

FINDINGS:

To satisfy the requirements of the Clean Air Act and also prevent promulgation of visibility regulations for the State of Arkansas by the Environmental Protection Agency (EPA), the Department has developed a plan entitled, "Protection of Visibility in Mandatory Class I Federal Areas" that incorporates, by reference, the federal regulations and includes new definitions and new requirements for redesignation of air quality areas (Act 237 of 1985).

On March 26, 1985, public notices were mailed announcing this proposal and a public hearing was held on April 26, 1985, to receive comments. No adverse comments were received at the hearing.

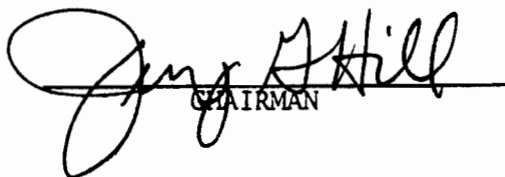
The Department is proposing to revise the State Implementation Plan (SIP) to add the visibility plan as part of the Prevention of Significant Deterioration (PSD) regulations under the plan.

ORDER:

Section 8.1 of the State Implementation Plan for Air Pollution Control be amended to add the attached visibility plan as part of the PSD regulations.

COMMISSIONERS

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 CHAIRMAN

SUBMITTED BY: Wilson Tolefree DATE PASSED: 5/24/85

**ARKANSAS PLAN OF IMPLEMENTATION FOR AIR POLLUTION CONTROL  
REVISION**

**PROTECTION OF VISIBILITY IN MANDATORY CLASS I FEDERAL AREAS**

**May 6, 1985**

**ARKANSAS DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY**

**8001 National Drive      P.O. Box 9583  
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ARKANSAS PLAN OF IMPLEMENTATION FOR AIR POLLUTION CONTROL - REVISION  
PROTECTION OF VISIBILITY IN MANDATORY CLASS I FEDERAL AREAS

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ARKANSAS PLAN OF IMPLEMENTATION FOR AIR POLLUTION CONTROL - REVISION  
PROTECTION OF VISIBILITY IN MANDATORY CLASS I FEDERAL AREAS

INTRODUCTION

BACKGROUND

In the Clean Air Act Amendments of 1977, Congress established as a national goal (Section 169A) "the prevention of any future and the remedying of any existing impairment of visibility in mandatory Class I Federal areas, which impairment results from man-made pollution." These areas are defined in Section 162(a) of the Clean Air Act as all existing (as of August 7, 1977) international parks, national wilderness areas which exceed 5,000 acres, national memorial parks which exceed 5,000 acres, and national parks which exceed 6,000 acres.

Congress further stated in Section 165D of the Act that the Federal Land Manager responsible for the management of Class I areas "shall have an affirmative responsibility to protect the air quality related values (including visibility), of any such lands within a Class I area and to consider, in consultation with the Administrator [of the U.S. Environmental Protection Agency (EPA)], whether a proposed major emitting facility will have an adverse impact on such values." Other portions of Section 169A require EPA to promulgate regulations that in turn must require certain States to amend their State Implementation Plans (SIP's) to provide for visibility protection.

On December 2, 1980, EPA promulgated the visibility regulations as 40 CFR 51.300 through 51.307 (Subpart P). The regulations require 36 states, including Arkansas, to develop a visibility monitoring program [51.305] and a visibility new source review program [51.307]. The regulations required the States to submit revised SIP's satisfying these provisions to EPA by September 1, 1981. However, numerous parties sought judicial review of the visibility regulations. As a result of this litigation, most States, including Arkansas, did not submit visibility SIP's at that time.

In December of 1982, the Environmental Defense Fund (EDF) sued EPA to force it to promulgate SIP's for 34 States, including Arkansas, that had failed to submit SIP's to EPA. The EPA and EDF negotiated a settlement agreement which the court approved on April 20, 1984. The agreement requires EPA to promulgate visibility SIP's on a specified schedule for those States, including Arkansas, that have not submitted visibility SIP's to EPA. Under the terms of the agreement, EPA proposed on October 23, 1984, to promulgate SIP's incorporating Federal regulations for new source review [40 CFR 51.305] and monitoring [51.307], deferring implementation of the provisions for integral vista protection [51.304] and long-term strategy [51.302(c)(2)(i)] until June 1986 or later. States may avoid EPA promulgation of these proposed regulations by submitting approvable full or partial SIP revisions to EPA by May 6, 1985.

This submittal includes new source review regulations and a visibility monitoring strategy.

