

II. Statutory and Executive Order Reviews

Additional information about these statutes and executive orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. In this action, the EPA is extending the date of state plan submittal by the time that was lost due to the ACE rule being vacated. Any burden for information collection requests is consistent with the original ACE rule.

C. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute a “rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of this title, or any other law. . . .” 5 U.S.C. 601(2). The EPA is not publishing a notice of proposed rulemaking for this rule because it is invoking the APA “good cause” exemption under 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. In this action, the EPA is extending the date of state plan submittal by the time that was lost due

to the ACE rule being vacated. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color) and low-income populations.

The EPA believes that this type of action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on people of color, low-income populations and/or Indigenous peoples. In this action, the EPA is extending the date of state plan submittal by the time that was lost due to the ACE rule being vacated.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United

States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

III. Statutory Authority

The statutory authority for this action is provided by sections 111, 301, and 302 of the CAA as amended (42 U.S.C. 7411, 7601, 7602). This action is also subject to section 553(b)(3)(B) of the APA (5 U.S.C. 553(b)(3)(B)).

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedures, Air pollution control, Reporting and recordkeeping requirements, Greenhouse gases.

Michael Regan,
Administrator.

For the reasons set forth in the preamble, 40 CFR chapter I is amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

- 1. The authority citation for part 60 continues to read as follows:

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

Subpart UUUUa—Emission Guidelines for Greenhouse Gas Emissions From Existing Electric Utility Generating Units

- 2. Revise § 60.5745a to read as follows:

§ 60.5745a What are the timing requirements for submitting my plan?

You must submit a plan with the information required under § 60.5740a by April 15, 2024.

[FR Doc. 2023–04959 Filed 3–9–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–HQ–OAR–2022–0195; FRL–9631–01–OAR]

RIN 2060–AV66

Air Quality Redesignation for the 2008 Lead National Ambient Air Quality Standards; Canton, Ohio; Stark County, Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule redesignates a portion of Canton, Ohio in northeastern Stark County from “unclassifiable/

attainment” to “nonattainment” for the 2008 National Ambient Air Quality Standards (NAAQS) for lead (Pb). The EPA notified the state of Ohio of its intended redesignation of portions of Stark County on April 26, 2022, and published a Notice of Availability for this action on May 3, 2022. The EPA’s redesignation of this portion of the Canton, Ohio area is based on recorded violations of the Pb NAAQS at the Republic Steel ambient air monitoring site operated by Ohio Environmental Protection Agency (Ohio EPA) located in Canton, Ohio.

DATES: This rule is effective on April 10, 2023.

ADDRESSES: The EPA has established a public docket for this redesignation action at <http://www.regulations.gov> under Docket ID No. EPA-HQ-OAR-2022-0195.

FOR FURTHER INFORMATION CONTACT: For general questions concerning this action, please contact Andrew Leith, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail Code C539-01, Research Triangle Park, NC 27709, telephone number: (919) 541-1069, email address: leith.andrew@epa.gov. The following EPA Regional office contact can answer questions specific to the Canton, Ohio area: Alisa Liu of Region 5. She can be reached at telephone number: (312) 353-3193, email address: liu.alisa@epa.gov or address at EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

The EPA has established a website for the designations for the 2008 Pb NAAQS at <https://www.epa.gov/lead-designations>. The website includes the EPA’s final redesignations action, technical support documents, and other related information.

SUPPLEMENTARY INFORMATION:

Throughout this document, whenever “we,” “us,” or “our” is used, we mean the EPA. The information in this document is organized as follows:

- I. Background and Purpose of the EPA’s Final Action
- II. The 2008 Pb NAAQS
- III. Clean Air Act Redesignation Authority
- IV. The EPA’s Redesignation Decision and Supporting Air Quality Information
 - A. Applicable Regulatory Provisions
 - B. Monitoring Network Considerations
 - C. Canton, Ohio Ambient Air Monitoring Site
 - D. Pb Data Considerations
 - E. Factors Considered in Determining Nonattainment Area Boundary
- V. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

- B. Paperwork Reduction Act (PRA)
- C. Regulatory Flexibility Act (RFA)
- D. Unfunded Mandates Reform Act (UMRA)
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
- G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
- H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer and Advancement Act (NTTA)
- J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
- K. Congressional Review Act (CRA)
- L. Judicial Review
- VI. Statutory of Authority

