This document is scheduled to be published in the
Federal Register on 2026-07-28 and available online at
https://www.federalregister.gov/d/2026-15167, and on
https://govinfo.gov

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2025-4116; EPA-R05-OAR-2025-4117; FRL-13661-01-R5]

Air Plan Approval; Michigan; Redesignation of the Berrien, MI and Muskegon, MI Areas to Attainment of the 2015 Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the Michigan Department of Environment, Great Lakes, and Energy's (EGLE's) December 26, 2025, requests to redesignate the Berrien and Muskegon areas to attainment for the 2015 ozone NAAQS because the requests meet the statutory requirements for redesignation under the Clean Air Act (CAA). The Berrien area includes Berrien County, and the Muskegon area includes the western portion of Muskegon County. The EPA is proposing to approve, as revisions to the Michigan State Implementation Plan (SIP), the State's plans for maintaining the 2015 ozone NAAQS through 2036 in the Berrien and Muskegon areas. The EPA is initiating the adequacy process and proposing to approve Michigan's 2032 and 2036 volatile organic compound (VOC) and oxides of nitrogen (NOx) motor vehicle emissions budgets (budgets) for the Berrien and Muskegon areas. Pursuant to section 110 and part D of the CAA, the EPA is proposing to approve the enhanced monitoring plan (EMP) of ozone and ozone precursors SIP revision submitted by Michigan on January 12, 2026, because it satisfies Serious SIP requirements of the CAA for the Berrien and Muskegon areas. The EPA is also proposing to approve the

Serious VOC reasonably available control technology (RACT) SIP revision and CAA section 182(f) waiver from Serious NOx RACT requirements for the Berrien and Muskegon areas under the 2015 ozone NAAQS submitted by EGLE to the EPA on May 5,2026.

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-2025-4116 (Berrien); EPA-R05-OAR-2025-4117 (Muskegon) at *https://www.regulations.gov*, or via email to *langman.michael@epa.gov*. For comments submitted at 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: Neena Nallaballi, Air and Radiation Division (AR-18J), 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 whenever "we," "us," or "our" is used, we mean 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:

CAA Clean Air Act

CAIR Clean Air Interstate Rule

CBI Confidential Business Information

CDD Clean Data Determination

CSAPR Cross-State Air Pollution Rule

CTG Control Technology Guideline

EPA Environmental Protection Agency

EMP Enhanced Monitoring Plan

GHG Greenhouse Gas

I/M Inspection and Maintenance

EGLE Michigan Department of Environment, Great Lakes, and Energy

MOVES Motor Vehicle Emission Simulator

NAAQS National Ambient Air Quality Standard

NOX Oxides of Nitrogen

NSR New Source Review

PBI Proprietary Business Information

ppm parts per million

PSD Prevention of Significant Deterioration

RACM Reasonable Available Control Measures

RACT Reasonable Available Control Technology

RFP Reasonable Further Progress

SIP State Implementation Plan

VOC Volatile Organic Compound

Organization of this document. The information presented in this preamble is organized as follows:

I. What is the EPA proposing?

II. What is the background for these actions?

III. What are the criteria for redesignation?

IV. What is the EPA's analysis of Michigan's redesignation requests?

V. Has the State adopted approvable motor vehicle emission budgets?

VI. Enhanced Monitoring Plan.

VII. Serious VOC RACT.

VIII. NOx RACT Waiver.

IX. What Action is the EPA Taking?

X. Incorporation by Reference.

XI. Statutory and Executive Order Reviews.

I. What is the EPA proposing?

The EPA is proposing to determine that the Berrien and Muskegon areas have met

the requirements for redesignation under section 107(d)(3)(E) of the CAA, and the EPA is thus proposing to change the legal designation of the Berrien and Muskegon areas from nonattainment to attainment for the 2015 ozone NAAQS. The EPA is also proposing to approve, as revisions to the Michigan SIP, the State's maintenance plans for the areas (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plans are designed to keep the Berrien and Muskegon areas in attainment of the 2015 ozone NAAQS through 2036. As part of the maintenance plans, the EPA is initiating the adequacy process and proposing to approve the newly established 2032 and 2036 motor vehicle emissions budgets for the Berrien and Muskegon areas. The EPA is also proposing to approve several elements which meet section 110 and part D of the CAA and the EPA's regulations for areas which are classified as Serious nonattainment for the 2015 ozone NAAQS. These elements include Serious VOC RACT, the EMP SIP revision, and a CAA section 182(f) waiver from Serious NOx RACT requirements for each area.

II. What is the background for these actions?

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).[1] 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.[2]

[1] *See* 80 FR 65292 (October 26, 2015).
[2] *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). On October 7, 2022 (87 FR 60897), the EPA determined that 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.

III. What are the criteria for redesignation?

Section 107(d)(3)(E) of the CAA allows redesignation of an area to attainment of the NAAQS provided that: (1) the Administrator of the EPA determines that the area has attained the NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable Federal air pollutant control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the State containing the area has met all requirements applicable to the area for the purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992 (57 FR 13498), the EPA provided guidance on redesignations

in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 and supplemented this guidance on April 28, 1992 (57 FR 18070). The EPA has provided further guidance on processing redesignation requests in policy memoranda, including the Calcagni Memorandum.[3]

IV. What is the EPA's analysis of Michigan's redesignation requests?

A. Have the Berrien and Muskegon areas attained the 2015 ozone NAAQS?

For redesignation of a nonattainment area to attainment, the CAA requires the EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). An area is attaining the 2015 ozone NAAQS if it meets the 2015 ozone NAAQS, as determined in accordance with 40 CFR 50.19 and appendix U of part 50, 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 the EPA's Air Quality System (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.[5]

---

[3] *See* the September 4, 1992, memorandum from John Calcagni, Director, Air Quality Management Division, entitled "Procedures for Processing Requests to Redesignate Areas to Attainment."
[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 through 65467 (October 26, 2015).
[5] *See* section 4 of appendix U to 40 CFR part 50.

On March 12, 2026 (91 FR 12123), the EPA proposed to determine that the Berrien and Muskegon areas attained the 2015 ozone NAAQS based on ozone monitoring data for the 2023-2025 period and to suspend certain planning requirements related to attainment of the NAAQS (clean data determination or CDD). A summary of the monitoring data relied upon in this proposal is included 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 area.

County	Monitor	2023 4th high (ppm)	2024 4th high (ppm)	2025 4th 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 area.

County	Monitor	2023 4th high (ppm)	2024 4th high (ppm)	2025 4th 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. The Muskegon area's 3-year ozone design value for 2023 through 2025 is 0.070 ppm, which meets the 2015 ozone NAAQS. The EPA will not take final action to redesignate the Berrien or Muskegon areas to attainment if the EPA fails to finalize the CDDs or if the design value of a monitoring site in the areas violates the NAAQS prior to final approval of the redesignations. As discussed in section IV.D.3. below, EGLE has committed to continue monitoring ozone in these areas to verify maintenance of the 2015 ozone NAAQS.

B. Has Michigan met all applicable requirements of section 110 and part D of the CAA for the Berrien and Muskegon areas, and does Michigan have a fully approved SIP for

the areas under section 110(k) of the CAA?

For redesignation of an area from nonattainment to attainment of a NAAQS, CAA section 107(d)(3)(E)(v) requires the EPA to determine that the State has met all applicable requirements under section 110 and part D of title I of the CAA, and CAA section 107(d)(3)(E)(ii) requires the EPA to determine that the State has a fully approved SIP under section 110(k) of the CAA. The EPA proposes to find that Michigan has met all applicable SIP requirements for purposes of redesignation of the Berrien and Muskegon areas under section 110 and part D of title I of the CAA (requirements specific to nonattainment areas for the 2015 ozone NAAQS). Michigan's January 12, 2026, submittal included several nonattainment plan elements to address the Serious nonattainment area requirements for the Berrien and Muskegon areas for the 2015 ozone NAAQS. These include an EMP SIP revision and certifications that the enhanced motor vehicle inspection and clean fuel vehicle programs do not apply to these areas. On May 5, 2026, EGLE submitted an addendum to Michigan's January 12, 2026, SIP submittal addressing VOC and NOx RACT requirements applicable to Serious nonattainment areas. As discussed in sections VI through VII, the EPA is proposing to approve the EMP and Serious VOC RACT submissions as meeting the requirements of section 182(c) of the CAA for the Berrien and Muskegon areas under the 2015 ozone NAAQS. As discussed in section VIII, the EPA is proposing to approve a CAA section 182(f) waiver from NOx RACT requirements for the Berrien and Muskegon areas under the 2015 ozone NAAQS. In addition, the EPA is proposing approval of Michigan's Moderate VOC and NOx RACT SIP in a separate action. With the exception of those SIP elements, the EPA finds that all applicable requirements of the Michigan SIP for the Berrien and

Muskegon areas, for purposes of redesignation, have been fully approved under section 110(k) of the CAA. Recognizing that these SIP elements must be approved on or before the date EPA completes final rulemaking redesignating the area, the EPA proposes to determine that, providing this occurs, the EPA will have fully approved Michigan's SIP for the Berrien and Muskegon areas under section 110(k). In making these proposed determinations, the EPA ascertained which requirements are applicable for purposes of redesignation, and whether the required Michigan SIP elements are fully approved under section 110(k) and part D of the CAA. As discussed more fully below, SIPs must be fully approved only with respect to these applicable requirements of the CAA. The EPA is proposing in its CDD action to determine that the Berrien and Muskegon areas have attained the 2015 standards, under 40 CFR 51.1318. That rule provides that upon the determination being finalized, the requirements to submit certain planning SIPs related to attainment, including attainment demonstration requirements (the reasonably available control measures (RACM) requirement of section 172(c)(1) of the CAA, the reasonable further progress (RFP) and attainment demonstration requirements of sections 172(c)(2) and (6) and 182(b)(1) of the CAA, and the requirement for contingency measures of section 172(c)(9) of the CAA) would not be applicable to the areas as long as they continue to attain the NAAQS and would cease to apply upon redesignation. In addition, in the context of redesignations, the EPA has interpreted requirements related to attainment as not applicable for purposes of redesignation. For example, in the General Preamble, the EPA stated that the section 172(c)(9) requirements are directed at ensuring RFP and attainment by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, section 175A

for maintenance plans provides specific requirements for contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas. (General Preamble, 57 FR 13498 at 13564, April 16, 1992).[6]

1. Michigan has met all applicable requirements of section 110 and part D of the CAA applicable to the Berrien and Muskegon areas for purposes of redesignation.

a. Section 110 General Requirements for Implementation Plans.

Section 110(a)(2) of the CAA delineates the general requirements for a SIP. Section 110(a)(2) provides that the SIP must have been adopted by the State after reasonable public notice and hearing, and that, among other things, it must: (1) include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; (2) provide for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; (3) provide for implementation of a source permit program to regulate the modification and construction of stationary sources within the areas covered by the plan; (4) include provisions for the implementation of part C prevention of significant deterioration (PSD) and part D new source review (NSR) permit programs; (5) include provisions for stationary source emission control measures, monitoring, and reporting; (6) include provisions for air quality modeling; and, (7) provide for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires SIPs to contain measures to prevent sources in a State from significantly contributing to air quality problems in another State.

---

[6] *See also* the Calcagni Memorandum at 6 ("The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard").

