

action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 7, 2023. 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, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: August 31, 2023.

Debra Shore,

Regional Administrator, Region 5.

For the reasons stated in the preamble, title 40 CFR part 52 is amended 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.*

■ 2. In § 52.1870:

■ a. Amend the table in paragraph (d) by adding an entry for “Globe Metallurgical, Inc.” before the entry for “Hilton Davis”.

■ b. Amend the table in paragraph (e) under the heading “Summary of Criteria Pollutant Attainment Plans” by revising the entry entitled “SO₂ (2010)” for “Muskingum River”.

The addition and revision read as follows:

§ 52.1870 Identification of plan.

* * * * *

(d) * * *

EPA APPROVED OHIO SOURCE-SPECIFIC PROVISIONS

Name of source	Number	Ohio effective date	EPA approval date	Comments
* * *	* * *	* * *	* * *	* * *
Globe Metallurgical Inc	DFFOs	5/23/2023	9/8/2023, [Insert Federal Register Citation]	
* * *	* * *	* * *	* * *	* * *

(e) * * *

EPA APPROVED—OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
* * *	* * *	* * *	* * *	* * *

Summary of Criteria Pollutant Attainment Plans

* * *	* * *	* * *	* * *	* * *
SO ₂ (2010)	Muskingum River	5/24/2023	9/8/2023, [Insert Federal Register Citation]	
* * *	* * *	* * *	* * *	* * *

■ 3. Section 52.1873 is amended by removing and reserving paragraph (b).

[FR Doc. 2023–19201 Filed 9–7–23; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2020–0343; FRL–11279–01–R6]

Air Plan Approval; Texas; Clean Air Act Requirements for Enhanced Vehicle Inspection and Maintenance

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 portions of the State Implementation Plan (SIP) revisions submitted to the EPA by the State of Texas (the State) for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS). The SIP revisions being approved describe how CAA requirements for vehicle inspection and maintenance (I/M) are met in the Dallas-Fort Worth (DFW) and Houston-Galveston-Brazoria (HGB) Serious ozone nonattainment areas.

DATES: This rule is effective on October 10, 2023.

ADDRESSES: The EPA has established a docket for this action under Docket ID EPA-R06-OAR-2020-0343. 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 email 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 March 1, 2021, proposal (86 FR 11913). In that document, we proposed to approve portions of two revisions to the Texas SIP submitted to the EPA on May 13, 2020, that describe how CAA requirements for Enhanced vehicle I/M and Nonattainment New Source Review (NNSR) are met in the DFW and HGB Serious ozone nonattainment areas for the 2008 ozone NAAQS.

Our March 2021 proposal provided a detailed description of the revisions and the rationale for the EPA’s proposed actions, together with a discussion of the opportunity to comment. The public comment period for our March 2021 proposal closed on March 31, 2021. We received comments during the public comment period pertaining to the vehicle I/M portion of EPA’s proposal from the Air Law for All (ALFA), on behalf of the Center for Biological Diversity and the Center for Environmental Health.¹ The comments received are available for review in the docket for this rulemaking. The EPA finalized the proposed approval of revisions that address the CAA requirements for NNSR in a separate rulemaking (see 87 FR 59697, October 3, 2022). Our responses to the comments addressing vehicle I/M are provided in Section II of this action.

Our March 2021 proposal addresses the DFW and HGB Serious ozone

nonattainment area requirements for the 2008 ozone NAAQS. However, on October 7, 2022, the EPA reclassified the eight-county HGB area (Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties) and the ten-county DFW area (Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise counties) from Serious to Severe nonattainment (87 FR 60926). The attainment date for these Severe nonattainment areas is July 20, 2027. Also on October 7, 2022, the EPA reclassified the six-county HGB area (Brazoria, Chambers, Fort Bend, Galveston, Harris, and Montgomery counties) and the nine-county DFW area (Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Tarrant, and Wise counties) from Marginal to Moderate nonattainment under the 2015 ozone NAAQS (87 FR 60897). The attainment date for these Moderate nonattainment areas is August 3, 2024. These reclassifications are important to mention here because CAA section 182(c)(3) requires the implementation of an Enhanced I/M program in ozone nonattainment areas classified as Serious or higher and CAA section 182(b)(4) requires the implementation of a Basic I/M program in Moderate ozone nonattainment areas. This final action does not address whether the DFW and HGB Moderate nonattainment areas meet the Basic I/M requirement for the 2015 ozone NAAQS, which instead will be addressed in a separate future SIP revision from Texas and EPA action.

