

November 22, 2011

TO: Members of the MAG Air Quality Technical Advisory Committee

FROM: Oddvar Tveit, Tempe, Chair

SUBJECT: MEETING NOTIFICATION AND TRANSMITTAL OF TENTATIVE AGENDA

Tuesday, November 29, 2011 - 1:30 p.m.
MAG Office, Suite 200 - Saguaro Room
302 North 1st Avenue, Phoenix

A meeting of the MAG Air Quality Technical Advisory Committee has been scheduled for the time and place noted above. Members of the Air Quality Technical Advisory Committee may attend the meeting either in person, by videoconference or by telephone conference call. Those attending by videoconference must notify the MAG site three business days prior to the meeting. If you have any questions regarding the meeting, please contact Chair Tveit or Lindy Bauer at 602-254-6300.

Please park in the garage underneath the building, bring your ticket, and parking will be validated. For those using transit, Valley Metro/Regional Public Transportation Authority will provide transit tickets for your trip. For those using bicycles, please lock your bicycle in the bike rack in the garage.

In 1996, the Regional Council approved a simple majority quorum for all MAG advisory committees. If the MAG Air Quality Technical Advisory Committee does not meet the quorum requirement, members who arrived at the meeting will be instructed a legal meeting cannot occur and subsequently be dismissed. Your attendance at the meeting is strongly encouraged. If you are unable to attend the meeting, please make arrangements for a proxy from your entity to represent you.

Pursuant to Title II of the Americans with Disabilities Act (ADA), MAG does not discriminate on the basis of disability in admissions to or participation in its public meetings. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Jason Stephens at the MAG office. Requests should be made as early as possible to allow time to arrange the accommodation.

TENTATIVE AGENDA

COMMITTEE ACTION REQUESTED

1. Call to Order

2. Call to the Audience

An opportunity will be provided to members of the public to address the Air Quality Technical Advisory Committee on items not scheduled on the agenda that fall under the jurisdiction of MAG, or on items on the agenda for discussion but not for action. Members of the public will be requested not to exceed a three minute time period for their comments. A total of 15 minutes will be provided for the Call to the Audience agenda item, unless the Air Quality Technical Advisory Committee requests an exception to this limit. Please note that those wishing to comment on action agenda items will be given an opportunity at the time the item is heard.

3. Approval of the October 27, 2011 Meeting Minutes

4. Update on the MAG Five Percent Plan for PM-10 and Exceptional Events

An update will be provided on the MAG Five Percent Plan for PM-10 and the activities to prevent PM-10 exceedances at the monitors and throughout the region. On July 8, 2011, EPA indicated that the region may take emissions reductions credit for the PM-10 measures that have already been implemented since 2007. It appears that additional control measures will not be necessary to meet the requirements for the five percent reductions in emissions and reasonable further progress. Work has continued on the attainment demonstration for the new Five Percent Plan for PM-10. The draft attainment demonstration will be presented. The Arizona Department of Environmental Quality is continuing to work on the Dust Action

2. For information.

3. Review and approve the October 27, 2011 meeting minutes.

4. For information and discussion.

General Permit required by H.B. 2208 passed by the Arizona Legislature in 2011 and the enforceability issues with the Agricultural Best Management Practices.

To date in 2011, there have been 101 exceedances due to exceptional events caused by haboobs, dust storms, thunderstorms, and residual dust. The Arizona Department of Environmental Quality is preparing the documentation for the 2011 exceptional events with technical assistance from Maricopa County and MAG staff. ADEQ submitted the first group of exceptional events for July 2-8, 2011 to the Environmental Protection Agency for an informal review at the end of October. In addition, EPA intends to issue the final Exceptional Events Guidance in early 2012.

MAG is continuing to research legislative remedies regarding the amount of documentation required for the exceptional events. The MAG Washington special legal counsel has prepared some draft legislation to streamline the process by enabling the states and tribes to make exceptional events determinations, after consultation with the Environmental Protection Agency. The goal is to establish a more reasonable exceptional events process for all those concerned: EPA, states, tribes, and local governments. Please refer to the enclosed information.

5. Update on the Supplemental Revision for the Eight-Hour Ozone Maintenance Plan

The MAG Eight-Hour Ozone Redesignation Request and Maintenance Plan for the Maricopa Nonattainment Area was submitted to the Environmental Protection Agency in March 2009. The plan demonstrated maintenance of the 1997 eight-hour ozone standard of 0.08 parts per million for 2025. There have been no violations of the 0.08 parts per million standard since 2004.

On March 14, 2011, EPA sent a letter to MAG requesting that a supplemental revision be

5. For information and discussion.

prepared to include interim modeling analyses for the years 2016 and 2021 to demonstrate that the eight-hour ozone standard will be maintained throughout the ten year maintenance period.

On November 3, 2011, EPA indicated that the new ozone standard of 0.075 parts per million requires a fresh look at ozone and advised against investing any more time and energy into revising the maintenance plan at this time. EPA will schedule a conference call in the future on this topic.

6. Call for Future Agenda Items

The next meeting of the Committee has been tentatively scheduled for **Thursday, January 26, 2012** at 1:30 p.m. The Chairman will invite the Committee members to suggest future agenda items.

6. For information and discussion.

MINUTES OF THE
MARICOPA ASSOCIATION OF GOVERNMENTS
AIR QUALITY TECHNICAL ADVISORY COMMITTEE MEETING

Thursday, October 27, 2011
MAG Office
Phoenix, Arizona

MEMBERS ATTENDING

- Oddvar Tveit, Tempe, Chairman
- Elizabeth Biggins-Ramer, Buckeye, Vice Chair
- # Shirley Gunther for Kristen Sexton, Avondale
- # Jon Sherrill for Jim Weiss, Chandler
- # Jamie McCullough, El Mirage
- Kurt Sharp, Gilbert
- Doug Kukino, Glendale
- * Cato Esquivel, Goodyear
- # Greg Edwards for Scott Bouchie, Mesa
- * William Mattingly, Peoria
- Phil McNeely, Phoenix
- Tim Conner, Scottsdale
- # Antonio DeLaCruz, Surprise
- # Mark Hannah, Youngtown
- Ramona Simpson, Queen Creek
- * American Lung Association of Arizona
- Grant Smedley, Salt River Project
- Brian O'Donnell, Southwest Gas Corporation
- Mark Hajduk, Arizona Public Service Company
- * Gina Grey, Western States Petroleum Association
- Dawn M. Coomer, Valley Metro/RPTA
- * Dave Berry, Arizona Motor Transport Association
- Jeannette Fish, Maricopa County Farm Bureau
- Steve Trussell, Arizona Rock Products Association
- Amy Bratt, Greater Phoenix Chamber of Commerce
- # Amanda McGennis, Associated General Contractors
- * Spencer Kamps, Homebuilders Association of Central Arizona
- * Mannie Carpenter, Valley Forward
- * Erin Taylor, University of Arizona Cooperative Extension
- Beverly Chenausky, Arizona Department of Transportation
- Diane Arnst, Arizona Department of Environmental Quality
- * Environmental Protection Agency
- Jo Crumbaker, Maricopa County Air Quality Department
- # Duane Yantorno, Arizona Department of Weights and Measures
- Ed Stillings, Federal Highway Administration
- * Judi Nelson, Arizona State University
- * Christopher Horan, Salt River Pima-Maricopa Indian Community

- *Members neither present nor represented by proxy.
- #Participated via telephone conference call.
- +Participated via video conference call.

