

MEMORANDUM OF UNDERSTANDING **Error! Bookmark not defined.**

between

JEFFERSON NATIONAL FOREST

and

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AIR POLLUTION CONTROL

I. Purpose

The purpose of this Memorandum of Understanding is to establish mutually acceptable guidelines for the effective management and protection of air quality related values within the Jefferson National Forest 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 Forest Supervisor of the Jefferson National Forest, as the delegated Federal Land Manager (FLM), has the affirmative responsibility to protect the air quality related values (AQRVs) of the James River Face Wilderness, a Class I area.

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 air quality related values within the Commonwealth of Virginia consistent with existing law and regulation.

Because of the mutual responsibilities of the DAPC and the USDA Forest Service under the CAA, and because of shared programmatic interests in air quality issues, this Memorandum of Understanding is initiated between the two agencies.

This Memorandum of Understanding 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 Forest Supervisor, hereafter referred to as the FLM, when new regulations or State Implementation Plan (SIP) revisions are proposed. In turn, for proposals that may affect air quality related values in the James River Face Wilderness, the FLM will review and comment on the proposed regulations to assist in air management for the Commonwealth.

Permitting

As directed by the CAA, the FLM 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 FLM within one week of receipt for 1) all major sources (emissions equal to, or greater than, 100 tons per year of any one pollutant) within 100 kilometers of James River Face Wilderness, and 2) all sources within ten kilometers of James River Face Wilderness.
 - (2) The DAPC will notify the permit applicant that the FLM is available for pre-application or pre-hearing meetings upon request. FLM participation in meetings is based on two conditions: a) reasonable notification so that schedules can be arranged, and b) DAPC personnel arrange and attend the meetings. Nothing in this MOU prohibits the FLM from meeting with an applicant without DAPC personnel present.
 - (3) The FLM 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 FLM of the information identified in Paragraph A.(1) above.

- (4) The DAPC will provide the FLM 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 FLM has requested information (as in paragraphs 3 and 4 above), when public hearings are required, the regional office of the DAPC will provide the FLM 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 FLM 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 FLM that discussions have been held with representatives of a company, or companies, proposing to apply for a permit under 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 FLM 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 FLM 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 FLM is available for pre-application or pre-hearing meetings

upon request. Participation in meetings is based on two conditions: a) reasonable notification so that schedules can be arranged, and b) DAPC personnel arrange and attend the meetings. Nothing in this MOU prohibits the FLM from meeting with an applicant without DAPC personnel present.

- (3) The DAPC will provide to the FLM 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, including AQRVs.
 - f. Draft PSD permit.
- (4) Items specified in Paragraph (3), a. through e., will be transmitted to the FLM as soon as possible after receipt from the applicant. After providing all information specified in Paragraph (3), the DAPC (Regional Director) will notify the FLM, in writing, when the FLM 60-day review period will start.
- (5) After all information identified in Paragraph (3) has been provided to the FLM, it may be subject to minor modifications and additions during the DAPC review process. Any such additional information will be provided to the FLM 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 FLM.

- (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 FLM no later than 30 days prior to the public hearing.
 - a. The DAPC Regional Director will provide all PSD permit information to the FLM except air quality analysis information.
 - b. Division of Technical Evaluation (DTE) will provide air quality analysis information for all PSD permits to the FLM.
- (7) The FLM may provide, and the DAPC shall consider when

announcing the required 30-day comment period, any analysis performed by the FLM 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 air quality related values, including visibility, in James River Face Wilderness.

If the DAPC disagrees with the FLM'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.

Research

- A. The DAPC will assist the FLM, within budget limitations, in carrying out research evaluations needed to determine air pollution impacts to sensitive resources in James River Wilderness
- B. Both agencies will cooperate in using available information to assess air pollution impacts in James River Face Wilderness 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

Jefferson National Forest

Forest Supervisor

Department of Air Pollution Control

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

V. Termination

This Memorandum of Understanding will become effective on the date of the last signature and stay in effect until August 31, 1997. 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 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.

VI. Project Coordination

Administration of this agreement shall be accomplished by:

Pamela Faggert
Assistant Executive Director,
Regional Operations
Virginia Department of Air
Forest
Pollution Control
Room 801, Ninth St. Office Bldg.
Richmond, VA 23240
(804) 786-5791

Cindy Huber
Air Resource Specialist
USDA Forest Service
Jefferson National
2900 Caller Service
210 Franklin Rd., SW
Roanoke, VA 24001
(703) 982-6068

IN WITNESS THEREOF, the parties hereto have executed the Agreement as of the last date written below.

Signature Obtained

Joy E. Berg
Forest Supervisor
Jefferson National Forest

Date 3-29-93

Signature Obtained

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

Date 3/30/93

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