

EXCEPTIONAL EVENTS RULE: Implementation Update

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News and Key Messages on Exceptional Events

- On July 20, we received a favorable decision in NRDC v. EPA, 16-1413 (DC Cir.), regarding the definition of a “natural event.”
 - This was the only legal challenge to the 2016 Exceptional Events Rule
- We have concurred on 18 demonstrations that were submitted after revising the Exceptional Events Rule in September 2016
 - Includes six demonstrations from northeast states for ozone influences from the 2016 Fort McMurray fires in Canada
- We are focused on continuing to improve the implementation process and address stakeholder concerns
- EPA’s exceptional events webpage provides key resources and will continue to be updated as new materials become available
 - <https://www.epa.gov/air-quality-analysis/treatment-air-quality-data-influenced-exceptional-events>

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Mitigation Plans: Guiding Statutory Principles

- Section 319(b)(3)(A) of the Clean Air Act (CAA) specifies five principles that the EPA “shall follow” in promulgating regulations for exceptional events:
 - Protection of public health is the highest priority;
 - Timely information should be provided to the public in any case in which the air quality is unhealthy;
 - All ambient air quality data should be included in a timely manner in an appropriate federal air quality database that is accessible to the public;
 - Each state must take necessary measures to safeguard public health regardless of the source of the air pollution; and
 - Air quality data should be carefully screened to ensure that events not likely to recur are represented accurately in all monitoring data and analyses.
- These principles recognize that air quality’s impacts on public health do not change when air quality data is excluded for regulatory purposes

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Mitigation Plans: Applying the Statutory Principles

- The mitigation plan component of the exceptional events rule was developed with the goal of protecting public health in accordance with CAA Section 319(b)(3)(A) in a low-burden and efficient manner
 - Helps area officials meet minimum public communication obligations
 - Only required for areas with recurring events of the same type and pollutant
 - Air agencies may cross-reference relevant existing plans to meet requirements
 - Examples include Natural Events Action Plans; High Wind Action Plans; Smoke Management Programs; Subpart H Contingency Plans
 - EPA reviews plans for completeness and verifies public comment process but does not substantively “approve” plans

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Mitigation Plans: Initial Area Identification

- The 2016 Exceptional Events Rule identifies the initial areas with recurring events (three events or event seasons in a 3-year time period) that require development of mitigation plans
 - Prepared after notice and opportunity for public comment
 - Submitted for EPA's review and verification of the plan components
- Identified areas were given 2 years from the rule effective date (9/30/18 for initially identified areas) to submit a mitigation plan
 - After the submission deadline, EPA will not concur on demonstrations for events for the same area, event type, and pollutant that are the focus of a mitigation plan if the air agency has not submitted a complete plan

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Mitigation Plans: Required Components

1. **Public notification to and education** programs for affected or potentially affected communities
2. Steps to identify, study, and implement **mitigating measures**
3. Provisions for **periodic review and evaluation** of the mitigation plan and its implementation and effectiveness by the air agency and all interested stakeholders

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Mitigation Plans: Component 1. Public Notification and Education

- Steps to activate public notification and education systems in advance of expected short-term NAAQS exceedances
- Outreach mechanisms could include: Web site alerts, National Weather Service alerts, telephone or text bulletins, television or radio campaigns, social media announcements
- Supporting actions could include: Adoption of forecasting methods, consultation with health department regarding health advisories, suggested actions for sensitive populations (*e.g.*, remain indoors, avoid vigorous outdoor activity)

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Mitigation Plans: Component 2. Mitigating Measures

- Measures to abate or minimize controllable sources, such as:
 - Continuous operation of normally intermittent controls
 - Modified work practices (*e.g.*, spray for dust suppression)
 - Contingent emissions limits during extreme events
- Methods to minimize public exposure
- Processes to collect and maintain event-related data
- Mechanisms to consult with other air quality managers in the affected area regarding the appropriate responses
 - Collaboration between potentially affected local, state, tribal and federal air quality managers and/or emergency response personnel

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Mitigation Plans: Component 3. Periodic Review and Evaluation

