(3) No action under this subsection shall take
effect unless the Governor submits the order or
rule providing for such exclusion to the Admin-
istrator and the Administrator determines that
such order or rule is in compliance with the pro-
visions of this subsection.

(July 14, 1955, ch. 360, title I, §163, as added Pub.
amended Pub. L. 95–190, §14(a)(41), Nov. 16, 1977,
91 Stat. 1401.)

REFERENCES IN TEXT

(c)(1)(B), is act June 10, 1920, ch. 285, 41 Stat. 1063, as
amended, which is classified generally to chapter 12
(§791a et seq.) of Title 16, Conservation. For complete
classification of this Act to the Code, see section 791a
of Title 16 and Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95–190 inserted “section” be-
fore “7475”.

§ 7474. Area redesignation

(a) Authority of States to redesignate areas

Except as otherwise provided under subsection
(c) of this section, a State may redesignate such
areas as it deems appropriate as class I areas.
The following areas may be redesignated only as
class I or II:

(1) an area which exceeds ten thousand acres
in size and is a national monument, a national
primitive area, a national preserve, a national
recreation area, a national wild and scenic
river, a national wildlife refuge, a national
lakeshore or seashore, and

(2) a national park or national wilderness
area established after August 7, 1977, which ex-
ceeds ten thousand acres in size.

The extent of the areas referred to in para-
graph 1 (1) and (2) shall conform to any changes
in the boundaries of such areas which have oc-
curred subsequent to August 7, 1977, or which
may occur subsequent to November 15, 1990. Any
area (other than an area referred to in para-
graph (1) or (2) or an area established as class I
under the first sentence of section 7472(a) of this
title) may be redesignated by the State as class
III if—

(A) such redesignation has been specifically
approved by the Governor of the State, after
consultation with the appropriate Committees
of the legislature if it is in session or with the
leadership of the legislature if it is not in ses-

So in original. Probably should be “paragraphs”.

(b) Notice and hearing; notice to Federal land
manager; written comments and recom-
recommendations; regulations; disapproval of re-
designation

(1) (A) Prior to redesignation of any area under
this part, notice shall be afforded and public
hearings shall be conducted in areas proposed to
be redesignated and in areas which may be af-
fected by the proposed redesignation. Prior to
any such public hearing a satisfactory descrip-
tion and analysis of the health, environmental,
economic, social, and energy effects of the pro-
posed redesignation shall be prepared and made
available for public inspection and prior to any
such redesignation, the description and analysis
of such effects shall be reviewed and examined
by the redesignating authorities.

(B) Prior to the issuance of notice under sub-
paragraph (A) respecting the redesignation of
any area under this subsection, if such area in-
cludes any Federal lands, the State shall provide
written notice to the appropriate Federal land
manager and afford adequate opportunity (but
not in excess of 60 days) to confer with the State
respecting the intended notice of redesignation
and to submit written comments and recom-
mandations with respect to such intended notice
of redesignation. In redesignating any area
under this section with respect to which any
Federal land manager has submitted written
comments and recommendations, the State
shall publish a list of any inconsistency between
such redesignation and such recommendations
and an explanation of such inconsistency (to-
gether with the reasons for making such redes-
ignation against the recommendation of the
Federal land manager).

(C) The Administrator shall promulgate regu-
lations not later than six months after August 7,
1977, to assure, insofar as practicable, that prior
to any public hearing on redesignation of any
area, there shall be available for public inspec-
tion any specific plans for any new or modified
major emitting facility which may be permitted
to be constructed and operated only if the area
in question is designated or redesignated as
class III.

(2) The Administrator may disapprove the re-
designation of any area only if he finds, after
notice and opportunity for public hearing, that
such redesignation does not meet the procedural
requirements of this section or is inconsistent
with the requirements of section 7472(a) of this
part or of subsection a) of this section. If any
such disapproval occurs, the classification of the
area shall be that which was in effect prior to
the redesignation which was disapproved.

