

the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule does not have tribal implications warranting the application of E.O. 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Regulatory Flexibility Act

The Administrator, in accordance with the Regulatory Flexibility Act,¹⁰ has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities. There would be no economic impact because the products being removed from DEA's prescription product exempt list are no longer marketed.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995,¹¹ DEA has determined and certifies that this action would not result in any Federal mandate that may result "in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any 1 year" Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Paperwork Reduction Act of 1995

This rule would not impose a new collection of information under the Paperwork Reduction Act of 1995.¹² Also, this rule would not impose new or modify existing recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations.

* * * * *

Signing Authority

This document of the Drug Enforcement Administration was signed on October 6, 2026, by DEA Administrator Terrance C. Cole. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the

undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2026–20757 Filed 10–8–26; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2026–1354; FRL–13264–02–R5]

Air Plan Approval; Michigan; Clean Data Determination for the Berrien, MI and Muskegon, MI Areas for the 2015 Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is determining under the Clean Air Act (CAA) that the Berrien County and Muskegon County, Michigan nonattainment areas have attained the 2015 ozone National Ambient Air Quality Standards (NAAQS). This determination, informally known as a clean data determination, is based upon complete, quality assured, and certified ambient air monitoring data for the 2023–2025 design value period showing that the areas achieved attainment of the 2015 ozone NAAQS. This clean data determination also relies upon the Michigan Department of Environment, Great Lakes, and Energy's (EGLE's) exceptional events request submitted to the EPA on December 26, 2025, and which the EPA concurred on January 12, 2026. As a result of this determination, the EPA is suspending the requirements for the Berrien and Muskegon areas to submit attainment demonstrations and associated Reasonably Available Control Measures (RACM), Reasonable Further Progress (RFP) plans, contingency measures for failure to attain or make reasonable progress, and other planning State Implementation Plans (SIPs) related to attainment of the 2015 ozone NAAQS for as long as the areas continue to attain the 2015 ozone NAAQS.

DATES: This final rule is effective on October 9, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2026–1354. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT:

Neena Nallaballi, Air and Radiation Division (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number: (312) 353–1770, email address: nallaballi.neena@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, the use of "we," "us," or "our" is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

µg/m³ Micrograms per cubic meter
 Agency United States Environmental Protection Agency
 APA Administrative Procedure Act
 AQI Air Quality Index
 CAA Clean Air Act
 EGLE Michigan Department of Environment, Great Lakes, and Energy
 EMBER Expedited Modeling of Burn Events Results
 EPA United States Environmental Protection Agency
 GAM Generalized Additive Model
 GLELC Great Lakes Environmental Law Center
 MDA8 Maximum daily eight-hour average ozone concentration
 NAAQS National Ambient Air Quality Standards
 NPRM Notice of Proposed Rulemaking
 PM_{2.5} Particulate Matter <2.5 µm in Diameter
 RACM Reasonably Available Control Measures
 RFP Reasonable Further Progress
 SIP State Implementation Plan
 U.S.C. United States Code

Table of Contents

- I. Background Information
- II. Response to Comments
 - A. Exceptional Events Demonstration
 - B. Clean Data Policy

¹⁰ 5 U.S.C. 601–602.

¹¹ 2 U.S.C. 1501 *et seq.*

¹² 44 U.S.C. 3501–3521.

III. Final Action

IV. Statutory and Executive Order Reviews

I. Background Information

On March 12, 2026, the EPA proposed to determine under the CAA that the Berrien, Michigan and Muskegon, Michigan areas have attained the 2015 ozone NAAQS. The EPA's proposed determination of attainment under the Clean Data Policy, known informally as a clean data determination, was made after reviewing the ozone monitoring data from EGLE's monitoring sites in the Berrien and Muskegon areas for the 2023–2025 period.¹ An explanation of the CAA requirements, a detailed analysis of the revisions, and the EPA's reasons for this determination were provided in the notice of proposed rulemaking (NPRM) and will not be restated here. This action suspends the requirements for both areas to submit an attainment demonstration, an RFP plan, contingency measures, and other planning requirements related to attainment of the 2015 ozone NAAQS on the condition that both of the areas continue to attain the 2015 ozone NAAQS.

