

WAC 173-400-117 Special protection requirements for federal Class I areas. (1) **Definitions.** The following definitions apply to this section:

(a) **"Adverse impact on visibility"** means visibility impairment that interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairment, and how these factors correlate with:

(i) Times of visitor use of the federal Class I area; and

(ii) The frequency and timing of natural conditions that reduce visibility.

(b) The terms "major stationary source," "major modification," and "net emissions increase" are defined in WAC 173-400-720 for projects located in areas designated as attainment or unclassifiable for the pollutants proposed to increase as a result of the project and are defined in WAC 173-400-810 for projects located in areas designated as nonattainment for the pollutants proposed to increase as a result of the project.

(2) **Applicability.** The requirements of this section apply to all of the following permitting actions:

(a) A PSD permit application for a new major stationary source or a major modification; or

(b) A notice of construction application for a major stationary source or a major modification to a stationary source in a nonattainment area, as either of those terms are defined in WAC 173-400-810.

(3) **Contents and distribution of application.**

(a) The application shall include an analysis of the anticipated impacts of the project on visibility in any federal Class I area.

(b) The applicant must mail a copy of the application for the project and all amendments to the application to the permitting authority, EPA and to the responsible federal land managers. Ecology will provide a list of the names and addresses of the federal land manager.

(4) **Notice to federal land manager.**

(a) The permitting authority shall send a copy of the completeness determination to the responsible federal land manager.

(b) If, prior to receiving a notice of construction application or a PSD permit application, the permitting authority receives notice of a project described in subsection (2) of this section that may affect visibility in a federal Class I area, the permitting authority shall notify the responsible federal land manager within thirty days of the notification.

(5) **Analysis by federal land manager.**

(a) The permitting authority will consider any demonstration presented by the responsible federal land manager that emissions from a proposed new major stationary source or the net emissions increase from a proposed major modification described in subsection (2) of this section would have an adverse impact on visibility in any federal Class I area, provided that the demonstration is received by the permitting authority within thirty days of the federal land manager's receipt of the complete application.

(b) If the permitting authority concurs with the federal land manager's demonstration, the PSD permit or approval order for the project either shall be denied, or conditions shall be included in the approval order to prevent the adverse impact.

(c) If the permitting authority finds that the federal land manager's analysis does not demonstrate that the project will have an adverse impact on visibility in a federal Class I area, the permitting authority shall explain its decision in compliance with the notice requirements of WAC 173-400-171 for those permits subject to WAC 173-400-800 through 173-400-860. For permits subject to the prevention of significant deterioration program, the permitting authority shall state in the public notice required by WAC 173-400-740 that an explanation of the decision appears in the Technical Support Document for the proposed permit.

(6) Additional requirements for projects that require a PSD permit.

(a) For sources impacting federal Class I areas, the permitting authority shall provide notice to EPA of every action related to consideration of the PSD permit.

(b) The permitting authority shall consider any demonstration received from the responsible federal land manager prior to the close of the public comment period on a proposed PSD permit that emissions from the proposed new major stationary source or the net emissions increase from a proposed major modification would have an adverse impact on the air quality-related values (including visibility) of any mandatory Class I federal area.

(c) If the permitting authority concurs with the demonstration, the PSD permit either shall be denied, or conditions shall be included in the PSD permit to prevent the adverse impact.

(7) Additional requirements for projects located in nonattainment areas. In reviewing a PSD permit application or notice of construction application for a new major stationary source or major modification proposed for construction, as those terms are defined in WAC 173-400-810, in an area classified as nonattainment, the permitting authority must ensure that the proposed new source's emissions or the proposed modification's increase in emissions will be consistent with making reasonable progress toward meeting the national goal of preventing any future, and remedying any existing, impairment of visibility by human-caused air pollution in mandatory Class I federal areas. In determining the need for approval order conditions to meet this requirement, the permitting authority may take into account the costs of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the useful life of the source.

(8) Monitoring. The permitting authority may require post-construction monitoring of the impact from the project. The monitoring shall be limited to the impacts on visibility in any federal Class I area near the proposed project.

[Statutory Authority: Chapter 70.94 RCW. WSR 12-24-027 (Order 11-10), § 173-400-117, filed 11/28/12, effective 12/29/12. Statutory Authority: RCW 70.94.152. WSR 05-03-033 (Order 03-07), § 173-400-117, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. WSR 01-17-062 (Order 99-06), § 173-400-117, filed 8/15/01, effective 9/15/01.]