

ROLE OF CERTIFICATIONS OF NO ADVERSE IMPACT BY FEDERAL LAND MANAGERS IN SETTING PSD INCREMENT THRESHOLDS (MAALs)

Federal land managers in the U.S. Department of the Interior have established procedural criteria, assessment criteria and a definition for “adverse impact.” They used these criteria and the definition for determinations of likely impacts on the air quality related values, including visibility, in PSD Class I areas by CAA criteria air pollutants. They have issued several certifications of no adverse impact due to projected increases in ambient concentrations of criteria pollutants that were determined by application of computer modeling to the emissions by proposed PSD eligible sources. Some certifications of no adverse impact expired as proposed plants were not built. A list of the DOI federal register (FR) notices is attached.

Discussions in several notices refer to the sulfur-dioxide air quality conditions existing at PSD baseline and to trends in the sulfur-dioxide emitted after PSD baseline, in addition to the incremental increases in ambient concentrations due to expected emissions of sulfur dioxide by proposed PSD-eligible sources. More detail is provided at 57 FR 52789 where data indicate that the highest overall predicted 3-hour concentration by the proposed PSD-eligible sources in the Theodore Roosevelt NP was 46.1 ug/m³ and that the highest overall predicted 24-hour concentration by such sources was 12.7 ug/m³. (Additional data were provided in the Department’s air quality assessment reports relating to permitting actions after 1977.)

DOI notices dated after the land mark court case, *Alabama Power Co. v. Costle*, note that rules allow ambient air quality concentrations in PSD Class I areas to increase after PSD baseline in amounts greater than PSD increments provided any impacts on air quality related values are not adverse, but that such increases cannot exceed 325 ug/m³ or 91 ug/m³, respectively, for the 3-hour and 24-hour averaging periods (see NDAC 33-15-15-01.j.(4)).

In their assessments, DOI federal land managers relied upon available, but scant, ambient sulfur-dioxide concentrations obtained with monitoring equipment to represent the air quality conditions existing at PSD baseline. Within one notice, the federal land managers note “Pollutant levels predicted to occur from all increment consuming [, PSD-eligible] sources when added to highest observed [baseline] concentrations appear to be below the threshold values for adverse effects.” (words inserted) The Department’s proposed approach, which determines baseline increment threshold concentrations (MAALs) by application of a computer model, is consistent with previous reviews by federal land managers, and it would enhance the ability of federal land managers to perform their assessments of impact on air quality related values.

Because DOI has certified no adverse impacts for the predicted increases, as noted above, in ambient sulfur-dioxide concentrations after PSD baseline that exceed the PSD increments, the question arises as to whether the Department’s calculated MAALs should be based upon such increases rather than 25 ug/m³ and 5 ug/m³ increments, respectively, for the 3-hour and 24-hour averaging periods. Within one notice, the DOI indicates “The FLM has not found a ‘numeric value’ definition of adverse impact capable of protecting the resources of all parks.” Nevertheless, MAALs can be uniquely applied to each PSD Class I area. However, within some notices, the DOI indicated that its certification “... applies only to the terms of the permit issued [by the state] on the basis of that [permit] application. Accordingly, the certification necessarily expires with that permit.” (words inserted)

ATTACHMENT.

47 FR 30226-01; Internal Procedures for Determinations of Adverse Impact Under Section 165 (d) (2) (C) (ii) and (iii) of the Clean Air Act; Monday, July 12, 1982.

47 FR 30222-01; Preliminary Certification of No Adverse Impact on Theodore Roosevelt National Park and Lostwood National Wildlife Refuge Under Section 165 (d) (2) (C) (iii) of the Clean Air Act; Monday, July 12, 1982.

47 FR 41480-01; Final Certification of No Adverse Impact on Theodore Roosevelt National Park and the Wilderness Portion of Lostwood National Wildlife Refuge Under Section 165 (d) (2) (C) (iii) of the Clean Air Act; Monday, September 20, 1982.

47 FR 42806-01; Preliminary Approval of Use of Nonguideline Air Quality Model in Specific Pending PSD Permit Actions in North Dakota; Wednesday, September 29, 1982.

49 FR 21802-03; Preliminary Certification of No Adverse Impact on Theodore Roosevelt National Park Under Section 165(d)(2)(C)(iii) of the Clean Air Act; Wednesday, May 23, 1984.

49 FR 28468; Preliminary Certification of No Adverse Impact on Theodore Roosevelt National Park Under Section 165(d)(2)(C)(iii) of the Clean Air Act; Reopening of Public Comment Period; Thursday, July 12, 1984.

49 FR 38197-02; Final Certification of No Adverse Impact on Theodore Roosevelt National Park Under Section 165 (d) (2) (C) (iii) of the Clean Air Act; Thursday, September 27, 1984.

49 FR 38197-01; Preliminary Determination to Extend Certification of No Adverse Impact on Theodore Roosevelt National Park and Lostwood National Wildlife Refuge Under Section 165 (d) (2) (C) (iii) of the Clean Air Act; Thursday, September 27, 1984.

50 FR 7658-04; Final Determination to Extend Certification of No Adverse Impact on Theodore Roosevelt National Park and Lostwood National Wildlife Refuge Under Section 165 (d) (2) (C) (iii) of the Clean Air Act; Monday, February 25, 1985.

57 FR 52788-01; Preliminary Certification of No Adverse Impact on Theodore Roosevelt National Park and Lostwood Wilderness Area Under Section 165 (d) (2) (C) (iii) of the Clean Air Act; Thursday, November 5, 1992.

58 FR 13639-01; Final Certification of No Adverse Impact on Theodore Roosevelt National Park and Lostwood Wilderness Area Under Section 165 (d) (2) (C) (iii) of the Clean Air Act; Friday, March 12, 1993.