E. Other Obligations

Nothing in this order shall be construed to modify, impair, or otherwise affect any requirements or obligations to which a covered financial institution is subject pursuant to the BSA, including, but not limited to, the filing of Suspicious Activity Reports (SARs), or other applicable laws or regulations, such as the sanctions administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control.

F. Penalties for Noncompliance

The covered financial institution, and any of its officers, directors, employees, and agents, may be liable for civil or criminal penalties under 31 U.S.C. 5321 and 5322 for willfully violating this order.

G. Validity of Order

Any judicial determination that any provision of this order is invalid shall not affect the validity of any other provision of this order, and each other provision shall thereafter remain in full force and effect.

Jimmy L. Kirby,

Deputy Director, Financial Crimes Enforcement Network.

[FR Doc. 2026–22962 Filed 11–9–26; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2026–3070; FRL–13352–02–R5]

Air Plan Approval; Michigan; Determination of Attainment by the Attainment Date 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 Detroit, Michigan Moderate nonattainment area (''Detroit area'' or ''area'') attained the 2015 ozone National Ambient Air Quality Standards (NAAQS) by the applicable attainment date. This determination relies on the EPA's concurrence on an exceptional events request submitted by the Michigan Department of Environment, Great Lakes, and Energy (EGLE) on February 19, 2026, and concurred on by the EPA on March 24, 2026. Therefore, the EPA is taking final agency action on Michigan's exceptional events request. This action fulfills the EPA's statutory obligation to determine whether the Detroit area attained the 2015 ozone NAAQS by the Moderate attainment date of August 3, 2024.

DATES: This final rule is effective on November 10, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2026–3070. 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: Eric Svingen, Air and Radiation Division (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number: (312) 353–4489, email address: *svingen.eric@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean the EPA. We use multiple abbreviations and terms in this proposed rule. While this list may not be exhaustive, for ease of reading and for reference purposes, the EPA defines the following terms and acronyms here:

AQI—Air Quality Index
CAA—Clean Air Act
CO—Carbon Monoxide
DV—Design Value
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
MSA—Metropolitan Statistical Area
NAAQS—National Ambient Air Quality Standards
ppm—Parts Per Million
TSD—Technical Support Document

Table of Contents

I. Background
II. The EPA's Responses to Comments
A. Exceptional Events Demonstration
B. Timing and Deadlines
III. What action is the EPA taking?
IV. Statutory and Executive Order Reviews

I. Background

On October 26, 2015,[1] the EPA issued its final action to revise the NAAQS for ozone to establish a new 8-hour standard. In that action, the EPA promulgated identical tighter primary and secondary ozone standards designed to protect public health and welfare that specified an 8-hour ozone level of 0.070 parts per million (ppm). Specifically, the standards require that the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration may not exceed 0.070 ppm.

Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires EPA to designate as nonattainment any areas that are violating the NAAQS, based on the most recent three years of quality assured ozone monitoring data. Effective August 3, 2018, EPA designated the Detroit area, consisting of Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties, as a Marginal nonattainment area for the 2015 ozone NAAQS.[2] In a separate action, the EPA assigned classification thresholds and attainment dates based on the severity of an area's ozone problem, determined by the area's design value (DV).[3] The EPA established the attainment date for Marginal, Moderate, and Serious nonattainment areas as 3 years, 6 years, and 9 years, respectively, from the effective date of the final designations. Thus, the attainment date for Marginal nonattainment areas for the 2015 ozone NAAQS was August 3, 2021, the attainment date for Moderate areas was August 3, 2024, and the attainment date for Serious areas is August 3, 2027.

