

TITLE 252. OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 100. AIR POLLUTION CONTROL

SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES

**EXECUTIVE SUMMARY:**

The Department is proposing to add new Part 11, Visibility Protection Standards, to Subchapter 8. This new Part incorporates the Federal Best Available Retrofit Technology (BART) requirements into Chapter 100. States are required to implement the Federal BART requirements as part of a Regional Haze Implementation Plan no later than December 2007. Stationary sources that were not in operation prior to August 7, 1962, and were in existence on August 7, 1977, that have the potential to emit 250 tpy or more of any air pollutant, are BART-eligible sources if they belong to one of the 26 categories listed in the definition of "existing stationary facility" contained in proposed OAC 252:100-8-71. BART-eligible sources that cause visibility impairment in any Class I Area are subject to BART and must establish emissions limitations by the application of BART. Owners or operators of BART-eligible sources who wish to obtain an exemption or a waiver from BART must submit an application for an exemption or a waiver to the Director by December 1, 2006. The owner or operator of any BART-eligible source that has not applied for an exemption or a waiver for that source shall submit a BART determination to the Director by March 30, 2007. BART must be installed and operated at the sources subject to BART no later than five years after EPA approves the Oklahoma Regional Haze SIP.

**DIFFERENCES FROM ANALOGOUS FEDERAL RULES:**

There are no substantive differences.

**ENVIRONMENTAL BENEFIT STATEMENT:**

Not required because these rules are not more stringent than corresponding federal rules.

**SUMMARY OF COMMENTS AND RESPONSES:**

Attached.

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**CHAPTER 100. AIR POLLUTION CONTROL**  
*[OAR Docket #07-821]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 8. Permits for Part 70 Sources

Part 11. Visibility Protection Standards [NEW]

252:100-8-70 [NEW]

252:100-8-71 [NEW]

252:100-8-72 [NEW]

252:100-8-73 [NEW]

252:100-8-74 [NEW]

252:100-8-75 [NEW]

252:100-8-76 [NEW]

252:100-8-77 [NEW]

252:100-8-78 [NEW]

**AUTHORITY:**

Environmental Quality Board; 27A O.S., §§ 2-2-101, 2-2-201 and 2-5-101, *et seq.*

**DATES:**

**Comment period:**

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February 24, 2006

March 15, 2006 through April 19, 2006

August 22, 2006

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**Submitted to House:**

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**Gubernatorial approval:**

October 8, 2006

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

**Final adoption:**

March 27, 2007

**Effective:**

June 15, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

**Superseded rules:**

Subchapter 8. Permits for Part 70 Sources

Part 11. Visibility Protection Standards [NEW]

252:100-8-70 [NEW]

252:100-8-71 [NEW]

252:100-8-72 [NEW]

252:100-8-73 [NEW]

252:100-8-74 [NEW]

252:100-8-75 [NEW]

252:100-8-76 [NEW]

252:100-8-77 [NEW]

252:100-8-78 [NEW]

**Gubernatorial approval:**

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24 Ok Reg 297

**Docket number:**

06-1478

**INCORPORATIONS BY REFERENCE:**

**Incorporated standards:**

40 CFR 51 Appendix Y

**Incorporating rules:**

252:100-8-72

252:100-8-73. Availability:

From the contact person

**ANALYSIS:**

The Department is proposing to add new Part 11, Visibility Protection Standards, to Subchapter 8. This new Part incorporates the Federal Best Available Retrofit Technology (BART) requirements into Chapter 100. States are required to implement the Federal BART requirements as part of a Regional Haze Implementation Plan no later than December 2007. Stationary sources that were not in operation prior to August 7, 1962, and were in existence on August 7, 1977, that have the potential to emit 250 tpy or more of any air pollutant, are BART-eligible sources if they belong to one of the 26 categories listed in the definition of "existing stationary facility" contained in proposed OAC 252:100-8-71. BART-eligible sources that cause visibility impairment in any Class I Area are subject to BART and must establish emissions limitations by the application of BART. Owners or operators of BART-eligible sources who wish to obtain an exemption or a waiver from BART must submit an application for an exemption or a waiver to the Director by December 1, 2006. The owner or operator of any BART-eligible source that has not applied for an exemption or a waiver for that source shall submit a BART determination to the Director by March 30, 2007. BART must be installed and operated at the sources subject to BART no later than five years after EPA approves the Oklahoma Regional Haze SIP.

**CONTACT PERSON:**

Joyce D. Sheedy, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 794-6800, fax (405) 702-4101, e-mail joyce.sheedy@deq.state.ok.us.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 15, 2007:**

**SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES**

**PART 11. VISIBILITY PROTECTION STANDARDS**

**252:100-8-70. Applicability**

This Part applies to any BART-eligible source (existing stationary facility as defined in OAC 252:100-8-71) which may reasonably be anticipated to cause or contribute to visibility impairment at any mandatory Class I Federal area.

**252:100-8-71. Definitions**

The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise. All terms used in this Part that are not defined in this Subsection shall have the meaning given to them in OAC 252:100-1-3, 252:100-8-1.1, 252:100-8-31, or in the Oklahoma Clean Air Act.

"BART-eligible source" means an existing stationary facility as defined in this Section.

"Best Available Retrofit Technology" or "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 a BART-eligible source. 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.

"Deciview" means 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 purposes of calculating deciview, the atmospheric light extinction coefficient must be calculated from aerosol measurements): Deciview haze index =  $10 \ln_e (b_{ext}/10 \text{ Mm}^{-1})$ ; where  $b_{ext}$  = the atmospheric light extinction coefficient, expressed in inverse megameters ( $\text{Mm}^{-1}$ ).

"Existing stationary facility" means any of the following stationary sources of air pollutants, including any 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 TPY or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted.

