptions based on 2020 data obtained from the Pennsylvania Department of Transportation (PennDOT), the Bureau of Motor Vehicles, and other local/national sources.

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<sup>15</sup> See the EPA's PSM Guidance (pp. 8-9).

<sup>16</sup> See the EPA MOVES3 Technical Guidance: Using MOVES to Prepare Emission Inventories for State Implementation Plans and Transportation Conformity.

More recently available data was used for control strategies, vehicle age distributions and fuel characteristics.

Pennsylvania's analysis utilizes a proprietary emissions inventory generation tool that post processes the results of batched MOVES scenarios to generate results for a specific area's emission inventory, transportation conformity, or mobile source emission control program development. The onroad mobile source emission inventory was developed using available travel data and this tool utilized the EPA's MOVES3 emission model. Though the EPA had released newer versions of the MOVES model (i.e., MOVES4 and MOVES5) at the time this SIP analysis was submitted, Pennsylvania commenced development of their SIP analyses prior to the release of MOVES4 in September 2023 – MOVES3 was the most recent available version of the model.<sup>17,18</sup> The methodologies that were used to produce the emission data conform to the recommendations provided in the EPA's applicable MOVES3 Technical Guidance.<sup>19</sup> For purposes of the PSM demonstration, an evaluation year of 2023 was used,<sup>20</sup> with July weekday emission rates for VOC-related MOVES3 pollutants and NOx. A summary of the inputs and assumptions used by Pennsylvania for its MOVES analysis are described in a Technical Support Document (TSD) prepared by the EPA available in the docket for this action.

To model I/M program benefits, the EPA's MOVES model utilizes I/M program parameters and historic program data, while the program design elements of EPA's Basic performance standard are used to model the benchmark program, as specified at 40 CFR 51.352(e). Pennsylvania's historic program data was used to generate program compliance

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<sup>17</sup> 88 FR 62567 (September 12, 2023)

<sup>18</sup> See EPA, 420-B-20-044, Policy Guidance on the Use of MOVES3 for State Implementation Plan Development, Transportation Conformity, General Conformity, and Other Purposes (2020), p. 7. Pennsylvania's PSM analysis supporting this SIP revision commenced in Spring 2023, prior to the subsequent release by EPA of MOVES4 and its policy memorandum requiring use of that more recent model.

<sup>19</sup> EPA Office of Transportation and Air Quality, 420-B-20-052, MOVES3 Technical Guidance: Using MOVES to Prepare Emission Inventories for State Implementation Plans and Transportation Conformity, (2020).

<sup>20</sup> Though 2023 is the attaining ozone season, the attainment date of August 3, 2024, is in the middle of the ozone season and thus 2023 is the last complete ozone season prior to attainment. Pursuant to the *Modeling and attainment demonstration requirements* of 40 CFR 51.1308, if Pennsylvania were to have started a new I/M program, for attainment purposes, they would need to have it fully implemented "no later than the beginning of the attainment year ozone season."

statistics. These program compliance statistics include: compliance rate (i.e., the percentage of I/M-subject vehicles that pass I/M inspection or are granted a waiver); failure rate (i.e., the fraction of tested vehicles that fail an initial I/M inspection); and waiver rate (i.e., the fraction of initially failing vehicles that cannot pass a retest but expend enough in repair costs to be granted a repair waiver). Table 2 in this document summarizes historic data from Pennsylvania’s existing program, based on I/M annual reporting submitted to the EPA for calendar year 2019.<sup>21</sup>

*Table 2 – Historic I/M Program Data and Program Statistics for the Philadelphia Region*

Program Statistic	1975-1996 Model Year Vehicles	1996-and-Newer Vehicles
Subject Fleet	53,634	2,540,164
Unique Tested Vehicles	12,132	2,138,030
Passing Vehicles	12,024	2,121,778
Initially Failed Vehicles	857	74,484
Waived Vehicles	38	4,966
Vehicles With No Known Final Outcome	70	11,286
Vehicles Granted Low-Mileage Exemption	32,327	338,456
Compliance Rate	22.49%	83.72%
Waiver Rate	4.43%	6.67%
Failure Rate	7.06%	3.48%

As part of its I/M Certification SIP, Pennsylvania’s submission includes an I/M performance standard modeling analysis to demonstrate that the existing Enhanced I/M program for the Philadelphia area obtains the same or lower emission levels as the applicable EPA Basic I/M performance standard.

