



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2026-1354; FRL-13264-01-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: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine under the Clean Air Act (CAA) that the Berrien, Michigan and Muskegon, Michigan areas have attained the 2015 ozone National Ambient Air Quality Standards (NAAQS or standards). This determination, often referred to 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 requests submitted to the EPA on December 26, 2025, and concurred upon by the EPA on January 12, 2026. As a result of this determination, the EPA is proposing to suspend 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: Comments must be received on or before **[Insert date 30 days after date of publication in the *Federal Register*]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2026-1354 at <https://www.regulations.gov>, or via email to leslie.michael@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to the EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI, PBI, or multimedia submissions, and general guidance on making effective comments, please visit

<https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Delaney Kilgour, Air and Radiation Division (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number: (312) 886-1493, email address: kilgour.delaney@epa.gov. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean the EPA.

I. Background.

The EPA has determined that ground-level ozone is detrimental to human health. On October 1, 2015, the EPA promulgated a revised 8-hour ozone NAAQS of 0.070 parts per million (ppm). See 80 FR 65292 (October 26, 2015). Under the EPA's regulations at 40 CFR part 50, the 2015 ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.070 ppm, when truncated after the thousandth decimal place, at all of the ozone monitoring sites in the area. See 40 CFR 50.19 and appendix U to 40 CFR part 50.

Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires the 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. The Berrien and Muskegon areas were designated as

Marginal nonattainment areas for the 2015 ozone NAAQS on June 4, 2018 (83 FR 25776) (effective August 3, 2018). The Berrien area includes Berrien County, and the Muskegon area includes the western portion of Muskegon County.¹ On October 7, 2022 (87 FR 60897), the EPA determined the Berrien and Muskegon areas did not attain the standards by the Marginal attainment date, and the areas were reclassified as Moderate by operation of law. More recently, on December 17, 2024 (89 FR 101901), the EPA determined the areas did not attain the standards by the Moderate attainment date, and the areas were reclassified as Serious by operation of law.

II. Exceptional Events Demonstration.

Congress recognized that it may not be appropriate for the EPA to use certain monitoring data collected by the ambient air quality monitoring network and maintained in the EPA's Air Quality System (AQS) database in certain regulatory determinations. Thus, in 2005, Congress provided the statutory authority for the exclusion of data influenced by "exceptional events" meeting specific criteria by adding section 319(b) to the CAA.²

¹ The Muskegon, Michigan 2015 ozone nonattainment area consists of Blue Lake Township, City of Montague, City of Muskegon, City of Muskegon Heights, City of North Muskegon, City of Roosevelt Park, City of Whitehall, Dalton Township, (incl. Village of Lakewood Club), Fruitland Township, Fruitport Township, (incl. Village of Fruitport) Laketon Township, Montague Township, Muskegon Township, Norton Shores Township, White River Township, and Whitehall Township.

² Under CAA section 319(b), an exceptional event means an event that (i) affects air quality; (ii) is not reasonably controllable or preventable; (iii) is an event caused by human activity that is unlikely to recur at a particular location or a natural event; and (iv) is determined by the EPA under the process established in regulations promulgated by the EPA in accordance with section 319(b) (2) to be an exceptional event. For the purposes of section 319(b), an exceptional event does not include (i)

To implement this 2005 CAA amendment, the EPA promulgated the 2007 Exceptional Events Rule on March 22, 2007 (72 FR 13560). The 2007 Exceptional Events Rule created a regulatory process codified at 40 CFR parts 50 and 51 (sections 50.1, 50.14 and 51.930). These regulatory sections, which superseded the EPA's previous guidance on handling data influenced by events, contain definitions, procedural requirements, requirements for air agency demonstrations, criteria for the EPA's approval of the exclusion of event-affected air quality data from the data set used for regulatory decisions, and requirements for air agencies to take appropriate and reasonable actions to protect public health from exceedances or violations of the NAAQS. On October 3, 2016 (81 FR 68216), the EPA promulgated a comprehensive revision to the 2007 Exceptional Events Rule. The 2016 Exceptional Events Rule revision included the requirement that, if a State demonstrates that emissions from a wildfire smoke event caused a specific air pollution concentration in excess of the NAAQS at a particular air quality monitoring location and otherwise satisfies the requirements of 40 CFR 50.14, the EPA must exclude that data from use in determinations of exceedances and violations.³

The CAA provides for the exclusion of air quality monitoring data from design value calculations when there are NAAQS exceedances caused by events, such as wildfires, that meet

stagnation of air masses or meteorological inversions; (ii) a meteorological event involving high temperatures or lack of precipitation; or (iii) air pollution relating to source noncompliance.

