

40 CFR 51.301

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**TITLE 40** -- PROTECTION OF ENVIRONMENT  
REVISED AS OF JULY 1, 2004  
CHAPTER I -- ENVIRONMENTAL PROTECTION AGENCY  
SUBCHAPTER C -- AIR PROGRAMS  
**PART 51** -- REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF  
IMPLEMENTATION PLANS  
SUBPART P -- PROTECTION OF VISIBILITY

40 CFR **51.301**

§ 51.301 Definitions.

For purposes of this subpart:

Adverse impact on visibility means, for purposes of section 307, visibility impairment which 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 impairments, and how these factors correlate with (1) times of visitor use of the Federal Class I area, and (2) the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.

Agency means the U.S. Environmental Protection Agency.

BART-eligible source means an existing stationary facility as defined in this section.

Best Available Retrofit Technology (BART) means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair 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 which may reasonably be anticipated to result from the use of such technology.

Building, structure, or facility means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities must be considered as part of the same industrial grouping if they belong to the same Major Group (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972 as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0 respectively).

Deciview means a measurement of visibility impairment. A deciview is a haze index

derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The deciview haze index is calculated based on the following equation (for the purposes of calculating deciview, the atmospheric light extinction coefficient must be calculated from aerosol measurements):

$$\text{Deciview haze index} = 10 \ln[e] (b[\text{ext}]/10 \text{ Mm}^{-1}).$$

Where  $b[\text{ext}]$  = the atmospheric light extinction coefficient, expressed in inverse megameters ( $\text{Mm}^{-1}$ ).

Existing stationary facility means any of the following stationary sources of air pollutants, including any reconstructed source, which was not in operation prior to August 7, 1962, and was in existence on August 7, 1977, and has the potential to emit 250 tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted.

- (1) Fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour heat input,
- (2) Coal cleaning plants (thermal dryers),
- (3) Kraft pulp mills,
- (4) Portland cement plants,
- (5) Primary zinc smelters,
- (6) Iron and steel mill plants,
- (7) Primary aluminum ore reduction plants,
- (8) Primary copper smelters,
- (9) Municipal incinerators capable of charging more than 250 tons of refuse per day,
- (10) Hydrofluoric, sulfuric, and nitric acid plants,
- (11) Petroleum refineries,
- (12) Lime plants,
- (13) Phosphate rock processing plants,
- (14) Coke oven batteries,
- (15) Sulfur recovery plants,
- (16) Carbon black plants (furnace process),
- (17) Primary lead smelters,

- (18) Fuel conversion plants,
- (19) Sintering plants,
- (20) Secondary metal production facilities,
- (21) Chemical process plants,
- (22) Fossil-fuel boilers of more than 250 million British thermal units per hour heat input,
- (23) Petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels,
- (24) Taconite ore processing facilities,
- (25) Glass fiber processing plants, and
- (26) Charcoal production facilities.

Federal Class I area means any Federal land that is classified or reclassified Class I.

Federal Land Manager means the Secretary of the department with authority over the Federal Class I area (or the Secretary's designee) or, with respect to Roosevelt-Campobello International Park, the Chairman of the Roosevelt-Campobello International Park Commission.

Federally enforceable means all limitations and conditions which are enforceable by the Administrator under the Clean Air Act including those requirements developed pursuant to parts 60 and 61 of this title, requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to § 52.21 of this chapter or under regulations approved pursuant to part 51, 52, or 60 of this title.

Fixed capital cost means the capital needed to provide all of the depreciable components.

Fugitive Emissions means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

Geographic enhancement for the purpose of § 51.308 means a method, procedure, or process to allow a broad regional strategy, such as an emissions trading program designed to achieve greater reasonable progress than BART for regional haze, to accommodate BART for reasonably attributable impairment.

Implementation plan means, for the purposes of this part, any State Implementation Plan, Federal Implementation Plan, or Tribal Implementation Plan.

Indian tribe or tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

In existence means that the owner or operator has obtained all necessary preconstruction approvals or permits required by Federal, State, or local air pollution emissions and air quality laws or regulations and either has (1) begun, or caused to begin, a continuous program of physical on-site construction of the facility or (2) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed in a reasonable time.

In operation means engaged in activity related to the primary design function of the source.

Installation means an identifiable piece of process equipment.

Integral vista means a view perceived from within the mandatory Class I Federal area of a specific landmark or panorama located outside the boundary of the mandatory Class I Federal area.

Least impaired days means the average visibility impairment (measured in deciviews) for the twenty percent of monitored days in a calendar year with the lowest amount of visibility impairment.

Major stationary source and major modification mean major stationary source and major modification, respectively, as defined in § 51.166.

Mandatory Class I Federal Area means any area identified in part 81, subpart D of this title.

Most impaired days means the average visibility impairment (measured in deciviews) for the twenty percent of monitored days in a calendar year with the highest amount of visibility impairment.

Natural conditions includes naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.

Potential to emit means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

Reasonably attributable means attributable by visual observation or any other technique the State deems appropriate.

Reasonably attributable visibility impairment means visibility impairment that is caused by the emission of air pollutants from one, or a small number of sources.

Reconstruction will be presumed to have taken place where the fixed capital cost of the new component exceeds 50 percent of the fixed capital cost of a comparable entirely new source. Any final decision as to whether reconstruction has occurred must be made in accordance with the provisions of § 60.15 (f) (1) through (3) of this title.

Regional haze means visibility impairment that is caused by the emission of air pollutants from numerous sources located over a wide geographic area. Such sources include, but are not limited to, major and minor stationary sources, mobile sources, and area sources.

Secondary emissions means emissions which occur as a result of the construction or operation of an existing stationary facility but do not come from the existing stationary facility. Secondary emissions may include, but are not limited to, emissions from ships or trains coming to or from the existing stationary facility.

Significant impairment means, for purposes of § 51.303, visibility impairment which, in the judgment of the Administrator, interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the mandatory Class I Federal area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of the visibility impairment, and how these factors correlate with (1) times of visitor use of the mandatory Class I Federal area, and (2) the frequency and timing of natural conditions that reduce visibility.

State means "State" as defined in section 302(d) of the CAA.

Stationary Source means any building, structure, facility, or installation which emits or may emit any air pollutant.

Visibility impairment means any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions.

Visibility in any mandatory Class I Federal area includes any integral vista associated with that area.

**HISTORY:**

[45 FR 80089, Dec. 2, 1980; 64 FR 35714, 35763, 35774, July 1, 1999]

**AUTHORITY:**

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