To implement this provision, the EPA has required certain States to establish programs to address transport of certain air pollutants, e.g., NOx SIP call, the Clean Air Interstate Rule (CAIR), and the Cross State Air Pollution Rule (CSAPR). However, like many of the 110(a)(2) requirements, the section 110(a)(2)(D) SIP requirements are not linked with a particular area's ozone designation and classification. The EPA concludes that the SIP requirements linked with the area's ozone designation and classification are the relevant measures to evaluate when reviewing a redesignation request for the area. The section 110(a)(2)(D) requirements, where applicable, continue to apply to a State regardless of the designation of any one particular area within the State. Thus, we believe these requirements are not applicable requirements for purposes of redesignation.[7]

In addition, the EPA believes that other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's ozone attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated to attainment of the 2015 ozone NAAQS. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with the EPA's existing policy on applicability (i.e., for redesignations) of conformity requirements, as well as with section 184 ozone transport requirements.[8]

We have reviewed Michigan's SIP and propose to find that it meets the general

---

[7] *See* 65 FR 37879, 37890 (June 15, 2000), 66 FR 53094, 53099 (October 19, 2001), 68 FR 25418, 25426 through 25427 (May 12, 2003).

[8] *See* Reading, Pennsylvania proposed and final rulemakings, 61 FR 53174 through 53176 (October 10, 1996) and 62 FR 24826 (May 7, 1997); Cleveland-Akron-Loraine, Ohio final rulemaking, 61 FR 20458 (May 7, 1996); and Tampa, Florida final rulemaking, 60 FR 62748 (December 7, 1995). *See also* the discussion of this issue in the Cincinnati, Ohio ozone redesignation, 65 FR 37879, 37890 (June 19, 2000), and the Pittsburgh, Pennsylvania ozone redesignation, 66 FR 53094, 53099 (October 19, 2001).

SIP requirements under section 110 of the CAA, to the extent those requirements are applicable for purposes of redesignation of the Berrien and Muskegon areas. In any case, on September 28, 2021 (86 FR 53550) the EPA approved elements of the SIP submitted by Michigan to meet the requirements of section 110 for the 2015 ozone standard.

b. Part D Requirements.

Section 172(c) of the CAA sets forth the basic requirements of air quality plans for States with nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the areas' nonattainment classifications.

The Berrien and Muskegon areas are classified as Serious under subpart 2 for the 2015 ozone NAAQS. As such, these areas are subject to the subpart 1 requirements contained in section 172(c) and section 176. Similarly, the areas are subject to the subpart 2 requirements contained in section 182(a) (Marginal nonattainment area requirements), section 182(b) (Moderate nonattainment area requirements), and section 182(c) (Serious nonattainment area requirements). A thorough discussion of the requirements contained in section 172(c) and 182 can be found in the General Preamble, 57 FR 13498 (April 16, 1992).

i. Section 172 Requirements.

As provided in subpart 2, for ozone nonattainment areas such as the Berrien and Muskegon areas, the specific requirements of section 182 apply in lieu of the attainment planning requirements that would otherwise apply under section 172(c), including the attainment demonstration and RACM under section 172(c)(1), RFP under section

172(c)(2), and contingency measures under section 172(c)(9).[9]

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. This requirement is superseded by the inventory requirement in section 182(a)(1) discussed below.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. The EPA approved Michigan's NSR program on December 16, 2013 (78 FR 76064), and most recently approved revisions to Michigan's NSR program on May 12, 2021 (86 FR 25954). The EPA approved Michigan's certification that its SIP satisfies the nonattainment NSR requirements of the CAA for the 2015 ozone NAAQS on June 9, 2023 (88 FR 37766). Nonetheless, the EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR.[10] A more detailed rationale for this view is described in the Nichols Memorandum.[11] Michigan's PSD program will become effective in the Berrien and Muskegon areas upon redesignation to attainment. The EPA conditionally approved Michigan's PSD program on September 16, 2008 (73 FR 53366),

[9] *See* 42 U.S.C. 7511a.

[10] *See* rulemakings for Detroit, Michigan, 60 FR 12459, 12467 through 12468 (March 7, 1995); Cleveland-Akron-Lorain, Ohio, 61 FR 20458, 20469 through 20470 (May 7, 1996); Louisville, Kentucky, 66 FR 53665, 53669 (October 23, 2001); and Grand Rapids, Michigan, 61 FR 31831, 31834 through 31837, (June 21, 1996).

[11] *See* the October 14, 1994, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, entitled, "Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment."

fully approved Michigan's PSD program on March 25, 2010 (75 FR 14352), and most recently approved revisions to Michigan's PSD program on May 12, 2021 (86 FR 25954).

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the NAAQS. Because attainment has been reached, no additional measures are needed to provide for attainment.

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

ii. Section 176 Conformity Requirements.

Section 176(c) of the CAA requires that federally supported or funded projects conform to the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that the EPA promulgated pursuant to its authority under the CAA.

The EPA interprets the conformity SIP requirements[12] as not applying for purposes of evaluating a redesignation request under section 107(d) because State conformity rules are still required after redesignation and Federal conformity rules apply

[12] CAA section 176(c)(4)(E) requires States to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from SIPs requiring the development of motor vehicle emissions budgets, such as control strategy SIPs and maintenance plans.

where State conformity rules have not been approved.[13]

iii. Section 182(a), section 182(b), section 182(c), and section 182(f) Requirements.

Section 182(a)(1) requires States to submit a comprehensive, accurate, and current inventory of actual emissions from sources of NOx and VOC emitted within the boundaries of the ozone nonattainment area within two years of designation. The EPA approved Michigan's base year emissions inventories for the Berrien and Muskegon areas on January 18, 2023 (88 FR 2834).

Under section 182(a)(2)(A), States with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC RACT rules that were required under section 172(b)(3) prior to the 1990 CAA amendments. The Berrien and Muskegon areas are not subject to the section 182(a)(2) RACT "fix up" requirement for the 2015 ozone NAAQS because they were designated as nonattainment for this standard after the enactment of the 1990 CAA amendments.

Section 182(a)(2)(B) requires each State with a Marginal ozone nonattainment area that implemented or was required to implement a vehicle inspection and maintenance (I/M) program prior to the 1990 CAA amendments to submit a SIP revision for an I/M program no less stringent than that required prior to the 1990 CAA amendments or already in the SIP at the time of the CAA amendments, whichever is more stringent. There is no requirement for the Berrien or Muskegon areas to have an I/M

[13] *See* Wall v. EPA, 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Michigan has an approved conformity SIP for the Berrien and Muskegon areas. *See* 61 FR 66609 (December 18, 1996) and 82 FR 17134 (April 10, 2017).

program. The Federal I/M Flexibility Amendments of 1995 determined that urbanized areas with populations less than 200,000 for 1990 (such as the Berrien and Muskegon areas) are not mandated to participate in the I/M program, 60 FR 48029, 48033 (September 18, 1995).

Regarding the source permitting and offset requirements of sections 182(a)(2)(C), 182(a)(4), and 182(b)(5), Michigan currently has a fully approved part D NSR program in place. The EPA approved Michigan's NSR program on December 16, 2013 (78 FR 76064), and most recently approved revisions to Michigan's NSR program on May 12, 2021 (86 FR 25954). The EPA approved Michigan's certification that its SIP satisfies the nonattainment NSR requirements of the CAA for the 2015 ozone NAAQS on June 9, 2023 (88 FR 37766). In addition, the EPA conditionally approved Michigan's PSD program on September 16, 2008 (73 FR 53366), fully approved Michigan's PSD program on March 25, 2010 (75 FR 14352), and most recently approved revisions to Michigan's PSD program on May 12, 2021 (86 FR 25954). The State's PSD program will become effective in the Berrien and Muskegon areas upon redesignation to attainment.

Section 182(a)(3) requires States to submit periodic emission inventories and a revision to the SIP to require the owners or operators of stationary sources to annually submit emission statements documenting actual VOC and NOx emissions. As discussed below in section IV.D.4 of this proposed rule, Michigan will continue to update its emissions inventory at least once every three years. The EPA approved Michigan's emission statement SIP for the Berrien and Muskegon areas for the 2015 ozone NAAQS on July 6, 2022 (87 FR 40097) and approved an update on January 18, 2023 (88 FR 2834).

Section 182(b)(1) requires the submission of an attainment demonstration and RFP plan. Michigan submitted an attainment demonstration and RFP plan for the Berrien and Muskegon areas on October 16, 2023. Because attainment has been reached, section 182(b)(1) requirements are no longer considered to be applicable if the area continues to attain the standard. Nonetheless, the EPA approved Michigan's attainment demonstration and RFP plan for the Berrien and Muskegon areas on February 26, 2026 (91 FR 9453).

Section 182(b)(2) requires States with Moderate nonattainment areas to implement VOC RACT with respect to each of the following: (1) all sources covered by a Control Technology Guideline (CTG) document issued between November 15, 1990, and the date of attainment; (2) all sources covered by a CTG issued prior to November 15, 1990; and (3) all other major non-CTG stationary sources. The EPA proposed to approve Michigan's Moderate VOC RACT SIP for the Berrien and Muskegon areas in a separate action on February 27, 2026 (91 FR 9793). The EPA will not finalize this redesignation until we have fully approved Michigan's VOC RACT SIP.

Section 182(b)(3) requires States to adopt Stage II gasoline vapor recovery regulations. On May 16, 2012 (77 FR 28772), the EPA determined that the use of onboard vapor recovery technology for capturing gasoline vapor when gasoline-powered vehicles are refueled is in widespread use throughout the highway motor vehicle fleet and waived the requirement that current and former ozone nonattainment areas implement Stage II vapor recovery systems on gasoline pumps.

Section 182(b)(4) requires a basic vehicle I/M program in each State with a Moderate ozone nonattainment area. There is no requirement for the Berrien or Muskegon areas to have an I/M program. The Federal I/M Flexibility Amendments of

1995 determined that urbanized areas with populations less than 200,000 for 1990 (such as the Berrien and Muskegon areas) are not mandated to participate in the I/M program, 60 FR 48029, 48033 (September 18, 1995).

Section 182(c)(1) of the CAA requires States with nonattainment areas classified Serious or higher to adopt and implement a program to improve air monitoring for ambient concentrations of ozone, NOx, and VOC. The EPA initiated the Photochemical Assessment Monitoring Stations (PAMS) program in February 1993. The PAMS program required the establishment of an enhanced monitoring network in all ozone nonattainment areas classified as Serious, Severe, or Extreme. EGLE submitted its initial EMP as part of its Annual Ambient Air Monitoring Network Review Plan for 2025, which was approved by the EPA on September 9, 2024. For the reasons described in section VI, the EPA is proposing to approve Michigan's EMP certification for the 2015 ozone NAAQS. The EPA will not finalize this redesignation until it has approved the EMP program certification.

CAA section 182(c)(3) requires States with ozone nonattainment areas classified as Serious or higher to adopt and implement an Enhanced I/M program if the nonattainment area includes a 1980 Census Bureau-defined urbanized area with a population of 200,000 or more. The Berrien and Muskegon areas do not include a 1980 Census-defined urbanized area with a population of 200,000 or more. Therefore, pursuant to CAA section 182(c)(3), Enhanced I/M is not required for the Berrien and Muskegon nonattainment areas.

CAA section 182(c)(4) requires States with ozone nonattainment areas classified as Serious or higher with 1980 populations greater than 250,000 to submit a SIP revision

describing implementation of a Clean Fuel Vehicle Program, as described in CAA title II part C (40 CFR 88). Berrien and Muskegon are not mandated to participate in this program because their populations in 1980 were less than 250,000.

Section 182(c) of the CAA requires States with Serious nonattainment areas to implement the VOC RACT requirements of Section 182(b)(2) with the addition that a "major source" is one that emits, or has the potential to emit, at least 50 tons per year of VOC. On May 5, 2026, EGLE submitted an addendum addressing VOC RACT requirements applicable to Serious nonattainment areas. For the reasons discussed in section VII, the EPA is proposing to approve Michigan's submittal as meeting the serious VOC RACT requirements of section 182(c).