II. Response to Comments

Comment: Commenters assert that in proposing to approve the Texas SIP submission inasmuch as it describes how vehicle I/M requirements are met for the HGB and DFW nonattainment areas, the EPA expressly relies on EPA’s performance standard which requires states to show that their I/M program is equivalent to a model program defined by EPA.² Commenters maintain that I/M performance standard modeling (PSM) is not a one-time obligation and should be performed each time a nonattainment area is classified as Serious for a revised NAAQS. Commenters also assert that Texas has not demonstrated that its Enhanced I/M program is equivalent to a model program as defined under the I/M Rule and that EPA’s proposal is silent about whether the Texas I/M program continues to meet the Enhanced program performance standard for the 2008 ozone NAAQS. Commenters

maintain that equivalence cannot be assumed. Commenters state that in order to demonstrate equivalence, a state must utilize the most current version of the EPA’s mobile source emissions model, which, at the time of the comment, was MOVES3.³

Response: An I/M performance standard is a collection of program design elements which defines a benchmark program to which a proposed or existing I/M program is compared in terms of its potential to reduce emissions of relevant pollutants and precursors (e.g., in ozone areas, namely volatile organic compounds (VOCs) and oxides of nitrogen (NO_x)) by certain comparison dates. In general, Enhanced I/M programs shall be designed and implemented to meet or exceed a minimum performance standard, which is expressed as emission levels in area-wide average grams per mile (gpm), achieved from on-road vehicles as a result of the program. The purpose of conducting PSM is to demonstrate that an I/M program meets the applicable performance standard, as defined within the I/M regulations (40 CFR part 51, subpart S) and the Clean Air Act.⁴ The EPA has recognized that areas have had to meet the I/M requirements for previous standards. In the case of Texas, the DFW and HGB areas had to meet the Enhanced performance standard in response to requirements under the 1-hour ozone standard. The EPA previously approved Texas’s I/M program as meeting the Enhanced performance standard under the 1-hour standard.⁵ For areas that had previously met certain SIP requirements, the EPA’s practice has been to accept “certification SIPs” to help streamline the development of SIPs. In this SIP revision, the Texas Commission on Environmental Quality (TCEQ) certified that the current Texas I/M program meets the I/M requirements for purposes of the 2008 ozone NAAQS.

For SIPs submitted to meet requirements under the 2008 standard,

³ MOVES is the EPA’s MOtor Vehicle Emission Simulator. Information on MOVES is available at <https://www.epa.gov/moves/latest-version-motor-vehicle-emission-simulator-moves>.

⁴ October 2022, 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.”

⁵ The Clean Air Act requires certain urbanized ozone nonattainment areas classified Moderate and higher to have I/M programs to ensure that emission controls on vehicles are properly maintained. The Texas vehicle I/M program, which is referred to as the Texas Motorist Choice (TMC) Program, was approved by the EPA in the **Federal Register** on November 14, 2001 (66 FR 57261).

¹ Henceforth, we refer to ALFA as “commenters.”

² For the Enhanced I/M performance standard, see 40 CFR 51.351(d).

previous EPA guidance⁶ was not clear whether certification SIPs should include PSM. In the SIP requirements rule for the 2015 ozone standard, EPA indicated that SIPs submitted to address I/M requirements under the 2015 ozone standard must provide PSM to support that an area continues to meet the I/M requirement for that standard. The DFW and HGB areas were reclassified as Moderate under the 2015 standard and must demonstrate through modeling that the existing I/M programs for both areas meet the Basic I/M requirements. Texas recently proposed a SIP revision to address these Moderate area requirements. In that SIP revision,⁷ Texas provided performance standard modeling that sufficiently shows that its current I/M program meets the Enhanced I/M standard. So, even though EPA's previous guidance was unclear, a review of the PSM (as described below) shows that the Texas program meets the Enhanced standard for the 2008 standard. As a result, the comment is moot.

