

revised Section 5–221 “Prohibition of Potentially Polluting Materials in Fuel,” and incorporate this regulation into the Vermont SIP.

#### V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve State choices, provided that they meet the criteria of the Clean Air Act.

Accordingly, this proposed action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
  - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
  - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
  - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
  - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
  - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249,

November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 et seq.

Dated: February 13, 2012.

#### H. Curtis Spalding,

*Regional Administrator, EPA Region 1.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R05–OAR–2012–0059; FRL–9638–9]

#### Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Regional Haze

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve the Wisconsin State Implementation Plan addressing regional haze for the first implementation period. Wisconsin submitted its regional haze plan on January 18, 2012. The Wisconsin regional haze plan addresses Clean Air Act (CAA) and Regional Haze Rule (RHR) requirements to remedy any existing and prevent future anthropogenic visibility impairment at mandatory Class I areas, notably including establishing limits requiring Best Available Retrofit Technology (BART) for the Georgia-Pacific facility in Green Bay. We are proposing to approve fully the Wisconsin regional haze plan.

**DATES:** Comments must be received on or before March 29, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2012–0059, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *Email:* [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov).
3. *Fax:* (312) 692–2450.
4. *Mail:* Pamela Blakley, Chief, Control Strategies Section, Air Programs

Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA–R05–OAR–2012–0059. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.regulations.gov) Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to section I of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly

available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Matt Rau, Environmental Engineer, at (312) 886-6524 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, [rau.matthew@epa.gov](mailto:rau.matthew@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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**I. What should I consider as I prepare my comments for EPA?**

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

**II. What is the background for EPA’s proposed action?**

*A. The Regional Haze Problem*

Regional haze is visibility impairment that is produced by a multitude of sources and activities located across a broad geographic area and that emit fine particles (PM<sub>2.5</sub>) (e.g., sulfates, nitrates, organic particles, elemental carbon, and soil dust) and its precursors—sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), and in some cases ammonia (NH<sub>3</sub>) and volatile organic compound (VOCs). Fine particle precursors react in the atmosphere to form fine particulate matter. Aerosol PM<sub>2.5</sub> impairs visibility by scattering and absorbing light. Visibility impairment reduces the clarity and distance one can see. PM<sub>2.5</sub> can also cause serious health effects and mortality in humans and contributes to environmental effects such as acid deposition and eutrophication.

Data from the existing visibility monitoring network, the “Interagency Monitoring of Protected Visual Environments” (IMPROVE) monitoring network, show that visibility impairment caused by air pollution occurs virtually all the time at most national park and wilderness areas. The average visual range, the distance at which an object is barely discernable, in many Class I areas<sup>1</sup> in the Western United States is 100–150 kilometers. That is about one-half to two-thirds of the visual range that would exist without anthropogenic air pollution. In the Eastern and Midwestern Class I areas of the United States, the average visual range is generally less than 30 kilometers, or about one-fifth of the visual range that would exist under estimated natural conditions. See 64 FR 35715 (July 1, 1999).

<sup>1</sup> Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). In accordance with section 169A of the CAA, EPA, in consultation with the Department of the Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas which they consider to have visibility as an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to “mandatory Class I Federal areas.” Each mandatory Class I Federal area is the responsibility of a Federal Land Manager. 42 U.S.C. 7602(i). When we use the term “Class I area,” we mean a “mandatory Class I Federal area.”

*B. Requirements of the CAA and EPA’s RHR*

In section 169A of the 1977 Amendments to the CAA, Congress created a program for protecting visibility in the nation’s national parks and wilderness areas. This section of the CAA establishes as a national goal the “prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution.” On December 2, 1980, EPA promulgated regulations to address visibility impairment in Class I areas that is “reasonably attributable” to a single source or small group of sources known as “reasonably attributable visibility impairment” (RAVI). 45 FR 80084. These regulations represented the first phase in addressing visibility impairment. EPA deferred action on regional haze that emanates from a variety of sources until monitoring, modeling, and scientific knowledge about the relationships between pollutants and visibility impairment were improved.