OTHERS PRESENT

- Lindy Bauer, Maricopa Association of Governments
- Dean Giles, Maricopa Association of Governments
- Taejoo Shin, Maricopa Association of Governments
- Matt Poppen, Maricopa Association of Governments
- Julie Hoffman, Maricopa Association of Governments
- Kara Johnson, Maricopa Association of Governments
- Adam Xia, Maricopa Association of Governments
- Feng Liu, Maricopa Association of Governments
- Cathy Arthur, Maricopa Association of Governments
- Ranjith Dandanayakula, Maricopa Association of Governments
- Joonwon Joo, Arizona Department of Transportation
- Dan Catlin, Fort McDowell Indian Community
- Scott DiBiase, Pinal County Air Quality
- Matt Tsark, Strand Associates, Inc.
- Frank Schinzel, Maricopa County Air Quality
- Joe Gibbs, City of Phoenix

1. Call to Order

A meeting of the Maricopa Association of Governments (MAG) Air Quality Technical Advisory Committee (AQTAC) was conducted on October 27, 2011. Oddvar Tveit, City of Tempe, Chair, called the meeting to order at approximately 1:35 p.m. Shirley Gunther, City of Avondale; Jon Sherrill, City of Chandler; Duane Yantorno, Arizona Department of Weights and Measures; Jamie McCullough, City of El Mirage; Greg Edwards, City of Mesa; Amanda McGennis, Associated General Contractors; Mark Hannah, Town of Youngtown; and Antonio DeLaCruz, City of Surprise, attended the meeting via telephone conference call.

2. Call to the Audience

Mr. Tveit stated that according to the MAG public comment process, members of the audience who wish to speak are requested to fill out comment cards, which are available on the tables adjacent to the doorways inside the meeting room. Citizens are asked not to exceed a three minute time period for their comments. Public comment is provided at the beginning of the meeting for nonagenda items and nonaction agenda items. Mr. Tveit noted that no public comment cards had been received.

3. Approval of the September 22, 2011 Meeting Minutes

The Committee reviewed the minutes from the September 22, 2011 meeting. Diane Arnst, Arizona Department of Environmental Quality (ADEQ), requested that the minutes be revised to reflect the correct spelling of the word withdrawal in Agenda Item Number 10. Phil McNeely, City of Phoenix, moved and Tim Connor, City of Scottsdale, seconded and the motion to approve the September 22, 2011 meeting minutes, with the correction, carried unanimously.

4. Evaluation of Proposed PM-10 Certified Street Sweeper Projects for FY 2012 CMAQ Funding

Dean Giles, Maricopa Association of Governments, presented the evaluation of proposed PM-10 Certified Street Sweeper Projects for Federal Fiscal Year 2012 Congestion Mitigation and Air Quality Improvement (CMAQ) Funds. Mr. Giles stated that nine street sweeper projects were received by the deadline of September 15, 2011 requesting \$1.8 million in CMAQ funds. He noted that approximately \$1.3 million is available. The FY 2012 Unified Planning Work Program and Annual Budget and FY 2011-2015 MAG Transportation Improvement Program contains \$900,000 in FY 2012 CMAQ funding to encourage the purchase and utilization of PM-10 certified street sweepers. Mr. Giles noted that the remaining CMAQ funding has become available from sweeper projects that have been requested to be deleted and from savings on sweepers that have cost less than anticipated. He explained that a minimum local cash match of 5.7 percent is required for the projects.

Mr. Giles discussed the MAG Programming Principles two-tier review process for the street sweeper projects. On October 11, 2011, the MAG Street Committee conducted a first review of the applications. Mr. Giles mentioned that the nine projects were entered into a table ranked in descending order of cost-effectiveness. A copy of this table and comments by the Street Committee were provided with the agenda packet. Mr. Giles indicated that the estimated emission reduction for each street sweeper is provided in kilograms per day and the corresponding cost-effectiveness is based on CMAQ funds requested per annual metric ton reduced. He mentioned that following this meeting, additional opportunities to comment on the street sweeper projects would be provided at the MAG Management

Committee meeting on November 9, 2011 followed by the MAG Regional Council meeting on December 7, 2011.

Mr. Giles stated that the Committee is requested to recommend a prioritized list of proposed PM-10 Certified Street Sweeper Projects for fiscal year 2012 CMAQ funding. The Committee is also requested to retain the prioritized list for any additional fiscal year 2012 CMAQ funds that may become available due to closeout, including any redistributed obligation authority, or additional funding received by this region.

Brian O'Donnell, Southwest Gas Corporation, inquired how far away the proposed City of Chandler street sweeper would sweep from a PM-10 monitor. Mr. Giles replied that the proposed Chandler sweeper would be sweeping within four miles of a PM-10 monitor. Mr. O'Donnell asked if the exact distance that the street sweeper will be sweeping from a monitor is known. Mr. Giles responded that the sweeper would be sweeping within four miles of the West Chandler Monitor; however, he was unsure of the exact distance. Jeannette Fish, Maricopa County Farm Bureau, commented that the two Tempe street sweepers have identical information except for the daily emission reduction and cost-effectiveness. She inquired if the City of Tempe asked for two sweepers for the same area. Mr. Giles replied that the area being swept by both street sweepers encompasses the city wide area.

Ed Stillings, Federal Highway Administration, noted that he was surprised the Carefree sweeper was not higher on the list considering the Town does not have any street sweepers. Mr. Giles replied that the Town of Carefree does have a contract street sweeper that is being utilized. He commented that he would have to look at the specific data that was provided to see why it ranked lower.

Mr. O'Donnell inquired if it would make sense to move up the replacement sweeper for Chandler since the West Chandler monitor has had several exceedances of the 24-hour PM-10 standard in 2011. Jo Crumbaker, Maricopa County Air Quality Department, replied that the West Chandler monitor is about one and one-half miles west of the area to be swept by this sweeper. Mr. O'Donnell asked Ms. Crumbaker if this street sweeper would benefit the air in that area. Ms. Crumbaker indicated that Chandler would have to address that question. Mr. Giles responded that Chandler does currently have a street sweeper and the one in question is for replacement.

Ramona Simpson, Town of Queen Creek, expressed concern about the eight-year requirement for replacing street sweepers. She mentioned that there are cities and towns that have PM-10 sweepers less than eight years old that are not in service and cannot be repaired cost-effectively. Ms. Simpson noted that this results in a lower level of service. She stated that the Street Committee mentioned they will be reexamining this requirement. Ms. Simpson inquired if the Street Committee had a scheduled date in which to discuss this topic. Mr. Giles replied that he was unaware of a schedule. Mr. Tveit added that Mr. Giles could report back to the Committee to clarify the arguments regarding the eight-year requirement.

Mr. Tveit stated that the Committee is requested to recommend a prioritized list of proposed PM-10 Certified Street Sweeper Projects for FY 2012 CMAQ funding to the MAG Management Committee. Mr. O'Donnell moved and Ms. Simpson seconded the motion to forward the prioritized list of proposed PM-10 Certified Street Sweeper Projects for FY 2012 CMAQ funding and to retain the prioritized list for any additional FY 2012 CMAQ funds that may become available due to closeout, including any redistributed obligation authority, or additional funding received by this region. The motion carried unanimously.

5. Update on the MAG Five Percent Plan for PM-10

Cathy Arthur, Maricopa Association of Governments, provided an update on the MAG Five Percent Plan for PM-10. Ms. Arthur indicated that MAG staff has produced draft PM-10 emission projections for the 2012 Five Percent Plan. She noted that the projections may change slightly before the plan is submitted.

