



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52 and 81**

**[EPA-R05-OAR-2017-0256; FRL-9969-67-Region 5]**

**Air Plan Approval; Ohio; Redesignation of the Fulton County Area  
to Attainment of the 2008 Lead Standard**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the State of Ohio's request to revise the designation of, or "redesignate," the Fulton County nonattainment area (Fulton County) to attainment of the 2008 National Ambient Air Quality Standards (NAAQS or standard) for lead. EPA is also approving the maintenance plan and related elements of the redesignation. EPA is approving reasonably available control measure (RACM) / reasonably available control technology (RACT) measures and a comprehensive emissions inventory as meeting the Clean Air Act (CAA) requirements. EPA is taking these actions in accordance with the CAA and EPA's implementation regulations regarding the 2008 lead NAAQS.

**DATES:** This direct final rule will be effective **[insert date 60 days after date of publication in the Federal Register]**, unless EPA receives relevant adverse comments by **[insert date 30 days**

**after 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-2017-0256 at <http://www.regulations.gov> or via email to [blakley.pamela@epa.gov](mailto:blakley.pamela@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, 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. 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 or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

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

- I. Why is EPA concerned about lead?
- II. What is the background for these actions?
- III. What are the criteria for redesignation to attainment?
- IV. What is EPA's analysis of Ohio's request?
- V. What Action is EPA Taking?
- VI. Statutory and Executive Order Reviews.

**I. Why is EPA concerned about lead?**

Lead is a metal found naturally in the environment and present in some manufactured products. However, lead has serious public health effects and depending on the level of exposure can adversely affect the nervous system, kidney

function, immune system, reproductive and developmental systems and the cardiovascular system. Infants and young children are especially sensitive to even low levels of lead, which may contribute to behavioral problems, learning deficits and lowered intelligence quotient. The major sources of lead for air emissions have historically been from fuels used in on-road motor vehicles (such as cars and trucks) and industrial sources. As a result of EPA's regulatory efforts to remove lead from on-road motor vehicle gasoline, emissions of lead from the transportation sector declined by 95 percent between 1980 and 1999, and levels of lead in the air decreased by 94 percent between 1980 and 1999.

## **II. What is the background for these actions?**

On November 12, 2008 (73 FR 66964), EPA established the 2008 primary and secondary lead NAAQS at 0.15 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) based on a maximum arithmetic three-month mean concentration for a three-year period. 40 CFR 50.16.

On November 22, 2010 (75 FR 71033), EPA published its initial air quality designations and classifications for the 2008 lead NAAQS based upon air quality monitoring data for calendar years 2007-2009. These designations became effective on December 31, 2010. A portion of Fulton County was designated

as nonattainment for lead, specifically portions of Swan Creek and York Townships. 40 CFR 81.336.

On April 27, 2017, Ohio requested EPA to designate the applicable Fulton County area as attainment of the lead NAAQS. Ohio documented that its request meets the redesignation criteria of CAA section 107.

Ohio used the emissions inventory to find that there were no area, mobile, or nonroad sources of lead emissions that contributed to nonattainment. The Bunting Bearings LLC facility (Bunting) in the village of Delta is the only point source of lead emissions in the nonattainment area. Bunting manufactures continuous cast products in copper alloys, typically bronze, that contain lead. The lead component of the alloys is important as it allows for machining the bronze.

### **III. What are the criteria for redesignation to attainment?**

The requirements for redesignating an area from nonattainment to attainment are found in CAA section 107(d)(3)(E). There are five criteria for redesignating an area. First, the Administrator must determine that the area has attained the applicable NAAQS based on current air quality data. Second, the Administrator must have fully approved the applicable SIP for the area under CAA section 110(k). The third

criterion is for the Administrator to determine that the air quality improvement is the result of permanent and enforceable emission reductions. Fourth, the Administrator must have fully approved a maintenance plan meeting the CAA section 175A requirements. The fifth criterion is that the state has met all of the applicable requirements of CAA section 110 and part D.

#### **IV. What is EPA's analysis of Ohio's request?**

##### **A. Attainment Determination and Redesignation**

##### **1. The Area Has Attained the 2008 Lead NAAQS (Section 107(d) (3) (E) (i))**

On May 26, 2015, EPA determined that Fulton County has attained the 2008 lead NAAQS. 80 FR 29964. EPA made its clean data determination based upon complete, quality-assured and certified ambient air monitoring data for the 2012-2014 period. The Fulton County area attained the 2008 lead NAAQS, with a design value of  $0.09 \mu\text{g}/\text{m}^3$  for 2012-2014, well below the  $0.15 \mu\text{g}/\text{m}^3$  standard.

