

Permit Application Guidance for New Air Pollution Sources

Natural Resources Programs
National Park Service



Natural Resources Report Series 85-2

**NATIONAL PARK SERVICE
NATURAL RESOURCES REPORT SERIES**

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PERMIT APPLICATION GUIDANCE FOR
NEW AIR POLLUTION SOURCES

Natural Resources Report Series No. 85-2

by

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AUGUST 1985

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PURPOSE

This document provides guidance to persons intending to submit a Prevention of Significant Deterioration (PSD) permit application for a major source that has the potential to impact a class I area managed by the National Park Service (NPS) or the U. S. Fish and Wildlife Service (FWS). This document should also be useful to permitting authorities to identify NPS and FWS contacts and to NPS personnel to provide background information on the PSD process and information/analysis requirements.

For areas of the National Park System, the NPS Organic Act requires the conservation of the areas' resources "unimpaired for future generations." For areas which have been designated "class I" air quality areas under the Clean Air Act, that Act charges the Federal Land Manager (FLM) with an "affirmative responsibility" to protect the "air quality-related values" of the areas from "adverse impact." Much of the information needed by NPS to carry out these statutory responsibilities must be collected well before the PSD permit application is submitted. By following the guidance in this document, the applicant can both prevent delays in the review process caused by an incomplete application and obtain useful information from the NPS. For example, the NPS may be able to provide the applicant with air quality and visibility data, vegetation maps and lists, and park- or refuge-specific resources that are sensitive to air pollution.

Under a cooperative agreement with the FWS, the NPS Air Quality Division provides technical review of PSD permit applications that affect FWS class I areas. Therefore, the guidance provided in this report applies to the FWS class I areas as well.

SUMMARY OF THE CLEAN AIR ACT

The Clean Air Act, as amended on August, 7, 1977, is a unique tool for use in the preservation of air quality and sensitive resources in the national parks and national wildlife refuges.

Sections 160-169A of the Act establish the Prevention of Significant Deterioration (PSD) program to protect the quality of the air in regions of the United States in which the air is cleaner than required by the National Ambient Air Quality Standards (NAAQS). One of the purposes of the PSD program is "to preserve, protect, and enhance the air quality in national parks, national wilderness areas, national monuments, national seashores, and other areas of special national or regional natural, recreational, scenic, or historic value."

Under the PSD provisions, Congress established a classification scheme for those areas of the country with air quality better than the NAAQS. Class I allows very little deterioration of air quality; class II allows moderate deterioration; and class III allows more deterioration. In no case, however, may pollution concentrations violate any of the NAAQS. Congress designated certain existing areas as mandatory class I, a designation which precludes redesignation of the area, in order to acknowledge the value of maintaining these areas in relatively pristine condition. Therefore, the Clean Air Act imposes special responsibilities on the managers of these areas to ensure that no major new facility will have an adverse impact on the areas' protected resources. These mandatory class I areas include the following areas which were in existence as of August 7, 1977: (1) international parks; (2) national wilderness areas and national memorial parks in excess of 5,000 acres; and (3) national parks in excess of 6,000 acres. By delegation of authority from the Secretary of the Interior, the Assistant Secretary for Fish and Wildlife and Parks is the Federal Land Manager (FLM) for areas under the jurisdiction of the NPS and FWS. The National Park System includes 48 mandatory class I areas (see Appendix A) and the National Wildlife Refuge System contains 21 mandatory class I areas (see Appendix B).

Lands can be redesignated by the States and, in some cases, by Indian tribes, in accordance with Section 164 of the Act. Certain areas, however, may not be redesignated to class III. These class II "floor" areas include national monuments, primitive areas, preserves, recreation areas, wildlife refuges, wild and scenic rivers, lakeshores and seashores in excess of 10,000 acres, and newly established national parks and wilderness areas in excess of 10,000 acres. All other "clean air" areas of the country were initially designated by the Clean Air Act as class II, and can be redesignated as either class I or class III.

Section 164(d) required the FLM to review all national monuments, primitive areas, and preserves and to recommend for redesignation to class I any appropriate areas possessing air quality-related values as important attributes. The recommendations, with supporting analysis, were reported to the Congress and the affected States and Indian tribes, that were responsible for undertaking any redesignation. These recommendations, published in the June 25, 1980, Federal Register, are listed in Appendix C.

Congress gave the FLM an affirmative responsibility to protect all those values possessed by an area that may be affected by changes in air quality in these mandatory class I areas. These air quality-related values include visibility, odor, flora, fauna, and geological resources; archeological, historical, and other cultural resources; and soils and water quality resources.

