



WRAP COMMENTS ON EPA's PROPOSAL TO REVISE  
THE BART AND OTHER PROVISIONS OF THE REGIONAL HAZE RULE  
AND TO REPROPOSE THE BART GUIDELINES  
69 Federal Register 25184 – May 5, 2004

July 15, 2004

The Western Regional Air Partnership (WRAP) is pleased to submit the following comments on EPA's proposal to revise the BART and other provisions of the Regional Haze Rule and to repropose the BART guidelines (69 FR 26184 – May 23, 2003). The WRAP is a collaborative effort of Western tribes, Western states, and federal agencies working with business and environmental interests to address regional haze in Western Class I Areas. The following comments reflect general agreement among WRAP participants, but additional comments may be submitted independently by these participants.

The WRAP is currently in the process of evaluating BART and alternative measures so that we can meet the SIP submittal deadlines in the Regional Haze Rule. Until the BART rule and guidelines are finalized, we are operating with a degree of uncertainty regarding how to implement the BART requirements. We therefore urge EPA to finalize the rule and guidelines as soon as possible. If not finalized until April 15, 2005, the latest date by which EPA agreed to sign a final notice in its consent decree with Environmental Defense (68 FR 52922 – September 8, 2003), then some WRAP members may have as little as 18 months to develop SIPs/TIPs based on the final BART rule and guidelines before having to seek state/tribal legislative approval. Finally, the WRAP urges EPA to ensure that the revised rule and guidelines will have no impact on the five state implementation plans already submitted under Section 309 of the Regional Haze Rule.

#### Regulatory Changes

The WRAP agrees with the following proposed changes to 40 CFR 51 Sections 302, 308, and 309:

- ❑ Elimination of the requirement for a committal SIP; and
- ❑ The revised due dates for submitting SIPs and SIP revisions under Sections 308 and 309, respectively. (Under the Tribal Authority Rule, tribes are not subject to implementation plan deadlines but are encouraged by EPA to coordinate their efforts with state time lines.)

The remainder of our comments pertain to the reproposed BART guidelines.

## How to Identify BART-Eligible Sources

The WRAP agrees with the following proposed changes:

- ❑ Clarification that “fossil fuel boilers” refers to boilers burning greater than 50 percent fossil fuels;
- ❑ Clarification that “steam electric plants” refers only to plants that generate electricity for sale;
- ❑ Clarification that states may use SIC code 3341 to identify “secondary metal production” facilities, although the WRAP requests that EPA also identify the NAICS code(s) for this category;
- ❑ Establishment of de minimus levels for pollutants at BART-eligible sources no higher than PSD de minimus levels (40 tpy for SO<sub>2</sub>, NO<sub>x</sub>, and VOC and 15 tpy for PM<sub>10</sub>). If EPA retains the classification of NH<sub>3</sub> as a visibility-impairing pollutant for BART purposes, then the WRAP suggests that its de minimus level be given the same degree of technical, scientific, and administrative consideration as provided to other pollutants.

## BART for NH<sub>3</sub>, VOCs, and PM

EPA is proposing to eliminate ammonia (NH<sub>3</sub>) from its list of visibility-impairing pollutants based on the rationale that as emissions of sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) decrease, the marginal effectiveness of NH<sub>3</sub> controls will also decrease. EPA also cites the uncertainty of the available NH<sub>3</sub> emissions inventory as a basis for not considering this pollutant. The WRAP, however, is confident that improvements are being made to both NH<sub>3</sub> inventories and the understanding of NH<sub>3</sub> in the haze formation process, which is complex and variable across western environments. We may find, for example, that the effectiveness of NH<sub>3</sub> controls relative to SO<sub>2</sub> and NO<sub>x</sub> controls may be quite different for the 20 percent best days than for the 20 percent worst days.<sup>1</sup>

With respect to volatile organic compounds (VOCs), EPA is accepting comment on whether less focus should be placed on VOC emissions in rural areas, as opposed to urban ones. At the same time, EPA notes, “our understanding of VOC emissions and the formation of PM<sub>2.5</sub> is rapidly evolving.”

Although EPA appears to be trying to strike a balance between the significance of NH<sub>3</sub> and VOC emissions from BART-eligible sources and the administrative burden of implementing BART for these emissions, the WRAP is concerned about using current uncertainties and general trends in the state of science to make such broad relaxations when these pollutants are known to contribute to haze. The WRAP is also concerned about any unintended consequences from such relaxations, such as the possibility that the relaxations might limit the ability, if not authority, of states and tribes to address NH<sub>3</sub> emissions through other regulatory provisions, such as reasonably attributable BART and reasonable progress from non-BART sources.

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<sup>1</sup> The reasonable progress provisions of the Regional Haze Rule require no degradation on the 20 percent best visibility days, as well as an improvement on the 20 percent worst visibility days.