PSM analyses of existing I/M programs in DFW and HGB show the applicable I/M performance standard for the DFW and HGB nonattainment areas are met. The PSM was included in the state's proposed SIP revisions for the 2015 ozone NAAQS on May 31, 2023.⁸ The PSM demonstrations were submitted by the state as part of its 2015 I/M requirements. The submissions consist of separate PSM analyses for the DFW and HGB nonattainment areas. Copies of the modeling summary are included in the docket⁹ for this action.

This additional modeling information was reviewed and helped inform the EPA's decision.

Consistent with EPA's October 2022 Performance Standard Modeling Guidance,¹⁰ a single analysis year and corresponding analysis can satisfy more than one PSM demonstration for an area under two different NAAQS if the analysis year is appropriate for both NAAQS. In the case of HGB and DFW, the State must demonstrate that the current I/M program satisfies the Basic I/M SIP requirement for the 2015 ozone NAAQS and in doing so can demonstrate the Enhanced I/M SIP requirement for the 2008 ozone NAAQS is also satisfied. Considering this scenario, EPA's current guidance¹¹ allows the State to use the 8-hour ozone Enhanced performance standard (40 CFR 51.351(i)), if the PSM demonstration is for an analysis year that satisfies both I/M SIPs and ozone NAAQS. In other words, if an I/M program meets the Enhanced performance standard, then it would also meet the Basic performance standard so long as the analysis years are appropriate for the two ozone standards in question. Consistent with the I/M rule, the EPA's current guidance¹² states that the appropriate analysis year for all reclassifications is the "Attainment date OR program implementation date, whichever is later."

The EPA has clearly stated that PSM modeling is required when states certify compliance under the 2015 ozone standard. Texas performed such

modeling of the DFW and HGB programs required for Serious areas designated and classified under the 8-hour ozone standard.

Upon review of the modeling files and summary results of the TCEQ PSM analyses, EPA concludes that the modeling was conducted consistent with the I/M rule and EPA's 2022 PSM guidance; and that TCEQ has demonstrated that the Enhanced performance standard was met in the DFW and HGB subject I/M areas.

TCEQ used MOVES3.1 to conduct the analyses using 2023 as the analysis year. The reason why 2023 is an appropriate analysis year for the 2008 ozone NAAQS is because (per page 10 of the guidance¹³)—"For cases in which the attainment date has passed, PSM should be performed for an analysis year contemporary to when the corresponding I/M SIP will be submitted." Since the attainment year for the Serious ozone classification has been passed, then using the most recent future year is appropriate, *i.e.*, 2023.

TCEQ correctly modeled the existing DFW I/M and HGB I/M programs against the Enhanced performance standard benchmark program (40 CFR 51.351(i)). The results of the analyses demonstrated that the emissions rates, expressed in gpm for the existing DFW I/M and HGB I/M programs for VOC and NO_x are lower than the modeled emission rates using the Enhanced performance standard benchmark program:¹⁴

TABLE 1—SUMMARY OF NO_x PERFORMANCE STANDARD EVALUATION FOR DFW 2015 OZONE NAAQS NONATTAINMENT AREA EXISTING I/M PROGRAM¹⁵

County	I/M program NO _x emission rate	I/M NO _x performance standard benchmark	I/M NO _x performance standard benchmark plus buffer	Does existing program meet I/M performance standard?
Collin	0.25	0.25	0.27	Yes.
Dallas	0.26	0.26	0.28	Yes.
Denton	0.30	0.29	0.31	Yes.
Ellis	0.40	0.40	0.42	Yes.
Johnson	0.47	0.47	0.49	Yes.
Kaufman	0.46	0.46	0.48	Yes.
Parker	0.54	0.54	0.56	Yes.
Tarrant	0.26	0.26	0.28	Yes.