Congress also provided special means for protecting AQRVs in class I areas. In particular, section 163 established maximum allowable increases, or increments, in air pollution over baseline concentrations of certain pollutants. In the permit review process, no permit shall be issued if a PSD increment would be exceeded unless the major emitting facility can convince the permitting authority and the FLM that no damage to AQRVs will occur. Conversely, if the FLM can convince the permitting authority that one or more AQRV will be adversely affected, no permit may be issued even if the PSD increments would be met.

Owners or operators of such new or modified existing sources are also required to submit a preconstruction permit application to the Environmental Protection Agency (EPA) or to a State, if permitting authority has been delegated to the State by the EPA, or through an approved State Implementation Plan. This application should include air quality analyses and other information necessary to determine that the best available control technology will be applied. The FLM is routinely notified by the EPA or by the State of the receipt of a permit application and has an opportunity to comment on the application if the major source is to be located near (usually within 100 km) a class I area or if the pollutants from the facility would potentially violate the increments or affect the air quality-related values of a class I area. For FLM review and analysis, complete PSD applications should be forwarded as soon as possible after receipt by the permitting authority to the NPS Air Quality Division, Permit Review and Technical Support Branch, and notice should also be sent to the NPS Regional Director and Park Superintendent, or the FWS Regional Director and the Refuge Manager if a National Wildlife Refuge is involved. Addresses are given in Appendixes A and B.

Congress has also determined that potential impacts on visibility in mandatory class I areas require additional protective regulations. In accordance with Section 169A of the Clean Air Act, the EPA promulgated visibility regulations on December 2, 1980, (40 CFR 51 Subpart P) that require those States with mandatory class I areas to submit implementation plans that ensure the prevention of future and the remedying of existing visibility impairment. All mandatory class I areas where visibility is an important value were identified in the November 30, 1979, Federal Register. That list includes all class I areas managed by NPS and FWS.

In order to remedy existing visibility impairment, the States are to establish regulations requiring among other things, that major stationary sources that were in existence for fifteen years, or less, on August 7, 1977, be retrofitted with controls representing the best available retrofit technology, or BART, if those sources cause or contribute to impairment of visibility in a mandatory class I area. This emission limitation must be established on a case-by-case basis taking into account such considerations as available technology and the costs of compliance. Prevention of future impairment is to be accomplished in a large measure through the new source review process.

SUMMARY OF REQUIREMENTS APPLICABLE TO CLASS I AREAS

All the requirements of Title 40 of the Code of Federal Regulations, Part 52, section 52.21 (40 CFR 52.21) or the relevant State regulations, if the new source review program has been delegated to the State, are applicable. Those requirements of particular importance to the NPS and FWS are discussed in this section.

AIR QUALITY REVIEW (40 CFR 52.21(k))

The permit application must contain an air quality analysis that analyzes the effect of the major source on the class I increments. The applicant shall base the air quality review on approved models as specified in 40 CFR 52.21(1) (Guideline on Air Quality Models). All assumptions for the analysis should be explicitly stated, and sufficient information on modeling input should be furnished so that the model analysis can be duplicated by the NPS. The model must make maximum use of meteorological data as specified in the referenced Guideline on Air Quality Models. If the analysis indicates violations of class I increments, the applicant has several options (e.g., better control technology, relocation, and emission offsets). One option is to demonstrate to the FLM that the estimated concentrations will not have an adverse impact on AQRVs. The applicant may wish to discuss the air quality analysis with the NPS Air Quality Division before doing the air quality review to ensure that the model will adequately predict the impact on the class I area and its AQRVs.

MONITORING (40 CFR 52.21(m))

A complete permit application must contain representative preapplication air monitoring data. In general, at least one year of data are required. The NPS Air Quality Division should be contacted to facilitate installation of monitoring equipment in NPS class I areas. The Air Quality Division initiates most air monitoring studies in the national parks with the cooperation of the appropriate NPS Regional Office and park Superintendent. The Division will also coordinate monitoring efforts with the appropriate FWS authorities, if applicable. Since monitoring programs are underway in several parks, contacting the Air Quality Division can help avoid duplication of effort.

SOURCE INFORMATION (40 CFR 52.21(n),(j))

The application must show that all sources have applied the best available control technology, or BACT, for each pollutant emitted. In general, the source parameter information required by the State or EPA will suffice for the NPS permit review.

ADDITIONAL IMPACT ANALYSES (40 CFR 52.21(o),(p))

Because the FLM has an affirmative responsibility to protect AQRVs in class I areas and to consider whether a proposed source or modification will have an adverse impact on such values, the NPS and FWS are most interested in additional impact analyses required under 40 CFR 52.21(o) and (p). Specifically, the applicant should provide an analysis of the impairment to visibility, soils, flora, and fauna that would occur as a result of the source or modifi-

cation. Also, an air quality impact analysis is required to project the effects of general commercial, residential, industrial, and other growth associated with the source or modification.