- (A) Fossil-fuel fired steam electric plants of more than 250 million Btu/hr input,
- (B) Coal cleaning plants (thermal dryers),
- (C) Kraft pulp mills,
- (D) Portland cement plants,
- (E) Primary zinc smelters,

- (F) Iron and steel mill plants.
- (G) Primary aluminum ore reduction plants.
- (H) Primary copper smelters.
- (I) Municipal incinerators capable of charging more than 250 tons of refuse per day.
- (J) Hydrofluoric, sulfuric, and nitric acid plants.
- (K) Petroleum refineries.
- (L) Lime plants.
- (M) Phosphate rock processing plants.
- (N) Coke oven batteries.
- (O) Sulfur recovery plants.
- (P) Carbon black plants (furnace process).
- (Q) Primary lead smelters.
- (R) Fuel conversion plants.
- (S) Sintering plants.
- (T) Secondary metal production facilities.
- (U) Chemical process plants.
- (V) Fossil-fuel boilers of more than 250 million Btu per hour heat input.
- (W) Petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels.
- (X) Taconite ore processing facilities.
- (Y) Glass fiber processing plants, and
- (Z) Charcoal production facilities

"In existence" means that the owner or operator has obtained all necessary preconstruction approvals or permits required by the Department and EPA and either has:

- (A) begun, or caused to begin, a continuous program of physical on-site construction of the facility; or
- (B) entered into binding agreements or contractual obligations which cannot be cancelled or modified without substantial loss to the owner or operator to undertake a program of construction of the facility to be completed in a reasonable time.

"In operation" means engaged in activity related to the primary design function of the source.

"Integral vista" means a view perceived from within the mandatory Class I Federal area of a specific landmark or panorama located outside the boundary of the mandatory Class I Federal area.

"Mandatory Class I Federal area" means any area identified in 40 CFR part 81, subpart D.

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Reasonably attributable" means attributable by visual observation or any other technique the Department deems appropriate.

"Secondary emissions" means emissions which occur as a result of the construction or operation of a BART-eligible source but do not come from the BART-eligible source. Secondary emissions may include, but are not limited to, emissions from ships or trains coming to or from the BART-eligible source.

"Visibility in any mandatory Class I Federal area" includes any integral vista associated with that area.

#### **252:100-8-72. Incorporation by reference**

Appendix Y, Guidelines for BART Determinations Under the Regional Haze Rule, of 40 CFR 51 is hereby incorporated by reference as it exists July 6, 2005.

**252:100-8-73. BART applicability**

(a) Each BART-eligible source that emits any air pollutant which may reasonably be anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal area is subject to BART. This shall be determined using the criteria in Section III of Appendix Y of 40 CFR 51 in effect on July 6, 2005. Thresholds for visibility impairment are set forth in OAC 252:100-8-73(a)(1) and (2).

(1) A source that is responsible for an impact of 1.0 deciview or more is considered to cause visibility impairment.

(2) A source that causes an impact greater than 0.5 deciviews contributes to visibility impairment.

(b) Air pollutants emitted by sources in Oklahoma which may reasonably be anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal area are NO<sub>x</sub>, SO<sub>2</sub>, PM-10, and PM-2.5.

(c) The owner or operator of a BART-eligible source may request and obtain a waiver from the Department that a BART determination is not required:

(1) for SO<sub>2</sub> or for NO<sub>x</sub> if the BART-eligible source has the potential to emit less than 40 TPY of such pollutant(s),

(2) for PM-10 if the BART-eligible source has the potential to emit less than 15 TPY of such pollutant, or

(3) if the owner or operator of the BART-eligible source demonstrates by modeling, in accordance with a protocol approved by the Director, that a source does not emit any air pollutant which may reasonably be anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal area.

**252:100-8-74. Exemption from BART requirements**

(a) The owner or operator of any BART-eligible source subject to the requirements of this Part to install, operate, and maintain BART may apply to the Administrator for exemption from that requirement.

(b) Should the owner or operator of a BART-eligible source wish to apply for exemption as provided for in 40 CFR 51.303, such application must be accompanied by a written concurrence from the Director.

**252:100-8-75. Visibility standards for existing stationary facilities**

(a) The owner or operator of a BART-eligible source that emits any air pollutant which causes or contributes to visibility impairment in any mandatory Class I Federal area shall establish emissions limitations by the application of BART.

(1) The determination of BART must be based on an analysis of the best system of continuous emission control technology available and associated emission reduction achievable for each BART-eligible source that is subject to BART.

(2) After the level of control that represents BART is determined, an emission limit representing this level of control must be established.

(3) BART may be established as design, equipment, work practice, or other operational standards or combination thereof, when limitations on measurement technologies make emission standards infeasible, if such application achieves equivalent results. Such standard, to the degree possible, shall set forth the emission reduction to be achieved and must provide for compliance by means which achieve equivalent results.

(b) The determination of BART shall be made pursuant to the guidelines in Appendix Y of 40 CFR 51 in effect on July 6, 2005.

(c) The owner or operator of a BART-eligible source shall submit to the Director by December 1, 2006:

(1) an application for a waiver pursuant to OAC 252:100-8-73, or

(2) an application for an exemption pursuant to OAC 252:100-8-74.

(d) A BART-eligible source that has not applied for a waiver pursuant to OAC 252:100-8-73 or an exemption pursuant to OAC 252:100-8-74 shall submit to the Director a BART determination by March 30, 2007.

(e) The owner or operator of each BART-eligible source subject to BART shall install and operate BART no later than five years after EPA approves the Oklahoma Regional Haze SIP.

(f) The owner or operator of each source subject to BART shall maintain the control equipment required by this Part and establish procedures to ensure such equipment is properly and continuously operated and maintained.

(g) The owner or operator of any BART-eligible source that might cause or contribute to visibility impairment in any mandatory Class I Federal area must provide a BART analysis at such times, as determined by the Administrator, as new technology for control of the pollutant becomes reasonably available if:

- (1) the pollutant is emitted by that BART-eligible source;
- (2) controls representing BART for the pollutant have not previously been required under this Part; and
- (3) the visibility impairment in any mandatory Class I Federal area is reasonably attributable to the emissions of that pollutant.

**252:100-8-76. Permit requirements**

The BART requirements for any BART-eligible source that is subject to BART shall be submitted to the Director in an application for a permit modification pursuant to OAC 252:100-8-7.2 no later than March 30, 2007.

**252:100-8-77. Cap and/or trade program**

Nothing in this rule precludes the establishment of a cap and/or trade program that will achieve greater reasonable progress than would be achieved through the installation and operation of BART.

All modeling required by this Part shall be performed in accordance with a protocol approved by the Director.