To demonstrate that the existing program meets the Basic I/M performance standard described in 40 CFR 51.352(e), Pennsylvania’s program must be evaluated on a performance basis against that of the EPA’s benchmark Basic I/M program. This comparison and evaluation uses the latest version of the EPA’s MOVES emissions model to ensure that the Commonwealth’s program achieves the same or better performance in reducing the ozone

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<sup>21</sup> Pennsylvania elected to use 2019 historic data rather than 2020 or 2021, to avoid potential bias from COVID impacts during those more recently available years.

precursors (i.e., NO<sub>x</sub> and VOCs). For that evaluation, the Basic I/M Certification SIP compares July weekday emissions levels (in tons per day) for VOC and NO<sub>x</sub> based on the existing Pennsylvania Enhanced I/M program and the Basic I/M model program benchmark. A comparison between the EPA's Basic performance standard benchmark program and Pennsylvania's SIP-approved, existing I/M program is shown in Table 3 in this document.

*Table 3 – Comparison Between EPA's Basic I/M Performance Standard and Pennsylvania's Existing I/M Program for the Philadelphia-Wilmington-Atlantic City Ozone Nonattainment Area*

<b>I/M Program Element</b>	<b>Basic I/M Model Program</b>	<b>Pennsylvania's Existing Enhanced I/M Program</b>
Network Type	Centralized	Decentralized
Program Start Date	4 years after the effective date of designation and classification under the 8-hour ozone standard.	1996
Test Frequency	Annual	Annual
Model Year Coverage	1968 and newer	1975 and newer (newest model year exempt)
Vehicle Type Coverage	Light-duty vehicles	1975 and newer light-duty gasoline vehicles (LDGVs) and light-duty gasoline trucks (LDGTs) (up to 8,500 lbs GVWR); and 1996 and newer Medium Duty Gasoline Trucks (MDGTs) (between 8,500-9,000 lbs GVWR)
Test Types	Idle test: 1968-2000 vehicles; OBD test: 2001 and newer vehicles	OBD test: 1996 and newer LDGVs and LDGTs (up to 8,500 lbs GVWR);  2-Speed idle test: 1997 and newer MDGTs (between 8,500-9,000 lbs GVWR)
Emission Control Device Visual Inspection	None	Catalyst visual inspection: 1975-1995 LDGVs and LDGTs (up to 8500 lbs GVWR); and  1995 and newer MDGTs (between 8,500 – 9,000 lbs GVWR)
Evaporative system function check	None (except those performed by the OBD system on model year 2001 and newer, OBD-equipped vehicles)	OBD Evaporative Test: 1996 and newer LDGTs (up to 8,500 lbs GVWR)  Gas Cap Pressure Test: 1975-1995 LDGVs and LDGTs (up to 8,500 lbs GVWR); and

		1996 and newer LDGVs (up to 8,500 lbs GVWR)  MDGTs (between 8,500 – 9,000 lbs GVWR)
Waiver Rate (number of state-issued repairs granted, in proportion to the number of initially failed vehicles)	0% Waiver rate (for all I/M tested vehicles)	Pre-1996 Vehicles: 4.4% 1996 and Newer Vehicles: 6.7%
I/M Compliance Rate (number of I/M compliant vehicles as a proportion of the universe of I/M-subject vehicles)	100% Compliance Rate (as a percentage subject vehicles having I/M final test outcomes)	Pre-1996 Vehicles: 22.5% 1996 and Newer Vehicles: 83.7%

Table 4 in this document shows the results of Pennsylvania’s Basic I/M performance standard analysis for the Philadelphia NAA. The results of this modeling show that for a 2023 evaluation year, NOx and VOC emission levels from Pennsylvania’s existing Philadelphia Region Enhanced I/M program achieve the EPA’s Basic I/M performance standard (at 40 CFR 51.352) as described in detail in Table 3 in this document.

