

Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

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

Dated: April 3, 2018.

**Anne Idsal,**

*Regional Administrator, Region 6.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R04-OAR-2018-0077; FRL-9976-77—Region 4]

#### Air Plan Approval and Air Quality Designation; AL; Redesignation of the Pike County Lead Nonattainment Area to Attainment

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

**ACTION:** Proposed rule.

**SUMMARY:** On January 3, 2018, the State of Alabama, through the Alabama Department of Environmental Management (ADEM), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Troy 2008 lead Nonattainment Area (“Troy Area” or “Area”) to attainment for the 2008 lead (Pb) National Ambient Air Quality Standards (NAAQS or standard) and to approve an associated State Implementation Plan (SIP) revision containing a maintenance plan. The Troy Area is comprised of a portion of Pike County in Alabama surrounding the Sanders Lead Company facility (Sanders Lead Facility or Facility). EPA is proposing to determine that the Troy Area is attaining 2008 lead NAAQS; to approve the SIP revision containing the State’s maintenance plan for maintaining attainment of the 2008 lead standard; and to redesignate the Troy Area to attainment for the 2008 lead NAAQS.

**DATES:** Comments must be received on or before May 14, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No EPA-R04-

OAR-2018-0077 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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, 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:

Ashten Bailey of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. Ms. Bailey may be reached by phone at (404) 562-9164 or via electronic mail at [bailey.ashten@epa.gov](mailto:bailey.ashten@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. What are the actions EPA is proposing to take?

EPA is proposing to take the following three separate but related actions: (1) To determine that the Troy Area is attaining the 2008 lead NAAQS; (2) to approve Alabama’s maintenance plan for maintaining the 2008 lead NAAQS in the Area and incorporate the plan into the SIP; and (3) to redesignate the Area to attainment. The Troy Area is comprised of the portion of Pike County, Alabama, bounded by a 0.8 mile radius from a center point at latitude 31.78627106 North and longitude 85.97862228 West, which fully includes the Sanders Lead Facility.

EPA is making the preliminarily determination that the Troy Area is attaining the 2008 lead NAAQS based on recent air quality data, and proposing to approve Alabama’s maintenance plan for the Troy Area as meeting the requirements of section 175A (such approval being one of the Clean Air Act (CAA or Act) criteria for redesignation to attainment status). The maintenance

plan is designed to keep the Troy Area in attainment of the 2008 lead NAAQS through 2028. As explained in Section V, below, EPA is also proposing to determine that attainment can be maintained through 2028.

EPA is further proposing to determine that the Troy Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. Accordingly, in this action, EPA is proposing to approve a request to change the legal designation of the Troy Area from nonattainment to attainment for the 2008 lead NAAQS.

In summary, this notice of proposed rulemaking is in response to Alabama’s January 3, 2018, redesignation request and associated SIP submission that addresses the specific issues summarized above and the necessary elements described in section 107(d)(3)(E) of the CAA for redesignation of the Troy Area to attainment for the 2008 lead NAAQS.

##### II. What is the background for EPA’s proposed actions?

On November 12, 2008 (73 FR 66964), EPA promulgated a revised primary and secondary lead NAAQS of 0.15 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ). Under EPA’s regulations at 40 CFR part 50, the 2008 lead NAAQS are met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with Appendix R of 40 CFR part 50, is less than or equal to 0.15  $\mu\text{g}/\text{m}^3$ . See 40 CFR 50.16. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement.

EPA designated the Troy Area as a nonattainment area for the 2008 lead NAAQS on November 22, 2010 (75 FR 71033), effective December 31, 2010, using 2007–2009 ambient air quality data. This established an attainment date five years after the December 31, 2010, effective date for the 2008 lead nonattainment designations pursuant to CAA section 172(a)(2)(A). Therefore, the Troy Area’s attainment date was December 31, 2015.

EPA’s 2008 lead nonattainment designation for the Area triggered an obligation for Alabama to develop a nonattainment SIP revision addressing certain CAA requirements under title I, part D, subpart 1 (hereinafter “Subpart 1”) and to submit that SIP revision in accordance with the deadlines in title I, part D, subpart 5 (hereinafter “Subpart 5”). Subpart 1 contains the general requirements for nonattainment areas for criteria pollutants, including requirements to develop a SIP that provides for the implementation of reasonably available control measures

(RACM), requires reasonable further progress (RFP), includes base-year and attainment-year emissions inventories, and provides for the implementation of contingency measures. On January 28, 2014 (79 FR 4407), EPA published a final rule that approved a SIP revision, comprised of an attainment plan, based on Alabama’s attainment demonstration for the Troy Area that included the base year emissions inventory requirements, RACM requirements that include reasonably available control technology (RACT), RFP plan, modeling demonstration of lead attainment, and contingency measures for the Troy Area.

