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# MEMORANDUM OF AGREEMENT

between

[Federal Land Management Agency]

and

[State]

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## Introduction

The Clean Air Act requires States to address visibility impairment in mandatory Federal Class I areas. Major stationary sources which meet certain size, type, and age requirements and which are reasonably anticipated to cause or contribute to visibility impairment must install Best Available Retrofit Technology (BART). In 1980 EPA promulgated regulations to implement this requirement for these sources that are near the mandatory Class I Federal areas. To address such sources under the 1980 regulations, a State or a Federal Land Manager must certify that visibility impairment exists and indicate whether any of the “BART” eligible sources are reasonably anticipated to cause or contribute to the impairment. The State would then determine if all or part of the impairment is “reasonably attributed” to a BART eligible source. If such a determination is made, the State is required to conduct an analysis to determine the BART level of control for that source. Only States which contain mandatory Federal Class I areas have these provisions. In 1999, EPA promulgated regulations for all States to require BART for all sources based on those sources’ contribution to regional haze visibility impairment. EPA also provides for this BART requirement for regional haze impacts to be met through establishment of alternative control measures, including a market-based trading program, under which all BART sources would participate. These alternative measures may include other stationary sources as well. If a state adopts an alternative measure, the BART requirement is addressed when that measure is fully implemented.

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On [DATE], [STATE] adopted an implementation plan to address the BART requirement for major stationary sources of sulfur dioxide through a multi-state regional cap and back-stop market trading program. Under this implementation plan the BART emissions reduction requirement is not fully implemented until the regional plan matures in 2018. Between the date of signature of this memorandum of agreement and 2018, the [State] and [Federal Land Management Agency] agree to the following criteria for certification of visibility impairment under the 1980 visibility protection rules incorporated in the state implementation plan at [cite state rules or EPA FIP].

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## Criteria for Federal Land Manager Certification and State Specific Source BART Review

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The [Federal Land Management Agency] will not certify “reasonably attributable” impairment at mandatory federal Class I areas affected by emissions of sulfur dioxide from sources contained within [STATE] unless:

1. The [Federal Land Management Agency] determines that sulfate concentrations are not decreasing since the year 2000, based on ambient monitoring, and
2. There are BART-eligible sources of sulfur dioxide within 150 kilometers of the mandatory Federal Class I area, and
3. The BART-eligible sources have not installed control technology to reduce sulfur dioxide emissions at a rate equivalent to capture of 85% of potential annual emissions.

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Even if the above criteria are met, the [Federal Land Management Agency] may choose not to certify. In addition to the criteria, the State and the FLM agree to provide information related to visibility impairment associated with regional emissions of sulfur dioxide, in a public forum, in sufficient time to allow private interests to plan future sulfur dioxide emissions reductions under the multi-state regional cap and backstop market trading program in a manner which addresses reasonably attributable BART requirements, such as when the criteria are not being met or are likely to not be met by 2018, and conditions where new visibility related monitoring or modeling uncovers unique source-receptor relationships. (See Other Considerations below)

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**Timing of Certification**

The [Federal Land Management Agency] will review ambient air quality data and other technical information, including air quality modeling, to determine the need for addressing reasonable progress through a certification before 2013. The [Federal Land Management Agency] recognizes that the owners and operators of BART eligible sources covered by the sulfur dioxide regional cap and back-stop trading program will need to commit to controls or be financially prepared to purchase allocations for emissions in the last five years of the trading program in order for the region to meet its goal. In this regard, such sources would benefit by knowing whether the regional program, by the year 2013, has afforded protection to all of the class I areas by contributing to reductions in sulfate concentrations. Information on visibility impairment at Class I areas and the relationship of trends in particulate sulfate concentrations will be shared by the [Federal Land Management Agency] with the State and interested parties as soon as available. The FLM commits to bring all available relevant information to the State's public meeting related to planning of future sulfur dioxide emissions reductions and related BART concerns. This sharing of information is intended to promote the resolution of all likely certification cases under the cap and backstop market operation.

**Other Considerations**

The [Federal Land Management Agency] also commits to discussions with [State] and the owner-operators of BART eligible sources which may be affected by a certification under the criteria noted above, for the purposes of discussing: 1) the future plans for controlling sulfur dioxide emissions from the source, 2) the expectations of the State in how sulfate concentrations will be affected by future reductions of regional emissions under the cap and market-backstop program, and 3) whether the sulfate concentrations seen at the Class I area in question are affected by sources outside of the cap region or changes in sulfur dioxide emissions from beyond the United States. The [Federal Land Management Agency] agrees to take these factors into consideration before certifying impairment it believes is reasonably attributable to a specific BART eligible source.

For the [Federal Land Management Agency]

Title: \_\_\_\_\_  
Date \_\_\_\_\_

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For the [State]

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Date \_\_\_\_\_

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