³ 40 CFR 50.14(b) (4).

the criteria for an exceptional event identified in the EPA's Exceptional Events Rule at 40 CFR 50.1, 50.14 and 51.930. For the purposes of this proposed action for the Berrien area, on December 26, 2025, EGLE submitted an exceptional events demonstration to show that ozone concentrations recorded at the Coloma monitor with Site ID 26-021-0014 on June 19 and July 25, 2023, were influenced by wildfires. The EPA concurred with this demonstration on January 12, 2026. For the purposes of this proposed action for the Muskegon area, on December 26, 2025, EGLE submitted an exceptional events demonstration to show that ozone concentrations recorded at the Muskegon monitor with Site ID 26-121-0039 on June 19, June 29, June 30, and July 25, 2023 and July 15, 2025, were influenced by wildfires. The EPA concurred with this demonstration on January 12, 2026.

The EPA found that Michigan's demonstration for the Berrien area and for the Muskegon area met the Exceptional Events Rule criteria and determined that these wildfire events had regulatory significance for purposes of calculating the areas' most recent design values to demonstrate the areas are attaining the standard in order to make clean data determinations for the 2015 ozone NAAQS. For this proposed action, the EPA will rely on the calculated values that exclude the event-influenced data for the purpose of demonstrating attainment of the 2015 ozone NAAQS. Further details on Michigan's analyses and the EPA's concurrences can be found in the docket for this regulatory action.

While the EPA has concurred with Michigan's requests to exclude event-influenced air quality monitoring data from regulatory decisions, these regulatory actions require the EPA to provide an opportunity for public comment on the exceptional events noted above and all supporting data prior to the EPA taking final agency action. This proposed action provides the public with an opportunity to comment on the exceptional events noted above, all supporting documents, and the EPA's concurrence with Michigan's exception events requests. As such, the EPA proposes to take final regulatory action on the exceptional events requests from Michigan to exclude the claimed exceptional events from the data set used for regulatory purposes.

III. Clean Data Determination.

Following enactment of the CAA Amendments of 1990, the EPA discussed its interpretation of the requirements for implementing the NAAQS in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (General Preamble), 57 FR 13498, 13564 (April 16, 1992). On November 29, 1995 (70 FR 71612), the EPA set forth what has become known as its "Clean Data Policy" for the 1-hour ozone NAAQS. Under the Clean Data Policy, for a nonattainment area that can demonstrate attainment of the standard before implementing CAA nonattainment measures, the EPA interprets the requirements of the CAA that are specifically designed to help an area achieve attainment, such as the requirements for such 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 ozone NAAQS, to be suspended for as long as air quality continues to meet the standard. Such a determination of attainment under the Clean Data Policy is known informally as a clean data determination. On December 6, 2018 (83 FR 62998), in the final rule updating implementing regulations for the 2015 ozone NAAQS, the EPA codified this policy at 40 CFR 51.1318.

An area is attaining the 2015 ozone NAAQS if it meets the 2015 ozone NAAQS based on three complete, consecutive calendar years of quality-assured air quality data for all monitoring sites in the area. To attain the 2015 ozone NAAQS, the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations (ozone design value) at each monitor must not exceed 0.070 ppm. The air quality data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in AQS. Ambient air quality monitoring data for the 3-year period must also meet data completeness requirements. An ozone design value is valid if daily maximum 8-hour average concentrations are available for at least 90% of the days within the ozone monitoring seasons,⁴ on average, for the 3-year period, with a minimum data completeness of 75% during the ozone monitoring season of any year during the 3-year period. See section 4 of appendix U to 40 CFR part 50.

⁴ The ozone season is defined by State in 40 CFR 58, appendix D. The ozone season for Michigan is March-October. See 80 FR 65292, 65466-67 (October 26, 2015).

