

W E S T E R N   S T A T E S   A I R   R E S O U R C E S   C O U N C I L



July 6, 2010

Ms. Gina McCarthy, Assistant Administrator  
Office of Air and Radiation  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue N.W.  
Washington, DC 20760

Dear Ms. McCarthy,

On September 11, 2009, the Western States Air Resources (WESTAR) Council, an association of 15 western state air quality managers, offered a number of recommendations to EPA on ways to streamline the implementation of the rules governing the treatment of data influenced by exceptional events (attached). EPA responded to WESTAR's recommendations on March 8, 2010, indicating that over the coming six months, the agency would work with WESTAR to explore how the implementation of the exceptional events rule could be improved. As of this date, this collaborative effort between EPA and WESTAR has not yet begun.

The issues we raised in 2009 related to implementation of the exceptional events rule are still with us today. In fact, solving these issues is more critical than ever. EPA continues to increase the stringency of standards for several pollutants and, as a result, states must determine attainment status, classifications, and non-attainment area boundaries, all of which are driven by what data are and are not included in the monitoring data sets. Meanwhile, state and local agencies continue to collect monitoring data influenced by exceptional and natural events; continue to flag data they believe should be excluded for establishing attainment status; continue to respond to seemingly endless requests for further analyses to justify exceptional events requests; and continue to wait for decisions from EPA on requests that, in some cases, are several years old. Further, EPA has recently issued decisions not to concur with California and Arizona requests for several exceptional events where both states are highly confident that these exceedances do, in fact, meet all the criteria in the Rule for qualifying as exceptional events.

As we noted in our earlier recommendations, revisions to the exceptional events rule are needed, revisions that will solve many of the implementation issues we have encountered over the past three years. While our earlier recommendations include alternatives that could be implemented without changes to the rule, fixing the rule would be more efficient, in part because actions taken based on clear regulatory language are less likely to be challenged than

actions taken based on guidance that, in effect, works around the core issues in the underlying regulation. WESTAR believes that EPA should begin rulemaking immediately.

Our scarce air quality management resources need to focus on problems we can solve, not on problems over which we have little or no control. Simple revisions to the exceptional events rule, and guidance that will result in expedited decisions on exceptional events requests, are urgently needed. We look forward to EPA following through on its commitment to work with WESTAR on this important issue in the coming weeks. If you have any questions, or wish to discuss this further, please contact Dan Johnson, WESTAR's Executive Director, at 206-254-9145.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dave Klemp", written in a cursive style.

Dave Klemp, President  
Western States Air Resources Council

CC: Bill Harnett, EPA/OAQPS  
Bill Becker, NACAA  
Dr. Alfredo "Al" Armendariz, EPA/Region 6  
Callie Videtich, EPA/Region 8  
Deborah Jordan, EPA/Region 9  
Rick Albright, EPA/Region 10