II. Response to Comments

The EPA's March 12, 2026, NPRM opened a 30-day comment period, which closed April 13, 2026. Three comments were received. An adverse comment was submitted by the Great Lakes Environmental Law Center (GLELC). The remaining two comments were generally supportive. Summaries of the adverse comments and the EPA's responses are provided below. All comments received are included in the docket for this action.

A. Exceptional Events Demonstrations

Comment: Commenters are concerned about excluding ozone data under the Exceptional Events Rule because wildfire smoke impacts are no longer rare.

Response: While the EPA agrees that wildfire smoke impacts to the Upper Midwest have been more frequent in the last several years, the EPA remains obligated to follow the exceptional events provisions set forth in the CAA. Pursuant to CAA section 319(b), the EPA promulgated the "Exceptional Events Rule," codified primarily at 40 CFR 50.14, 50.1 and 51.930. These provisions set the criteria and process for excluding air quality monitoring data directly affected by exceptional events from the Administrator's determinations regarding exceedances or violations of the NAAQS. The Code

of Federal Regulations, at 40 CFR 50.14, further clarifies that every wildfire occurring predominantly on wildland presumptively meets the criteria categorizing it as "not reasonably controllable or preventable." As such, wildfires constitute natural events which affect the air quality in a way that establishes a clear causal relationship between the event and the monitored exceedance. Thus, the exclusion of wildfire smoke-impacted ozone data at the Muskegon and Coloma monitors is appropriate because these events satisfy the requirements of an exceptional events demonstration as set forth in the CAA and the Exceptional Events Rule.

Comment: The commenters state that, "EPA's weight of evidence approach for assessing exceptional event demonstrations violates the plain text of the Clean Air Act."

Response: The EPA disagrees that the weight of evidence approach violates the CAA. CAA section 319(b)(3)(B) requires the causal relationship to be "clear," and as explained in the preamble to the 2016 Exceptional Events Rule, it is appropriate for the EPA to consider all relevant evidence and qualitatively "weigh" it based on its relevance to the Exceptional Events Rule criterion being addressed, the degree of certainty, its persuasiveness, and other considerations appropriate to the individual pollutant and the nature and type of event.² Courts have confirmed that it is reasonable for the EPA to use a "weight of evidence" analysis when implementing the CAA.³ The weight of evidence method is an appropriate and reasonable approach which has been used historically and successfully under key CAA programs. The weight of evidence approach is the EPA's process for assessing whether an exceptional events demonstration meets the requirement for a clear causal relationship at CAA section 319(b)(3)(B)(ii).

Furthermore, and more recently, the EPA's concurrence based on a weight of evidence approach for evaluating exceptional events was upheld in *Sierra Club v. EPA*, 161 F.4th 934 (6th Cir. 2025). The Court's opinion states, "the EPA met the requirement to demonstrate that it 'reasonably

considered the relevant issues and reasonably explained the decision.'"

Even if the monitored data and/or technical analyses may not unequivocally support the causal relationship, State agencies should submit available information regarding the event and the monitored exceedances or violations. It may still be possible, with a weight of evidence approach, to clearly establish the existence of a causal connection between the data or analyses and the event causing elevated ozone concentrations. Under that approach, each piece of information or analysis—favorable or unfavorable—is considered, but by itself is not conclusive.

Comment: The commenters state that, "It's unclear what causation standard and burden of proof EPA applied in this proposed rule. Whatever the causation standard and burden of proof, the Commenters believe Michigan has failed to satisfy both the causation standard and to meet its burden of proof."