Some applicants assert that a proposed source would not cause any adverse impact if emissions from a proposed source would not cause or contribute to an exceedance of the secondary NAAQS which have been established to protect public welfare. A statement, by the applicant, to that effect is not acceptable. The secondary NAAQS are based primarily on effects on cash crops, such as wheat or tobacco, and may not reflect a level of protection for all AQRVs such as native vegetation found in class I areas. In addition, the secondary NAAQS are national levels set to protect against effects due to multiple and diverse sources and may not provide adequate protection for sensitive species found in only one area of the country, nor do they address synergistic effects of multiple pollutants. Similarly, the secondary NAAQS do not adequately protect visibility which is an important AQRV in most class I areas. In areas which are relatively pristine, small increases in pollutant concentrations can cause significant visibility degradation. For example, a 1 ug/m^3 addition of fine particulate matter in a clear atmosphere may reduce visual range by 30 percent. Therefore, there may be instances, and ongoing studies are beginning to confirm this, where adverse effects to AQRVs can occur at levels below the NAAQS and the PSD increments.

A complete PSD application should assess the impacts of the proposed project on AQRVs of the affected class I area. To assess the impacts, the application should contain: a) complete flora and fauna of the subject area; b) vegetation/habitat maps of the subject area; c) listing of the Federal and State endangered and threatened species; d) listing of soil types of the subject area; and e) water chemistry data of open water bodies in the subject area. This information and the following types of studies are used to determine the presence of AQRVs and the potential for adverse impacts: a) examination of flora and fauna for sensitive species; b) examination of the fauna and flora for bioindicator species; c) field evaluation of the sensitive bioindicator species for presence of current injury symptoms; d) determination of locations of sensitive species in relation to the proposed air pollution source; e) determination of potential for injury to endangered and threatened species; f) determination of sensitivity of soil types; and g) calculations of loadings of pollutants in the subject area in relation to natural inputs and buffering capacities of subject ecosystems. The applicant is expected to put this information together.

The internal procedures used by the FLM for determining adverse impact under sections 165(d)(2)(C)(ii) and (iii) of the Clean Air Act are presented in Appendix D. The FLM has considered, as a working definition, that any effect on resources in NPS or FWS class I areas caused by air pollution constitutes an unacceptable adverse effect if that effect

- diminishes the national significance of the area;
- impairs the structure and functioning of ecosystems; or
- impairs the quality of the visitor experience.

However, some questions concerning this definition have been raised during previous reviews. Therefore, to resolve these potential issues, the Department of the Interior expects to issue a Notice of Intent to publish an interpretive ruling on the adverse impact determination criteria in 1985.

Also provided in 40 CFR 51.307 are additional procedures to be followed in analyzing major new sources or major modifications which may affect visibility in any class I area. Accordingly, in order to comply with 40 CFR 52.21 and 51.307, the application must include an analysis of potential visual impairment caused by the source, including effects on visual range, contrast changes, and atmospheric discoloration. The FLM will use this information to determine if the impairment is adverse under 40 CFR 51.301 and 40 CFR 52.21. The magnitude, frequency, and duration of the impairment must be specified. These factors will be taken into consideration in addition to whether the impairment would interfere with visitor enjoyment or would diminish the national significance of the area.

Under section 165(e)(3) of the Clean Air Act and 40 CFR 52.21 (o), the applicant must analyze the effect of the proposed source on visibility at the site and in the area potentially affected by emissions from the facility. The NPS recommends that applicants consider visibility impacts on scenic views from class I areas as part of this analysis.

Applicants should also be aware of State requirements for analysis of impacts on integral vistas which, at a minimum, includes vistas that have been appropriately identified by the FLM. These analyses should be in accordance with the regulations published in the December 2, 1980, Federal Register. Guidance for estimating visibility impairment is available from the EPA (Workbook for Estimating Visibility Impairment, EPA 450/4-80-031). Pictorial presentation of the results using photographs, computer simulations or artist's conceptions would be beneficial.

To assist the applicant in performing these additional impact analyses, the NPS will provide to the applicant, within sixty days of his request, a list of sensitive receptors in the potentially impacted class I area. The applicant should submit the request to the NPS Air Quality Division.