The CAA requires that within 6 months following the applicable attainment date, the EPA shall determine whether an ozone nonattainment area attained the ozone standard based on the area's DV as of that date.[4]

On February 1, 2023, EPA determined based on 2018–2020 monitoring data that the Detroit area had failed to attain by its Marginal attainment date of August 3, 2021, and by operation of law the Detroit area was reclassified the area to Moderate.[5]

On May 29, 2026, EPA proposed to determine that the Detroit area attained the 2015 ozone NAAQS by the Moderate attainment date of August 3, 2024, based upon complete, quality-assured, and

[1] 80 FR 65292 (October 26, 2015).
[2] 83 FR 25776 (June 4, 2018).
[3] 83 FR 10376 (May 8, 2018).
[4] CAA section 181(b)(2)(A).
[5] 88 FR 6633 (February 1, 2023).

certified ambient air monitoring data for the 2021–2023 design period.[6]

EPA's proposed determination relied upon EPA's concurrence on an exceptional events demonstration submitted by EGLE on February 19, 2026, which requested exclusion of ozone concentrations recorded at the Allen Park monitor in Wayne County with Site ID 26–163–0001 on June 29 and June 30, 2023, and the East 7 Mile monitor in Wayne County with Site ID 26–163–0019 on June 19, June 29, June 30, and July 25, 2023.

In the May 29, 2026, proposed determination of attainment by the attainment date, EPA proposed to take final agency action on the exceptional events concurrence, which removed the event-influenced data from the design value, and opened an opportunity for public comment on the EPA's concurrence.

II. The EPA's Responses to Comments

Upon publication of the May 29, 2026, proposed rulemaking, the EPA opened a 30-day comment period, ending June 29, 2026.[7] During the comment period the EPA received three comments. Two of the comments were adverse, and the remaining comment raised several recommendations. In this final rulemaking the EPA is responding to all three comments.

A. Exceptional Events Demonstration

Comment: A commenter states that removing data points from the sample is not in the public interest and requests that the proposal be withdrawn.

Response: CAA section 319(b) allows exclusion of data under the 2016 Exceptional Events Rule because the emissions from these events are not reasonably controllable or preventable. Air agencies can request the exclusion of data affected by exceptional events from regulatory determinations through the exceptional events process. The requirements that must be met for EPA's concurrence on an exceptional events demonstration are set forth at 40 CFR 50.14. The EPA's Technical Support Document (TSD), included in the docket of this rulemaking, illustrates how EGLE made a justifiable request for excluding the event-impacted data from regulatory decisions in the Detroit area. For these reasons, the EPA believes it is appropriate to finalize the determination that the area attained by the attainment date.

Comment: A commenter requests that the EPA create a plain language summary explaining what data were excluded, why the exclusions were justified, what the unadjusted and adjusted data show, and what obligations or monitoring requirements remain.

Response: The EPA agrees with the commenter that the exclusion of data for regulatory purposes through the 2016 Exceptional Events Rule should be transparent, reproducible, and verifiable. The EPA's TSD, provided in the publicly available docket for this rulemaking, explains which data was excluded, how EGLE's demonstration met the requirements in 40 CFR 50.14, and the design values before and after exclusion.

The State of Michigan will continue to operate several monitoring sites that measure ozone. The EPA has specific design criteria for ozone monitoring networks described in 40 CFR part 58 appendix D. According to this criteria, EGLE is required to operate three ozone monitoring sites in the Detroit metropolitan statistical area (MSA). Currently, EGLE operates six ozone monitoring sites in the Detroit MSA, and none of these ozone monitors are eligible for shutdown. The ozone monitoring network in the Detroit area has historically monitored ozone at more than the minimum required number of monitoring sites, and according to EGLE's Annual Ambient Air Monitoring Network Review Plan for 2027, there are no changes expected to the ozone monitoring network in Detroit.

The EPA's action is focused on assessing whether the Detroit area attained the 2015 ozone NAAQS by the Moderate attainment date, as required by CAA section 181. Excluding data for purposes of calculating the design value does not remove the data from the EPA's Air Quality System database. Other data users may decide for themselves if it makes sense to exclude or include this data for their own evaluations.

Comment: Commenters state, ''EPA's 'weight of the evidence' approach is insufficient to establish the statutorily required ''clear'' evidentiary standard.''

