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**TITLE 326 AIR POLLUTION CONTROL BOARD**

**Proposed Rule**  
LSA Document #06-208

DIGEST

Adds [326 IAC 26](#) concerning best available retrofit technology. Effective 30 days after filing with the Publisher.

**HISTORY**

First Notice: August 15, 2006, Indiana Register (DIN: [20060726-IR-326060208FNA](#)).  
Second Notice: March 14, 2007, Indiana Register (DIN: [20070314-IR-326060208SNA](#)).  
Notice of First Hearing: March 14, 2007, Indiana Register (DIN: [20070314-IR-326060208PHA](#)).  
Date of First Hearing: June 6, 2007.

**PUBLIC COMMENTS UNDER [IC 13-14-9-4.5](#)**

[IC 13-14-9-4.5](#) states that a board may not adopt a rule under [IC 13-14-9](#) that is substantively different from the draft rule published under [IC 13-14-9-4](#) until the board has conducted a third comment period that is at least 21 days long. Because this proposed rule is not substantively different from the draft rule published on March 14, 2007, at DIN: [20070314-IR-326060208SNA](#), the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

**SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD**

IDEM requested public comment from March 14, 2007, through April 13, 2007, on IDEM's draft rule language. IDEM received comments from the following parties:

GE Plastics (GEP)  
Indiana Energy Association (IEA)  
Indiana Michigan Power Company, American Electric Power (AEP)  
Indianapolis Power & Light Company (IPL)  
NIPSCO (NIP)

Following is a summary of the comments received and IDEM's responses thereto:

*Comment:* IDEM should initiate a stakeholder workgroup, similar to what has been established for the mercury rulemaking process, to ensure IDEM obtains all relevant and accurate information regarding BART applicability source determinations and BART control analyses. (IPL)

*Comment:* IDEM should continue to convene the workgroup established for the development of this rule in order to ensure that the agency and the regulated sources receive all relevant information as the agency moves forward. This is of particular interest to the EGUs as we understand that IDEM has received letters from other state environmental agencies asking for consultations on emissions reductions associated with BART or regional haze rules. In one such example, we understand that one small EGU in the state was identified by the MANE-VU Regional Planning Organization as potentially having an impact on regional haze in a downwind state approximately 1000 km away. We believe that this, or other such findings, may be based on flawed and erroneous information and we are concerned that Indiana sources may be asked to make emissions reductions that neither produce meaningful visibility improvements nor are cost-effective. We request that if IDEM is asked to work with any other states related to evaluating or imposing emission reductions on any Indiana sources, that the potentially implicated sources are consulted with and included in such evaluations. (IEA)

*Comment:* IDEM should continue to convene the workgroup established for this rulemaking to facilitate the exchange of information between the affected parties and IDEM. Continuing the workgroup would benefit both IDEM and stakeholders through discussions concerning the refinement of the proposed rule language, the EGU particulate matter issue, and other technical issues faced by the regulated community throughout the BART process. (NIP)

*Response:* IDEM will continue to communicate with interested parties and schedule public meetings, as needed, to discuss the rulemaking effort. In addition, IDEM has established a web page at: [www.in.gov/idem/programs/air/workgroups/regionalhaze/index.html](http://www.in.gov/idem/programs/air/workgroups/regionalhaze/index.html) to post information about the BART rule and the Regional Haze SIP effort. New information will continue to be posted, including letters from other states or federal agencies that indicate there may be an impact on a Class I area from an Indiana source. IDEM will communicate with any Indiana source that is identified as having a potential impact and work with the source to address the issue.

*Comment:* IPL supports IDEM's determination that EGUs subject to CAIR will not be required to implement additional reductions measures for NO<sub>x</sub> and SO<sub>2</sub>. In addition, IPL believes that the results of CAIR reductions for EGUs is consistent with the goal of improved visibility and IDEM should not require any additional reduction

measures for particulate matter. (IPL)

*Comment:* We very much appreciate and support IDEM's conclusion and support IDEM's conclusion that participation in the federal Clean Air Interstate Rule (CAIR) satisfies the BART requirements for electric generating units (EGUs). We believe this is consistent with the U.S. EPA determination that participation in the CAIR is an acceptable alternative to BART and will result in greater visibility progress than BART. We are concerned, however, that the IDEM position appears to only apply to NO<sub>x</sub> and SO<sub>2</sub> reductions achieved under CAIR. We strongly believe IDEM should determine that particulate matter reductions achieved by EGUs under CAIR and other emission reduction programs meet the BART requirements.