Congress added section 169B to the CAA in 1990 to address regional haze issues. EPA promulgated a rule to address regional haze, the RHR, on July 1, 1999 (64 FR 35713). The RHR revised the existing visibility regulations to integrate into the regulation provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in EPA’s visibility protection regulations at 40 CFR 51.300–309. Some of the main elements of the regional haze requirements are summarized in section III, below. The requirement to submit a regional haze state implementation plan (SIP) applies to all 50 states, the District of Columbia, and the Virgin Islands.<sup>2</sup>

*C. Roles of Agencies in Addressing Regional Haze*

Successful implementation of the regional haze program will require long-term regional coordination among states, tribal governments, and various Federal agencies. Pollution affecting the air quality in Class I areas can be transported over long distances, even hundreds of kilometers. Therefore, effectively addressing the problem of

<sup>2</sup> Albuquerque/Bernalillo County in New Mexico must also submit a regional haze SIP to completely satisfy the requirements of section 110(a)(2)(D) of the CAA for the State of New Mexico under the New Mexico Air Quality Control Act (section 74–2–4).

visibility impairment in Class I areas means that states need to develop coordinated strategies that take into account the effect of emissions from one jurisdiction on the air quality in another state.

EPA has encouraged the states and tribes to address visibility impairment from a regional perspective because the pollutants that lead to regional haze can originate from sources located across broad geographic areas. Five regional planning organizations (RPOs) were developed to address regional haze and related issues. The RPOs first evaluated technical information to better understand how their states and tribes impact Class I areas across the country and then pursued the development of regional strategies to reduce PM<sub>2.5</sub> emissions and other pollutants leading to regional haze.

The RPO for Wisconsin is the Midwest RPO (MRPO). The MRPO member states are Illinois, Indiana, Michigan, Ohio, and Wisconsin. The MRPO also included tribes and Federal land management agencies on discussions of regional haze and visibility in the Midwest.

#### *D. The Relationship of the Clean Air Interstate Rule and the Cross-State Air Pollution Rule to Regional Haze Requirements*

The Clean Air Interstate Rule (CAIR) required some states to reduce emissions of SO<sub>2</sub> and NO<sub>x</sub> that contribute to violations of the 1997 National Ambient Air Quality Standards (NAAQS) for PM<sub>2.5</sub> and ozone. 70 FR 25162 (May 12, 2005). CAIR established emissions budgets for SO<sub>2</sub> and NO<sub>x</sub>. A 2006 EPA determination (71 FR 60612, October 13, 2006) establishes that states opting to participate in the CAIR program need not require Best Available Retrofit Technology (BART) for SO<sub>2</sub> and NO<sub>x</sub> at BART-eligible electric generating units (EGUs). Many states relied on CAIR as an alternative to BART for SO<sub>2</sub> and NO<sub>x</sub> for their subject EGUs.

CAIR was later found to be inconsistent with the requirements of the CAA and the rule was remanded to EPA. See *North Carolina v. EPA*, 550 F.3d 1176 (DC Cir. 2008). The court left CAIR in place until replaced by EPA with a rule consistent with its opinion. See *North Carolina v. EPA*, 550 F.3d at 1178.

EPA promulgated the Cross-State Air Pollution Rule (CSAPR), to replace CAIR in 2011 (76 FR 48208, August 8, 2011). Wisconsin is subject to the requirements of CSAPR.

In CSAPR, EPA noted that it had not conducted a technical analysis at that

time to determine whether compliance with CSAPR would satisfy the requirements of the RHR addressing alternatives to BART. EPA has since conducted such an analysis and proposed on December 30, 2011 (76 FR 2219), that compliance with CSAPR will provide for greater reasonable progress toward improving visibility than source-specific BART controls for EGUs located in those states covered by CSAPR. On that same day, the DC Circuit issued an order addressing the status of CSAPR and CAIR in response to motions filed by numerous parties seeking a stay of CSAPR pending judicial review. In that order, the DC Circuit stayed CSAPR pending the court's resolutions of the petitions for review of that rule in *EME Homer Generation, L.P. v. EPA* (No. 11–1302 and consolidated cases). The court also indicated that EPA is expected to continue to administer CAIR in the interim until the court rules on the petitions for review of CSAPR.

On January 18, 2012, Wisconsin made two submissions constituting its regional haze plan. Wisconsin's plan includes a statement that it wishes to rely on CSAPR to satisfy the BART requirements for SO<sub>2</sub> and NO<sub>x</sub> for EGUs in the state.

