

AIR RESOURCE TALKING POINTS

July 10, 1997

1. The Federal Land Manager (FLM)--and, in some cases, the Superintendent--play an **important but limited role** in Clean Air Act (CAA), Section 165 "new source review", and in Section 169A and 169B "visibility protection." That role is to **provide to the regulatory authorities (EPA and the States) information and recommendations** relevant to protecting Class I area resources from the adverse impacts of air pollution.

The Clean Air Act designated forty-eight NPS and twenty-one FWS Class I areas.

The FLM has **no regulatory authority**, and State/EPA can reasonably decide to reject FLM's recommendations (except where increment is violated).

However, the Clean Air Act instructs the FLM and the Superintendent to be **aggressive, err on the side of benefitting the resources, participate in the permit process, and challenge inappropriate permits in court**. The NPS and FWS Management Policies reinforce this instruction.

2. In order to perform the above statutory responsibilities, NPS established an air quality program in 1978. In several areas, NPS and FWS provide the Nation valuable information from its park and refuge air quality research and monitoring:

Monitoring: NPS runs perhaps the Nation's largest rural air quality network.

Visibility Research: NPS is one of the leaders in the Nation in visibility research.

Biological Research: NPS and FWS have made substantial contributions to the understanding of air pollution impacts on native species and ecosystems. The NPS and FWS will continue interpretation and use of research data on natural systems. The responsibility for biological effects research now falls under the purview of the newly formed USGS Biological Resources Division.

Cultural Resource Research: NPS sponsors the only research in the Nation on air pollution impacts on monuments and historic buildings.

Modeling: NPS makes substantial contributions in developing and applying state-of-the-art models that address the complex meteorology and topography characteristic of many parks.

3. Air pollution can degrade visibility and damage biological, cultural, and geological resources. **NPS science has identified serious air pollution problems in many park areas.**

NPS has documented impacts on visibility, vegetation, aquatic resources, soils, and cultural resources. Pollution concentrations in fifteen park areas where NPS has monitored have exceeded the national health standard for ozone at least once during the last seven years. Many NPS units where NPS has not monitored are located in areas classified as nonattainment for various air quality health and welfare standards, particularly those in or near urban areas.

However, FLM has only recently (since 1990), and only in three parks (Shenandoah, Great Smoky Mountains, and Denali), made a determination of "adverse impact" in the new source review process, and has challenged permits near these areas.

In 1985, FLM certified to EPA that **regional haze** impairs visibility to varying degrees in **all NPS Class I areas**.

4. The FLM's actions concerning new source review near Great Smoky Mountains NP have been misunderstood by many concerned citizens and industries. Similar actions at Shenandoah have received general public support and resulted in some progress (e.g., partial offsets for increases; more stringent technology requirements; support for regional approach). **In fact, we may have contributed to the misunderstanding of the Great Smoky notice by implying that we--now and in the future--will oppose all new sources out to 200 km. We will not. We will proceed to perform case-by-case reviews of every major new source, as the law requires, and focus our comments on sources of serious concern, and on mitigation measures (e.g., emissions offsets).** The comments on our 1992 *Federal Register* notice have made clear that we need to clarify this point, and we have done so in actions/discussions with affected states since then.
5. **Beyond new source review**, we are participating in regional initiatives (i.e., the Southern Appalachian Mountains Initiative (SAMI), the Grand Canyon Visibility Transport Commission (GCVTC)) to address park air quality issues. Regional approaches are needed because park resources are being damaged; the sources are largely regional; the pollutants of most concern are "derivative," forming over and affecting broad regions; and the most effective and least cost solutions are regional. **New clean sources cannot and should not bear the total burden of mitigating the adverse impacts in parks.** One objective of these regional initiatives is to provide recommendations to the regulatory authorities working on the implementation of the Clean Air Act Amendments of 1990 to develop implementation measures that are specifically crafted to assure benefits to Class I areas. The regional initiatives could also develop and recommend any additional measures necessary to better protect Class I areas.
6. **We have reviewed approximately 500 PSD permits since 1978 for projects proposed near NPS and FWS areas. We believe that PSD new source review is an important park protection tool to assure new sources have the best technology and do not cause or contribute to air pollution problems, but we also are becoming increasingly aware that PSD has serious limitations (see, also, 1990 GAO Report).**

Only the PSD and visibility protection provisions of the CAA **explicitly** consider impacts on park resources.

Notification process has improved in some cases since 1990, but States do not always require applicants to provide information needed by the FLM. The FLM still only has **a short time to comment** on applications once they are deemed "complete."

The **States** apparently have **broad discretion** in determining whether they are "satisfied" with the FLM's demonstration of adverse impact. For example, Virginia has rejected the FLM's demonstration in each of the six cases in which the FLM has found "adverse impacts." In response to a petition for reconsideration, EPA reviewed one of those cases and found that Virginia did not clearly err in issuing the permit. The FLM might not be able to meet Virginia's proof requirements despite substantial damage to Shenandoah's resources from air pollution. **However, in a second decision, EPA determined that States do not have unfettered discretion to neglect FLM adverse impact determinations.**

There is a lack of consensus on what analytical tools should be used to assess impacts from single or multiple sources over long distances or from derivative pollutants (ozone, sulfates, nitrates). NPS is chairing an interagency (EPA, FWS, FS, NPS) workgroup (IWAQM) to address these issues.

Virginia has received EPA approval to limit the application, of PSD Class I protection provisions to situations where the major new source is predicted (by models) to have some level of "significant" impact on increment violations. Other permitting authorities have also expressed interest in this limitation, and some have further suggested extending the "significant impact" test to impacts on park resources. Since most sources, even with high emissions, have "insignificant" impacts, this limitation frustrates the ability to mitigate pollution problems which result from the **cumulative effect** of many sources.

7. **The Clean Air Act Amendments of 1990** will certainly produce air quality benefits, and many parks will likely experience some air quality improvement. However, the 1990 legislation **will not necessarily prevent or correct air pollution problems in Class I areas**. The effectiveness of the 1990 legislation will be determined by myriad regulations, many of which have not yet been promulgated let alone implemented. Furthermore, the flexibility inherent in the acid rain title's market-based approach makes predictions even more difficult. We can only **speculate** at this point as to the effects of the 1990 legislation on parks. For example, we expect annual average perceptible improvement in visibility at Shenandoah (though the visibility will still be seriously impaired, and episodes could be unaffected or worsen). Permitted increases in air pollution could negate required decreases. Despite the 1990 legislation, sulfur dioxide is predicted to increase substantially in the West, and nitrogen dioxide is predicted to increase over time throughout the Nation. Even the most ambitious implementation of the 1990 legislation will not correct existing adverse impacts (e.g., acidification of streams at Shenandoah). Nevertheless, the regulatory authorities could devise implementation strategies that would benefit parks.
8. One provision of the 1990 legislation that explicitly addresses parks and should produce benefits is **the Section 169B Visibility Provision**. In June 1996, the Grand Canyon Visibility Transport Commission issued its recommendations as to how to remedy the existing regional haze and prevent future regional haze in the Grand Canyon region. EPA is expected to respond to the recommendations and issue proposed regional haze regulations for Class I areas throughout the nation this summer.

SOURCE: National Park Service, Air Resources Division

Entered: 1998