

Report to  
Legislative Council Rules Clearinghouse  
NR 432, Wis. Adm. Code  
Natural Resources Board Order No. AM-03-06

Wisconsin Statutory Authority

ss. 227.11(2)(a), 227.14(1m) and 285.11(1) and (6), Stats., interpreting s. 285.11(6), Stats. The State Implementation Plan is also being revised.

Federal Authority

40 CFR Part 97

Court Decisions Directly Relevant

None

Analysis of the Rule - Rule Effect - Reason for the Rule

The Clean Air Interstate Rule (CAIR) is a federal rule promulgated by the U.S. EPA to reduce the interstate transport of ozone, fine particles and the precursors to those pollutants, NO<sub>x</sub> and SO<sub>2</sub>. To reduce interstate transport of the pollutants, the U.S. EPA established emission budgets for NO<sub>x</sub> and SO<sub>2</sub> for 28 states in the eastern United States. The CAIR allows the affected states flexibility to meet the budgets in various ways and to capture a mechanism to meet budgets through a state implementation plan (SIP). To aid in compliance, U.S. EPA created an interstate trading program that establishes emissions budgets for power plants and three separate power plant emission trading structures addressing annual NO<sub>x</sub> emissions, ozone season NO<sub>x</sub> emissions, and annual SO<sub>2</sub> emissions. The Department proposes that the state participate in the federal CAIR trading programs, but the Department also proposes some discretionary alterations to the federal CAIR model trading rule regarding the allocation of the NO<sub>x</sub> allowances within the state. The CAIR specifically allows for state discretion in this area.

Proposed ch. NR 432 will specify the process for allocation of NO<sub>x</sub> allowances for the NO<sub>x</sub> Annual Trading Program and the NO<sub>x</sub> Ozone Season Trading Program. Proposed ch. NR 432 also specifies that the remaining elements of the NO<sub>x</sub> trading programs will be implemented and administered by the U.S. EPA. The entirety of the SO<sub>2</sub> trading program will be implemented and administered by the U.S. EPA and no state rules are proposed for addressing SO<sub>2</sub> emissions under the CAIR program.

Agency Procedures for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review.

Description of any Forms (attach copies if available)

None

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Submitted on September 7, 2006