



San Joaquin Valley

AIR POLLUTION CONTROL DISTRICT

June 29, 2011

Gina McCarthy, Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20760

RE: Draft Exceptional Events Guidance

Dear Ms. McCarthy,

The San Joaquin Valley Air Pollution Control District (District) appreciates the opportunity to provide comments on the U.S. Environmental Protection Agency's (EPA's) May 2, 2011 draft guidance for the implementation of the 2007 Exceptional Events Rule (EER) [72 Fed. Reg. 55 (22 March 2007)]. The District is tasked with attaining federal and state air quality standards in the counties of San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and San Joaquin Valley-portion of Kern. For decades, the District has operated an extensive air monitoring network and has supported Valley-specific scientific research to understand the mechanics of PM10 emissions in the San Joaquin Valley. In addition, the District has developed and implemented among the most stringent and effective PM10 controls in the nation, with regulatory strategies such as the District's fugitive dust regulations, or Conservation Management Practice program for agricultural sources.

The District has also gained extensive experience in preparing and submitting documentation to EPA for numerous exceptional events in the San Joaquin Valley, with a number of exceptional events reviewed and approved by EPA as meeting the requirements of the EER. As you are aware, submitting exceptional event documentation requires an immense amount of staff resources, as does EPA's review of these submittals. Overall, the District is concerned that the draft guidance released by EPA will require significant additional, potentially unavailable resources to prepare documentation for exceptional events, and will subsequently require additional EPA resources for the review of this documentation. In fact, the draft guidance includes requirements that appear to go beyond the EER and established track record of events approved by EPA in the recent past. In an effort to streamline and enhance the exceptional event documentation and concurrence process, the District offers the following specific comments on the draft guidance:

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1. Guidance Increases Agency Resource Requirements and Workload

The District recognizes the amount of effort and resources that EPA has used in reviewing the Exceptional Events Rule and then subsequently developing the guidance documents. However, as an overall comment regarding the draft guidance, EPA has significantly increased the Agency workloads required for the preparation of exceptional event demonstration packages by creating additional requirements. For example, EPA's request to provide a comprehensive control analysis that includes back trajectories indicating specific sources in the upwind area, an inventory of the contribution for the significant sources, and detailed descriptions of controls and their effective implementation and enforcement is an unreasonable and excessive requirement. The District recommends that EPA undertake a comprehensive review of its draft guidance and prior exceptional event approvals to develop revised guidance that provides for reasonable, robust, and streamlined exceptional event documentation.

2. Default High Wind Threshold Inappropriate for San Joaquin Valley and Other Regions, and Unclear How Much Information Needed to Approve Alternative High Wind Threshold

The usage of 25 mph as a default high wind speed threshold is inappropriate for the San Joaquin Valley and many other regions as it was derived from studies conducted in the desert, arid environments of Nevada and Arizona. The desert soil types are not representative of soil types found in other regions. For example, in the San Joaquin Valley, soil types are heavily composed of clay, and the District has scientifically documented a wind entrainment threshold of 17.9 mph that has been included and approved in prior exceptional event submittals to EPA. The draft guidance is unclear regarding what information would be needed to demonstrate an alternative wind speed entrainment threshold. Given the prior approval of exceptional events by EPA, the District requests that EPA approve 17.9 mph as the wind speed entrainment threshold for the San Joaquin Valley Air Basin in the draft guidance or provide clear direction to obtain approval for the lower highwind speed threshold.

3. Lack of EPA Non-Concurrence Determination Appeal Process

The Exceptional Events Rule and the guidance documents do not have a mechanism to challenge an EPA non-concurrence determination on an Agency submittal. The only recourse available when EPA makes a finding of non-concurrence is to wait until the finding impacts a formal action taken by EPA on a rule or State Implementation Plan. At that time, legal action may be the only recourse available. The District recommends that EPA provide a mechanism that allows for the appeal and additional review for determinations of non-concurrence.

4. Timing of New Draft Guidance Implementation

From the Overview of Draft Guidance Documents Conclusion section, "EPA expects to adhere to the draft guidance provided in this overview document and its attachments during the review and document finalization process..." The current draft guidance contains a number of deficiencies and issues as discussed in this comment letter that need to be addressed prior to being considered operational and ready for implementation.

