

**INTER-OFFICE COMMUNICATION**

**PS Memo 2000-01**

TO: CP and OP Permit Engineers

FROM: Dave Ouimette/Jim Geier

DATE: September 2000

RE: Federal Land Managers and Class 1 Area Issues

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The Air Quality Control Commission conducted an extensive public hearing during the early 1980s in order to develop the Prevention Of Significant Deterioration (PSD) regulatory provisions for Colorado. The permitting provisions are contained in Regulation 3, Part B, Section IV.D.3., while provisions regarding Increments and Class 1 areas are found in Sections V. and VI. Part B. This memo addresses the role of the Federal Land Managers (FLMs) as it pertains to commenting on PSD permit applications received by the Division. The same provisions should also be followed when evaluating visibility impacts for Class 1 areas due to major sources or major modifications in non-attainment areas (Section IVD.2.a.(vi)), however, we have never had a source go through this process in a non-attainment area.

In the Statement of Basis and Purpose for the PSD rules, the Commission states that the regulation was “designed to offer maximum opportunity for any interested person to learn about, and become involved in, the PSD permit review process.” In this regard, the Commission included provisions for public comment to be solicited and for a public hearing to be held on PSD applications.

Section X. A. (Federal Class 1 Areas) of Regulation 3, Part A, also contains special requirements for PSD sources located near Class 1 areas. The Division considers sources located with 100 kilometers to be ‘near’ to Class 1 areas, however, there may be situations when sources farther than 100 KM should be considered. These more distant sources will be identified by the Technical Services Program (TSP) as part of the pre-application process, so TSP must be kept informed of all proposed PSD projects. This section requires the Division to:

1. Transmit a copy of any major source or major modification application that may impact visibility or **other** air quality related values (AQRV) in a Class 1 area to the FLM within 20 days of receipt, and to consult with the FLM as to its completeness in its analysis and monitoring (if required) of AQRVs.
2. Inform the FLM of any new major sources which we receive advance notice of, within 30 days of the notification.

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3. Consider any analysis performed by the FLM that there will be an adverse impact on visibility or other AQRVs if such analysis is received within 30 days after the FLM receives a copy of the complete application.

In addition to the opportunities for FLM involvement noted above, there is also the opportunity to provide comment or request a public hearing pursuant to the public notice requirements of Part B, Section IV.C.4.

The FLMs are also interested in increment consumption in Class I areas, consequently increment consumption should be considered in addition to AQRVs.

The Division has worked closely with the FLMs over the years to address new source impacts on Class 1 areas; we intend to continue this practice. In order to meet this goal, and the Division's goal of issuing permits in a timely manner the following clarification will be implemented.

Regarding Item 1, send a copy of the application to the FLM immediately upon receipt. This allows the FLM the opportunity to identify any incomplete AQRV or increment analyses. This will allow the Division time to consider the FLM comments prior to making a completeness determination in our allotted 60 days.

Item 2 requires the Division to notify the FLM of any new major source for which we receive advance notice. This notice can consist of a telephone call, fax, email or letter. Also inform the applicant of the FLM's role, and suggest that the applicant should contact the FLM in advance of submitting their application. The applicant may want to include the FLM in a pre-application meeting with the Division, or meet with the FLM separately. If separate meetings are held, the Division should contact the FLM to determine if any specific concerns exist.

Item 3 above notes that the Division will consider any FLM analysis indicating that an adverse impact will occur, if such analysis is received within 30 days after the FLM has received a copy of the complete application. The Division interprets the term "complete application" to mean that the visibility/AQRV and increment analyses are completed. Given this, the FLM's 30 day clock can begin as soon as notice is provided to them. Note that in the event the modeling staff subsequently determines that modeling was not performed correctly, the FLM shall be notified, and the 30 day period shall be adjusted accordingly. See the Unit Leader prior to adjusting the due date, and prior to notifying the FLM. If there are only minor problems with the modeling the FLM will be notified but a case by case decision will be made as to whether a new 30 day period will commence.

The Division is making this interpretation because it is typical that parts of an application will not be totally "complete" until long after the initial application is received. That is, changes to the initial application may be made until shortly before the permit is ready for public notice. Since the AQRV analyses are usually available well before this point in time, the FLM review can begin even though changes to other parts of the permit are still being made so long as these other changes are not anticipated to affect the modeling analysis. Any new information or modifications to the initial application should be sent immediately

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to the FLM. Significant revisions (i.e., an increase in emissions) may require a revised AQRV and/or increment analysis, and thus an adjustment to the 30 day period. The permit engineer should see the Unit Leader prior to making any adjustments to review due dates, and if new dates are established the applicant must be notified.

In order to inform FLMs that the 30 day period for their AQRV review has begun, please send them a letter or email, along with a telephone call, noting the dates the comment period begins and ends. They need to be notified immediately so that they have the full 30 days for review.

At the time the FLM's are notified that their visibility and AQRV review period has begun, please send a copy of this same notice to Coleen Campbell in Technical Services so that she can review and comment on the analysis.

Occasionally there may be a permit which requires special attention including an expedited review. If this occurs please send the FLM a letter requesting their expedited review and noting why the request is being made. The letter should also note that the FLM will have an additional opportunity to comment during the 'regular' public comment period. An expedited review should not impinge upon the FLM's 30 day review period.

As noted, the above interpretation applies to FLM comments on adverse impacts to AQRVs. The Division is always receptive to comments received on other aspects of the application, such as Best Available Control Technology determinations, or overall completeness of the application, however, these comments are not subject to the 30 day comment provision discussed above. As a courtesy, the FLMs would also like to know when the Division has completed the BACT determination. Please contact them in this regard by phone or email.

Upon receipt of notification from the FLMs of an adverse impact to AQRVs, inform the unit leader. Following internal discussion, and prior to public notice, inform the applicant that an adverse impact determination has been received. The finding of an adverse impact must be stated in the public notice, and the public notice must explain the basis for the Division's decision to accept or reject the FLM finding. If comments are received during the public notice period, inform the FLM by telephone or fax. The comments should then be faxed to the FLM, or inform the FLM that the comments are available for their review at the Division's offices. At this time, inform the FLM of any schedule regarding response to any comments, or permit issuance.

Please note that it is the **responsibility of the assigned review engineer** to ensure that 1) a proposed schedule for review of the visibility/AQRV information submitted by the applicant is provided to the technical service modeling staff as well as Coleen Campbell; 2) that the applicant knows and understands this schedule; and, 3) that every effort is made to have the review by the FLM completed by the time the permit is ready for public comment without impinging on their 30 day review period, and without delaying permit issuance. If any circumstances arise that will cause a delay in permit issuance, please discuss this with the unit leader then inform the applicant of the delay.

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We want to provide every opportunity for the FLMs to participate in the permitting process in order to provide proper protection for Class 1 areas. In addition to this goal, we also want to process permits as expeditiously as possible. Many times we need to balance how to handle permit processing in light of minor changes to the application. It is not always appropriate to start the processing clock over again due to minor application changes. Usually restarting the clock should only occur when major errors have occurred in the modeling or plant emissions have increased significantly.