⁶ The old 2014 guidance: January 2014, EPA-420-B-14-006: "Performance Standard Modeling for New and Existing Vehicle Inspection and Maintenance (I/M) Programs Using the MOVES Mobile Source Emissions Model)."

⁷ On May 31, 2023, the State approved proposal of both the DFW and HGB Moderate Area Attainment Demonstration (AD) SIP Revisions for the 2015 Eight-Hour Ozone NAAQS (Non-Rule Project #s: 2022-021-SIP-NR and 2022-022-SIP-NR, respectively). Included in Appendix C of each of these proposals were I/M Performance Standard

Modeling (PSM) for the existing I/M Program in their respective 2015 Ozone NAAQS nonattainment areas.

⁸ Ibid.

⁹ <https://www.regulations.gov/docket/EPA-R06-OAR-2020-0343>.

¹⁰ October 2022, EPA-420-B-22-034, pgs 9-10: "Performance Standard Modeling for New and Existing Vehicle Inspection and Maintenance (I/M) Programs Using the MOVES Mobile Source Emissions Model."

¹¹ Ibid.

¹² Ibid. See Table 1: Analysis Years for PSM for an 8-hour Ozone NAAQS on page 10 of the guidance.

¹³ Ibid.

¹⁴ Evaluating whether an existing I/M program meets the Enhanced Performance Standard requires demonstrating that the existing program emission rates for NO_x and VOC do not exceed the benchmark program's emission rates within a 0.02 gram per mile buffer.

TABLE 2—SUMMARY OF VOC PERFORMANCE STANDARD EVALUATION FOR DFW 2015 OZONE NAAQS NONATTAINMENT AREA EXISTING I/M PROGRAM ¹⁶

County	I/M program VOC emission rate	I/M VOC performance standard benchmark	I/M VOC performance standard benchmark plus buffer	Does existing program meet I/M performance standard?
Collin	0.17	0.17	0.19	Yes.
Dallas	0.14	0.14	0.16	Yes.
Denton	0.18	0.18	0.20	Yes.
Ellis	0.14	0.14	0.16	Yes.
Johnson	0.19	0.20	0.22	Yes.
Kaufman	0.14	0.14	0.16	Yes.
Parker	0.17	0.17	0.19	Yes.
Tarrant	0.16	0.17	0.19	Yes.

TABLE 3—SUMMARY OF NO_x PERFORMANCE STANDARD EVALUATION FOR HGB 2015 OZONE NAAQS NONATTAINMENT AREA EXISTING I/M PROGRAM ¹⁷

County	I/M program NO _x emission rate	I/M NO _x performance standard benchmark	I/M NO _x performance standard benchmark plus buffer	Does existing program meet I/M performance standard?
Brazoria	0.29	0.29	0.31	Yes.
Fort Bend	0.27	0.27	0.29	Yes.
Galveston	0.24	0.24	0.26	Yes.
Harris	0.26	0.26	0.28	Yes.
Montgomery	0.28	0.28	0.30	Yes.

TABLE 4—SUMMARY OF VOC PERFORMANCE STANDARD EVALUATION FOR HGB 2015 OZONE NAAQS NONATTAINMENT AREA EXISTING I/M PROGRAM ¹⁸

County	I/M program VOC emission rate	I/M VOC performance standard benchmark	I/M VOC performance standard benchmark plus buffer	Does existing program meet I/M performance standard?
Brazoria	0.17	0.17	0.19	Yes.
Fort Bend	0.19	0.20	0.22	Yes.
Galveston	0.17	0.18	0.20	Yes.
Harris	0.14	0.14	0.16	Yes.
Montgomery	0.16	0.16	0.18	Yes.

Therefore, the DFW I/M and HGB I/M programs meet the Enhanced performance standard for the 2008 ozone standard.

Comment: Commenter asserts that EPA has failed to enforce its rules requiring biennial evaluations of Enhanced I/M programs, and the proposal is silent on whether Texas conducts these evaluations, and if so, what the evaluations show.

Response: This comment is outside the scope of this rulemaking. However, the EPA notes that Texas has and continues to provide, EPA Region 6 with their biennial performance

evaluations pursuant to 40 CFR 51.353(c)(1). The most recent and past biennial reports are posted on TCEQ's website.¹⁹ The biennial reports are sufficient and satisfy the reporting requirements of the regulation.

