



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2025-1048; FRL-13020-01-R5]

Air Plan Disapproval; Ohio; E-Check Attestation Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to disapprove a revision to the Ohio State Implementation Plan (SIP) submitted on July 9, 2025, by the Ohio Environmental Protection Agency (Ohio EPA). The revision, which Ohio EPA submitted pursuant to Ohio Amended Substitute House Bill 54 ("E-Check Ease Act"), includes provisions that would create an alternative to state-run mandatory on-board diagnostic (OBD) inspections with a self-attestation program that allows motorists to self-attest that their vehicles comply with emissions requirements. This approach is inconsistent with statutory and regulatory requirements for Enhanced inspection and maintenance (I/M) programs under the Clean Air Act (CAA) and would interfere with attainment and reasonable further progress toward the 2015 ozone National Ambient Air Quality Standards (NAAQS).

DATES: 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-R05-OAR-2025-1048 at <https://www.regulations.gov>, or via

email to langman.michael@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), 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, PBI, or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Air and Radiation Division (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6061, acevedo.francisco@epa.gov. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

I. Background

The CAA establishes a framework for controlling emissions of ozone precursors in areas that do not attain the NAAQS. Section 182 of the CAA (42 U.S.C. 7511a) requires that certain ozone nonattainment areas implement vehicle I/M programs to identify and repair high-emitting vehicles operating in the nonattainment area. Nonattainment areas classified as Moderate must adopt at least a “Basic” I/M program (CAA section 182(b)(4)), and areas classified as Serious or above must adopt an “Enhanced” I/M program (CAA section 182(c)(3)). Pursuant to the CAA and EPA’s corresponding implementing regulations at 40 CFR 51 subpart S, both Basic and Enhanced I/M programs are subject to certain performance standards and program administration requirements, including mandatory OBD vehicle inspections, corrective action and retesting for vehicles that fail inspection, and enforceable program mechanisms to ensure compliance.

The Cleveland-Akron-Lorain metropolitan area in northeast Ohio is designated nonattainment for the 2015 ozone NAAQS. The area is classified as a Serious ozone nonattainment area effective January 16, 2025 (89 FR 101901, December 17, 2024). As a result of its classification, Ohio is currently required to implement an Enhanced I/M program meeting all statutory and regulatory requirements for Serious areas.

Ohio implements "E-Check", its SIP-approved vehicle I/M program, in the Cleveland-Akron-Lorain metropolitan area.¹ E-Check has long been relied upon in Ohio's SIP to provide emission reductions necessary for both reasonable further progress (RFP) and attainment demonstrations for multiple ozone standards. The program consists of a hybrid network that combines state-contracted centralized inspection facilities with a number of decentralized service centers where approximately 880,000 vehicles annually with a gross vehicle weight rating of up to 10,000 pounds undergo OBD-based testing consistent with EPA's I/M regulations at 40 CFR part 51, subpart S. EPA fully approved Ohio's I/M program on April 4, 1995, 60 FR 16989, and approved revisions to the program on January 6, 1997, 62 FR 646.

In March 2025, the Ohio General Assembly enacted the "E-Check Ease Act." The E-Check Ease Act includes a provision incorporated into Ohio Revised Code (ORC) 3704.14(C)(2) that fundamentally alters the State's I/M framework. The law creates an alternative compliance pathway under which motorists may obtain an "alternative emissions certificate" by signing a self-attestation form declaring, "to the best of their knowledge," that their vehicle complies with State and Federal emission requirements. Unlike the current E-Check program, this pathway does not involve the direct inspection of the OBD system to check for the proper functioning of the vehicle's emissions

¹ Under Ohio's E-Check program, Ohio EPA is required to ensure emissions testing is performed in Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit counties.

control systems and to ensure repairs when needed. It also provides no civil or criminal penalties for submitting a false attestation. The only consequence is rejection of the self-attestation form and a requirement to resubmit it or undergo a standard inspection.

The E-Check Ease Act also provides that the addition of the alternative emissions certification to Ohio's E-Check program is not effective until EPA approves a SIP revision submitted by Ohio EPA incorporating this modification of Ohio's I/M program. If EPA approves the modification of Ohio's I/M program, Ohio EPA would be required to amend their regulations governing the E-Check program contained in Ohio Administrative Code (OAC) 3745-26 to include these provisions and submit the amended regulations to EPA as a revision to Ohio's OAC 3745-26 SIP-approved regulations.

Accordingly, Ohio EPA developed and submitted a SIP revision on July 9, 2025, requesting EPA approval of the self-attestation option as part of the State's federally enforceable I/M program. Ohio's submission included a demonstration under CAA section 110(1), asserting that the revision would not interfere with attainment or reasonable further progress toward the 2015 ozone NAAQS. Ohio's SIP submission and associated supporting documents are available in the docket for this action, at <https://www.regulations.gov>, Docket ID No. EPA-R05-OAR-2025-1048.

