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## 40 C.F.R. § 50.14

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### Treatment of air quality monitoring data influenced by exceptional events.

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(a) *Requirements—(1) Scope.* (i) This section applies to the treatment of data showing exceedances or violations of any national ambient air quality standard for purposes of the following types of regulatory determinations by the Administrator:

(A) An action to designate an area, pursuant to Clean Air Act section 107(d)(1), or redesignate an area, pursuant to Clean Air Act section 107(d)(3), for a particular national ambient air quality standard;

(B) The assignment or re-assignment of a classification category to a nonattainment area where such classification is based on a comparison of pollutant design values, calculated according to the specific data handling procedures in 40 CFR part 50 for each national ambient air quality standard, to the level of the relevant national ambient air quality standard;

(C) A determination regarding whether a nonattainment area has attained the level of the appropriate national ambient air quality standard by its specified deadline;

(D) A determination that an area has data for the specific NAAQS, which qualify the area for an attainment date extension under the CAA provisions for the applicable pollutant;

(E) A determination under Clean Air Act section 110(k)(5), if based on an area violating a national ambient air quality standard, that the state implementation plan is inadequate under the requirements of Clean Air Act section 110; and

(F) Other actions on a case-by-case basis as determined by the Administrator.

(ii) A State, federal land manager or other federal agency may request the Administrator to exclude data showing exceedances or violations of any national ambient air quality standard that are directly due to an exceptional event from use in determinations identified in paragraph (a)(1)(i) of this section by demonstrating to the Administrator's satisfaction that such event caused a specific air pollution concentration at a particular air quality monitoring location.

(A) For a federal land manager or other federal agency to be eligible to initiate such a request for data exclusion, the federal land manager or other federal agency must:

(1) Either operate a regulatory monitor that has been affected by an exceptional event or manage land on which an exceptional event occurred that influenced a monitored concentration at a regulatory monitor; and

(2) Initiate such a request only after the State in which the affected monitor is located concurs with the federal land manager's or other federal agency's submittal.

(B) With regard to such a request, all provisions in this section that are expressed as requirements applying to a

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State shall, except as noted, be requirements applying to the federal land manager or other federal agency.

(C) Provided all provisions in this section are met, the Administrator shall allow a State to submit demonstrations for any regulatory monitor within its jurisdictional bounds, including those operated by federal land managers, other federal agencies and delegated local agencies.

(D) Where multiple agencies within a state submit demonstrations for events that meet the requirements of the Exceptional Events Rule, a State submittal shall have primacy for any regulatory monitor within its jurisdictional bounds.

(2) A demonstration to justify data exclusion may include any reliable and accurate data, but must specifically address the elements in paragraphs (c)(3)(iv) and (v) of this section.

(b) *Determinations by the Administrator*—(1) *Generally*. The Administrator shall exclude data from use in determinations of exceedances and violations identified in paragraph (a)(1)(i) of this section where a State demonstrates to the Administrator's satisfaction that an exceptional event caused a specific air pollution concentration at a particular air quality monitoring location and otherwise satisfies the requirements of this section.

(2) *Fireworks displays*. The Administrator shall exclude data from use in determinations of exceedances and violations where a State demonstrates to the Administrator's satisfaction that emissions from fireworks displays caused a specific air pollution concentration in excess of one or more national ambient air quality standards at a particular air quality monitoring location and otherwise satisfies the requirements of this section. Such data will be treated in the same manner as exceptional events under this rule, provided a State demonstrates that such use of fireworks is significantly integral to traditional national, ethnic, or other cultural events including, but not limited to, July Fourth celebrations that satisfy the requirements of this section.

(3) *Prescribed fires*. (i) The Administrator shall exclude data from use in determinations of exceedances and violations, where a State demonstrates to the Administrator's satisfaction that emissions from prescribed fires caused a specific air pollution concentration in excess of one or more national ambient air quality standards at a particular air quality monitoring location and otherwise satisfies the requirements of this section.

(ii) In addressing the requirements set forth in paragraph (c)(3)(iv)(D) of this section regarding the not reasonably controllable or preventable criterion:

(A) With respect to the requirement that a prescribed fire be not reasonably controllable, the State must either certify to the Administrator that it has adopted and is implementing a smoke management program or the State must demonstrate that the burn manager employed appropriate basic smoke management practices identified in Table 1 to § 50.14. Where a burn manager employs appropriate basic smoke management practices, the State may rely on a statement or other documentation provided by the burn manager that he or she employed those practices. If an exceedance or violation of a NAAQS occurs when a prescribed fire is employing an appropriate basic smoke management practices approach, the State and the burn manager must undertake a review of the subject fire, including a review of the basic smoke management practices applied during the subject fire to ensure the protection of air quality and public health and progress towards restoring and/or maintaining a sustainable and resilient wildland ecosystem. If the prescribed fire becomes the subject of an exceptional events demonstration, documentation of the post-burn review must accompany the demonstration.

(B) If the State anticipates satisfying the requirements of paragraph (c)(3)(iv)(D) of this section by employing the appropriate basic smoke management practices identified in Table 1 to § 50.14, then:

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