*[OAR Docket #07-821; filed 4-23-07]*

**REGULAR MEETING AGENDA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OKLAHOMA ENVIRONMENTAL QUALITY BOARD**

A Public Meeting: 9:30 a.m., Tuesday, August 22, 2006  
Kruse Auditorium  
2510 Sam Noble Parkway  
Ardmore, OK 73401

1. **Call to Order** – Steve Mason, Chair
2. **Roll Call** – Myrna Bruce, Secretary, Board & Councils
3. **Approval of Minutes** of the February 24, 2006 Regular Meeting
4. **Rulemaking – OAC 252:4 Rules of Practice and Procedure**  
The proposed amendment reduces to three the number of meetings the Environmental Quality Board is required to hold each year. Current rules require the Board to hold quarterly meetings.
  - A. Presentation – Jimmy Givens, DEQ General Counsel
  - B. Questions and discussion by the Board
  - C. Questions, comments and discussion by the public
  - D. Discussion and action by the Board, which may include a roll call vote on permanent adoption
5. **Rulemaking – OAC 252:100 Air Pollution Control**
  - The DEQ proposes emergency as well as permanent adoption of a new Part 11 to Subchapter 8, incorporating the federal Best Available Retrofit Technology (BART) requirements. The BART requirements are part of the Regional Haze State Implementation Plan (SIP).
  - The DEQ proposes to amend Section 61 of Subchapter 17 to update the incorporation by reference of federal definitional rules relating to commercial and industrial solid waste incineration (CISWI) units.
    - A. Presentation – David Branecky, Vice-Chair, Air Quality Advisory Council
    - B. Questions and discussion by the Board
    - C. Questions, comments and discussion by the public
    - D. Discussion and action by the Board, which may include roll call votes on emergency and permanent adoption of the Subchapter 8 amendment and permanent adoption of the Subchapter 17 amendment
6. **Executive Director's Report** – Steve Thompson. The report will include the disclosure of certain employee financial interests as required by statute, a summary of key actions in the recent legislative session and implementation strategies, and a review of especially notable projects, activities and accomplishments by DEQ programs and personnel within the last year. These updates and summaries are for informational purposes and do not require action by the Board. They are presented at this point in the meeting because they may help provide context for agenda items 7 and 8.
7. **DEQ Operational Budget Request**  
DEQ budget requests to the Governor through the Office of State Finance require approval of the Board. The operational budget request for State Fiscal Year 2008 (beginning July 1, 2007) must be submitted to the OSF by October 1<sup>st</sup> of this year. The law requires that all state agencies submit a 5-year budget. The request for the coming year, SFY 2008, is the most critical. It

involves funding for the addition and maintenance of laboratory equipment, the "Blue Skyways" program to reduce air pollution, and enhanced monitoring of mercury in fish.

- A. Presentation – Craig Kenamer, Deputy Executive Director
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion and action by the Board, which may include a roll call vote on approval of the budget request

**8. Annual Performance Review of Executive Director**

Among the statutory duties of the Board are responsibilities to appoint and set the compensation of the Executive Director and to assist the Department in conducting periodic reviews and planning activities related to the goals, objectives, priorities, and policies of the Department. In connection with these responsibilities, the Board has determined that it should perform an annual performance review of the Executive Director.

- A. Discussion by the Board in open session
- B. Possible executive session pursuant to Title 25 Oklahoma Statutes § 307(A) (discussion of employment actions related to any individual salaried public officer or employee), if authorized by recorded majority vote of the Board members present
  - (1) Vote in open session on whether to enter executive session
  - (2) If executive session approved, designation in open session of person to keep minutes in executive session
  - (3) Discussion in executive session of Executive Director's performance and of employment actions by the Board relating to the Executive Director
- C. Further discussion by the Board in open session
- D. Possible roll call vote on specific actions or recommendations as a result of performance review

(Executive Session held in Noble Foundation Board Room)

**9. Calendar Year 2007 Board meeting dates and locations:**

Discussion and vote by the Board

**10. New Business** (any matter not known about and which could not have been reasonably foreseen prior to the time of posting of agenda)

**11. Adjournment**

Remaining 2006 Meeting: November 14 at OSU/Tulsa Campus, 700 North Greenwood, Tulsa, Oklahoma

**Public Forum** (after adjournment): The Board meets several times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

**Should you desire to attend but have a disability and need an accommodation, please notify the DEQ three days in advance at 405-702-7100. For hearing impaired, the TDD Relay Number is 1-800-722-0353 for TDD machine use only.**

Some members of the Board, as well as senior staff members from the DEQ, will meet for dinner in Ardmore the evening of August 21. This is a social occasion. It is uncertain whether a majority of the Board will be present. No Board or DEQ business will be conducted.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

April 12, 2006

Mr. Scott Thomas  
Environmental Program Manager  
Air Quality Division  
Oklahoma Department of Environmental Quality  
P.O. Box 1677  
Oklahoma City, OK 73101-1677

Dear Mr. Thomas:

Thank you for the opportunity to comment on the proposed revisions to Oklahoma's Air Pollution Control Rules, OAC 252:100, as listed below:

Subchapter 5	Registration, Emission Inventory and Annual Operating Fees
Subchapter 7	General Provisions
Subchapter 8	Permits for Major Sources
Subchapter 9	Excess Emission Reporting Requirements
Subchapter 17	Incinerators
Subchapter 23	Control of Emissions from Cotton Gins
Subchapter 44	Control of Mercury Emissions
Appendix H	De Minimis Facilities List
Appendix I	Insignificant Activities (Registration) List
Appendix J	Trivial Activities (de Minimis) List
Appendix P	Regulated Air Pollutants

**Subchapter 5. Registration, Emission Inventory and Annual Operating Fees**

The proposed amendment to the definition of regulated air pollutant in Subchapters 5-1.1, 7-1.1, and 9-2 reads: "**Regulated air pollutant**" means any substance or group of substances listed in Appendix P of this Chapter, or any substance regulated as an air pollutant under any federal regulation for which the Department has been given delegation by EPA, or any other substance for which an air emission limitation or equipment standard is set by an enforceable permit." To maintain consistency in addressing the "group of substances", please consider

rewording the paragraph, per the example suggested below. This will ensure that any currently proposed or future State or federal rulings regarding any substance or group of substances as regulated air pollutants will be included as regulated air pollutants.

