



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

**[EPA-R05-OAR-2016-0044; FRL-9962-72-Region 5]**

**Air Plan Approval; Michigan; Redesignation of the Belding Area  
in Ionia County 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 Michigan's request to revise the designation of (redesignate) the Belding nonattainment area (Belding) 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 is effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless EPA receives adverse comments by **[insert date 30 days after**

**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-2016-0044 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>.

**FOR FURTHER INFORMATION CONTACT:** Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, [rau.matthew@epa.gov](mailto:rau.matthew@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. 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 Michigan's request?
- V. What action is EPA taking?
- VI. Statutory and Executive Order Reviews.

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

Lead (Pb) is a metal found naturally in the environment and present in some manufactured products. However, Pb 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 Pb, which may contribute to behavioral problems, learning deficits and lowered intelligence quotient. The major sources of Pb 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 Pb from on-road motor vehicle gasoline, emissions of Pb from the transportation sector dramatically declined by 95 percent between 1980 and 1999, and levels of Pb 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 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. 40 CFR 50.16.

On November 22, 2010 (75 FR 71033), EPA completed its initial air quality designations and classifications for the 2008 Pb NAAQS based upon air quality monitoring data for calendar years 2007-2009. The designations became effective on December 31, 2010. In Michigan, EPA designated a portion of

Ionia County, specifically a portion of the city of Belding, as nonattainment for the 2008 Pb NAAQS. 40 CFR 81.336.

On January 12, 2016, Michigan requested EPA to designate the Belding portion of Ionia County as attainment of the Pb NAAQS. Michigan documented its request meets the redesignation criteria of CAA section 107.

Michigan found that the Mueller Industries, Inc. (Mueller) facility in Belding, Michigan, is the sole source of Pb emissions in the area. Mueller's Belding facility produces brass rods used to produce plumbing fittings and fixtures and other products.

### **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 entire area has attained the applicable NAAQS based on current air quality data. Second, the Administrator has 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 has fully approved a

maintenance plan meeting the CAA section 175A requirements. The fifth criterion is that the state has met all the redesignation requirements of CAA section 110 and part D.

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

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

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

On July 24, 2015, EPA determined that the Belding, Michigan nonattainment area has attained the 2008 Pb NAAQS. 80 FR 43956. EPA made its clean data determination based upon complete, quality-assured and certified ambient air monitoring data for the 2012-2014 period. The Belding area attained the 2008 Pb NAAQS, with a design value of  $0.06 \mu\text{g}/\text{m}^3$  for 2012-2014.

EPA has reviewed the current monitoring data for Ionia County, Michigan. The 2013-2015 design values are  $0.06 \mu\text{g}/\text{m}^3$  for monitor 26-067-0002, 545 Reed Street in Belding, and  $0.05 \mu\text{g}/\text{m}^3$  for monitor 26-067-0003, 509 Merrick Street in Belding. The highest monitored value was  $0.06 \mu\text{g}/\text{m}^3$  for monitor 26-067-0002 in 2013. Current monitoring data indicate that the Belding area continues to attain the 2008 Pb NAAQS.

**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 determines that Michigan has met all currently applicable SIP requirements for purposes of redesignation for the Belding 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 Michigan 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 Michigan'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 the Michigan 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 Michigan SIP includes measures meeting those requirements and that they are fully approved under section 110(k) of the CAA.

**a. Michigan Has Met All Applicable Requirements for Purposes of Redesignation of the Belding 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 for 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 Pb 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 Michigan 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

Michigan's SIP addressing section 110 requirements, including provisions addressing Pb, at 40 CFR 52.1170.

On April 3, 2012, and supplemented on August 9, 2013, and September 19, 2013, Michigan submitted its infrastructure SIP elements for the 2008 Pb NAAQS as required by CAA section 110(a)(2). EPA approved Michigan's infrastructure SIP requirements for the 2008 Pb NAAQS on July 16, 2014. 79 FR 41439. The requirements of section 110(a)(2) are statewide requirements that are not linked to the Pb nonattainment status of the Belding area or Michigan's redesignation request.

**ii. Part D Requirements**

EPA determined that upon approval of the base year emissions inventories and RACM provisions discussed in this rulemaking, the Michigan SIP will meet the applicable SIP requirements for the Belding 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 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 PM<sub>2.5</sub> 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 Pb nonattainment areas where EPA has determined that the area is attaining the Pb NAAQS. 79 FR 46212 (August 7, 2014) (proposed determination of attainment of Lyons, Pennsylvania Pb nonattainment area); 80 FR 51127 (determination of attainment of Eagan, Minnesota Pb nonattainment area). EPA finalized a Clean Data Determination under this policy for the Belding Pb nonattainment area on July 24, 2015. 80 FR 43956.