Response: The EPA evaluates exceptional event demonstrations on a case-by-case basis using a weight of evidence approach to assess whether a clear causal relationship exists between the event and the exceedance. The "EPA Guidance on the Preparation of Exceptional Events Demonstrations for Wildfire Events that May Influence Ozone Concentrations" uses a three-tier approach for addressing the clear causal relationship element with a wildfire ozone demonstration, recognizing that some require more evidence to demonstrate the clear causal relationship.⁴ Tier 3 analyses include additional evidence beyond what is required for Tier 1 and Tier 2 demonstrations because these events are more complex. EGLE submitted a Tier 3 demonstration consistent with this guidance. The record includes multiple lines of evidence showing wildfire smoke transport and ground level impacts at the Muskegon and Coloma monitors, including: photographic evidence, regional ozone and PM_{2.5} Air Quality Index maps, National Oceanic and Atmospheric Administration Hazard Mapping System Fire and Smoke maps, Hybrid Single-Particle Lagrangian Integrated Trajectory analyses, local and regional meteorological evidence, the presence of elevated surface level PM_{2.5} concentrations, the EPA's Expedited Modeling of Burn Events Results (EMBER) screening-level photochemical modeling analysis, the Generalized

² 81 FR 68216, 68230 (Oct. 3, 2016).

³ See, e.g., *Env'tl. Def. v. EPA*, 369 F.3d 193 (2d Cir. 2004) (upholding the EPA's approval of a State's attainment demonstration using photochemical grid modeling and a weight of evidence analysis), *BCCA Appeal Group v. EPA*, 355 F.3d 817 (5th Cir. 2003) (finding that the EPA's conclusion that the weight of evidence approach to approving attainment demonstrations was consistent with the CAA, reasonable and entitled to deference).

⁴ <https://www.epa.gov/air-quality-analysis/final-guidance-preparation-exceptional-events-demonstrations-wildfire-events>.

¹ 91 FR 12123 (Mar. 12, 2026).

Additive Model (GAM) statistical model, the EPA's Met-Adjusted Ozone Trends statistical model, and a matching day analysis for the July 15, 2025, event day at Muskegon. Across these independent methods, results collectively show wildfire smoke caused elevated ozone concentrations on the event days. Using a weight of evidence approach, the EPA concluded that EGLE met the burden of proof by successfully demonstrating a clear causal relationship between the wildfire events and the monitored exceedances at the Muskegon and Coloma monitors.

Comment: Several comments note that EGLE did not adequately demonstrate the wildfire smoke was the "proximate cause" of the ozone exceedances or that the ozone exceedances were "directly due" to wildfire smoke and therefore do not satisfy the clear causal connection. These include assertions that: for several event days, if modeled smoke impacts were removed, the maximum daily eight-hour average ozone concentration (MDA8) would be greater than the NAAQS; wildfire smoke only added minor contributions to total ozone concentrations as modeled by the tools; exceedances were due to local industry or vehicles as modeled impacts were minor; not all days had quantifiable ozone concentrations from wildfire smoke calculated; and there were discrepancies in computed concentrations between models.

Response: For the EPA to concur on an exceptional events demonstration and exclude data from regulatory use, CAA section 319(b) and 40 CFR 50.14 require a clear causal relationship between the event and the monitored exceedance. The EPA evaluates the clear causal connection between the exceptional events and the monitored exceedances using a weight of evidence approach and not the "but for" or "proximate cause" methods. The weight of evidence approach looks at all the information available and evaluates how supportive and relevant each line of evidence is to the overall clear causal relationship. Before the 2016 Exceptional Events Rule revision, the 2007 Exceptional Events Rule required agencies to show that there would have been no exceedance or violation "but for" the event also known as the "but for" criterion. In the most recent revisions to the EPA's Exceptional Event Rule in 2016, the EPA removed the "but for" test so that it no longer requires quantitative analyses intended to subtract estimated wildfire smoke contributions from reported monitoring

concentrations.⁵ Accordingly, there is no requirement in the EPA's current Exceptional Event Rule to (1) quantify exact wildfire contributions, (2) show the event was the "predominant cause," or (3) rule out all other sources.

There are many factors that contribute to regional ozone concentrations in the Midwest, such as natural emissions of precursors, transport of ozone and precursors from distant locations, local precursor emissions, and meteorology. On these event days, wildfire smoke was also a contributor to elevated ozone concentrations, causing the exceedance. The presence of routine local emissions does not preclude a finding that wildfire smoke was the cause of the monitor exceedance where the evidence shows a clear causal connection between the event and the exceedance. An exceptional event may still be the cause of an exceedance even in the presence of other sources.

