

Texas Commission on Environmental Quality

6 Chapter 116 - Control of Air Pollution by Permits for New Construction or Modification

6M SUBCHAPTER M: BEST AVAILABLE RETROFIT TECHNOLOGY (BART)

As adopted by TCEQ January 10, 2007, effective February 1, 2007 (6-72), submitted to EPA March 19, 2009 (TX-269) as part of the Texas Regional Haze SIP. Approved by EPA January 5, 2016 (81 FR 00295) effective February 4, 2016 (TXd180), Regulations.gov document EPA-R06-OAR-2014-0754 [TX166], Document EPA-R06-OAR-2014-0754-0002 [TX166.002-00], Attachment 1 [TX166-002-01].

NOTE: In the January 5, 2016, Federal Register amendatory language, on page 81 FR 350, the "2/25/2009" date in the "State approval/submittal date" column is the date TCEQ adopted a revision to the State Implementation Plan to address visibility impairment due to regional haze in Class I federal areas. The revision included the BART rules in Chapter 116, Subchapter M, adopted by TCEQ January 10, 2007 (6-72). The revision was submitted to EPA as a SIP revision March 19, 2009 (TX-269, TX-270). The submittals are in the attachments to Regulations.gov document EPA-R06-OAR-2014-0754-0002 [TX166.002-00].

Struck-out text not in SIP.

Outline:

§116.1500. Definitions. 6-72, TXd180

§116.1510. Applicability and Exemption Requirements. 6-72, TXd180

Paragraph 116.1510(d) is NOT part of the approved SIP.

§116.1520. Best Available Retrofit Technology (BART) Analysis. 6-72, TXd180

§116.1530. Best Available Retrofit Technology (BART) Control

Implementation. 6-72, TXd180

§116.1540. Exemption from Best Available Retrofit Technology (BART) Control

Implementation. 6-72, TXd180

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**** tx 116M **** TXd180 **** EPA-R06-OAR-2014-0754 **** TX166 ****w17****

SUBCHAPTER M: BEST AVAILABLE RETROFIT TECHNOLOGY (BART)

~~§§116.1500, 116.1510, 116.1520, 116.1530, 116.1540~~

~~STATUTORY AUTHORITY~~

~~These new sections are adopted under Texas Water Code (TWC), §5.103, concerning Rules, and §5.105, concerning General Policy, which authorize the commission to adopt rules necessary to carry out its powers and duties under the TWC and other laws of the state. The new sections are also adopted under Texas Health and Safety Code (THSC), §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property, including the esthetic enjoyment of air resources by the public and maintenance of adequate visibility; §382.011, concerning General Powers and Duties, which authorizes the commission to establish and control the level of quality to be maintained in the state's air; §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a comprehensive plan for the control of the state's air; §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purpose of the Texas Clean Air Act (TCAA); and §382.051, concerning Permitting Authority of Commission; Rules, which authorizes the commission to issue permits to construct new facilities or modify existing facilities that may emit air contaminants, or to operate a federal source, and to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under the TCAA.~~

~~The adopted new sections implement TWC, §5.103 and §5.105; and THSC, §§382.002, 382.011, 382.012, 382.017, and 382.051.~~

§116.1500. Definitions.

The following terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise. For terms not defined in this section, the definitions contained in 40 Code of Federal Regulations (CFR) §51.301, as effective August 30, 1999, are incorporated by reference.

(1) **Best available retrofit technology (BART)-eligible source**--Any emissions units that comprise any of the following stationary sources of air pollutants, including any reconstructed source, that were not in operation prior to August 7, 1962, and were in existence on August 7, 1977, and collectively have the potential to emit 250 tons per year (including fugitive emissions, to the extent quantifiable) of any visibility-impairing air pollutant:

(A) fossil fuel-fired steam electric plants of more than 250 million British thermal units (BTU) per hour heat 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-fired boilers of more than 250 million BTUs per hour heat input;

(W) petroleum storage and transfer facilities with capacity exceeding 300,000 barrels;

(X) taconite ore processing facilities;

(Y) glass fiber processing plants; and

(Z) charcoal production facilities.

(2) **Visibility-impairing air pollutant**--Any of the following: nitrogen oxides, sulfur dioxide, or particulate matter.

§116.1510. Applicability and Exemption Requirements.

(a) The requirements of this subchapter apply to best available retrofit technology (BART)-eligible sources as defined in §116.1500 of this title (relating to Definitions).