II. EPA's Evaluation of Ohio's SIP Revision

EPA has carefully reviewed Ohio's July 9, 2025, SIP submission requesting approval of an alternative emissions certification process within Ohio's existing I/M program considering the requirements of the CAA, EPA's implementing regulations, and longstanding program guidance. Ohio's July 9, 2025, SIP submission included a copy of the E-Check Ease Act that was signed into law on March 31, 2025. In support of the SIP revision, Ohio also included a demonstration under section 110(l) of the CAA, which prohibits approval of SIP revisions that interfere with attainment or reasonable further progress toward the NAAQS. Ohio's analysis assumed that 100 percent of eligible motorists could use the self-attestation option within one year of implementation.

In addition, Ohio EPA provided public notice and an opportunity to comment on the SIP revision and associated CAA section 110(l) demonstration. The State received over 650 comments. Most commenters requested elimination of the E-Check program altogether, while others either supported the self-attestation option as a modernization or opposed it as ineffective and detrimental to air quality. Ohio EPA responded to comments and submitted the public notice and response to comments as part of the SIP submittal.

Based on our evaluation, EPA proposes to disapprove the revision because it is inconsistent with Enhanced I/M statutory requirements, EPA's I/M regulations at 40 CFR part 51, subpart S, and the anti-backsliding provision of CAA section 110(l).

A. Elimination of Required OBD Inspections

Section 182(c)(3)(C)(vii) of the CAA explicitly requires Enhanced I/M programs to include "inspection of emission control diagnostic systems." Similarly, CAA section 202(m)(3) requires I/M program SIPs to "provide for inspection of onboard diagnostic systems." EPA's I/M regulations at 40 CFR 51.373(g)-(h) further mandate that OBD checks be implemented in all Enhanced I/M areas. The Ohio SIP revision would offer an alternative to OBD inspections with self-attestation by the vehicle owner or lessee, which is not a permissible test method in the CAA or EPA's I/M regulations. The absence of direct inspection of the motor vehicle removes a critical enforcement mechanism, prevents the identification and effectuation of much-needed vehicle emissions control systems repairs that would benefit air quality, and undermines the performance standard for Enhanced I/M required by the CAA and EPA's I/M regulations.

B. Lack of Proof of Corrective Action

The CAA requires that vehicles failing inspection must demonstrate proof of corrective action prior to retesting (CAA section 182(a)(2)(B)). Under Ohio's proposal, a motorist whose self-attestation is rejected may simply amend and resubmit without providing evidence that repairs were made. This creates a mechanism that is inconsistent with statutory intent and undermines the repair and compliance assurance functions that are fundamental elements of I/M programs.

C. Lack of Effective Enforcement Provisions

Effective program administration is a core element of Enhanced I/M. The CAA requires that States employ management and enforcement features necessary to ensure program compliance (CAA section 182(a)(2)(B), 182(c)(3)(B)). EPA regulations require enforceable and meaningful penalties for noncompliance, such as for cases of registration fraud (40 CFR 51.361(a)(10)). However, Ohio's legislation states that no penalty shall apply to a person who the Ohio EPA director has determined to have falsified a self-attestation form, other than the issuance of a notice directing the person to amend and resubmit the attestation. This minimal consequence fails to deter fraud and does not meet statutory and regulatory requirements for effective enforcement.

D. Interference with Attainment and RFP

CAA section 110(1) prohibits EPA from approving SIP revisions that interfere with attainment of or reasonable further progress towards the NAAQS. As mentioned above, Ohio included a section 110(1) analysis as Attachment B in its July 9, 2025, SIP submittal. This analysis shows that in 2023, 880,832 vehicles were tested, with 55,789 (6.6%) failing their initial inspection. Ohio's analysis did not estimate the impact to ozone precursor and other pollutant emissions as the result of modifications to the I/M program.

The purpose of I/M programs is not only to identify high-emitting vehicles, but also to ensure that effective repairs have been made. A self-attestation program does not provide any

compliance assurance for repairs on these high-emitting vehicles. If self-attestation were to replace CAA-mandated test methods, high-emitting vehicles such as the approximately 55,000 vehicles that failed initial inspection in 2023 could continue operating unrepaired.

Another significant benefit of an OBD I/M test program is the reduction of emissions as the result of pre-inspection repairs. Since the OBD system allows motorists to see that repairs are necessary via a lit Check Engine light and that their vehicle would fail an OBD test inspection, many motorists will opt to have their vehicles repaired prior to the required periodic inspection to avoid the inconvenience of a failed test and a return trip for a retest. Thus, vehicles that fail an initial I/M test represent a portion of the vehicles that have their emissions reduced as the result of an OBD I/M program that ensures repairs for compliance. However, there is no incentive in a self-attestation program for motorists to get pre-inspection repairs, so a self-attestation program would not be expected to get the emission reduction benefits from pre-inspection repairs.