EPA's long-standing interpretation regarding the applicability of section 172(c)'s attainment planning requirements for an area that is attaining a NAAQS applies in this redesignation of the Belding Pb 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 Michigan 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 Michigan's RACM submission. Therefore, Michigan has met its requirements under CAA sections 172(c) (1) and 107(d) (3) (E) (v).

The remaining section 172(c) "attainment planning"

---

<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 a 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).

requirements are not applicable for purposes of evaluating Michigan'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 section 172(c)(6)'s requirement that the SIP contain control measures necessary to provide for attainment of the standard, are not applicable requirements that Michigan must meet here because the Belding area has monitored attainment of the 2008 Pb NAAQS. As noted, EPA issued a determination of attainment (or clean data determination) for the Belding area in July 2015, which formally suspended the obligation to submit any of the attainment planning SIPs. 80 FR 43956 (July 24, 2015).

Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. Michigan submitted 2009, 2011, and 2013 emission inventories along 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 Belding 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 Michigan's current NSR program on December 16, 2013. 78 FR 76064. In addition, the state's maintenance plan does not rely nonattainment NSR, therefore having a fully approved NSR program is not an applicable requirement, but that, 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 finds that the Michigan SIP meets the section 110(a)(2) applicable requirements for purposes of redesignation.

## **2) Section 176 Conformity Requirements.**

---

<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."

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 Pb additives in gasoline, transportation conformity does not apply to the Pb NAAQS. 73 FR 66964, 67043 n.120. EPA approved Michigan's general conformity SIP on December 18, 1996. 61 FR 66607.

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

Upon final approval of Michigan's comprehensive 2013 emissions inventories and approval of RACM for the Belding Pb area, EPA will have fully approved the Michigan SIP for the Belding 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). Michigan has adopted and submitted, and EPA has fully approved, required SIP provisions addressing the 2008 Pb standards. Of the CAA requirements applicable to this redesignation request, only two remain—the emissions inventory requirement of section 172(c)(3) and the RACM requirement of section 172(c)(1).

EPA is approving the submitted Mueller emission controls as RACM/RACT and Michigan's 2013 emissions inventories for the Belding area as meeting the requirement of CAA section 172(c)(3). There are no SIP provisions are currently disapproved, conditionally approved, or partially approved in the Belding, Michigan 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. The 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.

Michigan identified Mueller as the lone source of Pb emissions near the nonattainment area. Mueller produces brass rods that are used in making plumbing fixtures and fittings among other products at its facility in Belding, Michigan. Mueller implemented various control measures on its west chip and east chip dryers that result in decreased emissions. In 2010, it stopped operating its uncontrolled east chip dryer and installed controls on its west chip dryer. A permanent and enforceable Permit to Install number 16-11 (PTI 16-11) was issued on October 20, 2011, and revised on March 15, 2012, which limits Pb emissions and requires certain controls for the east

and west chip dryers. PTI 16-11 requires each chip dryer to operate a cyclone, a thermal oxidizer, a wet scrubber, and a demister to control emissions. Operation of the east chip dryer is allowed once the required controls are installed. The west chip dryer stack height was increased to 122 feet in January 2012. The east chip dryer stack height is also required to be 122 feet. Increasing the stack height creates more dispersion of the exhaust, which can reduce the maximum concentration. The controls and emission limits in PTI 16-11 are permanent and enforceable. Michigan analyzed the control measures added in PTI 16-11 and found that these measures brought the Belding area into attainment of the 2008 Pb NAAQS. The monitoring data in the Belding area, as detailed in III.A.1, show the area has met and continues to meet the 2008 Pb NAAQS.

In addition, the Reduction of Lead in Drinking Water Act (Section 1417 of the Safe Drinking Water Act, 42 U.S.C. 300g-6) prohibits the use of Pb in plumbing fittings or fixtures. Effective January 4, 2014, plumbing fittings and fixtures must go from a weighted average of 8.0 percent Pb to 0.25 percent Pb. This reduction requires Mueller to reduce the amount of Pb used in its brass rod production, which is expected to continue the decrease in its Pb emissions.

**4. Michigan 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 designate the Belding nonattainment area to attainment, Michigan requested a SIP revision to provide for maintenance of the 2008 Pb NAAQS in the area through 2025.

**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. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after EPA approves a redesignation to attainment. 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 Pb violations.

The September 4, 1992, 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.

Michigan's maintenance plan shows that the Belding area's emissions will remain below the attainment year levels through 2025.

**b. Attainment Inventory**

Michigan provided Pb emissions inventories for the nonattainment years (2009 and 2011), attainment year (2013), and future year (2025). The Pb emissions for Mueller's Belding, Michigan facility are listed in Table 1.