Response: The EPA disagrees that the weight of evidence approach is insufficient for establishing the ''clear'' evidentiary standard. Section 319(b)(3)(B) of the CAA 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 2016 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.'' [8] Courts have confirmed that it is reasonable for the EPA to use a ''weight of evidence'' analysis when implementing the CAA.[9] 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). Broadly, the commenter's concerns are not properly raised in this rulemaking and should have been submitted within the comment period of the 2016 Exceptional Events Rule.

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, ''Thus, 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 clear causal relationship, 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, for EGLE to satisfy CAA section 319(b)(3)(B)(iv), ''it must show that exceptional events, here wildfire smoke, were the proximate and foreseeable cause of the monitored exceedance. EGLE must have demonstrated in their proposal that there was a direct relationship between the claimed wildfire contributions and the ozone exceedance, showing that the two were very intricately connected.''

[6] 91 FR 31993 (May 29, 2026).

[7] 91 FR 31993 (May 29, 2026).

[8] 81 FR 68216, 68230 (October 3, 2016).

[9] *See, e.g., Envtl. 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).

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 events require more evidence to demonstrate the clear causal relationship. Tier 3 demonstrations 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, requiring the highest level of supporting evidence, consistent with this guidance. The record includes multiple lines of evidence showing wildfire smoke transport and ground level impacts at the Detroit area 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 General Additive Model statistical model, and the EPA's Met-Adjusted Ozone Trends statistical model. 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 and successfully demonstrated a clear causal relationship between the wildfire events and the monitored exceedances at the Detroit area monitors.

Comment: The commenters 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. The commenters assertions are that the models demonstrate that local pollution sources made up the bulk of the ozone concentrations, that wildfire smoke-influenced ozone was present in minimal concentrations on the event days, and thus, do not meet the CAA's causation standard for exceptional event demonstrations.

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. This was known as the ''but for'' test. In the most recent revisions to the EPA's Exceptional Event Rule in 2016, the EPA removed the ''but for'' test and no longer requires quantitative analyses intended to subtract estimated wildfire smoke contributions from reported monitoring concentrations. 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'' [10] and has been upheld by the Sixth Circuit in *Sierra Club* v. *EPA,* 161 F.4th 934 (2025).

The meteorological, photochemical, 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.' [11]

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 Generalized Additive Model (GAM), EMBER, and Met-Adjusted Ozone Trends models on the event days for the Detroit area, coupled with the additional evidence provided in EGLE's demonstration, are supportive of wildfire smoke impacts. 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 EPA's TSD on pages 19–20 explains how EMBER's modeled wildfire smoke impact on ozone concentrations of 3 parts per billion on June 30, 2023, underestimated the smoke contribution to ozone concentrations due to premature clearing of smoke emissions in EMBER versus what occurred. EMBER's clean out of the fire plume over Detroit on this day was too strong

[10] *https://www.epa.gov/system/files/documents/2023-12/guidance-on-the-preparation-of-ee-wf-ozone.pdf.*

[11] *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.*

and early compared to the ambient air monitoring concentrations and Tropospheric Monitoring Instrument satellite-based data products, using enhancements of the carbon monoxide (CO) vertical column as an indicator of the location of the fire plume. While the EMBER clean out on June 30, 2023, appears too drastic and too early compared to ambient data, this modeling clearly indicated a substantial impact of fires on ozone during the prior day of this episode (June 29, 2023), and combined with the ambient data, also contributes to the weight of evidence supporting the clear causal connection for June 30, 2023.

The preamble to the 2016 Exceptional Events Rule notes that the EPA ''do[es] not expect nor would all air agencies necessarily need to include all of the evidence and analyses identified in Table 1 [Example Clear Causal Relationship Evidence and Analyses], but rather to use available information to build a weight of evidence showing.'' [12] Similarly, the 2016 Wildfire 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 state, ''EPA's application of the regulatory presumption that wildfire exceedances are per se not reasonably controllable or preventable is contrary to the act and the evidence.'' The commenters also state that if control measures for the relevant pollutant ''were not in place but would have prevented the exceedance, then the exceedance was preventable.''

