

Regional Haze/Arkansas: U.S. Environmental Protection Agency Public Notices Approval of Arkansas' State Implementation Plan



Grace Fletcher
gfletcher@mwlaw.com
(501) 688.8815



Jordan Wimpy
jwimpy@mwlaw.com
(501) 688-8872

09/03/2026

The United States Environmental Protection Agency ("EPA") published in the August 27th Federal Register a final rule approving the Arkansas State Implementation Plan ("SIP") revision for the 2022 Planning Period II regional haze requirements. See 91 Fed. Reg. 55268.

Under the final rule, the revision submitted by the Arkansas Department of Energy and Environment - Division of Environmental Quality ("DEQ") satisfies the requirements of the Clean Air Act Regional Haze Rule ("RHR") for visibility protection in mandatory Class I Federal areas for the program's second implementation period.

Regional haze is "a visibility impairment that is produced by a multitude of anthropogenic sources and activities which are located across a broad geographic area that emit pollutants that impair visibility." 90 Fed. Reg. 43030, 43031. To address these visibility issues, Congress amended the Clean Air Act, ultimately leading to EPA's promulgation of the 1999 RHR. The federal regional haze program is driven by 169A of the Clean Air Act. Congress sought to address visibility in mandatory Class I Federal areas in which an impairment results from manmade air pollution.

Section 169A required (i) that certain sources contributing to visibility impairment install best available retrofit technology ("BART") in the program's first planning period, and (ii) long-term planning and strategy for making "reasonable progress" toward the national visibility goal. The states are responsible for developing strategies to reach the reasonable progress metric and must periodically submit comprehensive SIP revisions to address regional haze. EPA reviews the states' SIP submissions for consistency with the relevant regulations.

Section 169 gives states substantial responsibility to determine appropriate BART controls and EPA may not disapprove reasonable state determinations that comply with the relevant statutory or regulatory requirements. In the event EPA determines that an SIP does not meet the Clean Air Act's requirements, the federal agency may itself make certain choices and impose a federal implementation plan.

The 2022 Planning Period II regional haze SIP revision was submitted by DEQ on August 8, 2022, and clarified by the state agency on July 29, 2025. The federal agency states in part that:

...we are approving the 2022 Planning Period II SIP and affirming that it is not the Agency's policy that, where visibility conditions for a Class I Federal area impacted by a State are below the uniform rate of

progress (URP) and that State has considered the four statutory factors, then that State will have presumptively demonstrated reasonable progress for the second planning period for that area.

EPA first articulated this current URP policy when it approved West Virginia's regional haze SIP submission for the second planning period. See 90 Fed. Reg. 29737.

EPA published the proposed rule approving Arkansas' 2022 Planning Period SIP on September 5, 2025. See 90 Fed. Reg. 43030. The public comment period resulted in two adverse comment letters—one collectively from Conservation Organizations (Sierra Club, National Parks Conservation Association, and the Coalition to Protect America's National Parks), and another from Mid-Atlantic/Northeast Visibility Union. Both adverse commenters stated that the new URP policy violates the language of the Clean Air Act and Regional Haze Rule, that it violates the procedural requirements of the Clean Air Act when announcing and applying it in State-specific regional actions, that it is inconsistent with different aspects of the Regional Haze Rule, and that the 2022 Planning Period II SIP does not meet the new URP policy for presumptive approval.

The rule will go into effect on September 28, 2026.

A copy of the Federal Register notice can be downloaded [here](#).