APPENDIX A: NPS PERMIT NOTIFICATION LIST

IN ALL CASES NOTIFY

Chief, Permit Review and Technical
Support Branch
National Park Service - AIR
P.O. Box 25287
Denver, CO 80225

Notify Regional Director at

Jurisdiction

Alaska Regional Office
540 West 5th Avenue
Anchorage, AK 99501

Alaska

Mid-Atlantic Regional Office
National Park Service
143 South Third Street
Philadelphia, PA 19106

Pennsylvania, Maryland, West
Virginia, Delaware, Virginia,
excluding parks assigned to
National Capital Region

Midwest Regional Office
National Park Service
1709 Jackson Street
Omaha, NE 68102

Ohio, Indiana, Michigan,
Wisconsin, Illinois, Minnesota,
Iowa, Missouri, Nebraska,
Kansas

National Capital Regional Office
National Park Service
1100 Ohio Drive, S.W.
Washington, D.C. 20242

District of Columbia, some units
in Maryland, Virginia,
West Virginia

North-Atlantic Regional Office
National Park Service
15 State Street
Boston, MA 02109

Maine, New Hampshire, Vermont,
Massachusetts, Rhode Island
Connecticut, New York, New Jersey

Rocky Mountain Regional Office
National Park Service
655 Parfet Street
P.O. Box 25287
Denver, CO 80225

Montana, North Dakota,
South Dakota, Wyoming,
Utah, Colorado

Southeast Regional Office
National Park Service
75 Spring Street SW
Atlanta, GA 30303

Kentucky, Tennessee, North Carolina,
South Carolina, Mississippi,
Alabama, Georgia, Florida,
Puerto Rico, Virgin Islands

Southwest Regional Office
National Park Service
P.O. Box 728
Santa Fe, NM 87501

Arkansas, Louisiana, Texas,
Oklahoma, New Mexico, northeast
corner of Arizona

Pacific Northwest Regional Office
National Park Service
Westin Building, Room 1920
2001 Sixth Avenue
Seattle, WA 98121

Idaho, Oregon, Washington

Western Regional Office
National Park Service
450 Golden Gate Avenue, Box 26063
San Francisco, CA 94102

California, Nevada, most of Arizona,
Hawaii

Notify NPS class I area Superintendent at

Acadia National Park
Route 1, Box 1
Bar Harbor, ME 04609

Arches National Park
446 South Main Street
Moab, UT 84532

Badlands National Monument
P.O. Box 6
Interior, SD 57750

Bandelier National Monument
Los Alamos, NM 87544

Big Bend National Park
Big Bend National Park, TX 79834

Black Canyon of the Gunnison NM
P.O. Box 1648
Montrose, CO 81401

Bryce Canyon National Park
Bryce Canyon, UT 84717

Canyonlands National Park
446 South Main Street
Moab, UT 84532

Carlsbad Caverns National Park
3225 National Parks Highway
Carlsbad, NM 88220

Capitol Reef National Park
Torry, Utah 84775

Chiricahua National Monument
and Wilderness Area
Dos Cabezas Star Route
Willcox, AZ 85643

