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March 27, 2026

Ashley Keas
Environmental Protection Agency
Region 7 Office
Air and Radiation Division
11201 Renner Boulevard
Lenexa, Kansas 66219

RE: Air Plan Approval; Missouri; Clean Data Determination for the 2015 8-Hour Ozone Standard for the Missouri Portion of the St. Louis Nonattainment Area; Docket ID No. EPA–R07– OAR–2026–0463

Dear Ms. Keas:

On February 26, 2026, the US EPA (EPA) proposed (91 Fed. Reg. 9519) to determine under the Clean Air Act (CAA) that the Missouri portion of the St. Louis, MO-IL nonattainment area (hereafter also referred to, respectively, as the ''St. Louis area'' or ''area'') has achieved clean data for the 2015 ozone National Ambient Air Quality Standards (NAAQS or standard).

The Midwest Ozone Group[1] ("MOG") is pleased to provide comments[2] in support of the proposed approval. MOG is an affiliation of companies and

[1] The membership of the Midwest Ozone Group includes: Ameren, American Electric Power, American Forest & Paper Association, American Iron and Steel Institute, American Wood Council, Appalachian Region Independent Power Producers Association, Associated Electric Cooperative, Berkshire Hathaway Energy, Big Rivers Electric Corp., Buckeye Power, Inc., Citizens Energy Group, City Water, Light & Power (Springfield IL), Cleveland-Cliffs Inc., Council of Industrial Boiler Owners, East Kentucky Power Cooperative, ExxonMobil, FirstEnergy Corp., Indiana Energy Association, Indiana-Kentucky Electric Corporation, Indiana Municipal Power Agency, Indiana Utility Group, Hoosier Energy REC, inc., LGE/ KU, Marathon Petroleum Company, National Lime Association, North American Stainless, Nucor Corporation, Ohio Utility Group, Ohio Valley Electric Corporation, Olympus Power, Steel Manufacturers Association, and Wabash Valley Power Alliance.

[2] These comments were prepared with the technical assistance of Alpine Geophysics, LLC.

associations that draws upon its collective resources to seek solutions to the development of legally and technically sound air quality programs that may impact their facilities, their employees, their communities, their contractors, and the consumers of their products. MOG's primary efforts are to work with policy makers in evaluating air quality policies by encouraging the use of sound science.

MOG has been actively engaged in a variety of issues and initiatives related to the development and implementation of air quality policy, including the development of transport rules, NAAQS standards, nonattainment designations, petitions under Sections 126, 176A and 184(c) of the Clean Air Act ("CAA"), NAAQS implementation guidance, the development of Good Neighbor State Implementation Plans, exceptional events and 179B demonstrations, and related regional haze and climate change issues.

I. Regulatory Background

Exceptional Events

When amending the Clean Air Act in 2005, Congress intended to provide regulatory relief for NAAQS nonattainment resulting from exceptional events negatively affecting air quality that were outside of a state's control. That concern led to enactment of provisions specifically establishing the process by which U.S. Environmental Protection Agency ("U.S. EPA") could exclude air quality monitoring data directly related to an exceptional event. See 42. U.S.C. § 7619. Subsequently, U.S. EPA promulgated the exceptional events rule. 40 C.F.R. § 50.14.

Clean Air Act §7619(b) addresses exceptional events in accordance with a process by which air quality monitoring data affected by unusual, uncontrollable events may be excluded from decisions about whether an area meets the National Ambient Air Quality Standards. Specifically, CAA §7619(b)(2)(B) requires that

> (i) the occurrence of an exceptional event must be demonstrated by reliable, accurate data that is promptly produced and provided by Federal, State, or local government agencies;
>
> (ii) a clear causal relationship must exist between the measured exceedances of a national ambient air quality standard and the exceptional event to demonstrate that the exceptional event caused a specific air pollution concentration at a particular air quality monitoring location;

> (iii) there is a public process for determining whether an event is exceptional; and
>
> (iv) there are criteria and procedures for the Governor of a State to petition the Administrator to exclude air quality monitoring data that is directly due to exceptional events from use in determinations by the Administrator with respect to exceedances or violations of the national ambient air quality standards.

On October 3, 2016, EPA finalized a rule provided guidance entitled "Treatment of Data Influenced by Exceptional Events." 81 Fed. Reg. 68216. However, on March 12, 2025, EPA Administration Zeldin announced that the agency intends to revisit this rulemaking for exceptional events. See U.S. Environmental Protection Agency, Press Release: EPA Launches Biggest Deregulatory Action in U.S. History (March 12, 2025).

