

## Clearinghouse Rule 07-017

### ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD CREATING RULES

The Wisconsin Natural Resources Board proposes an order to **create** NR 433 and 484.04(11m) relating to the identification of sources subject to the Best Available Retrofit Technology (BART) requirements for visibility protection and the determination of BART for those sources.

AM-04-06

#### Summary Prepared by the Department of Natural Resources

1. **Statute interpreted:** s. 285.11(6), Stats. The State Implementation Plan developed under s. 285.11(6), Stats., is revised.
2. **Statutory authority:** ss. 227.11(2)(a), 227.14(1m), and 285.11(1) and (6), Stats.

3. **Explanation of agency authority:**

Section 227.11(2)(a), Stats., gives state agencies general rule-making authority. Section 227.14(1m), Wis Adm. Code, allows state agencies to use the format of federal regulations if the proposed rule is to be administered in a manner identical or similar to the federal rule. Section 285.11(1) Stats., gives the Department the authority to promulgate rules to implement, and consistent with, ch. 285, Stats. Section 285.11(6), Stats., authorizes the Department to develop and revise a state implementation plan for the prevention, abatement and control of air pollution.

4. **Related statute or rule:**

The proposed BART-rule would require reductions of SO<sub>2</sub>, NO<sub>x</sub>, and particulate matter emissions from certain stationary sources such as power plants and industrial sources by 2014 to control regional haze. The affected sources may also be subject to other rules that require emission limitations for one or more of these air pollutants. These rules are the clean air interstate rule (CAIR), the requirements for reasonably available control technology (RACT), and the maximum achievable control technology (MACT) standards.

The U.S. EPA issued CAIR on March 10, 2005 requiring reductions in emissions of SO<sub>2</sub> and NO<sub>x</sub> from electric generating power plants in many eastern states including Wisconsin by 2015. The rule imposes caps on emissions from the electricity generating power plants in the affected states and establishes an

EPA-administered cap-and-trade program which states may participate in as a means to meet the CAIR requirements. The Department has already proposed a rule to participate in the cap-and-trade program. According to the regional haze regulations, a state that opts to participate in the CAIR cap-and-trade program need not require power plants to install, operate and maintain BART for SO<sub>2</sub> and NO<sub>x</sub>. Based on an EPA analysis, controls for power plants subject to CAIR will result in more visibility improvement in natural areas than BART would have provided. Consequently, the Department is proposing to allow electric generating power plants to demonstrate that their emission reductions to comply with CAIR satisfy their BART requirements for SO<sub>2</sub> and NO<sub>x</sub> emissions.

The RACT requirements are NO<sub>x</sub> emission limitations on major stationary sources which are located in the moderate ozone non-attainment areas, i.e., the 7 counties in southeastern Wisconsin. The Department is preparing a rule to require a RACT level of control on the affected sources to be applied by 2009. It can be expected that a source subject to both RACT and BART would consider a NO<sub>x</sub> control measure that is effective enough to comply with both requirements.

In Wisconsin, the sources subject to BART are electric generating power plants or pulp and paper facilities, which are also source categories subject to MACT standards. Since a source of particulate matter emission needs to be well controlled to meet the stringent MACT standards, it is unlikely that the BART determination would result in a more stringent particulate matter emission control than what is required for the MACT standards. Therefore, it is anticipated that the controls installed to meet the MACT standards would likely satisfy the BART level of control.

The consent of the Attorney General and the Revisor of Statutes will be requested for the incorporation by reference of federal regulations and appendices to federal regulations as required under s. 227.21(2)(b), Stats.

#### **5. Plain language analysis:**

The U.S. EPA published the final "regional haze regulations and guidelines for Best Available Retrofit Technology (BART) determinations" on July 6, 2005 in the Federal Register (70 FR 39104). The federal regulations require all states, including Wisconsin, to revise their State Implementation Plans (SIPs) to address visibility impairment in Mandatory Class I Federal Areas (Class I Areas), which are specific national parks and wilderness areas across the country. The deadline for the SIP submittal is December 17, 2007.