The "directly due" concept is satisfied by the totality of evidence showing a clear causal connection. Typically, a single analysis may not conclusively link an exceptional event to a monitored exceedance. The EPA therefore applies a weight of evidence approach, evaluating multiple, independent lines of evidence collectively to determine a clear causal relationship. This approach is reflected in the "EPA Guidance on the Preparation of Exceptional Events Demonstrations for Wildfire Events that May Influence Ozone Concentrations" and has been upheld by the Sixth Circuit in *Sierra Club v. EPA*, 161 F.4th 934 (2025).

The meteorological and statistical models and analyses have uncertainty. Differences among model outputs do not invalidate the demonstration because such differences are expected given that the models use different methodologies, inputs, and parameters. As described in the EPA's EMBER Overview document:

There is uncertainty in photochemical model estimates of fire impacts as is true of all available methods for attributing ozone concentrations to fire emissions. As noted in the 2016 Wildfire Guidance, 'predictions of fire impacts on air quality are complex due to uncertainties in emissions, height of emissions, plume temperature, and plume chemistry (including radiative impacts on chemistry). However, with proper set-up, application, and evaluation, air quality models can be used to indicate fire impacts on [ozone] concentrations. Combining multiple types of analysis, including photochemical modeling, air quality monitoring data, and meteorological analyses, offers a comprehensive approach

for understanding wildfire effects on ozone exceedances.⁶

The models are meant to estimate the magnitude of the event's impact on the ozone exceedances, plume timing, and spatial extent. The 2016 Exceptional Events Rule does not require the exact wildfire smoke contribution to be quantified and instead uses a weight of evidence approach.

The results of the GAM, EMBER, and Met-Adjusted Ozone Trends models on the event days for Muskegon County and Berrien County are supportive of wildfire smoke impacts coupled with the additional evidence provided in EGLE's demonstration. Although the models estimate different levels of wildfire smoke impacts at the monitors, they consistently confirm wildfire smoke elevated ozone concentrations and are supportive to the overall weight of evidence.

The exceptional event rule and the EPA's exceptional events guidance states "The EPA does not expect an air agency to prepare all identified analyses but only those that add to their weight of evidence supporting the clear causal relationship." In this instance, EGLE provided the appropriate level of evidence, including both a statistical regression modeling analysis and a photochemical modeling analysis, and the EPA determined that EGLE's demonstration included sufficient evidence to demonstrate a clear causal relationship between the fire and the monitored ozone exceedances.

Comment: The commenters note that EGLE relied on PMO3smoke data for monitors 36 to 40 miles from the Muskegon and Coloma monitors which are not representative of Muskegon County and Berrien County air quality and that no exceptional event was proposed for the Holland monitor.

Response: The GAM tool must have a monitoring site collecting PM_{2.5} and ozone monitoring data to compute smoke-related ozone residuals. The events that impacted Muskegon and Berrien Counties in EGLE's exceptional events demonstrations were regional wildfire smoke events, affecting large portions of the United States including the Holland and Jenison monitors. The Muskegon and Coloma ozone monitoring sites do not have PM_{2.5} monitoring instruments, so EGLE and the EPA analyzed the nearby Holland and Jenison ozone sites that also have PM_{2.5} data as a proxy for the Muskegon and Coloma sites. With the large-scale

⁶ <https://www.epa.gov/system/files/documents/2026-06/expedited-modeling-of-burn-events-results-ember-overview-document-for-data-years-of-2021-2025.pdf>.

⁵ 81 FR 68216 (Oct. 3, 2016).

smoke plumes and shared shoreline meteorology patterns on the event days, a distance of 35–40 miles is not expected to have significant impacts on the results generated by this tool.

EGLE's decision to not request exclusion of ozone data for the Holland ozone monitoring site is not relevant to the EPA's evaluation of the evidence submitted by EGLE for the Berrien and Muskegon County demonstrations.