5. Outcome of Pending Exceptional Event Documentation Submittals

A backlog of Exceptional Event documentation submittals have not been reviewed and acted upon by EPA. The District has expended significant resources in developing, compiling, composing, and submitting this documentation to EPA. The District is currently awaiting EPA review for the following exceptional events: July 4-5, 2007 (PM2.5) Fireworks, October 9 and 30, 2008 (PM10) High Winds, and October 13 and 27, 2009 (PM10) High Winds. The District is currently compiling documentation for an April 11, 2010 (PM10) High Winds. The guidance document does not clearly state if and how EPA will act on past submittals.

6. Guidance Appears Prescriptive and Against Weight of Evidence Approach

The draft guidance appears to require the submittal of a fully completed checklist and associated documentation requirements found in Appendix B of the draft guidance. The requirement that all of these items be included in all exceptional event submittals to EPA goes against the spirit of the EER that allows for a weight of evidence approach to demonstrating the occurrence of exceptional events. The District recommends that flexibility be allowed to provide the relevant documentation necessary to demonstrate exceptional events and not be prescriptive in completing the checklist.

7. Guidance Should Include Wind Speed Measurement Alternatives

The guidance document states that "sustained wind speed data are typically available from sources such as local air monitoring stations and National Weather Service stations." Most high wind events in the San Joaquin Valley air basin occur in remote areas where wind speed information is generally unavailable. The installation of wind speed equipment is extremely labor intensive and cost ineffective in trying to fulfill EPA's wind data requirements. On page 34, sustained wind speeds are determined by averaging times of one to five minutes. The NWS data is a snap shot (2 minute average) of the data toward the end of the hour, and there is no way to capture wind speed information during other parts of the hour. The data that is available from NWS is unlikely to

capture the event. Wind speed measurements of this resolution are not readily available. The District recommends using MM5 or any other model output (for example CANSAC or NAM) to provide wind speed information. The guidance document should allow for alternative sources of wind speed measurements.

8. Chemical Speciation Analysis Should Be Optional and Not Required

EPA guidance documents provide for the use of chemical speciation as supporting evidence to assist in establishing a Clear Causal Relationship. Because of the size of the air basin, the District, in a strategic effort to streamline staff time spent changing filters, is shifting PM collection from filter-based to real-time through the use of TEOMS monitors. However, this action will cause the District to potentially not have filters for a mandatory chemical speciation analysis. The draft guidance should be not requiring the use of chemical speciation to establish a Clear Causal Relationship, but leave as optional criteria in a weight of evidence approach.

9. Guidance Should Address PM2.5 High Wind Exceptional Events

The District has experienced and is expected to continue experiencing high wind PM2.5 exceptional events. The guidance document does not address documentation requirements for PM2.5 exceptional events. Towards that end, the District recommends that PM10 and PM2.5 documentation be handled within the same submittal to the extent possible, and that EPA develop a test method for analyzing Beta Attenuation Monitor tape to assist in preparing the support documentation.

10. High Wind Recurrence Requirements

The draft guidance is unclear regarding the determination of recurrence for exceptional events. For example, establishing recurrence appears to rely heavily on commonly occurring "informational" flags, as opposed to more appropriate "request to exclude" flags. Additionally, consecutive day high wind events are not clearly addressed by the draft guidance, and should be considered as a single event, and not multiple events.

Furthermore, the draft guidance includes additional documentation requirements for events determined to be recurrent that can otherwise clearly be demonstrated to be exceptional, including natural events. The District recommends that EPA closely re-evaluate its consideration of recurrent events to ensure that documentation beyond that needed to demonstrate compliance with the EER are not added through the draft guidance.

11. High Wind Action Plan (HWAP) Requirements

If potential sources are not identified to EPA's satisfaction through the submittal of an "optional" HWAP, EPA may potentially find that reasonable controls were not in place during subsequent events, even in areas such as the San Joaquin Valley that implement comprehensive, approved Best Available Control Measures (BACM). For recurring events, EPA will need to re-approve the High Wind Action Plan regardless of whether it is revised or remains as-is. For recurring natural events above the wind entrainment threshold, this additional documentation and review by EPA does not seem appropriate or necessary. Additionally, the District has a Natural Event Action Plan (NEAP) that has been approved by EPA. Can the District use the NEAP in place of the High Wind Action Plan (HWAP)? If not, how much more information is necessary to make the NEAP approvable? The draft guidance does not address what new information is needed when a NEAP is already in place.