The EPA has reviewed the available ozone monitoring data from EGLE’s monitoring sites in the Berrien and Muskegon areas for the 2023-2025 period. These data have been quality-assured, are recorded in the AQS, and were certified in advance of the EPA’s publication of this proposal. These data demonstrate that the Berrien and Muskegon areas are attaining the 2015 ozone NAAQS. The annual fourth-highest 8-hour ozone concentrations and the 3-year average of these concentrations (monitoring site ozone design values) for all monitoring sites are summarized in Table 1 for the Berrien area and in Table 2 for the Muskegon area.

Table 1. Annual fourth-highest daily maximum 8-hour ozone concentrations and 3-year average of the fourth-highest daily maximum 8-hour ozone concentrations for the Berrien, Michigan area.

County	Monitor	2023 4 th high (ppm)	2024 4 th high (ppm)	2025 4 th high (ppm)	2023-2025 average (ppm)
Berrien	26-021-0014	0.077	0.065	0.070	0.070

Table 2. Annual fourth-highest daily maximum 8-hour ozone concentrations and 3-year average of the fourth-highest daily maximum 8-hour ozone concentrations for the Muskegon, Michigan area.

County	Monitor	2023 4 th high (ppm)	2024 4 th high (ppm)	2025 4 th high (ppm)	2023-2025 average (ppm)
Muskegon	26-121-0039	0.073	0.071	0.068	0.070

The Berrien area’s 3-year ozone design value for 2023-2025 is 0.070 ppm, which meets the 2015 ozone NAAQS. Similarly, the Muskegon area’s 3-year ozone design value for 2023-2025 is 0.070 ppm, which meets the 2015 ozone NAAQS. Therefore, in this

action, the EPA proposes to find that the Berrien and Muskegon areas are attaining the 2015 ozone NAAQS.

The EPA will not take final action to determine that the Berrien and Muskegon areas are attaining the NAAQS if the design value of a monitoring site in the respective areas violates the NAAQS prior to final approval of the clean data determination.

Should this action be finalized, the requirements for EGLE 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 the Berrien and Muskegon areas, would be suspended for as long as the areas continue to attain the 2015 ozone NAAQS. 40 CFR 51.1318.

This action does not constitute a determination of attainment by the attainment date under CAA section 181(b)(2). In this action the EPA is considering the areas' design values for the 2023-2025 period, which are not the areas' design values as of the applicable attainment date.

This action does not constitute redesignation of the areas to attainment of the 2015 ozone NAAQS under section 107(d)(3)(E) of the CAA, nor does it constitute approval of maintenance plans for the areas as required under section 175A of the CAA, nor does it find that the areas have met all other requirements for redesignation. On December 26, 2025, Michigan submitted requests to redesignate the areas to attainment of the 2015 ozone NAAQS under CAA section 107(d)(3)(E), and the EPA will

take action on Michigan's requests in a separate rulemaking. The Berrien and Muskegon areas will remain designated nonattainment for the 2015 ozone NAAQS until such time as the EPA determines that the areas meet CAA requirements for redesignation to attainment and takes a separate action to redesignate the areas.

IV. What Action is the EPA Taking?

The EPA is proposing to approve a determination under the CAA that the Berrien and Muskegon areas in Michigan have attained the 2015 ozone NAAQS. This determination, often referred to 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 EGLE's exceptional events requests submitted to the EPA on December 26, 2025, and concurred with by the EPA on January 12, 2026. As a result of this determination, the EPA is proposing to suspend the requirements for the areas 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 areas continue to attain the 2015 ozone NAAQS.

V. Statutory and Executive Order Reviews.

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/lawsregulations/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. This action proposes to issue a clean data determination for the Berrien and Muskegon areas in Michigan for the 2015 ozone NAAQS.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 does not apply because it is not a significant regulatory action and is therefore exempted from review 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. This action will not impose any requirements on small entities beyond those imposed by State law. The proposed clean data 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 UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. This 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 proposes a clean data determination for the Berrien and Muskegon nonattainment areas under the CAA.

G. Executive Order 13175: 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 Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only 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. Therefore, this action is not subject to Executive Order 13045 because it merely proposes a clean data determination.

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.

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: March 3, 2026.

Anne Vogel,
Regional Administrator, Region 5.