Our recommended text: "Regulated air pollutant" means any substance or group of substances listed in Appendix P of this Chapter, or regulated as an air pollutant under any federal regulation for which the Department has been given delegation by EPA. In addition, any substance or group of substances for which an air emission limitation or equipment standard is set by an enforceable permit, or any State or federal rule pertaining to air quality."

The requirement that actual emissions varying from the allowable or from the previous year's actual by more than 30% be explained is being modified. Please justify this modification and identify where this provision is adequately covered elsewhere in the regulations.

### **Subchapter 7            General Provisions**

The proposed amendment to the definition of actual emissions in Subchapter 7-1.1. reads: "Actual emissions" means the total amount of any regulated air pollutants actually emitted from a given facility during a particular calendar year, ~~determined using methods contained in OAC 252:100-5-2.1(d)~~ twelve (12) consecutive months. Please explain why the definition of "actual emissions" as contained in 40 CFR 51.166(b)(21) could not be used as an acceptable protocol to determine actual emissions for the proposed deletion of OAC 252:100-5-2.1(d).

The state has proposed changes to the definition of "Actual Emissions," and "Regulated Air Pollutant." Please clarify how the state intends to examine a source's permit exempt status on a year-to-year basis. Please clarify how ODEQ will verify a source's permit exempt status if the facility is not required to submit annual emissions information on a yearly basis. In addition, see the comment for Subchapter 5 above regarding the proposed amendment to the definition of regulated air pollutant in Subchapter 7-1.1.

Please note that EPA is providing comments on its concerns relating to Subchapter 7, Permits for Minor Facilities, Definitions, "Permit exempt facility," in a separate letter, signed by David Neleigh, Chief, Air Permits Section.

### **Subchapter 8            Permits for Major Sources (regarding BART Rule only)**

OAC 252:100-8-78 states, "All modeling required by this Part shall be performed in accordance with a protocol approved by the Director." To avoid miscommunication on this issue, we suggest that Oklahoma ensure that any BART modeling follows EPA-approved protocol. We urge the State to submit such protocols to us for prior approval. This will help ensure that the State does not risk disapproval of its Regional Haze SIP.

In addition, although Appendix Y to 40 CFR Part 51 is properly referenced in OAC 252:100-8-72 and OAC 252:100-8-72(b), Oklahoma may wish to avail itself of other relevant guidance in the preparation of the regional haze SIPs and we offer the following as references:

- "Guidance for Tracking Progress Under the Regional Haze Rule," EPA-454/B-03-004, September 2003
- "Draft Guidance for Demonstrating Attainment of Air Quality Goals for PM<sub>2.5</sub> and Regional Haze," January 2, 2001
- "Guidance for Estimating Natural Visibility Conditions Under the Regional Haze Rule," EPA-454/B-03-005, September 2003.
- A memo from Lydia Wegman to the Regional Air Directors entitled, "2002 Base Year Emission Inventory SIP Planning: 8-Hour Ozone, PM<sub>2.5</sub> and Regional Haze Programs," dated 11/18/2002.
- "Draft Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program." 11/28/2005.
- "Visibility Monitoring Guidance," EPA-454/R-99-003, June 1999.
- "Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter NAAQS and Regional Haze Regulations," EPA-454/R-05-001, August, 2005.
- "Interim Air Quality Policy on Wildland and Prescribed Fires," April 23, 1998

### **Subchapter 9            Excess Emission Reporting Requirements**

See the comment for Subchapter 5 above regarding the proposed amendment to the definition of regulated air pollutant in Subchapter 9-2.

### **Subchapter 17        Incinerators**

We support the proposed rule and have no adverse comments.

### **Subchapter 23        Control of Emissions from Cotton Gins**

The proposed revisions to OAC 252:100-23-2 seek to delete the definition of Total Suspended Particulates (TSP) from the "High efficiency cyclone" efficiency standard, and replace it with Gross Particulate Matter (GPM), which itself would be newly defined in OAC 252:100-5-1.1. The current definition of TSP, which resides in OAC 252:100-1-3, states: "Total Suspended Particulates" or "TSP" means particulate matter as measured by the high-volume method described in Appendix B of 40 CFR Part 50. This method captures particulate matter up to 45 microns in size. The proposed revisions; "Gross Particulate Matter or GPM means particulate matter with a nominal aerodynamic diameter greater than 10 micrometers." This definition of GPM in the performance standard/definition of "High efficiency cyclone" in the Cotton Gin Rule would potentially exclude particles in the size range of 0 to 10 microns. We view this as a potential relaxation of a SIP approved control measure and question whether this proposed modification is in compliance with Section 110(l) of the Clean Air Act (CAA), which states:

"Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act."

We are authorized under the CAA to approve relaxations of SIP requirements as long as the relaxations do not interfere with timely attainment or subsequent maintenance of the NAAQS or any other CAA requirement. The submittal must therefore demonstrate that the proposed SIP revisions do not interfere with the attainment or maintenance of the National Ambient Air Quality Standards (NAAQS), Rate of Progress, Reasonable Further Progress (RFP), violate the Prevention of Significant Deterioration increments, or any other applicable requirements under the CAA, or in any way adversely affect the existing air quality in Oklahoma. This demonstration must show that any relaxation of the existing SIP requirements will not result in interference with the requirements of the CAA. As with past proposed revisions, the State must provide an opportunity for notice and public comment. If needed, we can provide past Federal Register Actions and a copy of EPA's latest draft guidance, dated June 6, 2005, "Demonstrating Noninterference Under Section 110(l) of the CAA When Revising a State Implementation Plan."

As stated in the guidance, with respect to attainment, maintenance and RFP, EPA interprets section 110(l) such that areas generally have two options available to demonstrate noninterference for the affected pollutant(s): substitution of one measure by another with equivalent or greater emissions reductions/air quality benefit; an air quality analysis showing that removing the measure will not interfere with other applicable requirements (i.e., without a substitute measure). Please consider whether the State can successfully make this kind of a demonstration before GPM is substituted for TSP, in the Cotton Gin Rule.

#### **Subchapter 44                      Control of Mercury Emissions**

The Air Permits Section will provide comments in a separate communication.