(c) Indian reservations

Lands within the exterior boundaries of res-
ervations of federally recognized Indian tribes
may be redesignated only by the appropriate In-
dian governing body. Such Indian governing
body shall be subject in all respect to the provi-
sions of subsection e) of this section.
§ 7475. Preconstruction requirements

(a) Major emitting facilities on which construction is commenced

No major emitting facility on which construction is commenced after August 7, 1977, may be constructed in any area to which this part applies unless:

(1) a permit has been issued for such proposed facility in accordance with this part setting forth emission limitations for such facility which conform to the requirements of this part;

(2) the proposed permit has been subject to a review in accordance with this section, the required analysis has been conducted in accordance with regulations promulgated by the Administrator, and a public hearing has been held with opportunity for interested persons including representatives of the Administrator to appear and submit written or oral presentations on the air quality impact of such source, alternatives thereto, control technology requirements, and other appropriate considerations;

(3) the owner or operator of such facility demonstrates, as required pursuant to section 7410(j) of this title, that emissions from construction or operation of such facility will not cause, or contribute to, air pollution in excess of any (A) maximum allowable increase or maximum allowable concentration for any pollutant in any area to which this part applies more than one time per year, (B) national ambient air quality standard in any air quality control region, or (C) any other applicable emission standard or standard of performance under this chapter;

(4) the proposed facility is subject to the best available control technology for each pollutant subject to regulation under this chapter emitted from, or which results from, such facility;

(5) the provisions of subsection (d) of this section with respect to protection of class I areas have been complied with for such facility;

(6) there has been an analysis of any air quality impacts projected for the area as a result of growth associated with such facility;

(7) the person who owns or operates, or proposes to own or operate, a major emitting facility for which a permit is required under this part agrees to conduct such monitoring as may be necessary to determine the effect which emissions from any such facility may have, or is having, on air quality in any area which may be affected by emissions from such source; and

(8) in the case of a source which proposes to construct in a class III area, emissions from which would cause or contribute to exceeding the maximum allowable increments applicable in a class II area and where no standard under section 7411 of this title has been promulgated subsequent to August 7, 1977, for such source category, the Administrator has approved the determination of best available technology as set forth in the permit.

(b) Exception

The demonstration pertaining to maximum allowable increases required under subsection

(d) Review of national monuments, primitive areas, and national preserves

The Federal Land Manager shall review all national monuments, primitive areas, and national preserves, and shall recommend any appropriate areas for redesignation as class I where air quality related values are important attributes of the area. The Federal Land Manager shall report such recommendations, within supporting analysis, to the Congress and the affected States within one year after August 7, 1977. The Federal Land Manager shall consult with the appropriate States before making such recommendations.

(e) Resolution of disputes between State and Indian tribes

If any State affected by the redesignation of an area by an Indian tribe or any Indian tribe affected by the redesignation of an area by a State disagrees with such redesignation of any area, or if a permit is proposed to be issued for any new major emitting facility proposed for construction in any area which the Governor of an affected State or governing body of an affected Indian tribe determines will cause or contribute to a cumulative change in air quality in excess of that allowed in this part within the affected State or tribal reservation, the Governor or Indian tribal body may request the Administrator to enter into negotiations with the parties involved to resolve such dispute. If requested by any State or Indian tribe involved, the Administrator shall make a recommendation to resolve the dispute and protect the air quality related values of the lands involved. If the parties involved do not reach agreement, the Administrator shall resolve the dispute and his determination, or the results of agreements reached through other means, shall become part of the applicable plan and shall be enforceable as part of such plan. In resolving such disputes relating to area redesignation, the Administrator shall consider the extent to which the lands involved are of sufficient size to allow effective air quality management or have air quality related values of such an area.


Amendments

1990—Subsec. (a). Pub. L. 101–549, which directed the insertion of “The extent of the areas referred to in paragraph (1) and (2) shall conform to any changes in the boundaries of such areas which have occurred subsequent to August 7, 1977, or which may occur subsequent to November 15, 1990.” before “Any area (other than an area referred to in paragraph (1) or (2))”, was executed by making the insertion before “Any area (other than an area referred to in paragraph (1) or (2))”, to reflect the probable intent of Congress.

1977—Subsec. (b)(2). Pub. L. 95–190, §14(a)(42), inserted “or is inconsistent with the requirements of section 7472(a) of this title or of subsection (a) of this section” after “this section”.

Subsec. (e). Pub. L. 95–190, §14(a)(3), inserted “an” after “if any State affected by the redesignation of”.

So in original. Probably should be “with”.

§ 7475.