**III. What are the criteria for redesignation?**

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation providing that: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) the state containing such area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, EPA provided guidance on redesignation in the

General Preamble for the Implementation of title I of the CAA Amendments of 1990 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. “Procedures for Processing Requests to Redesignate Areas to Attainment,” Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereinafter referred to as the “Calcagni Memorandum”);
2. “State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,” Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992; and
3. “Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,” Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994.

**IV. Why is EPA proposing these actions?**

On January 3, 2018, Alabama requested that EPA redesignate the Troy Area to attainment for the 2008 lead NAAQS and submitted an associated SIP revision containing a maintenance plan. EPA’s evaluation indicates that the Troy Area is attaining the 2008 lead NAAQS and the Troy Area meets the requirements for redesignation as set forth in section 107(d)(3)(E)(i), including the maintenance plan requirements under section 175A of the CAA. As a result, EPA is proposing to take the three related actions summarized in section I of this notice.

**V. What is EPA’s analysis of the State’s redesignation request and SIP revision?**

As stated above, in accordance with the CAA, EPA proposes in this action to: (1) Determine that the Troy Area is

attaining the 2008 lead NAAQS; (2) approve the 2008 lead NAAQS maintenance plan for the Area and incorporate the plan into the SIP; and (3) redesignate the Area to attainment for the 2008 lead NAAQS.

**A. Redesignation Request and Maintenance Demonstration**

The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Area in the following paragraphs of this section.

**Criteria (1)—The Troy Area Has Attained the 2008 Lead NAAQS**

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS. See CAA section 107(d)(3)(E)(i). For lead, an area may be considered to be attaining the 2008 lead NAAQS if it meets the 2008 lead NAAQS, as determined in accordance with 40 CFR 50.16 and Appendix R of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain the NAAQS, the maximum arithmetic 3-month mean lead concentration for a 3-year period must not exceed 0.15 µg/m³ at any monitor within the area. The data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

Monitoring data for the Area shows that the 2008 lead NAAQS was attained. As demonstrated in Table 1, below, the 2014–2016 design value for the area was 0.09 µg/m³, well below the 2008 lead standard of 0.15 µg/m³.

**TABLE 1—2014–2016 DESIGN VALUE CONCENTRATIONS FOR THE TROY AREA**  
[µg/m³]<sup>1</sup>

Monitoring station	2014 annual maximum rolling three month average	2015 annual maximum rolling three month average	2016 annual maximum rolling three month average	Design value
01–109–0003 .....	0.08	0.07	0.09	0.09

Although 2014–2016 data are the most recent quality-assured and certified data, preliminary 2017 data indicate that the Area continues to attain the standard.<sup>2</sup> In this proposed

action, EPA is proposing to determine that the Troy Area is attaining the 2008 lead NAAQS. If the Area does not continue to attain the standard before EPA finalizes the redesignation, EPA

will not go forward with the redesignation. As discussed in more detail below, Alabama has committed to continue monitoring ambient air lead concentrations in this Area in accordance with 40 CFR part 58.

<sup>1</sup> Air quality design values for all criteria air pollutants are available at: <https://www.epa.gov/air-trends/air-quality-design-values>.

<sup>2</sup> Preliminary 2017 data is available at <https://www.epa.gov/outdoor-air-quality-data/monitor-values-report>; 2017 data will not be certified until May of 2018.

Criteria (2)—Alabama Has a Fully Approved SIP Under Section 110(k) for the Troy Area; and Criteria (5)—Alabama Has Met All Applicable Requirements Under Section 110 and Part D of Title I of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the state has a fully approved SIP under section 110(k) for the area (CAA section 107(d)(3)(E)(ii)). EPA proposes to find that Alabama has met all applicable SIP requirements for the Troy Area under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, EPA proposes to find that Alabama has met all applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v) and that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these proposed determinations, EPA ascertained which requirements are applicable to the Area and, if applicable, that they are fully approved under section 110(k). SIPs must be fully approved only with respect to requirements that were applicable prior to submittal of the complete redesignation request.

a. The Troy Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

*General SIP requirements.* General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (New Source Review (NSR) permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in

another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, EPA believes that other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.*, for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 2008); Cleveland-Akron-Lorain, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001). Nonetheless, EPA has approved Alabama's SIP revision related to the section 110 requirements for the 2008 lead NAAQS, with the exception of the state board requirements under 110(a)(2)(E)(ii).<sup>3</sup> *See* 80 FR 61111 (October 9, 2015) and 80 FR 14019 (March 18, 2015).