### **III. What are the requirements for regional haze State Implementation Plans?**

Regional haze SIPs must assure reasonable progress towards the national goal of achieving natural visibility conditions in Class I areas, the reasonable progress goal (RPG). Section 169A of the CAA and EPA's implementing regulations require states to establish long-term strategies for making reasonable progress toward meeting the RPG. Plans must also give specific attention to certain stationary sources that were in existence on August 7, 1977, but were not in operation before August 7, 1962, and require those sources to install BART to reduce visibility impairment. The specific regional haze SIP requirements are discussed in further detail below.

#### *A. Determination of Baseline, Natural, and Current Visibility Conditions*

The RHR establishes the deciview (dv) as the principal metric or unit for expressing visibility impairment. This visibility metric expresses uniform proportional changes in haziness in terms of common increments across the entire range of visibility conditions, from pristine to extremely hazy conditions. Visibility expressed in deciviews is determined by using air quality measurements to estimate light extinction and then transforming the

value of light extinction using a logarithm function. Thus, a change in visibility by one deciview reflects a fixed proportion by which visibility changes, irrespective of the baseline from which the change occurred. Most people can detect a change in visibility at one deciview.<sup>3</sup>

The deciview is used in expressing RPGs, defining baseline, current, and natural conditions, and tracking changes in visibility. The regional haze SIPs must contain measures that ensure "reasonable progress" toward the national goal of preventing and remedying visibility impairment in Class I areas caused by anthropogenic air pollution. The national goal is a return to natural conditions such that anthropogenic sources of air pollution would no longer impair visibility in Class I areas.

To track changes in visibility over time at each of the 156 Class I areas covered by the visibility program (40 CFR 81.401–437) and as part of the process for determining reasonable progress, states must calculate the degree of existing visibility impairment at each Class I area at the time each regional haze SIP is submitted and at the progress review every five years, midway through each 10-year implementation period. The RHR requires states with Class I areas (Class I states) to determine the degree of impairment in deciviews for the average of the 20 percent least impaired (best) and 20 percent most impaired (worst) visibility days over a specified time period at each of its Class I areas. Each state must also develop an estimate of natural visibility conditions for the purpose of comparing progress toward the national goal. Natural visibility is determined by estimating the natural concentrations of pollutants that cause visibility impairment and then calculating total light extinction based on those estimates. EPA has provided guidance to states regarding how to calculate baseline, natural, and current visibility conditions in documents titled, EPA's *Guidance for Estimating Natural Visibility Conditions under the Regional Haze Rule*, September 2003, (EPA–454/B–03–005 located at [http://www.epa.gov/ttncaaa1/t1/memoranda/rh\\_envcurhr\\_gd.pdf](http://www.epa.gov/ttncaaa1/t1/memoranda/rh_envcurhr_gd.pdf)) (hereinafter referred to as "EPA's 2003 Natural Visibility Guidance") and *Guidance for Tracking Progress Under the Regional Haze Rule* (EPA–454/B–03–004 September 2003 located at <http://www.epa.gov/ttncaaa1/t1/memoranda/>

<sup>3</sup> The preamble to the RHR provides additional details about the deciview. 64 FR 35714, 35725 (July 1, 1999).

*rh\_tpurhr\_gd.pdf*) (hereinafter referred to as “EPA’s 2003 Tracking Progress Guidance”).

For the first regional haze SIP, which was due December 17, 2007, the “baseline visibility conditions” were the starting points for assessing “current” visibility impairment. Baseline visibility conditions represent the degree of visibility impairment for the 20 percent best days and 20 percent worst days for each calendar year from 2000 to 2004. Using monitoring data for 2000 through 2004, states are required to calculate the average degree of visibility impairment for each Class I area, based on the average of annual values over the five-year period. The comparison of initial baseline visibility conditions to natural visibility conditions indicates the amount of improvement necessary to attain natural visibility, while comparisons of future conditions against baseline conditions will indicate the amount of progress made. In general, the 2000 to 2004 baseline period is considered the time from which improvement in visibility is measured.

#### *B. Determination of Reasonable Progress Goals*

The vehicle for ensuring continuing progress towards achieving the natural visibility goal is the submission of a series of regional haze SIPs from the states that establish two distinct RPGs, one for the best days and one for the worst days for every Class I area for each approximately 10-year implementation period. The RHR does not mandate specific milestones or rates of progress, but instead calls for states to establish goals that provide for “reasonable progress” toward achieving natural visibility conditions. In setting RPGs, a state with a mandatory Class I area (Class I state) must provide for an improvement in visibility for the worst days over the approximately 10-year period of the SIP and ensure no degradation in visibility for the best days.