EPA has reviewed the current monitoring data for Fulton County, Ohio. The latest available monitoring data continue to show attainment of the 2008 lead NAAQS. The 2014-2016 design value for the County is  $0.12 \mu\text{g}/\text{m}^3$ .

##### **2. The Area Has Met All Applicable Requirements under**

**Section 110 and Part D and Has a Fully Approved SIP Under  
Section 110(k) (Section 107(d) (3) (E) (ii) and (v))**

EPA has determined that Ohio has met all currently applicable SIP requirements for purposes of redesignation for the Fulton County area under section 110 of the CAA (general SIP requirements). In addition, with the exceptions of the RACM/RACT requirements under section 172(c) (1) and the emissions inventory under section 172(c) (3), all applicable requirements of the Ohio SIP for purposes of redesignation have either been approved or have been suspended, by either a clean data determination or determination of attainment. EPA is also approving Ohio's 2013 emissions inventory as meeting the section 172(c) (3) comprehensive emissions inventory requirement as well as approving the RACM provisions as meeting the section 172(c) (1) requirement. Thus, we are determining that Ohio's submission meets all SIP requirements currently applicable for purposes of redesignation under part D of title I of the CAA, in accordance with sections 107(d) (3) (E) (ii) and 107(d) (3) (E) (v).

In making these determinations, EPA has ascertained which SIP requirements are applicable for purposes of redesignation, and concluded that the Ohio SIP includes measures meeting those requirements and that they are fully approved under

section 110(k) of the CAA. Further discussion of EPA's review of Ohio's submittal regarding these criteria follows.

**a. Ohio Has Met All Applicable Requirements for Purposes of Redesignation of the Fulton County Area under Section 110 and Part D of the CAA**

**i. Section 110 General SIP Requirements**

Section 110(a) of title I of the CAA contains the general requirements for a SIP. Section 110(a)(2) provides that the implementation plan submitted by a state must have been adopted by the state after reasonable public notice and hearing, and, among other things, must: (1) include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; (2) provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor ambient air quality; (3) provide for implementation of a source permit program to regulate the modification and construction of any stationary source within the areas covered by the plan; (4) include provisions for the implementation of part C, Prevention of Significant Deterioration (PSD) and part D, New Source Review (NSR) permit programs; (5) include criteria for stationary source emission control measures, monitoring, and reporting; (6)

include provisions for air quality modeling; and (7) provide for public and local agency participation in planning and emission control rule development. Section 110(a)(2)(D) of the CAA requires that SIPs contain measures to prevent sources in a state from significantly contributing to air quality problems in another state.

EPA interprets the "applicable" requirements for an area's redesignation to be those requirements linked with a particular area's nonattainment designation. Therefore, EPA believes that the section 110 elements described above that are not connected with nonattainment plan submissions and not linked with an area's attainment status, such as the "infrastructure SIP" elements of section 110(a)(2), are not applicable requirements for purposes of redesignation. A state remains subject to these requirements after an area is redesignated to attainment, and thus EPA does not interpret such requirements to be relevant applicable requirements to evaluate in a redesignation. For example, the requirement to submit state plans addressing interstate transport obligations under section 110(a)(2)(D)(i)(I) continue to apply to a state regardless of the designation of any one particular area in the state, and thus are not applicable requirements to be evaluated in the

redesignation context.

EPA has applied this interpretation consistently in many redesignations over a period of decades. See e.g., 81 FR 44210 (July 7, 2016) (final redesignation for the Sullivan County, Tennessee area); 79 FR 43655 (July 28, 2014) (final redesignation for Bellefontaine, Ohio lead nonattainment area); 61 FR 53174-53176 (October 10, 1996) and 62 FR 24826 (May 7, 1997) (proposed and final redesignation for Reading, Pennsylvania ozone nonattainment area); 61 FR 20458 (May 7, 1996) (final redesignation for Cleveland-Akron-Lorain, Ohio ozone nonattainment area); and 60 FR 62748 (December 7, 1995) (final redesignation of Tampa, Florida ozone nonattainment area). See also 65 FR 37879, 37890 (June 19, 2000) (discussing this issue in final redesignation of Cincinnati, Ohio 1-hour ozone nonattainment area); 66 FR 50399 (October 19, 2001) (final redesignation of Pittsburgh, Pennsylvania 1-hour ozone nonattainment area).