*Table 4 – Philadelphia Region Basic I/M Performance Standard Modeling Comparison*

County	Summer Daily Vehicle Miles of Travel (VMT)	Basic I/M Performance Standard Program Scenario Emissions (tons/day)		Existing Pennsylvania Enhanced I/M Program Scenario Emissions (tons/day)		Performance Standard Met?	
		VOC	NOx	VOC	NOx	VOC	NOx
Bucks	15,242,950	4.68	7.64	4.36	7.37	Yes	Yes
Chester	14,395,491	3.97	7.70	3.72	7.46	Yes	Yes
Delaware	11,004,582	3.69	6.33	3.45	6.13	Yes	Yes
Montgomery	21,711,839	6.43	11.85	6.02	11.47	Yes	Yes
Philadelphia	17,839,019	7.57	11.45	7.09	11.09	Yes	Yes
Region Total	80,193,881	26.35	44.97	24.64	43.52	Yes	Yes

Pennsylvania's PSM analysis indicates that the existing Enhanced I/M program for the Philadelphia area that the EPA has approved in PA's prior SIP submissions exceeds the comparable emissions benefits of the benchmark Federal Basic I/M performance standard – for the ozone precursors VOC and NOx as evaluated in 2023. Based on the review of Pennsylvania's documentation included in the I/M Certification SIP, the EPA finds that Pennsylvania used appropriate methods and modeled input data to perform the I/M PSM demonstration for the area, analyzed an appropriate year consistent with 40 CFR 51.352(e), and included sufficient documentation to support the PSM analysis to meet the applicable Moderate area I/M requirement under section 182(b)(4) of the CAA.

## 2. EPA Review of Additional Applicable CAA I/M Requirements of Pennsylvania's I/M Certification SIP

In addition to conducting a PSM analysis to demonstrate that the existing I/M program is at least as effective in generating benefits as the EPA's model Basic I/M program, states are required to satisfy other applicable statutory and regulatory I/M program requirements. These regulatory requirements include showing compliance with the EPA's governing I/M regulations, including the aforementioned I/M SIP submission requirements of 40 CFR 51.372.

The submission requirements applicable to all I/M programs in 40 CFR 51.372 include an implementation schedule with a list of milestones for the state I/M program that shall at minimum include: (1) passage of enabling statutory or other legal authority; (2) proposal of draft regulations and promulgation of final regulations; (3) issuance of final specifications and procedures; (4) issuance of final Request for Proposals (if applicable); (5) licensing or certifications of stations and inspectors; (6) the date mandatory testing will begin for each model year to be covered by the program; (7) the date full-stringency cutpoints will take effect; and (8) all other relevant dates.

The EPA's PSM guidance references seven additional program elements from the EPA's I/M rule. The EPA has reviewed Pennsylvania's September 2023 certification SIP to ensure that

its existing program meets all applicable I/M program requirements, including: (1) the aforementioned PSM analysis; (2) the geographic applicability of the I/M program; (3) a detailed discussion of each of the required design elements specified in the applicable EPA I/M rule subpart (i.e., 40 CFR 51.372); (4) legal authority requiring or allowing implementation of the I/M program and providing either broad or specific authority to perform all required elements of the program; (5) legal authority for I/M program operation until such time as it is no longer necessary; (6) implementing regulations, interagency agreements, and memoranda of understanding; (7) and evidence of adequate funding and resources to implement all aspects of the program. A summary of the EPA's review of each of these requirements is detailed below, with further detail of our review provided in the TSD prepared by EPA for this action and available in the docket.