#### **Appendix H                      De Minimis Facilities List**

The introductory paragraph to Appendix H states that the de minimis activities list is to be used in conjunction with Subchapter 7 for minor facilities. Approval of Appendix H is dependant on EPA approval to Subchapter 7 Minor Facilities to which a source could still not emit air emissions at or above any revised minor NSR threshold. Please note that EPA is providing comments relating to Subchapter 7, Permits for Minor Facilities, Definitions, "Permit exempt facility," in a separate letter, signed by David Neleigh, Chief, Air Permits Section.

Please note that the enumerated activities in Appendix H must not have a potential to emit equal to or above the SIP-approved 5 tpy threshold. Any enumerated "de minimis" activity must be below the requirement to obtain a minor NSR permit.

Please show that the activities identified as "de minimis" are appropriately defined as de minimis. Please provide the technical basis and documentation to justify the list of de minimis activities. Please clarify the rule does not interfere with other federal programs or permitting requirements, etc. Approval of Appendix H is dependant on the State's demonstration under Section 110(l) of the CAA.

## Appendix I Insignificant Activities (Registration) List

The first paragraph of the proposed amendment to **APPENDIX I. INSIGNIFICANT ACTIVITIES REGISTRATION LIST**, should include the following sentence: "In addition, any activity must insure that it does not exceed any standard or limitation contained in 252:100-41, 252:100-42, "Maximum acceptable ambient concentration" or "MAAC" contained in Appendix O of this Chapter for TAC, or any hazardous air pollutant de minimis rate established pursuant to section 112(g) of the Clean Air Act." This will further insure that those activities described on the list comply with any State or federal standards or limitations.

The rule at 40 CFR 70.5(c) requires EPA approval of the State's insignificant activities and emission levels. In EPA's initial action giving interim approval to the Oklahoma operating permits program, one of the conditions given to obtain full approval required revision of the insignificant activities provisions to reflect an insignificant emissions level of one pound per hour of operation, based on potential to emit, or some other level as the State may demonstrate is insignificant with respect to applicable requirements (61 FR 4223). In response, the State promulgated a revised insignificant activities definition in OAC 252:100-8-3(c). The revision defined insignificant activities as those on a list approved by the Administrator and contained in Appendix I of Subchapter 8, or whose actual calendar year emissions do not exceed certain limits. The definition also excluded any activity to which a Federal or State applicable requirement applies. In its action giving final full approval of the Oklahoma operating permits program, EPA found that the emission levels in the revised definition are consistent with the levels in other approved State operating permit programs, however, EPA specifically stated that it was not approving the list of insignificant activities contained in Appendix I. Thus, it appears that under the Oklahoma title V program currently approved by EPA, insignificant activities are limited to the emission levels in OAC 252:100-8-2 and do not include the activities listed in the current version of Appendix I. If EPA is to comment or act on the proposed revisions to Appendix I, our comment and action should include all provisions of Appendix I, and not just proposed revisions.

## Appendix J Trivial Activities (de Minimis) List

The first paragraph of the proposed amendment to **APPENDIX J. TRIVIAL ACTIVITIES (DE MINIMIS) LIST**, should include the following sentence: "In addition, any activity must insure that it does not exceed any standard or limitation contained in 252:100-41, 252:100-42, "Maximum acceptable ambient concentration" or "MAAC" contained in Appendix O of this Chapter for TAC, or any hazardous air pollutant de minimis rate established pursuant to section 112(g) of the Clean Air Act." This will further insure that those activities described on the list comply with any State or federal standards or limitations.

The State may act consistent with EPA guidance addressing activities that EPA considers "trivial" in the sense that they never implicate applicable requirements and exempt such activities from permit applications without the need for prior EPA approval. This list in Appendix J

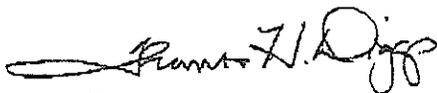
should conform to EPA guidance on "trivial" activities. (See White Paper for Streamlined Development of Part 70 Permit Applications, July 10, 1995).

**Appendix P                    Regulated Air Pollutants**

See discussion of definition of "regulated air pollutants" above.

We appreciate the opportunity to review and comment on the proposed rules prior to the public hearing on April 19, 2006. We have incorporated comments provided by the Air Permitting Section and Office of Regional Council. If you have questions regarding any of these comments, please feel free to contact me or Carrie Paige at (214) 665-6521.

Sincerely yours,



Thomas H. Diggs  
Chief  
Air Planning Section



David Neleigh  
Chief  
Air Permits Section

cc: Heather Bragg, ODEQ  
Morris Moffitt, ODEQ  
Matt Paque, ODEQ  
Max Price, ODEQ  
Joyce Sheedy, ODEQ

**252:100-8-32.2 Exclusion from increment consumption.**

The last three words at the end of the sentence in 252:100-8-32.2(1) should be deleted because they are redundant:

*The following cases are excluded from increment consumption.*

- (1) *Concentrations from an increase in emissions from any stationary source converting from the use of petroleum products, natural gas, or both by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act shall be excluded.*

**Part 11**

**252:100-8-71 Definitions.**

**... "Secondary emissions"**

The last sentence of the definition of "Secondary emissions" should be made consistent with the definition provided in OAC 252:100-1-3:

*252:100-8-71 ... "Secondary emissions may include, but are not limited to, emissions from ships or trains coming to or from the BART-eligible source.*

*252:100-1-3 ... "Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel."*

**252:100-8-75(a).**

There appears to be a typographical error. There are two subparagraphs identified as number (3); both seem to reflect the same requirements and one of them should be deleted.

**252:100-8-75(d).**

The proposed language states that BART installation and operation must occur "no later than five years after the Department has approved the proposed BART". It is unclear how the date of "five years after the Department has approved..." will be determined. It is our understanding that a source will first submit a proposed BART to the Director by December 1, 2006 [252:100-8-75(c)] following which the Director will submit the SIP to EPA for their approval. There appears to be at least four options that could determine the date BART is approved by the Department:

- 1) the date the source submits a proposed BART to the Director;
- 2) the date the SIP is submitted to the EPA;

Joyce Sheedy, ODEQ  
OGE Energy Corp Comments on Proposed Rules OAC 252:100-8  
December 15, 2005

- 3) the date the EPA approves the SIP; or,
- 4) some other date that has not been defined.

