

XII.B.5. All other applicable requirements including those for public participation have been met.

XII.B.6. The provisions of Section VIII. of this part (relating to Class I areas) have been satisfied with respect to all periods during the life of the source or modification.

XII.C. The Division shall withdraw any approval to employ a system of innovative control technology made under this section, if:

XII.C.1. The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or

XII.C.2. The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

XII.C.3. The Division decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

XII.D. If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn in accordance with Section XII.C., above, the Division may allow the source or modification up to an additional three years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

XIII. Federal Class I Areas

XIII.A. Within twenty days of receipt of a permit application for a new major stationary source or major modification that may affect visibility or air quality related values in any Federal Class I area, the Division shall transmit a copy of the application to all affected Federal Land Managers and consult with them as to its completeness in its analysis and monitoring (if required) of air quality related values. If the Division receives advance notification of a permit application of a source that may affect visibility or air quality related values, it will notify all affected Federal Land Managers within thirty days of such notification. The Division will consider any analysis performed by a Federal Land Manager that indicates there will be an adverse impact on visibility or air quality related values if such analysis is received within thirty days after the Federal Land Manager receives a copy of the complete application. If the Division disagrees with the Federal Land Manager, any notices for public comment or of a public hearing on the application will explain the disagreement or state where the explanation can be obtained.

XIII.B. In addition to the general impact analysis required by Section VI.A.6. of this part, any source that will have or is likely to have an impact on any designated Class I area may be required to conduct monitoring to establish the condition of and impact on air quality related values in such Class I area(s) both prior to completing an application for a permit to construct and during the construction and operation of such source.

XIII.B.1. If monitoring is required, the source shall conduct a private monitoring program. However, if monitoring is being conducted by any other existing source or government agency, the new source may enter into a joint monitoring program with that source or agency. All monitoring programs must be approved in advance by the Division.

XIII.B.2. Pre-application monitoring may include the monitoring of not more than three air quality related values or sensitive receptors of air quality related values specified by the Division after consultation with the Federal Land Manager. The air quality related values or sensitive receptor(s) selected must be important to the affected Class I

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XIII.B.1. If monitoring is required, the source shall conduct a private monitoring program. However, if monitoring is being conducted by any other existing source or government agency, the new source may enter into a joint monitoring program with that source or agency. All monitoring programs must be approved in advance by the Division.

XIII.B.2. Pre-application monitoring may include the monitoring of not more than three air quality related values or sensitive receptors of air quality related values specified by the Division after consultation with the Federal Land Manager. The air quality related values or sensitive receptor(s) selected must be important to the affected Class I area, and there must be cause to believe that monitoring of the air quality related values or sensitive receptors will provide a basis for evaluating effects to the relevant air quality related values.

XIII.B.3. Monitoring during construction and operation may only be required for the sensitive receptors specified for pre-application monitoring, unless new information becomes available that demonstrates a significant economic or technological advantage of monitoring a different sensitive receptor, and it is acceptable to the source owner or operator.

XIII.B.4. Monitoring of air quality related values or sensitive receptors of air quality related values may only be required if:

XIII.B.4.a. Monitoring methods are reasonably available and research and development of monitoring methods are unnecessary;

XIII.B.4.b. The major effect on the air quality related values or sensitive receptor would reasonably be predicted to be a result of the applicant's individual emissions or of the applicant's emissions in combination with any person's emissions with whom the applicant may be required to conduct joint monitoring; and

XIII.B.4.c. It is economically reasonable for the source to conduct such monitoring.

~~XIII.C. Sources Impacting Federal Class I Area - Additional Requirements. Federal Land Managers may present to the Division, after its preliminary analysis required under Section III.B. of Part B of this regulation, a demonstration that the emissions from the proposed source or modification would have an adverse impact on the air quality related values (including visibility) of any federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations that would exceed the maximum allowable increases for a Class I area. If the Division concurs with such demonstration, or in the event the Federal Land Manager fails to perform an adverse impact analysis and the Division determines that there is an adverse impact on visibility, or the Division determines that a demonstration of no adverse impact is in error, the Division shall not issue the permit.~~

area, and there must be cause to believe that monitoring of the air quality related values or sensitive receptors will provide a basis for evaluating effects to the relevant air quality related values.

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XIII.D. Class I Variances. The owner or operator of a proposed major stationary source or major modification may demonstrate to the satisfaction of the Federal Land Manager that the emissions from such source or modification would not have an adverse impact on the air quality related values (including visibility) of Class I lands under the Federal Land Manager's jurisdiction, notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations that would exceed the maximum allowable increases for a Class I area. If the Federal Land Manager concurs with such demonstration and so certifies to the Division, the Division or the Commission may, provided that applicable requirements are otherwise met, issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide, and PM₁₀, and nitrogen oxides would not exceed the following maximum allowable increases over the minor source baseline concentration for such pollutants.