The remaining section 182(c) requirements for areas classified as Serious include: an attainment demonstration, RFP, RFP contingency measures, and a transportation control demonstration. These elements are not needed to redesignate the Berrien and Muskegon areas because the areas have attained the 2015 ozone NAAQS. This rationale is outlined in 40 CFR 51.1318, the General Preamble, and the Calcagni Memorandum at 6 ("The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard."). The EPA believes that it is reasonable to interpret these provisions so as not to require areas that are meeting the ozone standard to make the SIP submissions to the EPA described in the provisions as long as the areas continue to meet the standard. (If such an area were to monitor a violation of the standard prior to being redesignated to attainment, however, the area would have to address the pertinent requirements and submit the SIP revisions described in those provisions to the EPA.)

Section 182(f) of the CAA establishes NOx requirements for ozone nonattainment areas. Section 182(f)(1) generally requires major sources of NOx to be covered by the same levels of emission controls as required for major sources of VOC. Since section 182(b)(2)(C) of the CAA requires areas classified as Moderate (or above) to implement RACT for major VOC sources, these ozone nonattainment areas are also required to implement NOx RACT for major sources of NOx. Michigan submitted NOx RACT SIP provisions at the Moderate major source threshold on May 5, 2025. The EPA proposed to approve Michigan's Moderate NOx RACT SIP for the Berrien and Muskegon areas in a separate action on February 27, 2026 (91 FR 9793).

Section 182(f)(1) also provides that the requirement for such NOx emission controls does not apply (can be waived) in an area if the Administrator determines that net air quality benefits are greater in the absence of the NOx emission reductions. The NOx emission control requirements can also be waived if the Administrator determines that additional reductions of NOx emissions would not contribute to attainment of the ozone NAAQS.

On May 5, 2026, EGLE submitted an addendum addressing NOx RACT requirements applicable to Serious nonattainment areas through a CAA section 182(f) waiver from NOx RACT requirements. Specifically, Michigan requested to exempt major stationary sources of NOx (as defined in section 302 and subsections 182(c) and (d) of the CAA from the RACT requirements of section 182(b)(2)), based on the fact that the nonattainment areas, as the result of permanent and enforceable emission control measures, have recorded three years of complete, quality-assured ambient air quality monitoring data for the years 2023 through 2025 demonstrating attainment of the 2015

ozone standards. For the reasons discussed in section VIII below, the EPA is proposing to grant Michigan a waiver from Serious NOx RACT requirements for the Berrien and Muskegon areas for the 2015 ozone NAAQS.

Thus, as discussed above, with approval of Michigan's Moderate VOC and NOx RACT, EMP SIP, Serious VOC RACT, and Serious NOx RACT waiver, the EPA finds that the Berrien and Muskegon areas satisfy all applicable requirements for purposes of redesignation under section 110 and part D of the CAA.

2. The Berrien and Muskegon areas have a fully approved SIP for purposes of redesignation under section 110(k) of the CAA.

At various times, Michigan has adopted and submitted, and the EPA has approved, provisions addressing the various SIP elements applicable for the ozone NAAQS. In separate actions, the EPA is proposing to approve Michigan's Moderate VOC and NOx RACT submissions. As discussed above, with the exception of the Moderate VOC and NOx RACT, EMP, Serious VOC RACT, and Serious NOx RACT waiver, the EPA has fully approved the Michigan SIP for the Berrien and Muskegon areas under section 110(k) for all requirements applicable for purposes of redesignation under the 2015 ozone NAAQS. If the EPA finalizes approvals of Michigan's Moderate VOC and NOx RACT, EMP, Serious VOC RACT, and NOx RACT waiver, the EPA will have fully approved the Michigan SIP for the Berrien and Muskegon areas under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. The EPA may rely on prior SIP approvals in approving a redesignation request.[14]

[14] *See* the Calcagni Memorandum at page 3; Southwestern Pennsylvania Growth Alliance v. Browner, 144 F.3d 984, 989-990 (6th Cir. 1998); Wall v. EPA, 265 F.3d 426.

Additional measures may also be approved in conjunction with a redesignation action.[15]

C. Are the air quality improvements in the Berrien and Muskegon areas due to permanent and enforceable emission reductions?

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires the EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable emission reductions. The EPA proposes to determine that Michigan has demonstrated that the observed ozone air quality improvement in the Berrien and Muskegon areas is due to permanent and enforceable reductions in VOC and NOx emissions resulting from State measures adopted into the SIP, as well as Federal measures.

In making this demonstration, the State has calculated the change in emissions between 2017 and 2023. The reduction in emissions and the corresponding improvement in air quality over this time period can be attributed to several regulatory control measures that the Berrien and Muskegon areas and upwind areas have implemented in recent years. In addition, Michigan provided analyses to demonstrate the improvement in air quality in each area was not due to unusually favorable meteorology. Based on the information summarized below, the EPA proposes to find that Michigan has adequately demonstrated that the improvement in air quality in the Berrien and Muskegon areas is due to permanent and enforceable emissions reductions.

1. Permanent and enforceable emission controls implemented.

[15] *See* 68 FR 25418, 25426 (May 12, 2003) and citations therein.

a. Regional NOx Controls.

CAIR / CSAPR. Under the "good neighbor provision" of CAA section 110(a)(2)(D)(i)(I), States are required to address interstate transport of air pollution. Specifically, the good neighbor provision provides that each State's SIP must contain provisions prohibiting emissions from within that State which will contribute significantly to nonattainment of the NAAQS, or interfere with maintenance of the NAAQS, in any other State.

On May 12, 2005 (70 FR 25162), the EPA published CAIR, which required eastern States, including Michigan, to prohibit emissions in a manner consistent with annual and ozone season NOx budgets and annual sulfur dioxide (SO_2) budgets. CAIR addressed the good neighbor provision for the 1997 ozone NAAQS and 1997 fine particulate matter ($PM_{2.5}$) NAAQS and was designed to mitigate the impact of transported NOx emissions, a precursor of both ozone and $PM_{2.5}$, as well as transported SO_2 emissions, another precursor of $PM_{2.5}$. The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded CAIR to the EPA for replacement in 2008. *North Carolina v. EPA*, 531 F.3d 896, *modified*, 550 F.3d 1176 (2008). While the EPA worked on developing a replacement rule, implementation of the CAIR program continued as planned with the NOx annual and ozone season programs beginning in 2009 and the SO_2 annual program beginning in 2010.

On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, the EPA published CSAPR to replace CAIR and to address the good neighbor provision for the 1997 ozone NAAQS, the 1997 $PM_{2.5}$ NAAQS, and the 2006 $PM_{2.5}$ NAAQS.[16] Through

[16] In a December 27, 2011 (76 FR 80760) rulemaking, EPA included Michigan in the ozone season NOx program, addressing the 1997 ozone NAAQS.

Federal Implementation Plans, CSAPR required electric generating units (EGUs) in eastern States, including Michigan, to meet annual and ozone season NOx budgets and annual SO_2 budgets implemented through new trading programs. After delays caused by litigation, the EPA started implementing the CSAPR trading programs in 2015, simultaneously discontinuing administration of the CAIR trading programs. On October 26, 2016 (81 FR 74504), the EPA published the CSAPR Update, which established, starting in 2017, a new ozone season NOx trading program for EGUs in eastern States, including Michigan, to address the good neighbor provision for the 2008 ozone NAAQS. The CSAPR Update was estimated to result in a 20% reduction in ozone season NOx emissions from EGUs in the eastern United States, a reduction of 80,000 tons in 2017 compared to 2015 levels. On April 30, 2021 (82 FR 23054), the EPA published the Revised CSAPR Update, which fully resolved the obligations of eastern States, including Michigan, under the good neighbor provision for the 2008 ozone NAAQS. The Revised CSAPR Update is estimated to reduce ozone season NOx emissions from EGUs by 17,000 tons beginning in 2021, compared to emissions without the rule. The reduction in NOx emissions from the implementation of CAIR and then CSAPR occurred by the attainment years.

b. Federal Emission Control Measures.

Reductions in VOC and NOx emissions have occurred statewide and in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. Federal emission control measures include the following:

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. On

February 10, 2000 (65 FR 6698), the EPA promulgated Tier 2 motor vehicle emission standards and gasoline sulfur control requirements. These emission control requirements result in lower VOC and NOx emissions from new cars and light duty trucks, including sport utility vehicles. With respect to fuels, this rule required refiners and importers of gasoline to meet lower standards for sulfur, which were phased in between 2004 and 2006. By 2006, refiners and importers were required to meet a 30 ppm average sulfur level, with a maximum cap of 80 ppm. This reduction in fuel sulfur content ensures the effectiveness of low emission-control technologies. The Tier 2 tailpipe standards established in this rule were phased in for new vehicles between 2004 and 2009. At the time of promulgation of Tier 2 standards, the EPA estimated that this rule would cut NOx and VOC emissions from light-duty vehicles and light-duty trucks by approximately 76% and 28%, respectively. NOx and VOC reductions from medium-duty passenger vehicles included as part of the Tier 2 vehicle program were estimated to be approximately 37,000 and 9,500 tons per year, respectively, when fully implemented. As projected by these estimates and demonstrated in the on-road emission modeling for the Berrien and Muskegon areas, a portion of these emission reductions occurred during the period 2017 through 2025, i.e., after the areas were designated nonattainment for the 2015 ozone NAAQS. As discussed below, the Tier 2 vehicle and gasoline sulfur standards were replaced by the Tier 3 emission standards for vehicles and gasoline sulfur standards beginning on January 1, 2017.

Tier 3 Emission Standards for Vehicles and Gasoline Sulfur Standards. On April 28, 2014 (79 FR 23414), the EPA promulgated Tier 3 motor vehicle emission and fuel standards to reduce both tailpipe and evaporative emissions and to further reduce the

sulfur content in fuels. The rule was phased in between 2017 and 2025. Tier 3 sets new tailpipe standards for non-methane organic gases (NMOG) and NOx, presented as NMOG+NOx, and for particulate matter. The VOC and NOx tailpipe standards for light-duty vehicles represent approximately an 80% reduction in fleet average NMOG+NOx and a 70% reduction in per-vehicle particulate matter (PM) standards, relative to the fleet average at the time of phase-in. Heavy-duty tailpipe standards represent about a 60% reduction in both fleet average NMOG+NOx and per-vehicle PM standards. The evaporative emissions requirements in the rule will result in approximately a 50% reduction from previous standards and apply to all light-duty and on-road gasoline-powered heavy-duty vehicles. Finally, the rule lowered the sulfur content of gasoline to an annual average of 10 ppm starting in January 2017. As projected by these estimates and demonstrated in the on-road emission modeling for the Berrien and Muskegon areas, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Heavy-Duty Diesel Engine Rules. On January 18, 2001 (66 FR 5002), the EPA issued a rule for on-road heavy-duty diesel engines that includes standards limiting the sulfur content of diesel fuel. Emissions standards for NOx, VOC and PM were phased in between model years 2007 and 2010. In addition, the rule reduced the highway diesel fuel sulfur content to 15 parts per million by 2007, leading to additional reductions in combustion NOx and VOC emissions. The EPA has estimated future year emission reductions due to implementation of this rule. The EPA estimated that by 2015 NOx and VOC emissions would decrease nationally by 1,260,000 tons and 54,000 tons,

respectively, and that by 2030 NOx and VOC emissions will decrease nationally by 2,570,000 tons and 115,000 tons, respectively. As projected by these estimates and demonstrated in the on-road emission modeling for the Berrien and Muskegon areas, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Nonroad Diesel Rule. On June 29, 2004 (69 FR 38958), the EPA issued a rule adopting emissions standards for nonroad diesel engines and sulfur reductions in nonroad diesel fuel. This rule applies to diesel engines used primarily in construction, agricultural, and industrial applications. Emission standards were phased in for the 2008 through 2015 model years based on engine size. The sulfur limits for nonroad diesel fuels were phased in from 2007 through 2012. The EPA estimates that when fully implemented, compliance with this rule will cut NOx emissions from these nonroad diesel engines by approximately 90%. As projected by these estimates and demonstrated in the nonroad emission modeling for the Berrien and Muskegon areas, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

Nonroad Spark-Ignition Engines and Recreational Engine Standards. On November 8, 2002 (67 FR 68242), the EPA adopted emission standards for large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards were phased in from model years 2004 through 2012. When fully implemented, the EPA

estimates an overall 72% reduction in national VOC emissions from these engines and an 80% reduction in national NOx emissions. As projected by these estimates and demonstrated in the nonroad emission modeling for the Berrien and Muskegon areas, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

Category 3 Marine Diesel Engine Standards. On April 30, 2010 (75 FR 22896), the EPA issued emission standards for marine compression-ignition engines at or above 30 liters per cylinder. Tier 2 emission standards have applied since 2011 and are expected to result in a 15 to 25% reduction in NOx emissions from these engines. Final Tier 3 emission standards have applied since 2016 and are expected to result in approximately an 80% reduction in NOx from these engines. As projected by these estimates and demonstrated in the nonroad emission modeling for the Berrien and Muskegon areas, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

In its submittals, Michigan included additional permanent and enforceable Federal emission control measures that contributed to NOx and VOC emission reductions by the attainment years and which will contribute to additional emission reductions throughout the maintenance period. Further information can be found in Section 3.3 of Michigan's Berrien and Muskegon submittals.

c. Michigan Rules.