The date BART installation and operation must occur should be clarified in the rule and be consistent with Federal requirements that allow five years after EPA approves the SIP before installation and operation are required [*40 CFR 51 Appendix Y Section V.J.*]:

*...(d) The owner or operator of each BART-eligible source subject to BART shall install and operate BART no later than five years after the ~~Department~~ has approved the proposed BART EPA approval date of the proposed SIP.*

OGE Energy Corp appreciates this opportunity to comment on the proposed rule. If you have any questions you may contact me at 553-3439 or by email at [beversjo@oge.com](mailto:beversjo@oge.com).

Sincerely,



Julia Bevers, CIH  
Sr. Regulatory Environmental Analyst

**From:** Worthen, Laura [mailto:Laura.Worthen@benham.com]  
**Sent:** Monday, February 13, 2006 5:36 PM  
**To:** Terrill, Eddie  
**Subject:** BART Rules

Eddie,

I have been reviewing the BART rules we passed at the January meeting and I am concerned there is a mistake in them. The way the proposed OAC 252:100-8-73(c)(4) reads the modeling exemption waiver is limited to sources less than 250 T/yr of NO<sub>x</sub>, SO<sub>2</sub> and PM<sub>10</sub>. This doesn't make sense since sources that emit less than 250 T/yr are not considered BART eligible and the modeling waiver option under the federal rules is intended for sources that emit greater than 250 T/yr of each.

Can you provide clarification if I'm wrong. Kim Wahnee from my office spoke with Phillip Fielder today and he is also puzzled by the wording.

Laura Worthen, P.E.  
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The BENHAM Companies, LLC  
Infrastructure and Environment  
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Phone: (405) 701-3195  
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Laura.Worthen@Benham.com

**SUMMARY OF COMMENTS AND STAFF RESPONSES  
FOR PROPOSED REVISION TO SUBCHAPTER 8, PART 11 VISIBILITY  
PROTECTION STANDARDS (BART)**

**COMMENTS RECEIVED PRIOR TO THE  
JANUARY 18, 2006, AIR QUALITY ADVISORY COUNCIL MEETING**

**Written Comments**

**EPA Region 6** - Letter dated December 2, 2005, signed by Carrie Page for Thomas H. Diggs, was received by FAX on December 5, 2005, from Joe Kordzi

1. **COMMENT:** The ODEQ should clarify whether all 35 of the 51.301 definitions are intended to be adopted, as several definitions (i.e., fugitive emissions, potential to emit, reconstructed, stationary source, etc) are referenced in the proposed rule, but are not defined in the rule. Also, other definitions are not referenced or listed in the rule. ODEQ should clarify if these general definitions have been adopted elsewhere and, if so, it should make reference to this cite.

**RESPONSE:** The terms that are used in Part 11 are defined either in OAC 252:100-8-71, 252:100-1-3, or 252:100-8-31. The terms "adverse impact on visibility", "Federal Land Manager", "major stationary source", "major modification", "natural conditions" and "visibility impairment" are not used in Part 11. They are, however used in Part 7 and are defined in OAC 252:100-8-31. "Agency", "building, structure, or facility", "federally enforceable", "fugitive emissions", "potential to emit", and "stationary source", are defined in 252:100-1-3. "Federal Class I area", "fixed capital cost" "geographic enhancement for the purpose of §51.308", "implementation plan", "Indian tribe or tribe", "installation", "least impaired days", "most impaired days", "reconstruction", "regional haze", "significant impairment" are not used in Part 11 and are, therefore, not defined.

2. **COMMENT:** In Section 252:100-8-70, ODEQ should clarify that "BART-eligible source" means an existing stationary source as defined in Section 8-71.

**RESPONSE:** This change has been made, except the term is "existing stationary facility".

3. **COMMENT:** Section 252:100-8-76, states the BART requirements will be included in a permit modification in a facility's Part 70 permit. It is our understanding that ODEQ's BART Rule will be submitted to EPA for federal approval, making that rule an applicable requirement. As such, the requirements under the rule will then be folded into each source's operating permit. Please clarify that ODEQ will use its significant modification or reopen procedures per 252:100-8-7.1, *et al.* Also, please provide more specific references in the BART rule.

**RESPONSE:** Language has been added to clarify this.

4. **COMMENT:** ODEQ should define "potential to emit" using the language from 51.301: "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

**RESPONSE:** This definition is very similar to the definition of "potential to emit" located in 252:100-1-3. However, the definition in 40 CFR 51.301 requires that any limitations be federally enforceable and the definition in 252:100-1-3 does not. In light of this difference, "potential to emit" as defined in 40 CFR 51.301 has been added to 252:100-8-71.

5. **COMMENT:** ODEQ may wish to change the term "BART applicability" in Section 252:100-8-73(b), to "Whether a source is subject to BART", or similar language, in order to highlight the difference between the term "BART eligibility" and "subject to BART" and to provide a smoother transition between the Section 252 rule and the BART guidelines.

**RESPONSE:** This change has been made.

6. **COMMENT:** Section 252:100-8-73(c)(3) provides that a source can request a waiver to a BART determination if the source demonstrates by modeling that it does not emit any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in a Class I area. ODEQ should clarify this exemption, as discussed on page 39117 of the 7/6/05 rule, is limited to sources at levels between de minimis and 250 tons. In addition, ODEQ may wish to clarify the term "BART demonstration." The following language is suggested:

(c) The owner or operator of a BART-eligible source may request and obtain a waiver from the Department that a BART determination under Section III of Appendix Y of 40 CFR 51 is not required:

- (1) for SO<sub>2</sub> or for NO<sub>x</sub> if the BART-eligible source has the potential to emit less than 40 TPY of such pollutant(s),
- (2) for PM-10 if the BART-eligible source emits less than 15 TPY of such pollutant, or
- (3) if the owner or operator of the BART-eligible source that emits less than 250 tons of a visibility-impairing air pollutant, demonstrates by modeling, in accordance with a protocol approved by the Director, that a source does not emit any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any mandatory Class 1 Federal area.

ODEQ may wish to separate out Section 252:100-8-73(c) into new Section 252:100-8-74 entitled "De Minimis BART Exemption" (and renumber successive paragraphs), in order to emphasize the de minimize aspect of the exemption. In addition, ODEQ is encouraged to submit the modeling protocol contemplated above to EPA Region 6 for concurrence, prior to

submission of the regional haze SIP.