Class I states have significant discretion in establishing RPGs, but are required to consider the following factors established in section 169A of the CAA and in EPA’s RHR at 40 CFR 51.308(d)(1)(i)(A): (1) The costs of compliance; (2) the time necessary for compliance; (3) the energy and non-air quality environmental impacts of compliance; and (4) the remaining useful life of any potentially affected sources. The states must demonstrate in their SIPs how these factors are considered when selecting the RPGs for the best and worst days for each applicable Class I area. See EPA’s *Guidance for Setting Reasonable*

*Progress Goals under the Regional Haze Program*, (“EPA’s Reasonable Progress Guidance”), July 1, 2007, memorandum from William L. Wehrum, Acting Assistant Administrator for Air and Radiation, to EPA Regional Administrators, EPA Regions 1–10 (pp. 4–2, 5–1). In setting the RPGs, states must also consider the rate of progress needed to reach natural visibility conditions by 2064 and the emissions reduction needed to achieve that rate of progress over the approximately 10-year period of the SIP. Each Class I state must also consult with potentially contributing states, i.e. those states that may affect visibility impairment at the Class I state’s areas. 40 CFR 51.308(d)(1)(iv).

#### *C. Best Available Retrofit Technology*

Section 169A of the CAA directs states to evaluate the use of retrofit controls at certain older large stationary sources to address visibility impacts from these sources. Specifically, CAA section 169A(b)(2)(A) requires states to revise their SIPs to contain such measures as may be necessary to make reasonable progress towards the natural visibility goal, including a requirement that certain categories of existing major stationary sources built between 1962 and 1977 procure, install, and operate BART as determined by the state. The set of “major stationary sources” potentially subject to BART is listed in CAA section 169A(g)(7). The state can require source-specific BART controls, but it also has the flexibility to adopt an alternative such as a trading program if the alternate provides greater progress towards improving visibility than BART.

On July 6, 2005, EPA published the *Guidelines for BART Determinations Under the Regional Haze Rule* at Appendix Y to 40 CFR part 51 (BART Guidelines) to assist states in determining which of their sources should be subject to the BART requirements and in determining appropriate emission limits for each applicable source. A state must use the approach in the BART Guidelines in making a BART determination for a fossil fuel-fired EGU with total generating capacity in excess of 750 megawatts. States are encouraged, but not required, to follow the BART Guidelines in making BART determinations for other sources.

States must address all visibility-impairing pollutants emitted by a source in the BART determination process. The most significant visibility impairing pollutants are SO<sub>2</sub>, NO<sub>x</sub>, and PM. EPA’s guidance provides that states should use their best judgment in determining

whether VOC or NH<sub>3</sub> emissions impair visibility in Class I areas.

States may select an exemption threshold value for their BART modeling under the BART Guidelines, below which a BART-eligible source may be considered to make a small enough contribution to visibility impairment in any Class I area to warrant being exempted from the BART requirement. The state must document this exemption threshold value in the SIP and must state the basis for its selection of that value. The exemption threshold set by the state should not be higher than 0.5 dv. Any source with modeled impacts above the threshold value would be subject to a BART determination review. The BART Guidelines acknowledge varying circumstances affecting different Class I areas. States should consider the number of emission sources affecting the Class I areas at issue and the magnitude of the individual source’s impact.

The state must identify potential BART sources in its SIP, described as “BART-eligible sources” in the RHR, and document its BART control determination analyses. In making BART determinations, section 169A(g)(2) of the CAA requires the state to consider 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; and (5) the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

A regional haze SIP must include source-specific BART emission limits and compliance schedules for each source subject to BART. The BART controls must be installed and in operation as expeditiously as practicable, but no later than five years after the date of EPA approval of the state’s regional haze SIP. CAA section 169(g)(4); 40 CFR 51.308(e)(1)(iv). In addition to what is required by the RHR, general SIP requirements mandate that the SIP must also include all regulatory requirements related to monitoring, recordkeeping, and reporting for the BART controls on the source.

