

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

August 23, 1982

MEMORANDUM

SUBJECT: Department of Interior Procedures for Determinations of Adverse  
Impact on Certain Federal Lands under the PSD Program

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As you know, section 165(d) of the Clean Air Act gives Federal Land Managers (FLMs) responsibility for the protection of air quality related values in federal Class I areas. The Department of the Interior (DOI) recently published internal procedures for making determinations pursuant to this authority. This memorandum briefly reviews the procedures for you since we thought you might not be aware of them, and describes a case in which DOI is currently applying them.

Federal Land Manager Authority

Each FLM is authorized to protect air quality related values in federal Class I areas by determining whether or not a proposed major source or modification would have an adverse impact on such values. [SEE FOOTNOTE 1] If the FLM demonstrates to the satisfaction of the permitting authority that a proposed activity would have an adverse impact, the permitting authority may not issue a PSD permit for the activity. [SEE FOOTNOTE 2] If the FLM

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[FOOTNOTE 1] Section 165(d) (2) (B).

[FOOTNOTE 2] Section (d) (2) (C) (ii).

certifies that a proposed activity would not have an adverse impact, the permitting authority may issue a PSD permit notwithstanding that the proposed activity would cause or contribute to a violation of the PSD increments for the area, [SEE FOOTNOTE 3] provided alternative maximum increments are met. [SEE FOOTNOTE 4]

#### Department of Interior Procedures

DOI, which is the FLM for Class I areas under the jurisdiction of the National Park Service and the Fish and Wildlife Service, published a notice on July 12, 1982 of internal procedures that the Department intended to follow in making impact determinations under Section 165(d). [SEE FOOTNOTE 5] The basic thrust of the procedures is to insure public participation in the determination process.

In brief, the procedures require the Department to publish a preliminary determination in the Federal Register, provide a 30-day comment period on the preliminary determination, and make supporting documentation available at the affected site as well as two central locations. The Department's final determination must also be published in the Federal Register, including a statement of reasons for the determination, with supporting documentation available at the central locations. The procedures impose additional coordination requirements where necessary to comply with other statutes, including the Endangered Species Act [SEE FOOTNOTE 6] and the National Historic Preservation Act. [SEE FOOTNOTE 7]

Preliminary Determination for Theodore Roosevelt National Park and Lostwood National Wildlife Refuge On July 12, 1982, DOI published notice and requested comment on a preliminary determination of no adverse impact pursuant to the procedures outlined above. [SEE FOOTNOTE 8] The determination is of interest in that it is the first case in which DOI has

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[FOOTNOTE 3] Section 165 (d) (2) (C) (iii).

[FOOTNOTE 4] Section 165 (d) (2) (C) (iv).

[FOOTNOTE 5] 47 Fed. Reg. 30226 (copy attached).

[FOOTNOTE 6] 16 U.S.C. Section 1536 et seq.

[FOOTNOTE 7] 16 U.S.C. Section 470f et seq.

[FOOTNOTE 8] 47 Fed. Reg. 30222 (copy attached).

determined that a proposed major new source or modification would not adversely affect the air quality related values of a Class I area even though the proposed activity would contribute to emissions which would violate maximum Class I increments. Once this determination becomes final, the permitting authority will be able to issue PSD permits to the facilities involved based upon DOI's certification.

The preliminary determination involves five PSD permit applications affecting Theodore Roosevelt National Park (NP) and Lostwood National Wildlife Refuge (NWR). The five applicants, together with existing sources in the area, will produce emissions which would cause concentrations of sulfur dioxide in excess of the 24-hour and 3-hour Class I increments in Theodore Roosevelt NP and the 24-hour increment in Lostwood NWR.

DOI posited that in general proposed activities could adversely affect air quality values in Class I areas if they (1) diminished the national significance of the areas, (2) impaired the structure and functioning of ecosystems, or (3) impaired the quality of visitor experience. In analyzing the five applications for these impacts, DOI looked at the magnitude, frequency and reversibility of potential effects. DOI inventoried sensitive plant and animal species, soil types and historic structures in the Class I areas, reviewed the literature on effects of predicted pollutant concentration levels, and conducted field trips and visibility analyses.

Based upon these studies, DOI concluded that in this case the five applications would not diminish national significance, impair ecosystems or impair visitor experience and thus would not adversely affect air quality related values. DOI concluded that predicted increment exceedances would be caused primarily by existing facilities and that the five proposed facilities would contribute only minor additional pollutant concentrations.

The substantive process used by DOI in analyzing these five applications, although not part of the procedures published as applicable to all DOI adverse impact determinations, will in all likelihood serve as a model for future determinations and is consequently worthy of note.

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\* See Page 30226 Federal Register/Vol. 47, No. 133/Monday, July 12, 1982/Notices