Response: The not reasonably controllable or preventable criterion for wildfire events applies to the event and not the exceedance. At CAA section 319(b)(1)(A), the term ''exceptional event'' is defined as an event that affects air quality, is not reasonably controllable or preventable, is an event caused by human activity that is unlikely to recur at a particular location or a natural event, and is determined by the Administrator through the process established in the regulations promulgated under CAA section 319(b)(2) to be an exceptional event.

Under the regulations promulgated by the EPA at 40 CFR 50.14(b)(4), the Administrator will determine every wildfire occurring predominantly on wildland has met the requirement regarding the not reasonably controllable or preventable criterion, so long there is no compelling evidence to the contrary in the record. Further, at 40 CFR 50.14(b)(8)(vii), the Administrator shall not require a State to provide case-specific justification regarding the not reasonably controllable or preventable criterion in instances where emissions-generating activity occurred outside the State's boundaries.

The preamble to the 2016 Exceptional Events Rule clarifies that the EPA interprets the not reasonably controllable or preventable criterion to contain two factors: the event must be both not reasonably controllable and not reasonably preventable at the time the event occurred. This requirement applies to both natural events and events caused by human activities. However, it is presumptively assumed that wildfires on wildland will satisfy both factors of the ''not reasonably controllable or preventable'' element unless evidence in the record clearly demonstrates otherwise.

Though a State might have the ability to adopt reasonably available control measures of anthropogenic sources, that does not imply a naturally occurring event was reasonably controllable. Similarly, it is not relevant whether anthropogenic control measures might have prevented an exceedance during the days of a wildfire exceptional event. In the statute, the term ''not reasonably controllable or preventable'' describes the wildfire event itself.

Comment: The commenters state, ''EGLE failed to comply with the Clean Air Act's notification requirements regarding exceptional events.''

Response: The 2016 Exceptional Events Rule does not specify how States must provide public notification. 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.[13] 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. Timing and Deadlines

Comment: The commenters state, ''EGLE's obligation to promptly provide EPA with its intent to request data exclusions started the summer of 2023, after the exceptional events occurred. By submitting its exceptional event demonstration two and half years later, EGLE has failed this basic requirement.'' The commenters cite a court decision finding that a delay of ''one or two years is clearly too long'' when compared to deadlines under the Clean Water Act.

Response: CAA section 319(b)(2)(A) directs the EPA to promulgate regulations governing ''the review and handling of air quality monitoring data influenced by exceptional events,'' and CAA section 319(b)(3)(B)(i) requires that these regulations provide that ''the occurrence of an exceptional event must be demonstrated by reliable, accurate data that is promptly produced and provided by Federal, State, or local government agencies.'' The EPA has fulfilled its obligations under CAA section 319(b)(2)(A) by promulgating several final rules, including the 2007 Exceptional Events Rule [14] and the 2016 Exceptional Events Rule.[15]

In the 2007 Exceptional Events Rule, the EPA finalized a provision at 40 CFR 50.14(c)(3)(i) requiring air agencies to submit a demonstration ''not later than the lesser of, 3 years following the end of the calendar quarter in which the flagged concentration was recorded or, 12 months prior to the date that a regulatory decision must be made by EPA.''

[12] 81 FR 68216 at 68242 (October 3, 2016).

[13] *http://www.deqmiair.org.*

[14] 72 FR 13560 (March 22, 2007).

[15] 81 FR 68216 (October 3, 2016).