Ms. Arthur explained that the plan to be submitted in 2012 is different from previous plans. One reason that this plan differs is that there were measures in the 2007 Five Percent Plan for PM-10, which has been withdrawn, that have been implemented for three years. Ms. Arthur stated that EPA has indicated that the region may take emissions reduction credit for the PM-10 measures that have already been in effect since 2007. She stated that the MAG 2012 Five Percent Plan can take credit for the following measures from the MAG 2007 Five Percent Plan which have been implemented: Increased rule effectiveness for Maricopa County Rules 310, 310.01 and 316; PM-10 certified street sweeping of freeways; PM-10 certified street sweepers purchased with CMAQ funds between January 1, 2007 and December 31, 2009; Road, alley, and shoulder paving and stabilization projects completed in 2008 through 2011; Speed limit reductions implemented in 2008 through 2011; and, Rubberized asphalt overlays completed by Arizona Department of Transportation. EPA has indicated that the plan may also take credit for one new measure, Dust Action General Permit and other provisions of House Bill 2208. Ms. Arthur discussed the draft PM-10 emissions for the MAG 2012 Five Percent Plan. She indicated that the draft emissions were based on the revised 2008 Periodic Emissions Inventory published by the Maricopa County Air Quality Department in June 2011.

Ms. Arthur stated that the growth factors are based on projections for the Phoenix metropolitan area released in August 2011 by Marshall Vest from the Economic and Business Research Center at the University of Arizona. She presented the increases and decreases projected for population and construction and manufacturing employment. Ms. Arthur noted that the numbers are different from previous presentations due to the release of the latest projections from Marshall Vest, which will be used in the plan. She added that the projections for both population and construction employment are more optimistic than what was used previously.

Ms. Arthur presented a pie chart of the draft 2012 PM-10 emissions with all plan measures which displays the distribution of PM-10 emissions by source in attainment year 2012. She stated that the chart is similar to the 2008 Periodic Emissions Inventory in terms of percentages, except for paved and unpaved roads. Ms. Arthur explained that the paved and unpaved road percentage is lower due to the credit for paving and stabilizing roads, shoulders, and alleys that has already occurred. Ms. Arthur presented a comparison of the revised 2008 Periodic Emissions Inventory and draft 2012 PM-10 emissions. She indicated that there is an approximate 8,000 ton reduction from 2008 to 2012.

Ms. Arthur stated that, with the exception of H.B. 2208, the measures that have already been implemented will be used to meet the requirements of the MAG 2012 Five Percent Plan. The first requirement of the plan is to show five percent reduction per year until attainment is reached. Ms. Arthur indicated that an effective way to demonstrate attainment is to use the rule effectiveness numbers which have dramatically increased since 2007. The rule effectiveness rates were calculated by the Maricopa County Air Quality Department using actual inspection data and a new methodology developed in consultation with the Environmental Protection Agency. Ms. Arthur stated that the increased rule effectiveness rates between 2007 and 2010 for Rule 310, Rule 310.01 and Rule 316 result in significant benefit. She noted that the rates are increased by one percent in 2012 for the wind

blown dust categories to account for the benefit of the Dust Action General Permit passed by the Arizona Legislature in 2011 as part of House Bill 2208. The credit will be used in the plan to model attainment. She noted that EPA has also recommended that this measure be quantified.

Ms. Arthur stated that the MAG 2012 Five Percent Plan will show the required five percent reductions per year for five years from 2007 to 2012. She presented that, using the baseline of 2007 PM-10 emissions, the goal is 2,969 tons per year with a total reduction of 14,845 tons for the five years. Considering the updated rule effectiveness, the actual tonnage reduced in 2012 is 16,270 tons. Ms. Arthur noted that the Clean Air Act five percent reduction requirement is met in 2012 with an excess of 1,425 tons.

Ms. Arthur discussed that there have been many paving/stabilization/speed limit reduction projects completed in 2008 through 2011 and credit can be taken. She noted that in September, MAG requested that the cities and towns and Maricopa County submit specifications on projects for paving/stabilization/speed limit reductions. MAG staff utilized the information submitted to quantify the mileage by project type for the years 2008 through 2011 as well as the total PM-10 emission reductions based on these projects for 2008-2012.

Ms. Arthur stated that to meet the Five Percent Plan contingency requirement, the plan must identify emission reductions above and beyond the credit used to demonstrate the annual five percent reduction and model attainment. After all the projects are quantified, the contingency requirement of 3,254 tons is met in 2012 with 3,263 tons. Ms. Arthur noted that this number is likely to increase once all of the project information is received from the jurisdictions.

Ms. Arthur stated that in conclusion the Draft 2012 Five Percent Plan for PM-10 will be able to meet the annual five percent reduction and contingency requirements, and will also be able to demonstrate modeling attainment. She indicated that MAG staff and Sierra Research, a MAG consultant, are currently working to demonstrate attainment via modeling. Ms. Arthur stated that two high wind days are being modeled: May 4, 2007 when just the West Forty-Third Avenue monitor exceeded; and, June 6, 2007 when seven monitors in the PM-10 nonattainment area experienced elevated PM-10 concentrations. In summation, Ms. Arthur discussed that the total PM-10 emission reductions in 2012 that are achieved through the measures that have been implemented, and the Dust Action General Permit, is 19,533 tons. This is a 32.9 percent reduction versus 2007. She added that these numbers may change before the draft plan is submitted; however, they should not deviate greatly. Ms. Arthur indicated that MAG staff is currently drafting chapters five and six of the plan.

Doug Kukino, City of Glendale, inquired about the schedule for the plan. Ms. Arthur replied that the tentative schedule has the draft slated for November, the public hearing in December, and submitting the plan to EPA in January 2012. Mr. Kukino asked what the responsibilities of the jurisdictions are and if the jurisdictions will need any further council approvals. Ms. Arthur responded that it does not appear that will be necessary.

Ms. Bauer noted that the dates that Ms. Arthur mentioned for the MAG 2012 Five Percent Plan for PM-10 may change. She indicated that ADEQ is working on the Agricultural Best Management Practice enforceability issues and they are also still working on the Dust Action General Permit. Ms. Bauer stated that MAG staff is currently drafting the parts of the plan in which the information is available. Once the final information is received, MAG staff will draft the remaining sections. She added that she is referring to the modeling part of the plan and the measures needed for modeling

attainment. Ms. Bauer indicated that the plan would need to be submitted in March 2012 for EPA to have the full six months for the completeness finding. She commented that MAG staff is working with ADEQ, Maricopa County, and a stakeholder group. Ms. Bauer mentioned that the draft plan may contain a table that indicates provisions and statutes that are applicable. She provided the example of the statute that requires ordinances from the cities and towns. Ms. Bauer stated that Ms. Arthur's presentation includes what can be modeled to meet the modeling requirements for this plan; Ms. Bauer noted that this plan uses existing measures that are already being implemented to reduce PM-10. This approach also avoids any further economic burden or regulations on the private and public sectors. She stated that this would not have been possible without fairly clean years at the monitors.

Ms. Bauer discussed the PM-10 exceedances from 2009-2011. She indicated that informally EPA has mentioned 2009 may be a clean year with most of the exceedances being exceptional events. In 2010, the region only had one exceedance. In 2011, the region was doing well with only one exceedance until all these exceptional events occurred. The State is currently documenting the exceptional events with assistance from MAG staff and Maricopa County. Ms. Bauer stated that the purpose of Ms. Arthur's presentation was to give the Committee an idea of how MAG is working to meet the requirements.