One of the provisions of the federal regulations is the application of BART to certain existing stationary sources which may reasonably be anticipated to cause or contribute to any impairment of visibility in Class I Area. The state of Wisconsin must submit an implementation plan containing emission limitations representing BART and schedules for compliance for all sources subject to BART.

The Department is proposing this rule to comply with the BART provision of the

federal regional haze regulations. The rule applies to BART-eligible sources which are major stationary sources from 26 identified source categories that have the potential to emit 250 tons per year or more of any visibility-impairing air pollutant, and were put in place between August 7, 1962 to August 7, 1977. Those BART-eligible sources that may reasonably be anticipated to cause or contribute to any impairment of visibility in any Class I Area are "subject to BART". A source subject to BART needs to go through a BART determination process, which is an engineering analysis to determine the level of emission control that represents BART and the schedule for compliance with BART. The BART determination must be based on a source-specific analysis of the best systems of continuous emission control technology available taking into account:

- The cost of compliance.
- The energy and non-air quality environmental impacts of compliance.
- Any pollution control equipment in use at the source.
- The remaining useful life of the source.
- The degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

This rule would establish that the Department identifies the sources subject to BART and that the sources conduct the BART analyses. Based on these analyses, the Department would determine the BART level of control and the compliance schedule for each source.

The regional haze regulation allows states to implement alternative programs in lieu of BART, if the alternative program achieves greater reasonable progress than BART does. EPA has determined that the Clean Air Interstate Rule (CAIR) achieves greater progress than BART and may be used by states as a BART substitute. Therefore the Department is proposing to allow BART-eligible sources that are subject to CAIR to demonstrate that their compliance with CAIR meets their BART requirements for SO<sub>2</sub> and NO<sub>x</sub> emissions.

#### **6. Summary of, and comparison with, existing or proposed federal regulation:**

The Department is proposing this rule to address the federal requirements in the regional haze regulation published in the July 6, 2005 Federal Register (70 FR 39104). The U.S. EPA requires all states, including Wisconsin, to develop programs to assure reasonable progress toward meeting the national goal of preventing any future, and remedying any existing, impairment of visibility in mandatory Class I Federal Areas which impairment results from manmade air pollution. The application of Best Available Retrofit Technology (BART) on certain stationary sources is one of the core requirements for the implementation plan for regional haze. The purpose of the proposed rule is to establish the procedures and criteria for identifying sources subject to BART and for determining BART for those sources.

#### **7. Comparison with rules in adjacent states:**

All states, including Wisconsin and the adjacent states, are required to

submit an implementation plan containing the BART requirements by December 17, 2007. According to the information available to the Department, none of the adjacent states have finalized their implementation plan for BART yet. Like Wisconsin, most states are currently in the rule development stage. However, Minnesota has published some information on the intended approach for the BART rule. Based on the available information, it seems that the core elements of the BART rule in Minnesota are similar to those proposed by the Department. These are:

- Both states intend to identify the sources subject to BART by conducting air quality modeling.
- Both states consider the following visibility impairing pollutants in their BART rule: sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>) and particulate matter (PM). Other visibility impairing pollutants, volatile organic compounds (VOC) and ammonia (NH<sub>3</sub>), have minor impacts and are not addressed in the rule.
- Both states intend to use the EPA guidelines for the BART determination for all sources subject to BART.
- The BART rule in both states would require facilities to conduct the BART determination analyses.

One difference between Wisconsin and Minnesota is in the emission trading or averaging possibilities considered in the BART rule. Wisconsin would allow trading or averaging between all boilers at a facility including boilers not subject to BART. Minnesota allows averaging only among the BART affected sources at a facility.

Illinois and Michigan have not proposed their rules yet, so there is no basis for comparing their programs to Wisconsin's.

Iowa passed a rule for identification of sources subject to BART in March 2005 prior to publication of the final federal regional haze regulation. The Iowa rule does not address the actual BART determination process.

