



**National Conference of State Legislatures
Office of State-Federal Relations**

EPA Releases Final “Exceptional Events” Rule

Sept. 21, 2016

On Sept. 16, Environmental Protection Agency (EPA) Administrator Gina McCarthy [signed](#) the final version of the Exceptional Events rule, which updates the waiver process for states concerning air pollution violations outside of a state’s individual control such as wildfires, stratospheric ozone intrusions, volcanic and seismic activities, and other natural events.

The final rule amends the agency’s 2007 Exceptional Event Rule which [contains](#) definitions, procedural requirements, requirements for state air agency demonstrations and criteria for EPA approval for the exclusion of air quality data from certain regulatory decisions. The update addresses challenges in interpreting and implementing the 2007 rule for both state air agencies and EPA regional offices with the aim of making the demonstration and assessment process simpler. Prominent changes to the rule include more clearly defining the scope of the rule and identifying types of regulatory actions it covers, and clarification on the analyses, content and organization for exceptional events waiver applications. A full list of revisions to the rule can be found [here](#).

The revised rule comes after several states and industry groups filed lawsuits [challenging](#) EPA’s [lowering](#) of National Air Ambient Air Quality Standards (NAAQS) for ground-level ozone from 75 ppb in 2008 to 70 parts per billion in 2015, citing the potential for background ozone to place many areas at risk of nonattainment. States also noted an exponential increase in the burden of submitting exceptional event demonstrations following the lowering of NAAQS for ground-level ozone. The EPA [responded](#) by [issuing](#) proposed revisions in November 2015 which were made final with this release.

For any further questions or concerns regarding the revision of the Exceptional Events Rule, please contact NCSL staff [Ben Husch](#) (202-624-7779) or [Kristen Hildreth](#) (202-624-3597).