There are several reasons why further reductions of particulate matter from EGUs should not be considered as part of this rulemaking. First, EGUs are traditionally well controlled and this is certain to continue in the foreseeable future. EGUs employ electrostatic precipitators to control particulate matter due to their overall efficiency. Further, many EGUs have or will have FGD for SO<sub>2</sub> reductions to meet current or future regulatory requirements, which will further enhance the capability to collect particulate matter. Finally, many EGUs will be adding additional controls to meet the CAIR requirements and upcoming Clean Air Mercury Rule (CAMR) requirements. Reductions will be obtained quicker and more efficiently under these programs and controls than in traditional BART programs. (IEA)

*Comment:* The U.S. EPA has determined that participation in the CAIR cap-and-trade program is an acceptable alternative to BART. They have also indicated CAIR will result in greater visibility progress than BART. We support IDEM's conclusion that participation in the CAIR program satisfies the BART requirements for the EGUs consistent with the U.S. EPA position. However, we note this currently only applies to NO<sub>x</sub> and SO<sub>2</sub> and believe this determination should be extended for particulate matter as well. The EGUs are traditionally well controlled, employing electrostatic precipitators to control particulate matter because of their overall collection efficiency. In addition, many EGUs have or will install FGD for SO<sub>2</sub> reduction to meet other regulatory requirements. The operation of FGD will further enhance *[sic]* the capability to collect particulate matter. Many will also be adding even more controls to meet the CAIR requirements and the upcoming Indiana utility mercury control rule, expected to be finalized later this year. This will result in emission reductions sooner than those under a traditional BART program. (NIP)

*Comment:* We are pleased that IDEM has chosen to propose that participation in the CAIR cap and trade program satisfies the BART requirements for NO<sub>x</sub> and SO<sub>2</sub> as authorized by the U.S. EPA. We also support IDEM's overall approach to the BART rule, leaving many of the specific details for each BART eligible source or facility to be worked out between IDEM and the source as part of the BART analysis process, with the resulting decisions to be memorialized at a later date as part of the Title V permit process. (AEP)

*Response:* IDEM concurs that it is reasonable to agree with U.S. EPA that participation in the CAIR cap and trade program should satisfy the BART requirement for NO<sub>x</sub> and SO<sub>2</sub>. However, the federal BART guidelines also require that particulate matter (PM) be evaluated to determine if a source causes or contributes to visibility impairment. Therefore, IDEM cannot determine that PM reductions from other programs will satisfy BART. IDEM will work directly with the EGU sources subject to BART to determine the impact of direct PM<sub>2.5</sub> emissions on Class I areas, and to evaluate existing and proposed PM controls.

*Comment:* In [326 IAC 26-1-6\(d\)](#), if IDEM determines that the CAIR equals BART does not cover particulate matter, the language of this subsection needs to be modified to clearly convey that the EGUs only need to provide the analysis for the particulate matter instead of also including the SO<sub>2</sub> and NO<sub>x</sub> for which participation in the CAIR was already determined to be better than BART. (NIP)

*Response:* The BART analysis still must address SO<sub>2</sub> and NO<sub>x</sub> for EGUs that comply with BART through participation in CAIR, but it can be a brief explanation that BART is being addressed through participation in CAIR in accordance with IDEM's decision.