I. Background and Purpose of the EPA’s Final Action

The purpose of this final action is to announce and promulgate the EPA’s area redesignation of a portion of the Canton, Ohio area from “unclassifiable/attainment” to “nonattainment” for the 2008 Pb NAAQS. The EPA originally designated Stark County, Ohio, including the Canton area, along with the remaining areas of Ohio, as unclassifiable/attainment on November 8, 2011.¹

After originally designating the Canton, Ohio area unclassifiable/attainment on November 8, 2011, the EPA determined in 2021 that quality-assured, certified monitoring data collected during 2017–2020 at the Ohio EPA ambient air monitoring site located at 3150 Georgetown Road NE in Canton, Ohio (Republic Steel ambient air monitoring site), showed that the area was violating the Pb NAAQS. Consistent with CAA section 107(d)(3)(A), the EPA notified the Governor of Ohio in a letter dated April 26, 2022, of an intended redesignation of a portion of the Canton, Ohio area as “nonattainment” for the 2008 Pb NAAQS. The EPA published a Notice of Availability (NOA) for this action in the **Federal Register** shortly thereafter, on May 3, 2022.²

Upon publication of the NOA in the **Federal Register**, a 30-day public comment period began. This comment period closed on June 2, 2022, and yielded three public comments, all of which proved supportive of the EPA’s redesignation decision and intended nonattainment area boundary.

On August 22, 2022, Ohio EPA submitted their recommendations and

response to the EPA’s April 26, 2022, notification letter concurring with the EPA’s boundaries for the intended nonattainment area in the Canton, Ohio area. Ohio EPA, in their response to the EPA’s notification, acknowledged pending enforcement actions and a July 2, 2021, Consent Order for Preliminary Injunction in the Stark County Court of Common Pleas, which mandated that the Republic Steel facility, which is located within the bounds of the area to be redesignated, undertake certain actions to reduce Pb emissions. Since Ohio EPA’s response concurred with the EPA’s intended boundaries of the area to be redesignated, the EPA has not modified those boundaries and is finalizing its redesignation of the identified portion of the Canton area within Stark County, Ohio as “nonattainment.”

The issuance of this final rule will require the state of Ohio to undertake certain planning requirements to reduce Pb concentrations within this newly redesignated nonattainment area, including, but not limited to, the requirement to submit within 18 months of redesignation, a revision to the Ohio state implementation plan (SIP) that provides for attainment of the 2008 Pb NAAQS as expeditiously as practicable, but no later than 5 years after the effective date of redesignation to nonattainment.

II. The 2008 Pb NAAQS

Under section 109 of the Act, the EPA has established primary and secondary NAAQS for certain pervasive air pollutants (referred to as “criteria pollutants”) and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established. The primary NAAQS represent ambient air quality standards, the attainment and maintenance of which the EPA has determined, including a margin of safety, are requisite to protect the public health. The secondary NAAQS represent ambient air quality standards, the attainment and maintenance of which the EPA has determined are requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air.

Under the CAA, the EPA must establish NAAQS for criteria pollutants, including Pb. Lead is generally emitted in the form of particles that are deposited in water, soil, and dust. People may be exposed to Pb by inhaling it or by ingesting Pb-contaminated food, water, soil, or dust. Once in the body, Pb is quickly

¹ 75 FR 71033 (November 22, 2010); 76 FR 72097 (November 22, 2011).

² 87 FR 26147 (May 3, 2022).

absorbed into the bloodstream and can result in a broad range of adverse health effects including damage to the central nervous system, cardiovascular function, kidneys, immune system, and red blood cells. Children are particularly vulnerable to Pb exposure, in part because they are more likely to ingest Pb and in part because their still-developing bodies are more sensitive to the effects of Pb. The harmful effects to children's developing nervous systems (including their brains) arising from Pb exposure may include intelligence quotient (IQ)³ loss, poor academic achievement, long-term learning disabilities, and an increased risk of delinquent behavior.⁴

The EPA first established primary and secondary Pb standards in 1978 at 1.5 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) as a quarterly average.⁵ On October 15, 2008, the EPA revised the federal Pb standards to 0.15 $\mu\text{g}/\text{m}^3$ and revised the averaging time for the standards.⁶ A violation of the 2008 Pb NAAQS occurs if any arithmetic 3-month mean concentration is greater than 0.15 $\mu\text{g}/\text{m}^3$.⁷ Since the primary and secondary Pb standards are the same, we refer to them hereafter in this document using the singular Pb standard or NAAQS.

