

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52 and 81**

[EPA-R05-OAR-2016-0137; FRL-9962-70-Region 5]

**Air Plan Approval; Indiana; Redesignation of the Muncie Area to Attainment of the 2008 Lead Standard****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the April 14, 2016, request from the Indiana Department of Environmental Management (Indiana) to redesignate the Muncie nonattainment area to attainment for the 2008 national ambient air quality standards (NAAQS or standards) for lead. EPA is also approving the state's plan for maintaining the 2008 lead NAAQS through 2030 for the area and the 2013 attainment year emissions inventory for the area. EPA is approving these actions in accordance with the Clean Air Act (CAA) and EPA's implementation regulations regarding the 2008 lead NAAQS.

**DATES:** This direct final rule will be effective July 31, 2017, unless EPA receives adverse comments by June 29, 2017. 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-2016-0137 at <http://www.regulations.gov> or via email to [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov). For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.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:** Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8777, [maietta.anthony@epa.gov](mailto:maietta.anthony@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 the state's request?
  - (A) Attainment Determination and Redesignation
  - (B) Indiana Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA (Section 107(d)(3)(E)(iv))
  - (C) Comprehensive Emissions Inventory
- V. What action is EPA taking?
- VI. Statutory and Executive Order Reviews

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

Lead is a metal found naturally in the environment as well as in manufactured products. However, lead has serious public health effects and depending on the level of exposure can adversely affect the nervous system, kidney function, immune system, reproductive and developmental systems and the cardiovascular system. Today, the highest levels of lead in the air are usually found near lead smelters. In the Muncie area the only source of lead emissions is Exide Technologies, whose facility houses a lead smelter that processes used batteries and other metal waste products.

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

On November 12, 2008 (73 FR 66964), EPA revised the primary and secondary lead NAAQS from 1.5 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) to 0.15  $\mu\text{g}/\text{m}^3$  based on a maximum arithmetic three-month mean concentration for a three-year period. *See* 40 CFR 50.16. On November 22, 2010 (75 FR 71033), EPA published air quality designations and classifications for the 2008 lead NAAQS based upon air quality monitoring data for calendar years 2007–2009. These

designations became effective on December 31, 2010. The Muncie area was designated nonattainment for the 2008 lead NAAQS. *See* 40 CFR 81.336. IDEM submitted their redesignation request on April 14, 2016.

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

The CAA sets forth the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA authorizes EPA to redesignate an area provided that: (1) The Administrator determines that the area has attained the applicable NAAQS based on current air quality data; (2) the Administrator has fully approved an applicable state implementation plan (SIP) for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable emission reductions resulting from implementation of the applicable SIP, Federal air pollution control regulations, or other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

**IV. What is EPA's analysis of the state's request?**

EPA is approving the redesignation of the Muncie area to attainment of the 2008 lead NAAQS, as well as Indiana's maintenance plan and emissions inventory for the area. The bases for these actions follow.

*(A) Attainment Determination and Redesignation***1. The Area Has Attained the 2008 Lead NAAQS (Section 107(d)(3)(E)(i))**

In accordance with section 107(d)(3)(E)(i) of the CAA, 42 U.S.C. 7407, EPA is determining that the Muncie, Indiana area has attained the 2008 lead NAAQS. EPA has reviewed the ambient air monitoring data for the Muncie area in accordance with the provisions of 40 CFR part 50, appendix R. All data considered are complete, quality-assured, certified, and recorded in EPA's Air Quality System database. This review addresses air quality data collected in the 2013–2015 period, which are the most recent quality-assured data available. Our determination that the Muncie area has attained the 2008 lead NAAQS is based upon data for the 2013–2015 monitoring

period that show this area has monitored attainment of the lead NAAQS.

Under EPA regulations at 40 CFR 50.16, the 2008 primary and secondary lead standards are met when the

maximum arithmetic three-month mean concentration for a three-year period, as determined in accordance with 40 CFR part 50, appendix R, is less than or equal to 0.15 µg/m<sup>3</sup> at all relevant monitoring sites in the subject area. As

shown in Table 1, Indiana provided EPA with three years of monitoring data showing that the three-month rolling average design values for the Muncie lead monitor were all below the 2008 lead standard.

