

FLM Desired Permit Review Process for Proposed Projects That May Impact Class I Areas

1. NPS Air Resources Division (ARD)/FWS Air Quality Branch (AQB) participates in preapplication meeting to learn about the project and discuss potential issues with the permit applicant and permitting authority, including specific modeling requirements and specific AQRV concerns. Consistent with 40CFR51.307 or 40CFR52.21(p), the permitting authority must notify the FLM within 30 days of receiving any advance notification (e.g., early consultation with the source).
2. ARD/AQB reviews and comments on modeling protocol so that agreement is reached before applicant conducts modeling analyses. To help ensure that the proper emissions are modeled, ARD/AQB will encourage applicants to include preliminary emissions and control technology information in the modeling protocol.
3. ARD/AQB receives application simultaneously with permitting authority so that concurrent review can commence. Application should include: (1) best available control technology (BACT) analysis; (2) NAAQS and PSD Class I/Class II increment analyses; and (3) AQRV analyses.
4. ARD/AQB staff include environmental engineers (BACT reviews), meteorologists (NAAQS/increments/visibility impact analyses), biologists (other AQRV analyses—i.e. impact of sulfur/nitrogen depositions on soils and streams). ARD/AQB coordinates comments with park/refuge/regional office staff.
5. Permitting authority does not deem the application complete and adequate until applicant addresses ARD/AQB control technology and Class I AQRV impact (including cumulative) concerns.
6. Consistent with 40CFR51.307 or 40CFR52.21(p), permitting authority provides the FLM (ARD/AQB) a copy of all information relevant to the permit application within 30 days of receipt of and at least 60 days prior to a public hearing on the project. We believe relevant information includes the complete application (including properly conducted AQRV analyses), draft permit, and staff analysis. Because not all States require a public hearing for each permit, the 60-day regulatory language may not apply. In those instances, the permitting authority should give the FLM at least 30 days notice before announcing a public comment period.
7. ARD/AQB, in consultation with park/refuge/region staff, reviews all relevant information and makes a recommendation to the FLM as to potential adverse impacts to visibility and other AQRVs.
8. Within 30 days of receipt of all relevant information, the FLM determines if the proposed source would have an adverse impact on visibility or other Class I area AQRVs.
9. If FLM demonstrates to the satisfaction of the permitting authority that a proposed source

would adversely impact a Class I area AQRV, the permitting authority will recommend denial of the permit, unless the applicant mitigates these adverse impact concerns.

10. If the permitting authority disagrees with an FLM's finding of adverse impact, the permitting authority consults with the FLM to explain its basis for the disagreement and attempt to resolve any differences.
11. If differences still persist, consistent with 40CFR51.307 or 40CFR52.21(p), the permitting authority states in the notice of public comment/hearing that the FLM has not demonstrated an adverse impact to the satisfaction of the permitting authority and the permitting authority either explains its decision or gives notice as to where the explanation can be obtained.
12. Even if FLM determines that the proposed source would not have adverse impacts, ARD/AQB may still provide comments to the permitting authority on the applicant's proposed emissions control technology, air quality standards and PSD increments analyses, and AQRV impacts analyses.
13. Before making a preliminary determination to grant a permit, the permitting authority gives full consideration to all comments submitted by the ARD/AQB and/or FLM.
14. The permitting authority gives full consideration to all comments received during the public comment period and at any hearing, and provides a response to all comments received.
15. The permitting authority makes final decision to grant or deny the permit and provides the FLM a copy of the final permit (if applicable) and response to comments document.
16. FLM may appeal the permit if adverse impact concerns are not adequately mitigated, required process not followed, or adequate information or review time not provided.

(Note: Virginia is a good example of a State that typically:

- ✓ defers to the ARD regarding Class I modeling analysis procedures;
- ✓ sends all relevant information and asks for our opinion;
- ✓ once we concur that the application is complete, starts the 60-day clock;
- ✓ after 30 days, publishes a public notice for a public hearing 30 days later;
- ✓ holds the public record open for 15 days after the hearing
- ✓ sends us a copy of the permit, including State responses to comments.)