

NATURAL RESOURCES BOARD AGENDA ITEM

SUBJECT: Hearing authorization for AM-32-05, proposed rules revising chapters NR 440 and 446 to reduce mercury air emission from coal-fired electric generating units.

FOR: JANUARY 2007 BOARD MEETING

TO BE PRESENTED BY: Jon Heinrich, Environmental Analysis Section Chief, Bureau of Air Management

SUMMARY: This proposal was developed in response to a January 2007 Citizen Petition requesting revisions to Chapter NR 446 and to the federal Clean Air Mercury Rule (CAMR). The CAMR is a regulation promulgated by the United States Environmental Protection Agency (EPA). The proposed rules in AM-32-05 would allow the Department to implement the federal Clean Air Mercury Rule (CAMR) in Wisconsin. The CAMR requires the reduction of mercury emissions from new and existing coal-fired electrical generating units through a declining cap on mercury emissions expressed as annual state budgets in two phases, 2010 and 2018. The Wisconsin annual budget for 2010 to 2017 is 1,780 pounds of mercury which declines to 702 pounds of mercury in 2018 and every year thereafter. State mercury budgets are a permanent cap regardless of growth in the electrical sector. In addition, new sources (those that are constructed or modified after January 30, 2004) must meet a standard of performance (pounds of mercury per megawatt-hour) and any mercury emissions from these new sources must also be accommodated under the state mercury cap.

EPA gives states the choice of whether to use their national cap and trade program to achieve compliance with the CAMR or decline interstate trading and develop a state specific approach to meet federal mercury emission reduction requirements. Under the EPA's cap and trade approach, mercury allowances can be freely traded nationwide among electric utilities to meet annual mercury reduction requirements. The rule revisions proposed in NR 446 decline participation in the national trading program. These rule revisions also include provisions that commit the Department to adopting rules by June 30, 2010 that would require all coal-fired electrical generating units affected by the CAMR to reduce their mercury emissions 90% by January 1, 2020.

Public comments are expected on several issues. The proposed rules do not allow participation in the national emission trading program. In addition, the methodology used to allocate mercury allowances to affected coal-fired electrical generating units differs from the federal model rule and the proposed rules commit to future rulemaking that would require a 90% mercury emission reduction by 2020. Interested groups or parties include electric utilities, major electricity users, the Public Service Commission, Department of Administration, Department of Commerce and the general public.

RECOMMENDATION: That the Board authorize the Department to hold hearings on AM-32-05.

LIST OF ATTACHED MATERIALS:

- | | | | | | |
|----|-------------------------------------|---|-----|-------------------------------------|----------|
| No | <input type="checkbox"/> | Fiscal Estimate Required | Yes | <input checked="" type="checkbox"/> | Attached |
| No | <input checked="" type="checkbox"/> | Environmental Assessment or Impact Statement Required | Yes | <input type="checkbox"/> | Attached |
| No | <input type="checkbox"/> | Background Memo | Yes | <input checked="" type="checkbox"/> | Attached |

APPROVED:

Bureau Director, Kevin Kessler

Date

Administrator, Al Shea

Date

Secretary, Scott Hassett

Date

cc: Laurie Ross - AD/5
Carol Turner - LS/5

K. Kessler - AM/7
R. Eckdale - AM/7 (6)

Jon Heinrich - AM/7
Michael Scott - LS/5

STAFF REVIEW - DNR BOARD AGENDA ITEM

REMINDER

Have the following questions been answered under the summary section of this form?

- -Why is the rule needed?
- -What are the significant changes?
- -What are the key issues/controversies?
- -What was the last action of the Board?

LIST OF ATTACHED REFERENCE MATERIAL REQUIRED FOR RULE PROPOSALS:

Hearing authorization:

Background memo (if needed)*
Fiscal Estimate
Environmental Assessment (if needed)
Rule

Final adoption:

Background Memo (if needed)*
Response Summary
Fiscal Estimate
Environmental Assessment (if needed)
Rule

*If all the questions listed in the REMINDER section above can be adequately summarized on the Green Sheet (and a second sheet if needed), the Background Memo may be omitted.

Unit	Reviewer	Date	Comments
Environmental Analysis and Review			
Management and Budget			
Legal Services -Program Attorney -Carol Turner			
Other (if applicable)			