The RHR also allows states to implement an alternative program in lieu of BART, so long as the alternative program can be demonstrated to achieve greater progress toward the national visibility goal than implementing BART controls. EPA made such a demonstration for CAIR under regulations issued in 2005 revising the regional haze program. 70 FR 39104

(July 6, 2005). EPA's regulations provide that states participating in the CAIR trading program under 40 CFR part 96 pursuant to an EPA-approved CAIR SIP, or which remain subject to the CAIR Federal Implementation Plan (FIP) in 40 CFR part 97 need not require affected BART-eligible EGUs to install, operate, and maintain BART for emissions of SO<sub>2</sub> and NO<sub>x</sub>. 40 CFR 51.308(e)(4). CAIR is not applicable to emissions of PM, so states are still required to conduct a BART analysis for PM emissions from EGUs subject to BART for that pollutant.

As described above in section II, the DC Circuit found CAIR to be inconsistent with the requirements of the CAA. The rule was remanded to EPA but left in place until the Agency replaced it. EPA replaced CAIR with CSAPR in August 2011.

On December 30, 2011, EPA proposed to find that the trading programs in CSAPR would achieve greater progress towards improving visibility than would be obtained by implementing BART for SO<sub>2</sub> and NO<sub>x</sub> for BART-subject EGUs in the area subject to CSAPR (see 76 FR 82219). Based on that proposed finding, EPA also proposed to revise the RHR to allow states to meet the requirements of BART by participation in the trading programs under CSAPR. CSAPR is not applicable to emissions of PM, so states would still be required to conduct a BART analysis for PM emissions from EGUs subject to BART for that pollutant. EPA has not taken final action on that rule.

#### D. Long-Term Strategy

Consistent with the requirement in section 169A(b) of the CAA that states include in their regional haze SIP a 10 to 15 year strategy for making reasonable progress, section 51.308(d)(3) of the RHR requires that states include a long-term strategy in their regional haze SIPs. The long-term strategy is the compilation of all control measures a state will use during the implementation period of the specific SIP submittal to meet applicable RPGs. The long-term strategy must include enforceable emissions limitations, compliance schedules, and other measures as necessary to achieve the RPGs for all Class I areas within or affected by emissions from the state. 40 CFR 51.308(d)(3).

When a state's emissions are reasonably anticipated to cause or contribute to visibility impairment in a Class I area located in another state, the RHR requires the impacted state to coordinate with the contributing states in order to develop coordinated emissions management strategies. 40

CFR 51.308(d)(3)(i). In such cases, the contributing state must demonstrate that it has included in its SIP all measures necessary to obtain its share of the emission reductions needed to meet the RPGs for the Class I area. The RPOs have provided forums for significant interstate consultation, but additional consultations between states may be required to address interstate visibility issues sufficiently.

States should consider all types of anthropogenic sources of visibility impairment in developing their long-term strategy, including stationary, minor, mobile, and area sources. At a minimum, states must describe how each of the following seven factors listed below are taken into account in developing their long-term strategy. The seven factors are: (1) Emission reductions due to ongoing air pollution control programs, including measures to address RAVI; (2) measures to mitigate the impacts of construction activities; (3) emissions limitations and schedules for compliance to achieve the RPG; (4) source retirement and replacement schedules; (5) smoke management techniques for agricultural and forestry management purposes including plans as currently exist within the state for these purposes; (6) enforceability of emissions limitations and control measures; and (7) the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy. 40 CFR 51.308(d)(3)(v).

#### E. Coordinating Regional Haze and Reasonably Attributable Visibility Impairment Long-Term Strategy

EPA revised 40 CFR 51.306(c), which is a part of the RHR, regarding the long-term strategy for RAVI. The RAVI plan must provide for a periodic review and SIP revision not less frequently than every three years until the date of submission of the state's first plan addressing regional haze visibility impairment in accordance with 40 CFR 51.308(b) and (c). The state must revise its plan to provide for review and revision of a coordinated long-term strategy for addressing RAVI and regional haze on or before this date. It must also submit the first such coordinated long-term strategy with its first regional haze SIP. Future coordinated long-term strategies and periodic progress reports evaluating progress towards RPGs must be submitted consistent with the schedule for SIP submission and periodic progress reports set forth in 40 CFR 51.308(f) and 51.308(g), respectively. The periodic review of a state's long-

term strategy must be submitted to EPA as a SIP revision and must report on both RAVI and regional haze impairment.

