

Topic: EPA Exceptional Event Rule Revisions Comment Opportunity Ending January 19, 2016
<http://www2.epa.gov/air-quality-analysis/treatment-data-influenced-exceptional-events>

Background: On November 10, 2015, the U.S. Environmental Protection Agency (EPA) proposed revisions to the 2007 Exceptional Events Rule (EER) and a draft guidance for wildfire influenced ozone concentrations events. The EER governs the exclusion of event-affected air quality monitoring data from regulatory decisions such as whether an area is in attainment of a National Ambient Air Quality Standard (NAAQS) or whether an exceedance of a standard was influenced by a natural or exceptional event. The proposed revisions address issues raised by stakeholders since promulgation of the rule and are intended to provide clarity and increase the administrative efficiency of the EER definitions, criteria and process. The timing of the proposed revisions is to allow its use during the designation process of the 2015 Ozone NAAQS. Exceptional events include prescribed fires and natural events such as wildfires, stratospheric ozone intrusions and volcanic and seismic activities. Since 2007, state regulatory agencies have submitted many EER demonstrations related to wildfire impacts on ozone and particulate matter (PM_{2.5} and PM₁₀). To date there have been only a few demonstrations for prescribed fire which have been in the Southeast and the Flint Hills of Kansas. As the NAAQS become more stringent, there will be greater use of the rule for wildfire and prescribed fire events.

Key Points: The EER Revision proposes clear definition of wildlands and two types of wildland fire, wildfire and prescribed fire. Wildfire does include prescribed fires declared wildfires by the manager. The EPA clearly documents the role of fire and need for prescribed fire use and fuels management as an alternative to catastrophic wildfire.

In the revision, all EER demonstrations begin with a collaborative meeting of the submitting agency with the EPA Region to outline the plan and needs for a demonstration. There are two EER demonstration pathways based on whether the event is natural or not. Wildfire is defined as natural and EPA proposes clear criteria for agencies to follow if it causes an exceedance. Events caused or contributed to by a prescribed fire would follow the other pathway which requires additional steps as it is a human managed action. Both fire demonstrations rely on a “weight of evidence” approach to address certain criteria required which will simplify the demonstration. As written in the revision, EPA supports land managers defining the role of fire in an ecosystem including fire frequency to meet ecological and human safety needs. The EPA also notes the importance of smoke management programs and use of Basic Smoke Management Practices where no program exists. Land managers who have a prescribed fire that is an exceptional event will need to document many of these items to support the demonstration process. The EER process will utilize land management plans and other literature to support the use of fire in an area as defined by the land manager unless there is evidence submitted to the contrary during the required public review of the demonstration. Note that an EER demonstration is not allowed if the prescribed fire was not in compliance with air quality rules or permit provisions. There is no language guiding assessment of current smoke management programs or permit programs and whether they could use the EER if there was an exceedance of a standard.

The revision proposes both federal and state regulatory agencies can submit a demonstration. This foresees potential workload issues associated with prescribed fire demonstrations and reluctance of some states to utilize the EER for human caused events. Note that under the challenging fuel conditions of many areas in the west, prescribed fire will be tough to use while meeting the NAAQS. The revision acknowledges the seriousness of the fuel situation and need for fire to address it and the approaches proposed are intended to facilitate a clear and feasible pathway if prescribed fire contributes to an exceedance.

