
TITLE 326 AIR POLLUTION CONTROL BOARD**Proposed Rule**
LSA Document #09-498**DIGEST**

Adds [326 IAC 26-2](#) to establish best available retrofit technology (BART) emission limitations in order to comply with the federal regional haze rule. Effective 30 days after filing with the Publisher.

HISTORY

First Notice of Comment Period: July 22, 2009, Indiana Register (DIN: [20090722-IR-326090498FNA](#)).

Second Notice of Comment Period: June 30, 2010, Indiana Register (DIN: [20100630-IR-326090498SNA](#)).

Notice of Public Hearing: June 30, 2010, Indiana Register (DIN: [20100630-IR-326090498PHA](#)).

Date of First Public Hearing: September 1, 2010.

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.

REQUEST FOR PUBLIC COMMENTS

This proposed (preliminarily adopted) rule is not substantively different from the draft rule posted on June 30, 2010, at DIN: [20100630-IR-326090498SNA](#). Therefore, 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 June 30, 2010, through July 30, 2010, regarding IDEM's draft rule language establishing best available retrofit technology (BART) emission limitations. IDEM received no comment letters during the comment period.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On September 1, 2010, the Air Pollution Control Board (APCB) conducted the first public hearing/board meeting concerning the draft rule language establishing best available retrofit technology (BART) emission limitations. No commenters spoke at the APCB's hearing, but one comment letter had been submitted to IDEM in advance of the hearing with the request that the comment letter be provided to the APCB. The comment letter was submitted by the following party:

Alcoa Power Generating Inc. - Warrick Operations (APGI)

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

Comment: There appears to be an inconsistency between the effective date of this rule and the compliance date when the affected facilities must comply. The fact sheet indicates the effective date is no later than February 22, 2013, while also stating that, once the rule is final adopted and has been reviewed and approved by the Attorney General and signed by the Governor, the rule becomes effective 30 days after filing with the Legislative Services Agency. The current rule, [326 IAC 26-1-8\(a\)\(3\)](#), envisions that a transition time period may be required in order for the BART emission limits in final rule [326 IAC 26-2](#) to be met and provides for that contingency via the re-opening of Title V permits and the inclusion of the requisite compliance schedules. The draft rule, [326 IAC 26-2](#), does not provide the effective date relief for meeting the BART emission limits provided by [326 IAC 26-1-8](#). To provide this relief, a new section 3 should be added to the draft rule to read as follows: [326 IAC 26-2-3](#) Effective date. Alcoa in Warrick County shall meet the emission limits and monitoring requirements specified in section 2 of this rule by no later than February 22, 2013. (APGI)

Response: The effective date of the rule and the February 22, 2013 date in the fact sheet have different purposes. In accordance with [326 IAC 26-1-8](#), Part 70 permits must be modified within five years of the effective date of that rule, which became effective on February 22, 2008. Indiana's Regional Haze State Implementation Plan (SIP) cannot be submitted to U.S. EPA for approval until this rulemaking is complete and certain other administrative requirements are met. Therefore, [326 IAC 26-1-8](#) was included with the first BART rulemaking to address the intent of the federal BART guidelines at 40 CFR 51, Appendix Y, "Guidelines for BART Determinations Under the Regional Haze Rule" that Part 70 permits be reopened and modified within five years of the approval of the Regional Haze State Implementation Plan.

In accordance with Indiana Code 4-22-2-36, state rules must take effect within a certain time period of being filed with the Publisher of the Indiana Register. For environmental rules, this date is generally thirty (30) days after filing with the Publisher ([IC 4-22-2-36\(b\)](#)).

IDEM must have an effective BART rule that includes sources determined to be subject to BART to submit with the final Regional Haze SIP; therefore, the effective date of the rule must be thirty (30) days after filing with the Publisher. However, U.S. EPA provided up to five (5) years for Part 70 permits to be modified to include BART requirements and through the previous BART rulemaking, that date was determined to be February 22, 2013. In order to provide Alcoa the time to modify its Part 70 permit to be consistent with the emission limits and compliance methods contained in this rule, IDEM will add a compliance date into the text of the proposed rule at final adoption that requires Alcoa to comply with the requirements no later than February 22, 2013.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at:

<http://www.in.gov/idem/4108.htm>

For purposes of [IC 4-22-2-28.1](#), the Small Business Regulatory Coordinator for this rule is:

Alison Beumer
IDEM Compliance and Technical Assistance Program - OPPTA
MC 60-04 IGCS W041
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 232-8172 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-5](#) is:

Ryan Asberry
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 232-8962
smallbizombudsman@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-5](#), specifically [IC 5-28-17-5\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Brad Baughn
IDEM Small Business Assistance Program Ombudsman
MC 50-01 IGCN 1307
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 234-3386
bbaughn@idem.in.gov

[326 IAC 26-2](#)

SECTION 1. [326 IAC 26-2](#) IS ADDED TO READ AS FOLLOWS:

Rule 2. Best Available Retrofit Technology Emission Limitations

[326 IAC 26-2-1](#) Applicability

Authority: [IC 13-14-8](#); [IC 13-14-9](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

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

Sec. 1. (a) This rule applies to a BART-eligible source determined to be subject to BART under [326 IAC 26-1-4](#).