VOC RACT. Michigan adopted new rules for some source categories and strengthened the requirements in some existing rules. In addition, Michigan revised several rules to ensure that they apply to areas that were classified as Moderate and above

under the 2015 ozone NAAQS. Michigan submitted these rules for incorporation into the SIP. EGLE estimated these rules resulted in a 0.60 and 0.15 tons per ozone season day reduction in the Berrien and Muskegon areas, respectively, between 2017 and 2023.[17] (Approximately 219 and 54.75 tons per year, respectively.)

Architectural and Industrial Maintenance Coatings Rule and Consumer Products Rule. Michigan adopted the Ozone Transport Commission's Phase 2 and Phase 4 versions of the model Architectural and Industrial Maintenance Coatings Rules and Consumer Product Rules, respectively. Michigan submitted these rules for incorporation into the SIP. EGLE estimated the Architectural and Industrial Maintenance Coatings Rule resulted in a 0.30 and 0.19 tons per ozone season day reduction in VOC emissions in the Berrien and Muskegon areas, respectively, between 2017 and 2023. (Approximately 109.50 and 69.35 tons per year, respectively.) EGLE estimated the Consumer Products Rule resulted in a 0.10 and 0.06 tons per ozone season day reduction in VOC emissions in the Berrien and Muskegon areas, respectively, between 2017 and 2023.[18] (Approximately 36.50 and 21.90 tons per year, respectively.)

NOx RACT. Michigan adopted rules to set NOx RACT emission limits for engines, boilers, turbines, process heaters, hot mix asphalt plants, engine test cells, lime kilns, and glass manufacturing. Michigan submitted these rules for incorporation into the SIP. These rules became effective April 28, 2025. Emission reductions from these rules were not included in the 2023 attainment inventory. However, the areas' attainment design values were calculated using monitoring data from 2023 through 2025 and these

[17] Emissions reductions estimated from VOC RACT are included in Table 5.1 of Michigan's Moderate Elements SIP submittal. This document is available in the docket.
[18] Emissions reductions estimated from the Architectural and Industrial Maintenance Coatings Rule and Consumer Products Rule are included in table 5.1 of Michigan's Moderate Elements SIP submittal. This document is available in the docket.

rules had the potential to affect 2025 ozone levels.

d. Berrien Point Source NOx Reductions.

The ANR Pipeline Company removed high-NOx emitting equipment and replaced it with lower-NOx emitting equipment. In its submittal, EGLE estimated this change reduced annual point source NOx emissions by 639 tons from 2017 to 2023.

e. Muskegon Point Source NOx Reductions.

In its submittal, EGLE estimated the total annual reductions in NOx emissions from point sources was 2,277 tons from 2015 to 2023.

2. Emission reductions.

Michigan is using a 2017 emissions inventory to represent nonattainment level emissions (nonattainment year inventory or nonattainment inventory), which is appropriate because it was one of the years used to designate the areas as nonattainment due to an exceedance of the NAAQS. Michigan is using a 2023 emissions inventory to represent attainment level emissions (attainment year inventory or attainment inventory), which is appropriate because it is one of the years in the 2023 to 2025 period used to demonstrate monitored attainment with the NAAQS.

For both 2017 and 2023, Michigan provided inventories for point, nonpoint, on-road, and nonroad sources. The point source category includes facilities that report their emissions directly to EGLE, as well as sources such as airports and rail yards. Nonpoint sources, sometimes called area sources, include emissions from sources that are more ubiquitous, such as consumer products or architectural coatings. On-road sources are vehicles that are primarily used on public roadways, such as cars, trucks, and motorcycles. Nonroad sources include engine-based emissions that do not occur on roads,

such as trains or boats.

For its on-road emissions inventories, Michigan submitted analyses by the Michigan Department of Transportation (MDOT) for Berrien County and partial Muskegon County. These analyses used the EPA's MOVES5 model, the latest version of EPA's MOVES model to generate July weekday on-road emissions for both 2017 and 2023.[19] MDOT's analyses relied on local travel inputs including demographic data, travel demand forecasting, road types, Vehicle Miles of Travel (VMT), Vehicle Hours of Travel, vehicle population, and vehicle age, as well as meteorological data.[20]

For its point, nonpoint, and nonroad emissions inventories, Michigan's primary data sources were the EPA's 2017 National Emissions Inventory (NEI) and the EPA's 2022v1 emissions modeling platform. The 2017 NEI and 2022v1 emissions modeling platform have been quality-assured, and documentation regarding these datasets and their methods is available on the EPA's website.[21] The EPA's 2017 NEI was the basis for Michigan's point, nonpoint, and nonroad nonattainment year inventories for 2017. Detailed information on the development of the Berrien and Muskegon 2017 point, nonpoint, and nonroad inventories is included in the EPA's approval of Michigan's base year inventories for the 2015 ozone standard (88 FR 2834).

Michigan used data from the EPA's 2022v1 emissions modeling platform to develop the point, nonpoint, and nonroad attainment year inventories for 2023. The 2022v1 emissions modeling platform includes emissions data for the years 2022, 2026,

[19] More information on EPA's MOVES5 model is available at: https://www.epa.gov/moves/latest-version-motor-vehicle-emission-simulator-moves.
[20] Michigan included a detailed narrative of MDOT's methods in attachment A of the Berrien submittal and attachment B of the Muskegon submittal.
[21] Documentation for the 2017 NEI is available at: https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data. Documentation for the 2022v1 emissions modeling platform is available at: https://www.epa.gov/air-emissions-modeling/2022v1-emissions-modeling-platform.

2032, and 2038. To derive point, nonpoint, and nonroad inventories for 2023, EGLE interpolated between 2022 and 2026 data from the 2022v1 emissions modeling platform. To account for the Muskegon area containing partial Muskegon County, the Muskegon point source inventory only included sources within the nonattainment portion of the county, and the Muskegon nonpoint and nonroad inventories were multiplied by a fraction reflecting the nonattainment portion of the county. For each source category, EGLE applied a conversion factor to convert the annual NOx and VOC emissions for Berrien and partial Muskegon Counties to ozone season day NOx and VOC emissions. This conversion factor was generated for each county by dividing the July category emissions by the annual category emissions and dividing the resultant value by 31 to represent the number of days in July. EGLE selected July as the standard ozone season month, due to an analysis showing that July had the most days with high ozone values in recent years. It was not necessary to determine a conversion factor for on-road emissions because MDOT provided results for a July weekday.

Michigan's submittals document changes in NOx and VOC emissions from 2017 to 2023 for the Berrien and Muskegon areas using the inventories described above. Emissions data are shown in Table 3 for the Berrien area and in Table 4 for the Muskegon area. Data is expressed in terms of tons per ozone season day.

Table 3. NOx and VOC emissions in the Berrien area for the 2017 nonattainment year and 2023 attainment year (tons per ozone season day).

	Nox			VOC		
	2017	2023	Net Change (2017 through 2023)	2017	2023	Net Change (2017 through 2023)
Point	2.09	0.80	-1.29	0.95	1.22	0.27
Nonpoint	1.11	0.94	-0.17	6.47	6.77	0.30
On-road	5.16	2.31	-2.85	2.75	1.67	-1.08
Nonroad	1.35	1.08	-0.27	2.03	1.59	-0.44
Total	9.71	5.13	-4.58	12.20	11.25	-0.95

Table 4. NOx and VOC emissions in the Muskegon area for the 2017 nonattainment year and 2023 attainment year (tons per ozone season day).

	Nox			VOC		
	2017	2023	Net Change (2017 through 2023)	2017	2023	Net Change (2017 through 2023)
Point	0.19	0.38	0.19	0.49	0.57	0.08
Nonpoint	1.01	0.76	-0.25	3.79	3.95	0.16
On-road	3.07	1.31	-1.76	2.33	1.37	-0.96
Nonroad	0.79	0.65	-0.14	1.40	1.04	-0.36
Total	5.06	3.10	-1.96	8.01	6.94	-1.07

As shown in Table 3, Michigan's inventories demonstrate that NOx and VOC emissions in the Berrien area declined by 4.58 tons per ozone season day and 0.95 tons per ozone season day, respectively, between 2017 and 2023. Similarly, as shown in Table 4, Michigan's inventories demonstrate that NOx and VOC emissions in the Muskegon area declined by 1.96 tons per ozone season day and 1.07 tons per ozone season day, respectively, between 2017 and 2023.

3. Meteorology and temporary adverse economic conditions.

Michigan supplied several analyses to further support its demonstration that the improvement in air quality in Berrien and Muskegon is due to permanent and enforceable emission reductions, and not unusually favorable meteorology or temporary adverse economic conditions.

Michigan included a long-term trend analysis performed by the Lake Michigan Air Directors Consortium (LADCO) to demonstrate that the long-term improvement in air quality in Berrien and Muskegon is not due to unusually favorable meteorology.[22] A

[22] Michigan included LADCO's analysis as attachment C in the Berrien submittal and as attachment D in the Muskegon submittal.

classification and regression tree (CART) analysis was conducted with data from 2001 through 2022 from the Berrien and Muskegon area ozone sites. The goal of the analysis was to determine the meteorological and air quality conditions associated with ozone episodes, and construct trends for the days identified as sharing similar meteorological conditions. A CART analysis was developed for both the Berrien and Muskegon areas to classify each summer day by its ozone concentration and associated meteorological conditions. By grouping days with similar meteorology, the influence of meteorological variability on the underlying trend in ozone concentrations is partially removed and the remaining trend is presumed to be due to trends in precursor emissions or other non-meteorological influences. The CART analyses showed the resulting trends in ozone concentrations in each area to be declining over the period examined, supporting the conclusion that the long-term improvement in air quality in these areas was not due to unusually favorable meteorology.

LADCO's CART analysis also determined the meteorological conditions most commonly associated with high-ozone days for each area. This analysis showed high-ozone days in Berrien are most associated with hot temperatures, and high-ozone days in Muskegon are most associated with hot temperatures and southerly winds. EGLE conducted a meteorological analysis of these variables based on data collected at the Coloma monitor, in Berrien, and at the Muskegon monitor, in Muskegon. Michigan analyzed ozone values and meteorological variables for May, June, July, August, and September. By analyzing monitoring data from 2023 through 2025 EGLE adds weight of evidence to LADCO's CART analysis, which was conducted with data through 2022.