EPA has reviewed the Ohio SIP and has determined that it meets the general SIP requirements under section 110 of the CAA to the extent the requirements are applicable for purposes of redesignation. EPA has previously approved provisions of Ohio's SIP addressing section 110 requirements, including provisions

addressing lead, at 40 CFR 52.1870.

On October 12, 2011, and supplemented on June 7, 2013, Ohio submitted its infrastructure SIP elements for the 2008 lead NAAQS as required by CAA section 110(a)(2). EPA approved Ohio's infrastructure SIP requirements for the 2008 lead NAAQS on October 6, 2014. 79 FR 60075. The requirements of section 110(a)(2) are statewide requirements that are not linked to the lead nonattainment status of the Fulton County area or Ohio's redesignation request.

**ii. Part D Requirements**

EPA has determined that upon approval of the base year emissions inventories and RACM provisions discussed in this rulemaking, the Ohio SIP will meet the applicable SIP requirements for the Fulton County area applicable for purposes of redesignation under part D of the CAA. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas.

**1) Section 172 Requirements.**

Section 172(c) sets out general nonattainment plan requirements. A thorough discussion of these requirements can be found in the General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992) ("General Preamble"). EPA's

longstanding interpretation of the nonattainment planning requirements of section 172 is that once an area is attaining the NAAQS, those requirements are not "applicable" for purposes of CAA section 107(d)(3)(E)(ii) and therefore need not be approved into the SIP before EPA can redesignate the area. In the General Preamble, EPA set forth its interpretation of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard. 57 FR 13564. EPA noted that the requirements for reasonable further progress (RFP) and other measures designed to provide for an area's attainment do not apply in evaluating redesignation requests because those nonattainment planning requirements "have no meaning" for an area that has already attained the standard. *Id.* This interpretation was also set forth in the September 4, 1992, *Processing Requests to Redesignate Areas to Attainment: Policy Memorandum* (Calcagni Memorandum).

EPA's understanding of section 172 also forms the basis of its Clean Data Policy. Under the Clean Data Policy, EPA promulgates a determination of attainment, published in the Federal Register and subject to notice-and-comment rulemaking, and this determination formally suspends a state's obligation to submit most of the attainment planning requirements that would

otherwise apply, including an attainment demonstration and planning SIPs to provide for RFP, RACM, and contingency measures under section 172(c)(9). The Clean Data Policy has been codified in regulations regarding the implementation of the ozone and fine particulate matter NAAQS. 70 FR 71612 (November 29, 2005) and 72 FR 20586 (April 25, 2007). The Clean Data Policy has also been specifically applied in a number of lead nonattainment areas where EPA has determined that the area is attaining the lead NAAQS. 79 FR 46212 (August 7, 2014) (proposed determination of attainment of Lyons, Pennsylvania lead nonattainment area); 80 FR 51127 (determination of attainment of Eagan, Minnesota lead nonattainment area). EPA finalized a Clean Data Determination under this policy for the Fulton County lead nonattainment area on May 26, 2015. 80 FR 29964.

EPA's long-standing interpretation regarding the applicability of section 172(c) attainment planning requirements for an area that is attaining a NAAQS applies in this redesignation of the Fulton County lead nonattainment area as well, except for the applicability of the requirement to implement all reasonably available control measures under section 172(c)(1). On July 14, 2015, the United States Court of

Appeals for the Sixth Circuit (6<sup>th</sup> Circuit) ruled that to meet the requirement of section 107(d)(3)(E)(ii), states are required to submit plans addressing RACM/RACT under section 172(c)(1) and EPA is required to approve those plans prior to redesignating the area, regardless of whether the area is attaining the standard. *Sierra Club v. EPA*, 793 F.3d 656 (6th Cir. 2015). As Ohio is within the jurisdiction of the 6<sup>th</sup> Circuit, EPA is acting in accordance with the *Sierra Club* decision by approving RACM provisions in parallel with this redesignation action.<sup>1</sup>

Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all RACM as expeditiously as practicable and to provide for attainment of the primary NAAQS. Under this requirement, a state must consider all available control measures, including reductions that area available from adopting RACT on existing sources, for a nonattainment area and adopt and implement such measures as are reasonably available in the area as components of the area's attainment demonstration. EPA is today approving Ohio's RACM submission. Therefore, Ohio has met its requirements under CAA

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<sup>1</sup> Although the approach being implemented here is inconsistent with the Agency's longstanding national policy, such deviation is required in order to act in accordance with an applicable Circuit Court decision. Consistent with 40 CFR 56.5(b), the Region does not need to seek concurrence from EPA Headquarters for such deviation in these circumstances. 81 FR 51102 (August 3, 2016).

sections 172(c)(1) and 107(d)(3)(E)(v).