#### F. Monitoring Strategy and Other Implementation Plan Requirements

Section 51.308(d)(4) of the RHR includes the requirement for a monitoring strategy for measuring, characterizing, and reporting of regional haze visibility impairment that is representative of all mandatory Class I Federal areas within the state. The strategy must be coordinated with the monitoring strategy required in section 51.305 for RAVI. Compliance with this requirement may be met through participation in the IMPROVE network, meaning that the state reviews and uses monitoring data from the network. The monitoring strategy must also provide for additional monitoring sites if the IMPROVE network is not sufficient to determine whether RPGs will be met. The monitoring strategy is due with the first regional haze SIP, and it must be reviewed every five years.

The SIP must also provide for the following:

- Procedures for using monitoring data and other information in a state with mandatory Class I areas to determine the contribution of emissions from within the state to regional haze visibility impairment at Class I areas both within and outside the state;
- Procedures for using monitoring data and other information in a state with no mandatory Class I areas to determine the contribution of emissions from within the state to regional haze visibility impairment at Class I areas in other states;
- Reporting of all visibility monitoring data to the Administrator at least annually for each Class I area in the state, to be submitted in electronic format, if available;
- A statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any Class I area. The inventory must include emissions for a baseline year, emissions for the most recent year with available data, and future projected emissions. A state must also make a commitment to update the inventory periodically; and
- Other elements including reporting, recordkeeping, and other measures necessary to assess and report on visibility.

The RHR requires control strategies to cover an initial implementation period extending to the year 2018 with a comprehensive reassessment and revision of those strategies, as appropriate, every 10 years thereafter.

Periodic SIP revisions must meet the core requirements of section 51.308(d), except that BART is only required in the initial submittal. The requirement to evaluate sources for BART applies only to the first regional haze SIP. Facilities subject to BART must continue to comply with the BART provisions of section 51.308(e), as noted above. Periodic SIP revisions will assure that the statutory requirement of reasonable progress will continue to be met.

#### *G. Consultation With States and Federal Land Managers*

The RHR requires that states consult with Federal Land Managers (FLMs) before adopting and submitting their SIPs. 40 CFR 51.308(i). States must provide FLMs an opportunity for in person consultation at least 60 days prior to holding any public hearing on the SIP. This consultation must include the opportunity for the FLMs to discuss their assessment of impairment of visibility in any Class I area and to offer recommendations on the development of the RPGs and on the development and implementation of strategies to address visibility impairment. Further, a state must include in its SIP a description of how it addressed any comments provided by the FLMs. Finally, a SIP must provide procedures for continuing consultation between the state and FLMs regarding the state's visibility protection program, including development and review of SIP revisions, five-year progress reports, and the implementation of other programs having the potential to contribute to impairment of visibility in Class I areas.

#### **IV. What is EPA's analysis of Wisconsin's regional haze plan?**

Wisconsin submitted its regional haze plan to EPA in the form of two letters on January 18, 2012, addressing the BART requirements and the balance of the state's regional haze plan. EPA considers the two submissions to be a complete regional haze plan and is proposing to find that the plan meets the relevant CAA requirements and EPA regulations and guidance outlined in section II, above. A detailed analysis follows.

##### *A. Class I Areas*

States are required to address regional haze affecting Class I areas within a state and in Class I areas outside the state that may be affected by the state's emissions. 40 CFR 51.308(d). Wisconsin does not have any Class I areas for which visibility is an important value. See 40 CFR part 81, subpart D. Rainbow Lake Wilderness Area is located in Wisconsin but has not been identified

by the Secretary of the Interior in consultation with other FLMs as an area where visibility is an important value. As Wisconsin has no Class I areas where visibility is an important value within its borders, Wisconsin is not required to address the following regional haze SIP elements: (a) Calculation of baseline and natural visibility conditions, (b) establishment of reasonable progress goals, (c) monitoring requirements, and (d) RAVI requirements. Wisconsin is responsible for consulting with other states with Class I areas that are affected by Wisconsin's emissions and for developing a regional haze SIP which addresses Wisconsin's impact on any nearby Class I areas.

Wisconsin reviewed technical analyses conducted by MRPO and other RPOs to determine what Class I areas outside the state are affected by Wisconsin emission sources. Wisconsin's analysis shows that its emissions contribute to visibility impairment at Isle Royale National Park (Isle Royale) and Seney Wilderness Area (Seney) in Michigan and Boundary Waters Canoe Wilderness Area (Boundary Waters) and Voyageurs National Park (Voyageurs) in Minnesota. These four Class I areas in Michigan and Minnesota are collectively referred to as the Northern Class I areas. The state also noted that MRPO found that Wisconsin emission sources also contribute to visibility impairment at Upper Buffalo Creek in Arkansas and at two Missouri Class I areas: Hercules-Glades Wilderness Area and Mingo Wilderness Area. EPA proposes to find that Wisconsin has appropriately identified affected Class I areas.

