

EXAMPLE OF POSSIBLE BART REGULATIONS LANGUAGE

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18 AAC 50 is amended by adding a new section to read:

18 AAC 50.260 (a) Guidelines for best available retrofit technology (BART) determinations under the regional haze rule. 40 C. F. R., Part 51, Appendix Y, as published in Federal Register of July 6, 2005, is adopted by reference into this chapter.

(b) The department's *BART-Eligible Emission Units Table*, March 9, 2007, adopted by reference, lists the BART-eligible sources in Alaska, as determined by the department consistent with 40 C.F.R. Part 51, Appendix Y, Section II. The status of these stationary sources for BART determination purposes will not change upon any transfer of ownership.

(c) The BART-eligible sources identified under (b) of this section are subject to the requirements (d) through (o) of this section unless the department approves a visibility impact analysis for a BART-eligible source as follows:

(1) an owner or operator intending to submit a visibility impact analysis under this subsection must provide written notice of their intent to the department no later than 30 days after *{effective date of the regulations}*;

(2) The visibility impact analysis must be conducted in accordance with (g) of this section;

(3) The visibility impact analysis must be submitted to the department no later than 60 days after *{effective date of regulations}*;

(4) The department will approve the analysis if it adequately demonstrates that the BART-eligible source does not cause or contributed an adverse impact to a Class 1 Area identified in 18 AAC 50.015(c)(2);

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(5) The department will notify an owner or operator, the Environmental Protection Agency, and the affected federal land manager of the department's decision under (4) of this subsection.

(d) No later than 120 days after *{effective date of regulations}* the owner or operator of each source identified in (c) of this section shall submit to the department an analysis of control options consistent with 40 C.F.R. Part 51, Appendix Y, Section IV.

(e) The pollutants of concern for purposes of BART are SO₂, NO_x, and PM₁₀ for all BART-eligible sources identified in (b) of this section. In addition, NH₃ is a pollutant of concern for BART-eligible source 3 identified in (b) of this section.

(f) If an owner or operator elects to apply or has already applied the most stringent controls available, consistent with the analysis conducted under (d) of this section, they are not required to conduct an air quality modeling analysis for the purposes of determining their visibility impacts.

(g) A visibility impact analysis must:

(1) use an identical modeling approach for comparing the pre-control and post-control impacts;

(2) determine the maximum change in visibility impacts (in daily deciviews) compared to the annual average default natural visibility condition as listed in *Guidance for Estimating Natural Visibility Conditions Under the Regional Haze Rule*, EPA-454/B-03-005, September 2003, adopted by reference, at the following Federal Class I areas:

(A) for BART-eligible sources 1, 3, 5, 6 and 7 identified in (b) of this section, the Denali and Tuxedni Class I areas, and

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(B) for BART-eligible sources 2 and 4 identified in (b) of this section, the Denali Class I area; and

(3) be conducted in a manner consistent with either:

(A) the August 15, 2006 *CALMET/CALPUFF Protocol for BART Exemption Screening Analysis for Class I Areas in the Western United States*, adopted by reference, as amended by the *Summary of WRAP RMC BART Modeling for Alaska, Draft #2*, January 30, 2007, adopted by reference; or

(B) a modified protocol that was first submitted as a draft and made available for at least a 15-day review by the U.S. Environmental Protection Agency and the applicable Federal Land Manager(s), and then approved in writing by the department.

(h) The department shall request from the owner or operator any additional information necessary to complete review of the analysis of control options for a source subject to BART. The department shall establish a reasonable deadline for submitting the information after consulting the owner or operator. The owner or operator shall provide such information no later than the deadline established by the department.

(i) The department shall review each analysis of control options and issue a preliminary BART determination for each emission unit at each source subject to BART. The preliminary BART determination will include:

(1) the pollutant-specific emission limits for each emission unit at each source subject to BART, and

(2) the monitoring, record-keeping, and reporting needed to demonstrate compliance with the emission limits;

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(j) In conjunction with issuing a preliminary BART determination:

(1) the department shall publish a notice in accord with 40 C.F.R. 51.161, adopted by reference, and shall provide at least 30 days notice for the public to comment;

(2) after the public notice period and consideration of comments and testimony received, the department will make a final BART determination and impose monitoring system schedules and proposed monitoring, record keeping, and reporting requirements consistent with 40 C.F.R. 71.6(a)(3) with any retrofit technology necessary to ensure continuous compliance with the BART limit for each stationary source; and

(3) the department shall provide written notice to each owner or operator, the Environmental Protection Agency, and the affected federal land manager of the final BART determination within 15 days of making the final determination.