The remaining section 172(c) "attainment planning" requirements are not applicable for purposes of evaluating Ohio's redesignation request. Specifically, the RFP requirement under section 172(c)(2), which is defined as progress that must be made toward attainment, the requirement to submit section 172(c)(9) contingency measures, which are measures to be taken if the area fails to make reasonable further progress to attainment, and the section 172(c)(6) requirement that the SIP contain control measures necessary to provide for attainment of the standard, are not applicable requirements that Ohio must meet here because the Fulton County area has monitored attainment of the 2008 lead NAAQS. As noted, EPA issued a determination of attainment (or clean data determination) for the Fulton County area in May 2015, which formally suspended the obligation to submit any of the attainment planning SIPs. 80 FR 29964 (May 26, 2015).

Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. Ohio submitted 2008 and 2013 emission inventories with its redesignation request. The 2013 inventory can be used as the most accurate and current inventory. As discussed in

section III.B., EPA is approving the 2013 base year inventory as meeting the section 172(c)(3) emissions inventory requirement for the Fulton County area.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA approved Ohio's current NSR program January 10, 2003. 68 FR 1366. In addition, the state's maintenance plan does not rely on nonattainment NSR, therefore having a fully approved NSR program is not an applicable requirement, but, nonetheless, EPA has approved the state's program.<sup>2</sup>

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the standard. No additional measures are needed to provide for attainment because attainment has been reached.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). EPA has determined that the

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<sup>2</sup> A detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, "Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment."

Ohio SIP meets the section 110(a)(2) applicable requirements for purposes of redesignation.

**2) Section 176 Conformity Requirements.**

CAA section 176(c) requires states to establish criteria and procedures to ensure that Federally-supported or funded activities, including highway and transit projects, conform to the air quality planning goals in the applicable SIPs. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under title 23 of the U.S. Code and the Federal Transit Act (transportation conformity) as well as to all other Federally-supported or funded projects (general conformity). Considering the elimination of lead additives in gasoline, transportation conformity does not apply to the lead NAAQS. 73 FR 66964, 67043 n.120. EPA approved Ohio's general conformity SIP on March 11, 1996. 61 FR 9646.

**b. Ohio Has a Fully Approved Applicable SIP under Section 110(k) of the CAA**

Upon final approval of Ohio's comprehensive 2013 emissions inventories and approval of RACM for the Fulton County lead area, EPA will have fully approved the Ohio SIP for the Fulton County area under section 110(k) of the CAA for all requirements

applicable for purposes of redesignation, in accordance with section 107(d) (3) (E) (ii). EPA may rely on prior SIP approvals in approving a redesignation request (See page 3 of the September 4, 1992, *Processing Requests to Redesignate Areas to Attainment: Policy Memorandum* (Calcagni memorandum)); *Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984, 989-990 (6th Cir. 1998); *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001)). EPA also relies on measures approved in conjunction with a redesignation action. See 68 FR 25413 (May 12, 2003) (approving I/M program for St. Louis) and 68 FR 25413, 25426 (May 12, 2003). Ohio has adopted and submitted, and EPA has fully approved, required SIP provisions addressing the 2008 lead standards. Of the CAA requirements applicable to this redesignation request only two remain applicable, the emissions inventory requirement of section 172(c) (3) and the RACM requirement of section 172(c) (1).

EPA is approving Ohio's 2013 emissions inventories for the Fulton County area as meeting the requirement of section 172(c) (3) of the CAA, and approving RACM provisions meeting the requirement of 172(c) (1). No SIP provisions are currently disapproved, conditionally approved, or partially approved in the Fulton County area under section 110(k) in accordance with

section 107(d) (3) (E) (ii).

**3. The Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions Resulting from Implementation of the SIPs and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions (Section 107(d) (3) (E) (iii))**

To support the revision of an area's designation from nonattainment to attainment, CAA section 107(d) (3) (E) (iii) requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions. Permanent and enforceable emission reductions result from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable emission reductions.