III. Final Action

We are approving portions of the Texas SIP revisions submitted to the EPA for the 2008 ozone NAAQS. The SIP revisions being approved describe how CAA requirements for the Enhanced vehicle I/M are met in the DFW and HGB Serious ozone nonattainment areas for the 2008 ozone NAAQS.

IV. Environmental Justice Considerations

The EPA reviewed demographic data,²⁰ which provides an assessment of individual demographic groups of the populations living within the affected DFW and HGB 2008 ozone nonattainment areas, as well as the State of Texas as a whole. The EPA then compared the data to the national average for each of the demographic groups. The results of this analysis are being provided for informational and transparency purposes. The EJScreen model can only generate output for five counties at a time, and since the DFW 2008 8-hr ozone nonattainment area consists of ten counties and HGB 2008 8-hr ozone nonattainment area consists

¹⁵ PSM for the Existing I/M Program in the DFW 2015 Ozone Nonattainment Area: See Table 3-1.

¹⁶ Ibid: See Table 3-2.

¹⁷ PSM for the Existing I/M Program in the HGB 2015 Ozone Nonattainment Area: See Table 3-1.

¹⁸ Ibid: See Table 3-2.

¹⁹ See https://www.tceq.texas.gov/airquality/mobilesource/vim/im_rules_links.html.

²⁰ See <https://www.census.gov/quickfacts/fact/table/US/PST045222>.

of eight counties, each area was split into two sections. As mentioned previously, the HGB and DFW nonattainment areas for the 2015 ozone NAAQS are a subset of the HGB and DFW nonattainment areas for the 2008 ozone NAAQS and therefore, the EJscreens reports for the DFW and HGB 2008 nonattainment areas include all the nonattainment counties in these two areas.

Section 1 of the DFW nonattainment area covers Denton, Collin, Dallas, Tarrant, and Rockwall counties. For Section 1 of the DFW nonattainment area, the results of the demographic analysis indicate that, for populations within the five-county area, the percent people of color (persons who reported their race as a category other than white alone (not Hispanic or Latino)) is above the national average for the five-county area; and above the national average for the State of Texas as a whole (59.3 and 59.7 percent, respectively versus 40.7 percent). Within people of color, the percent of the population that is Black or African American alone is above the national average for the five-county area; and slightly below the national average for the State of Texas as a whole (18.4 and 13.2 percent, respectively versus 13.6 percent), and the percent of the population that is American Indian/Alaska Native is below the national average for both the five-county area and the State as a whole (0.9 and 1.1 percent, respectively versus 1.3 percent). The percent of the population that is “two or more races” is slightly lower than the national average for both the five-county area and State as a whole (2.5 and 2.2 percent, respectively versus 2.9 percent). The percent of people living below the poverty level is slightly below the national average for the five-county area; and above the national average for the State of Texas as a whole (11.2 and 14.2 percent, respectively versus 11.6 percent).

Section 2 of the DFW nonattainment area covers Wise, Parker, Kaufman, Ellis, and Johnson counties. For Section 2 of the DFW nonattainment area, the results of the demographic analysis indicate that, for populations within the five-county area, the percent people of color (persons who reported their race as a category other than white alone (not Hispanic or Latino)) is below the national average for the five-county area; and above the national average for the State of Texas as a whole (34.9 and 59.7 percent, respectively versus 40.7 percent). Within people of color, the percent of the population that is Black or African American alone is below the national average for the five-county area; and slightly below the national

average for the State of Texas as a whole (8.9 and 13.2 percent, respectively versus 13.6 percent), and the percent of the population that is American Indian/Alaska Native is slightly below the national average for both the five-county area and the State as a whole (1 and 1.1 percent, respectively versus 1.3 percent). The percent of the population that is “two or more races” is slightly lower than the national average for both the five-county area and State as a whole (2.1 and 2.2 percent, respectively versus 2.9 percent). The percent of people living below the poverty level is below the national average for the five-county area; and above the national average for the State of Texas as a whole (9 and 14.2 percent, respectively versus 11.6 percent).