(k) An informal review of the BART determination may be requested as prescribed in 18 AAC 15.185. An adjudicatory hearing of the BART determination may be requested as prescribed in 18 AAC 15.195 – 18 AAC 15.340.

(l) Upon EPA approval of the state implementation plan for regional haze, the owner or operator of a source that is subject to a BART determination under this section shall comply with the requirements established in that determination as expeditiously as practicable, but in no case later than 5 years after the date of EPA approval of the state implementation plan for regional haze.

(m) The owner or operator of a source required to install control equipment in order to comply with the BART determination is required to maintain the control equipment and to establish procedures to ensure such equipment is properly operated and maintained.

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(n) The owner or operator of a source required to install control equipment in order to comply with the BART determination shall conduct monitoring, recordkeeping, and reporting sufficient to show compliance or noncompliance with the BART requirements. The monitoring, recordkeeping, and reporting shall comply with requirements in 18 AAC 50.220 and all other parts of this chapter.

(o) Department services under this section are designated regulatory services and shall be billed as set out in 18 AAC 50.400(m) and shall be allocated to the emission control permit receipts account under AS 46.14.265. (Eff. __/__/2007, Register __)

Authority: AS 46.03.710 AS 46.14.010 Sec. 30, ch. 74, SLA 1993
AS 46.14.020 AS 46.14.030

Editor's note: The *BART-Eligible Sources Table* and the other documents adopted by reference in 18 AAC 50.260 can be review at the department's Anchorage, Fairbanks, or Juneau office. To obtain a copy of these or any other documents adopted by reference in this section, contact the Department of Environmental Conservation, Air Quality Division at (907) 465-5100.

18 AAC 50.990 is amended by adding new paragraphs to read:

(126) “adverse impact on visibility” means a 0.5 or greater change in the daily deciview when compared against natural conditions. For purposes of 18 AAC 50.260, “natural conditions” includes naturally occurring phenomena that reduce visibility as

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measured in terms of light extinction, visual range, contrast, or coloration;

(127) “Best Available Retrofit Technology (BART)” means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology;

(128) “BART-eligible source” means the collection of emission units identified under 40 C.F.R. Part 51, Appendix Y, Section II, at an existing stationary facility defined in (130) of this section;

(129) “deciview” is a measurement of visibility impairment. A deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The deciview haze index is calculated based on the following equation (for the purposed of calculating deciview, the atmospheric light extinction coefficient must be calculated from aerosol measurements):
Deciview Haze Index = $10 \ln_e (b_{ext}/10Mm^{-1})$ where b_{ext} = the atmospheric light extinction coefficient, expressed in inverse megameters (Mm^{-1});

(130) “Existing stationary facility” means any of the 26 categories of stationary sources of air pollutants listed in 40 C.F.R. Part 51, Appendix Y, including any

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reconstructed source, which was not in operation prior to August 7, 1962, and was in existence on August 7, 1977, and has the potential to emit 250 tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted;

(131) “source subject to BART” means a BART-eligible source that can reasonably be anticipated to cause or contribute to visibility impairment in nearby Class I areas. (Eff. 1/18/97, Register 141; am 6/14/98, Register 146; am 6/21/98, Register 146; am 9/4/98, Register 147; am 11/4/99, Register 152; am 1/1/2000, Register 152; am 2/2/2002, Register 161; am 5/3/2002, Register 162; am 11/15/2002, Register 164; am 8/8/2003, Register 167; am 10/1/2004, Register 171; am 12/3/2005, Register 176; am / /2007, Register)

Authority:	AS 44.46.025	AS 46.14.140	AS 46.14.250
	AS 46.03.020	AS 46.14.150	AS 46.14.255
	AS 46.03.710	AS 46.14.160	AS 46.14.280
	AS 46.14.010	AS 46.14.170	AS 46.14.285
	AS 46.14.020	AS 46.14.180	AS 46.14.290
	AS 46.14.030	AS 46.14.210	AS 46.14.300
	AS 46.14.120	AS 46.14.230	AS 46.14.560
	AS 46.14.130	AS 46.14.240	Sec. 30, ch. 74, SLA 1993