<sup>3</sup> Although not required for redesignation as discussed above, EPA notes that a proposed approval of the section 110(a)(2)(E)(ii) CAA infrastructure requirements applicable to state boards was published on February 8, 2018. *See* 83 FR 5594.

*Title I, Part D, applicable SIP requirements.* Subpart 1 of part D, found in sections 172–176 of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas. All areas that were designated nonattainment for the 2008 lead NAAQS were designated under Subpart 1 in accordance with the deadlines in Subpart 5. For purposes of evaluating this redesignation request, the applicable Subpart 1 SIP requirements for all nonattainment areas are contained in sections 172(c)(1)–(9) and in section 176. A thorough discussion of the requirements contained in sections 172 and 176 can be found in the General Preamble for Implementation of title I. *See* 57 FR 13498 (April 16, 1992).

*Subpart 1 Section 172 Requirements.* Section 172 requires states with nonattainment areas to submit attainment plans providing for timely attainment and meeting a variety of other requirements. 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 1992 General Preamble for Implementation of Title I, EPA set forth its interpretation of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard. *See* 57 FR 13498, 13564 (April 16, 1992). EPA noted that the requirements for RFP and other measures designed to provide for 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, which 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).

As noted above, EPA already approved Alabama's attainment plan for the Area. *See* 79 FR 4407 (January 28, 2014). Among other things, the approved attainment plan satisfied the section 172(c)(1) requirements for RACM; 172(c)(2) requirements related to RFP; 172(c)(3) requirements for an emissions inventory; 172(c)(6)

requirements for enforceable control measures to provide for attainment by the attainment date; and 172(c)(9) requirements for contingency measures.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources to be allowed 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. Alabama currently has a fully-approved part D NSR program in place. However, EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more 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." Alabama has demonstrated that the Area will be able to maintain the NAAQS without part D NSR in effect, and therefore Alabama need not have fully approved part D NSR programs prior to approval of the redesignation request. Alabama's PSD program will become effective in the Area upon redesignation to attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, EPA believes that the Alabama SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

Section 172(c)(8) allows a state to use equivalent modeling, emission inventory, and planning procedures if such use is requested by the state and approved by EPA. Alabama has not requested the use of equivalent techniques under section 172(c)(8).

*Section 176 Conformity Requirements.* Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation

conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement, and enforceability that EPA promulgated pursuant to its authority under the CAA. In light of the elimination of lead additives in gasoline, transportation conformity does not apply to the lead NAAQS. *See* 73 FR 66964 (November 12, 2008).

b. The Troy Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

EPA has fully approved the applicable Alabama SIP for the Troy Area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (*see* Calcagni Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984, 989–90 (6th Cir. 1998); *Wall*, 265 F.3d 426) plus any additional measures it may approve in conjunction with a redesignation action. *See* 68 FR 25426 (May 12, 2003) and citations therein. Following passage of the CAA of 1970, Alabama has adopted and submitted, and EPA has fully approved at various times, provisions addressing various SIP elements applicable for the 2008 lead NAAQS in the Troy Area. *See* 80 FR 61111 (October 9, 2015); 80 FR 14019 (March 18, 2015); and 79 FR 4407 (January 28, 2014).

As indicated above, EPA believes that the section 110 elements that are neither connected with nonattainment plan submissions nor linked to an area's nonattainment status are not applicable requirements for purposes of redesignation.

Criteria (3)—The Air Quality Improvement in the Troy Area Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable Federal air pollution control regulations, and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). EPA has preliminarily determined that Alabama has demonstrated that the observed air quality improvement in the Troy Area is

due to permanent and enforceable reductions in emissions.