Table 1: Mueller Lead Emissions

2009	2,277.73 pounds	nonattainment year
2011	1,402.93 pounds	nonattainment year
2013	1,153.15 pounds	attainment year
2025	864 pounds	future year

Michigan identified Mueller as the lone source of Pb emissions in the vicinity of the Belding nonattainment area. Thus, the emissions inventories provided are adequate for the Belding area.

**c. Demonstration of Maintenance**

Michigan included a section 175(A) maintenance plan in its submission. 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. 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). Michigan has provided both an emissions inventory as well as air dispersion modeling of the emission limits

established in PTI 16-11 to demonstrate that the area should maintain the standard into the future. A summary of the air dispersion modeling for Mueller was included in Michigan's submissions. The modeling evaluated the Consent Order 9-2011 and PTI 16-11 revisions. Michigan used the American Meteorology Society/Environmental Protection Agency Regulatory Model version 11103. That analysis yielded a maximum impact of  $0.13 \mu\text{g}/\text{m}^3$ , which is below the 2008 Pb NAAQS of  $0.15 \mu\text{g}/\text{m}^3$ . This modeling analysis is valid for the Belding redesignation as the Mueller control revisions are responsible for the emission reductions that brought the area into attainment. Michigan also provided an emissions inventory for an attainment year, 2013, and for a future year, 2025. See Table 1. Michigan is projecting a 25 percent decrease below attainment year emissions Pb emissions from the source due to the reduction in Pb usage in brass manufacturing. Under the Reduction of Lead in Drinking Water Act, plumbing fittings and fixtures must go from a weighted average of 8.0 percent Pb to 0.25 percent Pb, driving the expected Pb decreases from Mueller.

Michigan's maintenance plan submission shows that the Belding area's Pb emissions will remain below the attainment year inventories through 2025. The reductions in Pb emissions

in Belding result from the permanent and enforceable control measures for Mueller, the lone Pb source in the area.

Monitoring data show the Belding area ambient Pb concentrations declined following the Mueller emission reductions. It is reasonable to expect the emissions to remain at the reduced levels because of the control measures implemented. Thus, it is reasonable to expect the Belding area will continue to attain the 2008 Pb NAAQS through 2027.

EPA believes that Michigan's submission demonstrates that the area will continue to maintain the 2008 Pb NAAQS at least through 2027. This is because the 2027 emissions should remain at the same level as projected for 2025 due to the permanent and enforceable limits in PTI 16-11 along with additional reductions from other rules. In addition, the air dispersion modeling indicates that with the PTI 16-11 controls the Belding area ambient Pb concentration will be below the 2008 Pb NAAQS. Thus, EPA is approving the redesignation request and maintenance plans based on a showing, in accordance with section 175A, that the Michigan's maintenance plan provides for maintenance for at least 10 years after redesignation.

**d. Monitoring Network**

Michigan will monitor ambient Pb levels during the 10 year maintenance period in the Belding area to confirm continued maintenance of the 2008 Pb NAAQS. EPA determines that the Belding, Michigan area Pb monitoring network is adequate to confirm maintenance. Michigan commits to continue to operate an adequate monitoring network.

**e. Verification of Continued Attainment**

Michigan 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 to verify continued attainment. 67 FR 39602, June 10, 2002. Both actions will help to verify continued attainment 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.

Michigan commits to implement one or more contingency measures should the 2008 Pb NAAQS be violated during the maintenance period. The contingency measures are:

i. Increase inspection frequency of Mueller to twice per year, beginning three months after a quality-assured violation of the NAAQS at a Belding, Michigan air monitoring site. The increased inspection frequency will remain in place until the quality-assured Pb ambient air monitored levels show NAAQS compliance on a 3-year rolling average.

ii. Require Mueller to submit an enhanced preventative maintenance/malfunction abatement plan within six months after a quality-assured violation of the NAAQS at a Belding, Michigan air monitoring site.

iii. Require Mueller to reassess control strategies that further limit Pb emissions within one year of a quality-assured

violation of the NAAQS at a Belding, Michigan air monitoring site.

Michigan will also consider any other potential contingency measures at the time of the selection.

EPA finds that Michigan'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, Michigan commits to submit to the EPA an updated Pb maintenance plan eight years after redesignation of the Belding area to cover an additional 10 year period beyond the initial 10 year maintenance period.

EPA is approving Michigan's 2008 Pb maintenance plan for the Belding 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. Michigan provided such an inventory in its submission.

