

MEMORANDUM OF UNDERSTANDING

between

Shenandoah National Park

and

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF AIR POLLUTION CONTROL

I. Purpose

The purpose of this Memorandum of Understanding (MOU) is to establish mutually acceptable guidelines for the effective management and protection of air quality related values within the Shenandoah National Park and the Commonwealth of Virginia. It is not intended to be a contract or to create any rights, duties or obligations which may be enforced by one party or the other. These guidelines address operational procedures for management and policy review, data collection and transfer, permit and regulation review, and impact analysis. The primary objective of this agreement is to provide for the greatest degree of cooperation between agencies consistent with their respective mandates and responsibilities as determined by the Clean Air Act as amended and subsequent regulation. This will be accomplished through the effective execution of the regulatory and statutory authorities granted to each agency.

II. Background and Objectives

Under the Clean Air Act (CAA) and its amendments, the Superintendent of Shenandoah National Park has the affirmative responsibility of protecting the air quality of the area and preventing significant impacts to the air quality related values (AQRVs).

The Department of Air Pollution Control (DAPC) is the State regulatory authority charged with carrying out the provisions of the CAA, and State Implementation Plan (SIP). The mission of the DAPC is to provide for the greatest degree of protection of air quality and AQRVs within the Commonwealth of Virginia consistent with existing law and regulation.

Because of the mutual responsibilities of the DAPC and the National Park Service under the CAA, and because of shared programmatic interests in air quality issues, this MOU is initiated between the two agencies.

This MOU is authorized, in part, by the Clean Air Act, 42 U.S.C. S 7401 et seq. In addition, the DAPC is empowered to cooperate with the Federal government in matters related to air quality management pursuant to S 10.1-1307A. of the Code of Virginia (1950), as amended.

### III. Statement of Work

#### Planning

The DAPC will notify the Superintendent when new regulations or SIP revisions are proposed. In turn, for proposals that may affect the air quality or AQRVs in Shenandoah National Park, the Superintendent will review and comment on the proposed regulations to assist in air management for the Commonwealth.

#### Permitting

As directed by the CAA, the Superintendent will be afforded the opportunity to review and comment on permit applications and draft state air pollution control permits according to the following guidelines:

- A. For applications for permits not subject to the requirements of the Prevention of Significant Deterioration (PSD) regulations:
  - (1) Once received, the appropriate regional office of the DAPC will provide copies of the Permit Application (DAPC Form 7 and accompanying information) to the Superintendent within one week of receipt for:
    - a) all major new sources or major modifications, either of which would result in a net increase of 100 tons per year of any one pollutant within 100 kilometers of the Park, and
    - b) all sources within ten kilometers of the Park.
  - (2) The DAPC will notify the permit applicant that the Superintendent (or his representative) is available for pre-application or pre-hearing meetings upon request. Superintendent participation in meetings depends on reasonable notification so that schedules can be arranged. Where appropriate, DAPC personnel will arrange and attend the meetings. However, nothing in this MOU prohibits the Superintendent or his representative from meeting with an applicant without DAPC personnel present.
  - (3) The Superintendent will notify the DAPC Regional Office if the Best Available Control Technology (BACT) analysis, engineering analysis, modeling or the draft permit is requested. Such notification must be made as soon as possible, but not later than two weeks after receipt by the Superintendent of the

information identified in Paragraph 1. above.

- (4) The DAPC will provide the Superintendent with copies of all requested documentation pertaining to the application within ten working days of the request, if available, or within ten working days after the requested document becomes available.
- (5) For permits for which the Superintendent has requested information (as in paragraphs 3 and 4 above), when public hearings are required, the regional office of the DAPC will provide the Superintendent with a copy of the public hearing notice at least 30 days prior to the hearing.

For permits for which there is no required public hearing, the Superintendent shall notify the DAPC within 5 working days of receiving the permit application and draft permit whether a public hearing is desired.

B. For applications for permits anywhere in the state subject to the requirements of the PSD regulations.

- (1) The DAPC will provide notifications to the Superintendent that discussions have been held with representatives of a company, or companies, proposing to apply for a permit likely to be subject to the provisions of the PSD regulations; such notification shall be given within 30 days of the date on which the discussions were held. This is not to be interpreted to mean that the DAPC will notify the Superintendent as a result of inquiries from companies on permit requirements within the Commonwealth, even if the company indicates that the facility it is considering may be subject to PSD review. However, once the company indicates to the DAPC that it has decided to submit an application which will likely be subject to the provisions of the PSD regulations, the DAPC will provide to the Superintendent basic information on the proposed source; this information will include the following:

- a. The name of the company.
- b. The type of facility proposed.
- c. The general location of the proposed facility.
- d. As much information regarding equipment and emissions as is available.
- e. An estimate of when a formal application is expected.

- (2) The DAPC will notify the permit applicant that the

Superintendent (or his representative) is available for pre-application or pre-hearing meetings upon request. Superintendent participation in meetings depends on reasonable notification so that schedules can be arranged. Where appropriate, DAPC personnel arrange and attend the meetings. However, nothing in this MOU prohibits the Superintendent from meeting with an applicant without DAPC personnel present.