For Berrien, EGLE compared the maximum 8-hour ozone concentration at the

Coloma monitor to the number of days where the maximum temperature was greater than or equal to 80° F. EGLE also examined the relationship between the average summer temperature and the fourth-highest 8-hour ozone concentration. Between 2023 and 2025, when Berrien monitored attainment, temperatures increased, with Berrien showing a warming trend. Concurrently, the maximum 8-hour ozone concentration was stable, and the fourth-highest 8-hour ozone concentration decreased. Because the correlation between temperature and ozone formation is well-established, these data suggest the reductions in ozone concentrations in Berrien, were not due to unusually favorable summer temperatures.

For Muskegon, EGLE completed three analyses examining the relationship between summer temperatures and ozone values. First, EGLE compared the maximum 8-hour ozone concentration at the Muskegon monitor to the number of days where the maximum temperature was greater than or equal to 80° F. Second, EGLE examined the relationship between the average summer temperature and the fourth-highest 8-hour ozone concentration. Third, EGLE compared the number of days where the 8-hour ozone concentration was greater than 70 parts per billion (ppb) with the number of days where the maximum temperature was greater than or equal to 80° F. Between 2023 and 2025, temperatures increased, with Muskegon showing a warming trend. Concurrently, the maximum 8-hour ozone concentration was relatively stable, the fourth-highest 8-hour ozone concentration decreased, and the number of days with an 8-hour ozone concentration greater than 70 ppb decreased substantially. Because the correlation between temperature and ozone formation is well-established, these data suggest that unusually favorable summer temperatures are not causing the declining trend in ozone

concentrations in Muskegon.

Additionally, for Muskegon, EGLE completed an analysis examining the frequency of wind directions measured at the Muskegon monitor from 2015 to 2025 and during the years monitoring attainment, from 2023 to 2025. These data do not indicate that the site experienced large-scale changes in wind patterns between the long-term trend and the years monitoring attainment. Because ozone concentrations at the Muskegon monitor are influenced by transport via southerly winds, in addition to hot temperatures, as discussed previously, these data suggest that reductions in ozone concentrations in the Muskegon area, was not due to unusually favorable wind patterns or summer temperatures.

Michigan conducted additional analyses to assess whether the improvement in air quality in Berrien and Muskegon was caused by temporary adverse economic conditions.

EGLE compared the fourth-highest 8-hour ozone concentration against VMT from 2015 to 2024 and against employment from 2019 to 2024 in Berrien. In Muskegon, EGLE compared the fourth-highest 8-hour ozone concentration against VMT and employment from 2015 to 2024. During the attaining design value years from 2023 to 2024, ozone decreased while VMT and employment were flat or increased. These analyses show that the economic indicators, VMT and employment, had no correlation to ozone values in the Berrien and Muskegon areas. These analyses show no indication of temporary adverse economic conditions during the years monitoring attainment and strengthen Michigan's demonstration that the improved air quality in Berrien and Muskegon is due to permanent and enforceable emissions reductions.

As discussed above, Michigan identified numerous Federal rules that resulted in

the reduction of VOC and NOx emissions from 2017 to 2023. In addition, Michigan's analyses of meteorological variables associated with ozone formation demonstrate that the improvement in air quality in the area between the year violations occurred and the year attainment was achieved is not due to unusually favorable meteorology. Michigan also showed that no temporary adverse economic conditions occurred in Berrien or Muskegon that contributed to the demonstration of attainment in these areas. Therefore, the EPA proposes to find that Michigan has shown that the air quality improvements in the Berrien and Muskegon areas are due to permanent and enforceable emissions reductions.

D. Does Michigan have fully approvable ozone maintenance plans for the Berrien and Muskegon areas?

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iv) of the CAA requires the EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the maintenance plan must demonstrate continued attainment of the NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates that attainment of the NAAQS will continue for an additional 10 years beyond the initial 10-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, as the EPA deems necessary, to ensure prompt correction of the future NAAQS violation.

The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: (1) an attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. In conjunction with its requests to redesignate the Berrien and Muskegon areas to attainment for the 2015 ozone NAAQS, Michigan submitted SIP revisions to provide for maintenance of the 2015 ozone NAAQS through 2036, 10 years after the expected effective date of each area's redesignation to attainment. As discussed below, the EPA proposes to find that Michigan's ozone maintenance plans for Berrien and Muskegon include the necessary components and to approve the maintenance plans as revisions of the Michigan SIP.

1. Attainment inventory.

The EPA is proposing to determine that the Berrien and Muskegon areas have attained the 2015 ozone NAAQS based on monitoring data for the period of 2023-2025. Michigan selected 2023 as the attainment emissions inventory year to establish attainment emission levels for VOC and NOx. The attainment emissions inventory identifies the levels of emissions in the Berrien and Muskegon areas that are sufficient to attain the 2015 ozone NAAQS. The derivation of the attainment year emissions is discussed above in section IV.C.2. of this proposed rule. The emissions for the 2023 attainment year, by source category, are summarized in Tables 3 and 4 above.

2. Has the State demonstrated maintenance of the ozone standard in the Berrien and Muskegon areas?

Michigan has demonstrated maintenance of the 2015 ozone NAAQS through

2036 by projecting that current and future emissions of VOC and NOx for the Berrien and Muskegon areas remain at or below attainment year emission levels. A maintenance demonstration need not be based on modeling.[23]

For both areas, Michigan is using emissions inventories for the years 2032 and 2036 to demonstrate maintenance. For Berrien, Michigan is also using a 2026 emissions inventory to demonstrate maintenance. 2036 was selected because it is 10 years after the expected effective date of the redesignation to attainment, and 2026 and 2032 were selected to demonstrate that the emissions are not expected to spike in the interim between the 2023 attainment year and the 2036 final maintenance year.

For its on-road emissions inventory, Michigan again relied upon MDOT's analyses for Berrien and partial Muskegon Counties, which used the EPA's MOVES5 model, the latest version of EPA's MOVES model, to generate July weekday on-road emissions for 2026, 2032, and 2036. MDOT's analyses relied on local travel inputs including demographic data, travel demand forecasting, road types, VMT, Vehicle Hours of Travel, vehicle population, and vehicle age, as well as meteorological data.

For its point, nonpoint, and nonroad emissions inventories for the years 2026, 2032, and 2036, Michigan used the EPA's 2022v1 emissions modeling platform. Inventory data for 2026 and 2032 were provided by the 2022v1 emissions modeling platform. Inventory data for 2036 was derived by interpolating between 2032 and 2038 data from the 2022v1 emissions modeling platform. Following the procedures described in section IV.C.2 of this proposed rule, EGLE adjusted point, nonpoint, and nonroad

[23] *See* Wall v. EPA, 265 F.3d 426 (6th Cir. 2001), Sierra Club v. EPA, 375 F. 3d 537 (7th Cir. 2004). *See also* 66 FR 53094, 53099 through 53100 (October 19, 2001), 68 FR 25418, 25430 through 25432 (May 12, 2003).

emissions inventories for Muskegon County to reflect the portion of the county in the nonattainment area. For each of the 2026, 2032, and 2036 inventories, to convert annual emissions totals into a value of tons per ozone season day, EGLE calculated conversion factors based on 2026 inventory data using the same methodology described in section IV.C.2 of this proposed rule.

By calculating its inventories through interpolation, EGLE projects that changes within a source category and county are linearly constant. For point sources, actual reductions may not align with inventories derived from linear interpolation, because shutdowns and the operation of new control equipment may be staggered across several years. However, given the magnitude of the reductions in other categories of sources, any uncertainty caused by linear interpolation would be outweighed by the emissions reductions in other sectors. Even if Michigan, as a cautious measure, had projected that emissions from the 2022v1 emissions modeling platform for the year 2032 would remain constant through 2036, this level of emissions would still have been sufficient to show that the area would maintain the standard through 2036.

Emissions data for the 2017 nonattainment year, 2023 attainment year, 2026 and 2032 interim years, and 2036 maintenance year are shown in Tables 5 and 6 for the Berrien area and in Tables 7 and 8 for the Muskegon area. Data are expressed in terms of tons per ozone season day.

Table 5. NOx emissions in the Berrien area for the 2017 nonattainment year, 2023 attainment year, 2026 and 2032 interim years, and 2036 maintenance year (tons per ozone season day).

	2017	2023	2026	2032	2036	Net Change (2023 through 2036)
Point	2.09	0.80	0.81	0.85	0.89	0.09
Nonpoint	1.11	0.94	0.90	0.88	0.88	-0.07
On-road	5.16	2.31	1.72	1.01	0.75	-1.56

Nonroad	1.35	1.08	0.99	0.89	0.89	-0.19
Total	9.71	5.13	4.42	3.64	3.40	-1.73

Table 6. VOC emissions in the Berrien area for the 2017 nonattainment year, 2023 attainment year, 2026 and 2032 interim years, and 2036 maintenance year (tons per ozone season day).

	2017	2023	2026	2032	2036	Net Change (2023 through 2036)
Point	0.95	1.22	1.24	1.26	1.31	0.09
Nonpoint	6.47	6.77	6.78	6.72	6.69	-0.09
On-road	2.75	1.67	1.48	1.20	1.01	-0.66
Nonroad	2.03	1.59	1.48	1.43	1.43	-0.16
Total	12.20	11.25	10.98	10.61	10.43	-0.82

Table 7. NOx emissions in the Muskegon area for the 2017 nonattainment year, 2023 attainment year, 2032 interim year, and 2036 maintenance year (tons per ozone season day).

	2017	2023	2032	2036	Net Change (2023 through 2036)
Point	0.19	0.38	0.42	0.40	0.02
Nonpoint	1.01	0.76	0.61	0.60	-0.16
On-road	3.07	1.31	0.60	0.43	-0.87
Nonroad	0.79	0.65	0.51	0.52	-0.14
Total	5.06	3.10	2.14	1.95	-1.15

Table 8. VOC emissions in the Muskegon area for the 2017 nonattainment year, 2023 attainment year, 2032 interim year, and 2036 maintenance year (tons per ozone season day).

	2017	2023	2032	2036	Net Change (2023 through 2036)
Point	0.49	0.57	0.57	0.56	-0.01
Nonpoint	3.79	3.95	4.19	4.20	0.25
On-road	2.33	1.37	1.04	0.88	-0.50
Nonroad	1.40	1.04	0.79	0.79	-0.26
Total	8.01	6.94	6.58	6.42	-0.52

As shown in Tables 5 and 6, NOx and VOC emissions in the Berrien area are projected to decrease by 1.73 tons per ozone season day and 0.82 tons per ozone season day, respectively, between the 2023 attainment year and 2036 maintenance year.

Similarly, as shown in Tables 7 and 8, NOx and VOC emissions in the Muskegon area are projected to decrease by 1.15 tons per ozone season day and 0.52 tons per ozone season day, respectively, between the 2023 attainment year and 2036 maintenance year. Michigan's maintenance demonstrations for the Berrien and Muskegon areas show maintenance of the 2015 ozone NAAQS by providing emissions information to support the demonstrations that future emissions of NOx and VOC will remain at or below 2023 emission levels when considering both future source growth and implementation of future controls.

On February 12, 2026, the EPA finalized the rescission of the GHG Endangerment Finding and repealed all greenhouse gas (GHG) emission standards for light-duty, medium-duty, and heavy-duty vehicles and engines ("Endangerment Finding Rescission Rule").[24] Due to this action, aspects of the State's planning assumptions from the EPA's Motor Vehicle Emission Simulator model versions 5 (MOVES5) are no longer entirely consistent with the latest information. The EPA recognizes that States have relied on MOVES4 and MOVES5, including the national default electric vehicle (EV) projections tied in part to the implementation of these now-repealed standards, in developing some SIP actions that have been submitted to the EPA.