#### **8. Summary of factual data and analytical methodologies:**

Since the proposed rule is based on the requirements which are in the federal regional haze rule, the Department is relying on the factual data and analytical methodologies used by U.S. EPA to support the federal rule-making. The corresponding federal regulations were published on July 6, 2005 in the Federal Register (70 FR 39104).

#### **9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:**

Since no small businesses are affected by the proposed rule, no analysis was performed. An economic impact report was not requested.

#### **10. Effect on small business:**

There is no known effect on small business due to the proposed BART rule. None

of the BART-eligible sources qualify as a small business.

**11. Agency contact person:**

Farrokh Ghoreishi, 608-264-8868, farrokh.ghoreishi@wisconsin.gov

**12. Place where comments are to be submitted and deadline for submission:**

Written comments may be submitted at the public hearing or by regular mail, fax or email to:

Farrokh Ghoreishi  
Department of Natural Resources  
Bureau of Air Management  
PO Box 7921  
Madison WI 53707  
Fax: (608) 267-0560  
farrokh.ghoreishi@wisconsin.gov

Written comments may also be submitted to the Department using the Wisconsin Administrative Rules Internet Web site at <http://adminrules.wisconsin.gov>.

Hearing date: To be determined.

**Note:** The consent of the Attorney General and the Revisor of Statutes will be requested for the incorporation by reference in ch. NR 484 of federal guidelines contained in 40 CFR part 51, Appendix Y.

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SECTION 1. Chapter NR 433 is created to read:

CHAPTER NR 433

PROTECTION OF VISIBILITY BY APPLICATION OF BEST AVAILABLE RETROFIT TECHNOLOGY

**NR 433.01 Applicability; purpose.** (1) **APPLICABILITY.** The provisions of this chapter apply to facilities having one or more BART-eligible sources.

(2) **PURPOSE.** This chapter is adopted under s. 285.11, Stats., to establish the procedures for controlling emissions of air pollutants from BART-eligible sources which may reasonably be anticipated to cause or contribute to any visibility impairment in any mandatory class I federal area.

**NR 433.02 Definitions.** The definitions contained in ch. NR 400 apply to the terms used in this chapter. In addition, the following definitions apply to the terms used in this chapter:

(1) "BART-eligible source" means any of the stationary sources of air pollutants listed in this subsection, including any reconstructed source, which was not in operation prior to August 7, 1962, and was in existence on August 7, 1977, and which has the potential to emit 250 tons per year or more of any visibility impairing air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, shall be counted. The stationary sources are as follows:

(a) Fossil fuel-fired steam electric plants of more than 250 million British thermal units 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 boilers of more than 250 million British thermal units 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.

(z) Charcoal production facilities.

(2) "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 visibility impairing pollutant which is emitted by a stationary source. The emission limitation shall 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 the technology.

(3) "Deciview" means a metric for visibility impairment. A deciview is a haze index derived from calculated light extinction that is designed so that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The haze index in units of deciviews is calculated as follows:

$$\text{Haze index deciview} = 10 \ln_e (b_{\text{ext}}/10 \text{ Mm}^{-1})$$

where:

$b_{\text{ext}}$  is the atmospheric light extinction coefficient, expressed in inverse megameters ( $\text{Mm}^{-1}$ )

(4) "In existence" means that the owner or operator obtained all necessary preconstruction approvals or permits required by federal or state air pollution emissions and air quality laws or regulations and either began, or caused to begin, a continuous program of physical on-site construction of the facility, or entered into binding agreements or contractual obligations,



which could not 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.

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

(6) "Integral vista" means a view perceived from within a mandatory class I federal area of a specific landmark or panorama located outside the boundary of the mandatory class I federal area.

(7) "Least impaired days" means the average visibility impairment, measured in deciviews, for the 20% of monitored days in a calendar year with the lowest amount of visibility impairment.

(8) "Major stationary source" has the meaning given in s. NR 405.02(22).

(9) "Mandatory class I federal area" means any area identified in 40 CFR part 81, Subpart D.

