



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2012-0779; FRL-9902-33-Region 5]

**Approval and Promulgation of Air Quality Implementation Plans;
Ohio: Bellefontaine; Determination of Attainment for the 2008
Lead Standard**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On April 19, 2013, the Ohio Environmental Protection Agency (Ohio EPA), submitted a request to EPA to make a determination under the Clean Air Act (CAA) that the Bellefontaine nonattainment area has attained the 2008 lead (Pb) national ambient air quality standards (NAAQS or standard). In this action, EPA is determining that the Bellefontaine nonattainment area (hereafter also referred to as the "Bellefontaine area" or "area") has attained the 2008 Pb NAAQS. This determination of attainment is based upon complete, quality-assured and certified ambient air monitoring data for the 2010-2012 design period showing that the area has monitored attainment of the 2008 Pb NAAQS. Additionally, as a result of this determination, EPA is suspending the requirements for the area to submit an attainment demonstration, together with reasonably available control measures (RACM), a reasonable

further progress (RFP) plan, and contingency measures for failure to meet RFP and attainment deadlines for as long as the area continues to attain the 2008 Pb NAAQS.

DATES: This direct final rule will be effective [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless EPA receives adverse comments by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2012-0779, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: aburano.douglas@epa.gov.
3. Fax: (312) 408-2279.
4. Mail: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson

Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 AM to 4:30 PM, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No.

EPA-R05-OAR-2012-0779. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment,

EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Sarah Arra, Environmental Scientist, at (312) 886-9401 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Sarah Arra, Environmental Scientist, Attainment Planning and Maintenance Section, Air

Programs Branch (AR-18J), Environmental Protection Agency,
Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604,
(312) 886-9401, arra.sarah@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Actions is EPA Taking?
- II. What is the Background for These Actions?
- III. Application of EPA's Clean Data Policy to the 2008 Pb NAAQS
- IV. Does the Bellefontaine Area Meet the 2008 Pb NAAQS?
 - A. Criteria
 - B. Daido Facility Monitor
 - C. Bellefontaine Area Air Quality
- V. What is the Effect of These Actions?
- VI. Statutory and Executive Order Reviews
- I. What Actions is EPA Taking?**

EPA is taking final action to determine that the Bellefontaine area (comprised of the portions of Logan County that are bounded by: sections 27, 28, 33, and 34 of Lake Township) has attained the 2008 Pb NAAQS. This is based upon complete, quality-assured and certified ambient air monitoring data for the 2010-2012 monitoring period showing that the area has monitored attainment of the 2008 Pb NAAQS.

Further, with the finalization of this determination of attainment, the requirements for the Bellefontaine area to submit an attainment demonstration together with RACM, a RFP plan, and contingency measures for failure to meet RFP and attainment deadlines would be suspended for as long as the area continues to attain the 2008 Pb NAAQS. As discussed below, this action is consistent with EPA's regulations and with its longstanding interpretation of subpart 1 of part D of the CAA.

If the area violates the 2008 Pb NAAQS after this action, the basis for the suspension of these attainment planning requirements would no longer exist for the Bellefontaine area, and the area would thereafter have to address such requirements.

II. What is the Background for These Actions?

On November 12, 2008 (73 FR 66964), EPA established a 2008 primary and secondary Pb NAAQS at 0.15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) based on a maximum arithmetic 3-month mean concentration for a 3-year period. See 40 CFR 50.16. On November 22, 2010 (75 FR 71033), EPA published its initial air quality designations and classifications for the 2008 Pb NAAQS based upon air quality monitoring data from those monitors for calendar years 2007-2009. These designations became effective

on December 31, 2010.¹ The Bellefontaine area was designated nonattainment for the 2008 Pb NAAQS. See 40 CFR 81.343.

On April 19, 2013, the Ohio EPA, submitted a request to EPA to make a determination that the Bellefontaine area has attained the 2008 Pb NAAQS based on complete, quality-assured, quality-controlled monitoring data from 2010 through 2012.