*Comment:* IPL believes it is not feasible for sources subject to BART to be able to submit to IDEM within 270 days, an effective and accurate BART analysis. Similar to a top down BACT (Best Available Control Technology) analysis, this process is very detailed in scope and will require substantial time in order to perform an effective and accurate analysis. IPL recommends that the timeframe of 270 days be revised to 365 days. IPL believes this is a more appropriate timeframe to perform the work required under the BART guidelines. In addition, it does not appear IDEM has established a deadline for a final department assessment of the BART analysis. (IPL)

*Comment:* IDEM should include as much flexibility as possible in the rule, particularly in the deadlines for submitting the BART analysis. Analysis of this kind is very detailed in scope and will require substantial time in order to perform an effective and accurate accounting. We suggest that the proposed 270 day timeframe provided in the proposed rule should be revised to 365 days in order to have the best available and most dependable information. (IEA)

*Comment:* IDEM should include as much flexibility as possible for each of the deadlines included in the proposed rule. We believe IDEM and the regulated community will both benefit as they work through this complex new analysis process. (NIP)

*Response:* IDEM has contacted each source subject to BART and requested they begin their work on a BART analysis. This will provide sources with approximately 270 days (9 months) in addition to the specified 270

days (9 months) in the draft rule for a total of about 18 months to complete and submit the analysis. IDEM hopes that the sources subject to BART will begin work now and submit their analyses sooner than that, however. Discussions with some of the sources indicate that have already begun their work. Therefore, IDEM does not believe any additional time should be provided in the rule.

*Comment:* In the Response to Comments from the first comment period IDEM indicated that a unit with BACT or LAER controls does not automatically satisfy BART. IDEM noted that U.S. EPA indicated that if a unit is already controlled with the best technology under the MACT, BACT, or LAER program, a streamlined approach to BART may be used. However, IDEM also suggested that the source must ensure that more stringent technologies have not emerged since the MACT, BACT, or LAER determination and if it had, include those technologies in their BART analysis. IDEM should work with affected parties to help them identify and access the appropriate databases so they can perform the required control technology analysis. (NIP)

*Response:* IDEM will help identify and provide information on appropriate databases to sources subject to BART to use for the technical analysis. At a minimum, affected parties should consult the sources and references provided in 40 CFR 51, Appendix Y, "Guidelines for BART Determinations Under the Regional Haze Rule".

*Comment:* In [326 IAC 26-1-3\(b\)](#), [326 IAC 26-1-6\(a\)](#), and [326 IAC 26-1-6\(b\)](#), IDEM should add a provision allowing extensions for the stated deadlines. (NIP)

*Response:* The timeframes in [326 IAC 26-1-3\(b\)](#) and [326 IAC 26-1-6\(b\)](#) are notifications and should not require any additional time. The sources subject to BART and the requirement in [326 IAC 26-1-6\(a\)](#) have been requested to begin their analysis work now and therefore, will have about 18 months to complete it, if needed. IDEM does not believe extensions are necessary for these time periods.

*Comment:* In [326 IAC 26-1-3\(b\)\(3\)\(B\)](#), the term "potential emissions" should be clarified to specify which of the criteria pollutants emissions are being sought and the time period of concern, e.g., whether this is on an annual, daily, or hourly basis, and whether there are maximum or average conditions. If IDEM desires to provide flexibility to the affected parties and the agency, there may be no need to revise the draft language in the rule but indicate that there will be some agency guidelines provided to address the issue. An alternative may be to develop a form for use by the affected parties that would clearly indicate the type of information requested. (NIP)

*Comment:* In [326 IAC 26-1-3\(b\)\(3\)\(C\)](#), additional clarity is needed for the specific emission unit and emission point characteristics that are being sought. If IDEM desires to provide flexibility to the affected parties and the agency, there may be no need to revise the draft language in the rule but indicate that there will be some agency guidelines provided to address the issue. An alternative may be to develop a form for use by the affected parties that would clearly indicate the type of information requested. (NIP)

*Comment:* In [326 IAC 26-1-3\(b\)\(4\)](#), IDEM should clarify the term "date of start-up." Start-up can be and is often thought of in varying ways for specific purposes in different industries. For the utility industry, the date of commercial operation would be preferred. (NIP)

*Response:* These requirements only apply to BART-eligible units that have not yet been identified, if there are any. Under [326 IAC 26-1-3\(c\)](#), IDEM may request additional information if the information provided is insufficient. IDEM does not believe any change to the draft rule language is necessary.

*Comment:* In [326 IAC 26-1-4\(a\)\(3\)](#), IDEM should provide additional clarity in the last sentence by inserting "of that source" after "...when the modeled impacts" and before "are equivalent to..." so the sentence would read "...when the modeled impacts of that source are equivalent to eight...". (NIP)

*Response:* IDEM concurs and has made the suggested change.