a. Implementation Milestones for Pennsylvania's Philadelphia Region I/M Program

The EPA PSM guidance provides that implementation milestones specified at 40 CFR 51.372 (a)(1) are most relevant for new rather than existing state I/M programs.<sup>22</sup> Pennsylvania already implements an Enhanced I/M program in the Philadelphia Region that the EPA approved in prior SIP submissions. The Commonwealth has not amended its program regulations since the program was approved. Pennsylvania's September 2023 I/M certification SIP describes non-regulatory updates made to its program operation contracts as well as several program specifications to enact program operational needs since the SIP was last amended. The SIP contains program requests for proposal and contract materials containing these non-regulatory program revisions. The Commonwealth attests that these updates and changes did not require revision of the approved I/M SIP.

b. Geographic Applicability of the Philadelphia Region I/M Program

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<sup>22</sup> See EPA "PSM Guidance" (p. 5).

The EPA's I/M SIP criteria at 40 CFR 51.372(a)(3) requires a description of program geographic applicability requirements for newly classified Moderate areas.<sup>23</sup> Pennsylvania was already required to implement an Enhanced I/M program in the Philadelphia area as a Severe nonattainment area under the prior, 1979 1-hour ozone NAAQS.<sup>24</sup> Additionally, the Philadelphia census-defined MSA is also subject to Enhanced I/M under CAA section 184, as the area lies in a statutory-defined OTR.<sup>25</sup> The Philadelphia Area is designated as nonattainment for the 2015 Ozone NAAQS and became subject to Basic I/M upon reclassification from Marginal to Moderate. Pennsylvania defines the Philadelphia I/M Region at 67 Pa Code section 177.3 as comprising Bucks, Chester, Delaware, Montgomery, and Philadelphia counties (i.e., those counties in the Philadelphia NAA). The EPA approved Pennsylvania's geographic applicability provisions at 67 Pa Code section 177.3 with approval of Pennsylvania's I/M program SIP revision on October 6, 2005.<sup>26</sup>

#### c. Additional Required I/M Program Design Elements

Per the EPA guidance and regulation, the Commonwealth detailed in the Basic I/M certification SIP submission the means by which it met and/or continues to meet each of the requirements of the I/M rule.<sup>27</sup> A detailed description of Pennsylvania's compliance with the EPA I/M requirements at 40 CFR 51.350 through 51.373 is provided in Table 9 of the EPA's TSD for this action.

#### d. State Legal Authority for I/M Program Implementation and Operation

The EPA's I/M requirements at 40 CFR 51.372(a)(5) and (6) require a state to list as part of its SIP revision its legal authority to implement and operate an I/M program. The Commonwealth's legal authority to establish, implement, and operate an I/M program (including in the Philadelphia Region) is found in the Pennsylvania Vehicle Code at 75 Pa. C.S. section 4706 *et*

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<sup>23</sup> See 40 CFR 51.350(a)(4).

<sup>24</sup> See 40 CFR 51.350(a)(2).

<sup>25</sup> See 40 CFR 51.350(a)(1).

<sup>26</sup> See 70 FR 58313, October 6, 2005.

<sup>27</sup> See 40 CFR 51.372(a)(4) and EPA's PSM guidance (pp.4-5).

*seq.* With the EPA's approval of Pennsylvania's Enhanced I/M SIP revision in 2005, Pennsylvania's legal authority has been adopted by reference and codified at 40 CFR 52.2020(c). The SIP under review in this action thus meets the requirements of Basic I/M.

e. State Implementing Regulations, Interagency Agreements, and Memoranda of Understanding

The EPA's I/M requirements at 40 CFR 51.372(a)(7) require a discussion of program implementing regulations, interagency agreements, and memoranda of understanding. Implementing regulations are established at 67 Pa. Code Chapter 177 and Appendices A and B, which were previously approved by the EPA into Pennsylvania's SIP on June 17, 1999 (64 FR 32111) and October 6, 2005 (70 FR 58313). Pennsylvania certifies that these prior submissions satisfy the requirements for Basic I/M.