III. Application of EPA's Clean Data Policy to the 2008 Pb NAAQS

Following enactment of the CAA Amendments of 1990, EPA promulgated its interpretation of the requirements for implementing the NAAQS in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (General Preamble) 57 FR 13498, 13564 (April 16, 1992). In 1995, based on the interpretation of CAA sections 171 and 172, and section 182 in the General Preamble, EPA set forth what has become known as its "Clean Data Policy" for the 1-hour ozone NAAQS. See Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, "RFP, Attainment Demonstration, and Related Requirements for Ozone Nonattainment areas Meeting the Ozone National Ambient Air Quality Standard" (May 10, 1995). In 2004, EPA indicated its intention to extend the Clean Data Policy to the (fine particulates) PM_{2.5} NAAQS. See Memorandum

¹ EPA completed a second and final round of designations for the 2008 Lead NAAQS on November 22, 2011. See 76 FR 72097. No additional areas in Ohio were designated as nonattainment for the 2008 Lead NAAQS.

from Steve Page, Director, EPA Office of Air Quality Planning and Standards, "Clean Data Policy for the Fine Particle National Ambient Air Quality Standards" (December 14, 2004).

Since 1995, EPA has applied its interpretation under the Clean Data Policy in many rulemakings, suspending certain attainment-related planning requirements for individual areas, based on a determination of attainment. EPA recently applied this policy to the 2008 Pb NAAQS for the Bristol, Tennessee nonattainment area (77 FR 52232). For a full discussion on EPA's application of this policy, see section III of the Bristol, Tennessee Determination of Attainment for the 2008 Pb Standards (77 FR 35653).

IV. Does the Bellefontaine Area Meet the 2008 Pb NAAQS?

A. Criteria

Today's rulemaking assesses whether the Bellefontaine area has attained the 2008 Pb NAAQS, based on the most recent three years of quality-assured data. The Bellefontaine area comprises the portion of Logan County bounded by sections 27, 28, 33, and 34 of Lake Township, which surrounds the Daido Facility. The Daido Facility manufactured metal parts for automobiles.

Under EPA regulations at 40 CFR 50.16, the 2008 primary and secondary Pb standards are met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in

accordance with 40 CFR part 50, appendix R, is less than or equal to $0.15 \mu\text{g}/\text{m}^3$ at all relevant monitoring sites in the subject area.

EPA has reviewed the ambient air monitoring data for the Bellefontaine area in accordance with the provisions of 40 CFR part 50, appendix R. All data considered are complete, quality-assured, certified, and recorded in EPA's Air Quality System (AQS) database. This review addresses air quality data collected in the 2010-2012 period which are the most recent quality-assured data available.

B. Daido Facility Monitor

40 CFR Part 58, appendix D, Section 4.5, states that "At a minimum, there must be one source-oriented State and Local Air Monitoring Station site located to measure the maximum Pb concentration in ambient air resulting from each non-airport Pb source which emits 0.50 or more tons per year..." In June of 2009, operation of the Daido Facility permanently shut down. A contractor for the Daido Facility ran a Pb monitor at site 39-091-0006 through 2009. The Ohio EPA took responsibility for the site on January 1, 2010. During the last two months of the site being operated by the industry contractor, November and December of 2009, data were not collected.

This absence of data for November and December of 2009

raised a potential question about whether sufficient data are available to determine that the Bellefontaine area is attaining the Pb standard. For sites that began operation many years ago, EPA would examine air quality for the most recent 36 3-calendar month periods, which for 2010-2012 would include 3-month averages based in part on data for November and December 2009. On the other hand, according to 40 CFR Part 50, appendix R Section 4(a), "For sites that begin monitoring Pb after [January 12, 2009] but before January 15, 2010 (or January 15, 2011), a 2010-2012 (or 2011-2013) Pb design value that meets the NAAQS will be considered valid if it encompasses at least 34 consecutive valid 3-month means (specifically encompassing only the 3-year calendar period)."

For the Bellefontaine area, EPA believes it is appropriate to consider site 39-091-0006 a new site as of January 1, 2010. The contractor that was responsible for the operation of this site through the end of 2009, failed to operate the monitor after October 2009. On January 1, 2010, the Ohio EPA Southwest District Office began operation of a new monitor at the site. Ohio EPA demonstrated that the changes to the monitoring network were appropriate and the data is valid for attainment determinations. EPA finds it appropriate to consider this a new site as of January 1, 2010, such that attainment may be judged

based on 34 consecutive valid 3-month averages. For the information leading EPA to this conclusion, see the October 2013 Technical Support Document available in the docket for this rulemaking.