*Comment:* In [326 IAC 26-1-6](#) and [326 IAC 26-1-7\(b\)](#), it would be helpful to clarify the provisions of notification and the term "of being notified". It may be helpful to specify this date relative to the date the owner or operator receives the notification from IDEM. (NIP)

*Response:* IDEM concurs this should be clarified and has changed the draft rule language.

*Comment:* IDEM should implement the position that for those BART-eligible CAIR sources, particulate exemption modeling only need consider primary particulates and not include condensible sulfate and nitrate since these pollutants are being reduced through the CAIR regulations. Further support for this position, which we know has already been taken by West Virginia and Texas, can be found in 40 CFR 51, Appendix Y which states: "However, if you determine that a source of particulate matter is BART-eligible, it will be important to distinguish between the fine and coarse particle components of direct particulate emissions in the remainder of the BART analysis, including for the purpose of modeling the source's impact on visibility. This is because although both fine and coarse particulate matter contribute to visibility impairment, the long-range transport of fine particles is of particular concern in the formation of regional haze. Thus, for example, air quality modeling results used in the BART determination will provide a more accurate prediction of a source's impact on visibility if the inputs into the model account for the relative particle size of any directly emitted particulate matter (i.e. PM<sub>10</sub> vs. PM<sub>2.5</sub>)." This plain language taken from Section II.3 of Appendix Y, under the question of how to determine the 250-ton cutoff, indicates that for BART analysis purposes, only primary particulates need to be considered, but that they should be size fractionated. (AEP)

*Response:* Though the BART guidelines do not specifically mention condensables, the Clean Air Fine Particulate Implementation Rule requires their consideration after January 1, 2011 (April 25, 2007, 72 FR 20664),

and they will have to be included in future review periods for the Regional Haze State Implementation Plan (SIP), which will include BART requirements. U.S. EPA expects that states will consider condensables in evaluating PM<sub>2.5</sub> impacts on visibility, however, IDEM still needs to have discussions with stakeholders and U.S. EPA on this issue. The specific modeling criteria are not addressed in this rule, but IDEM will work with stakeholders and U.S. EPA to address this issue prior to final adoption of this rule.

*Comment:* In our review of the proposed language, we have found a significant error in the interpretation of 40 CFR 51, Appendix Y in the rule. This problem is found in [326 IAC 26-1-4\(a\)\(3\)](#) where the proposed rule states that, "The impact on visibility in a Class I area as determined by a comparison of the 98<sup>th</sup> percentile of the source specific modeling to a 0.5 deciview threshold level. A source causes or contributes to visibility impairment in a Class I area when the modeled impacts are equivalent to eight (8) or more days in one (1) year or a total of twenty-two (22) or more days in a three (3) year period that would exceed a 0.5 deciview threshold level." In developing this language, IDEM has misconstrued Section III.A.1 of 40 CFR 51, Appendix Y, which clearly states, "One of the first steps in determining whether sources cause or contribute to visibility impairment for purposes of BART is to establish a threshold (measured in deciviews) against which to measure the visibility impact of one or more sources. A single source that is responsible for a 1.0 deciview change or more should be considered to "cause" visibility impairment; a source that causes less than a 1.0 deciview change may still contribute to visibility impairment and thus be subject to BART." To us, this clearly indicates that the threshold in the proposed rule language only describes the "contributes to visibility impairment" characteristic described later in 40 CFR 51, Appendix Y, Section III.A and does not describe the "causes visibility impairment" characteristic. Therefore, IDEM should remove the words "causes or" from proposed [326 IAC 26-1-4\(a\)\(3\)](#) prior to preliminary adoption. We would support the language of this section with the "causes or" removed since it would match the criteria used to define contributes to visibility impairment in most of the states surrounding Indiana which have Class I areas Indiana sources would need to consider in BART modeling. (AEP)

*Response:* The 0.5 deciview threshold is the minimum level for determining if an impact is occurring. A source that exceeds that level for the specified number of days is either causing or contributing to visibility impairment depending on how much they exceed the threshold level. IDEM does not believe a change in the proposed rule language is necessary.