- Should include review of implementation and effectiveness by the air agency and all interested stakeholders (*e.g.*, public and private land owners/managers, relevant government agencies, the public)
- Similar to 30-day public comment process required for the public review of an exceptional events demonstration
- Plan for periodic review, including opportunity for new input from stakeholders
 - Air agencies may elect to summarize and submit public comments for subsequent reviews and plan reassessments, but it is not required

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Mitigation Plans: Public Comment Process for Initial Submission

- With the submission of the initial mitigation plan, air agency must
 - Document that a draft version of the mitigation plan was available for public comment for a minimum of 30 days
 - Explain in its submission, for each public comment received, any changes made to the mitigation plan or explain why the air agency did not make changes
- EPA reviews submissions only to ensure that air agencies included required mitigation plan components and conducted public comment process

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Updated Exceptional Events FAQs

- Released July 12, 2018, and available on EPA's exceptional events website
- Replaces the 2013 Interim FAQs to fully reflect the 2016 revisions to the Exceptional Events Rule
 - Revised language to account for revised provisions and procedural changes
 - New information on demonstrations for prescribed fire
 - New section on mitigation plans
- Incorporates valuable air agency input on the draft, including:
 - Full list of questions up front for ease of navigation
 - Additional information on different types of data flags in AQS
 - Additional clarifying language on large-scale high-energy wind events

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Preview of Stratospheric Ozone Intrusion Guidance (SOIG)

- Intended to assist air agencies in preparing demonstrations for stratospheric ozone intrusions that meet the requirements of the EE Rule
- Draft guidance distributed to air agencies via MJOs for input on July 13; requesting feedback emailed to gibson.benjamin@epa.gov by October 15, 2018
- Draft incorporates input from members of the Stratospheric Ozone Intrusion Workgroup organized by Region 8
- Currently 41 pages with 15 illustrative analytical figures

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Preview of SOIG: State of Science

- Guidance outlines key science associated with stratospheric intrusions to lay the groundwork for how to demonstrate an event had a clear causal relationship with high ozone at the surface
- What do we know about these “tropopause folds” that lead to stratospheric intrusions?
 - Surface impacts occur more commonly in the winter/spring than the summer/autumn
 - More common over the western U.S., but can occur elsewhere
 - Surface impacts most common in inland mountain west (at higher elevation)
 - Frequency of events vary from year-to-year
 - Size and duration of stratospheric intrusions can vary
 - Can cause ozone increases of 10 to 180 ppb above normal background

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Preview of SOIG: Tiering Structure

- Provides example language and sample analyses that air agencies may use in their weight-of-evidence demonstrations
- Similar to the guidance on wildfire demonstrations, and consistent with input from air agency partners, this guidance promotes a multi-tier approach to help ‘right-size’ demonstrations
 - **Tier 1:** Events that occur when conditions for photochemical production of ozone are clearly unfavorable and yet surface values are much higher than normal observations AND the meteorological pattern suggests an SI may exist
 - **Tier 2:** Events where local photochemical ozone production may exist simultaneously with stratospheric ozone contributions, or for events where the observed ozone is in the range of normal seasonal values at that location
- Will be accompanied by technical resource list on exceptional events web page

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Update on Additional Implementation Resources

- EPA resources available online – Search “EPA Exceptional Events”
 - Updated FAQs
 - Wildfire-Ozone Guidance
 - 2007-to-2016 Rule Crosswalk
 - Best Practices for Multi-State Exceptional Events Demonstrations
 - Mitigation Plan Checklist
 - Example demonstrations and EPA responses
- Additional resources coming soon
 - By end of 2018:
 - Updates to EPA Exceptional Events website (more user-friendly, additional resource links)
 - Updated High Winds Guidance
 - Clarification Memo on Data Consideration (aka Alternate Paths)
 - Webpage updates with new external resources and easier navigation (including great suggestions from Idaho – thanks!)
 - Early 2019:
 - Prescribed Fire-Ozone Guidance
 - Electronic tracking system for submissions and responses (pending funding)

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Questions and Comments



Email: gibson.benjamin@epa.gov

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