Crater Lake National Park
P.O. Box 7
Crater Lake, OR 97604

Craters of the Moon National Monument
P.O. Box 29
Arco, ID 83213

Denali National Park and Preserve
P.O. Box 9
McKinley Park, AK 99755

Everglades National Park
P.O. Box 279
Homestead, FL 33030

Glacier National Park
West Glacier, MT 59936

Grand Canyon National Park
P.O. Box 129
Grand Canyon, AZ 86023

Grand Teton National Park
P.O. Box 67
Moose, WY 83012

Great Smoky Mountains National Park
Gatlinburg, TN 37738

Great Sand Dunes National Monument
P.O. Box 60
Alamosa, CO 81101

Guadalupe Mountains National Park
3225 National Parks Highway
Carlsbad, NM 88220

Haleakala National Park
P.O. Box 537
Makawao, HI 96768

Hawaii Volcanoes National Park
Hawaii National Park, HI 96768

Isle Royale National Park
87 North Ripley Street
Houghton, MI 49931

Joshua Tree National Monument
74485 Palm Vista Drive
Twentynine Palms, CA 92277

Kings Canyon National Park
Three Rivers, CA 93271

Lassen Volcanic National Park
Mineral, CA 96063

Lava Beds National Monument
P.O. Box 867
Tulelake, CA 96134

Mammoth Cave National Park
Mammoth Cave, KY 42259

Mesa Verde National Park
Mesa Verde National Park, CO 81330

Mount Rainier National Park
Tahoma Woods, Star Route
Ashford, WA 98304

North Cascades National Park
800 State Street
Sedro Woolley, WA 98284

Sequoia National Park
Three Rivers, CA 93271

Olympic National Park
600 East Park Avenue
Port Angeles, WA 98362

Petrified Forest National Park
Petrified Forest National Park, AZ 86028

Pinnacles National Monument
Paicines, CA 95043

Point Reyes National Seashore
Point Reyes, CA 94956

Redwood National Park
Drawer N.
Crescent City, CA 95531

Rocky Mountain National Park
Estes Park, CO 80517

Saguaro National Monument
P.O. Box 17210
Tucson, AZ 85731

Shenandoah National Park
Route 4, Box 292
Luray, VA 22835

Theodore Roosevelt National Park
Medora, ND 58645

Virgin Islands National Park
P.O. Box 806
Charlotte Amalie
St. Thomas, VI 00801

Voyageurs National Park
P.O. Drawer 50
International Falls, MN 56649

Wind Cave National Park
Hot Springs, SD 57747

Yellowstone National Park
P.O. Box 168
Yellowstone National Park, WY 82190

Yosemite National Park
P.O. Box 577
Yosemite National Park, CA 95389

Zion National Park
Springdale, UT 84767

APPENDIX B: FWS PERMIT NOTIFICATION LIST

IN ALL CASES NOTIFY

Chief, Permit Review and Technical
Support Branch
National Park Service - AIR
P. O. Box 25287
Denver, CO 80225

DOI - FWS, Division of Refuge Management
Branch of Resource Management
Chief, Section of Wildlife Management
18th and C Streets NW
Washington, D.C. 20240

Notify Regional Director at

Jurisdiction

U.S. Fish and Wildlife Service Region 1
Lloyd 500 Building, Suite 1692
500 NE Multnomah Street
Portland, Oregon 97232

Washington, Oregon, Idaho, Nevada,
Hawaii, California

U.S. Fish and Wildlife Service Region 2
P. O. Box 1306
Albuquerque, New Mexico 87103

Arizona, New Mexico, Oklahoma, Texas

U.S. Fish and Wildlife Service Region 3
Federal Building, Fort Snelling
Twin Cities, Minnesota 55111

Minnesota, Wisconsin, Illinois,
Indiana, Ohio, Iowa, Missouri,
Michigan

U.S. Fish and Wildlife Service Region 4
Richard B. Russell Federal Building
75 Spring Street, SW
Atlanta, Georgia 30303

Arkansas, Louisiana, Mississippi, Alabama,
Georgia, Florida, North Carolina, South
Carolina, Tennessee, Kentucky, Puerto
Rico

U.S. Fish and Wildlife Service Region 5
One Gateway Center, Suite 700
Newton Corner, Massachusetts 02158

Virginia, W. Virginia, Maryland, Delaware,
Pennsylvania, New Jersey, New York, Vermont,
New Hampshire, Maine, Massachusetts,
Connecticut, Rhode Island

U.S. Fish and Wildlife Service Region 6
P. O. Box 25486
Denver Federal Center
Denver, CO 80225

Montana, Wyoming, North Dakota, South
Dakota, Nebraska, Utah, Colorado, Kansas,

U.S. Fish and Wildlife Service Region 7
1011 E. Tudor Road
Anchorage, Alaska 99503

Alaska

Notify FWS Class I Area Refuge Manager at

Bering Sea
Alaska Maritime National Wildlife Refuge
202 West Pioneer Avenue
Homer, AK 99603

Breton
Bogue Chitto National Wildlife Refuge
1010 Gause Blvd., Bldg. 936
Slidell, LA 70458

Brigantine
Edwin B. Forsythe National Wildlife Refuge
Great Creek Road, Box 72
Oceanville, NJ 08231

Bosque del Apache
Bosque del Apache National Wildlife Refuge
Box 1246
Socorro, NM 87801

Cape Romain
Cape Romain National Wildlife Refuge
390 Bulls Island Road
Awendaw, SC 29429

Chassahowitzka
Chassahowitzka National Wildlife Refuge
Route 2, Box 44
Homosassa, FL 32646

Lostwood
Lostwood National Wildlife Refuge
Rural Route 2
Kenmare, ND 58746

Medicine Lake
Medicine Lake National Wildlife Refuge
Medicine Lake, MT 59247

Mingo
Mingo National Wildlife Refuge
Route 1, Box 103
Puxico, MO 63960

Moosehorn (Edmunds and Baring Units)
Moosehorn National Wildlife Refuge
Box X
Calais, ME 04619

Okefenokee
Okefenokee National Wildlife Refuge
Route 2, Box 338
Folkston, GA 31537

Red Rock Lakes
Red Rock Lakes National Wildlife Refuge
Monida Star Route, Box 15
Lima, MT 59729

Salt Creek
Bitter Lake National Wildlife Refuge
Box 7
Roswell, NM 88201

Seney
Seney National Wildlife Refuge
Seney, MI 49883

Simeonof
Alaska Maritime National Wildlife Refuge
202 West Pioneer Avenue
Homer, AK 99603