Section 1 of the HGB nonattainment area covers Harris, Galveston, Chambers, Fort Bend and Brazoria counties. For Section 1 of the HGB nonattainment area, the results of the demographic analysis indicate that, for populations within the five-county area, the percent people of color (persons who reported their race as a category other than white alone (not Hispanic or Latino)) is above the national average for the five-county area; and above the national average for the State of Texas as a whole (69.3 and 59.7 percent, respectively versus 40.7 percent). Within people of color, the percent of the population that is Black or African American alone is above the national average for the five-county area; and slightly below the national average for the State of Texas as a whole (19.8 and 13.2 percent, respectively versus 13.6 percent), and the percent of the population that is American Indian/Alaska Native is slightly below the national average for both the five-county area and the State as a whole (1 and 1.1 percent, respectively versus 1.3 percent). The percent of the population that is “two or more races” is slightly lower than the national average for both the five-county area and State as a whole (2.1 and 2.2 percent, respectively versus 2.9 percent). The percent of people living below the poverty level in the five-county area and the State as a whole, is above the national average (14.5 and 14.2 percent, respectively versus 11.6 percent).

Section 2 of the HGB nonattainment area covers Montgomery, Liberty, and Waller counties. For Section 2 of the HGB nonattainment area, the results of the demographic analysis indicate that, for populations within the three county area, the percent people of color (persons who reported their race as a category other than white alone (not Hispanic or Latino)) is very close to the

national average for the three-county area; and above the national average for the State of Texas as a whole (40.2 and 59.7 percent, respectively versus 40.7 percent). Within people of color, the percent of the population that is Black or African American alone is below the national average for the three-county area; and slightly below the national average for the State of Texas as a whole (8.2 and 13.2 percent, respectively versus 13.6 percent), and the percent of the population that is American Indian/Alaska Native is slightly below the national average for both the three-county area and the State as a whole (1.1 and 1.1 percent, respectively versus 1.3 percent). The percent of the population that is “two or more races” is slightly lower than the national average for both the three-county area and State as a whole (2 and 2.2 percent, respectively versus 2.9 percent). The percent of people living below the poverty level is slightly below the national average in the three-county area; and above the national average for the State as a whole (11.3 and 14.2 percent, respectively versus 11.6 percent).

This final SIP action finds that the Texas I/M program meets the I/M requirements in the DFW and HGB Serious ozone nonattainment areas per the 2008 and 2015 8-hour ozone NAAQS revisions. We expect that this action and resulting emissions reductions will generally be neutral or contribute to reduced environmental and health impacts on all populations in the State of Texas, including people of color and low-income populations. At a minimum, this action would not worsen any existing air quality and is expected to ensure the area is meeting requirements to attain and/or maintain air quality standards. Further, there is no information in the record indicating that this action is expected to have disproportionately high or adverse human health or environmental effects on a particular group of people.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve 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 Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
 - 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);
 - 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.
- Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws,

regulations, and policies.”²¹ The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”²²

TCEQ did not evaluate Environmental Justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA performed an EJ analysis, as is described earlier in the section titled, “Environmental Justice Considerations.” The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. In addition, there is no information in the record upon which this decision is based inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

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 proposed 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

²¹ See <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>.

²² <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>.

this action must be filed in the United States Court of Appeals for the appropriate circuit by November 7, 2023. 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 30, 2023.

Earthea Nance,
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, the second table in paragraph (e), titled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP” is amended by adding an entry at the end for “Enhanced Vehicle Inspection and Maintenance (I/M) Requirement for the 2008 Ozone NAAQS Serious Nonattainment Areas” to read as follows:

§ 52.2270 Identification of plan.

* * * * *
(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
Enhanced Vehicle Inspection and Maintenance (I/M) Requirement for the 2008 Ozone NAAQS Serious Nonattainment Areas.	Dallas-Fort Worth and Houston-Galveston-Brazoria Ozone Nonattainment Areas.	5/13/2020	9/8/2023 [Insert Federal Register citation].	