*Comment:* IDEM should clarify de minimis levels of SO<sub>2</sub>, NO<sub>x</sub>, and PM<sub>10</sub> that are not subject to BART analysis. IDEM indicated in the previous BART survey request that only "significant" emissions units should be considered for BART eligibility and "insignificant" emission units subject to BART need only be listed in the survey response. GE Plastics reviewed emissions units emitting SO<sub>2</sub>, NO<sub>x</sub>, and PM<sub>10</sub> that were likely constructed, or reconstructed, during the BART timeline, i.e., after 8/7/1962 and before 8/7/1977. Because of the large number of emissions units with small amounts of PTE emissions that would need to be investigated for BART eligibility, GE Plastics asked IDEM for an emission threshold, in tons per year, below which emission units would not need to be further investigated and listed in the survey response as insignificant, even if constructed or reconstructed during the BART timeframe. IDEM provided the following thresholds that GE Plastics used in eliminating small emission units, even if they would be BART eligible:

NO<sub>x</sub> < 10 tpy  
SO<sub>2</sub><sup>x</sup> < 5 tpy  
PM<sub>10</sub><sup>2</sup> < 10 tpy

GE Plastics supports these emission levels as a threshold for exempting BART eligible emission units from the BART analysis. These thresholds seem particularly conservative given that they are less than the insignificant levels for SO<sub>2</sub>, NO<sub>x</sub>, and PM<sub>10</sub>, as set forth in [326 IAC 2-7-1\(21\)](#).

40 CFR 51, Appendix Y discusses de minimis sources and indicates that the cutoffs should be based on prevention of significant deterioration (PSD) thresholds on a facility-wide basis. GE Plastics understands this was included to clarify that states should use the cumulative emissions from units at a plant that comprise the BART-eligible source in determining whether the BART-eligible source meets the de minimis exemption requirements. Since the eligibility of the GE Plastics source as a BART source was readily established based upon emissions from larger, significant emission units, there was no need to include large numbers of insignificant or trivial sources and put an unreasonable burden on GE Plastics to identify and include low level of emissions, primarily PM<sub>10</sub>. (GEP)

*Response:* The threshold levels provided for the survey were conservative and only for the purpose of identifying emission units that should be considered when deciding which units are BART-eligible. By incorporating by reference 40 CFR 51, Appendix Y, IDEM is accepting the suggested de minimis levels suggested by U.S. EPA of 40 tons per year for SO<sub>2</sub> and NO<sub>x</sub>, and 15 tons per year for PM<sub>10</sub> for the source. These levels have been added to the rule for clarification.

*Comment:* [326 IAC 26-1-8](#) requires that an application be submitted, within 5 years of federal approval of the BART rule, to modify a Title V permit to include enforceable emission limits or design, equipment, work practice, operation standard, or combination of these types of standards, if applicable, and provide compliance schedules for such items that require compliance within 5 years of the effective date of the rule. GE Plastics request clarification of [326 IAC 26-1-8](#) because it doesn't seem like a source would need to provide a compliance



schedule for activities that must be complied with by the time the application must be submitted. The compliance schedule would only seem relevant for a time period that follows the submission of the application and modification of the permit. (GEP)

*Response:* The compliance schedules that would need to be included are those that require compliance with a requirement in less than 5 years, but that may not take effect immediately upon issuance of the Part 70 permit. IDEM does not believe the draft rule language needs to be changed.

*Comment:* Proposed [326 IAC 26-1-8](#) appears to conflict with [326 IAC 2-7-9\(a\)\(1\)](#). Since the BART requirements are "applicable" requirements of the CAA, they must be included as Title V permit conditions according to the provisions of [326 IAC 2-7-9](#). Under [326 IAC 2-7-9](#), Title V permits are to be reopened and revised to include new applicable requirements if the permit has three or more years of life. The reopening must be completed within 18 months after promulgation of the new applicable requirement. Accordingly, [326 IAC 26-1-8](#) should be structured in terms of a Title V reopening by IDEM to incorporate the BART requirements, in accordance with [326 IAC 2-7-9](#). (GEP)

*Response:* IDEM concurs and has revised the language for consistency with the requirements of [326 IAC 2-7-9](#).