The West Michigan maintenance plan was developed using MOVES5 and the latest EPA guidance on the use of MOVES in SIP development that was available at the time. Per the EPA's MOVES Policy Guidance, States "should use the latest version of MOVES that is available at the time that a SIP is developed."[25] In this guidance, the EPA

[24] Rescission of the Greenhouse Gas Endangerment Finding and Motor Vehicle Greenhouse Gas Emission Standards Under the Clean Air Act, 91 FR 7686, February 18, 2026.
[25] *See* Section 2.1 (page 10) of "MOVES5 Policy Guidance: Use of MOVES for State Implementation Plan Development, Transportation Conformity, General Conformity, and Other Purposes" (EPA-420-B-24-038, November 2024).

also stated that an earlier version of MOVES can be used in SIP development if significant work has already been completed on a SIP using that earlier version.[26] Therefore, the State developed this SIP based on an emissions model that the EPA expected States to use. In addition, the EPA indicated that for fuel type distributions for on-road vehicles that include estimates of EVs, States should use local data if available and could rely on the default information within the model as planning assumptions.[27] Therefore, based on EPA's statements in the EPA's MOVES Policy and Technical Guidance, the State reasonably relied on the assumptions in MOVES5.

As a general principle, the SIP is an iterative document, subject to various revisions over time. This is because the SIP revision process is cyclical by nature per the different obligations under the CAA. The EPA acknowledges the significant amount of time and resources required by States to develop a SIP revision. In the evaluation of this SIP submittal, the EPA is considering the modeling and information provided by Michigan and affirming that Michigan relied on the latest EPA model and guidance information available at the time it developed the SIP. To acknowledge and accommodate reliance interests States may have had in MOVES5 based on the EPA's statements in the EPA's MOVES Policy and Technical Guidance, and to treat all States consistently that submitted SIPs prior to or shortly after the Endangerment Finding Rescission Rule where significant work had been completed, the EPA is proposing to find that Michigan appropriately estimated on-road mobile source emissions for this SIP based on MOVES5.

---

[26] *Id.*

[27] *See* Section 4.8.3 (page 56) of "MOVES5 Technical Guidance: Using MOVES to Prepare Emission Inventories for State Implementation Plans and Transportation Conformity" (EPA-420-B-24-043, November 2024).

3. Continued air quality monitoring.

Michigan has committed to continue to operate its ozone monitors in the Berrien and Muskegon areas for the duration of the maintenance periods. Michigan remains obligated to meet monitoring requirements, to continue to quality-assure monitoring data in accordance with 40 CFR part 58, and to enter all data into the AQS in accordance with Federal guidelines.

4. Verification of continued attainment.

Michigan has confirmed that it has the legal authority to enforce and implement the requirements of its SIP. Michigan has further committed that it has the authority to implement the requested SIP revisions, which would include the maintenance plans for the Berrien and Muskegon areas. This includes the authority to adopt, implement, and enforce any subsequent emission control measures determined to be necessary to correct future ozone attainment problems.

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic update of each area's emissions inventory. Michigan will continue to operate the ozone monitors located in the Berrien and Muskegon areas. There are no plans to discontinue operation, relocate, or otherwise change the existing ozone monitoring network other than through revisions in the network approved by the EPA.

In addition, to track future levels of emissions, Michigan will continue to develop and submit to the EPA updated emission inventories for all source categories at least once every three years, consistent with the requirements of 40 CFR part 51, subpart A, and in 40 CFR 51.122. The Consolidated Emissions Reporting Rule (CERR) was promulgated

by the EPA on June 10, 2002 (67 FR 39602). The CERR was replaced by the Air Emissions Reporting Requirements on December 17, 2008 (73 FR 76539). The most recent triennial inventory for Michigan was compiled for 2020, and 2023 is in progress. Point source facilities covered by Michigan's emission statement program will continue to submit VOC and NOx emissions on an annual basis.

5. What are the contingency plans for the Berrien and Muskegon areas?

Section 175A of the CAA requires that the State adopt a maintenance plan as a SIP revision that includes such contingency provisions as the EPA deems necessary to assure that the State will promptly correct a violation of the NAAQS that occurs after redesignation of the area to attainment of the NAAQS. The Calcagni Memorandum provides further guidance, specifying that the contingency plan must identify: the measures to be considered and, if needed for maintenance, adopted and implemented; a schedule and procedure for adoption and implementation; and a time limit for action by the State. The State should also identify specific indicators to be used to determine when the contingency measures need to be considered, adopted, and implemented. The maintenance plan must include a commitment that the State will implement all measures with respect to the control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d) of the CAA.

As required by section 175A of the CAA, Michigan has adopted contingency plans for the Berrien and Muskegon areas to address possible future ozone air quality problems.

In Michigan's maintenance plans, contingency provisions would be triggered whenever a violation of the 2015 ozone NAAQS (three-year design value greater than

0.070 ppm) occurs within the maintenance areas. Michigan's maintenance plans have a prescriptive process for determining if a violation was due to an exceptional event. The contingency plans include a screening process that allows EGLE, subject to review by the EPA, to exclude exceedances (8-hour ozone concentrations greater than 0.070 ppm) from the trigger calculation if EGLE shows that the exceedances meet certain criteria indicating they are likely eligible for treatment as an exceptional event. The purpose of this process is to differentiate between exceedances that are not within the State's control (*i.e.*, exceedances that occur despite the implementation of reasonable measures), and exceedances that are within the State's control and should be included in the trigger calculation. It is important to note that, should the State exclude an exceedance from the contingency trigger calculation using this process, it would not constitute the EPA's concurrence that the exceedance was caused by an exceptional event. The exceedance will therefore continue to be included in design value calculations for the Berrien and Muskegon areas unless EGLE, following opportunity for public comment, submits a request for the EPA to concur on the exceedance as an exceptional event pursuant to 40 CFR 50.14, and the EPA reviews the submittal and formally concurs.

Under this process, following a contingency triggering event, EGLE will review impacted monitoring data to determine if exceptional events occurred, transmit an initial notification to the EPA, prepare a report of any exceptional events, and provide that report to the EPA. Within five months of the end of the ozone season, to correspond with the submittal of ambient monitoring data to AQS, EGLE will submit to the EPA a list of exceedance days that were potentially influenced by exceptional events, an initial event description for each potential event, and additional information and analysis to support

exclusion of the data from the contingency plan trigger calculation.[28] The EPA will review the submittal and will notify EGLE if the submitted documentation is insufficient to support exclusion of the data from the contingency plan trigger calculation. In the absence of notification from the EPA, the submitted documentation will be presumed sufficient.

If the EPA determines that contingency plans have been triggered and are not found to be due to an exceptional event, malfunction, or noncompliance with a permit condition or rule requirement, EGLE and MDOT, in consultation with the metropolitan planning organizations or regional council of governments, will determine what additional effective control measures are needed to ensure future attainment of the 2015 ozone NAAQS. Control measures effective in reducing ambient ozone concentrations will be adopted and implemented within 18 months from the close of the ozone season that prompted the response. Michigan may also consider if significant new regulations not currently included as part of the maintenance plans will be implemented in a timely manner and would thus constitute an adequate contingency measure response.

Michigan may select from the following list of potential contingency measures in its maintenance plans for both the Berrien and Muskegon areas, if they are determined to be effective in maintaining the 2015 ozone NAAQS. However, Michigan is not limited to the measures on this list:

1. Adoption of VOC or NOx RACT rules for existing sources
2. Application of VOC RACT on existing smaller sources

[28] Additional information to support exclusion of the data from the contingency plan trigger calculation may include: surface and upper air meteorological maps, satellite imagery, hazard mapping system data, HYSPLIT trajectories, and other event information needed to determine the cause of the exceedance.

3. Alternative fuel and diesel retrofit programs for fleet vehicle operations

4. VOC or NOx control on new sources emitting less than 100 tons per year

5. Reduced idling programs

6. Trip reduction programs

7. Traffic flow and transit improvements

To qualify as a contingency measure, emissions reductions from that measure must not be factored into the emissions projections used in the maintenance plans. Contingency measures are subject to necessary administrative and legal processes such as publication of notice, public comment period, and other measures as required by Michigan law for rulemaking. If a new measure is promulgated and scheduled to be implemented at the Federal or State level, and that measure is determined to be effective in maintaining the 2015 ozone NAAQS in the Berrien and Muskegon areas, additional local measures may not be necessary. EGLE will submit to the EPA an analysis to demonstrate the proposed measure is sufficient to maintain attainment in the areas.

The EPA proposes to find that the contingency provisions of the Berrien and Muskegon maintenance plans clearly identify specific contingency measures, contain a triggering mechanism to determine when contingency measures are needed, contain a description of the process of recommending and implementing contingency measures, and contain specific and appropriate timelines for action. The EPA also proposes to find that the contingency trigger screening process, including the associated review by the EPA, is reasonably designed to distinguish between exceedances that are the type that have been deemed exceptional events in the past and exceedances for which new or tightened control measures might be effective. The EPA's assessment indicates that the

screening process is an appropriate element of the contingency plan for the Berrien and Muskegon areas because of the possibility of exceedances related to wildfire smoke events impacting these areas. Thus, the EPA proposes to conclude that Michigan's contingency plans are adequate to ensure prompt correction of any violation of the 2015 ozone NAAQS that occurs after redesignation, as required by section 175A(d) of the CAA.

The EPA has concluded that Michigan's maintenance plans adequately address the five basic components of a maintenance plan: attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. In addition, as required by section 175A(b) of the CAA, Michigan has committed to submit to the EPA updated ozone maintenance plans for the Berrien and Muskegon areas eight years after redesignation of the Berrien and Muskegon areas, respectively, to cover an additional ten years beyond the initial 10-year maintenance period. Thus, the EPA finds that the maintenance plan SIP revisions submitted by Michigan for the Berrien and Muskegon areas meet the requirements of section 175A of the CAA, and the EPA proposes to approve them as revisions to the Michigan SIP.

V. Has the State adopted approvable motor vehicle emission budgets?

A. Motor Vehicle Emission Budgets

Under section 176(c) of the CAA, new transportation plans, programs, or projects that receive Federal funding or support, such as the construction of new highways, must "conform" to (*i.e.*, be consistent with) the SIP. Conformity to the SIP means that transportation activities will not cause or contribute to any new air quality violations, increase the frequency or severity of any existing air quality problems, or delay timely

attainment or any required interim emissions reductions or any other milestones. Regulations at 40 CFR part 93 set forth the EPA policy, criteria, and procedures for demonstrating and ensuring conformity of transportation activities to a SIP. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS, but that have been redesignated to attainment with an approved CAA section 175A maintenance plan for the NAAQS.

Under the CAA, States are required to submit, at various times, control strategy SIPs for nonattainment areas and maintenance plans for areas seeking redesignations to attainment of the ozone standard and maintenance areas.[29] These control strategy SIPs (including reasonable further progress plans and attainment plans) and maintenance plans must include motor vehicle emissions budgets for criteria pollutants, including ozone, and their precursor pollutants (VOC and NOx) to address pollution from on-road transportation sources. The budgets are the portion of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance.[30]

Under 40 CFR part 93, a budget for an area seeking a redesignation to attainment must be established, at minimum, for the last year of the maintenance plan. A State may adopt budgets for other years as well.

Michigan's maintenance plans include NOx and VOC budgets for the Berrien and Muskegon areas for 2032, which is an interim year, as well as 2036, which is the last year

[29] *See* the SIP requirements for the 2015 ozone standard in the EPA's December 6, 2018 (83 FR 62998) implementation rule.
[30] *See* 40 CFR 93.101.

of the maintenance period. The EPA has reviewed Michigan's NOx and VOC budgets for the Berrien and Muskegon areas and, in this action, is proposing to approve them as meeting the adequacy criteria in the transportation conformity regulations (40 CFR 93.118(e)(4)).[31] Michigan's December 26, 2025, maintenance plan submissions, including the budgets for these areas, are available for public comment via this proposed rulemaking. The submission was endorsed by the Governor's designee and Michigan provided opportunity for a public hearing. The budgets were developed as part of an interagency consultation process which includes Federal, State, and local agencies. The budgets were clearly identified and precisely quantified. These budgets, when considered together with all other emissions sources, are consistent with maintenance of the 2015 ozone NAAQS.

