

(i) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then:

(1) If the construction moratorium imposed pursuant to this section is still in effect for the nonattainment area in which the source or modification is located, then the permit may not be so revised; or

(2) If the construction moratorium is no longer in effect in that area, then the requirements of 40 CFR 51.165(a) shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(j) This section does not apply to major stationary sources or major modifications locating in a clearly defined part of a nonattainment area (such as a political subdivision of a State), where EPA finds that a plan which meets the requirements of Part D is in effect and is being implemented in that part.

(k) For an area designated as nonattainment after July 1, 1979, the restrictions in paragraphs (a) and (b) of this section shall not apply prior to eighteen months after the date the area is designated as nonattainment. The Offset Ruling shall govern permits to construct and operate applied for during the period between the date of designation as nonattainment and either the date the Part D plan is approved or the date the restrictions in paragraphs (a) and (b) of this section apply, whichever is earlier.

[44 FR 38473, July 2, 1979]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 52.24, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

#### § 52.26 Visibility monitoring strategy.

(a) *Plan Disapprovals.* The provisions of this section are applicable to any State implementation plan which has been disapproved with respect to visibility monitoring. Specific dis-

approvals are listed where applicable in Subparts B through DD of this part. The provisions of this section have been incorporated by reference into the applicable implementation plan for various States, as provided in Subparts B through DDD of this part.

(b) *Definitions.* For the purposes of this section:

(1) *Visibility protection area* means any area listed in 40 CFR 81.401-81.436 (1984).

(2) All other terms shall have the meaning ascribed to them in the Clean Air Act, or in the protection of visibility program (40 CFR 51.301), all as in effect on July 12, 1985.

(c) *Monitoring Requirements.* (1) The Administrator, in cooperation with the appropriate Federal land manager, shall monitor visibility within each visibility protection area in any State whose State implementation plan is subject to a disapproval for failure to satisfy 40 CFR 51.305 (1984).

(2) The Administrator, in monitoring visibility within each such area, shall determine both background visibility conditions and reasonably attributable visibility impairment caused by a source or small group of sources for that area. The extent and the form of monitoring shall be sufficient for use in determining the potential effects of a new stationary source on visibility in the area, the stationary source or sources that are causing any visibility impairment, and progress toward remedying that impairment.

(3) The Administrator shall use the following as appropriate to monitor visibility within each such area: (i) photographic cameras, (ii) fine particulate matter samplers, (iii) teleradiometers, (iv) nephelometers, (v) human observation, or (vi) other appropriate technology.

(4) The Administrator, in cooperation with the Federal land managers, shall prepare monitoring plans that describe, to the maximum extent practicable, the methods and instruments of data collection, the monitoring locations and frequencies, the implementation schedule, the quality assurance procedures, and the methods of data reporting that the Administrator will use for each area. The Administrator shall make these plans available to the public.

(5) The Administrator shall establish a central repository of monitoring data that includes any data on background visibility conditions and reasonably attributable impairment that the Administrator collects under this section and that the Federal land manager may collect or may have collected independently. These data shall be available to any person, subject to reasonable charges for copying.

(d) *Monitoring Plan Revision.* (1) The Administrator shall review the monitoring plan annually for each visibility protection area, revise it as necessary, and include an assessment of changes to visibility conditions since the last review. The Administrator shall make all plan revisions available to the public.

(2) Any person may make a request to the Administrator, at any time, for a revision to a monitoring plan. The Administrator shall respond to any such request within one year.

(e) *Delegation.* The Administrator may delegate, with respect to a particular visibility protection area, any of his functions under this section to any State or local air pollution control agency of any State whose boundaries encompass that area or to any Federal land manager with jurisdiction over the area.

[50 FR 28550, July 12, 1985]

**§ 52.27 Protection of visibility from sources in attainment areas.**

(a) *Plan disapproval.* The provisions of this section are applicable to any State implementation plan which has been disapproved with respect to protection of visibility, in mandatory Class I Federal areas, from sources emitting pollutants in any portion of any State where the existing air quality is better than the national ambient air quality standards for such pollutants, and where a State PSD program has been approved as part of the applicable SIP pursuant to 40 CFR 51.24. Specific disapprovals are listed where applicable in Subparts B through DDD of this part. The provisions of this section have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part.

(b) *Definitions.* For purposes of this section, all terms shall have the meaning ascribed to them in the Clean Air Act, in the prevention of significant deterioration (PSD) program approved as part of the applicable SIP pursuant to 40 CFR 51.24 for the State, or in the protection of visibility program (40 CFR 51.301), all as in effect on July 12, 1985.

(c) *Federal visibility analysis.* Any person shall have the right, in connection with any application for a permit to construct a major stationary source or major modification, to request that the administrator take responsibility from the State for conducting the required review of a proposed source's impact on visibility in any Federal Class I area. If requested, the Administrator shall take such responsibility and conduct such review pursuant to paragraphs (e), (f) and (g) of this section in any case where the State fails to provide all of the procedural steps listed in paragraph (d) of this section. A request pursuant to this paragraph must be made within 60 days of the notice soliciting public comment on a permit, unless such notice is not properly given. The Administrator will not entertain requests challenging the substance of any State action concerning visibility where the State has provided all of the procedural steps listed in paragraph (d) of this section.

(d) *Procedural steps in visibility review.*

(1) The reviewing authority must provide written notification to all affected Federal land managers of any permit application for any proposed new major stationary source or major modification that may affect visibility in any Federal Class I area. Such notification shall include a copy of all information relevant to the permit application and shall be given within 30 days of receipt and at least 60 days prior to any public hearing on the application for a permit to construct. Such notification shall include the proposed source's anticipated impacts on visibility in any Federal Class I area as provided by the applicant. Notification must also be given to all affected Federal land managers within 30 days of receipt of any advance notification of any such permit application.