

2016 EXCEPTIONAL EVENTS RULE: Implementation Update

Ben Gibson

U.S. EPA / Office of Air Quality Planning & Standards / Air Quality Policy Division

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Key Messages on 2016 Exceptional Events Rule Implementation

- Since finalizing the 2016 rule, EPA has concurred on ozone demonstrations for CT, LA, MA, MD, NJ, PA, RI, TX, Ute Tribe (Utah), and Washoe County (Nevada)
- We remain focused on continuous improvement by engaging with stakeholders, addressing concerns, and streamlining the process
- Many of the things we are already doing or working to implement under the revised rule are intended to address existing concerns such as ensuring timely review processes, right-sizing demonstrations, fostering national consistency, and providing additional resources

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Background on 2016 Revisions

- During consultations to inform 2016 revisions to the Exceptional Events Rule, stakeholders identified several issues that impacted their ability to navigate the exceptional events process for planning purposes and regulatory relief
 - EPA was not acting on demonstrations in a timely manner and, in some cases, not at all
 - EPA's expectations for the level of analytical rigor in demonstrations were too high and costly to meet
 - The rule provisions were inconsistently applied across different EPA regions
- The EPA developed the revised 2016 Exceptional Events Rule with the goal of addressing these and other stakeholder concerns

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Key 2016 Revisions – Clarified Scope

- To help streamline demonstrations, the EPA developed rule language that more closely aligns with the statutory language – specifically, a focus on demonstrating the following:
 - A clear causal relationship between the event and the monitored exceedances or violations;
 - The event was not reasonably controllable or preventable; and
 - The event was human activity unlikely to recur at a particular location or a natural event.
- The new rule also clarifies the five regulatory actions to which the rule applies, and preserved flexibility to consider other actions on a case-by-case basis

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Key 2016 Revisions – Communication, Flexibility, Accountability

- A new Initial Notification Process (INP) fosters communication between air agencies and the EPA to help focus efforts on developing demonstrations that have regulatory significance, and to ensure air agencies can develop right-sized approvable demonstrations
 - Initial evidence suggests that, in most cases, the INP is working as intended – kick-starting conversations between the EPA and air agencies to help establish expectations for the demonstration development and review process
- To give air agencies more flexibility around when they develop demonstrations, the EPA removed exceptional event flagging and demonstration submittal deadlines for situations other than initial area designations
- To increase EPA accountability and better inform expectations around review times, the preamble to the final rule includes intended timelines for the EPA's response at various stages in the exceptional events process

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Key 2016 Revisions – Mitigation Plans

- 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 applicable requirements for mitigation plans
 - 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 “approve” plans
- OAQPS conducted a national webinar on mitigation plans on April 18, 2018
- Mitigation plans for initially identified areas are due September 30, 2018

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Rule Implementation Outreach and Engagement

- Since the revised rule was finalized, OAQPS has been actively engaging with stakeholders through a number of venues to share information and gather air agency feedback
 - Hosted a national webinar to introduce the revised rule
 - Conducted two implementation workshops for stakeholders
 - Presented at a number of air planning organization meetings
 - Organized national call on “alternate paths”
 - Hosted national webinar on mitigation plans
 - Planning a webinar for Tribal Communities in May

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Currently Available Implementation Resources

- We have posted on our exceptional events website a number of implementation resources to clarify certain aspects of the revised rule and provide examples
 - *Wildfire-Ozone Guidance* to assist air agencies in developing demonstrations for wildfire events that cause elevated ozone levels in downwind areas
 - *2007-to-2016 Exceptional Events Rule Crosswalk* to provide a concise understanding of provisional changes under the revised rule
 - *Best Practices for Multi-Agency Demonstrations* to describe options for air agencies to collaborate on developing demonstrations
 - *Mitigation Plan Checklist* to assist air agencies in developing exceptional events mitigation plans
 - Examples of successful demonstrations developed under the 2016 rule for both ozone and particulate matter

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Additional Implementation Resources Under Development

- EPA is committed to successful implementation of the exceptional events rule, continuing with plans for new resources in 2018
 - Updated FAQs
 - New documents to further assist with the development of demonstrations for high wind dust events, prescribed fire, and stratospheric ozone intrusions
 - Document that clarifies “alternate paths” for data exclusion
 - National electronic tracking system for exceptional events demonstrations and EPA responses (similar to SPeCS for SIPs)
- Visit EPA’s exceptional events webpage for currently available resources, with new materials to be posted once they are finalized
 - <https://www.epa.gov/air-quality-analysis/treatment-data-influenced-exceptional-events>
(or Google “EPA Exceptional Events”)

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Questions and Comments



gibson.benjamin@epa.gov

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