TABLE 1—THREE-MONTH ROLLING AVERAGE DESIGN VALUES FOR THE MUNCIE LEAD NONATTAINMENT AREA

Location	3-month period	2013	2014	2015
Muncie—Mt. Pleasant Boulevard .....	Nov–Jan <sup>1</sup> .....	0.05 µg/m <sup>3</sup>	0.03 µg/m <sup>3</sup>	0.03 µg/m <sup>3</sup>
	Dec–Feb .....	0.06 µg/m <sup>3</sup>	0.04 µg/m <sup>3</sup>	0.03 µg/m <sup>3</sup>
	Jan–Mar .....	0.04 µg/m <sup>3</sup>	0.04 µg/m <sup>3</sup>	0.04 µg/m <sup>3</sup>
	Feb–Apr .....	0.03 µg/m <sup>3</sup>	0.04 µg/m <sup>3</sup>	0.05 µg/m <sup>3</sup>
	Mar–May .....	0.03 µg/m <sup>3</sup>	0.04 µg/m <sup>3</sup>	0.06 µg/m <sup>3</sup>
	Apr–Jun .....	0.03 µg/m <sup>3</sup>	0.06 µg/m <sup>3</sup>	0.06 µg/m <sup>3</sup>
	May–July .....	0.03 µg/m <sup>3</sup>	0.05 µg/m <sup>3</sup>	0.06 µg/m <sup>3</sup>
	Jun–Aug .....	0.04 µg/m <sup>3</sup>	0.06 µg/m <sup>3</sup>	0.05 µg/m <sup>3</sup>
	July–Sept .....	0.04 µg/m <sup>3</sup>	0.03 µg/m <sup>3</sup>	0.03 µg/m <sup>3</sup>
	Aug–Oct .....	0.05 µg/m <sup>3</sup>	0.03 µg/m <sup>3</sup>	0.04 µg/m <sup>3</sup>
	Sept–Nov .....	0.04 µg/m <sup>3</sup>	0.03 µg/m <sup>3</sup>	0.04 µg/m <sup>3</sup>
Oct–Dec .....	0.04 µg/m <sup>3</sup>	0.03 µg/m <sup>3</sup>	0.11 µg/m <sup>3</sup>	

<sup>1</sup> When calculating a three-month rolling average, the first two data points, November through January for 2013 and December through February of 2013, would additionally use data from November and December of 2012.

The data from 2013–2015 are still the most recent quality-assured and certified data for the Muncie area. Indiana indicated that it will continue to use and maintain the Muncie lead monitor to determine whether the area continues to attain the standard. The 2013–2015 data show that the maximum value for the three-year period was 0.11 µg/m<sup>3</sup>, with monitored lead values generally at or below 0.05 µg/m<sup>3</sup>. EPA’s review of these data indicates that the Muncie area has attained and continues to attain the 2008 lead NAAQS, with a design value of 0.11 µg/m<sup>3</sup> for the period of 2013–2015.

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))

We have determined that Indiana has met all currently applicable SIP requirements for purposes of redesignation for the Muncie area under section 110 of the CAA (general SIP requirements). In addition, with the exception of the emissions inventory under section 172(c)(3), all applicable planning requirements of the Indiana SIP for purposes of redesignation have either been approved or have been suspended by either a clean data determination or determination of attainment. As discussed below, in this action, EPA is approving Indiana’s 2013 emissions inventory as meeting the section 172(c)(3) comprehensive emissions inventory requirement. Thus, we are determining that the Indiana submittal 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, we have ascertained which SIP requirements are applicable for purposes of redesignation, and concluded that the Indiana SIP includes measures meeting those requirements and that they are fully approved under section 110(k) of the CAA.