12. Comprehensive Controls Analysis Extends Beyond EER and is Unreasonable

EPA's requests to provide a comprehensive controls analysis that has back trajectories indicating specific sources in the upwind area, an inventory of the contribution for the significant sources, and detailed descriptions of controls and their effective implementation and enforcement is an excessive and unreasonable requirement. EPA needs to be realistic in establishing requirements for determining that reasonable controls were in place for the exceptional event documentation process. As in past approvals, EPA should recognize and streamline the approval process for areas that have implemented comprehensive BACM controls, such as the San Joaquin Valley.

Similarly, the draft guidance includes a requirement that analyses be performed to determine whether natural sources were reasonably controlled during exceptional events. In an example included in the draft guidance, EPA cites performing an analysis of whether windbreaks and other potential controls are feasible as part of establishing whether reasonable controls were in place. Given the large potential geographic areas that contribute to exceptional events, and the implementation of comprehensive BACM controls, this requirement seems onerous and unreasonable.

13. Controls Enforcement Analysis Extends Beyond EER and is Unreasonable

The draft policy requires that a determination be made that controls were properly enforced during an exceptional event, and suggests that the number of inspections and notices of violations in upwind areas be considered as evidence that all reasonable controls were implemented and functioning appropriately.

This requirement is unreasonable and inappropriate for areas that have successfully implemented comprehensive BACM controls through mature permitting and enforcement programs, such as in the San Joaquin Valley. Additionally, Exceptional Events can occur during off hours with limited staffing or in remote areas and the requirement to enforce controls appears unreasonable in these situations.

14. Data Certification Requirements Conflict

The guidance is unclear regarding data processing requirements, which appear to conflict with data certification requirements due May 1st, "The placement of flags and the submittal of an initial event description should be done concurrently with the submission of data to the AQS database (within 90 days of the end of the quarterly reporting period) but must be done not later than July 1st of the calendar year following the year in which the flagged measurement occurred." Please provide clarification on how an agency should handle data certification.

15. Timeline for Submittal of Additional Information Unrealistic

EPA states on Page 28 of the guidance document, that supplemental information must be provided back to EPA as required in the review letter "typically be 60 days from receipt of the letter from EPA." Depending on the information request from EPA, the Agencies may need more time to obtain this data. The District is requesting that language be included to allow this time frame to be negotiated on a case by case basis depending on the type of information being requested by EPA.

16. Wildland Fire Use Fire – US (IU) flag

The draft guidance requires the use of the Wildland Fire Use Fire flag in AQS. The term 'Wildland Fire Use' is no longer used or accepted by Land Management Agencies and does not apply to their current practices. There are only two types of fire: Wildfires and Prescribed fires. The only difference between the two is how the fire is started, planned verses unplanned. Both types of fire are managed identically. EPA should consider identifying an adequate flag to be used to characterize a fire in AQS.

17. A Concentration Effect on Design Value but not NAAQS

There are times when a District cannot meet the 'but for' test for an event because the District would have exceeded an applicable NAAQS anyway. EPA gives two examples that impact classification and attainment demonstration in the answer to question 13 in the FAQ document. EPA states that on a case-by-case basis, EPA may chose to exclude the data from determining design values or attainment classification. The District supports this position since including

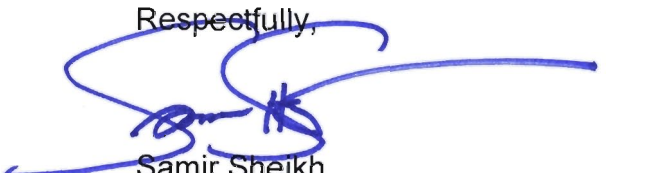
that event would artificially increase the design values, potentially requiring excess emission reductions or assigning an inappropriate classification. The District requests EPA to develop a method that will exclude these days from standardized and official reports produced by AQS or other parts of EPA.

18. Development of EPA's Interim Fire Policy and Fire Guidance Document

The draft guidance document states that EPA is developing an Interim Fire Policy and Fire Guidance document; the District requests the opportunity to actively participate in the development of this guidance. Ideally, this engagement would occur early in the drafting stages so the District can assist EPA given our extensive experience in forest fire issues in the San Joaquin Valley Air Basin.

The District appreciates the opportunity to comment on the May 2, 2011 draft guidance document. We look forward to working with you to find creative and effective ways to improve Exceptional Events processing. The District stands ready to assist in advancing this project with technical support. Our hope is that many of these recommendations can be incorporated into your draft guidance. Given the difficult standards being considered by EPA, failure to craft common sense approaches to Exceptional Events will increase workload to all involved in developing, writing and reviewing the documents. If you have any questions, please call me at (559) 230-5800.

Respectfully,



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