In the 2016 Exceptional Events Rule, the EPA revisited that provision, noting that ''air agencies have previously expressed concern that the timelines for event flagging and demonstration submittal are not always appropriate because an air agency may not know that data influenced by an exceptional event caused the design value exceedance until 3 years after the event occurred.'' [16] The EPA acknowledged that this scenario can and does occur, particularly for annual standards and when a regulatory decision is based on a design value that is averaged over three years. Such a regulatory decision would include a determination of attainment by the attainment date for the 2015 ozone NAAQS. Within the 2016 rulemaking, the EPA proposed to remove the general schedule demonstration submittal deadlines contained within 40 CFR 50.14(c)(3)(i). The overwhelming majority of commenters supported this proposal, and in the final rule the EPA revised the CFR to remove fixed deadlines.[17] The 2016 Exceptional Events Rule instead set forth a case-by-case approach to timing of demonstrations, in which the EPA shall respond to a State's initial notification of a potential exceptional event with a due date for demonstration submittal that considers the nature of the event and the anticipated timing of the associated regulatory decision, except that the EPA may waive the initial notification process under 40 CFR 50.14(c)(2)(i)(C). In the final rule, the EPA noted that the EPA was not changing the timing of the regulatory actions in which the affected data may be used. Many of these deadlines are statutorily established and cannot be changed by regulation. Because the EPA is also accountable for these statutory deadlines, the effect of the scheduling revision in the 2016 Exceptional Events Rule is compression of the timeline for the EPA's review.

The EPA disagrees with the commenter that, regarding the maximum reasonable amount of time between an event and the submission of a demonstration, one or two years is too long. The EPA has addressed the timing of demonstrations in both the 2007 Exceptional Events Rule, which took an approach with fixed three-year deadlines, and in the 2016 Exceptional Events Rule, which considered the comments of affected air agencies and adopted a case-by-case approach. The timing of EGLE's February 19, 2026, demonstration would fit within the requirements of either approach. Broadly, the commenter's concerns are not properly raised in this rulemaking and should have been submitted within the comment period of the 2016 Exceptional Events Rule.

Further, regardless of the demonstration timing that might generally be appropriate, the EPA believes it is important to consider timing considerations specific to the Detroit area.

On May 19, 2023, the EPA published a final rule redesignating the Detroit area to attainment of the 2015 ozone NAAQS.[18] Later that year, on June 19, June 29, June 30, and July 25, 2023, air quality in the area was impacted by Canadian wildfires. More than two years later, on December 5, 2025, the EPA's 2023 final redesignation was vacated by the United States Court of Appeals for the Sixth Circuit. EGLE submitted its demonstration on February 19, 2026, less than three months after the date of the Sixth Circuit decision.

In its decision regarding the 2023 final redesignation, the Sixth Circuit concluded that the EPA erred only with respect to its legal interpretation of CAA section 107(d)(3)(E)(v). The court held that Michigan was required to have met all requirements due at the time of the EPA's redesignation action, not just the requirements that had been due as of the time of submittal of the redesignation request, which had been the EPA's interpretation of CAA section 107(d)(3)(E)(v) for more than three decades. During the years when the redesignation had been effective, Michigan had understandably believed that the area was a maintenance area, and therefore not subject to the EPA's obligation under CAA section 181 to make a determination of attainment by the attainment date for Moderate nonattainment areas.

Considering together the statutory requirements at CAA section 319(b), the history of the 2007 Exceptional Events Rule and 2016 Exceptional Events Rule, and the facts of the Detroit area, the EPA is finding that the Agency is not prohibited from reaching a concurrence decision on the exceptional events demonstration submitted by EGLE on February 19, 2026, regarding wildfire impacts observed in the Detroit area in June and July of 2023.

Comment: The commenters state that EPA must evaluate the conditions of the Detroit area ''as they existed at the attainment deadline, not the date of any belated determination'' and that the EPA may not rely on a post hoc ''revision of the ozone design value based on an exceptional event determination made long after the attainment deadline had passed.'' The commenters cite a court decision regarding the ''snapshot rule'' under the Bankruptcy Code.