a. Indiana Has Met All Applicable Requirements for Purposes of Redesignation of the Muncie 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 include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor ambient air quality; 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; include provisions for the implementation of part C, Prevention of Significant Deterioration (PSD) and part D, New Source Review (NSR) permit programs; include criteria for stationary

source emission control measures, monitoring, and reporting; include provisions for air quality modeling; and 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, we believe 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 lead nonattainment area); 61 FR 53174–53176 (October 10, 1996) and 62 FR 24826 (May 7, 1997) (proposed and final redesignation for Reading, Pennsylvania ozone nonattainment area); 61 FR 20458 (May 7, 1996) (final redesignation for Cleveland-Akron-Lorain, Ohio ozone nonattainment area); and 60 FR 62748 (December 7, 1995) (final redesignation of Tampa, Florida ozone nonattainment area). See also 65 FR 37879, 37890 (June 19, 2000) (discussing this issue in final redesignation of Cincinnati, Ohio 1-hour ozone nonattainment area); 66 FR 50399 (October 19, 2001) (final redesignation of Pittsburgh, Pennsylvania 1-hour ozone nonattainment area).

We have reviewed the Indiana SIP and determined that it meets the general SIP requirements under section 110 of the CAA to the extent they are applicable for purposes of redesignation. EPA has previously approved provisions of Indiana's SIP addressing section 110 requirements (including provisions addressing lead), at 40 CFR 52.770.

On December 12, 2011, Indiana submitted a request for EPA to approve "infrastructure SIP" elements for the lead NAAQS required under CAA section 110(a)(2). EPA approved the Indiana lead infrastructure SIP on April 29, 2015 (80 FR 23713).

#### ii. Part D Requirements

EPA has determined that upon approval of the base year emissions inventory discussed in this rulemaking, the Indiana SIP will meet the requirements applicable for purposes of redesignation under part D of the CAA for the Muncie lead nonattainment area. Subpart 1 of part D sets forth the general 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. See 57 FR at 13564. EPA noted that the requirements for reasonable further progress 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.<sup>1</sup>

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 reasonable further progress (RFP), reasonably available control technology and reasonably available control measures (RACT–RACM), and contingency measures. The Clean Data Policy has been codified in regulations regarding the implementation of the ozone and fine particulate matter NAAQS. See *e.g.*, 70 FR 71612 (November 29, 2005) and 72 FR 20586 (April 25, 2007). The Clean Data Policy has also been specifically applied in a number of lead nonattainment areas where EPA has determined that the area is attaining the lead NAAQS. See, *e.g.*, 79 FR 46212 (August 7, 2014) (proposed determination of attainment of Lyons, Pennsylvania lead nonattainment area); 80 FR 51127 (determination of attainment of Eagan, Minnesota lead nonattainment area). EPA'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 Muncie lead nonattainment area as well. Because we are determining that the Muncie area has reached attainment, Indiana will not need to address these additional measures to provide for attainment, and section 172(c)(1) requirements are no longer considered to be applicable as long as the area continues to attain the standard until redesignation. (40 CFR 51.918). Therefore, Indiana has met its requirements under CAA section 172(c)(1) and section 107(d)(3)(E)(v).

<sup>1</sup> September 4, 1992, Memorandum from John Calcagni, Director, Air Quality Management Division (EPA), entitled, "Procedures for Processing Requests to Redesignate Areas to Attainment."

As noted above, additional section 172(c) attainment planning requirements are not applicable for purposes of evaluating the state's redesignation request. The reasonable further progress (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 Indiana must meet here because the Muncie area has monitored attainment of the 2008 lead NAAQS.

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. Indiana submitted a 2013 base year emissions inventory along with their redesignation request on April 14, 2016, and requested that the 2013 inventory be used as the most accurate and current inventory. As discussed below in section III(C), EPA is approving the 2013 attainment year inventory as meeting the section 172(c)(3) emissions inventory requirement for the Muncie 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 Indiana's current NSR program on October 7, 1994 (59 FR 51114). In addition, the state's maintenance plan does not rely on nonattainment NSR, therefore having a fully approved NSR program is not an applicable requirement, but that, nonetheless, we have approved the state's program.<sup>1</sup>

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

<sup>1</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."