When EPA designated the Troy Area as a nonattainment for the lead NAAQS, EPA determined that operations at the Sanders Lead Facility were the primary cause of the 2008 lead NAAQS violation in the Area.<sup>4</sup> In 2012, the State submitted an attainment plan that contained lead controls needed to attain the NAAQS to satisfy the section 172(c)(1) RACM requirement. EPA approved these controls as RACM/RACT and incorporated them into the SIP, making them permanent and enforceable SIP measures to meet the requirements of the CAA and 2008 Lead NAAQS.<sup>5</sup> *See* 79 FR 4407 (January 28, 2014); 78 FR 54835 (September 6, 2013). In addition, the Facility is subject to the revised secondary lead smelting National Emissions Standards for Hazardous Air Pollutants (NESHAP).<sup>6</sup> Alabama has incorporated the requirements to install and operate controls related to RACM/RACT and the lead NESHAP into the Facility's Title V permit, attached as Appendix A to the January 3, 2018 submittal. EPA considers the emissions reductions from the lead controls at the Sanders Lead Facility to be permanent and enforceable.

Criteria (4)—The Troy Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. *See* CAA section 107(d)(3)(E)(iv). In conjunction with its request to redesignate the Alabama portion of the Troy Area to attainment for the 2008 lead NAAQS, ADEM submitted a SIP revision to provide for maintenance of the 2008 lead NAAQS for at least 10 years after the effective date of redesignation to attainment. EPA believes that this maintenance plan meets the requirements for approval under section 175A of the CAA.

<sup>4</sup> *See Region 4—Final Alabama Technical Support Document For 1st Round of Lead Designations*, available at [regulations.gov](http://regulations.gov), document ID EPA-HQ-OAR-2009-0443-0327.

<sup>5</sup> These controls include enclosing various sources of emissions, routing emissions to stacks through baghouse and HEPA filters, and maintaining plant and haul roads so that dust will not become airborne. *See* Submittal at 2–6, 2–7.

<sup>6</sup> *See* 78 FR 54835 (September 9, 2013). The secondary lead NESHAP, codified at 40 CFR part 63, subpart X, sets emissions standards for facilities that recycle lead-bearing scrap material, typically lead acid batteries, into elemental lead or lead alloys. EPA promulgated the standard in 1997 and revised it in 2012 (with amendments in 2014).

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures as EPA deems necessary to assure prompt correction of any future 2008 lead violations. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As is discussed more fully below, EPA has preliminarily determined that Alabama's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Alabama SIP.

b. Attainment Emissions Inventory

In this action, EPA is proposing to determine that the Troy Area is attaining the 2008 lead NAAQS based on monitoring data from 2014–2016. In

its maintenance plan, the State selected 2010 as the base year and 2014 as the attainment emissions inventory year. The attainment inventory identifies a level of emissions in the Area that is sufficient to attain the 2008 lead NAAQS. As noted above, the year 2010 was chosen as the base year for developing a comprehensive emissions inventory for lead. To evaluate maintenance through 2028, Alabama prepared emissions projections for the years 2022 and 2028. Although not required by the CAA, Alabama also provided information for emissions in 2016.

Descriptions of how Alabama developed the emissions inventory are located in Chapter 4 of the January 3, 2018, submittal, which can be found in the docket for this action. The Sanders Lead Facility is the only point source of lead emissions within the Area. For the 2014 attainment year and 2016 inventories, the State relied on actual reported lead emissions from the Sanders Lead Facility for the point source component of the inventory and assumed that the point source emissions would remain at 2016 levels through 2028. Alabama obtained the area source category and non-road source categories inventory from EPA's 2014 NEI v. 1 database. To estimate lead emissions from area sources in the Troy Area, Alabama apportioned the county-level lead emissions from area sources based on the percentage of the county's land area contained within the Troy Area and determined that lead emissions from area sources total approximately 0.01 pounds per year in the Area. Similarly,

to estimate lead emissions from non-road emissions, Alabama apportioned the county-level lead emissions from non-road sources based on land area and determined that lead emissions from non-road sources total approximately 0.68 pounds per year in the Area. The State assumed that these area source and non-road source emissions remain constant from 2014 through 2028. Alabama determined that there are no sources of lead emissions in the Area from on-road sources based on EPA's 2014 NEI v. 1. Table 2, below, identifies base year (2010) emissions, attainment year (2014) emissions, interim year (2016 and 2022), and out-year (2028) emissions.

c. Maintenance Demonstration

The maintenance plan associated with the redesignation request includes a maintenance demonstration that:

(i) Shows compliance with and maintenance of the 2008 lead NAAQS by providing information to support the demonstration that current and future emissions of lead remain at or below 2014 emissions levels.

(ii) Uses 2014 as the attainment year and includes future emissions inventory projections for 2022 and 2028.

(iii) Identifies an "out year" at least 10 years after the time necessary for EPA to review and approve the maintenance plan.