Comment: Commenters note that Michigan did not utilize EMBER or other tools to show contribution of the exceptional event to ozone concentrations on July 15, 2025, compared to other pollution sources.

Response: The "EPA Guidance on the Preparation of Exceptional Events Demonstrations for Wildfire Events that May Influence Ozone Concentrations" explains that States may include a matching day analysis, statistical regression analyses, or a photochemical analysis, to provide additional evidence supporting a clear causal relationship between wildfire smoke and the ozone exceedances they request to exclude. That guidance also expressly states that the "EPA does not expect an air agency to prepare all identified analyses" and that "the submitting air agency and the EPA Regional office should discuss the appropriate level of evidence during the initial notification process." Therefore, the EPA does not require a photochemical analysis, or an explanation for its absence, to concur on exceptional event demonstrations.

In the EPA's response to EGLE's initial notification, the EPA confirmed that this demonstration needed to address the Tier 3 clear causal criterion. EGLE provided a matching day analysis and the EPA's Met-Adjusted Ozone Trends analysis for July 15, 2025. Both analyses demonstrate wildfire smoke impacts on the event day at the Muskegon monitor. At the time of the EPA's decision to concur on these exceptional events, the EPA's EMBER screening-level photochemical model only included data for 2023, and the University of Washington's GAM statistical model only included data through 2024.

Comment: Commenters note that the PMO3smokeTool demonstrated wildfire smoke impacted ozone concentrations from 13.0 to 15.9 ppb and is only representative of 15% to 20% of the total ozone concentration on the event days, asserting that local industry and vehicles are thus responsible for a majority of the ozone. Commenters also note that Michigan did not demonstrate the wildfire smoke was the "proximate" cause of the ozone exceedances on the Muskegon event days on June 19, 2023,

and June 29, 2023, and that the "proximate cause" of the exceedances were industrial facilities and vehicles. The commenters note that the tools EGLE used in their demonstrations show only a 10% to 20% contribution of wildfire smoke to the ozone levels. They argue that these "relatively minor impacts" cannot be the "proximate cause" of the ozone exceedances.

Response: As described in previous responses, the 2016 Exceptional Events Rule relies on a weight of evidence approach to demonstrate a clear causal relationship between the events and the exceedances. Thus, the State is not required to subtract estimated smoke impacts from observed ozone, provide exact quantification or a "predominant cause," or rule out all other sources in order to establish that exceedances were "directly due" to wildfire smoke.

Comment: The commenters state that Michigan has failed to provide adequate public notification of the events in violation of the Clean Air Act.

Response: The Exceptional Events Rule does not specify how States must provide public notification of an event. EGLE has demonstrated that they have processes in place to notify the public when there is high confidence of adverse air quality impacts. EGLE's air quality forecasts and near real-time continuous data provided the public notice of ozone concentrations meeting an Air Quality Index (AQI) rating of "Unhealthy for Sensitive Groups" or worse on the event days after ambient concentrations of ozone rose quickly due to the distant Canadian fires. Data from the air monitors are provided, in near real-time, to the EPA's AirNow website as well as EGLE's MiAir website.⁷ Additionally, AirNow's EnviroFlash is a system that sends emails to subscribers about their daily air quality forecast and current conditions. Air agencies issue air quality forecasts based on measured near real-time air quality levels and weather information. The forecast is then provided to local media, posted online, and sent out to EnviroFlash subscribers. Furthermore, EnviroFlash allows subscribers to opt in to receive notifications at the Unhealthy for Sensitive Groups and higher AQI categories. EGLE maintains a robust forecasting program and issues alerts when elevated PM_{2.5} or ozone are expected. Even when forecasts don't fully capture an unfolding air quality event, AirNow, MiAir, and EnviroFlash alert the public in near real-time when

air quality does become Unhealthy for Sensitive Groups or greater.

B. Clean Data Policy

Comment: Commenters assert that while the EPA's original clean data policy states that the EPA would annually review the data and revoke the suspension if the area subsequently violated the standards, the EPA's rules do not make this review mandatory or set a deadline for it. Commenter further asserts that the EPA has not explained how a citizens' suit to force the EPA to carry out this review should proceed.