## (2) Section 176 Conformity Requirements

Section 176(c) of the CAA 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). In light of the elimination of lead additives in gasoline, transportation conformity does not apply to the lead NAAQS. See 73 FR 66964, 67043 n.120. EPA approved Indiana's general conformity SIP on January 14, 1998 (63 FR 2146).

## b. Indiana Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

Upon final approval of Indiana's comprehensive 2013 emissions inventories for the Muncie lead area, EPA will have fully approved the Indiana SIP for the Muncie 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 Calcagni Memorandum at (3); *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, e.g., 68 FR 25413 (May 12, 2003) (approving I/M program for St. Louis) and 68 FR 25426 (May 12, 2003) (approving redesignation relying in part on I/M program approval). As discussed in the prior section, Indiana has adopted and submitted, and EPA has fully approved, a number of required SIP provisions addressing the 2008 lead standards. As part of its redesignation request and maintenance plan submittal, Indiana submitted a demonstration to EPA that the Muncie nonattainment area has attained the 2008 lead NAAQS. Pursuant to 40 CFR 51.1004(c), EPA's determination that the area has attained the 2008 lead standards will suspend the requirement to submit certain planning SIPs related to attainment, including attainment demonstration requirements, the RACT–RACM requirement of section 172(c)(1) of the CAA, the RFP and attainment

demonstration requirements of sections 172(c)(2) and (6) and 182(b)(1) of the CAA, and the requirement for contingency measures of section 172(c)(9) of the CAA. As noted above, the area has continued to attain the standard. Of the CAA requirements applicable to this redesignation request, only the emissions inventory requirement of section 172(c)(3) remains.

In today's action, EPA is approving Indiana's 2013 emissions inventories for the Muncie area as meeting the requirement of section 172(c)(3) of the CAA. No Muncie area SIP provisions are currently disapproved, conditionally approved, or partially approved. Therefore, the Administrator has fully approved the applicable requirements for the Muncie 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))

EPA believes that Indiana has demonstrated that the observed air quality improvement in the Muncie area is due to permanent and enforceable reductions in emissions. The only stationary source of lead in the Muncie area is the Exide Technologies facility. According to Indiana this source complies with EPA's January 5, 2012 National Emissions Standards for Hazardous Air Pollutants (NESHAP) for secondary lead smelting at 40 CFR part 63, subpart X. According to Indiana, Exide Technologies complied with this NESHAP through the installation of control technologies and adoption of recordkeeping and reporting requirements that are also located in Title 326, Articles 15 and 20 of the Indiana Administrative Code (80 FR 42393).

## (B) Indiana Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA (Section 107(d)(3)(E)(iv))

In conjunction with Indiana's request to redesignate the Muncie nonattainment area to attainment status, Indiana has submitted a SIP revision to provide for maintenance of the 2008 lead NAAQS in the area through 2030.

### 1. What is required in a maintenance plan?

Section 175A of the CAA sets forth the required 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 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 10 years following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures with a schedule for implementation as EPA deems necessary to assure prompt correction of any future lead violations.

The 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.

Section 175A of the CAA 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 10 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.

As discussed in detail in the section below, the state's maintenance plan submission expressly documents that the area's emissions inventories will remain below the attainment year inventories through 2030, more than 10 years after redesignation.

### 2. Attainment Inventory

Indiana developed an emissions inventory for lead for 2013, one of the years in the period during which the Muncie area monitored attainment of the 2008 lead standard. The attainment level of emissions is summarized in Table 2 below along with future maintenance projections.

### 3. Demonstration of Maintenance

Along with the redesignation request, Indiana submitted a revision to its lead SIP to include a maintenance plan for the Muncie area, as required by section 175A of the CAA. Indiana's plan demonstrates maintenance of the 2008 lead standard through 2030 by showing that current and future emissions of lead in the area remain at or below attainment year emission levels. 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 10 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.

