



Exceptional Events Rulemaking Proposal



Objectives for the Briefing

- To provide a briefing on the following issues:
 - Background and history of exceptional events
 - Statutory requirements
 - Components of the proposal

Background: The Setting of the NAAQS and Exceptional Events

- When EPA promulgates a NAAQS, we also promulgate rules on how to use air quality data to show whether the NAAQS are being met in areas.
- Those rules also provide guidance on when data are inappropriate to compare to the NAAQS and should be excluded.
- Data influenced by exceptional events are considered inappropriate to compare to the standards and should be excluded from regulatory consideration.

Experiences with Exceptional Events

- Since 1977, policies have address air quality data affected by “uncontrollable,” natural, or exceptional events.
- The 1986 “Exceptional Events Policy” provided criteria and procedures for States to flag data for special treatment.
- The 1990 CAA Amendments recognize the need for special consideration for areas influenced by non-anthropogenic sources.
 - Section 188(f)- Provides a waiver of PM-10 SIP measures and/or the attainment date for an area where non-anthropogenic sources significantly contribute to violations.
 - The 1996 “PM-10 Natural Events Policy” responds to section 188(f).

The Current EPA Policies that Address Exceptional and Natural Events are:

- ❑ The 1986 Exceptional Events Policy.
- ❑ The 1996 PM-10 Natural Events Policy.
- ❑ The 1998 Interim Wildland and Prescribed Fire Policy.
- ❑ The 1998 ozone Mexican Fire Policy.

What have We Learned from Implementing these Policies

- Exceptional and natural events can affect public health, especially sensitive populations, necessitating immediate action.
- States and EPA need more timely resolution of issues related to data affected by these events.
- Adequate demonstrations by States are crucial for good decisions by EPA concerning the exclusion of data.
- Can't ignore other sources that also contribute emissions on any given day.
- A consistent process must be implemented for flagging and excluding data that is understood and accepted by States, local, and Federal agencies.

Why Do Instead of Revise Our Current Policies On Exceptional Events?

- There is a court-ordered schedule to review the PM NAAQS.
- CASAC and others have highlighted the need to address exceptional events in connection with any new coarse particle standard.
- SAFE-TEA revised section 319 to require a proposed rule on exceptional events by March 1, 2006, and to finalize the rule within 1 year of proposal.

Statutory Definition of Exceptional Event

- Section 319 defines exceptional event as an event that:
 - ❑ Affects air quality
 - ❑ Is not reasonably controllable or preventable
 - ❑ Is an event that is caused by human activity that is unlikely to recur at a particular location, or is a natural event; and
 - ❑ Is determined by the Administrator through the process established in the rule to be an exceptional event.

Key Requirements of SAFE-TEA

- The exceptional event must be demonstrated by reliable and accurate data.
- The State must show that there is a “clear causal relationship” between the NAAQS exceedances and the event.
- There must be a public review process related to an exceptional event determination.
- The rule must set criteria and procedures for States to petition EPA to exclude data affected by exceptional events.

SAFE-TEA Temporarily Preserves Existing Policies on Exceptional Events

- SAFE-TEA requires that until the effective date of the rulemaking, the following guidance shall remain in place:
 - Guidance on the Identification and Use of Air Quality Data Affected by Exceptional Events (July 1986)
 - Areas Affected by PM-10 Natural Events (May 30, 1996)
 - Appendices I, K, and N to Part 50 of Title 40, Code of Federal Regulations

Components of the Proposed Rule

- Definitions and applicability
- Procedures for flagging, notification and demonstrations to justify exclusion of data
- Criteria for determining when data should be discounted or excluded
- Actions to protect public health

Proposed Definitions

■ Exceptional Event

- Rule: Rely on the statutory definition
- Preamble: Provide interpretative explanations of key elements
 - “Affects air quality”
 - “Not reasonably preventable or controllable”
 - “Unlikely to recur”

■ Natural Event

- Rule: Human activity plays no significant or direct causal role
- Preamble: Provide interpretative explanation of “significant or direct causal role”

Proposed Applicability of the Rule

- Rule to apply to all pollutants for which NAAQS provide discretion to discount or exclude data, and to the same extent
 - Current: PM and Ozone
 - Other pollutants to be considered as NAAQS are reviewed
- If exceptional events cause violations of other standards, EPA would use discretion not to redesignate or to issue SIP calls.

Requirements of the Rule

- ❑ Provide prompt public notification and take immediate action to abate or minimize the impact of the event on the public.
- ❑ Flag the data in the AQS database as being influenced by an exceptional event.
- ❑ Submit demonstration and documentation to EPA for concurrence on findings.
 - The demonstration must show a “clear causal relationship” between the affected data and the event.
- ❑ The EPA must concur on the flagged event for the data to be excluded from regulatory use.
- ❑ As appropriate, a State must implement /submit a mitigation plan to address future events.

Public Notification of an Exceptional Event

- States must provide immediate notification to the public concerning an event.
- The States must also take appropriate action to mitigate the impact of the event on the public.
 - This includes initiating clean up related to the event as well as addressing contributing anthropogenic sources.
 - Providing public education related to the event.
 - The State must also take all appropriate measures to reduce emissions related to the event.
 - Section 319, together with section 110, provides the authority for EPA to require States to take these actions.

Documentation of Exceptional Events

- The rule should accommodate varying facts and circumstances, but provide clear guidance on the types of documentation and demonstrations required.
- Required demonstrations should reflect the relative complexity of source mix.
 - Eastern urban PM episode may require more detailed analysis of speciated data, while a more remote western episode may not require as much detailed analysis.

Procedures and Time Line for Flagging Data and Submitting Demonstrations

- The State must flag the data in the AQS database.
 - Within 90 days of the end of the quarter that the event occurred.
- The State must submit documentation to the RO related to the event within 180 days of the end of the quarter that the event occurred.
 - The State may submit a request for a 90 day extension to the RO for more complex demonstrations.
- The RO must concur on the event within 30 days of receiving the documentation.
 - The RO may extend this period up to an additional 30 days.

The Proposed Requirements for Mitigation Plans

- Plans must provide for immediate public notification and education related to an event.
- Plans must provide for mitigation of public exposure to an event.
- Plans must provide for abatement or minimization of emissions due to all contributing anthropogenic sources related to an event.
- Plans must provide for identification, study, and implementation of practical mitigation measures related to future events.
- Plans must provide for reevaluation every 3-5 years.

How to Require Mitigation Plans

- We plan to propose two regulatory options for Exceptional Event Mitigation Action Plans (EEMAPS).
 - Making them necessary elements of the CAA section 110 SIPs
 - Treating them as separate from SIPs
- For anthropogenic sources interacting with natural events, we plan to take comments on whether BACM should be implemented as opposed to RACM.