NSR Reform Subcommittee Meeting
Omni Durham Hotel, Durham, NC
July 21 - 22, 1993

Final Agenda

Day 1

7:30 am Registration Opens

8:30 - 8:45 am Subcommittee Convening, Welcome, General Update on Overall NSR Reform and Goals of the Meeting

8:45 - 10:15 am Brief Presentations and Initial Discussion of Select Examples of Class I Issues Provided by Committee Members

Brief Presentation by the Federal Land Managers on Class I Issues

Brief Presentation on Southeast Appalachian Mountains Initiative (SAMI)

10:15 - 11:45 am Summary and Further Discussion of Class I Area Issues Raised in the Session and at Previous Meetings

Previous Issues

- Regional, Existing Source Impacts (e.g., SAMI)
- Permitting Authority/FLM coordination
- Significance Impact Test (Increment and AQRV Impacts)
- Burden of Proof (Applicant to FLM and FLM to States)
- Source Impact Analysis (i.e., 100 km impacts)
- Ozone (Set II pollutants)
- Ambient Monitoring Data
- AQRV Clearinghouse

11:45 am - noon Opportunity for Public Comment

Noon - 1:00 pm **** Lunch Break ****

1:00 - 4:30 pm Develop and Discuss Policy Recommendations on Class I Issues

4:30 - 5:00 pm Presentation on Special NSR Rules for Modifications in Serious and Severe Ozone Nonattainment Areas Implementing Clean Air Act Sections 182(c)(6-8)

5:00 - 5:15 pm Opportunity for Public Comment

5:15 - 5:30 pm Session Closure and Follow-up by Co-chairs

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NSR Reform Subcommittee Meeting, July 21 - 22, 1993, Final Agenda - continued

Day 2

7:30 am Session Registration Opens for Observers

8:00 - 8:15 am Session Introduction

8:15 - 9:45 am Presentation and Initial Discussion of Select Examples of BACT/LAER Issues

9:45 - 10:30 am Summary and Further Discussion of BACT/LAER Determination Issues Raised in the Session and at Previous Meetings

Previous Issues

- Access to Control Technology Data and Recent BACT/LAER Decisions
- BACT/LAER Certainty
  - Fixed date for determining applicable technologies (i.e., complete application)
  - Presumptive BACT/LAER
  - Fix source(s) of information from which to choose candidate technologies (i.e., limit BACT to BACT/LAER clearinghouse)
  - Limit consideration of internationally installed technologies
- Provide More Guidance on Using the Top-down BACT and LAER Processes
  - Narrowing range of technologies to analyze
  - Cost Effectiveness criteria
  - Environmental and energy impacts
  - Treatment of toxic pollutants
- Expanding Public Involvement in BACT/LAER Determinations
- Incorporate Accommodation for Pollution Prevention

10:30 - 11:45 am Develop and Discuss Policy Recommendations on BACT/LAER Issues

11:45 am - Noon Opportunity for Public Comment

Noon - 1:00 pm **** Lunch Break ****

1:00 - 3:00 pm Continue to Develop and Discuss Policy Recommendations on BACT/LAER Issues

3:00 - 3:30 pm Discussion of Issues Concerning Allowable Pre-construction Activities

3:30 - 4:00 pm Timing and Agenda for Future Meetings, Including Potential for Establishing Smaller Subgroups to Address Issues

4:00 - 4:15 pm Opportunity for Public Comment

4:15 - 4:30 pm Meeting Closure and Follow-up by Co-chairs

POTENTIAL CLASS I AREA ISSUES

1. Regional, Existing Source Impacts (e.g., SAMI):

Class I area problems, particularly in the East, are the result of emissions from numerous existing sources from a multi-state area.