Following promulgation of any new or revised NAAQS, the EPA is required by CAA section 107(d) to designate areas throughout the nation as attaining or not attaining the NAAQS. The EPA initially designated all areas of the country as "unclassifiable," "unclassifiable/attainment," or "nonattainment" for the 2008 Pb NAAQS in two rounds on November 16, 2010, and November 8, 2011.

III. Clean Air Act Redesignation Authority

The CAA, under section 107(d)(3), provides the EPA with the authority to, at any time, notify the Governor of any state that available information indicates that the designation of any area or portion of an area should be revised. Such available information

³ IQ is a score created by dividing a person's mental age score, obtained by administering an intelligence test, by the person's chronological age, both expressed in terms of years and months. "Glossary of Important Assessment and Measurement Terms," Philadelphia, PA: National Council on Measurement in Education. 2016.

⁴ Depending on the level of exposure, lead can adversely affect the nervous system, kidney function, immune system, reproductive and developmental systems and the cardiovascular system. For more information regarding the health effects of Pb exposure, see 73 FR 66964, November 12, 2008, or <http://www.epa.gov/airquality/lead/health.html>.

⁵ 43 FR 46246 (October 5, 1978).

⁶ 73 FR 66964 (November 12, 2008).

⁷ 40 CFR 50.16.

prompting a revised designation can include air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate. Once the EPA notifies a state, the state then has the opportunity to respond and submit supplemental information that the Governor considers appropriate. Before the EPA promulgates the redesignation, if any, the agency will consider the supplemental information provided by the state, making any modifications that the Administrator deems necessary. The EPA is not required under CAA section 107(d)(3) to seek public comment during the redesignations process, but we elected to do so for this area with respect to the 2008 Pb NAAQS to provide the public with an opportunity to give input for the EPA's consideration before promulgating any final redesignation.

IV. The EPA's Redesignation Decision and Supporting Air Quality Information

A. Applicable Regulatory Provisions

A determination of whether an area's air quality meets applicable standards is generally based upon the most recent 3 years of complete, quality-assured data recorded by established state and local air monitoring stations (SLAMS) and entered into the EPA's Air Quality System (AQS) database.⁸ Data from ambient air monitors operated by state and local agencies in compliance with the EPA monitoring requirements must be submitted to AQS.⁹ Monitoring agencies annually certify that these data are accurate to the best of their knowledge.¹⁰ All data are reviewed to determine the area's air quality status for Pb in accordance with 40 CFR part 50, appendix R.

Under the EPA regulations in 40 CFR 50.16 and in accordance with 40 CFR part 50, appendix R, the 2008 Pb NAAQS is met when the design value is less than or equal to 0.15 $\mu\text{g}/\text{m}^3$ at each eligible monitoring site within the area. The Pb design value at each eligible monitoring site is the maximum valid rolling 3-month arithmetic mean Pb concentration from the 38-month period consisting of the most recent 3-year calendar period plus two previous months. The 3-month mean Pb concentrations are rounded to the nearest hundredth $\mu\text{g}/\text{m}^3$ for comparison to the NAAQS. Data completeness requirements for a given 3-month period are met if the average of

the data capture rate of the three constituent monthly means is greater than or equal to 75 percent.¹¹

B. Monitoring Network Considerations

Section 110(a)(2)(B)(i) of the CAA requires states to establish and operate air monitoring networks to compile data on ambient air quality for all criteria pollutants. The EPA's monitoring requirements are specified by regulations in 40 CFR part 58. These requirements are applicable to state and, where delegated, local air monitoring agencies that operate criteria pollutant monitors. The regulations in 40 CFR part 58 establish specific requirements for operating air quality surveillance networks to measure ambient concentrations of Pb, including requirements for measurement methods, network design, quality assurance procedures and, in the case of large urban areas, the minimum number of monitoring sites designated as SLAMS.

In sections 4.4 and 4.5 of appendix D to 40 CFR part 58, the EPA specifies minimum monitoring requirements for Pb, respectively, to operate at SLAMS. SLAMS produce data that are eligible for comparison with the NAAQS, and therefore, the monitor must be an approved federal reference method (FRM) monitor, federal equivalent method (FEM) monitor, or approved regional method (ARM) monitor.

The minimum number of required Pb SLAMS is described in section 4.5 of appendix D to 40 CFR part 58. There must be at least one source-oriented SLAMS site located to measure the maximum Pb concentration in ambient air resulting from each non-airport Pb source that emits 0.50 or more tons per year (tpy) and from each airport that emits 1.0 tpy or more based on either the most recent National Emission Inventory (NEI) or other scientifically justifiable methods and data.