The WRAP recommends that EPA consider an alternative approach to balancing administrative and compliance burdens against the likely significance of various pollutants (including PM<sub>10</sub>) from BART-eligible sources. Such an approach should be scientifically-sound, consistent across all pollutants, and not create a poor precedent or exemption status which may limit state discretion as more is learned about the causes of haze and its control options. If the available science and technical analyses demonstrate that emissions of a particular pollutant from BART-eligible sources in a state or region may not be reasonably anticipated to cause or contribute to regional haze, then no further BART analysis for this pollutant would be necessary.<sup>2</sup> Otherwise, the state or tribe would implement RH BART, an alternative program, or possibly an alternative program for another pollutant (e.g., SO<sub>2</sub>, NO<sub>x</sub>, or NH<sub>3</sub>) which compensates for the “exemption” in an equitable way. Since BART-eligible sources appear to emit (possibly much) less than 5 percent of the anthropogenic PM<sub>10</sub> inventory, the WRAP would be interested in applying this approach to PM<sub>10</sub> as well as NH<sub>3</sub> and VOC. The WRAP would also be willing to work with EPA to refine such an approach.

### BART-Eligible Sources in California

California contains over 1,200 permitted stationary sources, but most if not all (including the BART-eligible sources) are likely to be controlled at levels that are already equivalent or superior to BART. The WRAP is therefore developing an alternative and more efficient approach to the one described in the proposed BART guidelines.

Specifically, the WRAP is identifying which types of BART sources (by category) are located in which air pollution control districts, and then examining the rules and/or permit levels applicable to those categories to determine if BART is being satisfied. In most if not all cases, this approach should obviate the need to explicitly identify BART-eligible sources and to conduct further BART analyses. If, however, a BART category is present in a district whose rules may not satisfy BART for one or more pollutants, then the standard approach in the guidelines would be followed. This approach could also be used in other states when addressing BART-eligible source emissions which are well controlled. The WRAP therefore encourages EPA to ensure that the final guidelines allow states and tribes to use an approach such as the one described above to demonstrate compliance with the BART provisions of the Regional Haze Rule.

### How to Determine Which BART-Eligible Sources Should be Subject to BART

The WRAP requests that EPA provide greater clarity in its final guidelines regarding the threshold for exempting an eligible source. Some of the uncertainties identified by the WRAP include the following: Should the 24-hour period be determined on a rolling or daily basis? By natural conditions, does EPA mean modeling in the absence of all other anthropogenic sources, and does it matter what the assumed natural visibility level is (e.g., seven deciviews)? Do natural conditions make sense if the source is not expected to be in existence in 2064?

For sources located more than 50 km from a Class I area, EPA’s proposed guidelines would require the use of the CALPUFF model to exempt a BART-eligible source from being subject to

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<sup>2</sup> Note, this approach is similar in concept to the option in the proposed guidelines to exempt all BART-eligible sources based on a state wide analysis, but in this case on a pollutant-specific and possibly regional basis.

BART. It is the WRAP's position that EPA should allow states and tribes to choose an alternative to CALPUFF in such situations, providing they can demonstrate to EPA that it meets the same level of rigorous analysis as CALPUFF.

In its proposal, EPA recognizes the time-consuming and data-intensive nature of applying CALPUFF to each source under consideration for exemption and therefore requests comment on whether an alternative to CALPUFF modeling (e.g., a CALPUFF screening assessment or an emissions-distance ranking method) would be appropriate in lieu of or as a first step in a full CALPUFF assessments. It is the WRAP's position that states and tribes should have discretion in deciding whether the alternative(s) would be used in lieu of or as a first step in a full CALPUFF assessment. If used in lieu of a full CALPUFF assessment, it is the WRAP's position that the simplified alternative should be no more likely to exempt a source than a full CALPUFF assessment.

#### How to Demonstrate That an Alternative Program Is Better Than BART

In its proposal, EPA allows an alternative program to be implemented in lieu of BART, so long as it provides for greater reasonable progress than BART. The WRAP wishes to confirm that the proposed guidelines in no way limit state and tribal ability to consider all of the reasonable progress factors enumerated in the Clean Air Act, such as costs, energy and non-air quality impacts, etc., in demonstrating greater reasonable progress. Thus, the guidelines should not be construed as limiting a demonstration of greater reasonable progress to only visibility impacts. It is the WRAP's position that consideration of other reasonable progress factors should be allowed, as they could provide additional, compelling evidence for approval of an alternative.

For instance, in its proposal to approve the WRAP's SO<sub>2</sub> milestones and backstop emissions trading program, EPA noted that "the visibility impacts of the trading program are likely to be very similar to those for the range of possible BART results," but found additional reason for approving the Annex on the grounds that it provides for greater environmental certainty (through the use of a cap), would likely reduce overall compliance costs (through use of an emissions trading mechanism), and resulted from a consensus effort which included broad-based participation of many Western stakeholders. The WRAP requests that these same factors be made available for demonstrating greater reasonable progress of an alternative program under Section 308 of the Regional Haze Rule, and that EPA include this option in the final guidelines.

The WRAP appreciates this opportunity to comment on EPA's proposal and would be more than willing, at EPA's request, to clarify or help resolve any issues identified above.