Table 9. Motor Vehicle Emissions Budgets for the Berrien area for the 2032 interim year and 2036 maintenance year (tons per ozone season day).

	2032 interim year			2036 maintenance year		
	Projected on-road emissions	Safety margin allocation	Total Budget	Projected on-road emissions	Safety margin allocation	Total Budget
NOx	1.01	1.04	2.06	0.75	1.21	1.96
VOC	1.20	0.45	1.65	1.01	0.58	1.59

Table 10. Motor Vehicle Emissions Budgets for the Muskegon area for the 2032 interim year and 2036 maintenance year (tons per ozone season day).

	2032 interim year			2036 maintenance year		
	Projected on-road emissions	Safety margin allocation	Total Budget	Projected on-road emissions	Safety margin allocation	Total Budget
NOx	0.60	0.67	1.27	0.43	0.81	1.24
VOC	1.04	0.25	1.29	0.88	0.36	1.24

As shown in Table 9, for the Berrien area, the 2032 and 2036 budgets exceed the

[31] *See* 40 CFR 93.118(f)(2) for requirements associated with making adequacy findings through rulemaking on a submitted SIP.

estimated 2032 and 2036 on-road sector emissions. Likewise, as shown in Table 10, for the Muskegon area, the 2032 and 2036 budgets exceed the estimated 2032 and 2036 on-road sector emissions. To accommodate future variations in VMT in the area, EGLE allocated to the mobile sector a portion of the safety margin, as described further below.[32] Michigan has demonstrated that the Berrien area can maintain the 2015 ozone NAAQS in the 2036 maintenance year with mobile source emissions of 1.96 tons per ozone season day of NOx and 1.59 tons per ozone season day of VOC. Similarly, the Berrien area can maintain the 2015 ozone NAAQS in the 2032 interim year with mobile source emissions of 2.06 tons per ozone season day of NOx and 1.65 tons per ozone season day of VOC. Michigan has demonstrated that the Muskegon area can maintain the 2015 ozone NAAQS in the 2036 maintenance year with mobile source emissions of 1.24 tons per ozone season day of NOx and 1.24 tons per ozone season day of VOC. Similarly, the Muskegon area can maintain the 2015 ozone NAAQS in the 2032 interim year with mobile source emissions of 1.27 tons per ozone season day of NOx and 1.29 tons per ozone season day of VOC. Despite partial allocation of each area's safety margins, each area's emissions will remain under emission levels in the 2023 attainment year.

The EPA is initiating the adequacy process and proposing to approve the budgets for use to determine transportation conformity in the Berrien and Muskegon areas, because the EPA has determined that the areas can maintain attainment of the 2015 ozone NAAQS for the relevant maintenance periods with mobile source emissions at the levels of the budgets.

B. What is a safety margin?

[32] Allocation of a safety margin to an area's motor vehicle emissions budgets is provided for by the transportation conformity rule. *See* 40 CFR 93.124(a).

A “safety margin” is the amount by which the total projected emissions from all sources of a given pollutant are less than the total emissions that would satisfy the applicable requirement for maintenance. 40 CFR 93.101. As noted in Tables 5 and 6, the emissions in the Berrien area are projected to have safety margins of 1.73 tons per ozone season day for NOx and 0.82 tons per ozone season day for VOC in 2036 (the difference between emissions in the 2023 attainment year, and projected emissions in the 2036 maintenance year, for all sources in the Berrien area). Similarly, in Berrien, there is a safety margin of 1.49 tons per ozone season day for NOx and 0.64 tons per ozone season day for VOC in 2032. As shown in Tables 7 and 8, the emissions in the Muskegon area are projected to have safety margins of 1.15 tons per ozone season day for NOx and 0.52 tons per ozone season day for VOC in 2036 (the difference between emissions in the 2023 attainment year, and projected emissions in the 2036 maintenance year, for all sources in the Berrien area). Similarly, in Muskegon, there is a safety margin of 0.96 tons per ozone season day for NOx and 0.36 tons per ozone season day for VOC in 2032. Even if emissions exceeded projected levels by the full amount of the safety margins, the areas would still demonstrate maintenance since emission levels would equal those in the attainment year.

As shown in Tables 9 and 10 above, Michigan is allocating a portion of that safety margin to the mobile sector in Berrien and Muskegon. Specifically, in 2032, Michigan is allocating 1.04 tons per ozone season day and 0.45 tons per ozone season day of the NOx and VOC safety margins, respectively, in Berrien. In 2036, Michigan is allocating 1.21 tons per ozone season day and 0.58 tons per ozone season day of the NOx and VOC safety margins, respectively, in Berrien. Similarly, for Muskegon, in 2032, Michigan is

allocating 0.67 tons per ozone season day and 0.25 tons per ozone season day of the NOx and VOC safety margins, respectively. In 2036, Michigan is allocating 0.81 tons per ozone season day and 0.36 tons per ozone season day of the NOx and VOC safety margins, respectively, in Muskegon. Michigan is not requesting allocation to the budgets of the entire available safety margins reflected in the demonstrations of maintenance. In fact, the amounts allocated to the budgets represent only a portion of the 2032 and 2036 safety margins. Therefore, even though the State is requesting budgets that exceed each area's projected on-road mobile source emissions for 2032 and 2036 contained in the demonstrations of maintenance, the increases in on-road mobile source emissions that can be considered for transportation conformity purposes are within the safety margins of the ozone maintenance demonstrations. Further, once allocated to mobile sources, these safety margins will not be available for use by other sources.

VI. Enhanced Monitoring Plan.

Section 182(c)(1) of the CAA requires States with nonattainment areas classified Serious or higher to adopt and implement a program to improve air monitoring for ambient concentrations of ozone, NOx, and VOC. The EPA initiated the PAMS program in February 1993. The PAMS program required the establishment of an enhanced monitoring network in all ozone nonattainment areas classified as Serious, Severe, or Extreme.

Since that time, the EPA concluded that requiring enhanced monitoring for ozone nonattainment areas classified as Moderate or above is appropriate for the purposes of monitoring ambient air quality and better understanding ozone pollution. In the EPA's

revision to the ozone standard on October 1, 2015,[33] the EPA relied on the authority provided in sections 103(c), 110(a)(2)(B), 114(a) and 301(a)(1) of the CAA to expand the PAMS applicability to areas other than those that are Serious or above ozone nonattainment and substantially revise the PAMS requirements in 40 CFR part 58 appendix D (80 FR 65292). Specifically, this rule required states with Moderate and above ozone nonattainment areas to develop and implement an EMP. These plans should detail enhanced ozone and ozone precursor monitoring activities to be performed to better understand area-specific ozone issues.

West Michigan has three nonattainment areas, which include the Muskegon, Coloma, and Holland air monitoring sites located in the Muskegon, Berrien, and Allegan areas, respectively. Due to the similar nature of the West Michigan nonattainment areas, only the Holland site was chosen to conduct enhanced monitoring. To meet this requirement, Michigan submitted its updated EMP as part of the Michigan Ambient Air Monitoring 2025 Network Plan, which has been approved by the EPA. Michigan will continue to meet the CAA section 182(c)(1) EMP requirements by maintaining the air monitoring network. Michigan will work with the EPA through the air monitoring network review process, as required by 40 CFR part 58, to determine the adequacy of the ozone monitoring network, additional monitoring needs, and recommended monitor decommissions. Air monitoring data from these monitors will continue to be quality-assured, reported, and certified according to 40 CFR part 58.

Michigan will continue to meet the CAA section 182(c)(1) EMP requirements by including its EMP in Michigan's Air Monitoring Network Plan, which is subject to

[33] *See* 80 FR 65292 (October 26, 2015),

review by the EPA and approval on an annual basis. Therefore, the EPA is proposing to find that Michigan has met the EMP requirements for the Berrien and Muskegon areas for the 2015 ozone NAAQS.

VII. Serious VOC RACT.

A. What are the Serious VOC RACT requirements?

Section 182(c) of the CAA requires States with Serious nonattainment areas to implement the VOC RACT requirements of Section 182(b)(2) with the addition that a "major source" is one that emits, or has the potential to emit, at least 50 tons per year of VOC.

B. Michigan's Serious VOC RACT submittal

On May 5, 2026, EGLE submitted a finalized addendum to the West Michigan Serious Attainment Plan, dated January 13, 2026. This document demonstrates Michigan's fulfillment of the Serious RACT requirements for VOCs under Section 182(c) of the CAA for the Berrien and Muskegon ozone nonattainment areas.

The EPA proposed to approve Michigan's Moderate VOC RACT SIP for the Berrien and Muskegon areas in a separate action on February 27, 2026 (91 FR 9793). Therefore, the EPA is proposing to determine that the controls for the CTG categories continue to satisfy VOC RACT under the Serious 2015 ozone NAAQS classification for the Berrien and Muskegon nonattainment areas.

EGLE conducted a comprehensive review to determine whether any non-CTG sources of VOCs within the Berrien County and Muskegon ozone nonattainment areas meet the applicability thresholds for RACT under the Serious classification of the 2015 ozone NAAQS following the EPA's reclassification of the area from Moderate to Serious

nonattainment. This evaluation consisted of four steps:

- An emissions inventory screening using 2023 and 2024 VOC emissions data;
- Review of operating units and processes at facilities identified by the initial screening to identify and exclude from consideration those units and processes that are subject to existing CTG rules;
- Permit database reviews for the non-CTG processes identified as being non-CTG sources of VOCs to identify sources that have obtained opt-out permits, are no longer permitted to operate, or have conditions within a permit that restrict the VOC PTE of the facility to a level below 50 tpy due to limits on operational capacity or material usage; and
- Field staff verifications on operational and VOC PTE status.

Within the partial county Muskegon ozone nonattainment area, in the emissions inventory review, EGLE identified eight facilities that reported actual VOC emissions exceeding 10 tpy in either 2023 or 2024. These facilities were then further investigated, and EGLE found that, at three of the identified facilities (MPLX Terminals LLC - North Muskegon Terminal, Structural Concepts Corporation, and Seal Bond, LLC), all of the operating units are subject to CTG VOC RACT rules, eliminating the need for a case-by-case VOC RACT demonstration. EGLE then conducted a review of permitting records for three more of the facilities (Lorin Industries, Tech Line Products, and M. Argueso & Company, Inc.) and found that each of them have approved permits limiting VOC potential emissions to far below the required limit of 50 tpy for Serious VOC RACT, removing these facilities from further consideration. EGLE field staff confirmed that of the two remaining identified facilities (American Chemical Solutions, LLC and CWC

Textron), one was permanently shut down in 2024, and the other does not qualify as a major source under the Serious ozone classification due to an emissions report submitted in 2023 demonstrating VOC potential emissions are below the 50 tpy threshold. Therefore, both facilities are eliminated from further consideration.

Based on their evaluation, EGLE has concluded that no non-CTG sources in the Michigan portion of the Muskegon County ozone nonattainment area meet the Serious major source threshold of 50 tpy; therefore, no case-by-case VOC RACT determinations are required. The EPA reviewed EGLE's evaluation of these sources and agrees with the State's determination that none of the non-CTG facilities in the Muskegon nonattainment area meet the Serious major source threshold. As such, the EPA is proposing that the Muskegon nonattainment area meets the Serious level VOC RACT requirement under the 2015 ozone standard.