Response: The CAA was first enacted in 1955, and Congress enacted major revisions in 1970, 1977, and 1990. In a major departure from the prior law, the 101st U.S. Congress amended the CAA in 1990 by grouping ozone nonattainment areas into six classifications based on the extent to which the NAAQS was exceeded, and established specific pollution controls and attainment dates for each classification. These requirements are spelled out in CAA sections 181 through CAA section 193. Under CAA section 181(b)(2), following the applicable attainment date for an ozone nonattainment area, the EPA shall determine whether the area attained the standard ''based on the area's design value (as of the attainment date).''

When making determinations of attainment by the attainment date, EPA has consistently applied this language as restricting its analysis to the years of data that constitute the basis for an area's DV as of the specific attainment deadline.[19] The DV ''as of'' the attainment date is the one that applies on that date—*i.e.,* the most recent three-year average of concentrations of certified data. The maximum attainment date applicable to Moderate 2015 ozone areas was August 3, 2024.[20] The EPA's determination of attainment is based upon the area's design value as of August 3, 2024, which in turn is calculated using hourly ozone concentration data for calendar years 2021, 2022, and 2023 that have been collected and quality-assured in accordance with 40 CFR part 58 and reported to the EPA's Air Quality System (AQS) database.

In 2005, the 109th U.S. Congress provided the statutory authority for the exclusion of data influenced by exceptional events by adding section 319(b) to the CAA. Aside from CAA section 319(b)(3)(B), discussed above, the commenter has not identified any language within CAA section 319 that suggests the 109th U.S. Congress intended to restrict the EPA from evaluating a state's demonstration if that demonstration were submitted past a certain deadline. Regarding the requirement at CAA section 181(b)(2)(A) that EPA reach a determination ''based on the area's design value (as of the attainment date),'' as discussed above, the EPA believes the best interpretation

[16] 81 FR 68216 at 68266 (October 3, 2016).

[17] 81 FR 68216 at 68267 (October 3, 2016).

[18] 88 FR 32594 (May 19, 2023).

[19] *See* 82 FR 50814, 50817 (November 2, 2017).

[20] *See* CAA section 181(a)(1); 40 CFR 51.1303.

of this language is that the 101st U.S. Congress was directing the EPA to constrain its analysis to the years of data that constitute the basis for an area's DV as of the specific attainment deadline. In enacting the language ''based on the area's design value (as of the attainment date),'' it was plainly not the intent of Congress to describe the exceptional events process, because the authority for the exceptional events process at CAA section 319 had not yet been enacted.

Though the EPA is required under CAA section 181(b)(2) to reach its determination within six months following the applicable attainment date, the EPA does not believe that the EPA must ignore relevant data in an instance where the EPA is delayed in finalizing its action. For example, if there had been a quality assurance issue that incorrectly showed attaining data in a nonattainment area, and if the EPA was delayed in reaching a determination while it researched the quality assurance issue, and if the quality assurance process was belatedly resolved to show violating data, then under a ''snapshot rule'' the EPA would be required to reach an incorrect decision that an area with violating data had attained the standard. Rather, it is the EPA's view that it may be in the best interest of the public for the EPA to consider the full record of information at the time of the EPA's decision, even in instances where the EPA is delayed in reaching that decision.

Turning to the specific facts of the Detroit area, the EPA's 2023 final reclassification action is an example of the EPA's consistent interpretation of CAA section 181(b)(2) as constraining the EPA's analysis to the years of data that constitute the basis for an area's DV as of the specific attainment deadline. The EPA designated the Detroit area as Marginal nonattainment for the 2015 ozone NAAQS on June 4, 2018, effective August 3, 2018.[21] On February 1, 2023, the EPA determined that the Detroit area failed to attain the 2015 ozone NAAQS by its Marginal attainment date of August 3, 2021, based on the area's DV as of the attainment date (*i.e.,* monitoring data from 2018–2020).[22] At the time of the EPA's 2023 final reclassification action, the EPA had already reviewed certified monitoring data for the more recent 2019–2021 design value period showing that the area had attained the standard, and in fact the EPA had already proposed to redesignate the area to attainment under CAA section 107(d)(3)(E) based on the more recent attaining data.[23] However, consistent with the EPA's longstanding interpretation of CAA section 181(b)(2), on February 1, 2023, the EPA finalized its determination that the Detroit area had failed to attain the standard by the applicable attainment date.