#### AFFECTED AREAS

In Arkansas, mandatory Class I Federal areas include only the (original) 9,912 acre Upper Buffalo Wilderness Area in Newton County (Ozark National Forest) and the 14,344 acre Caney Creek Wilderness Area in Polk County (Ouachita National Forest). Mandatory Class I Federal areas do not include the Upper Buffalo Addition (Ozark National Forest), Buffalo National River (National Park Service), or any other wilderness areas created since August 7, 1977.

Potentially affected areas in other states include only the two mandatory Class I Federal areas in Missouri. These areas are the 12,315 acre Hercules Glades Wilderness Area (Mark Twain National Forest), located approximately 25 miles (40 km) from the Arkansas border (in Taney County, Missouri, north of Boone County, Arkansas); and the 8,000 acre Mingo National Wildlife Refuge (U.S. Fish and Wildlife Service), located approximately 30 miles (48 km) from the Arkansas border (in Wayne and Stoddard Counties in eastern Missouri). Mandatory Class I Federal areas in other neighboring or nearby states are located well over 100 km from Arkansas and are not considered to be potentially affected by sources in Arkansas.

#### GOALS OF PLAN

The national goals with respect to visibility in mandatory Class I Federal areas are to remedy any existing impairment of visibility and to prevent future impairment. Since the applicable Federal Land Manager has certified [in a letter from J. Lee Bardwell, Director of Soil, Water and Air for the Southern Regional Office of the Forest Service, dated February 26, 1985 (Appendix C)] that no impairment of visibility exists in any mandatory Class I Federal area in the State, the goals of the SIP revision for visibility protection, and of the monitoring strategy in particular, are limited to the prevention of future impairment of visibility.

The Federal Land Manager may certify to the Department, at any time, that there exists impairment of visibility in any Federal Class I area. The Department may also determine that visibility impairment exists in any mandatory Class I Federal area. Upon such certification or determination, the Department shall develop a plan for attribution of sources of such visibility impairment, and a plan for retrofitting of such sources, pursuant to 40 CFR 51.302.

A discussion of visibility, visibility impairment, and visibility monitoring techniques may be found in Appendix E.

## CONSULTATION WITH FEDERAL LAND MANAGER IN PLAN DEVELOPMENT

40 CFR 51.302(b)(2) requires that the state "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 . . . . This consultation must provide the opportunity for the affected Federal land Managers to discuss their . . . assessment of impairment of visibility in any mandatory Class I Federal area, and . . . recommendations on the development of the long-term strategy."

The applicable Federal Land Manager is the U.S. Forest Service under the U.S. Department of Agriculture; authority has been delegated to the Southern Regional Office in Atlanta, Georgia. The consultation requirement was met by holding a meeting at the Department's offices on February 20, 1985. Keith McLaughlin (Soil, Water and Air) of the Southern Regional Office of the Forest Service, and representatives of the Forest Supervisors of the Ozark and Ouachita National Forests were invited by telephone and by a letter dated February 15, 1985. The letter, a summary of the meeting, and subsequent correspondence from the Southern Regional Office of the Forest Service may be found in Appendix C.

## NEW SOURCE REVIEW

Since all areas in the State of Arkansas are classified attainment with respect to the National Ambient Air Quality Standards for all pollutants (there are no nonattainment areas), the new source review regulations apply only to attainment areas; no regulations were written for nonattainment areas. If, at some future time, it becomes necessary to write new source review regulations for nonattainment areas, visibility will be taken into account.

The approach taken to new source review regulations was to amend the Prevention of Significant Deterioration (PSD) Supplement to the SIP which was adopted by the Commission and the Governor April 10, 1981, and approved by EPA January 14, 1982. In amending these regulations, the Department has added a definition of "advance notification" (of a permit application), as the term is used in the visibility regulations; added an explicit statement that the determination of whether a source may affect a mandatory Class I Federal area would be made by the Department, based on criteria agreed upon with the Federal Land Manager; adopted by reference the definitions in 40 CFR 51.301 [Protection of Visibility SIP requirements]; and adopted by reference the revisions to the PSD regulations pertaining to sources locating near Class I areas which were proposed in the October 23, 1984 Federal Register. As proposed, revised 40 CFR 52.21(o)(3) gives the Administrator [in this case, the Department] the authority to require new sources to monitor visibility; 40 CFR 52.21(p)(1) and (p)(3) contain revised requirements for Federal Land Manager notification and visibility analysis; and 40 CFR 52.21 (p)(4) through (p)(8) constitute a

renumbering of existing paragraphs (p)(3) through (p)(7). The Department has also added the requirement that redesignation of air quality areas (e.g., from Class II to Class I or Class III) comply with Act 237 of 1985, which requires an act of the state legislature in order to accomplish such redesignations. Corrections to the language used in adoption by reference and in adding to the requirements of the Federal regulations have also been incorporated, as well as minor typographical changes.