- (3) The DAPC will provide to the Superintendent a copy of all PSD Letters of Determination and the PSD permit application information as listed below:
  - a. Permit Application (Form 7).
  - b. BACT analysis.
  - c. Modeling analysis.
  - d. Visibility analysis.
  - e. Other impact analyses.
  - f. Draft PSD permit.
- (4) Items specified in Paragraph 3., a. through e., will be transmitted to the Superintendent as soon as possible after receipt from the applicant. After providing all information specified in Paragraph 3. (Items a. through f.), the DAPC (Regional Director) will notify the Superintendent, in writing, when the Superintendent's 60-day review period will start.
- (5) After all information identified in Paragraph 3. has been provided to the Superintendent, it may be subject to minor modifications and additions during the DAPC review process. Any such additional information will be provided to the Superintendent as soon as possible, but will not change the 60-day review period as established in Paragraph 4. above.

If the applicant submits additional information during the review period which represents a significant change to the permit application or draft permit, additional review time will be allowed as agreed by the DAPC and the Superintendent.

- (6) All remaining PSD permit application information, including the engineering analysis report and the modeling analysis report prepared by the DAPC, and the final draft permit will be provided to the Superintendent no later than 30 days prior to the public hearing.
  - a. The DAPC Regional Director will provide all PSD permit information to the Superintendent except air quality analysis information.
  - b. Division of Technical Evaluation (DTE) will

provide air quality analysis information for all PSD permits to the Superintendent.

- (7) The Superintendent may provide, and the DAPC shall consider when announcing the required 30-day comment period, any analysis performed by the Superintendent and received by the DAPC within 30 days of the notification required by paragraph 4. This analysis would show that a proposed source may have an adverse impact on AQRVs, (including visibility) in Shenandoah National Park.

If the DAPC disagrees with the Superintendent's determination, the DAPC will, in the notice of public hearing, either explain this decision or give notice as to where the explanation can be obtained.

#### Ambient Air Monitoring

- A. Subject to the availability of funds and funding agencies' priorities, Shenandoah National Park agrees to:
- (1) Maintain and operate at least one gaseous pollutant monitoring station. Ozone will be monitored at a minimum of one site.
  - (2) Operate and maintain the IMPROVE visibility network at one site in the Park.
  - (3) Operate and maintain the National Dry Deposition Network (NDDN, or CASTNET) and National Atmospheric Deposition Network (NADP) at one site in the Park.
  - (4) Operate three meteorological (MET) stations to record data on wind speed, direction, temperature, and humidity.
  - (5) As appropriate, other associated monitoring such as NO<sub>x</sub>, solar radiation, etc. may also be operated independent of this agreement.
  - (6) Notify the DAPC (DTE) as soon as possible by telephone when any monitoring instrument records an exceedance of any ambient air quality standard.
- B. The Department of Air Pollution Control agrees to:
- (1) Provide Shenandoah National Park air quality monitoring with the DAPC-recommended calibration and maintenance procedures.
  - (2) Perform two quality assurance audits on the Park's

existing gaseous pollutant (sulfur dioxide and/or ozone) monitors on a schedule as mutually agreed during two separate quarters each year in accordance with Environmental Protection Agency (EPA) protocol as stated in 40 CFR, Part 58.

#### Data Exchange

A. Shenandoah National Park agrees to:

- (1) Provide gaseous pollutant monitoring data to the data to the DAPC in a mutually acceptable format.
- (2) Provide data summaries and analysis on the IMPROVE, NADP, and NDDN (CASTNET) programs as they become available; to the extent possible, also provide data to DAPC upon request.

B. The Department of Air Pollution Control agrees to:

Provide pollutant data summaries from other sites in the Commonwealth to the Superintendent upon request.

#### Research

A. The DAPC will assist the Superintendent, within budget limitations, in carrying out research evaluations needed to determine air pollution impacts to sensitive resources in Shenandoah National Park.

B. Both agencies will cooperate in using available information to assess air pollution impacts in Shenandoah and surrounding lands and to make joint recommendations to the responsible State and Federal agencies as to management strategies that may be undertaken to reduce threats of unacceptable impacts.

#### IV. Key Officials

##### Shenandoah National Park

Superintendent  
Chief Natural Resources & Science Division  
Environmental Protection Specialist

##### Department of Air Pollution Control

Executive Director  
Assistant Executive Director, Technical Operations

Assistant Executive Director, Regional Operations  
Director, Division of Monitoring  
Director, Division of Technical Evaluation  
Director, Division of Data Analysis  
Regional Directors

IV. Required Clauses

Officials Not to Benefit

No member of, delegate to Congress or President's Commissioner shall be admitted to any share or part of this agreement or to any benefit to arise therefrom, but this provision shall not be construed to extend to the agreement if made with a corporation for its general benefit.

Nondiscrimination

During the performance of this agreement, the cooperators agree to abide by the terms of Presidential Executive Order 11246 on non-discrimination and will not discriminate against any person because of race, color, religion, sex, or national origin. The cooperators will take affirmative action to ensure that applicants are employed without regard to their race, color, religion, sex, or national origin.

V. Termination

This MOU will become effective on the date of the last signature and stay in effect until August 31, 1998. At that time both parties to the agreement will reassess the benefits that have accrued and determine if the agreement should be reaffirmed. If both parties resolve that it has produced the desired results of mutual cooperation and should be continued as is, they need only sign a reaffirmation memorandum, and the agreement will be continued for another one year period. This agreement may be modified or discontinued at the request of either party provided the request for any major change is submitted to the other party for consideration not less than 60 days in advance of the effective date of the desired modification or termination.

Signature Obtained  
J. W. Wade  
Superintendent  
Shenandoah National Park  
Control

March 30, 1993 (date)

Signature Obtained  
Wallace N. Davis  
Executive Director  
Dept. of Air Pollution  
Commonwealth of Virginia

March 31, 1993 (date)

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