(iv) Provides actual (2010, 2014, and 2016<sup>7</sup>) and projected (2022 and 2028) emissions inventories, in tons per year (tpy), for the Troy Area, as shown in Table 2, below.

TABLE 2—ACTUAL AND PROJECTED ANNUAL LEAD EMISSIONS FOR THE TROY AREA

[Pounds per year]

2010 Nonattainment base year	2014 Base attainment year	2016 Interim year	2022 Interim year	2028 Maintenance year
7,368.5	1,584.69	950.69	950.69	950.69

In situations where local emissions are the primary contributor to nonattainment, such as the Troy Area, if the future projected emissions in the nonattainment area remain at or below the baseline emissions in the nonattainment area, then the related ambient air quality standards should not be exceeded in the future. Alabama has projected emissions as described previously and determined that emissions in the Troy Area will remain below those in the attainment year

inventory for the duration of the maintenance plan.

EPA believes that the Troy Area will continue to maintain the standard at least through the year 2028 because the only point source of lead emissions in the Area has instituted permanent and enforceable controls, which are reflected in the 2014 and later emissions inventories; other sources of lead in the Area contribute only a small portion of the total emissions for the Area, as compared to the single point source

(Sanders Lead Facility); and the design values for the Area beginning in 2014–2016 have been well below the NAAQS standard of 0.15 µg/m<sup>3</sup>.

d. Monitoring Network

There are currently two monitors measuring ambient air lead concentrations in the Troy Area, one which is a Federal Reference Method (FRM) (Pb-Total Suspended Particles) monitor meeting the requirements of 40 CFR part 58, and another that is co-

<sup>7</sup> For 2016, Alabama provided projected emissions inventories for the area and nonroad sectors.

located for quality assurance purposes. ADEM has committed to continue operation of its lead monitors in the Troy Area in compliance with 40 CFR part 58 and has thus addressed the requirement for monitoring. EPA approved Alabama's monitoring plan related to the Troy Area on November 7, 2017.

e. Verification of Continued Attainment

Alabama has the legal authority to enforce and implement the maintenance plan for the Area. This includes the authority to adopt, implement, and enforce any subsequent emissions control contingency measures determined to be necessary to correct future lead attainment problems.

Large stationary sources are required to submit an emissions inventory annually to ADEM.<sup>8</sup> ADEM prepares a new periodic inventory for all lead sources every three years. This lead inventory will be prepared for future years as necessary to comply with the inventory reporting requirements established in the CFR. Emissions information will be compared to the 2014 attainment year and the 2028 projected maintenance year inventory to assess emission trends, as necessary, and to assure continued compliance with the lead standard. Additionally, under the Air Emissions Reporting Requirements (AERR), ADEM is required to develop a comprehensive, annual, statewide emissions inventory every three years that is due twelve to eighteen months after the completion of the inventory year. The AERR inventory years match the attainment year, and are within one or two years of the interim and final inventory years of the maintenance plan. Therefore, ADEM commits to compare the AERR inventories as they are developed with the 2014 and 2028 inventories in the maintenance plan to evaluate compliance with the 2008 lead NAAQS in this Area.

f. Contingency Measures in the Maintenance Plan

Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the

NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

In the January 3, 2018, submittal, Alabama commits to maintaining the existing control measures at the Sanders Lead Facility after redesignation. As discussed above, the Sanders Lead Facility is the primary contributor to lead in the nonattainment area, the Facility is subject to the secondary lead NESHAP, and EPA has incorporated the lead control measures for the Facility into the SIP as RACM/RACT. *See* 79 FR 4407 (January 28, 2014).

The contingency plan included in the submittal contains a triggering event to determine when contingency measures will be implemented. Alabama will begin the process to implement contingency measures when, in accordance with 40 CFR part 58, ambient lead monitoring data indicates a future violation of the lead NAAQS. Also, in the event that the 3-month rolling average of lead concentrations in a year at the monitor in the Area records a violation of 0.16  $\mu\text{g}/\text{m}^3$  or higher, the State will evaluate existing control measures to determine whether any further emission reduction measures should be implemented at that time.

Alabama will adopt and implement at least one of the following contingency measures within 18 months of certification of a violation of the lead standard:

- Improvements in existing control devices;
- Addition of secondary control devices or improvements in housekeeping and maintenance; and
- Other measures based on the cause of the elevated lead concentrations.

Any contingency measure implemented for an operating permitted source will require a compliance plan and expeditious compliance from the entity(ies) involved.