St. Marks
St. Marks National Wildlife Refuge
Box 68
St. Marks, FL 32355

Swanquarter
Mattamuskeet National Wildlife Refuge
Route 1, Box N-2
Swanquarter, NC 27885

Tuxedni
Kenai National Wildlife Refuge
Box 2139
Soldotna, AK 99669

UL Bend
Charles M. Russell National Wildlife Refuge
Box 110
Lewistown, MT 59457

Wichita Mountains
Wichita Mountains National Wildlife Refuge
Route 1, Box 448
Indianapolis, OK 73552

Wolf Island
Georgia Coastal Complex
Box 8487
Savannah, GA 31412

APPENDIX C: AREAS POSSESSING AIR QUALITY RELATED
VALUES AS IMPORTANT ATTRIBUTES

AREA NAME	STATE OR TERRITORY
Glacier Bay NP Pres	AK
Katmai NP Pres	AK
Canyon de Chelly NM	AZ
*Chiricahua NM	AZ
Organ Pipe Cactus NM	AZ
*Saguaro NM	AZ
Sunset Crater NM	AZ
Wupatki NM	AZ
Channel Islands NP	CA
Death Valley NM	CA,NV
*Joshua Tree NM	CA
*Lava Beds NM	CA
Muir Woods NM	CA
*Pinnacles NM	CA
*Black Canyon of the Gunnison NM	CO
Colorado NM	CO
Dinosaur NM	CO,UT
*Great Sand Dunes NM	CO
Big Cypress N Pres	FL
Biscayne NP	FL
Fort Jefferson NM	FL
*Craters of the Moon NM	ID
*Bandelier NM	NM
Capulin Mountain NM	NM
El Morro NM	NM
Gila Cliff Dwellings NM	NM
White Sands NM	NM
John Day Fossil Beds	OR
*Badlands NP	SD
Cedar Breaks NM	UT
Natural Bridges NM	UT
Buck Island Reef NM	VI
Devil's Tower NM	WY
Fossil Butte NM	WY

* Federal wilderness acres already
designated class I.

APPENDIX D: INTERNAL PROCEDURES FOR DETERMINATIONS OF ADVERSE IMPACTS

Department of the Interior

Monday
July 12, 1982

Part VI

**Department of the
Interior**

Office of the Secretary

**Internal Procedures for Determinations of
Adverse Impact Under Section
165(d)(2)(C)(ii) and (iii) of the Clean Air
Act**

DEPARTMENT OF THE INTERIOR

Internal Procedures for Determinations of Adverse Impact Under Section 165(d)(2)(C)(ii) and (iii) of the Clean Air Act**AGENCY:** Interior Department.**ACTION:** Notice of internal procedures on adverse impact determinations under section 165(d)(2)(C)(ii) and (iii) of the Clean Air Act.

SUMMARY: The Federal Land Management for class I air quality areas under the jurisdiction of the National Park Service and U.S. Fish and Wildlife Service has established internal procedures to govern the processing of adverse impact determinations under section 165(d)(2)(C)(ii) and (iii) of the Clean Air Act. These procedures represent the steps through which the determination must go within the Department, including procedures for reaching a preliminary determination on adverse impact, procedures for obtaining public comment whenever possible, and procedures for reaching a final determination. The Department is publishing these internal procedures for general information purposes, i.e., to let the public know how the Department will process adverse impact determinations.

FOR FURTHER INFORMATION CONTACT: John P. Christiano, Air Quality Division, National Park Service—AIR, P.O. Box 25287, Denver, CO 80225, telephone number (303) 234-8620.

SUPPLEMENTARY INFORMATION: Part C of the Clean Air Act ("Act"), as amended, entitled the "Prevention of Significant Deterioration of Air Quality," includes requirements for major new facilities which wish to locate in relatively unpolluted areas of the country ("clean air regions"), where the new pollution might affect certain Federal conservation areas ("class I areas"), valued for their pristine air quality or other natural, scenic, recreational, or historic resources sensitive to air pollution. In this situation, the Act imposes special responsibilities on the managers of such class I areas to ensure that no major new facility will have an unacceptable, adverse impact on the areas' protected resources. The "Directive on Procedures" printed below sets forth the internal procedures which the Assistant Secretary for Fish and Wildlife and Parks, who is the Federal Land Manager for areas under the jurisdiction of the National Park Service and U.S. Fish and Wildlife Service, has instructed the bureaus to follow in processing such an adverse impact determination.