Indiana's plan demonstrates maintenance of the 2008 lead NAAQS through 2030 by showing that current and future emissions of lead for the area will not cause an exceedance of the standard. For the baseline and attainment year inventories, Indiana used Exide Technologies' actual emissions instead of allowable emissions under Indiana Administrative Code. As shown in Table 2, Indiana's submittal indicates that the 2010 and 2013 inventories are based on actual emissions from the Exide Technologies facility (which were 0.82 tons per year (tpy) in 2010 and 0.63 tpy in 2013), and not the allowable emissions set forth in Exide Technologies' operating permit (which were 3.48 tpy in 2010 and 1.73 tpy in 2013). Indiana submitted computer-modeled data indicating that the 2030 maintenance inventory, which is based on the facility's allowable emissions with controls implemented to meet the NESHAP for secondary lead smelting, will ensure that the Muncie area continues to maintain the standard through 2030. To meet the NESHAP for secondary lead smelters, Exide Technologies facility's main building serves as a total enclosure that maintains negative air pressure at all times and is vented to control devices designed to capture lead particulate emissions. This ensures fugitive dust generated inside the facility is not released outside the enclosure and into the ambient air. Since these controls have been installed at the facility, the monitored design value concentrations at the site have been and should remain

below the 2008 lead NAAQS. Indiana expects that these permanent and enforceable controls installed at Exide Technologies will ensure that there will be no exceedances of the lead NAAQS in the future. With no other significant sources of lead, the Muncie area is predicted to stay below the standard.

TABLE 2—COMPARISON OF 2010, 2013, AND 2030 LEAD TOTALS (tpy) FOR THE MUNCIE AREA \*

2010 (Baseline)	2013 (Attainment)	2030 (Maintenance)
0.82	0.63	1.73

\*2010 Baseline and 2013 attainment inventories reflect actual lead emissions in the Muncie area, while the 2030 maintenance inventory reflects modeled allowable emissions in Exide Technologies' operating permit.

### 4. Monitoring Network

Indiana's maintenance plan includes a commitment to continue to operate its EPA-approved monitoring network, as necessary to demonstrate ongoing compliance with the NAAQS. Indiana currently operates one lead monitor in the Muncie, Indiana area.

### 5. Verification of Continued Attainment

Indiana remains obligated to continue to quality-assure monitoring data and enter all data into the Air Quality System (AQS) in accordance with Federal guidelines. Indiana will use these data, supplemented with additional information as necessary, to assure that the area continues to attain the standard. Indiana will also continue to develop and submit periodic emission inventories as required by the Federal Consolidated Emissions Reporting Rule (67 FR 39602, June 10, 2002) to track future levels of emissions. Both of these actions will help to verify continued attainment in accordance with 40 CFR part 58.

### 6. 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. 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 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. See section 175A(d) of the CAA.

Indiana's contingency plan defines a warning level and action level response. The warning level response will trigger when a lead monitor three-month rolling average exceeds 0.143  $\mu\text{g}/\text{m}^3$  in the maintenance area. If a warning level response is triggered, Indiana will conduct a study to determine whether the lead values indicate a trend toward exceeding the standard and what control measure would be necessary to reverse the trend within twelve months of the conclusion of the calendar year. The action level response will be prompted by the determination of the warning level study that a reverse of the trend is needed, or by the three-month rolling average exceeding 0.15  $\mu\text{g}/\text{m}^3$ . The action level response will require Indiana to work with the culpable entity to evaluate and implement the needed control measures to bring the area into attainment within 18 months of the conclusion of the calendar year that triggered the response.

Currently, no new sources of lead are projected for the Muncie area, so all control measures would be determined after an analysis of the situation but could include further controls on fugitive lead emissions, reduction of operating hours, or improved housekeeping and maintenance. Indiana commits to continue implementing SIP requirements upon and after redesignation.

EPA believes that Indiana's contingency measures, as well as the commitment to continue implementing any SIP requirements, satisfy the pertinent requirements of section 175A(d).