Ms. McGennis expressed concern about the employment projections used in modeling attainment for the 2012 Five Percent Plan due to the fluctuating nature of these numbers based on the economy. Ms. Arthur replied that yes the numbers for employment are volatile. She indicated that Marshall Vest is the only person in Arizona who is developing advanced econometric modeling. Ms. Arthur noted his credibility in this field and mentioned that his projections are based on the 2010 census. She stated that the MAG projections are currently based on outdated population data. Ms. Arthur also indicated that in a phone call with Marshall Vest, he commented that he was confident in the third quarter projections that MAG is using for the plan. She discussed that even if the numbers were to change up or down between 2011 and 2012, it would not make a big difference in the calculations. Ms. McGennis inquired why MAG did not use the previous projections when there was a downturn. Ms. Arthur replied that Marshall Vest provides updated projections every quarter and these are the latest he has released. She stated that the only uptick in construction employment projection is occurring between 2011 and 2012. Ms. Arthur noted that it was more difficult to show the five percent reductions after the third quarter projections were used since they are more optimistic. She indicated that these are the projections in which Marshall Vest is the most confident.

Ms. Bauer inquired if there is a way to qualify in the narrative the volatility of the numbers. Ms. Arthur responded that a qualification could be included in the plan. She also noted that the Marshall Vest numbers are based on Arizona-specific economic data. Ms. Arthur added that these projections are also being used by others. Ms. McGennis mentioned that she has projections that can be submitted to MAG as a comparison. She also commented that many companies are noting their Capital Improvement Budgets are decreasing every year. Ms. McGennis added that they are forecasting construction employment numbers to move downward. She indicated that they are happy to see there was a good employment quarter, but do not necessarily believe it is realistic.

Mark Hajduk, Arizona Public Service Company, inquired if the 164 ton reduction from the Dust Action General Permit was included in the excess 1,425 tons of emission reduction. Ms. Arthur responded yes. Mr. Hajduk commented that the Dust Action General Permit does not appear to have

a big impact on the emission reductions. Ms. Arthur replied that the credit from that permit is needed to demonstrate modeling attainment on high wind days. She indicated that on an annual basis the 164 ton reduction from the Dust Action General Permit does not make a large impact. However, on high wind days the Dust Action General Permit does make an impact.

6. Upcoming Ozone Designations

Ms. Bauer provided an update on the EPA withdrawal of the proposed eight-hour ozone standard. She stated that on September 22, 2011, EPA issued a memorandum indicating that the agency will proceed with the initial designations under the 2008 standard of 0.075 parts per million. Ms. Bauer noted that the region has one violating monitor of the ozone standard from the most recent ozone season. She stated that EPA is looking at the air quality monitoring data as well as the recommendation for the nonattainment area boundary that was submitted in 2009 by the Governor. The EPA expects to issue their recommendations on the designation and the boundary area in mid-December. Ms. Bauer stated that EPA has indicated that the region potentially may be designated as a marginal nonattainment area. EPA expects to finalize the designations and boundaries in mid-April 2012. Ms. Bauer commented that the region will have 120 days to comment once EPA issues their recommendations.

7. Court Order in the Lawsuit Filed Against the State for the Repeal of the Lottery Funds for Transit

Ms. Bauer provided an update on the court ruling in the lawsuit filed by the Arizona Center for Law in the Public Interest against the State for the repeal of the Local Transportation Assistance Fund (LTAF). On September 30, 2011, the court issued the final order to reinstate the funding. Ms. Bauer stated that toward the end of the September 30th order, it indicates that the order will be in effect until the Legislature reinstates the lottery funds for transit or the EPA publishes a notice in the Federal Register relieving the State of the funding commitment.

8. EPA Will Propose to Retain the Current PM-10 Standard

Ms. Bauer stated that on October 14, 2011, EPA indicated that the agency will propose retention of the current PM-10 standard.

9. Call for Future Agenda Items

Mr. Tveit requested suggestions for future agenda items. Ms. Arnst indicated that she would like to know the status on submitting the interim year modeling for redesignation with regard to the last ozone standard. With no further comments, the meeting was adjourned at 2:26 p.m.

2011 Exceedances of the 24-Hour PM-10 Standard by Date
(Preliminary Data Through November 4, 2011)

Date	Monitor	24-Hour Avg. PM-10 Concentration in $\mu\text{g}/\text{m}^3$	Additional Information
February 19, 2011	West Chandler	167.9	Frontal system winds from the south. Five continuous Pinal County PM-10 monitors recorded exceedances on February 19, 2011.
March 12, 2011	South Phoenix	168.5	
July 3, 2011	Buckeye	385.6	Regional dust storm
	Central Phoenix	279.8	
	Durango	278.1	
	Dysart	240.0	
	Glendale	242.8	
	Greenwood	254.6	
	Higley	196.8	
	South Phoenix	280.7	
	Supersite	229.0	
	West Chandler	199.2	
	West 43rd Ave.	250.7	
	West Phoenix	244.2	
Zuni Hills	260.8		
July 4, 2011	Higley	198.5	Localized thunderstorm outflow winds from the south. Five continuous Pinal County PM-10 monitors recorded exceedances on July 4, 2011.
July 5, 2011	Buckeye	164.2	Regional dust storm
	Central Phoenix	277.5	
	Durango	156.9	
	Dysart	220.0	
	Glendale	168.3	
	Greenwood	156.0	
	Higley	375.7	
	South Phoenix	207.4	
	Supersite	331.8	
	West Chandler	360.6	
West Phoenix	267.0		
July 7, 2011	Higley	266.9	Localized thunderstorm outflow winds late in the evening along with residual dust from the July 5, 2011 regional dust storm. Five continuous Pinal County PM-10 monitors recorded exceedances on July 7, 2011.
	West Chandler	205.8	
July 8, 2011	Apache Junction	194.2	Localized thunderstorm outflow winds
July 18, 2011	Buckeye	196.7	Regional dust storm
	Central Phoenix	211.2	
	Durango	268.2	
	Dysart	163.9	
	Greenwood	209.3	
	South Phoenix	303.7	
	West 43rd Ave.	245.3	
West Phoenix	159.7		
August 3, 2011	West Chandler	249.3	Localized thunderstorm outflow winds early in the morning. Four continuous Pinal County PM-10 monitors recorded exceedances on August 3, 2011.
August 5, 2011	Buckeye	158.7	Residual dust from August 4 evening thunderstorms-under investigation