If Ohio's proposed modification to its E-Check program were to be approved, tens of thousands of vehicles with malfunctioning emission controls could remain in service, increasing ozone precursor emissions and jeopardizing attainment of the 2015 ozone NAAQS in the Cleveland-Akron-Lorain area. This strongly suggests interference with both attainment and

reasonable further progress.

E. Lack of Statutory Authority for Self-Certification

While the CAA allows States flexibility in program design (e.g., frequency of testing, centralized vs. decentralized networks, exemptions for certain newer model years), the CAA and EPA's corresponding implementing I/M regulations require actual inspection methods to identify high-emitting vehicles. EPA has previously approved flexibilities such as remote OBD testing, clean screening using on-road sensing, and kiosks (66 FR 18156, April 5, 2001; 72 FR 14235, March 27, 2007). However, no provision of the CAA authorizes wholesale replacement of inspections with self-attestation. As mentioned above in section II.A., the CAA is explicit that the "inspection of onboard diagnostic systems" is a required element of I/M programs.² Thus, Ohio's proposed self-attestation approach is not permissible.

EPA notes that, while the CAA and EPA's I/M regulations require actual inspection of emission control systems, States retain significant flexibility in how these requirements are implemented. For example, Ohio and other States have successfully incorporated options such as:

- Vehicle model year exemptions (e.g., exempting very new vehicles, which are less likely to have emission control failures, or very old vehicles not equipped with OBD).
- Modified inspection frequencies (annual versus biennial

² CAA section 202(m) (3)

testing).

- Different inspection network types (centralized test-only facilities versus decentralized networks of service stations).
- Remote OBD testing through telematics, which allows certain vehicles to transmit OBD information electronically without visiting a station.
- Self-service kiosks or mobile testing units, which can make testing more convenient and less intrusive for motorists.
- "Clean screening" programs using on-road remote sensing devices, which allow low-emitting vehicles to be exempted from scheduled testing based on demonstrated real-world performance.

Where these flexibilities have been incorporated, States have generally found that public perception of I/M programs is more positive, as these approaches are seen as modernized, less burdensome, and less intrusive for motorists while still ensuring compliance with statutory requirements. Importantly, all of these options retain an objective inspection mechanism consistent with Clean Air Act requirements and EPA's implementing regulations. In contrast, Ohio's proposed self-attestation provision would eliminate the core requirement for inspection of OBD systems and therefore cannot be considered a permissible flexibility.

III. What Action is EPA Taking?

Because the E-Check Ease Act eliminates mandatory OBD testing, fails to require proof of corrective action for failing

vehicles, and lacks enforceable penalties for falsification, EPA determines the SIP revision is inconsistent with CAA requirements for Enhanced I/M programs (sections 182(c)(3) and 202(m)(3)), EPA's I/M regulations at 40 CFR part 51, subpart S, and the anti-backsliding provisions of section 110(1). Therefore, EPA is proposing to disapprove Ohio's July 9, 2025, SIP revision. If finalized, Ohio must continue implementing its existing Enhanced I/M program or submit a new SIP revision that complies with CAA and regulatory requirements.

IV. Statutory and Executive Order Reviews.

A. Executive Order 12866: Regulatory Planning and Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is not expected to be an Executive Order 14192 regulatory action because this action is not significant under Executive Order 12866;

C. Paperwork Reduction Act (PRA)

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

D. 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 (5 U.S.C. 601 et seq.). This action will not impose any requirements on small entities. This action is disapproving SIP provisions that are inconsistent with CAA requirements for Enhanced I/M programs (sections 182(c)(3) and 202(m)(3)), EPA's I/M regulations at 40 CFR part 51, subpart S, and the anti-backsliding provisions of section 110(1).

E. 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. The action imposes no enforceable duty on any State, local, or Tribal governments or the private sector.

F. 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.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This rule does not have Tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on Tribal governments. Thus, Executive Order 13175 does not apply to this rule.

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action is not subject to Executive Order 13045 because it is not 3(f)(1) significant as defined in Executive Order 12866, and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children because it disapproves revisions to a State program that are inconsistent with statutory and regulatory requirements for vehicle inspection and maintenance programs under the CAA and would interfere with attainment and reasonable further progress toward the 2015 ozone NAAQS.

I. 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.

J. National Technology Transfer Advancement Act

This rulemaking does not involve technical standards.

List of Subjects in 40 CFR Part 52

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

Dated: November 20, 2025.

Cheryl Newton,
Acting Regional Administrator, Region 5.

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