Michigan identified Mueller as the lone source of Pb emissions in the vicinity of the Belding nonattainment area. Thus, it provided the emissions for Mueller that represent the

emissions of the Belding area. In 2013, Pb emissions were 1,153.15 pounds. See Table 1.

EPA approves the Pb emissions inventories submitted by Michigan in January 2016 as fully meeting the comprehensive inventory requirement of section 172(c)(3) of the CAA for the Belding area for the 2008 Pb NAAQS.

#### C. RACM Requirements

Based on the 6<sup>th</sup> Circuit decision, CAA Section 172(c)(1) requires areas to have approved RACM/RACT provisions to be redesignated. PTI 16-11 added legally enforceable emission controls on Mueller considered to be RACT for Pb. PTI 16-11 requires each Mueller chip dryer to operate a cyclone, a thermal oxidizer, a wet scrubber, and a demister to control emissions. The west chip dryer stack height was increased to 122 feet in January 2012. The east chip dryer stack height is also required to be 122 feet. EPA is approving the emission controls as required by PTI 16-11 as satisfying the RACT requirement of Section 172(c)(1).

#### V. What action is EPA taking?

EPA has determined that the Belding area is attaining the 2008 Pb 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 requests from Michigan to change the legal designation of the Belding area from nonattainment to attainment for the 2008 Pb standard. EPA is approving Michigan's maintenance plan for the Belding area as a revision to the Michigan SIP because the plan meets the requirements of section 175A of the CAA. EPA is approving the emission controls in PTI 16-11 as required by Consent Order 9-2011 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 Pb 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 the date of publication in the Federal Register]** without further notice unless we receive relevant adverse written comments by **[insert**

**date 30 days after 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 after 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 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 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, 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).

**List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control,  
Incorporation by reference, Intergovernmental relations, Lead.

*40 CFR Part 81*

Environmental protection, Air pollution control.

Dated: May 4, 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 § 52.1170 the table in paragraph (e) is amended:

a. Under "Emissions Inventories" by adding an entry for "2008 lead (Pb) 2013 base year" after the entry for "1997 annual PM<sub>2.5</sub> 2005 base year;" and

b. Under "Maintenance Plans" by adding an entry for "2008 lead (Pb)" after the entry for "2006 24-Hour PM<sub>2.5</sub>."

The additions read as follows:

**§52.1170 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

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

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
* * *	* * *	*		
<b>Emissions Inventories</b>				
**	**	*	*	*
2008 lead (Pb) 2013 base year	Belding area (Ionia County, part)	1/12/2016	[insert date of publication in the Federal Register], [insert Federal Register citation]	
* * *	* * *	*		
<b>Maintenance Plans</b>				
**	**	*	*	*

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
2008 lead (Pb)	Belding area (Ionia County, part)	1/12/2016	[insert date of publication in the Federal Register], [insert Federal Register citation]	
* * *	* * *	* * *	* * *	* * *

3. Section 52.1188 is amended by adding paragraphs (b) and (c) to read as follows:

**§52.1188 Control strategy: Lead (Pb).**

\* \* \* \* \*

(b) Michigan's 2013 lead emissions inventory for the Belding area as submitted on January 12, 2016, satisfying the emission inventory requirements of section 172(c)(3) of the Clean Air Act for the Belding area.

(c) *Approval.* The 2008 lead maintenance plan for the Belding, Michigan nonattainment area has been approved as submitted on January 12, 2016.

**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 81.323 is amended by revising the entry for Belding, MI in the table entitled "Michigan-2008 Lead NAAQS" to read as

follows:

**§81.323 Michigan.**

\* \* \* \* \*

Michigan—2008 Lead NAAQS

Designated Area	Designation for the 2008 NAAQS <sup>a</sup>	
	Date <sup>1</sup>	Type
Belding, MI:		
Ionia County (part)	<b>[insert date of publication in the Federal Register]</b>	Attainment
The area bounded by the following coordinates: Southeast corner by latitude 43.0956705 N and longitude 85.2130771 W; southwest corner (intersection of S. Broas St. and W. Washington St.) by latitude 43.0960358 N and longitude 85.2324027 W; northeast corner by latitude 43.1074942 N and longitude 85.2132313 W; western boundary 1 (intersection of W. Ellis St. and the vertical extension of S. Broas St.) by latitude 43.1033277 N and longitude 85.2322553 W; western boundary 2 (intersection of W. Ellis St. and N. Bridge St.) by latitude 43.1033911 N and longitude 85.2278464 W; western boundary 3 (intersection of N. Bridge St. and Earle St.) by latitude 43.1074479 N and longitude 85.2279722 W.		
* * * * *		

<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.

[FR Doc. 2017-10928 Filed: 5/30/2017 8:45 am; Publication Date: 5/31/2017]