Date	Monitor	24-Hour Avg. PM-10 Concentration in $\mu\text{g}/\text{m}^3$	Additional Information
August 18, 2011	Buckeye	296.8	Regional dust storm
	Central Phoenix	232.2	
	South Phoenix	179.0	
	West Chandler	186.1	
August 25, 2011	Buckeye	235.9	Regional dust storm
	Central Phoenix	308.7	
	Durango	437.5	
	Dysart	273.7	
	Glendale	241.2	
	Greenwood	388.6	
	South Phoenix	421.5	
	Supersite	242.2	
	West Chandler	278.6	
	West 43rd Ave.	370.3	
	West Phoenix	212.6	
	Zuni Hills	212.8	
August 26, 2011	Apache Junction	169.0	Localized thunderstorm outflow winds. Four other continuous Pinal County PM-10 monitors recorded exceedances on August 26, 2011.
August 27, 2011	Buckeye	226.3	Regional dust storm
	Central Phoenix	234.0	
	Durango	261.4	
	Glendale	220.4	
	Greenwood	208.2	
	South Phoenix	301.5	
	West Chandler	229.3	
	West 43rd Ave.	292.6	
August 28, 2011	Apache Junction	282.7	Carryover from August 27, 2011 regional dust storm. Four other continuous Pinal County PM-10 monitors recorded exceedances on August 28, 2011.
	Higley	175.8	
September 2, 2011	Apache Junction	217.4	Regional dust storm
	Buckeye	169.8	
	Central Phoenix	308.0	
	Durango	255.4	
	Greenwood	198.1	
	Higley	213.5	
	South Phoenix	339.3	
	Supersite	208.9	
	West Chandler	387.5	
	West 43rd Ave.	219.7	
September 6, 2011	Apache Junction	172.6	Localized thunderstorm outflow
September 11, 2011	North Phoenix	184.1	Regional dust storm
	Supersite	178.7	
	West Phoenix	168.8	
September 12, 2011	Durango	229.8	Regional dust storm
	West 43rd Ave.	162.2	
	West Phoenix	200.6	
October 4, 2011	Higley	157.8	Regional dust storm. Six continuous Pinal County PM-10 monitors recorded exceedances on October 4, 2011.
	West Chandler	251.5	
November 2, 2011	Zuni Hills	411.9	Frontal system winds. During the event, a maximum north-northeast wind speed of 49 mph was recorded and an hourly average of 28 mph.

Date	Monitor	24-Hour Avg. PM-10 Concentration in $\mu\text{g}/\text{m}^3$	Additional Information
November 4, 2011	Apache Junction	225.4	Regional dust storm
	Buckeye	284.9	
	Central Phoenix	223.2	
	Durango	251.8	
	Dysart	224.3	
	Glendale	229.0	
	Greenwood	231.4	
	Higley	208.8	
	North Phoenix	186.3	
	Supersite	199.6	
	West Chandler	670.2	
	West 43rd Ave.	242.9	
	West Phoenix	279.6	
	Zuni Hills	258.6	

2011 Exceedances of the 24-Hour PM-10 Standard by Monitor
(Preliminary Data Through November 4, 2011)

Monitor	Date	24-Hour Avg. PM-10 Concentration in $\mu\text{g}/\text{m}^3$	Additional Information
Apache Junction	July 8, 2011	194.2	Localized thunderstorm outflow winds
	August 26, 2011	169.0	Localized thunderstorm outflow winds. Four other continuous Pinal County PM-10 monitors recorded exceedances on August 26, 2011.
	August 28, 2011	282.7	Carryover from August 27, 2011 regional dust storm. Four other continuous Pinal County PM-10 monitors recorded exceedances on August 28, 2011.
	September 2, 2011	217.4	Regional dust storm
	September 6, 2011	172.6	Localized thunderstorm outflow
	November 4, 2011	225.4	Regional dust storm
Buckeye	July 3, 2011	385.6	Regional dust storm
	July 5, 2011	164.2	Regional dust storm
	July 18, 2011	196.7	Regional dust storm
	August 5, 2011	158.7	Residual dust from August 4 evening thunderstorms-under investigation
	August 18, 2011	296.8	Regional dust storm
	August 25, 2011	235.9	Regional dust storm
	August 27, 2011	226.3	Regional dust storm
	September 2, 2011	169.8	Regional dust storm
	November 4, 2011	284.9	Regional dust storm
Central Phoenix	July 3, 2011	279.8	Regional dust storm
	July 5, 2011	277.5	Regional dust storm
	July 18, 2011	211.2	Regional dust storm
	August 18, 2011	232.2	Regional dust storm
	August 25, 2011	308.7	Regional dust storm
	August 27, 2011	234.0	Regional dust storm
	September 2, 2011	308.0	Regional dust storm
	November 4, 2011	223.2	Regional dust storm
Durango	July 3, 2011	278.1	Regional dust storm
	July 5, 2011	156.9	Regional dust storm
	July 18, 2011	268.2	Regional dust storm
	August 25, 2011	437.5	Regional dust storm
	August 27, 2011	261.4	Regional dust storm
	September 2, 2011	255.4	Regional dust storm
	September 12, 2011	229.8	Regional dust storm
	November 4, 2011	251.8	Regional dust storm
Dysart	July 3, 2011	240.0	Regional dust storm
	July 5, 2011	220.0	Regional dust storm
	July 18, 2011	163.9	Regional dust storm
	August 25, 2011	273.7	Regional dust storm
	November 4, 2011	224.3	Regional dust storm
Glendale	July 3, 2011	242.8	Regional dust storm
	July 5, 2011	168.3	Regional dust storm
	August 25, 2011	241.2	Regional dust storm
	August 27, 2011	220.4	Regional dust storm
	November 4, 2011	229.0	Regional dust storm
Greenwood	July 3, 2011	254.6	Regional dust storm
	July 5, 2011	156.0	Regional dust storm
	July 18, 2011	209.3	Regional dust storm
	August 25, 2011	388.6	Regional dust storm
	August 27, 2011	208.2	Regional dust storm
	September 2, 2011	198.1	Regional dust storm
	November 4, 2011	231.4	Regional dust storm

Monitor	Date	24-Hour Avg. PM-10 Concentration in $\mu\text{g}/\text{m}^3$	Additional Information
Higley	July 3, 2011	196.8	Regional dust storm
	July 4, 2011	198.5	Localized thunderstorm outflow winds from the south. Five continuous Pinal County PM-10 monitors recorded exceedances on July 4, 2011.
	July 5, 2011	375.7	Regional dust storm
	July 7, 2011	266.9	Localized thunderstorm outflow winds late in the evening along with residual dust from the July 5, 2011 regional dust storm. Five continuous Pinal County PM-10 monitors recorded exceedances on July 7, 2011.
	August 28, 2011	175.8	Carryover from August 27, 2011 regional dust storm. Five continuous Pinal County PM-10 monitors recorded exceedances on August 28, 2011.
	September 2, 2011	213.5	Regional dust storm
	October 4, 2011	157.8	Regional dust storm. Six continuous Pinal County PM-10 monitors recorded exceedances on October 4, 2011.
	November 4, 2011	208.8	Regional dust storm
North Phoenix	September 11, 2011	184.1	Regional dust storm
	November 4, 2011	186.3	Regional dust storm
South Phoenix	March 12, 2011	168.5	
	July 3, 2011	280.7	Regional dust storm
	July 5, 2011	207.4	Regional dust storm
	July 18, 2011	303.7	Regional dust storm
	August 18, 2011	179.0	Regional dust storm
	August 25, 2011	421.5	Regional dust storm
	August 27, 2011	301.5	Regional dust storm
	September 2, 2011	339.3	Regional dust storm
Supersite	July 3, 2011	229.0	Regional dust storm
	July 5, 2011	331.8	Regional dust storm
	August 25, 2011	242.2	Regional dust storm
	September 2, 2011	208.9	Regional dust storm
	September 11, 2011	178.7	Regional dust storm
	November 4, 2011	199.6	Regional dust storm
West Chandler	February 19, 2011	167.9	Frontal system winds from the south. Five continuous Pinal County PM-10 monitors recorded exceedances on February 19, 2011.
	July 3, 2011	199.2	Regional dust storm
	July 5, 2011	360.6	Regional dust storm
	July 7, 2011	205.8	Localized thunderstorm outflow winds late in the evening along with residual dust from the July 5, 2011 regional dust storm. Five continuous Pinal County PM-10 monitors recorded exceedances on July 7, 2011.
	August 3, 2011	249.3	Localized thunderstorm outflow winds early in the morning. Four continuous Pinal County PM-10 monitors recorded exceedances on August 3, 2011.
	August 18, 2011	186.1	Regional dust storm
	August 25, 2011	278.6	Regional dust storm
	August 27, 2011	229.3	Regional dust storm
	September 2, 2011	387.5	Regional dust storm
	October 4, 2011	251.5	Regional dust storm. Six continuous Pinal County PM-10 monitors recorded exceedances on October 4, 2011.
	November 4, 2011	670.2	Regional dust storm
West 43rd Avenue	July 3, 2011	250.7	Regional dust storm
	July 18, 2011	245.3	Regional dust storm
	August 25, 2011	370.3	Regional dust storm
	August 27, 2011	292.6	Regional dust storm
	September 2, 2011	219.7	Regional dust storm
	September 12, 2011	162.2	Regional dust storm
	November 4, 2011	242.9	Regional dust storm