- **How can the regional nature of the existing problem be taken into account in the PSD process?**

- **Are there procedures (strategies) outside the PSD process that could be applied more effectively for addressing regional problems?**

- **Should specific, additional requirements (e.g., offsets, LAER) be imposed on sources locating in the vicinity of Class I areas already experiencing adverse impacts on AQRVs?**

- **What types of multi-state entities can be used to address regional problems?**

- **What options are available that do not jeopardize new, well-controlled sources when the problem is often attributable to older, less efficient sources?**

- **How can minor source which could adversely affected Class I areas be evaluated and controlled?**

2. Permitting authority/FLM Coordination:

a. The Federal land manager and the permitting authority are both given key roles in the determination of an adverse impact on an air quality related value (AQRV).

- **How can the procedures be clarified for making the ultimate determination?**

- **Should common criteria be used by both parties to evaluate adverse impacts?**

- **What discretion should be allowed the permitting authority in its decision to concur/nonconcur with the FLM finding?**

b. **What regulatory coordination efforts can be made to reduce permitting delays from separate FLM and permitting authority reviews?**

3. Significant Impact Test:

a. **Should objective criteria, e.g., significance levels, be developed for determining adverse impacts on AQRVs?** (EPA uses significance levels for determining significant ambient impacts on the NAAQS and PSD increments. Significance levels will also be proposed for Class I increments.)

b. **Should significance levels be developed specifically for each AQRV?**

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POTENTIAL CLASS I AREA ISSUES - continued

4. Burden of Proof Test:

Class I increments are used to determine who must make the demonstration concerning AQRV impacts. If no increment violation is predicted, the FLM must demonstrate to the State that an adverse impact will occur. If an increment violation is predicted, the source must demonstrate to the satisfaction of the FLM that no adverse impact will occur.

- **Should a standard analytical approach (and evaluation criteria) be prescribed which would apply to any adverse impact analysis?**

- **What clarifications, if any, should be made to the existing regulations, to address the procedures leading to the approval/denial of a PSD permit?**

- **Should both the FLM and permitting authority be expected to follow the same criteria in reviewing an adverse impact finding?**

5. Source Impact Analysis:

a. There are often disagreements as to what distance from a Class I area a new source must locate in order to avoid a Class I impact analysis. EPA recommends that sources within 100 km. be addressed, with case-by-case consideration of more distant sources. **What clarifications/changes to the existing guidance would improve the current system?**

b. **Even after a Class I analysis is found to be necessary, there are concerns as to the area over which existing source emissions should be considered. What criteria should be considered in the inclusion of existing source emissions?**

6. Ozone (Set II Pollutants):

Class I increments do not exist for ozone. In the absence of modeling techniques for predicting ambient ozone levels, a PSD increment would be meaningless. Yet high ozone levels in many Class I areas have been identified. **What alternatives to a numerical PSD increment are available to protect Class I areas?**

7. Ambient Monitoring Data (also a general pre-construction monitoring issue):

a. Many Class I areas lack ambient data to quantify current air quality levels. The PSD preconstruction monitoring requirements are generally not applied to Class I area monitoring. **Should the PSD regulations be clarified to address the need for preconstruction monitoring in Class I areas?**

b. **To what extent should post-construction monitoring be required either in addition to or in place of pre-application monitoring?**

8. AQRV Clearinghouse

More specific information concerning the particular AQRVs associated with individual Class I areas is needed by the permit applicants and permitting authorities to analyze Class I impacts. **What kinds of information related to AQRVs and effects can be made available to industry and States to improve the AQRV analyses and evaluation of the analyses?**

POTENTIAL CONTROL TECHNOLOGY DETERMINATIONS ISSUES

TECHNOLOGY ISSUE #1: **Access to control technology data and recent BACT/LAER decisions**

- **Description**: Industry prefers a single, comprehensive repository of BACT/LAER technology information, including cost, to which they are confident that permitting agencies can also access, to provide a common basis of selecting and comparing BACT/LAER candidates for a proposed source. There is also some concern about the required consideration of technology from other countries, because of differing environmental regulations and unproven performance of the technology.