Section 165 of the Act governs the permitting of proposed major facilities in clean air regions. 42 U.S.C. 7475. It sets forth several "standards" or "tests" for analyzing a proposed facility's impact on the clean air regions in general, and on the class I areas in particular. These standards or tests include, among others, the National Ambient Air Quality Standards; class I, II, and III air pollution increments; and the adverse impact determination for class I areas, which is the subject of the internal procedures published in this notice. Knowledge of the relationship among these three standards or tests is necessary in order to understand the role of the third one, the adverse impact determination.

In brief, *National Ambient Air Quality Standards*, which must not be exceeded under any circumstances, are standards applicable to the entire country. These standards represent those pollution levels appropriate for protecting the public health and national welfare. Attainment and maintenance of these National Ambient Air Quality Standards constitute one of the fundamental purposes of the Clean Air Act: All areas presently not in compliance with the standards must improve their air quality to meet them, and all areas cleaner than the standards must not deteriorate so as to exceed them.

The two remaining standards or tests—class I, II, and III increments and adverse impact determinations—are the primary tools of section 165 for preventing the significant deterioration of the air quality in the clean air regions of the country. The class I increments apply to clean air regions containing areas such as national parks and wilderness areas. Under the Clean Air Act, Congress designated 158 natural, scenic, or historic areas of special national significance as class I. The class I increments represent the extremely small amount of additional pollution that Congress thought, as a general rule, should be allowed in class I areas. The class I increments also represent the restriction on additional pollution which Congress thought necessary in most cases for protection of the resources in class I areas. Typically, therefore, a proposed facility must not violate the class I increment.

The "adverse impact" determination, however, provides the possible exception to the general rule that a proposed facility must not violate the class I increment described above. The adverse impact determination, which is the subject of the internal procedures printed below, is a site specific test which examines whether a proposed facility will, in fact, unacceptably affect

the resources of a class I area. If the Federal Land Manager of the class I area determines that a proposed facility will not adversely affect the class I area, then the permitting authority may authorize the facility even though the facility's emissions may cause a violation of the class I increment. (In this situation, the facility must, nevertheless, not exceed a revised set of class I increments established by section 165(d)(2)(C)(iv) of the Act.) Conversely, if the Federal Land Manager determines and convinces the permitting authority that a proposed facility will adversely affect the class I area even though it will not cause a violation of the class I increment, then the permitting authority may not authorize the facility. Thus, the adverse impact test is a critical test for a proposed facility desirous of locating near a class I national park or wilderness area.

The directive published below instructs the bureaus as to the processing of an adverse impact determination. It constitutes a procedural checklist for the bureaus. It also embodies the evolving policy of the Department to include the public in the decisionmaking on the adverse impact determination. In particular, the directive provides for a thirty-day public comment period on the preliminary determination whenever possible within the constraints of statutory and implementation plan deadlines. In this way, the Department seeks to allow full discussion of the issues involved and to ensure the best available information for the final determination.

The procedures listed in the directive published below are being followed in an ongoing adverse impact determination concerning five major new facilities in North Dakota proposing to locate in the vicinity of Theodore Roosevelt National Park and Lostwood National Wildlife Refuge (wilderness portion), both mandatory class I areas. A notice of the preliminary determination by the Federal Land Manager that these facilities will not adversely affect the class I areas is published elsewhere in today's *Federal Register*.

Directive on Procedures for Determinations Under Section 165(d)(2)(C)(ii) and (iii) of the Clean Air Act

To: Director, National Park Service,
Director, Fish and Wildlife Service
From: G. Ray Arnett, Assistant
Secretary for Fish and Wildlife and
Parks

The following procedures apply to determinations under section

165(d)(2)(C)(ii) or (iii) of the Clean Air Act of whether a proposed new source will have an unacceptable, adverse impact on the air quality related values established for a class I area. The steps listed below are to be carried out as expeditiously as possible, without jeopardizing sound decisionmaking, in order to enable the permitting authority (the State or the Environmental Protection Agency (EPA)) to make its decision on the overall PSD permit application within one year of the filing of the completed application as required by section 165(c) of the Act. The following steps are also to be carried out in consultation with EPA as appropriate. Whenever provisions of the permitting authority's implementation plan make execution of the listed steps impossible (e.g., inadequate time allotments for the Federal Land Manager's determination), the procedures shall be adjusted as appropriate, after consultation with the Solicitor's Office.

1. Receipt of PSD permit application.
2. Technical review of application to determine need for additional information.
3. Technical review of impact of proposed new source on air quality related values (including visibility) of class I area.
4. Compliance with other statutory authorities, as applicable, including the following:
 - a. Initiation of consultation with the U.S. Fish and Wildlife Service if required under Endangered Species Act, 16 U.S.C. 1536.

b. Determination of effect, if appropriate, on properties included or eligible for inclusion in the National Register, and solicitation of comment from the Advisory Council on Historic Preservation if required under National Historic Preservation Act, 16 U.S.C. 470f.