In furtherance of that announcement, on October 16, 2025, Aaron Szabo, AA, Office of Air and Radiation released a memorandum to the Regional Administrators and Deputy Regional Administrators titled, "EPA Policy on Provisions to Allow Wildland Prescribed Fire in Clean Air Act State Implementation Plans." See: https://www.epa.gov/system/files/documents/2025-10/signed_final_prescribed-fire-policy-memo_25-06684-oar-gsg.pdf. This memo specifically provides that:

- "Prescribed fire" has the same definition as in the Exceptional Events Rule at 40 CFR 50.1(m): "any fire intentionally ignited by management actions in accordance with applicable laws, policies, and regulations to meet specific land or resource management objectives."

- CAA §319(b) and the EPA's Exceptional Events Rule establish procedures and criteria that allow for the exclusion of data influenced by an exceptional event from certain regulatory decisions regarding attainment and maintenance of the NAAQS, including exceptional events. Prescribed fires on wildland are eligible for treatment as exceptional events and air quality monitoring data influenced by such events can therefore be excluded from certain regulatory decisions regarding the NAAQS if the CAA and Exceptional Events Rule criteria are met."

Importantly, the subject Exceptional Events Rule identifies as series of actions that were deemed to be the types of regulatory determinations that provide the basis for approval by the Administration of an exceptional events demonstration. In addition to the several specific categories involved, this guidance recognizes that the regulatory

significance of events is also a matter of case-by-case determinations of the Administrator, as set forth below:

> (A) An action to designate an area, pursuant to Clean Air Act §107(d)(1), or redesignate an area, pursuant to Clean Air Act §107(d)(3), for a particular national ambient air quality standard;
>
> (B) The assignment or re-assignment of a classification category to a nonattainment area where such classification is based on a comparison of pollutant design values, calculated according to the specific data handling procedures in 40 CFR Part 50 for each national ambient air quality standard, to the level of the relevant national ambient air quality standard;
>
> (C) A determination regarding whether a nonattainment area has attained the level of the appropriate national ambient air quality standard by its specified deadline;
>
> (D) A determination that an area has data for the specific NAAQS, which qualify the area for an attainment date extension under the CAA provisions for the applicable pollutant;
>
> (E) A determination under Clean Air Act §110(k)(5), if based on an area violating a national ambient air quality standard, that the state implementation plan is inadequate under the requirements of Clean Air Act §110; and
>
> (F) Other actions on a case-by-case basis as determined by the Administrator.
>
> 40 C.F.R. Section 50.14(a); 81 Fed. Reg. at 68217 (emphasis added).

EPA repeatedly emphasizes its intention to rely on the weight of evidence approach, assessing demonstration on a case-by-case basis. Notably, EPA suggests that a state's demonstration "does not necessarily need to be precise" and that the weight of evidence approach is intended to provide a process that is not technically demanding. 81 Fed. Reg. 68227 n.19. In determining what the explicit standard of weight of evidence is, EPA itself likens it to "preponderance of the evidence," which contemplates whether an outcome is more probable than not. 81 Fed. Reg. 68230.

It is also significant that in an EPA memorandum dated April 4, 2019, from EPA Air Quality Assessment Division Director Richard Wayland to the Regional Air Division Directors, nonbinding guidance was provided that specifically recognizes circumstances under which an air agency may seek to exclude specific data influenced by events even in areas that attain NAAQS standards. The Wayland memo "identifies

the most common determinations and analyses not covered by the Exceptional Events Rule, and clarifies for each of them whether there is a separate existing mechanism (apart from the Exceptional Events Rule) under which the exclusion, selection, or adjustment of air quality monitoring data may be appropriate," noting that "…monitoring data exclusion, selection, or adjustment may be considered for the following types of determinations and analyses…" The list articulated includes "… estimating base and future year design values for ozone and PM2.5 SIP attainment demonstrations. *See* Richard Wayland, Director Air Quality Assessment Division, U.S. Environmental Protection Agency, Memorandum: "*Additional Methods, Determinations, and Analyses to Modify Air Quality Data Beyond Exceptional Events*" (April 4, 2019) at p.3. See: https://www.epa.gov/sites/default/files/2019-04/documents/ clarification memo on data modification methods.pdf.

A state requesting data exclusion must also comply with pre-request requirements, which include notifying U.S. EPA of the intent to request exclusion, flagging data to be excluded, engaging in public comments, and implementing mitigation measures. See 40 C.F.R. §50.14(c)(2)(i); 40 C.F.R. §50.14(c)(3)(v); 40 C.F.R. §51.930. In short, there are three core statutory elements: (1) a clear causal relationship; (2) a showing that the event was not controllable, and (3) a showing that the event was human activity unlikely to recur at a particular location or was a natural event.