Bunting is the lone source of lead emissions in the Fulton County nonattainment area. Ohio implemented a preventative maintenance plan (PMP) for Bunting. The PMP specifies the required inspections to be performed, requires continuous operation of a fabric filter bag leak detection system, and specifies the correct actions Bunting is to take following an inspection suggesting a leak or an alarm of the leak detection system. The PMP was implemented to correct control equipment

malfunctions and poor housekeeping that caused additional lead emissions from the Bunting facility. Ohio incorporated the PMP requirements into the Air Pollution Permits-to-install and operate P0121822, P0120836, and P0121942 issued to Bunting on February 28, 2017. Those permits are permanent and Federally enforceable.

**4. Ohio Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA (Section 107(d)(3)(E)(iv))**

In conjunction with its request to redesignate the Fulton County nonattainment area to attainment, Ohio requested a SIP revision to provide for maintenance of the 2008 lead NAAQS in the area through 2030.

**a. What Is Required in a Maintenance Plan?**

The required elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment are contained in section 175A of the CAA. Section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area "for at least 10 years after the redesignation". EPA has interpreted this as a showing of maintenance "for a period of ten years following redesignation". Calcagni memorandum at 9. Eight years after redesignation, the state must submit a revised

maintenance plan which demonstrates that attainment will continue to be maintained for the subsequent 10 years.

To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures with a schedule for implementation as EPA deems necessary to assure prompt correction of any future lead violations.

The Calcagni memorandum provides additional guidance on the content of a maintenance plan. The memorandum states that a maintenance plan should address the following items: the attainment emissions inventory, a maintenance demonstration showing maintenance for the 10 years of the maintenance period, a commitment to maintain the existing monitoring network, factors and procedures to be used for verification of continued attainment of the NAAQS, and a contingency plan to prevent or correct future violations of the NAAQS.

Ohio's maintenance plan shows that the Fulton County area's emissions will remain below the attainment year levels through 2030.

**b. Attainment Inventory**

Ohio provided lead emissions inventories for the nonattainment year (2008), the attainment year (2013), an interim year (2021), and a future year (2030). The lead

emissions in tons per year (TPY) for Fulton County, Ohio are listed in Table 1.

Table 1: Fulton County, Ohio Lead Emissions

2008	0.0050 TPY	nonattainment year
2013	0.0035 TPY	attainment year
2021	0.00315 TPY	future year (interim)
2030	0.00284 TPY	future year (maintenance)

**c. Demonstration of Maintenance**

Ohio included a section 175(A) maintenance plan in its submission. In the plan, Ohio has provided both an emissions inventory and air dispersion modeling of the emission limits resulting from the PMP to demonstrate that the area is expected to maintain the standard into the future. Where the emissions inventory method of showing maintenance is used, its purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. Calcagni memorandum at 9-10. A maintenance demonstration need not be based on modeling. See *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001), *Sierra Club v. EPA*, 375 F. 3d 537 (7th Cir. 2004). See also 66 FR 53094, 53099-53100 (October 19, 2001), 68 FR 25413, 25430-25432 (May 12, 2003).

The plan demonstrates maintenance of the 2008 lead standard through 2030 by showing that current and future emissions of

lead in the area remain at or below attainment year emission levels. In addition, the area can show modeled attainment of the NAAQS. The emissions inventory comparison showing the decline in emissions between 2013 and 2030 indicates maintenance. The modeling Ohio conducted also supports the conclusion that the Fulton County area will maintain attainment into the future.

A summary of the air dispersion modeling for Bunting was included in Ohio's submission. The modeling evaluated the PMP measures including the emission limits from Air Pollution Permits-to-install and operate P0108083, P0121822, P0120836, and P0121942. Ohio used the American Meteorology Society/Environmental Protection Agency Regulatory Model, known as AERMOD. That analysis yielded a maximum impact of  $0.12 \mu\text{g}/\text{m}^3$ , which is below the 2008 lead NAAQS of  $0.15 \mu\text{g}/\text{m}^3$ . This modeling analysis is valid for the Fulton County redesignation because the Bunting control measures are responsible for the emission reductions that brought the area into attainment.

