

*40 CFR 51.302*

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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 51.302**

§ 51.302 Implementation control strategies for reasonably attributable visibility impairment.

(a) Plan Revision Procedures. (1) Each State identified in § 51.300(b)(2) must have submitted, not later than September 2, 1981, an implementation plan meeting the requirements of this subpart pertaining to reasonably attributable visibility impairment.

(2)(i) The State, prior to adoption of any implementation plan to address reasonably attributable visibility impairment required by this subpart, must conduct one or more public hearings on such plan in accordance with § 51.102.

(ii) In addition to the requirements in § 51.102, the State must provide written notification of such hearings to each affected Federal Land Manager, and other affected States, and must state where the public can inspect a summary prepared by the Federal Land Managers of their conclusions and recommendations, if any, on the proposed plan revision.

(3) Submission of plans as required by this subpart must be conducted in accordance with the procedures in § 51.103.

(b) State and Federal Land Manager Coordination. (1) The State must identify to the Federal Land Managers, in writing and within 30 days of the date of promulgation of these regulations, the title of the official to which the Federal Land Manager of any mandatory Class I Federal area can submit a recommendation on the implementation of this subpart including, but not limited to:

(i) A list of integral vistas that are to be listed by the State for the purpose of implementing section 304,

(ii) Identification of impairment of visibility in any mandatory Class I Federal area(s), and

(iii) Identification of elements for inclusion in the visibility monitoring strategy required by section 305.

(2) The State must provide opportunity for consultation, in person and at least 60 days prior to holding any public hearing on the plan, with the Federal Land Manager on the proposed SIP revision required by this subpart. This consultation must include the opportunity for the affected Federal Land Managers to discuss their:

- (i) Assessment of impairment of visibility in any mandatory Class I Federal area, and
- (ii) Recommendations on the development of the long-term strategy.

(3) The plan must provide procedures for continuing consultation between the State and Federal Land Manager on the implementation of the visibility protection program required by this subpart.

(c) General plan requirements for reasonably attributable visibility impairment. (1) The affected Federal Land Manager may certify to the State, at any time, that there exists reasonably attributable impairment of visibility in any mandatory Class I Federal area.

(2) The plan must contain the following to address reasonably attributable impairment:

(i) A long-term (10-15 years) strategy, as specified in § 51.305 and § 51.306, including such emission limitations, schedules of compliance, and such other measures including schedules for the implementation of the elements of the long-term strategy as may be necessary to make reasonable progress toward the national goal specified in § 51.300(a).

(ii) An assessment of visibility impairment and a discussion of how each element of the plan relates to the preventing of future or remedying of existing impairment of visibility in any mandatory Class I Federal area within the State.

(iii) Emission limitations representing BART and schedules for compliance with BART for each existing stationary facility identified according to paragraph (c)(4) of this section.

(3) The plan must require each source to maintain control equipment required by this subpart and establish procedures to ensure such control equipment is properly operated and maintained.

(4) For any existing reasonably attributable visibility impairment the Federal Land Manager certifies to the State under paragraph (c)(1) of this section, at least 6 months prior to plan submission or revision:

(i) The State must identify and analyze for BART each existing stationary facility which may reasonably be anticipated to cause or contribute to impairment of visibility in any mandatory Class I Federal area where the impairment in the mandatory Class I Federal area is reasonably attributable to that existing stationary facility. The State need not consider any integral vista the Federal Land Manager did not identify pursuant to § 51.304(b) at least 6 months before plan submission.

(ii) If the State determines that technological or economic limitations on the applicability of measurement methodology to a particular existing stationary facility would make the imposition of an emission standard infeasible it may instead prescribe a design, equipment, work practice, or other operational standard, or combination thereof, to require the application of BART. Such standard, to the degree possible, is to set forth the emission reduction to be achieved by implementation of such design, equipment, work practice or operation, and must provide for compliance by means which achieve equivalent results.

(iii) BART must be determined for fossil-fuel fired generating plants having a total generating capacity in excess of 750 megawatts pursuant to "Guidelines for Determining Best Available Retrofit Technology for Coal-fired Power Plants and Other Existing Stationary Facilities" (1980), which is incorporated by reference, exclusive of appendix E to the Guidelines, , except that options more stringent than NSPS must be considered. Establishing a BART emission limitation equivalent to the NSPS level of control is not a sufficient basis to avoid the analysis of control options required by the guidelines. This document is EPA publication No. 450/3-80-009b and has been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. It is for sale from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. It is also available for inspection from the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/index.html](http://www.archives.gov/federal_register/index.html).

(iv) The plan must require that each existing stationary facility required to install and operate BART do so as expeditiously as practicable but in no case later than five years after plan approval.

(v) The plan must provide for a BART analysis of any existing stationary facility that might cause or contribute to impairment of visibility in any mandatory Class I Federal area identified under this paragraph (c)(4) at such times, as determined by the Administrator, as new technology for control of the pollutant becomes reasonably available if:

(A) The pollutant is emitted by that existing stationary facility,

(B) Controls representing BART for the pollutant have not previously been required under this subpart, and

(C) The impairment of visibility in any mandatory Class I Federal area is reasonably attributable to the emissions of that pollutant.

**HISTORY:**

[45 FR 80089, Dec. 2, 1980; 57 FR 40042, Sept. 1, 1992; 64 FR 35714, 35764, 35774, July 1, 1999]

**AUTHORITY:**

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:  
23 U.S.C. 101; 42 U.S.C. 7401-7671q.

**NOTES:**

[EFFECTIVE DATE NOTE: 64 FR 35714, 35764, 35774, July 1, 1999, amended this section, effective Aug. 30, 1999.]

NOTES APPLICABLE TO ENTIRE CHAPTER:

[PUBLISHER'S NOTE: Nomenclature changes to Chapter I appear at 65 FR 47323, 47324, 47325, Aug. 2, 2000.]

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[PUBLISHER'S NOTE: For Federal Register citation concerning Part 51 State Implementation Plan, see: 65 FR 81366, Dec. 26, 2000; 66 FR 40609, Aug. 3, 2001; 67 FR 10844, Mar. 11, 2002; 67 FR 48032, July 23, 2002; 67 FR 50600, Aug. 5, 2002.]

[PUBLISHER'S NOTE: For Federal Register citation concerning Part 51 Response to court remand of rules, see: 67 FR 21868, May 1, 2002.]

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