Within the Berrien County Ozone nonattainment area, in the emissions inventory review, EGLE identified thirteen facilities that reported actual VOC emissions exceeding 10 tpy in either 2023 or 2024. EGLE further investigated these facilities and found that, at seven of the identified facilities (MPLX Terminals LLC - Niles Terminal, Buckeye Terminals, LLC – Niles Terminal, NCP Coatings, Pratt Intermodal Chassis, LLC, Toefco Engineered Coating Systems, Inc., Regal Finishing Company, Inc., and Pilkington North America, Inc.), all of the operating units are subject to CTG VOC RACT rules, eliminating the need for a case-by-case VOC RACT demonstration.

In EGLE's review of permitting records for the Citgo Petroleum Corporation facility, it found that this facility approved an opt-out permit limiting its facility-wide VOC potential emissions to below the required limit of 50 tpy through maximum fuel

usage conditions. The EPA is proposing to approve the following sections' conditions of PTI No. 42-05E v2.0, issued to Citgo Petroleum Corporation on January 15, 2026, for incorporation into the Michigan SIP to meet Serious VOC RACT for this source: SC I.1, I.2, II.1, II.2, II.3, V.3, VI.1, and VI.2, under EULOADRACK; SC I.1, II.1, II.2, VI.1, VI.2, and VI.3 under FGFUELTANKS; SC I.1, II.2, VI.1, and VI.2 under FGETHANOLTANKS; SC I.1 and VI.1 under FGFACILITY).

EGLE also identified three Municipal Solid Waste (MSW) landfills (Forest Lawn Landfill, Orchard Hill Sanitary Landfill, and Southeast Berrien County Landfill Authority) that are not subject to Michigan's CTG VOC RACT rules under part 6 of the Michigan Air Pollution Control Rules, and thus require case by case VOC RACT demonstrations to meet the serious RACT requirement in Berrien County. Both Orchard Hill and Southeast Berrien County landfills contain landfill gas-fired internal combustion engines that serve as key components of their landfill gas collection, treatment, and control systems.

All three MSW landfills subject to Serious VOC RACT in Berrien County achieve the 98% VOC emissions control level that is specified under 40 CFR part 62, subpart OOO. EGLE demonstrated that the current landfill gas collection, treatment, and control systems operated at these three landfills fulfill the requirements for non-CTG serious VOC RACT under CAA 182(b)(2) and align with the provisions under Michigan Rule 602(4). The Federal plan requirements under 40 CFR, part 62, subpart OOO and the National Emission Standards for Hazardous Air Pollutants (NESHAP) under 40 CFR part 63, subpart AAAA are already reflected in the permits of all three sources and are enforceable.

EGLE staff also identified and evaluated additional control strategies that could be utilized to reduce VOC emissions at Forest Lawn Landfill, Orchard Hill Sanitary Landfill, and Southeast Berrien County Landfill Authority. These control measures included upgrading open flares to enclosed flares and passively routing the landfill gas to a biofilter or biocover. Both options were found to be economically unreasonable as the implementation of these controls will likely not produce air quality benefits that justify the cost.

In order to satisfy Serious RACT in the Berrien County 2015 ozone nonattainment area, EGLE determines that 40 CFR part 62, subpart OOO and 40 CFR part 63, subpart AAAA, along with the incorporation of applicable sections and conditions in the permits for the non-CTG major sources represent Serious level RACT for the Berrien County nonattainment area under the 2015 ozone standard.

For Forest Lawn Landfill, MI-PTI-N2407-2021b, issued on February 8, 2021, and revised on January 23, 2023, all sections under FGLANDFILL-OOO, FGLANDFILL-AAAA, FGACTIVECOLL-OOO, FGOPENFLARE-OOO, and FGOPENFLARE-AAAA are being submitted for incorporation into the Michigan SIP.

For Orchard Hill Sanitary Landfill and Energy Developments Watervliet, LLC MI-PTI-N5719-2023, issued , LLC on March 8, 2023, all sections under FGLANDFILL-OOO, FGLANDFILL-AAAA, FGACTIVECOLL-OOO, FGACTIVECOLL-AAAA, FGOPENFLARE-OOO-1, FGOPENFLARE-AAAA-1, FGTREATMENTSYS-OOO, FGTREATMENTSYS-AAAA, FGOPENFLARE-OOO-2, and FGOPENFLARE-AAAA-2 are being submitted for incorporation into the Michigan SIP. Also, within MI-PTI-N5719-2023, SC I.1, III.1, and IV.1 under EUICEENGINE3 and SC I.5, I.7, III.1,

III.3, and IV.1 under FGICEENGINES are being submitted for incorporation into the Michigan SIP.

For Southeast Berrien County Landfill Authority and North American Natural Resources SBL, MI-PTI-N5432-2022a, issued LLC on October 21, 2022, and Revised on October 7, 2024, all sections under FGLANDFILL-OOO, FGLANDFILL-AAAA, FGACTIVECOLL-OOO, FGACTIVECOLL-AAAA, FGOPENFLARE-OOO, FGOPENFLARE-AAAA, FGTREATMENTSYS-OOO, and FGTREATMENTSYS-AAAA are being submitted for incorporation into the Michigan SIP. Additionally, within PTI0000132 v1.0, issued to North American Natural Resources SBL, LLC on November 3, 2025, SC I.6, I.7, III.1, and IV.1 under FGENGINES are being submitted for incorporation into the Michigan SIP.

All of these documents are available in the docket for this action. The EPA reviewed EGLE's evaluation of these sources and agrees that these provisions satisfy the Serious level non-CTG VOC RACT requirements for the Berrien County nonattainment area under the 2015 ozone standard.

VIII. NOx RACT Waiver.

In some cases, an ozone nonattainment area might attain the ozone standard, as demonstrated by three consecutive years of adequate monitoring data, without having implemented the section 182(f) NOx provisions over that 3-year period. Where the NOx requirements were not implemented over that 3-year period, the section 182(f) language is met since "additional" reductions of NOx would not contribute to attainment. That is, since attainment has already occurred, additional NOx reductions could not improve the area's attainment status and, therefore, the NOx exemption request could be approved.

The EPA's approval of the exemption, if warranted, would be granted on a contingent basis (*i.e.*, the exemption would last for only so long as the area's monitoring data continue to demonstrate attainment). The State must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area. The air quality data relied on for the above determinations must be consistent with 40 CFR part 58 to verify the attainment status of the area. The air quality data relied on for the above determinations must be consistent with 40 CFR part 58 requirements and other relevant EPA guidance. If it is subsequently determined by the EPA that the area has violated the standard, the EPA would conduct notice and comment rulemaking to remove the NOx exemption. On May 5, 2026, EGLE submitted a CAA section 182(f) waiver from NOx RACT requirements. Specifically, Michigan requested to exempt major stationary sources of NOx (as defined in section 302 and subsections 182(c) and (d) of the CAA) from the RACT requirements of section 182(b)(2), based on the fact that the nonattainment areas, as the result of permanent and enforceable emission control measures, have recorded complete, quality-assured ambient air quality monitoring data for the years 2023-2025, demonstrating attainment of the 2015 ozone standards. On March 12, 2026 (91 FR 12123), the EPA proposed to determine that the Berrien and Muskegon areas attained the 2015 ozone NAAQS based on ozone monitoring data for the 2023-2025 period. A summary of the monitoring data relied upon in this proposal is included in Table 1 for the Berrien area and in Table 2 for the Muskegon area. Providing the EPA finalizes the CDD, the areas are eligible for a waiver of Serious NOx RACT requirements, as specified in section 182(f)(1)(A) of the CAA. Upon final approval of the NOx waiver, Michigan will not be required to adopt

and implement serious NOx RACT requirements pursuant to section 182(f) for the Berrien and Muskegon areas to qualify for redesignation. If the EPA fails to finalize the CDDs or if the design value of a monitoring site in the areas violates the NAAQS prior to the EPA's final action, then the EPA would not be able to finalize approval of a NOx waiver for the respective area.

IX. What Action is the EPA Taking?

The EPA is proposing to act in accordance with EGLE's requests to redesignate the Berrien and Muskegon areas to attainment for the 2015 ozone NAAQS because the requests meet the statutory requirements for redesignation under the CAA. The EPA is also proposing to approve, as revisions to the Michigan SIP, the State's maintenance plans for the Berrien and Muskegon areas (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plans are designed to keep the Berrien and Muskegon areas in attainment of the 2015 ozone NAAQS through 2036. As part of the maintenance plans, the EPA is initiating the adequacy process and proposing to approve the newly established 2032 and 2036 VOC and NOx budgets for the Berrien and Muskegon areas. The EPA is also proposing to approve several elements which meet the requirements of section 110 and part D of the CAA and the EPA's regulations for an area classified as Serious nonattainment for the 2015 ozone NAAQS. These elements include the EMP, Serious VOC RACT, and a serious NOx RACT waiver. The EPA is proposing to determine that upon final approval of Michigan's maintenance plans, clean data determinations, Moderate VOC and NOx RACT submittals, EMP, Serious VOC RACT submittal, and a Serious NOx RACT waiver, the areas will have met the requirements for redesignation under section 107(d)(3)(E) of the CAA. The EPA is thus

proposing to change the legal designation of the Berrien and Muskegon areas from nonattainment to attainment for the 2015 ozone NAAQS.

X. Incorporation by Reference.

In this rulemaking, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the following sections of facility permits: MI-PTI-N2407-2021b, sections under FGLANDFILL-OOO, FGLANDFILL-AAAA, FGACTIVECOLL-OOO, FGOPENFLARE-OOO, and FGOPENFLARE-AAAA; within MI-PTI-N5719-2023, all sections under FGLANDFILL-OOO, FGLANDFILL-AAAA, FGACTIVECOLL-OOO, FGACTIVECOLL-AAAA, FGOPENFLARE-OOO-1, FGOPENFLARE-AAAA-1, FGTREATMENTSYS-OOO, FGTREATMENTSYS-AAAA, FGOPENFLARE-OOO-2, and FGOPENFLARE-AAAA-2, effective February 8, 2021, and revised on January 23, 2023; within MI-PTI-N5719-2023, SC I.1, III.1, and IV.1 under EUICEENGINE3 and SC I.5, I.7, III.1, III.3, and IV.1 under FGICEENGINES, effective March 8, 2023; within MI-PTI-N5432-2022a, all sections under FGLANDFILL-OOO, FGLANDFILL-AAAA, FGACTIVECOLL-OOO, FGACTIVECOLL-AAAA, FGOPENFLARE-OOO, FGOPENFLARE-AAAA, FGTREATMENTSYS-OOO, and FGTREATMENTSYS-AAAA, effective October 21, 2022, and revised on October 7, 2024; and within PTI0000132 v1.0, SC I.6, I.7, III.1, and IV.1 under FGENGINES, effective November 3, 2025; and the following portions of PTI No. 42-05E v2.0: SC I.1, I.2, II.1, II.2, II.3, V.3, VI.1, and VI.2 under EULOADRACK; SC I.1, II.1, II.2, VI.1, VI.2, and VI.3 under FGFUELTANKS; SC I.1, II.2, VI.1, and VI.2 under FGETHANOLTANKS; SC I.1 and

VI.1 under FGFACILITY), effective January 15, 2026, into Michigan's SIP, as discussed in section VII of this preamble. The EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

XI. Statutory and Executive Order Reviews.

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by State law. A redesignation to attainment does not in and of itself create any new requirements but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, 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 approve State choices, provided that they meet the criteria of the CAA. Accordingly, the proposed actions to approve Michigan's SIP submissions merely approve State law as meeting Federal requirements and do not impose additional requirements beyond those imposed by State law. For these reasons, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rulemaking does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

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

Dated: July 13, 2026.
Anne Vogel,
Regional Administrator, Region 5.

[FR Doc. 2026-15167 Filed: 7/27/2026 8:45 am; Publication Date: 7/28/2026]