(10) "Potential to emit" means the maximum capacity of a stationary source to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit an air 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.

(11) "Secondary emissions" means emissions which occur as a result of the construction or operation of an existing stationary facility but do not

come from the existing stationary facility. Secondary emissions may include, but are not limited to, emissions from ships or trains coming to or from the existing stationary facility.

(12) "Visibility impairing air pollutant" means SO<sub>2</sub>, NO<sub>x</sub> or particulate matter. Particulate matter smaller than 10 microns in diameter (PM<sub>10</sub>) may be used as the indicator for particulate matter.

(14) "Visibility impairment" means any humanly perceptible change in visibility, perceived as light extinction, visual range, contrast or coloration, from that which would have existed under natural conditions. Natural conditions include naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.

**NR 433.03 Identification of sources subject to BART.** (1) On or before 90 days after the effective date of this rule ...[revisor insert date], the department shall identify all BART-eligible sources that may reasonably be anticipated to cause or contribute to any visibility impairment in any mandatory class I federal area according to the criteria and procedures in this section and the applicable guidelines in 40 CFR part 51, Appendix Y, incorporated by reference in s. NR 484.04(11m). These sources are identified as sources subject to BART. The department may request in writing information that is required for the identification of sources subject to BART from the owner or operator of a BART-eligible source. The owner or operator of the source shall submit to the department true, accurate and complete information in writing within a time period specified by the department in its request.

(2) The department shall identify sources subject to BART by using an air quality modeling analysis to estimate the individual contribution of each BART-eligible source to visibility impairment in a mandatory class I federal area. The department shall use an air quality model approved by the EPA and conduct the air quality modeling analysis according to procedures that include all of the following:

(a) The department shall apply the air quality model to each BART-eligible source for calendar years 2002, 2003 and 2004.

(b) The individual contribution to visibility impairment shall be calculated on a daily basis, using emission rates reflecting steady-state operating conditions during periods of high capacity utilization of the source. These emission rates shall reflect either the maximum actual emission rates provided by the owner or operator, if available and approved by the department, or the source's potential to emit. The maximum actual emission rates shall be the 24-hour average actual emission rate from the highest emitting day of the meteorological period modeled, unless this rate reflects periods of start-up, shutdown or malfunction. The source's potential to emit shall be averaged over 24 hours or shorter periods of time.

(3) A BART-eligible source shall be considered subject to BART if the air quality modeling analysis conducted under sub.(2) demonstrates that the source contributes to visibility impairment in any mandatory class I federal area. A source shall be considered to contribute to visibility impairment if for any year modeled the 98<sup>th</sup> percentile daily average change in visibility impairment from the source is equal to or greater than 0.5 deciviews, as compared to natural visibility conditions. Natural visibility conditions for

each mandatory class I federal area shall be the average natural visibility impairment of the 20% best visibility days, or with department approval of a request made by the source owner or operator, the annual average natural visibility impairment for the class I area.

(4) On or before 90 days after the effective date of this rule ...[revisor insert date], the department shall provide written notice to the owner or operator of each facility which the department has determined includes a source that is subject to BART.

**NR 433.04 BART analyses.** (1) No later than 6 months after the department sends a notification under s. NR 433.03(4) that a source is subject to BART, the owner or operator of the source shall conduct and submit to the department a BART analysis for all emission units which comprise the BART-eligible source. The BART analysis shall contain all information necessary to evaluate all available retrofit control technologies for each unit and to determine the level of control that is BART for the unit, including all of the following:

(a) A list of all emission units which comprise the BART-eligible source within the facility.

(b) All available retrofit emission control technologies for each visibility impairing pollutant emitted by each unit subject to BART at the facility.

(c) An evaluation of each control technology identified in par. (b), considering all of the following factors:

1. The costs of compliance.
2. The energy and non-air quality environmental impacts of compliance.

3. Any existing pollution control technology in use at the source.
4. The remaining useful life of the source.
5. The degree of improvement in visibility which may reasonably be anticipated to result from the use of the technology.