**RESPONSE:** OAC 252:100-8-73(c)(3) has been revised to limit the modeling option to BART-eligible sources with plant-wide emissions of SO<sub>2</sub>, NO<sub>x</sub>, and PM-10 between the "de minimis levels" and 250 TPY.

7. **COMMENT:** "Administrator," which appears in 252:100-8-74(a), should be defined using the definition in 40 CFR 51.100(b):

"Administrator" means the Administrator of the U.S. Environmental Protection Agency (EPA) or an authorized representative.

**RESPONSE:** This term is defined in OAC 252:100-1-3.

8. **COMMENT:** ODEQ may wish to define the term "subject to BART" as a "BART-eligible source that emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any mandatory Class I Federal area." That term can then be substituted for the language in Section 252:100-8-73(a), and woven into Section 252:100-8-74, 252:100-8-75(f), and the first part of 252:100-8-75(a).

**RESPONSE:** Staff has decided not to add a definition of "subject to BART" to the proposed rule.

9. **COMMENT:** As discussed on page 39172 of the 7/6/05 rule, it is important that sources employ techniques that ensure compliance on a continuous basis. Therefore the following clarification to 252:100-8-75(e) is suggested:

The owner or operator of each source subject to BART shall maintain the control equipment required by this Part and establish procedures to ensure such equipment is properly and continuously operated and maintained.

**RESPONSE:** OAC 252:100-8-75(e) has been modified as suggested.

**OG&E Energy Corp** - letter received via e-mail received on December 15, 2005, dated December 15, 2005, from Julia Bevers, CIH, Sr. Regulatory Environmental Analyst (these comments were based on the September 15, 2005, revision of the proposed rule, rather than the December 15, 2005 revision)

10. **COMMENT:** The last sentence in the definition of "secondary emissions" in 252:100-8-71 should be made consistent with the definition provided in OAC 252:100-1-3.

**RESPONSE:** The definition of "secondary emissions" in 252:100-8-71 is specific to Part 11 and has requirements identical to that in the definition of "secondary emissions" in 40 CFR 51.301. DEQ has decided not to move the definition of "secondary emissions" from 252:100-8-1.1 to 252:100-1-3 at this time or to make any substantive change to this definition.

11. **COMMENT:** There appears to be a typographical error in 252:100-8-75(a). There are two

paragraphs identified as number (3). As both seem to reflect the same requirements, one of them should be deleted.

**RESPONSE:** This error has been corrected in the December 15, 2005 revision of Part 11.

12. **COMMENT:** It is unclear how the date that BART must be installed and operated will be determined. 252:100-8-75(d) requires this no later than five years after the Department has approved the proposed BART. It is our understanding that a source will first submit a proposed BART to the Director by December 1, 2006, following which the Director will submit the SIP to EPA for their approval. There appear to be at least four options that could determine the date BART is approved by the Department: 1) the date the source submits a proposed BART to the Director, 2) the date the SIP is submitted to EPA; 3) the date EPA approves the SIP, or 4) some other date that has not been defined. The date BART installation and operation must occur should be clarified in the rule and be consistent with Federal requirements that allow five years after EPA approves the SIP before installation and operation are required (40 CFR 51 Appendix Y Section V). We propose that 252:100-8-75(d) be revised to read "The owner or operator of each BART-eligible source subject to BART shall install and operate BART no later than five years after the EPA approval date of the proposed SIP."

**RESPONSE:** OAC 252:100-8-75(d) requires that BART be installed and operated no later than 5 years after the Department approves it and 252:100-8-76 requires that sources subject to BART shall submit BART requirements to the Director pursuant to 252:100-8-7.2 no later than December 1, 2006. This means that the BART shall be installed and operated no later than 5 years after the Department approves the modification to the Part 70 permit that incorporates BART into that permit. The Department is considering rewording OAC 252:100-8-75(d) to make clear that the BART will be approved by the Department when it is incorporated into the Part 70 permit for the source.

**OG&E Energy Corp** - letter dated January 4, 2006, from Julia Bevers, CIH, Sr. Regulatory Environmental Analyst

13. **COMMENT:** The applicability statement in 252:100-8-70 states that Part 11 applies to any BART-eligible source which may be anticipated to cause or contribute to any visibility impairment at any mandatory Class I Federal area. The words "any visibility impairment" are also used in 252:100-8-73 and 252:100-8-75. Does this really mean "any visibility impairment" no matter how small an impact, or is there some level of significance that applies?

**RESPONSE:** Sections 252:100-8-70, 73, and 75 have revised to include a threshold value for visibility impairment.

14. **COMMENT:** In 252:100-8-71, the definition of "Best Available Retrofit Technology" uses the words "each pollutant" the definition of "existing stationary facility" uses the words "any air pollutant". Since Part 11 applies to visibility protection it would be more accurate to state "each (or any) visibility impairing pollutant" in both instances.

**RESPONSE:** The federal rule in 40 CFR 51.301 uses the words "each pollutant" in the definition of "Best Available Retrofit Technology" and the words "any air pollutant" in the definition of "existing stationary facility". Since the Federal definitions do not narrow the universe of pollutants to SO<sub>2</sub>, NO<sub>x</sub>, PM-10, PM-2.5, VOC, and ammonia, neither do the definitions proposed in the DEQ rule. However, DEQ proposes to revise 252:100-8-73(b) to limit the pollutants considered for BART to NO<sub>x</sub>, SO<sub>2</sub>, PM-10, and PM-2.5.

15. **COMMENT:** In an effort to provide clarity we suggest in 252:100-8-72 that the title of Appendix Y also be included so that the section reads: "Appendix Y, Guidelines for BART Determination Under the Regional Haze Rule..."

**RESPONSE:** Staff agrees and proposed this change.

16. **COMMENT:** Subsections (a) and (b) of 252:100-8-73 appear to be contradictory. Subsection (a) states that each BART-eligible source that emits any air pollutant which may reasonable be anticipated to cause or contribute to any visibility impairment in any Class I Federal area is subject to BART while subparagraph (b) states that whether a source is subject to BART shall be determined using criteria in Section III of Appendix Y of 40 CFR 51 in effect on July 6, 2006. Paragraph (a) should be deleted.