Monitor	Date	24-Hour Avg. PM-10 Concentration in $\mu\text{g}/\text{m}^3$	Additional Information
West Phoenix	July 3, 2011	244.2	Regional dust storm
	July 5, 2011	267.0	Regional dust storm
	July 18, 2011	159.7	Regional dust storm
	August 25, 2011	212.6	Regional dust storm
	August 27, 2011	164.6	Regional dust storm
	September 11, 2011	168.8	Regional dust storm
	September 12, 2011	200.6	Regional dust storm
	November 4, 2011	279.6	Regional dust storm
Zuni Hills	July 3, 2011	260.8	Regional dust storm
	August 25, 2011	212.8	Regional dust storm
	November 2, 2011	411.9	Frontal system winds. During the event, a maximum north-northeast wind speed of 49 mph was recorded and an hourly average of 28 mph.
	November 4, 2011	258.6	Regional dust storm

H.R. _____

(11/07/2011 DRAFT)

To provide for the state implementation of exceptional events determinations and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

XX, 2011

A BILL

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title.

This Act may be cited as the “Exceptional Events Reform Act of 2011”.

Section 2. Findings.

(a) The Congress finds –

- (1) The Clean Air Act (42 U.S.C. 7401 et seq.) provides that air pollution prevention and control is the primary responsibility of state and local governments.
- (2) Courts have recognized that the Act is an exercise in “cooperative federalism” in which the Environmental Protection Agency sets the level and form of national ambient air quality standards while States retain the authority to flexibly determine how best to meet those standards.
- (3) States are in the best position to evaluate local and regional conditions, such as windy conditions and the transport of particulate matter, which can temporarily affect monitoring of local air quality.
- (4) There is a need to more efficiently determine when air quality data is influenced by exceptional events as well as provide for the review and handling of air quality monitoring data influenced by exceptional events in a timely manner.

Section 3. Amendments

Section 319 of the Clean Air Act (42 U.S.C. 7619) is amended by --

- (1) striking “location or a natural event; and” in section 319(b)(1)(A)(iii) and inserting in lieu thereof “location, a natural event or a high wind event; and”
- (2) striking section 319(b)(1)(A)(iv) in its entirety and inserting in lieu thereof “(iv) is determined by a State or tribal government, or a state or tribal entity that has been delegated authority by the Governor of a state or by a tribal government, after consultation with the Administrator, to be an exceptional event.”
- (3) deleting section 319(b)(1)(B) in its entirety.
- (4) inserting after section 319(b)(1)(A) the following:
 - “(B) Definition
 - “In this subsection –
 - (i) the term ‘natural event’ means an event in which human activity plays little or no direct causal role;”
 - (ii) the term ‘high wind event’ means an event where particulate matter is raised or transported by high winds.”
- (5) deleting section 319(b)(3)(B)(iv) in its entirety and strike “; and” at the end of section 319(b)(3)(B)(iii) and insert instead “.”.
- (6) deleting section 319(b)(4) in its entirety.

Section 4. Revision

- (a) In General. – On the first day of publication of the Federal Register that is 180 days or more after the date of enactment of this Act but not more than 270 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall publish in the Federal Register a final rule regarding exceptional events, which –
 - (1) is deemed to be issued under section 319 of the Clean Air Act (42 U.S.C. 7619), as amended by this Act; and
 - (2) shall be deemed to be in compliance with all applicable provisions of chapter 5 of title 5, United States Code, section 307 of the Clean Air Act (42 U.S.C. 7607), and all other provisions of law relating to rulemaking procedures.
- (b) Contents of Rule. – Except as provided in this subsection, the final rule published under subsection (a) of this section shall be identical in its provisions to the part 50 and part 51 regulations promulgated by the Administrator of the Environmental Protection Agency in the March 22, 2007, issue of the Federal Register (72 Fed. Reg. 13,580-13,581). Such rule shall --
 - (1) delete “or a natural event” in 40 C.F.R. 50.1(j) and insert “or a natural event or high wind event” in lieu thereof;
 - (2) “the Administrator” in 40 C.F.R. 50.1(j) and insert “a State or tribal government, or a state or tribal entity that has been delegated authority by the Governor of a state or tribal government” in lieu thereof;
 - (3) strike the last sentence in 40 C.F.R. 50.1(j)
 - (4) insert the following definition in 40 C.F.R. 50.1: “(m) “*High wind event* means an event where ambient particulate matter concentrations due to dust and other matter

- are raised by high winds. Such an event exists where: (1) the dust or other matter originated from nonanthropogenic sources, or (2) the dust or other matter originated from anthropogenic sources within a State, that are determined by the State to have been reasonably controlled at the time that the event occurred, or (3) the dust or other matter originated from anthropogenic sources outside the State.”;
- (5) delete “may request EPA to” in 40 C.F.R. 50.14(a)(1) and insert “or tribal government or state or tribal entity may, after consultation with the Administrator,” in lieu thereof;
 - (6) delete “demonstrating to EPA’s satisfaction” in 40 C.F.R. 50.14(a)(1) and insert “determining” in lieu thereof;
 - (7) delete “Demonstration to justify data exclusion may include” in 40 C.F.R. 50.14(a)(2) and insert “A State or tribal government or a state or tribal entity may rely on” in lieu thereof;
 - (8) delete “demonstrate” in 40 C.F.R. 50.14(a)(2) and insert “determine” in lieu thereof;
 - (9) insert before the period at the end of 40 C.F.R. 50.14(a)(2) “for events for which data was flagged during calendar years 2004-2006. For exceptional events in years following 2006, a State or tribal government or state or tribal entity may rely on any reliable data that indicates a clear causal relationship between the measured exceedence or violation of such standard and the event and comply with paragraph (c)(4)(i) of this section”
 - (10) delete “State demonstrates to EPA’s satisfaction” in 40 C.F.R. 50.14(b)(1) and insert “State or tribal government or state or tribal entity determines” in lieu thereof;
 - (11) delete “State demonstrates to EPA’s satisfaction” in 40 C.F.R. 50.14(b)(2) and insert “State or tribal government or state or tribal entity determines” in lieu thereof;
 - (12) delete “a State demonstrates” in 40 C.F.R. 50.14(b)(2) and insert “a State or tribal government or state or tribal entity determines” in lieu thereof;
 - (13) delete “where a State demonstrates to EPA’s satisfaction” in 40 C.F.R. 50.14(b)(3) and insert “where a State or tribal government or state or tribal entity determines” in lieu thereof;
 - (14) delete “that EPA determines meets the definition in § 50.1(j), and provided that the State has certified to EPA that it” in 40 C.F.R. 50.14(b)(3) and insert “and a State or tribal government or state or tribal entity” in lieu thereof;
 - (15) insert following the reserved section in 40 C.F.R. 50.14(b)(4) the following:
“EPA shall exclude data from use in determinations of exceedences and NAAQS violations where a State or tribal government or state or tribal entity determines that emissions causing the exceedences or NAAQS violations were caused by a natural event or a high wind event.”
 - (16) delete 40 C.F.R. 50.14(c)(2)(ii) in its entirety;
 - (17) delete 40 C.F.R. 50.14(c)(3) and 40 C.F.R. 50.14(c)(3)(i) in its entirety, insert “(3) *Demonstrations.*” in lieu thereof and renumber the remaining subparagraphs accordingly;
 - (18) delete “, must adopt procedures and requirements specified in paragraph (c)(3)(i) of this section and” in 40 C.F.R. 50.14(c)(3)(ii)
 - (19) insert “for data collected during calendar years 2004-2006” after “The demonstration” in 40 C.F.R. 50.14(c)(3)(iii);