C. Bellefontaine Area Air Quality

The 39-091-0006 site is a Federal reference method (FRM) source-oriented monitor which meets the quality assurance requirements of 40 CFR 58, appendix A. The three-month rolling averages at this site have not exceeded the standard since 2007. After the permanent shutdown of the Daido Facility in June of 2009, the Pb values have been well below the standard.

Table 1 shows the 2010-2012 three-month rolling averages for the Bellefontaine area.

Location	AQS site ID	3-month period	2010	2011	2012
Richard Ave.- Daido Facility Bellefontaine	39-091-0006	Nov-Jan	--	.004	.003
		Dec-Feb	--	.003	.003
		Jan-Mar	.006	.004	.003
		Feb-Apr	.006	.003	.003
		Mar-May	.006	.003	.003
		Apr-Jun	.004	.003	.003
		May-July	.004	.003	.004
		Jun-Aug	.004	.003	.003
		July-Sept	.004	.003	.003
		Aug-Oct	.004	.005	.003
		Sept-Nov	.004	.005	.003
		Oct-Dec	.004	.004	.003

The data shown in Table 1 are complete, quality-assured, and certified. Data in February and March of 2012 were not 75

percent complete, but were more than 50 percent complete making them eligible for the "below NAAQS level test" in 40 CFR Part 50, appendix R (4)(c)(ii)(B). Ohio accurately applied this test and the data were sufficient to be considered complete.

The Daido Facility's NEI emissions in 2005 were 0.121 tons per year (tpy), more than half of the lead emissions in the county. The next three largest contributors in the county have emissions of 0.035 tpy, 0.0075 tpy, and 0.0075 tpy. Production at the Daido Facility started to decrease in 2008 as the automobile industry declined, and the ambient air Pb levels reflect this. Concurrent with the shutdown of the largest source, the ambient air lead values have been cut by more than half.

EPA's review of these data indicates that the Bellefontaine area has attained and continues to attain the 2008 Pb NAAQS, with a design value of 0.006 $\mu\text{g}/\text{m}^3$ for the period of 2010-2012.

V. What is the Effect of These Actions?

EPA is determining that the Bellefontaine area has attained the 2008 Pb NAAQS, based on complete, quality-assured and certified data for 2010-2012. Also, the requirements for the Ohio EPA to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and any other planning SIPs related to attainment of the 2008 Pb NAAQS for the

Bellefontaine area are suspended for so long as the area continues to attain the 2008 Pb NAAQS. EPA rulemaking is consistent and in keeping with its long-held interpretation of CAA requirements, as well as with EPA's regulations for similar determinations for ozone (see 40 CFR 51.918) and PM_{2.5} (see 40 CFR 51.1004(c)).

This action does not constitute a redesignation of the area to attainment of the 2008 Pb NAAQS under section 107(d)(3) of the CAA. This action does not involve approving a maintenance plan for the area as required under section 175A of the CAA, nor does it find that the area has met all other requirements for redesignation. The Bellefontaine area remains designated nonattainment for the 2008 Pb NAAQS until such time as EPA determines that the area meets the CAA requirements for redesignation to attainment and takes action to redesignate the area.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective [INSERT DATE 60 DAYS FROM THE DATE

OF PUBLICATION IN THE FEDERAL REGISTER] without further notice unless we receive relevant adverse written comments by [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

VI. Statutory and Executive Order Reviews.

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

the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will

submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. 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 [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Lead, Reporting and recordkeeping requirements.

Dated: October 21, 2013.

Susan Hedman,
Regional Administrator, Region 5.

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. Section 52.1892 is amended by adding paragraph (e) to read as follows:

§ 52.1892 Determination of attainment.

* * * * *

(e) Based upon EPA's review of the air quality data for the 3-year period 2010 to 2012, EPA determined that the Bellefontaine, OH lead nonattainment areas attained the 2008 Lead National Ambient Air Quality Standard (NAAQS). This clean data determination suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 2008 lead NAAQS.