(b) The owner or operator of a BART-eligible source may demonstrate, using a model and modeling guidelines approved by the executive director, that the source does not contribute

to visibility impairment at a Class I area. A BART-eligible source that does not contribute to visibility impairment at any Class I area is not subject to the requirements of §116.1520 or §116.1530 of this title (relating to Best Available Retrofit Technology (BART) Analysis and Best Available Retrofit Technology (BART) Control Implementation). A source is considered to not contribute to visibility impairment if, as demonstrated by modeling performed by the executive director or performed in accordance with the guidelines approved by the executive director, it causes a visibility impairment of less than 0.5 deciviews at all Class I areas. The modeling demonstration must be submitted under seal of a Texas licensed professional engineer and must be received by the commission's Air Permits Division no later than April 30, 2007.

(c) The following BART-eligible sources are not subject to the requirements of §116.1520 or §116.1530 of this title for the indicated pollutant(s). Owners or operators claiming exemption under this subsection shall maintain records sufficient to demonstrate compliance with the exemption criteria, and shall make such records available upon request of personnel from the commission or any local air pollution control agency having jurisdiction.

(1) Any BART-eligible source that has the potential to emit less than 500 tons per year of combined nitrogen oxides (NO_x) and sulfur dioxide (SO₂) and that is located more than 50 kilometers from any Class I area is not subject to BART for NO_x and SO₂.

(2) Any BART-eligible source that has the potential to emit less than 1,000 tons per year of combined NO_x and SO₂ and that is located more than 100 kilometers from any Class I area is not subject to BART for NO_x and SO₂.

(3) Any BART-eligible source that has the potential to emit less than 40 tons per year of NO_x or 40 tons per year of SO₂ is not subject to BART for NO_x or SO₂, respectively. Any

BART-eligible source that has the potential to emit less than 15 tons per year of particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀) is not subject to BART for PM₁₀.

~~(d) BART-eligible electric generating units participating in the Clean Air Interstate Rule Trading Program are not subject to the requirements of §116.1520 or §116.1530 of this title for NO_x and SO₂.~~

(e) Any BART-eligible source that has been screened out by the Texas Commission on Environmental Quality-conducted screening modeling is not subject to the requirements of §116.1520 or §116.1530 of this title, for the specified pollutant(s), if the owner or operator has reviewed the modeling inputs for that source and the executive director receives written certification that the inputs are correct no later than February 28, 2007.

§116.1520. Best Available Retrofit Technology (BART) Analysis.

(a) Except as provided under §116.1510(b), (c), or (d) of this title (relating to Applicability and Exemption Requirements), each best available retrofit technology (BART)-eligible source shall conduct an analysis of emissions control alternatives for all visibility-impairing pollutants. This analysis must include the identification of all available, technically feasible retrofit technologies, and for each technology identified, an analysis of the cost of compliance, the energy and non-air quality environmental impacts, the degree of visibility improvement in affected Class I areas resulting from the use of the control technology, the remaining useful life of the source, and any existing control technology present at the source. Based on this analysis, the owner or operator shall identify an emission control strategy as the prospective BART control strategy for the source. The determination of BART must be made

according to 40 Code of Federal Regulations Part 51, Appendix Y, as effective September 6, 2005.

(b) As part of the BART analysis required in subsection (a) of this section, the owner or operator shall include detailed information documenting the projected hourly and annual emission limits for the selected BART control strategy.

(c) The owner or operator of each BART-eligible source shall submit a completed BART analysis to the commission's Air Permits Division under seal of a Texas licensed professional engineer. The completed BART analysis must be received by the commission's Air Permits Division no later than April 30, 2007.

§116.1530. Best Available Retrofit Technology (BART) Control Implementation.

(a) Each owner or operator of a best available retrofit technology (BART)-eligible source shall install and operate BART-required control equipment no later than five years after the United States Environmental Protection Agency has approved a Regional Haze State Implementation Plan for the State of Texas. Each owner or operator shall maintain the BART-required control equipment and establish procedures to ensure such equipment is properly and continuously operated and maintained.

(b) Prior to any installation of BART-required control equipment, each owner or operator of a BART-eligible source shall comply with the requirements under Subchapter B of this chapter (relating to New Source Review Permits), Subchapter F of this chapter (relating to Standard Permits) or Subchapter H of this chapter (relating to Permits for Grandfathered

Facilities) as applicable to authorize the construction or modification and to establish emission limitations of BART.

§116.1540. Exemption from Best Available Retrofit Technology (BART) Control Implementation.

The owner or operator of any best available retrofit technology (BART)-eligible source may apply for an exemption from the requirement to install, operate, and maintain BART-required control equipment, pursuant to the provisions of 40 Code of Federal Regulations §51.303. Any exemption request under this section requires initial approval from the executive director and final approval from the administrator of the United States Environmental Protection Agency (EPA). Exemption requests submitted to the EPA must be accompanied by written concurrence from the executive director.