  Possible Strategies:
  - Continue to revise and improve the RACT/BACT/LAER CLEARINGHOUSE (RBLCH) to incorporate all data necessary for a comprehensive data base

  Questions:
  1. What improvements to the RBLCH are necessary? Is there a way to keep the RBLCH comprehensive and current with respect to available technologies.
  2. What are the legal limitations of making them submit or requiring the data?
  3. What are the practical limitations such as hardware and software?
  4. Who will add the evolving data and maintain the system?
  5. What would qualify an international technology as a candidate for BACT or LAER?

TECHNOLOGY ISSUE #2: BACT/LAER Certainty

- **DESCRIPTION:** New or improved BACT (and LAER) technologies sometimes emerge after a permit application has been submitted. Current policy requires consideration of new technologies for BACT and LAER up to the permit issuance date, which has caused some permits to be appealed and renegotiated, resulting in costly, time-consuming delays. Sometimes project financing arrangements collapse because they have been based on fixed construction schedules.

  Possible Strategies:
  - Change policy to guarantee EPA will not appeal permit decisions due to lack of consideration of technologies that become available after a specified date.

    Questions to be addressed

    1. What is the proper cut-off date? e.g. date of complete permit application? Can information from public be precluded after this date in SIP Approved Programs?

    2. What are administrative options (e.g. policy memorandum, rulemaking or both)?

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POTENTIAL CONTROL TECHNOLOGY DETERMINATIONS ISSUES - continued

- Publication of presumptive BACT/LAER documents

  Questions to be addressed

  1. How does EPA reconcile the case-by-case nature of BACT and potential elimination of the very best technology from consideration in certain cases where it would be otherwise acceptable in all respects?
  2. How would presumptive BACT/LAER reflect development of new or improved control technologies?

- Publish monographs that summarize control technology decisions from recent PSD/NSR permits for selected source categories based on permit data submitted to the RBLC.

  Questions to be addressed

  1. How would these monographs be up-dated?
  2. Should the summaries be time limited (e.g., automatically expire three years after issuance)?

<u>TECHNOLOGY ISSUE #3</u>: Provide more guidance on the BACT/LAER determination processes

- **Description:** More detailed guidance has been requested on ascertaining the bounds of LAER technologies to be considered and the relevant factors that go into a BACT decision including cost and economic criteria, environmental and energy impacts and treatment of toxic pollutants.

  Questions:

  1. How should the guidance be implemented and what are the legal ramifications (e.g. CTG's are mandated by the Clean Air Act, BACT guidance is not)?
  2. Are there specific situations that need addressing as opposed to general guidance, and if so, what are they?

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POTENTIAL CONTROL TECHNOLOGY DETERMINATIONS ISSUES - continued

TECHNOLOGY ISSUE #4: Expanding Public Involvement in BACT/LAER Determinations

- **Description:** Environmental groups and the public have expressed interest in greater opportunity to review and comment on control technology determinations. Often the public first learns of the proposed technology for a source shortly before or during the public comment period on a proposed permit. Participation by these groups earlier in the permitting process may avert certain issues involved with a particular control technology determination and reduce time delays in permitting due to permit appeals.

  Questions:

  1. How early in the control determination process is public involvement beneficial given likely uncertainties of early source design?

  2. What additional mechanisms exist to bring public input into the control technology review early in the process?

TECHNOLOGY ISSUE #5: Incorporate accommodation for pollution prevention

- **Description:** Industry has requested that pollution prevention initiatives be given deference in BACT/LAER decisions

  Questions:

  1. How should pollution prevention be defined in the context of other EPA programs?

  2. What role does innovative control waivers already play in pollution prevention and can it be revised to address the major concerns?

  3. To what extent should pollution prevention technologies be explicitly considered as BACT or LAER (in lieu of add on control equipment)?

The following material has been provided by subcommittee members and are distributed by US EPA at this workshop as a courtesy and to promote discussion.