Ohio's maintenance plan submission shows that the Fulton County area's lead emissions will remain below the attainment year inventories through 2030. See Table 1. The reductions in lead emissions in the Fulton County area result from the

permanent and enforceable control measures for Bunting, the lone lead source in the area. Monitoring data show that the Fulton County area ambient lead concentrations have remained below the NAAQS since the PMP was applied to Bunting. Because of the control measures implemented, it is reasonable to expect the emissions to remain at a level that meets the standard. Thus, it is reasonable to expect the Fulton County area will continue to attain the 2008 lead NAAQS through 2030. EPA has determined that Ohio's submission demonstrates that the area will continue to maintain the 2008 lead NAAQS at least through 2030. In addition, the air dispersion modeling indicates that with the permitted emission limitation implemented the Fulton County area ambient lead concentration will be below the 2008 lead NAAQS. Based on the showing, in accordance with section 175A, that the Ohio's maintenance plan provides for maintenance for at least 10 years after redesignation, EPA is approving the redesignation request and maintenance plans.

**d. Monitoring Network**

Ohio has committed to monitor ambient lead levels in the Fulton County area during the maintenance period to confirm continued maintenance of the 2008 lead NAAQS, and to continue to operate an adequate monitoring network. EPA has determined that

the Fulton County, Ohio area lead monitoring network is adequate to confirm maintenance.

**e. Verification of Continued Attainment**

Ohio will also continue to enter its air monitoring data into the Air Quality System in accordance with Federal guidelines. It will also submit periodic emissions inventories to EPA as required by the Federal Consolidated Emissions Reporting Rule. 67 FR 39602, June 10, 2002. Both actions will help to verify continued attainment of the NAAQS in accordance with 40 CFR part 58.

**f. Contingency Plan**

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. CAA section 175A requires that the maintenance plan include such contingency measures. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement

all pollution control measures that were contained in the SIP before redesignation of the area to attainment. Section 175A(d) of the CAA.

Ohio's contingency plan defines a warning level and action level response. The warning level response will trigger when a lead monitor three-month rolling average exceeds  $0.135 \mu\text{g}/\text{m}^3$  in the maintenance area. If a warning level response is triggered, Ohio will conduct a study to determine whether the lead values indicate a trend toward exceeding the standard and what control measure would be necessary to reverse the trend within 12 months of the conclusion of the calendar year. The action level response will be prompted by the determination of the warning level study that a reverse of the trend is needed, or by the three-month rolling average exceeding  $0.143 \mu\text{g}/\text{m}^3$ . The action level response will require Ohio to work with the entity found to be responsible for the ambient concentration to evaluate and implement the needed control measures to bring the area into attainment within 18 months of the conclusion of the calendar year that triggered the response.

Should the 2008 lead NAAQS be violated during the maintenance period, Ohio will implement one or more contingency measures. The contingency measures will be considered based on

the cause of the elevated lead levels. Potential measures include improvements to existing control devices, the addition of a secondary control device, and improvements to housekeeping and maintenance.

EPA has determined that Ohio's maintenance plan adequately addresses the five basic components of a maintenance plan: attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan.

As required by section 175A(b) of the CAA, Ohio commits to submit to the EPA an updated lead maintenance plan eight years after redesignation of the Fulton County area to cover an additional ten-year period beyond the initial ten-year maintenance period.

For the reasons set forth above, EPA is approving Ohio's 2008 lead maintenance plan for the Fulton County area as meeting the requirements of CAA section 175A.

**B. Comprehensive Emissions Inventory**

Section 172(c)(3) of the CAA requires areas to submit a comprehensive, accurate, and current emissions inventory. Ohio provided such an inventory in its submission.

Ohio identified Bunting as the lone source of lead emissions in the Fulton County nonattainment area. Thus, the emissions from Bunting represent the emissions of the Fulton County area. In 2013, the lead emissions were 0.0035 TPY. See Table 1.

EPA approves the lead emissions inventories submitted by Ohio in April 2017 as fully meeting the comprehensive inventory requirement of section 172(c)(3) of the CAA for the Fulton County area for the 2008 lead NAAQS.

**C. RACM Requirements**

Based on the 6<sup>th</sup> Circuit decision discussed above, EPA requires areas in the jurisdiction of the 6<sup>th</sup> Circuit to have approved RACM/RACT provisions in order to be redesignated. Ohio performed a RACM analysis for Bunting. EPA is approving the existing controls and maintenance provisions for Bunting as fulfilling this requirement. Bunting has combined limits in Federally enforceable permits for the units controlled by each of its three baghouses. Baghouse A has a combined limit of

0.150 pound lead per hour (lb/hr) for the exhaust of units P006 to P011, P013, P020 to P025, P029 to P032, P035, and P036.

