

Exceptional Events Rule/Clean Air Act: U.S. Environmental Protection Agency Issues Guidance

Arkansas Environmental, Energy, and Water Law Blog



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

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The United States Environmental Protection Agency ("EPA") issued a September 16th guidance document titled *Guidance on the Preparation of Exceptional Events Demonstrations for Wildfire Events that May Influence Ozone Concentrations* ("Guidance").

The *Guidance* originates from U.S. EPA Office of Air Quality Planning and Standards Director Stephen D. Page and is transmitted to the agency's Regional Air Division Directors.

Substances deemed air pollutants are sometimes generated by natural events. While the *Guidance* document focuses on ozone, natural events can generate other types of air pollutants. For example, three categories of natural events have been identified as affecting the level of particulates in the ambient air: volcanic and seismic activity, wild fires, and high wind events.

Some natural events produce sufficient quantities of certain air pollutants to actually threaten an area's compliance with the relevant National Ambient Air Quality Standards ("NAAQS"). Other examples are trace elements found in the environment (i.e., heavy metals). They can enter the environment through natural processes such as weathering of rocks, soil erosion and uptake by plants.

EPA states that the purpose of the *Guidance* is to assist state air agencies preparing exceptional events demonstrations for wildfire influences on ozone concentrations that meet the requirements of Section 319(b) of the Clean Air Act. The agency previously issued an Exceptional Events Rule which allows for the exclusion of air quality monitoring data influenced by exceptional events from use in determinations of exceedances or violations of the NAAQS.

The *Guidance* provides three different tiers of analyses that apply to the "clear causal relationship" criterion within an air agency's exceptional events demonstration.

The *Guidance* references the elements that must be demonstrated to fit within the scope of the exclusion process provided by the Exceptional Events Rule. It recommends sample language and analyses that the agency states may be sufficient to address these elements and demonstrations for wildfires that influence monitored ozone concentrations.

EPA states that it "recognizes the limited resources of the air agencies that prepare and submit exceptional events demonstrations and of the EPA Regional offices that review these demonstrations." Therefore, it cites two of its goals in developing the *Guidance* as:

- To establish "clear expectations" to enable affected agencies to better manage resources as they prepare the documentation required under the Exceptional Events Rule

- To avoid the preparation and submission of extraneous information

Key chapters in the *Guidance* document address:

- Conceptual Model of Event
- Clear Causal Relationship between the Specific Event and the Monitored Concentration
- Caused by Human Activity that is Unlikely to Recur at a Particular Location or a Natural Event
- Not Reasonably Controllable or Preventable

The four appendices address:

- Example Conceptual Model/Event Summary
- Relating Fire Emissions and Downwind Impacts
- Interpreting HYSPLIT Results
- References for the Guidance Document

[A link to the *Guidance* document can be found here.](#)