EPA has preliminarily concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a

contingency plan. Therefore, EPA proposes to determine that the maintenance plan for the Area meets the requirements of section 175A of the CAA and proposes to incorporate the maintenance plan into the Alabama SIP.

## VI. Proposed Actions

EPA is proposing to take three separate but related actions regarding the redesignation request and associated SIP revision for the Troy Area.

First, EPA is proposing to determine, based upon review of quality-assured and certified ambient monitoring data for the 2014–2016 period that the Area attains the 2008 lead NAAQS.

Second, EPA proposing to approve the maintenance plan for the Area and to incorporate it into the SIP. As described above, the maintenance plan demonstrates that the Area will continue to maintain the 2008 lead NAAQS through 2028.

Third, EPA is proposing to approve Alabama's request for redesignation of the Area from nonattainment to attainment for the 2008 lead NAAQS. If finalized, approval of the redesignation request for the Troy Area would change the official designation of the portion of Pike County, Alabama, bounded by a 0.8 mile radius from a center point at latitude 31.78627106 North and longitude 85.97862228 West, which fully includes the Sanders Lead Facility, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 lead NAAQS.

## VII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 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, these proposed actions merely propose to approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by

<sup>8</sup> Alabama's January 3, 2018, SIP submittal states that major point sources in all counties are required to submit air emissions information annually, in accordance with U.S. EPA's AERR Rule (40 CFR part 51, subpart A). Although the AERR requirement for reporting of lead-only emissions is triennial, because the Sanders Lead Facility is a "Type A" source under the AERR for other criteria pollutants, it is also required to report lead emissions annually. *See* 80 FR 8787 (February 19, 2015).

state law. For this reason, these proposed actions:

- Are not significant regulatory actions 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);
- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because SIP approvals and redesignations are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are 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
- Will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

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 proposed actions do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

#### 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, Air pollution control.

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

Dated: April 2, 2018.

**Onis “Trey” Glenn, III**

*Regional Administrator, Region 4.*

[FR Doc. 2018–07654 Filed 4–12–18; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 60, 61, and 63

[EPA–R06–OAR–2016–0091; FRL–9975–92–Region 6]

#### New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to New Mexico

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

**ACTION:** Proposed rule.

**SUMMARY:** The New Mexico Environment Department (NMED) has submitted updated regulations for receiving delegation and approval of a program for the implementation and enforcement of certain New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) for all sources (both Title V and non-Title V sources). These updated regulations apply to certain NSPS promulgated by the EPA at part 60, as amended between September 24, 2013 and January 15, 2017; certain NESHAP promulgated by the EPA at part 61, as amended between January 1, 2011 and January 15, 2017; and other NESHAP promulgated by the EPA at part 63, as amended between August 30, 2013 and January 15, 2017, as adopted by the NMED. The delegation of authority under this action does not apply to sources located in Bernalillo County, New Mexico or to sources located in Indian Country. The EPA is providing notice that it is updating the delegation of certain NSPS to NMED and proposing to approve the delegation of certain NESHAP to NMED.

**DATES:** Written comments should be received on or before May 14, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R06–OAR–2016–0091, at <http://www.regulations.gov> or via email to [barrett.richard@epa.gov](mailto:barrett.richard@epa.gov). For additional information on how to submit comments see the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this issue of the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Barrett (6MM–AP), (214) 665–7227; email: [barrett.richard@epa.gov](mailto:barrett.richard@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of this issue of the **Federal Register**, the EPA is approving NMED’s request for delegation of authority to implement and enforce certain NSPS and NESHAP for all sources (both Title V and non-Title V sources). NMED has adopted certain NSPS and NESHAP by reference into New Mexico’s state regulations. In addition, the EPA is waiving certain notification requirements required by the delegated standards so that sources will only need to notify and report to NMED, thereby avoiding duplicative notification and reporting to the EPA.

The EPA is taking direct final action without prior proposal because the EPA views this as a noncontroversial action and anticipates no relevant adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated. If the EPA receives relevant adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

For additional information, see the direct final rule which is located in the rules section of this issue of the **Federal Register**.

Dated: March 22, 2018.

**Wren Stenger,**

*Director, Multimedia Division, Region 6.*

[FR Doc. 2018–07326 Filed 4–12–18; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 217

[Docket No. 170908887–8328–01]

RIN 0648–BH24

#### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to U.S. Navy Pier Construction Activities at Naval Submarine Base New London

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.