Response: A clean data determination suspends requirements for the area to submit attainment demonstrations and the associated RACM, RFP plans, contingency measures for failure to attain or make reasonable progress and other planning SIPs related to the attainment of the standard, for as long as the area continues to attain the standard, in accordance with the provisions set forth at 40 CFR 51.1318. The suspended planning requirements are suspended either until the area is redesignated to attainment for the ozone NAAQS, at which point the requirements no longer apply, or until the EPA determines that the area has failed to meet the ozone NAAQS, at which point the requirements go back into effect. The area is then required to submit the suspended plans within the time frame established by the EPA; at that time citizens can assess their legal options.

For the Berrien and Muskegon areas specifically, should the areas retain their nonattainment designation, then within six months of the areas' attainment date of August 3, 2027, the EPA would be obligated under CAA section 181(b)(2) to determine whether the areas attained the 2015 ozone NAAQS based on monitoring data from 2024–2026.⁸ Should those data show that an area is violating the 2015 ozone NAAQS, the EPA would issue a CAA section 181(b)(2) finding that the areas failed to attain by the Serious area attainment date and would be reclassified by operation of law to the next higher classification and the areas' clean data determinations would be rescinded.

The Clean Data Policy set forth in the 1995 Seitz Memorandum is codified for the 1997 ozone NAAQS, 2008 ozone NAAQS, and 2015 ozone NAAQS at 40 CFR 51.918, 51.1118, and 51.1318, respectively. This policy has been upheld by the D.C. Circuit and all other

⁸ In this action, EPA is finalizing a clean data determination based on monitoring data from 2023–2025.

⁷ <http://www.deqmiar.org/>.

courts that have considered it.⁹ In the recent December 5, 2025, Sixth Circuit decision¹⁰ the Court upheld the EPA's authority to approve a State's exceptional events demonstration and apply the Clean Data Policy to an ozone nonattainment area that attained the 2015 ozone NAAQS.

The commenters raised structural and statutory objections to the Clean Data Policy provisions at 40 CFR 51.1318. These comments are not relevant to the EPA's determination of attainment with respect to the Berrien and Muskegon areas and should have been raised at the time the 2015 Ozone NAAQS implementation rule was promulgated.¹¹ The 2015 ozone NAAQS and the implementing regulation were promulgated through notice and comment rulemaking subject to the judicial review provisions of CAA section 307(b). A petition for review must be filed within sixty days from the date of notice of such promulgation appears in the **Federal Register**. No comments were submitted regarding provisions of 40 CFR 51.1318 during the comment period for the 2015 ozone NAAQS implementation rule. Therefore, these comments fall outside the scope of this action.

III. Final Action

The EPA is determining under the CAA that the Berrien and Muskegon areas in Michigan have attained the 2015 ozone NAAQS. This clean data determination is based upon complete, quality assured, and certified ambient air monitoring data for the 2023–2025 design value period showing that those areas achieved attainment of the 2015 ozone NAAQS. This clean data determination relies on EGLE's exceptional events request submitted to the EPA on December 26, 2025, which the EPA concurred on January 12, 2026. As a result of this determination, the requirements for the area to submit attainment demonstrations and associated RACM, RFP plans, contingency measures for failure to attain or make reasonable progress and

other planning SIPs related to attainment of the 2015 ozone NAAQS, are suspended for as long as the areas continue to attain the 2015 ozone NAAQS.

In accordance with 5 U.S.C. 553(d) of the Administrative Procedure Act (APA), the EPA finds there is good cause for this action to become effective immediately upon publication. The immediate effective date for this action is authorized under 5 U.S.C. 553(d)(1). Section 553(d)(1) of the APA provides that final rules shall not become effective until 30 days after publication in the **Federal Register** “except . . . a substantive rule which grants or recognizes an exemption or relieves a restriction.” The purpose of this provision is to “give affected parties a reasonable time to adjust their behavior before the final rule takes effect.”¹² However, when the Agency grants or recognizes an exemption or relieves a restriction, affected parties do not need a reasonable time to adjust because the effect is not adverse. The EPA has determined that this rule relieves a restriction because this rule suspends the requirements for the area to submit attainment demonstrations and associated RACM, RFP plans, contingency measures for failure to attain or make reasonable progress and other planning SIPs related to attainment of the 2015 ozone NAAQS, for as long as the area continues to attain the 2015 ozone NAAQS. For this reason, the EPA finds good cause under 5 U.S.C. 553(d)(1) for this action to become effective on the date of publication of this action.