According to the 2017 NEI, one non-airport source in Stark County, Ohio exceeded the 0.50 tpy threshold and therefore required source-oriented Pb monitoring: the Republic Steel plant located at 2633 Eighth Street NE in Canton, Ohio (Republic Steel).¹² Republic Steel is a steel manufacturer that manufactures leaded steel and other steel products.

¹¹ See 40 CFR part 50, appendix R, sections (1)c, 4(c), and 5(b).

¹² Ohio facility-level Pb emissions data from the 2017 NEI may be accessed on the EPA NEI website at <https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data>.

⁸ AQS is the EPA's repository of ambient air quality data.

⁹ 40 CFR 58.16.

¹⁰ 40 CFR 58.15.

C. Canton, Ohio Ambient Air Monitoring Site

On June 6, 2017, an ambient air monitoring site was installed and began operating in Stark County to measure concentrations of Pb and other toxic metals. Ohio EPA, through its partnership with the Canton City Board of Health’s Air Pollution Control Division,¹³ installed this special purpose monitor (SPM) to meet the requirements of a state permit issued on December 12, 2016, to Republic Steel as part of operational changes made to its plant at 2633 Eighth Street NE in Canton, Ohio.¹⁴

In April 2019, Ohio EPA converted the designated primary Pb sampler at the Republic Steel ambient air monitoring site from a special purpose monitor to a SLAMS monitor. The conversion was made as a result of Ohio EPA’s 2017 emissions inventory, which indicated that Republic Steel’s Pb emissions were at 0.81 tpy, which exceeds the source-oriented 0.50 tpy monitoring threshold for non-airport sources in 40 CFR part 58, appendix D. The EPA requires SLAMS monitors to collect Pb samples at a minimum frequency of 1-in-6 days and those data be reported to the EPA’s AQS.

On March 1, 2021, Ohio EPA began operating a second monitor at the Republic Steel ambient air monitoring site to collect additional Pb samples on a random day sampling schedule.¹⁵ Pb data from both of these monitors are combined to calculate the monitoring site level design value for comparison to the NAAQS. Ohio EPA continued to also collect air samples to evaluate air quality specifically during leaded production at the Republic Steel plant.

Because these air samplers were operated only during leaded production time periods, typically less than the routine 24-hour air samples required for air monitoring data used for NAAQS comparisons, the data are not reported to the EPA’s AQS. Ohio EPA posts data from all Pb monitors on its website.¹⁶

The two ambient air quality monitors (Parameter Occurrence Code (POC) 1, POC 4) at the Republic Steel ambient air monitoring site measure ambient concentrations on a microscale level of 0 to 100 meters with a staggered schedule. POC 1 operates on the EPA sampling schedule of 1-in-6 days, and POC 4 operates on a randomized schedule. The POC is used to distinguish different instruments that measure the same parameter at the same monitoring site.

In April 2022, another ambient air quality monitoring site was installed at 719 Marietta Avenue NE, Canton, Ohio, and the Canton City Board of Health’s Air Pollution Control Division began collecting data. The new “Republic Community” monitoring site (AQS Site No. 39–151–0025) operates two monitors, denoted as POC 1 and 4, on the same days and frequency as the Republic Steel monitoring site (AQS Site No. 39–151–0024). Data are reported to the EPA’s AQS and are also available on Ohio EPA’s website.¹⁷

D. Pb Data Considerations

In accordance with appendix R to 40 CFR part 50, compliance with the Pb NAAQS is determined based on data from 36 consecutive valid 3-month periods (*i.e.*, 38 months, or a 3-year calendar period and the preceding November and December). As detailed

in 40 CFR part 50, appendix R section 4(c)(i), a 3-month mean Pb value is determined to be valid (*i.e.*, meets data completeness requirements) if the average of the data capture rate of the three constituent monthly means is greater than or equal to 75 percent.

Under 40 CFR 58.15, monitoring agencies must certify, on an annual basis, data collected at all SLAMS and at all FRM, FEM, and ARM special purpose monitor stations that meet the EPA quality assurance requirements. In doing so, monitoring agencies must certify that the previous year of ambient concentration and quality assurance data are completely submitted to AQS and that the ambient concentration data are accurate to the best of their knowledge. Ohio EPA annually certifies that the data it submits to AQS are quality-assured, including data collected by Ohio EPA at the Republic Steel monitoring site.