*f. Evidence of Adequate State Funding and Resources to Implement the Program*

The EPA's I/M requirements at 40 CFR 51.372(a)(8) require that states provide evidence of adequate funding and resources to implement all aspects of the program as part of the I/M SIP revision. Section B.8 of Pennsylvania's Basic I/M Program SIP Revision document details funding and resources that Pennsylvania employs to operate its existing Enhanced I/M program in the Philadelphia Area. Appendix B of Pennsylvania's SIP revision provides relevant portions of the latest 2018 oversight contract for the program. Pennsylvania's current program oversight contract establishes terms for the per-inspection fee that the contractor collects from licensed, private inspection stations to fund program oversight. Pennsylvania collects no fees directly from motorists and does establish a set cost for the test fee, instead allowing stations to set motorist inspection fees under a market-based approach. Costs for PennDOT personnel to administer the program are paid from the Pennsylvania Motor License Fund. Pennsylvania certifies that these mechanisms ensure adequate funding and resources to operate the program as required for Basic I/M.

3. Summary of EPA's Review of Pennsylvania's I/M Certification SIP Elements

The EPA finds that the Commonwealth has addressed each of the required elements of a Basic I/M program and that those program elements (which primarily consist of elements of the currently operating Enhanced I/M program for the Philadelphia Region) satisfy all the applicable

I/M requirements for a Basic I/M program set forth in the EPA's I/M Rule at 40 CFR part 51, subpart S. Based on our review, we find that the Commonwealth's MOVES-based PSM evaluation was conducted appropriately and meets the performance standard for a Basic I/M program and that the Commonwealth's PSM modeling was consistent with the most current guidance at the time of the Commonwealth's analysis. We therefore propose to find that the Pennsylvania I/M program for the Commonwealth's portion of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area meets applicable Basic I/M program SIP requirements under CAA section 182(b)(4) and 40 CFR part 51, subpart S, and the EPA's performance standard modeling guidance.

### **III. Proposed Action**

The EPA has evaluated Pennsylvania's Basic I/M Certification SIP submitted September 28, 2023 against the applicable requirements of the CAA and proposes to find that Pennsylvania's Enhanced I/M Program SIP for the Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment Area meets all applicable requirements for a Basic I/M program, as required for a Moderate nonattainment area under the 2015 ozone NAAQS.

The EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

### **IV. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

*A. Executive Order 12866: Regulatory Planning and Review, Executive Order 13563: Improving Regulation and Regulatory Review, and Executive Order 14192: Unleashing Prosperity Through Deregulation*

This action is not a significant regulatory action and was therefore not required to be submitted to the Office of Management and Budget (OMB) for review. These Executive Orders

do not apply to this action.

*B. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA.

*C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. The proposed SIP approval, if finalized, would not impose any requirements but rather would determine that the State's submission complies with the CAA and applicable regulations.

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action proposes to approve pre-existing requirements under state or local law and imposes no new requirements. Accordingly, no additional costs to state, local, or Tribal governments, or to the private sector, result from this action.

*E. Executive Order 13132: Federalism*

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

*F. Executive Order 13175: Coordination with Indian Tribal Governments*

This action does not have Tribal implications, as specified in Executive Order 13175, because the SIP revision that the EPA is proposing to approve would not 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 and will not impose substantial direct costs on Tribal governments or preempt Tribal law. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045 because this proposed SIP approval, if finalized, will not in-and-of itself create any new regulations, but will simply approve certain State requirements for inclusion in the SIP, thereby determining whether the requirements are or are not federally enforceable. Furthermore, the EPA’s Policy on Children’s Health does not apply to this action.

*H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act (NTTAA)*

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

In addition, this Pennsylvania I/M certification SIP for the 2015 Moderate ozone NAAQS 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).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping

requirements, and Volatile organic compounds.

**Amy Van Blarcom-Lackey,**  
*Regional Administrator,*  
*Region III.*

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