The revision consists of the complete text of the amended regulations; additions/changes to the Department's original PSD regulations (which regulations are included in Appendix B) are underlined. The pertinent Federal regulations are included in Appendices A and B; after adoption of this plan, the Federal regulations adopted by reference [40 CFR 52.21; the October 23, 1984 proposed amendments to 40 CFR 52.21(o) and (p); and 40 CFR 51.301] will be attached to the amended PSD Supplement.

After EPA promulgates the October 23, 1984 visibility regulations as final regulations (scheduled for January 1986), the Department may amend its PSD Supplement by adopting by reference the final version of 40 CFR 52.21(b) through (r). Since it will not result in any substantive change to the regulations, such an action should not require a public hearing or submission by the Governor.

#### INTERSTATE CONTROL STRATEGY

The two mandatory Class I Federal areas in Missouri are potentially subject to impacts from sources in Arkansas. The Arkansas PSD regulations do not distinguish between mandatory Class I Federal areas in Arkansas and those in other states. The Department will give notice to the affected Federal Land Managers in Missouri of any proposed sources in Arkansas that may affect their areas, as required by the PSD regulations, and will give concurrent notice to the Missouri Department of Natural Resources, Air Conservation Commission. The Department will consult with the affected Federal Land Managers in Missouri in adopting its criteria for determining whether a proposed source may affect a mandatory Class I Federal area.

Potential impacts on the mandatory Class I Federal areas in Arkansas could result from sources in Missouri, Oklahoma, and Texas. The Upper Buffalo Wilderness Area could possibly be subject to impacts from Missouri, approximately 55 miles (88 km) to the north; impacts from Oklahoma are unlikely, since the distance is approximately 90 miles (142 km). Caney Creek may be subject to impacts from Oklahoma, which is approximately 18 miles (30 km) to the west, and possibly from Texas, approximately 57 miles (91 km) to the south. Impacts from other states are unlikely, because of the even greater distances involved. Arkansas will request the states of Missouri, Oklahoma, and Texas to send the notice required by 40 CFR 51.307 to the Federal Land Manager in Arkansas and to this Department for any new sources which may affect the mandatory Class I Federal areas in Arkansas. The Department and the Federal Land Manager will consult with

these states in their development of criteria to be used in determining whether a source may affect a mandatory Class I Federal area in Arkansas.

If any impairment of visibility is found or suspected in a mandatory Class I Federal area in Arkansas which may result from sources in a neighboring state, Arkansas will seek cooperation from that state in determining the source of the impairment. If any impairment of visibility is found or suspected in a mandatory Class I Federal area in Missouri which may result from sources in Arkansas, the Department will cooperate with Missouri in determining the source of the impairment.

#### MONITORING STRATEGY

The monitoring strategy is discussed in detail in the section titled VISIBILITY MONITORING STRATEGY.

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PROTECTION OF VISIBILITY IN MANDATORY CLASS I FEDERAL AREAS

VISIBILITY MONITORING STRATEGY

PURPOSE

The national goals with respect to visibility in mandatory Class I Federal areas are to remedy any existing impairment of visibility and to prevent future impairment. Since the applicable Federal Land Manager has certified [in a letter from J. Lee Bardwell, Director of Soil, Water and Air for the Southern Regional Office of the Forest Service, dated February 26, 1985 (Appendix C)] that no impairment of visibility exists in any mandatory Class I Federal area in the State, the goals of the SIP revision for visibility protection, and of the monitoring strategy in particular, are limited to the prevention of future impairment of visibility.

MONITORING SITES AND EQUIPMENT

While the ideal monitoring sites would be just outside each Federal Class I area, budgetary constraints prohibit the Department, the U.S. Forest Service, or EPA from making a commitment to establish and operate such sites at this time. The Department intends to use the only monitoring site currently operating in Arkansas, which will provide the best data currently available.

The Department shall use visibility monitoring data collected by the National Park Service at its site in the Buffalo National River area at Buffalo Point in Marion County (on the lower Buffalo River) for background data and trend analysis for the Upper Buffalo Wilderness Area, and for background data for the Caney Creek Wilderness Area. The monitoring site is located approximately 32 miles (52 km) from the Upper Buffalo Wilderness area, and approximately 144 miles (230 km) from the Caney Creek Wilderness Area. Equipment at the site at this time consists of an automatic camera and a fine particulate monitor, which have been operated for the past two years.