##### *B. Baseline, Current, and Natural Conditions*

The RHR requires Class I states to calculate the baseline and natural conditions for their Class I areas. Wisconsin does not have any Class I areas. Therefore, Wisconsin is not required to submit such calculations.

##### *C. Reasonable Progress Goals*

States with Class I areas must set RPGs that achieve reasonable progress toward achieving natural visibility conditions. Wisconsin does not have any Class I areas, so it does not need to set any RPGs. As discussed in section E, Wisconsin did consult with affected Class I states to ensure that it achieves its share of the overall emission reductions necessary to achieve the RPGs of Class I areas that it affects.

##### *D. Best Available Retrofit Technology*

Wisconsin followed a multi-step process to identify which sources are

subject to BART and to determine what emission limits satisfy this requirement. The first step of this process was to identify all the sources in the state that are within one of the 26 categories established under prevention of significant deterioration rules and having at least 250 tons per year of potential emissions. The second step was for the MRPO to conduct modeling to assess the impact of each of these identified candidate sources. This modeling deviated in selected respects from EPA's recommended approach, first by evaluating source impacts relative to cleanest day visibility rather than to average day visibility, and second by using meteorological data taken directly from the outputs of a meteorological model without making adjustments ("blending") based on local observations of actual meteorology. However, EPA views the modeling analysis overall to be more likely to overstate rather than understate source impacts, so that LADCO's modeling provided an acceptable test of whether sources had sufficient impact to warrant being subject to BART. Consistent with EPA guidance, Wisconsin elected to exempt sources with a 98th percentile<sup>4</sup> impact of less than 0.5 dv. Wisconsin concluded that 0.5 dv was an appropriate threshold for defining significant impact for BART purposes because sources are not clustered in the same geographic areas and thus are unlikely to impact the same Class I areas concurrently.

Based on this process, Wisconsin concluded that nine EGU facilities and four paper mills warranted being subject to BART. However, owners of three of the paper mills provided more refined modeling showing the facilities have a 98th percentile impact less than 0.5 dv impact. Thus, Wisconsin revised its finding to conclude that only the nine EGU facilities and one paper mill, in particular the paper mill owned by Georgia-Pacific and located in Green Bay, are subject to the requirement for BART.

To address the BART requirement for the EGUs, Wisconsin referenced EPA's proposed finding that CSAPR is an acceptable alternative to source-specific BART for SO<sub>2</sub> and/or NO<sub>x</sub> for EGUs located in the CSAPR region, including

<sup>4</sup> The 98th percentile of values is compared to the contribution threshold. The 98th percentile value would exclude about the seven most impaired days per year. EPA feels that this does not give undue weight to the extreme tail of the modeled distribution. EPA judges that this approach effectively captures sources contributing to visibility impairment, while minimizing the effect the highest model impairments that might have been caused by model assumptions or unusual meteorology.

in Wisconsin. (See 76 FR 82219, December 30, 2011.) Therefore, Wisconsin has elected to rely on CSAPR to satisfy the BART requirement for EGUs with respect to SO<sub>2</sub> and NO<sub>x</sub> emissions.

EPA has analyzed the benefits of CSAPR in relation to the benefits of BART on EGUs that are subject to CSAPR. On December 30, 2011 (76 FR 82219), EPA proposed a rule finding that CSAPR is more beneficial in mitigating visibility impairment than application of BART to the affected EGUs on a source-specific basis. If the proposal is finalized, CSAPR may be considered to satisfy the requirement for BART for EGUs in Wisconsin for SO<sub>2</sub> and NO<sub>x</sub>.