The EPA has evaluated the completeness of these data in accordance with the requirements of 40 CFR part 50, appendix R. The data collected by Ohio EPA at the Republic Steel ambient air monitoring site meet this completeness criterion for each 3-month period from 2019–2021.

Table 1 presents a summary of the latest available quality-assured Pb monitoring data from the Republic Steel ambient air monitoring site. A map showing the location of the monitor is included in the EPA’s Technical Support Document (EPA TSD) accompanying this action, contained in the docket for this rulemaking and on the EPA’s web page for Pb designations at <https://www.epa.gov/lead-designations>.

TABLE 1—AMBIENT AIR QUALITY MONITORING DATA AND Pb DESIGN VALUES FROM OHIO EPA’S REPUBLIC STEEL AMBIENT AIR MONITORING SITE ¹⁸

Monitor	Maximum Pb 3-month rolling average (µg/m ³) (number of complete months in parentheses)					Pb design value (µg/m ³)		
	2017	2018	2019	2020	2021	2017–2019	2018–2020	2019–2021
AQS 39–151–0024: Republic Steel, 315 Georgetown Road NE, Canton, Ohio	0.11 (5)	0.20 (12)	0.21 (12)	0.13 (12)	0.40 (11)	0.21	0.21	0.40

The EPA considered the Pb NAAQS design value for the Republic Steel ambient air monitoring site in the Canton area in Stark County, Ohio by assessing the most recent 3 consecutive

years (*i.e.*, 2019–2021) and 2 previous months of quality-assured, certified ambient air quality data in the EPA’s AQS using data from FRM and/or FEM monitors that are sited and operated in

accordance with 40 CFR parts 50 and 58. Data collected at the Republic Steel monitoring site indicate that the 2019–2021 design value representative of the Canton, Ohio area is 0.40µg/m³, which

¹³ Canton City Board of Health, Air Pollution Control Division. <https://www.cantonhealth.org/apc/>.

¹⁴ Ohio EPA Air Pollution Permit-to-Install (PTI), Permit Number: P0121793, Facility ID: 1576050694, Republic Steel. http://www.wapp.epa.ohio.gov/dapc/permits_issued/1499790.pdf.

¹⁵ 2021–2022 Ohio EPA Air Monitoring Network Plan. https://epa.ohio.gov/static/Portals27/ams/sites/2021-022_AMNP_Main_Report_Final.pdf.

¹⁶ Ohio EPA, Air Pollution Control, Reports & Data, Special Sampling Projects. <https://epa.ohio.gov/wps/portal/gov/epa/divisions-and-offices/air-pollution-control/reports-and-data/special-sampling-projects>.

¹⁷ Ohio EPA Special Sampling Projects, Republic Steel, Canton, Stark County. <https://epa.ohio.gov/divisions-and-offices/air-pollution-control/reports-and-data/special-sampling-projects>.

¹⁸ Information on the ambient air quality monitors and data used to calculate the Pb rolling averages and design values is publicly available at <https://www.epa.gov/aqs>.

is violating the 2008 Pb NAAQS of 0.15 µg/m³.

E. Factors Considered in Determining Nonattainment Area Boundary

In initiating and promulgating this final redesignation, the EPA considered a number of factors. First, the ambient air quality monitoring data in the Canton, Ohio area show a violation well in excess of the 2008 Pb NAAQS based on data collected during 2019–2021, indicating that it is appropriate to revise the designation of the Canton area located within Stark County, Ohio to nonattainment.

Second, in determining the boundaries of the nonattainment area, the EPA relied on the same analytical process that it uses in the initial area designations process following promulgation of a new or revised NAAQS. Specifically, under CAA section 107(d)(1)(A)(i), the statutory authority for initial area designations, the EPA must designate as nonattainment any area that violates the NAAQS and any nearby area that contributes to ambient air quality in the violating area. The EPA issued guidance (2008 EPA Pb Guidance) associated with its initial designations under the 2008 Pb NAAQS that it applied in determining whether nearby areas were contributing to monitored violations.