The National Park Service has stated [in a letter dated March 25, 1985 (Appendix D)] that it intends to continue operating this monitoring site, subject to the continuing availability of budget funds. The Park Service has agreed that, in the event circumstances force it to discontinue operation of the site, it will give the Department at least ninety (90) days notice and the opportunity for the Department to take over the operation of the site.

The Park Service has provided the Department with copies of equipment specifications and operating procedures, including monitoring frequency. Excerpts of these are contained in Appendix D; complete copies are available at the Department. Quality assurance procedures are available from the responsible agencies or contractors. The Park Service will provide the

Department with monitoring data on request.

The Department would welcome any additional monitoring that might be conducted by the EPA, the Forest Service, or other parties, but cannot commit to include such monitoring in the plan at this time. It should be noted that the Department's PSD regulations authorize the Department to require proposed major sources to monitor visibility, which would provide supplemental data if needed.

#### DATA AVAILABILITY AND USE

The Department shall make all visibility monitoring data available for public inspection and copying (for a reasonable copying fee).

The Department shall take visibility monitoring data into account in reviewing or performing an analysis on the effects of a proposed major new source or major modification on any mandatory Class I Federal area.

The Department shall review the monitoring plan for each mandatory Class I Federal area at least every three years, revise it as necessary, and include an assessment of changes of visibility conditions in each mandatory Class I Federal area since the last review. The Department shall make all monitoring plan revisions available to the public. The Department shall consult with the Federal Land Manager in the review and revision of the monitoring plan.

The Federal Land Manager or any other person may request the Department at any time for a revision to the monitoring plan. The Department shall respond to any such request within one year.

The Federal Land Manager may certify to the Department, at any time, that there exists impairment of visibility in any Federal Class I area. The Department may also determine that visibility impairment exists in any mandatory Class I Federal area. Upon such certification or determination, the Department shall develop a plan for attribution of sources of such visibility impairment, and a plan for retrofitting of such sources, pursuant to 40 CFR 51.302. If any visibility impairment is found or suspected which may result from a neighboring state, the Department will seek cooperation from that state in determining the source of the impairment.

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NEW SOURCE REVIEW REGULATIONS

The Prevention of Significant Deterioration Supplement to the Arkansas Plan of Implementation for Air Pollution Control is hereby amended to read as follows [additions/changes to the April 10, 1981 regulations are underlined]:

PREVENTION OF SIGNIFICANT DETERIORATION SUPPLEMENT  
ARKANSAS PLAN OF IMPLEMENTATION  
FOR AIR POLLUTION CONTROL

SECTION 1. TITLE

The following rules and regulations of the Department of Pollution Control and Ecology of the State of Arkansas, adopted in accordance with the provisions of Part II of the Arkansas Water and Air Pollution Control Act (Ark. Stats. Ann. Sec. 82-1901 et seq., hereinafter referred to as the "Act", shall be known as the Prevention of Significant Deterioration Supplement to the Regulations of the Arkansas Plan of Implementation for Air Pollution Control, hereinafter referred to, respectively, as the "PSD Supplement" and the "Regulations of the Plan" and the "Plan."

SECTION 2. PURPOSES

Promulgation and enforcement of this PSD Supplement is intended to further the purposes of the Plan and the Regulations of the Plan, including but not limited to acceptance of delegation by the U.S. Environmental Protection Agency of authority for enforcement of regulations governing the prevention of significant deterioration of air quality and regulations governing the protection of visibility in mandatory Class I Federal areas.

SECTION 3. DEFINITIONS

(a) "Advance notification" (of a permit application) means any written communication which establishes the applicant's intention to construct, and which provides the Department with sufficient information to determine that the proposed source may constitute a major new source or major modification, and that such source may affect any mandatory Class I Federal area, including, but not limited to, submittal of a draft or partial permit application, a PSD monitoring plan, or a sufficiently detailed letter. "Advance notification" does not include general inquiries about the Department's regulations.

(b) All other terms used herein shall have the same meaning as set forth in the Regulations of the Plan, or other supplements thereto, or in 40 CFR 52.21(b) [PSD] and 40 CFR 51.301 [Protection of Visibility], all as in effect upon the latest date of amendment of this supplement, unless manifestly inconsistent with the context in which they are used. Wherever there is a difference between the definitions in the Regulations of the Plan, or supplements thereto, and those listed in 40 CFR 51.21(b) and 40 CFR 51.301, the Federal definitions as listed in 40 CFR 52.21(b) and 40 CFR 51.301 shall apply.