5. Technical review of "adverseness" of impact (if any), and submission of bureau recommendation on "adverse impact" or "no adverse impact" determination.

6. Assistant Secretarial review of bureau recommendation on "adverse impact" or "no adverse impact" determination, and formulation of Assistant Secretarial determination under section 165(d)(2)(C)(ii) or (iii).

7. Notification of preliminary determination by letters to owner/operator of proposed new source, State, and EPA.

Simultaneous with #7, publication of preliminary determination in "Notice" section of **Federal Register**, including—

a. Statement as to availability of supporting documentation for inspection and copying at NPS Air Quality Division offices in Denver, Colorado, and in Washington, D.C., and at affected park and refuge headquarters; and

b. Announcement of thirty-day public comment period (not to be extended except in the most unusual circumstances) on issues directly relevant to the determination in question.

9. Timely review and brief summarization of relevant comments

received within comment period, and responses thereto.

10. Final Assistant Secretarial determination, as soon as possible after end of comment period, of "adverse impact" or "no adverse impact", with a clear and concise statement of reasons supporting that determination.

11. Notification of final determination by letters to owner/operator of proposed new source, State, and EPA. If final determination in a section 165(d)(2)(C)(iii) situation concludes "no adverse impact", Assistant Secretary (in role as "Federal Land Manager") shall so "certify" in letter.

12. Simultaneous with No. 11, publication of final determination in "Notice" section of **Federal Register**, including—

a. Clear and concise statement of reasons supporting that determination;

b. Statement as to availability of supporting documentation for inspection and copying at NPS Air Quality Division offices in Denver, Colorado and in Washington, D.C.; and

c. Statement as to immediate effective date (as of date signed) of final determination.

Dated: July 7, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks, and Federal Land Manager for Areas Under the Jurisdiction of the National Park Service and the Fish and Wildlife Service.

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From 1971 to 1979, John worked as an environmental engineer with the Environmental Protection Agency, Office of Air Quality Planning and Standards, in Research Triangle Park, North Carolina. From 1971 to 1973 his work involved working with the States to develop plans to attain the national ambient air quality standards. As a senior environmental engineer from 1973 to 1979, he developed standards of performance for controlling air pollution from stationary sources. In 1979 John joined the National Park Service as an environmental engineer specializing in air pollution control technology. Since November 1980 he has served as the Chief of the Permit Review and Technical Support Branch, which is responsible for reviewing permit applications for sources which could adversely affect Park Service units. Since April 1984, John has served as Acting Chief, Air Quality Division.

John has a B.S. degree in physics from the University of Illinois and an M.S. degree in environmental engineering from the University of Florida.

MARK A. SCRUGGS - Acting Chief, Permit Review and Technical Support Branch, Air and Water Quality Division, National Park Service, Denver Colorado.

From 1976 to 1979, Mark was with the Environmental Protection Agency, Office of Air Quality Planning and Standards, in Research Triangle Park, North Carolina and the Regional Office in Dallas, Texas. He was responsible for the modification of existing models for nontraditional applications including visibility, lead and fugitive emissions, and took part in the standard setting process for lead. At the Regional Office he was responsible for the use, interpretation, and revisions to air quality dispersion models for all regional applications including State implementation plans and prevention of significant deterioration applications. From 1979 to 1980 he served as the senior meteorologist with an environmental consulting firm where he directed projects designed to assess the cost impacts of stack height regulations, proposed sulfur dioxide, nitrogen dioxide and particulate matter ambient standards, documentation of mobile source modeling techniques, and air quality effects of fugitive emissions from synthetic fuel development. Since joining the National Park Service in 1980, Mark has been primarily involved in the review of air quality analyses of environmental impact statements and permit applications for sources that could affect park service units. He has been the Acting Chief of the Permit Review and Technical Support Branch since April 1984.

Mark received B.A. (1966) and M.A. (1969) degrees in physics from the University of South Florida and a Ph.D. in physical meteorology from Florida State University in 1976.



As the Nation's principal conservation agency, the Department of the Interior has responsibility for most of our nationally owned public lands and natural resources. This includes fostering the wisest use of our land and water resources, protecting our fish and wildlife, preserving the environment and cultural value of our national parks and historical places, and providing for the enjoyment of life through outdoor recreation. The Department assesses our energy and mineral resources and works to assure that their development is in the best interests of all our people. The Department also has a major responsibility for American Indian reservation communities and for people who live in island territories under U.S. administration.

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