**RESPONSE:** Paragraphs (a) and (b) have been revised and the contradiction no longer exists.

#### **Oral Comments Made At The Council Meeting**

17. **COMMENT:** Bud Ground, PSO. The Department has no plans at this time to develop a trading program. Are you waiting on CENRAP to develop something or for private industry to develop a trading program, or are you just not planning on ever trying to implement a trading program? Would you be opposed to the Bart-eligible sources getting together to discuss trading?

**RESPONSE:** The Department has no plans to develop a trading program, but is not opposed to the stakeholders developing such a program. We will be happy to discuss any cap and trade program that such a group develops.

#### **COMMENTS RECEIVED PRIOR TO THE APRIL 19, 2006, AIR QUALITY ADVISORY COUNCIL MEETING**

BENHAM Companies, LLC – E-mail dated February 13, 2006 from Laura Worthen, P.E., Air Quality Group Manager

18. **COMMENT:** OAC 252:100-8-73(c)(4) reads that the modeling exemption waiver is limited to sources less than 250 TPY of NO<sub>x</sub>, SO<sub>2</sub> and PM-10. This doesn't make sense, since sources that emit less than 250 TPY are not considered BART eligible and the modeling waiver option under the federal rule is intended for sources that emit greater than 250 TPY of

an air pollutant.

**RESPONSE:** This language was added to OAC 252:100-8-73(c)(4) based on an EPA comment. It appeared to make sense when it was added, but the unexpected consequence of this modification prompted staff take another look at paragraph (4). Staff had no intention of excluding any source with emissions of 250 TPY or more of any one pollutant from using modeling to demonstrate that the source does not emit any air pollutant which may reasonably be anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal area and had not interpreted the added language to mean this. Contact with EPA indicated that although this language is in the preamble, it shouldn't be. The last sentence in OAC 252:100-8-73(c)(4) containing the language in question has been deleted.

**OG&E Energy Corp** – Telephone call on March 20, 2006, from David Branecky, Manager, Air Quality

19. **COMMENT:** OAC 252:100-8-73(c)(1) allows the owner or operator of a BART-eligible source to request and obtain a waiver from the requirement for a BART determination for SO<sub>2</sub> or NO<sub>x</sub> if the potential to emit these pollutants is less than 40 TPY of each pollutant. OAC 252:100-8-73(c)(2) allows an owner or operator to request and obtain a waiver from BART determination for PM-10 if PM-10 emissions are less than 15 tons per each. Why is the waiver from SO<sub>2</sub> and NO<sub>x</sub> based on potential to emit and the waiver from PM-10 is based on actual emissions?

**RESPONSE:** A search of the preamble published in the Federal Register on July 6, 2005, indicates that a waiver from the requirement for a BART determination for PM-10 emissions should also be based on potential to emit. The preamble states that "We believe States may, if they choose, exclude from the BART determination process potential emissions from a source of less than forty tons per year of SO<sub>2</sub> or NO<sub>x</sub>, or 15 tons per year for PM-10." Staff proposes to revise OAC 252:100-8-73(c)(2) to indicate that the waiver for PM-10 is also potential to emit.

**Georgia Pacific** – Telephone call on April 5, 2006, from Rob Kaufman

20. **COMMENT:** What is the basis for 252:100-8-75 (g)? Since a BART determination is a one-time evaluation, what is the basis for future BART evaluation requirements?

**RESPONSE:** This is a general plan requirement under the federal regional haze rule at 40 CFR 51.302. State plans must allow for a BART analysis, at such times as determined by the Administrator, when the conditions of 40 CFR 51.302 (c) (V) exist.

**EPA Region 6** – Letter dated April 12, 2006, received by FAX on April 14, 2006, signed by Thomas H. Diggs, Chief, Air Planning Section and David Neleigh, Chief, Air Permits Section.

21. **COMMENT:** OAC 252:100-8-78 states that all modeling required by Part 11 shall be performed in accordance with a protocol approved by the Director. To avoid miscommunication on this issue, we suggest that Oklahoma ensure that any BART modeling

follows EPA-approved protocol. We urge the State to submit such protocols to us for prior approval. This will help ensure that the State does not risk disapproval of its Regional Haze SIP.

**RESPONSE:** We will work with EPA to insure that any BART modeling relied upon in the SIP follows EPA guidance. Since 40 CFR 51, Subpart P – Protection of Visibility does not require States to officially submit modeling protocols to EPA and obtain approval prior to any BART modeling, we do not believe Part 11 of Subchapter 8 needs to be changed to include this requirement.

22. **COMMENT:** Although Appendix Y to 40 CFR Part 51 is properly referenced in OAC 252:100-8-72 and 252:00-8-72(b), Oklahoma may wish to avail itself of other relevant guidance in the preparation of the regional haze SIPs, including the following:
- "Guidance for Tracking Progress Under the Regional Haze Rule," EPA-454/B-03-004, September 2003
  - "Draft Guidance for Demonstrating Attainment of Air Quality Goals for PM2.5 and Regional Haze," January 2, 2001
  - "Guidance for Estimating Natural Visibility Conditions Under the Regional Haze Rule," EPA-454/B-03-005, September 2003.
  - A memo from Lydia Wegman to the Regional Air Directors entitled, "2002 Base Year Emission Inventory SIP Planning: 8-Hour Ozone, PM2.5 and Regional Haze Programs," dated 11/18/2002.
  - "Draft Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program," 11/28/2005.
  - "Visibility Monitoring Guidance," EPA-454/R-99-003, June 1999.
  - "Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter NAAQS and Regional Haze Regulations," EPA-454/R-05-001, August, 2005.
  - "Interim Air Quality Policy on Wildland and Prescribed Fires," April 23, 1998

**RESPONSE:** Although OAC 252:100-8-72 incorporates Appendix Y, Guidelines for BART Determination Under the Regional Haze Rule, of 40 CFR 51 as it existed on July 6, 2006, and 252:100-8-73(a) references Section III of Appendix Y of 40 CFR 51 in effect on July 6, 2005, neither Section 8-72 or subsection 8-73(a) precludes the use of documents such as those listed in Comment #22. DEQ has worked closely with CENRAP in developing protocol and is aware of EPA's requirements.