(d) Procedures for an initial performance test and for demonstrating compliance with the emission limits representing BART on a continuous basis including continuous emission monitoring, recordkeeping, and reporting according to the applicable requirements of ch. NR 439 or 440.

(2) The BART analysis shall be conducted pursuant to the applicable guidelines in 40 CFR part 51, Appendix Y, incorporated by reference in s. NR 484.04(11m).

(3) If the owner or operator of a BART-eligible source proposes to use the emissions trading program under s. NR 433.06 for compliance with this section, the owner or operator shall submit to the department the emissions trading plan required under s. NR 433.06(1).

(4) If the BART analysis for a source subject to BART demonstrates that all control technologies are technologically or economically infeasible, the owner or operator of the source shall propose in the BART analysis a design, equipment, work practice, or other operational standard, or combination thereof, to meet the BART requirements. If a design, equipment, work practice or operational standard is proposed, the analysis shall include a calculation of the emission reductions to be achieved by implementation of the design, equipment, work practice or operation, and shall provide the method for demonstrating compliance.

(5) The owner or operator of a BART-eligible source shall certify in writing that any information submitted to the department under this section is true, accurate, and complete, based on information and belief formed after reasonable inquiry.

(6) The department may request in writing additional information necessary to evaluate the BART analysis. The owner or operator of the BART-eligible source shall provide the information in writing within the period of time specified by the department in the request.

(7) If a fossil fuel-fired steam electric plant subject to BART is subject to the emission reduction requirements of the clean air interstate rule (CAIR) under 40 CFR part 97, the owner or operator of the fossil fuel-fired electric plant may demonstrate that the emission reductions which the plant achieves for compliance with CAIR constitute compliance with the BART requirements for SO<sub>2</sub> and NO<sub>x</sub> emissions under this chapter.

**NR 433.05 Determination of BART requirements. (1) PRELIMINARY**

DETERMINATION. (a) The department shall make a preliminary determination of the BART requirements for each emission unit which comprises the sources subject to BART based on the information in the BART analysis required under s. NR 433.04 and other available information. The preliminary BART determination for each facility shall include all of the following elements:

1. A list of all emission units which comprise the source subject to BART.

2. A determination of the BART requirements for each emission unit.

3. Requirements for initial performance tests and for demonstrating compliance with the emission limits representing BART on a continuous basis, including emission monitoring, recordkeeping and reporting.

4. The requirement that the owner or operator of each source subject to BART shall install and operate BART as expeditiously as practicable, but in no event later than December 31, 2013.

5. The requirement that the owner or operator of each source subject to BART shall maintain the control equipment required by the BART determination and establish procedures to ensure the equipment is properly operated and maintained.

(b) The determination of BART shall be based on the department's review of the analysis of the best system of continuous emission control technology available and associated emission reductions achievable for each unit subject to BART at the facility. The department shall take 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 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 use of the technology.

(c) The determination of BART for all emission units which comprise the source subject to BART shall be made pursuant to the applicable guidelines in 40 CFR part 51, Appendix Y, incorporated by reference in s. NR 484.04(11m).

(d) If the department determines that it is technologically or economically infeasible for a source to install and operate the available control technologies, it may instead prescribe a design, equipment, work

practice, or other operational standard, or combination thereof to meet the BART requirements. The department shall estimate the emission reduction to be achieved by implementation of the design, equipment, work practice or operation, and shall prescribe the method for demonstrating compliance.

(e) If a fossil fuel-fired steam electric plant subject to the clean air interstate rule (CAIR) requirements under 40 CFR part 97 demonstrates that the reductions achieved through compliance with the CAIR requirements constitute compliance with the SO<sub>2</sub> and NO<sub>x</sub> requirements under this chapter, the determination of BART shall be conducted for particulate matter emissions only.

(f) The department shall incorporate the results of its preliminary BART determination in a draft revision to the source's air quality permit.

(2) EXCEPTION. The department may not make a determination of BART for SO<sub>2</sub> or for NO<sub>x</sub> if the potential to emit of a BART-eligible source is less than 40 tons per year of the respective pollutant; or for particulate matter, if the potential to emit PM<sub>10</sub> of a BART-eligible source is less than 15 tons per year.