[FR Doc. 2023-19377 Filed 9-7-23; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA-HQ-OAR-2003-0118; FRL-11349-01-OAR]

RIN 2060-AG12

Protection of Stratospheric Ozone: Determination 38 for Significant New Alternatives Policy Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Determination of acceptability.

SUMMARY: This determination of acceptability expands the list of acceptable substitutes pursuant to the U.S. Environmental Protection Agency's Significant New Alternatives Policy program. This action lists as acceptable additional substitutes for use in the refrigeration and air conditioning and fire suppression sectors.

DATES: This determination is applicable on September 8, 2023.

ADDRESSES: EPA established a docket for this action under Docket ID No. EPA-HQ-OAR-2003-0118 (continuation of Air Docket A-91-42). All electronic documents in the docket are listed in the index at www.regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available either electronically at www.regulations.gov or in hard copy at the EPA Air Docket (Nos. A-91-42 and EPA-HQ-OAR-2003-0118), EPA Docket Center (EPA/DC), William J. Clinton West, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20460. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742. For further information on EPA

Docket Center services and the current status, please visit us online at www.epa.gov/dockets.

FOR FURTHER INFORMATION CONTACT: Margaret Sheppard by telephone at (202) 343-9163, by email at Sheppard.Margaret@epa.gov, or by mail at U.S. Environmental Protection Agency, Mail Code 6205A, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Listing of New Acceptable Substitutes
 - A. Refrigeration and Air Conditioning
 - B. Fire Suppression and Explosion Protection
- Appendix A: Summary of Decisions for New Acceptable Substitutes

I. Listing of New Acceptable Substitutes

This action is listing as acceptable additional substitutes for use in the refrigeration and air conditioning and fire suppression sectors. This action presents EPA's most recent decisions under the Significant New Alternatives Policy (SNAP) program to list as acceptable several substitutes in different end-uses. New substitutes are:

- R-471A in retail food refrigeration, industrial process refrigeration, and cold storage warehouses (new equipment only);
- R-515B in retail food refrigeration (refrigerated food processing and dispensing equipment, remote condensing units, and supermarket systems), commercial ice machines, and cold storage warehouses (new equipment only);
- Powdered Aerosol I in total flooding fire suppression (both occupied and normally unoccupied areas).

EPA's review of certain substitutes listed in this document is pending for other end-uses. Listing decisions in the end-uses in this document do not prejudge EPA's listings of these substitutes for other end-uses. While certain substitutes being added through this action to the acceptable lists for specific end-uses may have a higher risk in one or more SNAP criteria than certain other substitutes already listed

as acceptable or acceptable subject to restrictions, they have a similar or lower overall risk than other acceptable substitutes in those end-uses.

For additional information on SNAP, visit the SNAP portion of EPA's Ozone Layer Protection website at www.epa.gov/snap. Copies of the full lists of acceptable substitutes for ozone-depleting substances (ODS) in the industrial sectors covered by the SNAP program are available at www.epa.gov/snap/substitutes-sector. For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the initial SNAP rulemaking published March 18, 1994 (59 FR 13044), and the regulations codified at 40 CFR part 82, subpart G. SNAP decisions and the appropriate **Federal Register** citations are found at: www.epa.gov/snap/snap-regulations. Under the SNAP program, EPA may list a substitute as acceptable for specified end-uses where the Agency has reviewed the substitute and found no reason to restrict or prohibit its use. Substitutes listed as unacceptable; acceptable, subject to narrowed use limits; or acceptable, subject to use conditions are also listed in the appendices to 40 CFR part 82, subpart G.

The sections below discuss each substitute listing in detail and summarize the results of EPA's assessment of the human health and environmental risks posed by each substitute. EPA's evaluation considers the criteria at 40 CFR 82.180(a)(7), including: atmospheric effects and related health and environmental effects, ecosystem risks, consumer risks, flammability, and cost and availability of the substitute. When evaluating potential substitutes, EPA evaluates these criteria in risk screens, which are technical documents that evaluate risks to human health and the environment from substitutes in specific end-uses, including comparisons to other available substitutes and evaluations against relevant thresholds of risk starting with protective assumptions.