Depending on the circumstances of a particular exceptional event, a particular tier of evidence is required to provide a compelling case to U.S. EPA to exclude data under the Exceptional Events Rule. In instances where a state provides sufficient evidence to showcase that a given event is indeed an irregularity, U.S. EPA will make a concurring determination and issue an exclusion of that specific event from the dataset. 40 C.F.R. §50.14(c)(2)(ii).

U.S. EPA has recognized that particular events are exceptional and that states may request to exclude them from the dataset, given that a sufficient evidentiary standard is met. *Id;* see generally, 81 Fed. Reg. 68216. U.S. EPA's guidance on wildfire events that may influence ozone concentrations outlines a tiered approach for addressing the clear causal relationship element within a wildfire/ozone demonstration as follows:

> Tier 1 clear causal analyses should be used for wildfire events that cause clear O3 impacts in areas or during times of year that typically experience lower O3 concentrations, and are thus simpler and less resource intensive than analyses for other events. Tier 2 clear causal analyses are likely appropriate when the impacts of the wildfire on O3 levels are less clear and require more supportive documentation than Tier 1 analyses. Tier 3 clear causal analyses should be used for events in which the relationship between the wildfire and the O3 exceedance or violation is more

complicated than the relationship in a Tier 2 analysis, and thus would require more supportive documentation than Tier 2 analyses.[3]

Clean Data Policy

As the proposed approval notes, on November 29, 2005 (70 Fed. Reg. 71612), the EPA set forth what has become known as its ‘‘Clean Data Policy’’ for the 1-hour ozone NAAQS. As stated in the proposed approval, “[u]nder the Clean Data Policy, for a nonattainment area that can demonstrate attainment of the standard before implementing CAA nonattainment measures, the EPA interprets the requirements of the CAA that are specifically designed to help an area achieve attainment, such as the requirements for such area to submit attainment demonstrations and associated RACM, RFP plans, contingency measures for failure to attain or make reasonable progress, and other planning SIPs related to attainment of the ozone NAAQS, to be suspended for as long as air quality continues to meet the standard. Such a determination of attainment under the Clean Data Policy is known informally as a CDD. The policy was codified at 40 C.F.R. 51.1318 on December 6, 2018, in the final rule updating implementing regulations for the 2015 ozone NAAQS.

EPA notes that, under the Clean Data Policy, it may issue a determination of attainment after notice and comment rulemaking determining that a specific area is attaining the relevant standard. For such areas the requirement to submit to EPA those SIP elements related to attaining the NAAQS is suspended for so long as the area continues to attain the standard.

The planning elements that are suspended include reasonable further progress (RFP) requirements, attainment demonstrations, Reasonably Available Control Measures (RACM), contingency measures; and other state planning requirements related to attainment of the NAAQS.

II. The EPA proposal

EPA notes in the proposal approval that it “has reviewed the available ozone monitoring data from MoDNR’s monitoring sites in the St. Louis area for the 2023–2025 period.” EPA states further that “[t]hese data have been quality assured, are recorded in the AQS, and were certified in advance of the EPA’s publication of this proposal. Specifically, Missouri notified the EPA on December 4, 2025, that the 2025 ozone season data for all monitors in the Missouri portion of the St. Louis area had been quality assured and certified in AQS….The annual fourth highest 8-hour ozone concentrations and the 3-year average of these concentrations (monitoring site ozone design values) for all Missouri monitoring sites are summarized in table 2.” Taken

[3] *U.S. EPA, Guidance on the Preparation of Exceptional Events Demonstrations for Wildfire Events that May Influence Ozone Concentrations* (September 2016) at 4.

together, EPA concludes that "[t]hese data demonstrate that the St. Louis area is attaining the 2015 ozone NAAQS," adding that "[s]hould this action be finalized, the requirements for MoDNR to submit attainment demonstrations and associated RACM, RFP plans, contingency measures for failure to attain or make reasonable further progress, and planning elements related to attainment of the 2015 ozone NAAQS for the Missouri portion of the St. Louis area, would be suspended for as long as the area continues to attain the 2015 ozone NAAQS. 40 CFR 51.1318." 91 Fed. Reg. 9522.

III. Conclusion

MOG appreciates this opportunity to offer comments in support of the proposed approval, agrees that the data demonstrates that the Missouri portion of the St. Louis area is attaining the 2015 ozone NAAQS, and urges EPA to finalize the proposed action and, in doing so, confirm that the requirements for MoDNR to submit attainment demonstrations and associated RACM, RFP plans, contingency measures for failure to attain or make reasonable progress, and other planning SIPs related to attainment of the 2015 ozone NAAQS for the Missouri portion of the St. Louis area are suspended for as long as the area continues to attain the 2015 ozone NAAQS.

Very truly yours,

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Counsel for the Midwest Ozone Group