IV. 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, the EPA's role is to review State choices, and approve those choices if they meet the minimum criteria of the CAA. Accordingly, this final action constitutes a clean data determination for the Berrien and Muskegon areas for the 2015 ozone NAAQS based on air quality data resulting in suspension of certain Federal requirements State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law.

¹² *Omnipoint Corp. v. Fed. Comm'n Comm'n*, 78 F.3d 620, 630 (D.C. Cir. 1996); see also *United States v. Gavrilovic*, 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history).

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. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is not an Executive Order 14192 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This action will not impose any requirements on small entities beyond those imposed by state law.

E. 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.

F. 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.

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

This rule does not have Tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on Tribal governments. Thus, Executive Order 13175 does not apply to this rule.

H. 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 3(f)(1) significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action

⁹ The Court of Appeals for the District of Columbia Circuit (D.C. Circuit) upheld EPA's rule embodying the Clean Data Policy for the 1997 8-hour ozone standard. *NRDC v. EPA*, 571 F.3d 1245 (D.C. Cir. 2009). Other courts have reviewed and considered rulemakings applying EPA's Clean Data Policy and have consistently upheld them. *Sierra Club v. EPA*, 99 F.3d 1551 (10th Cir. 1996); *Sierra Club v. EPA*, 375 F.3d 537 (7th Cir. 2004); *Our Children's Earth Foundation v. EPA*, No. 04–73032 (9th Cir. June 28, 2005 (Memorandum Opinion)), *Latino Issues Forum v. EPA*, Nos. 06–75831 and 08–71238 (9th Cir. March 2, 2009 (Memorandum Opinion)).

¹⁰ *Sierra Club v. EPA*, 161 F.4th 934 (6th Cir. 2025).

¹¹ 83 FR 62998 (Dec. 3, 2018).

present a disproportionate risk to children because it approves a State program.

I. Executive Order 13211: Actions 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.

J. National Technology Transfer Advancement Act

This rulemaking does not involve technical standards.

K. Congressional Review Act

This action is subject to the Congressional Review Act, 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).

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 December 8, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 25, 2026.

Anne Vogel,
Regional Administrator, Region 5.

For the reasons stated in the preamble, title 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

■ 2. In § 52.1170, the table in paragraph (e) is amended by adding a second entry for “2015 Ozone Clean Data Determination” before the entry for “2015 8-hour ozone Moderate RFP plans and motor vehicle emission budgets” to read as follows:

§ 52.1170 Identification of plan.

* * * * *
(e) * * *

EPA-APPROVED MICHIGAN NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
2015 Ozone Clean Data Determination.	Berrien nonattainment area (Berrien County) and Muskegon non-attainment area (part of Muskegon County).	N/A	October 9, 2026, 91 FR [Insert Federal Register page where the document begins].	EPA’s final determination suspends the requirements to submit an attainment demonstration and other associated nonattainment planning requirements for the Berrien and Muskegon nonattainment areas for as long as the areas continue to attain the 2015 ozone standard.
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[FR Doc. 2026–20736 Filed 10–8–26; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

50 CFR Part 679
[Docket No. 260305–0066; RTID 0648–XF997]

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Reserves in the Bering Sea and Aleutian Islands Management Area

Correction

In rule document 2026–20019, appearing on pages 61795 through

61796 in the issue of Wednesday, September 30, 2026, make the following correction:
On page 61795, in the third column, on the first line of the **DATES** section, “October 30, 2026” should read “September 30, 2026”.
[FR Doc. C1–2026–20019 Filed 10–8–26; 8:45 am]
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