Under the 2008 EPA Pb Guidance, the perimeter of a county containing the violating monitor is the initial presumptive boundary for a nonattainment area. To exclude any portion of the presumptive county boundary, the Guidance suggests that a demonstration is needed to show that violations are not occurring in the excluded portions of the county and that the excluded portions are not source areas that contribute to the observed violations. Moreover, the state and the EPA may also conduct additional area-specific analyses that could lead EPA to depart from the presumptive boundary to either include a larger area. The 2008 EPA Pb Guidance indicated the following eight factors are relevant to such an analysis:¹⁹

- (1) Air quality in potentially included versus excluded areas;
- (2) Emissions in areas potentially included versus excluded from the nonattainment area;
- (3) Level of control of emission sources;
- (4) Population density and degree of urbanization including commercial development in included versus excluded areas;

(5) Expected growth of the population (including extent, pattern, and rate of growth);

(6) Meteorology (weather/transport patterns);

(7) Geography/topography (mountain ranges or other air basin boundaries); and

(8) Jurisdictional boundaries (*e.g.*, counties, air districts, reservations, etc.).

In addition to an analysis of the eight factors above, states can choose to recommend Pb nonattainment boundaries by using one, or a combination of the following techniques:

- Qualitative analysis;
- Spatial interpolation of air quality monitoring data; or
- Air quality simulation by dispersion modeling.²⁰

For purposes of this redesignation, all eight factors listed in the 2008 Guidance were evaluated, but the EPA concluded that population growth, geography, and topography did not play a significant factor in determining the nonattainment area boundary in Stark County, Ohio. The EPA's detailed evaluation of the violating monitoring site, contributing sources, and final area boundaries based on the weight of evidence of the previously identified factors is included in the TSD, which is located in the docket for this redesignation action. The EPA's final boundaries of the redesignated area encompass the portions of Stark County that are bounded on the north by State Route OH-153 (12th Street NE; Mahoning Road), on the east by Broadway Avenue, on the south by State Route OH-172 (Tuscarawas Street E; Lincoln Street E), and the west by State Route OH-43—Northbound (Cherry Avenue NE). A map showing the boundaries of our final nonattainment area for Canton, Ohio is included in the final TSD for this action.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the

PRA. This action is a redesignation of one area to nonattainment and does not contain any information collection activities.

C. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule is not subject to the APA but is subject to the CAA, which does not require notice and comment rulemaking to take this action.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538 and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The division of responsibility between the federal government and the states for purposes of implementing the NAAQS is established under the CAA.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications. It will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866. However, we note that the protection offered by the Pb NAAQS may be especially important for children because neurological effects in children are among, if not the most, sensitive health endpoints for Pb exposure. Because children are considered a sensitive population, in setting the Pb NAAQS we carefully evaluated the environmental health effects of exposure to Pb pollution among children. These effects and the

¹⁹ 73 FR 67033 (November 12, 2008).

²⁰ 73 FR 67033 (November 12, 2008).

size of the population affected are summarized in the EPA’s 2006 Air Quality Criteria Document for Pb and in the proposed and final Pb NAAQS rules. (<http://www.epa.gov/airquality/lead/fr/20081112.pdf>)

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color and/or Indigenous peoples) and low-income populations.

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action, on which the EPA offered public notice and comment, changes the air quality designation of an area and triggers an obligation on the part of the State to develop an implementation plan to improve air quality in the area so that it meets the Pb NAAQS. A forthcoming implementation plan by the State will also be available for public notice and comment.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the U.S. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

L. Judicial Review

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 May 9, 2023. 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. This action may not be challenged later in proceedings to enforce its requirements. See CAA section 307(b)(2).

VI. Statutory Authority

The statutory authority for this action is provided by 42 U.S.C. 7401, *et seq.*

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Lead.

Michael S. Regan,
Administrator.

For the reasons set forth in the preamble, 40 CFR part 81 is amended as follows:

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

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

Subpart C—Section 107 Attainment Status Designations

■ 2. In § 81.336, the table entitled “Ohio—2008 Lead NAAQS” is amended by adding an entry for “Canton—Stark County, OH:” before the entry “Cleveland, OH:” to read as follows:

§ 81.336 Ohio.
* * * * *

OHIO—2008 LEAD NAAQS

Designated area	Designation for the 2008 NAAQS ^a	
	Date ¹	Type
* * * * *		
Canton—Stark County, OH: Stark County (part). Nonattainment area is bounded by the following roadways: North: State Route OH–153 (12th Street NE; Mahoning Road). East: Broadway Avenue. South: State Route OH–172 (Tuscarawas Street E; Lincoln Street E). West: State Route OH–43—Northbound (Cherry Avenue NE).	April 10, 2023	Nonattainment.
* * * * *		

^a Includes Indian Country located in each county or area, except as otherwise specified.
¹ December 31, 2011, unless otherwise noted.