(3) PUBLIC NOTICE AND COMMENT. The department shall notify the owner or operator of the source subject to BART and the EPA of its preliminary BART determination and shall publish a notice of its preliminary BART determination and the draft permit conditions for public comment. The department shall provide at least 30 days for submittal of written comments.

(4) FINAL DETERMINATION. Following the close of the public comment period and after consideration of all public comments, the department shall



make a final BART determination and issue a revision to the facility's air quality permit which includes the BART requirements.

(5) REVISION. The department may revise the BART requirements in the air quality permit, if the EPA requires a revision of the BART requirements or the department determines that the revision of the existing BART requirements is justified based on safety, health, environmental or excessive cost impacts which the original BART analysis and BART determination failed to take into account. The department shall provide notice and offer an opportunity for public comment on any proposed revision under this section.

**NR 433.06 Emissions trading program for boilers.** (1) The owner or operator of a facility, having at least one source subject to BART, may propose an emissions trading program if the program achieves an improvement in visibility in the mandatory class I federal areas greater than would be achieved through the installation and operation of BART on each boiler subject to BART. The owner or operator of a boiler subject to BART proposing to use an emissions trading program shall submit an emissions trading plan to the department prior to the department's BART determination. The plan shall be subject to department approval and meet the following criteria:

(a) The plan shall contain the proposed control strategy and the method of demonstrating compliance.

(b) The plan shall achieve either of the following:

1. For each visibility impairing pollutant subject to the trading plan, an emission reduction at least 10% greater than would be achieved through the installation and operation of BART on each boiler subject to BART.

2. An improvement in visibility in the mandatory class I federal areas greater than or equal to the visibility improvement achieved under subd. 1. The improvement in visibility shall be demonstrated by comparing the 20% best days of visibility and the 20% worst days of visibility in at least the 4 mandatory class I federal areas nearest to the source and for each calendar year 2002, 2003 and 2004. The daily visibility shall be determined using an air quality model approved by the EPA for predicting visibility impacts from single emission sources and conducting the air quality modeling analyses according to the guidelines in 40 CFR part 51, Appendix Y, incorporated by reference in s. NR 484.04(11m).

(c) Trading shall be between all boilers located on the same property.

(d) Boilers participating in the trading shall achieve the required emission reductions on a continuous basis and shall be subject to continuous emission monitoring, which meets the applicable requirements under ch. NR 439 or 440.

(e) The plan shall specify the monitoring devices and procedures which will be used to provide information sufficient to assess the performance of the proposed emission control measures and to quantify on an hourly average basis the mass flow of each pollutant in pounds per hour and the emission rate of each pollutant in pounds per mmBtu heat input for each boiler participating in the trading. The procedures and methods required for compliance demonstration and for performance testing shall be according to the applicable requirements of ch. NR 439 or 440.

(f) Excess emission reductions, for the purposes of meeting the BART requirements, shall be emission reductions beyond those required to meet all

state and federal requirements and may not include emission reductions used in any other banking or trading program.

(2) If the department approves the emissions trading plan, the department shall propose to revise the source's air quality permit to include the requirements of the emissions trading plan in lieu of the BART requirements for the boilers identified in the emissions trading plan.

(3) After the department incorporates the emissions trading plan in the revised air operation permit, the owner or operator of the BART-eligible source shall comply with the requirements of the emissions trading plan for the boilers identified in the plan.

SECTION 2. NR 484.04(11m) in Table 2 is created to read:

NR 484.04(11m)	40 CFR part 51, Appendix Y	Guidelines for BART Determinations Under the Regional Haze Rule	NR 433.03(1) NR 433.04(2) NR 433.05(1)(c)
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SECTION 3. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

SECTION 4. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on \_\_\_\_\_.

Dated at Madison, Wisconsin \_\_\_\_\_.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Scott Hassett, Secretary

(SEAL)