- (20) insert following “(v) [Reserved] (A) [Reserved]” in 40 C.F.R. 50.14(c)(3) the following “(4) *Documentation*. (i) A State or tribal government that has flagged data as being due to an exceptional event shall document that the event meets the requirements of section 319 of the Clean Air Act (42 U.S.C. § 7619). (ii) Upon receipt of such documentation, the Administrator shall exclude the flagged data from use in determinations by the Administrator with respect to exceedences or violations of the NAAQS.”
- (21) delete “requesting to exclude” in 40 C.F. R. 51.930(a) and insert “or tribal government or state or tribal authority that determines” in lieu thereof and insert “is” after “data”;
- (22) insert “or tribal government or state or tribal entity” after “State” in the second sentence of 40 C.F.R. 51.930(a); and
- (23) insert after 40 C.F.R. 51.930(a)(3) the following: “(4) Provide as necessary that all provisions of the rule take effect no later than 1 year after the date of enactment of this Act.

(c) Amendments to Rule. – Prior to making amendments to the rule published under paragraph (1), the Administrator of the Environmental Protection Agency shall promulgate a proposed rule in accordance with chapter 5 of title 5, United States Code and section 307 of the Clean Air Act (42 U.S.C. 7607).

(d) Rule of Construction.—Except as provided in subsection (b) of this section, nothing in this section shall be construed to limit the authority of the Administrator of the Environmental Protection Agency to amend, in accordance with chapter 5 of title 5, United States Code, or sections 307 and 319 of the Clean Air Act (42 U.S.C. 7607, 7619) the regulation promulgated pursuant to this section.

Section 5. Effect

Legislative amendments enacted by this Act shall take effect upon the date of enactment and be applicable to exceptional events that occur after December 31, 2006.

Exceptional Events Reform Act of 2011

Section 1. Short Title

The short title for the legislation is the “Exceptional Events Reform Act of 2011.”

Section 2. Findings

The legislation makes four findings based on the historic construction and interpretation of the Clean Air Act (42 U.S.C. § 7401 *et seq.*) and the need to more efficiently address the review and treatment of air quality data affected by exceptional events.

Section 3. Amendments

The legislation makes several targeted amendments to section 319 of the Clean Air Act (42 U.S.C. § 7619):

- First, the legislation provides that States and tribal governments (or state and tribal organizations that are delegated authority) are to determine when air quality conditions qualify as “exceptional events.” Consistent with the Findings, the legislation places responsibility at the state and tribal levels for determining, after consultation with the Environmental Protection Agency (“EPA”), when exceptional events occur and therefore, when air quality data associated with exceptional events can be excluded from determinations of compliance with national ambient air quality standards (“NAAQS”).
- Second, the legislation retains the previous definition of what constitutes an “exceptional event” while also providing a definition for a “natural event” consistent with the definition utilized in existing Environmental Protection Agency (“EPA”) regulations. The legislation also provides a definition for “high wind event” to clarify the treatment of windblown dust and other particulate matter.
- Third, the legislation deletes limitations on the definition of an exceptional event which provide that stagnant air masses, high temperatures and a lack of precipitation or air pollution “relating to” source noncompliance prevent flagging and excluding associated air quality data as an exceptional event. Instead, state and tribal governments will make a case-by-case determination as to whether measured air quality qualifies as an exceptional event.
- Finally, the legislation deletes an unnecessary transitional provision that provided, prior to the promulgation of regulations under Clean Air Act section 319, pre-existing EPA guidance controlled the consideration and exclusion of air quality data associated with exceptional events.

Section 4 Revision

The legislation requires EPA to propose and publish final regulations for exceptional events no later than 270 days after the enactment of the legislation. In order to meet this schedule and to ensure that final regulations are consistent with Congressional intent and the legislative amendments to Clean Air Act section 319, the legislation: (1) retains current regulations promulgated by EPA in 2007; while (2) making targeted changes to the 2007 regulations.

The legislation provides three different categories of regulatory changes:

- First, the legislation makes several changes to ensure that a State or tribal government, or a state or tribal entity that has been delegated authority is the locus of decisionmaking on exceptional events determinations after consultation with EPA. The regulatory changes ensure that states and tribes or entities that have been delegated state or tribal authority, after consultation with the EPA, make all decisions on what air quality data qualifies as an exceptional event. Under the new regulations, EPA will be required to exclude data determined by states, tribes or other qualified authorities to constitute an “exceptional event”.
- Second, the legislation imposes regulations to require that States and tribal governments document data that has been “flagged” as an exceptional event and retains requirements in current regulations that there is a clear causal relationship between a measured exceedence of a NAAQS and an exceptional event. The legislation also retains current regulatory requirements that require prompt public notification whenever air quality is expected to exceed NAAQS levels, public education efforts to inform individuals how to reduce exposure to elevated levels of NAAQS pollutants and implementation of appropriate measures to protect public health.
- Third, the legislation provides for conforming regulatory changes to incorporate the specification of “natural events” and “high wind events” contained in the legislative changes to the Clean Air Act and for transitional provisions for events occurring in 2006 and prior to 2006 and for events occurring in 2007 and thereafter.

Section 5. Effect

The legislation provides that the amendments to the Clean Air Act take effect upon date of enactment of this legislation and are applicable to events that occur in 2007 and thereafter.

Exceptional Events Reform Act of 2011

Need for Legislation

- Many areas of the country are affected by air quality conditions that are out of their control. Windblown dust and particulate matter may travel tens or hundreds of miles affecting air quality in “downwind” areas. Excessive heat and drought can exacerbate normal conditions and make elevated levels of air pollution more likely.
- The Clean Air Act (“CAA”) contains authority to exclude “exceptional events” from determinations of whether an area is in compliance with National Ambient Air Quality Standards (“NAAQS”). Under the CAA, air quality conditions associated with events that are not “reasonably controllable or preventable” and other events can be excluded from the determination of whether an area is meeting (“attaining”) a NAAQS.
- Although the Environmental Protection Agency (“EPA”) promulgated regulations to address exceptional events in 2007, current regulations present states, tribes and local governments with a data-intensive and time-consuming process for obtaining EPA assent. States and localities must obtain agreement from EPA Regional offices in consultation with EPA Headquarters regarding their assessment of local air quality conditions and the reasons why an area experienced air monitoring exceedences.
- The Exceptional Events Reform Act of 2011 attempts to streamline the exceptional events process by returning control over such decisions to states and tribes. States and tribes would be authorized to make “case-by-case” determinations as to when natural conditions, windblown dust and other forces outside of their control caused air quality monitors to register a NAAQS exceedence. Upon determination by a state or tribal government that an exceedence was due to an exceptional event, EPA would be required to exclude the data from determinations of CAA compliance.
- The legislation recognizes that States, tribes and local governments have been primarily responsible for implementing the CAA for the last 50 years. In addition, by developing and implementing multiple State Implementation Plans (“SIPs”) and SIP revisions to address CAA requirements, states, tribes and local governments have developed the necessary technical expertise and staff resources to evaluate the complex meteorology and atmospheric conditions that may be involved in exceptional events.
- A legislative fix would allow EPA to continue its defined role in the CAA implementation process – EPA would continue to review and approve SIPs that provide the detailed mechanisms to attain NAAQS. But the legislative fix would return control of exceptional event determinations to states and tribes who are in the best position to evaluate local air quality conditions and programs.