## **SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING**

On June 6, 2007, the Air Pollution Control Board (board) conducted the first public hearing/board meeting concerning the development of a new rule at [326 IAC 26](#). No comments were made at the first hearing.

### **[326 IAC 26](#)**

SECTION 1. [326 IAC 26](#) IS ADDED TO READ AS FOLLOWS:

#### **ARTICLE 26. REGIONAL HAZE**

##### **Rule 1. Best Available Retrofit Technology**

###### **[326 IAC 26-1-1](#) Applicability**

**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

**Affected:** [IC 13-15](#); [IC 13-17](#)

**Sec. 1. This rule applies to BART-eligible sources in Indiana as defined in 40 CFR 301\* and as determined in accordance with 40 CFR 51, Appendix Y, "Guidelines for BART Determinations Under the Regional Haze Rule\*".**

**\*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.**

*(Air Pollution Control Board; [326 IAC 26-1-1](#))*

###### **[326 IAC 26-1-2](#) Incorporation by reference**

**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

**Affected:** [IC 13-15](#); [IC 13-17](#)

**Sec. 2. The air pollution control board incorporates by reference the following:**

- (1) 40 CFR 51, Appendix Y, "Guidelines for BART Determinations Under the Regional Haze Rule\*".**
- (2) 40 CFR 51.301\*, "Definitions".**
- (3) 40 CFR 51.308(e)\*, "Best Available Retrofit Technology (BART) requirements for regional haze visibility impairment".**

**\*These documents are incorporated by reference. Copies may be obtained from the Government**

Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 26-1-2](#))

### **[326 IAC 26-1-3](#) Notification**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 3. (a) By the effective date of this rule, the department shall provide a written notification to the owner or operator of each BART-eligible source that identifies each BART-eligible emissions unit evaluated by the department.

(b) If the owner or operator of a BART-eligible source does not receive a notification, the owner or operator of the BART-eligible source shall submit written notification to the department of all BART-eligible emissions units within three (3) months of the effective date of this rule. The notification shall include the following information:

- (1) Complete source identification and contact information.
- (2) A list of all BART-eligible emissions units at the source.
- (3) A description of each BART-eligible emissions unit including applicable:
  - (A) processes;
  - (B) potential emissions; and
  - (C) emissions unit and emission point characteristics.
- (4) The date construction commenced and the date of start-up of each BART-eligible emissions unit.

(c) The department may require additional information from BART-eligible sources to be submitted to evaluate emissions units potentially affected by this rule.

(Air Pollution Control Board; [326 IAC 26-1-3](#))

### **[326 IAC 26-1-4](#) Determination of sources subject to BART**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 4. (a) The department shall determine if a BART-eligible source is subject to BART based upon all of the following criteria:

- (1) The source meets the definition of BART-eligible source in 40 CFR 51.301\*.
- (2) Modeling conducted in accordance with option 1 of the individual source attribution approach as described in 40 CFR 51, Appendix Y\*.
- (3) The impact on visibility in a Class 1 area as determined by a comparison of the ninety-eighth percentile of the source specific modeling to a 0.5 deciview threshold level. A source causes or contributes to visibility impairment at a Class 1 area when the modeled impacts of that source are equivalent to eight (8) or more days in one (1) year or a total of twenty-two (22) or more days in a three (3) year period that would exceed the 0.5 deciview threshold level.

(b) The department shall provide a written determination to each BART-eligible source indicating if the source has been determined to be subject to BART.

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 26-1-4](#))

**[326 IAC 26-1-5](#) CAIR participation by electric generating units**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 5. Participation in the CAIR cap and trade program shall satisfy the sulfur dioxide (SO<sub>2</sub>) and oxides of nitrogen (NO<sub>x</sub>) requirements of this rule.

(Air Pollution Control Board; [326 IAC 26-1-5](#))

**[326 IAC 26-1-6](#) BART analysis**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 6. (a) The owner or operator of a source determined to be subject to BART shall submit:

- (1) a BART analysis to the department within two hundred seventy (270) days of the date of the written notification from the department that the source is subject to BART; or
- (2) a description and analysis of the BART-eligible emission units sufficient to demonstrate that the source is not subject to BART within ninety (90) days of the date of the written notification from the department that the source is subject to BART. After the submittal of a description and analysis that the source is not subject to BART, if the source receives notification from the department that the description and analysis are inadequate and that the source is subject to BART, the source shall submit a BART analysis to the department within one hundred eighty (180) days of the date of the notification.