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Maximum allowable increase	
Particulate matter	
PM2.5, Annual arithmetic mean	4 µg/m ³
PM2.5, Twenty-four hour maximum	9 µg/m ³
PM10, Annual arithmetic mean	17 µg/m ³
PM10, Twenty-four hour maximum	30 µg/m ³
Sulfur dioxide	
Annual arithmetic mean	20 µg/m ³
Twenty-four hour maximum	91 µg/m ³
Three hour maximum	325 µg/m ³
Nitrogen dioxide	
Annual arithmetic mean	25 µg/m ³

~~XIII.E. Sulfur Dioxide Variance by Governor~~

~~XIII.E.1. The owner or operator of a proposed major stationary source or major modification that cannot be approved under Section XIII.D., above, may demonstrate to the governor that the source or modification cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for periods of twenty-four hours or less, applicable to any Class I area and, in the case of the federal mandatory Class I areas, that a variance under this section would not have an adverse affect on the air quality related values of the area (including visibility).~~

~~XIII.E.2. The governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may grant, after notice and an opportunity for a public hearing, a variance from such maximum allowable increase.~~

Maximum allowable increase	
Particulate matter	
PM10, Annual arithmetic mean	17 $\mu\text{g}/\text{m}^3$
PM10, Twenty-four hour maximum	30 $\mu\text{g}/\text{m}^3$
Sulfur dioxide	
Annual arithmetic mean	20 $\mu\text{g}/\text{m}^3$
Twenty-four hour maximum	91 $\mu\text{g}/\text{m}^3$
Three hour maximum	325 $\mu\text{g}/\text{m}^3$
Nitrogen dioxide	
Annual arithmetic mean	25 $\mu\text{g}/\text{m}^3$

XIII.E. Sulfur Dioxide Variance by Governor

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XIII.E.2. The governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may grant, after notice and an opportunity for a public hearing, a variance from such maximum allowable increase.

XIII.E.3. If such variance is granted, the Division may issue a permit to such source or modification in accordance with Section XIII.G., below, if the applicable requirements of Regulation Number 3 are otherwise met.

XIII.F. Variance by the Governor with the President's Concurrence

XIII.F.1. The recommendations of the governor and the Federal Land Manager shall be transferred to the president in any case where the governor recommends a variance with which the Federal Land Manager does not concur.

XIII.F.2. If the president approves the variance, the Division may issue a permit in accordance with Section XIII.G., below, if the applicable requirements of Regulation Number 3 are otherwise met.

XIII.G. Emission Limitations for Presidential and Gubernatorial Variance. In the case of a permit to be issued under Sections XIII.E. and XIII.F., the source or modification shall comply with emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on that the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations that would exceed

the following maximum allowable increases over the baseline concentration assure that such emissions would not cause or contribute to concentrations that exceed the otherwise applicable maximum allowable increases for periods of exposure of twenty-four hours or less for more than eighteen days, not necessarily consecutive, during any annual period:

Maximum Allowable Increase ($\mu\text{g}/\text{m}^3$)

Period of Exposure	Terrain Areas	
	Low	High
24-hour maximum	36	62
3-hour maximum	130	221

XIV. Visibility

XIV.A. Purpose

This section assures reasonable progress towards the national goal of preventing future, and remedying existing, visibility impairment in Class I areas, where such impairment results from man-made air pollution.

XIV.B. Applicability

This section applies to all Class I areas and to sources in Colorado the emissions from which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area (even if the area is in another state).

XIV.C. Definitions

For purposes of this Section XIV.

XIV.C.1. Adverse impact on visibility means for the purpose of Section XIV.E. visibility impairment that interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Class I area. Any determination shall be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with times of visitor use of the Class I area, and the frequency and timing of natural conditions that reduce visibility.

XIV.C.2. Best Available Retrofit Technology means an emission limitation achievable through the application of the best system of continuous emission reduction for each pollutant that is emitted by an existing stationary facility. The emission limitation shall be established on a case-by-case basis taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility that may reasonably be anticipated to result from the use of such technology.

XIV.C.3. Existing stationary facility means any of the stationary sources of air pollutants defined in Sections I.B.19., I.B.22. through I.B.25., I.B.34., and I.B.41. of Part A, Section I.A.1.(c) of Part C, and Section II.A.24. of Part D of this regulation, including any reconstructed source, that was not in operation prior to August 7, 1962, and had commenced construction on or before August 7, 1977, and has the potential to emit