Even if the EPA were to adapt a requirement that states should generally submit an exceptional events demonstration before the applicable attainment date or before the EPA's deadline to reach a determination of attainment by the attainment date under CAA section 181(b)(2), the EPA believes additional flexibility would be warranted for the Detroit area. The attainment date for the Detroit area was August 3, 2024, and the EPA's deadline to make a determination of attainment by the attainment date was February 3, 2025. As described above, on both of those dates, Michigan understandably believed that the area was not subject to the requirements of CAA section 181. The Sixth Circuit issued its decision vacating the EPA's redesignation on December 5, 2025, and EGLE submitted its demonstration on February 19, 2026, less than three months after the date of the court decision.

Based on the EPA's longstanding interpretation of the statutory language at CAA section 181(b)(2), as well as the specific facts of the Detroit area, the EPA is finding that the EPA is not prohibited from considering the exceptional events demonstration submitted by EGLE on February 19, 2026, and the EPA is determining that the area attained the 2015 ozone NAAQS by the applicable attainment date.

III. What action is the EPA taking?

The EPA is determining that the Detroit area attained the 2015 ozone NAAQS by the Moderate attainment date. This determination is based on complete, quality-assured, and certified ambient air quality monitoring data for the 2021–2023 design value period showing that the area achieved attainment of the 2015 ozone NAAQS. The EPA is also taking final agency action on an exceptional events request submitted by EGLE on February 19, 2026, and concurred on by the EPA on March 24, 2026. This action fulfills the EPA's statutory obligation to determine whether the Detroit area attained the 2015 ozone NAAQS by the Moderate attainment date.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for this action to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of this action, which merely determines that the Detroit area attained the 2015 ozone NAAQS by the Moderate attainment date. The immediate effective date for this action is authorized under section 553(d)(3), which allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. For this reason, EPA finds good cause under 5 U.S.C. 553(d)(3) for this action to become effective on the date of publication of this action.

IV. Statutory and Executive Order Reviews

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. This action determines that the Detroit, Michigan area attained the 2015 ozone NAAQS by the Moderate attainment date.

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 rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. The attainment determination does not create any new requirements and does not directly regulate any entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in

[21] 83 FR 25776 (June 4, 2018).

[22] 88 FR 6633 (February 1, 2023).

[23] 87 FR 14210 (March 14, 2022).

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. This action determines that the Detroit area attained the 2015 ozone NAAQS by the Moderate attainment date, as required by the CAA.

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 present a disproportionate risk to children because it merely determines that the Detroit area attained the 2015 ozone NAAQS by the Moderate attainment date.

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.

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 January 11, 2027. 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 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: October 22, 2026.

Anne Vogel,

Regional Administrator, Region 5.

For the reasons stated in the preamble, 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, amend the table in paragraph (e) by adding an entry for ''2015 Ozone Determination of Attainment by the Attainment Date'' after 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 Determination of Attainment by the Attainment Date.	Detroit area (Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties).	.....	11/10/2026, 91 FR [INSERT **FEDERAL REGISTER** PAGE WHERE THE DOCUMENT BEGINS].	
*	*	*	*	*

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[FR Doc. 2026–22887 Filed 11–9–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 721 and 725

[EPA–HQ–OPPT–2022–0863; FRL–12967–02–OCSPP]

RIN 2070–AB27

Modification of Significant New Uses of Certain Chemical Substances (23–1.M)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending significant new use rules (SNURs) issued under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for certain chemical substances identified herein, which were the subject of premanufacture notices (PMNs) and significant new use notices (SNUNs). This action amends the SNURs by allowing certain new uses reported in the SNUNs or PMNs without additional notification requirements, modifying the significant new use notification requirements based on the actions and determinations for the SNUN or PMN submissions or based on the examination of new test data or other information, and making technical