(b) The department shall review the BART analysis for completeness and notify the source of its completeness determination within sixty (60) days of receipt of the BART analysis. A source that is notified that its BART analysis is incomplete shall submit the missing information within sixty (60) days of the date of the notification of the completeness determination.

(c) The BART analysis under subsection (a)(1) must comply with 40 CFR 51, Appendix Y, "Guidelines for BART Determinations Under the Regional Haze Rule\*" and must consider the following factors:

- (1) The costs of compliance.
- (2) The energy and nonair quality environmental impacts of compliance.
- (3) Any existing pollution control technology in use at the source.
- (4) The remaining useful life of the source.
- (5) The degree of visibility improvement that may reasonably be anticipated from the use of BART.

(d) At a minimum, the BART analysis shall address SO<sub>2</sub>, NO<sub>x</sub>, and particulate matter emissions that are equal to or greater than the following levels for the source:

- (1) Forty (40) tons per year of SO<sub>2</sub> or NO<sub>x</sub>.
- (2) Fifteen (15) tons per year of particulate matter with an aerodynamic diameter less than ten (10) micrometers (PM<sub>10</sub>).

(e) The department may require additional information from sources subject to BART to complete the review of the BART analysis.

(f) The department shall provide a written notification to the owner or operator of a source subject to BART upon approval of the BART analysis.

\*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 26-1-6](#))

### [326 IAC 26-1-7](#) Alternative to BART

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 7. (a) The department may approve an alternative to the installation of BART that complies with the following:

- (1) 40 CFR 51, Appendix Y, "Guidelines for BART Determinations Under the Regional Haze Rule\*".
- (2) 40 CFR 51.308(e)\*, "Best Available Retrofit Technology (BART) requirements for regional haze visibility impairment".

(b) If a source proposes an alternative to BART, the source shall submit to the department the BART analysis of the alternative within two hundred seventy (270) days of the date of the written notification from the department of being subject to BART as described in section 4(b) of this rule and the analysis must include the following:

- (1) A comparison of the emission reductions and visibility impacts with the controls that would result from the BART analysis.
- (2) Emission reductions that are surplus to those reductions resulting from measures adopted to meet requirements of the Clean Air Act as of the baseline of the state implementation plan.
- (3) A method of evaluating compliance.
- (4) A demonstration that the alternative approach will achieve greater reasonable progress towards improving visibility than would be achieved by implementation of the BART requirements.

(c) The department shall provide a written notification to the owner or operator of a source subject to BART upon approval of an alternative to BART.

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 26-1-7](#))

### [326 IAC 26-1-8](#) Part 70 permit modifications

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 8. (a) Within five (5) years of the effective date of this rule, the Part 70 permit of a source subject to BART that is required to submit a BART analysis shall be reopened and modified in accordance with [326 IAC 2-7-9](#) to reflect all approved BART requirements or alternatives to the BART requirements to include the following:

- (1) Enforceable emission limits, if applicable.
- (2) Design, equipment, work practice, operation standard, or combination of these types of standards, if applicable.
- (3) Compliance schedules that require compliance with the requirements in subdivisions (1) and (2) within five (5) years of the effective date of this rule.

(b) Enforceable emission limits and compliance schedules that reflect the BART requirements or an approved alternative to the BART requirements shall be included in the Part 70 permit in accordance with the following:

- (1) 40 CFR 51, Appendix Y, "Guidelines for BART Determinations Under the Regional Haze Rule\*".
- (2) 40 CFR 51.308(e)\*, "Best Available Retrofit Technology (BART) requirements for regional haze visibility impairment".



(3) [326 IAC 2-7](#).

(c) The requirements listed in subsection (a) shall be submitted to U.S. EPA for approval into the state implementation plan.

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 26-1-8](#))

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Posted: 07/04/2007 by Legislative Services Agency  
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