(b) Alcoa in Warrick County is determined to be subject to BART and is required to meet the emission limitations and other requirements as specified in section 2 of this rule.

[326 IAC 26-2-2](#) Alcoa emission limitations and compliance methods

Authority: [IC 13-14-8](#); [IC 13-14-9](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

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

Sec. 2. Alcoa Power Generating Inc. - Warrick Power Plant, Source Identification Number 00002, and Alcoa, Inc. - Warrick Operations, Source Identification Number 00007, shall comply with the emission limitations and compliance methods as follows:

(1) Boiler 1 at Alcoa Power Generating Inc. - Warrick Power Plant shall be in compliance with the following requirements:

(A) PM (filterable) as follows:

(i) The emission limitation is three-hundredths (0.03) pounds per million British thermal units (lb/MMBtu) on a twenty-four (24) hour daily average.

(ii) The compliance method is a continuous emissions monitoring system (CEMS) at the scrubber outlet in accordance with 40 CFR 60, Appendix B, Performance Specification 11 (PS-11)*.

(B) SO₂ as follows:

(i) The removal efficiency is ninety-one percent (91%) SO₂ removal on a twenty-four (24) hour daily average.

(ii) The compliance method is a CEMS at the scrubber inlet and outlet in accordance with 40 CFR 60, Appendix B, Performance Specification 2 (PS-2)*.

(C) NO_x as follows:

(i) The^x emission limitation is thirty-eight hundredths (0.38) lb/MMBtu on a twenty-four (24) hour daily average.

(ii) The compliance method is a CEMS at the scrubber outlet in accordance with PS-2*.

(2) Boilers 2 and 3 at Alcoa Power Generating Inc. - Warrick Power Plant shall each be in compliance with the following requirements:

(A) PM (filterable) as follows:

(i) The emission limitation is three-hundredths (0.03) lb/MMBtu on a twenty-four (24) hour daily average.

(ii) The compliance method is a CEMS at the scrubber outlet in accordance with PS-11*.

(B) SO₂ as follows:

(i) The removal efficiency is ninety percent (90%) SO₂ removal on a twenty-four (24) hour daily average.

(ii) The compliance method is a CEMS at the scrubber inlet and outlet in accordance with PS-2*.

(C) NO_x as follows:

(i) The^x emission limitation is thirty-eight hundredths (0.38) lb/MMBtu on a twenty-four (24) hour rolling average.

(ii) The compliance method is a CEMS at the scrubber outlet in accordance with PS-2*.

(3) Boiler 4 at Alcoa Power Generating Inc. - Warrick Power Plant shall be in compliance with PM (filterable) requirements as follows:

(A) The emission limitation is one-tenth (0.1) lb/MMBtu on a twenty-four (24) hour daily average.

(B) The compliance method is in accordance with 40 CFR 60, Appendix A, Method 5*.

(4) Potlines 2 through 6 at Alcoa, Inc. - Warrick Operations shall be in compliance with the following requirements:

(A) PM (filterable) as follows:

(i) The emission limitation is five-thousandths (0.005) grains per standard cubic foot (grains/scf) as measured at the outlet of the primary control devices for potlines 2 through 6.

(ii) The compliance method is in accordance with 40 CFR 60, Appendix A, Method 5* for the:

(AA) Gas Treatment Center control device for potlines 3 and 4; and

(BB) primary control devices for potlines 2, 5, and 6, except that the stacks selected for sampling shall use the method described in the Site Specific Test Plan for measuring annual total fluoride emissions from potroom group primary control devices, as required by 40 CFR 63.847(b).

(B) SO₂ as follows:

(i) The² emission limitations in [326 IAC 7-4-10\(a\)\(4\)\(B\)](#) through [326 IAC 7-4-10\(a\)\(4\)\(F\)](#).

(ii) The compliance method is [326 IAC 7-4-10\(c\)](#) and:

(AA) [326 IAC 7-4-10\(b\)](#); or

(BB) material balance calculations approved by the department.

***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 26-2-2](#))

[Notice of Public Hearing](#)

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