#### SECTION 4. ADOPTION OF REGULATIONS

(a) Except where manifestly inconsistent with the provisions of the Clean Air Act, as amended, or with Federal regulations adopted pursuant thereto, and as amended specifically herein by paragraphs (b), (c), (d), (e), and (f) of this section, the Arkansas Department of Pollution Control and Ecology shall have those responsibilities and that authority, with reference to the State of Arkansas, granted to the Administrator of the U.S. Environmental Protection Agency under 40 CFR 52.21(b) through (r), as amended in the Federal Register, Vol. 45, No. 154 on Thursday, August 7, 1980; 40 CFR 52.21(b), as amended in the Federal Register, Vol. 47, No. 23 on Friday, June 25, 1982; and amendments to 40 CFR 52.21(b)(29), (o)(3), (p)(1), and (p)(3) through (p)(8), as proposed in the Federal Register, Vol. 49, No. 206 on Thursday, October 23, 1984 [except that in proposed paragraph 52.21(p)(1), the reference to paragraph (r) is corrected to refer to paragraph (q)], which are hereby incorporated herein by reference. In the absence of a specific imposition of responsibility or grant of authority, the Department shall be deemed to have that responsibility and authority necessary to attain the purposes of the Plan, this PSD Supplement, and the applicable Federal regulations, as incorporated herein by reference.

(b) Exclusions from the consumption of increments, as provided in 40 CFR 52.21(f)(1)(iii), shall be effective immediately. Submission of this Plan under the Governor's signature constitutes a request by the Governor for this exclusion.

(c) In addition to the requirements of 40 CFR 52.21(o), the following requirements [designated as subparagraphs (4), (5), (6), and (7)] shall also apply:

(4) Where air quality impact analyses required under this part indicate that the issuance of a permit for any major stationary source or for any major modification would result in the consumption of more than fifty percent (50%) of any available annual increment or eighty percent (80%) of any short term increment, the person applying for such a permit shall submit to the Department an assessment of the following factors:

(a) Effects that the proposed consumption would have upon the industrial and economic development within the area of the proposed source; and

(b) Alternatives to such consumption, including alternative siting of the proposed source or portions thereof.

(5) The assessment required under subparagraph (4) above shall be made part of the application for permit and shall be made available for public inspection as provided in 40 CFR 52.21(q).

(6) The assessment required under subparagraph (4) above shall be in detail commensurate with the degree of proposed increment consumption, both in terms of the percentage of increment consumed and the area affected.

(7) The assessment required under subparagraph (4) above may be made effective where a proposed source would cause an increment consumption less than that specified in said subparagraph if the Director finds that unusual circumstances exist in the area of the proposed source which warrant such an assessment. The Director shall notify the applicant in writing of those circumstances which warrant said assessment. The Commission may rescind or modify the Director's action, upon a showing by the applicant that the circumstances alleged by the Director either do not exist or do not warrant the aforesaid assessment.

(d) In addition to the requirements of 40 CFR 52.21(p)(1) [amended as proposed in the Federal Register, Vol. 49, No. 206 on Thursday, October 23, 1984, and adopted above by reference], the following requirements shall also apply:

Impacts on mandatory Class I Federal areas include impacts on visibility. The preliminary determination that a source may affect air quality or visibility in a mandatory Class I Federal area shall be made by the Department, based on screening criteria agreed upon by the Department and the Federal Land Manager.

(e) In all instances wherein the aforesaid 40 CFR 51.301 and 40 CFR 52.21 refer to the Administrator or the Environmental Protection Agency, the reference, for the purposes of paragraph (a) of this Section 4, shall be deemed to mean the Department of Pollution Control and Ecology, unless the context plainly dictates otherwise, except in the following sections:

(1) Exclusion from increment consumption: 40 CFR 52.21(f)(1)(v), (f)(3), and (f)(4)(i);

(2) Redesignation: 40 CFR 52.21(g)(1), (g)(2), (g)(4), (g)(5), and (g)(6);

(3) Air quality models: (1)(2).

(f) Redesignation of air quality areas in Arkansas shall comply with Act 237 of 1985.

#### SECTION 5. SEVERABILITY

If any provision of this PSD Supplement or the application hereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this PSD Supplement which can be given effect without the invalid provision or application, and to this end the provisions of this PSD Supplement are declared to be severable.

SECTION 6. EFFECTIVE DATE

This PSD Supplement, or any amendment thereto, shall be in full force and effect twenty (20) days after the date of promulgation herof by the Arkansas Commission on Pollution Control and Ecology.