As required by section 175A(b) of the CAA, Indiana commits to submit to the EPA an updated lead maintenance plan eight years after redesignation of the Muncie area to cover an additional 10-year period beyond the initial 10-year maintenance period.

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

### (C) Comprehensive Emissions Inventory

As discussed above, section 172(c)(3) of the CAA requires areas to submit a comprehensive emissions inventory including all lead sources in the nonattainment area. In its April 14, 2016

submittal, Indiana submitted comprehensive emissions inventories for its 2010 base year, 2013 attainment year, and 2030 maintenance year.

EPA believes that the 2010, 2013, and 2030 emissions inventories are complete and accurate, and meet the requirement of CAA section 172(c)(3). The inventories are shown in Table 3.

TABLE 3—2010, 2013, AND 2030 LEAD TOTALS (tpy) FOR THE MUNCIE AREA \*

2010 (Baseline)	2013 (Attainment)	2030 (Maintenance)
0.82	0.63	1.73

\*2010 Baseline and 2013 attainment inventories reflect actual lead emissions in the Muncie area, while the 2030 maintenance inventory reflects modeled allowable emissions in Exide Technologies' operating permit.

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

EPA is taking several actions related to the redesignation of the Muncie area to attainment for the 2008 lead NAAQS. First, EPA is finding that Indiana meets the requirements for redesignation under section 107(d)(3)(E) of the CAA for the Muncie area to attainment of the 2008 lead NAAQS. EPA is thus approving Indiana's request to change the designation of the Muncie area from nonattainment to attainment for the 2008 lead NAAQS.

In addition, EPA is approving Indiana's lead maintenance plan for the Muncie area as a revision to the Indiana SIP. Finally, EPA is approving the 2013 lead attainment year emission inventory which satisfies the requirement in section 172(c)(3) for a current, accurate and comprehensive emission inventory.

We are publishing these actions 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 July 31, 2017 without further notice unless we receive relevant adverse written comments by June 29, 2017. 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 July 31, 2017.

#### 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 (Pub. L. 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).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 31, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects

##### 40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

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 § 52.770 the table in paragraph (e) is amended by adding new entries in

alphabetical order for “Muncie 2008 lead emissions inventory” and “Muncie 2008 lead maintenance plan” to read as follows:

**§ 52.770 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

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

Title	Indiana date	EPA approval	Explanation
* * * * *	* * * * *	* * * * *	* * * * *
Muncie 2008 lead emissions inventory ...	4/14/2016	5/30/2017 [insert <b>Federal Register</b> citation].	
Muncie 2008 lead maintenance plan .....	4/14/2016	5/30/2017 [insert <b>Federal Register</b> citation].	
* * * * *	* * * * *	* * * * *	* * * * *

■ 3. Section 52.797 is amended by adding paragraphs (f) and (g) to read as follows:

**§ 52.797 Control strategy: Lead.**

\* \* \* \* \*

(f) Approval—Indiana’s 2008 lead emissions inventory for the Muncie area, as submitted on April 14, 2016, satisfying the emission inventory requirements of section 172(c)(3) of the Clean Air Act for the Muncie area.

(g) Approval—The 2008 lead maintenance plan for the Muncie, Indiana nonattainment area has been approved as submitted on April 14, 2016.

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

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

**INDIANA—2008 LEAD NAAQS**

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

■ 5. Section 81.315 is amended by revising the entry for Muncie, IN in the table entitled “Indiana—2008 Lead NAAQS” to read as follows:

**§ 81.315 Indiana.**

\* \* \* \* \*

Designated area	Designation for the 2008 NAAQS <sup>a</sup>	
	Date <sup>1</sup>	Type
<b>Muncie, IN</b>		
Delaware County (part) .....	5/30/2017	Attainment.
A portion of the City of Muncie, Indiana bounded to the North by West 26th Street/Hines Road, to the east by Cowan Road, to the south by West Fuson Road, and to the west by a line running south from the eastern edge of Victory Temple’s driveway to South Hoyt Avenue and then along South Hoyt Avenue..		
* * * * *	* * * * *	* * * * *

<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.