Baghouse B has a combined limit of 0.150 lb/hr for units P014 to P019 and P028. Baghouse C has a combined limit of 0.075 lb/hr for unit P005. The current controls and PMP have brought the area into attainment and constitute RACM, which meets the requirement of CAA section 172(c)(1).

**V. What Action is EPA Taking?**

EPA has determined that the Fulton County area is attaining the 2008 lead NAAQS and that the area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus approving the request from Ohio to change the legal designation of the Fulton County area from nonattainment to attainment for the 2008 lead standard. EPA is approving Ohio's maintenance plan for the Fulton County area as a revision to the Ohio SIP because we have determined that the plan meets the requirements of section 175A of the CAA. EPA is approving the emission controls in Air Pollution Permits-to-install and operate P0108083, P0121822, P0120836, and P0121942 as meeting the RACM/RACT requirements of CAA section 172(c)(1). EPA is approving the 2013 emissions inventory as meeting the comprehensive emissions inventory requirements of section

172(c)(3) of the CAA. EPA is taking these actions in accordance with the CAA and EPA's implementation regulations regarding the 2008 lead NAAQS.

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 after date of publication in the Federal Register]** without further notice unless we receive relevant adverse written comments by **[insert date 30 days after 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. Public comments 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 after 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 Clean Air Act; 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, the SIP is not approved to apply on any Indian reservation land or in any other area where 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).

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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. 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**

*40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

*40 CFR Part 81*

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: September 28, 2017.

Robert A. Kaplan,  
Acting Regional Administrator, Region 5.

40 CFR parts 52 and 81 are 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 the table in paragraph (e) is amended by adding a new entry for “Lead (2008)” under sub-heading “Summary of Criteria Pollutant Maintenance Plan” to read as follows:

**§ 52.1870 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

**EPA--APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS**

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Lead (2008)	Delta (partial Fulton County)	4/27/2017	[insert date of publication in the Federal Register], [insert Federal Register citation]	Includes approval of the 2013 lead base year emissions inventory and Preventative Maintenance Plan as RACM for the Bunting Bearing LLC Delta facility.
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

3. Section 52.1893 is amended by adding new paragraphs (f), (g) and (h) to read as follows:

**§52.1893 Control strategy: Lead (Pb).**

\* \* \* \* \*

(f) Ohio's 2013 lead emissions inventory for the Fulton County area, submitted on April 27, 2017, to meet the emission inventory requirements of section 172(c)(3) of the Clean Air Act for the Fulton County area.

(g) Approval – The 2008 lead maintenance plan for the Fulton County, Ohio nonattainment area, submitted on April 27, 2017.

(h) Existing controls and maintenance provisions in the Air Pollution Permits-to-install and operate P0108083, P0121822, P0120836, and P0121942 for the Bunting Bearing LLC Delta facility including the preventative maintenance plan as fulfilling the RACM/RACT 172(c)(1) requirement. Permits P0120836, P0121822, and P0121942, all issued February 28, 2017, require a combined limit of 0.150 pounds lead per hour for the exhaust of units P006 to P011, P013, P020 to P025, P029 to P032, P035, and P036. Permit P0108083, issued October 29, 2012, requires a combined limit of 0.150 pounds lead per hour for units P014 to P019 and P028 and a combined limit of 0.075 lb/hr for unit P005.

**PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

4. The authority citation for part 81 continues to read as follows:

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

5. Section 81.336 is amended by revising the entry for Delta, OH in the table entitled "Ohio-2008 Lead NAAQS" to read as follows:

**§81.336 Ohio.**

\* \* \* \* \*

Ohio-2008 Lead NAAQS

Designated area	Designation for the 2008 NAAQS <sup>a</sup>	
	Date <sup>1</sup>	Type
* * * * *		
Delta, OH:		
Fulton County (part)	<b>[insert date of publication in the Federal Register]</b>	Attainment
The portions of Fulton County that are bounded by: sections 12 and 13 of York Township and sections 7 and 18 of Swan Creek Township.		
* * * * *		

<sup>a</sup> Includes Indian Country located in each county or area, except as otherwise specified.

<sup>1</sup> December 31, 2011, unless otherwise noted.