- Importantly, the Exceptional Events Reform Act of 2011 retains all current requirements to notify and the public of air quality conditions and provide information to the public on how to reduce exposures to elevated levels of air pollution. States or tribes must also provide for the implementation of appropriate measures to protect public health from exceedances or violations of NAAQS caused by exceptional events. But the legislation would ensure that states, tribes and local governments are not penalized for air quality conditions that are beyond their ability to control or prevent.

Background Information

- Congress recognized that there are exceptional events – such as high winds and wildfires – that cannot be controlled by air quality plans. In 2005, Congress amended the CAA to allow for exceptional events so that regions would not be penalized for NAAQS exceedances at air quality monitors due to exceptional events. EPA then developed the Exceptional Events Rule during 2006 and finalized the rule in 2007.
 - Implementation of the Exceptional Events Rule, however, has been cumbersome and time consuming. In order to have data excluded from NAAQS determinations, States and local governments must assemble massive amounts of data regarding even a single exceedance of a NAAQS. Considerable resources are spent both in developing the information for submittal to EPA and for EPA's review of the data and information submitted by states.
 - Due to the requirements that must be met and the number of exceptional events that have occurred, the documentation effort is extremely resource intensive. For example, the San Joaquin Valley Unified Air Pollution Control District has estimated that 453 staff hours are needed to prepare the documentation for just one high wind exceptional event. Based upon this estimate, the documentation of the 21 days of exceptional events that the Maricopa area in Arizona experienced in one year would take 9,513 staff hours or 1,189 work days.
 - The Arizona Department of Environmental Quality is currently overwhelmed with the exceptional events workload. For example, although there were limited numbers of exceptional events in 2009 and no events in 2010 in the Maricopa area, during 2011 this area experienced 102 exceedances of the PM-10 standard. All but one of these events was due to the existence of haboobs, dust storms, thunderstorms, and residual dust. To have such events excluded from determinations of air quality compliance, Arizona will need to expend considerable financial resources to provide the detailed written descriptions, supporting information and data that EPA currently requires.
 - While EPA and states have made efforts to work together to improve the exceptional events process, there is inevitable delay and uncertainty associated with current exceptional events regulations. Upon the submittal of data and information on exceptional events, States and local governments simply do not know whether EPA will agree with their technical assessments or require additional supporting information. In
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certain cases, states and local governments may also disagree with EPA's assessment of the necessary conditions to establish an exceptional event occurred.

Legislative Provisions

Findings

- The Exceptional Events Reform Act of 2011 recognizes that state and local governments are primarily responsible to implement the CAA. This provision of the law dates back to 1963. Section 101(a)(3) of the CAA declares that "air pollution control at its source is the primary responsibility of States and local governments."
- Second, the legislation cites court opinions that have described the CAA as an exercise in "cooperative federalism" where the EPA sets the level and form of air pollution control standards, but States and local governments are responsible to draft and implement SIPs for various NAAQS.
- Third, the legislation recognizes that states and local governments are responsible for day-to-day air quality management activities. States and local governments deploy air pollution control monitors and gain considerable on-the-ground experience with local and regional weather conditions and patterns and how conditions can affect the measurement of different NAAQS.

Clean Air Act Amendments

- The Exceptional Events Reform Act of 2011 amends section 319 of the CAA to make targeted changes to current law defining exceptional events and when such events can be excluded from data determining NAAQS compliance. The legislation maintains the current "principles and requirements" regarding exceptional events enacted by Congress as well as requirements for the promulgation of regulations concerning the review and handling of air quality data affected by exceptional events.
- The Exceptional Events Reform Act provides that States or tribal governments, after consultation with the EPA, are responsible for determining when an exceptional event occurs. The legislation eliminates certain exclusions from exceptional events (stagnant air masses, inversions, high temperatures or lack of precipitation) and instead allows for a case-by-case determination of conditions. The legislation also removes source noncompliance as a separate basis for excluding an exceptional event, relying instead on implementation of SIPs to control sources and provide for NAAQS attainment.
- Finally, the legislation provides definitions for a "natural event" based on current EPA regulatory language and a separate definition for high wind events. High wind events were discussed in the preamble to EPA's current exceptional event regulations, but not originally included within those regulations.

Promulgation of New Regulations

- The legislation requires EPA to propose and publish final regulations for exceptional events no later than 270 days after the enactment of the legislation. The legislation retains the structure and much of the text of current regulations promulgated by EPA in 2007; while making changes to conform the regulations to the new CAA requirements being established.
- First, the legislation makes several changes to ensure that a State or tribal government, or a state or tribal entity that has been delegated authority, after consultation with EPA, is the locus of decisionmaking on exceptional events determinations. The regulatory changes ensure that states and tribes or entities that have been delegated state or tribal authority make all decisions on what air quality data qualifies as an exceptional event, transferring this authority from EPA.
- Second, the legislation retains requirements in current regulations that there must be a clear causal relationship between a measured exceedence of a NAAQS and an exceptional event while imposing requirements for States and tribal governments to document data that has been “flagged” for exclusion as an exceptional event. The legislation also retains current regulatory requirements that require prompt public notification whenever air quality is expected to exceed NAAQS levels, public education efforts to inform individuals how to reduce exposure to elevated levels of NAAQS pollutants and implementation of appropriate measures to protect public health.
- Third, the legislation provides for conforming regulatory changes to incorporate the specification of “natural events” and “high wind events” contained in the legislative changes to the CAA and for transitional provisions for events occurring in 2006 and prior to 2006 and for events occurring in 2007 and thereafter.

TENTATIVE MEETING SCHEDULE FOR THE
MAG AIR QUALITY TECHNICAL ADVISORY COMMITTEE

JANUARY - NOVEMBER 2012

Saguaro Conference Room

Thursday, January 26, 2012 - 1:30 p.m.

Thursday, February 23, 2012 - 1:30 p.m.

Thursday, March 22, 2012 - 1:30 p.m.

Thursday, April 26, 2012 - 1:30 p.m.

Thursday, May 24, 2012 - 1:30 p.m.

Thursday, June 28, 2012 - 1:30 p.m.

Thursday, July 26, 2012 - 1:30 p.m.

Thursday, August 23, 2012 - 1:30 p.m. IF NECESSARY

Thursday, September 20, 2012 - 1:30 p.m.

Thursday, October 25, 2012 - 1:30 p.m.

TUESDAY, November 27, 2012 - 1:30 p.m.

Note: This schedule is subject to change. Flexibility is needed to meet federal Clean Air Act mandates and changes in guidance from the Environmental Protection Agency.