For PM, Wisconsin conducted extensive analysis of the options for PM control at the nine EGU facilities subject to BART. Wisconsin found that fabric filters, commonly called baghouses, and electrostatic precipitators mandated under existing regulations generally achieve 99 percent or more control of PM. Wisconsin found further that few opportunities for enhancement of these controls are available, that further control would likely be expensive, and that further controls would generally improve visibility by 0.01 dv or less. Therefore, Wisconsin concluded, with one exception, that existing PM limitations on these EGU facilities in combination with CSAPR limitations on SO<sub>2</sub> and NO<sub>x</sub> emissions represents BART. The exception applies to the PM limits for Alliant Energy's Columbia facility. This facility has relatively old PM control equipment and correspondingly higher emission limits than apply to other facilities in the state, resulting in its PM impacts being the highest PM impacts on visibility of any facility in the state. On November 11, 2011, Wisconsin issued a permit to this facility that limits PM emissions to 0.025 and 0.0195 pounds of particulate matter per million British Thermal Units (lbs/MMBTU) for boilers B21 and B22, respectively, representing limits similar to or lower than PM limits for other facilities in the state. EPA proposes to find that the tightened PM limits for Alliant Energy's Columbia facility and the existing PM limits for other EGUs represent BART for PM for EGUs in Wisconsin.

Wisconsin also determined appropriate BART limitations for the paper mill in Green Bay owned by Georgia-Pacific, based on a particularly extensive review of control alternatives. In 2004, the facility operated five boilers identified as B24, B25, B26, B27, and B28. Two of these boilers, B26 and B27, began operation between 1962 and 1977

and are subject to the BART requirement; the other boilers are not. Wisconsin determined that emissions of both SO<sub>2</sub> and NO<sub>x</sub> from both B26 and B27 were significant and warranted evaluation for control.

After evaluating the costs, benefits, and other characteristics of a number of control alternatives, Wisconsin determined that BART with respect to SO<sub>2</sub> emissions for both boilers should be defined as wet scrubbing and eliminating the use of petroleum coke. The control efficiency of the wet scrubbing was estimated to be 93 percent and the overall control percentage, also reflecting elimination of petroleum coke, was estimated to be 95.8 percent for B26 and 93.8 percent for B27. The difference in percentages reflects the difference in baseline petroleum coke usage at the two boilers. For NO<sub>x</sub>, Wisconsin determined BART to be combustion control using overfire air plus post combustion control. For B26, a stoker boiler, Wisconsin estimated that overfire air would reduce emissions by 35 percent and that selective noncatalytic reduction would reduce the remaining emissions by 50 percent (including a compliance margin) for a net reduction of 68 percent. For B27, Wisconsin estimated that overfire air would reduce emissions by 50 percent and that recirculating selective catalytic reduction would reduce the remaining emissions by 70 percent for a net reduction of 85 percent.

The exhaust gases from Georgia-Pacific's boilers are combined before entering a pair of baghouses, after which the exhaust gases are recombined and vented out a single stack. Additional SO<sub>2</sub> and NO<sub>x</sub> control devices are most logically placed after the baghouses, controlling exhaust gas originating as a combination of emissions from all operating boilers. Consequently, the company requested that Wisconsin develop limits governing the combined emissions of all operating boilers. Wisconsin determined these limits by first finding the sum of the controlled emissions for B26 and B27 plus the baseline, uncontrolled emissions for B25 and B28. In calculating these limits, emissions were not allocated for B24, because this boiler has been shut down for the last several years.<sup>5</sup> The final limits were determined by then subtracting 10 percent of the remaining

<sup>5</sup> Wisconsin is not taking credit for the shutdown of B24, so it is not necessary for the shutdown to be enforceable. If Georgia-Pacific were to resume operation of B24, the emissions of B24 would count against the collective stack emission limit and thus would require compensating reductions from other boilers.

emissions of B26 and B27, providing an environmental benefit as called for in the economic incentive program guidance<sup>6</sup> for cases such as this, where emissions of multiple units may in effect be traded.

Wisconsin determined emission limits both on a 30-day basis and on a 12-month basis. Wisconsin calculated these limits using operating rate information from the 2002 to 2004 SIP baseline period. Specifically, the operating rate used to determine the 30-day limit was the maximum 30-day heat input for the four boilers being included in the limit during the 2002 to 2004 period. The operating rate used to determine the 12-month limit was the average heat input for 2002 to 2004 for the four boilers. The emission factors used in calculating the limits were the average emission rates in 2002 to 2004, adjusted to reflect emission controls for B26 and B27 and further reduced as noted above to provide an additional margin for environmental benefit. The resulting emission limits for SO<sub>2</sub> are a 30-day limit of 268 tons and a 12-month limit of 2,340 tons. The limits for NO<sub>x</sub> are a 30-day limit of 110 tons and a 12-month limit of 977 tons.

Wisconsin also conducted modeling to assess the environmental impact of establishing BART alternatives that involve less control of NO<sub>x</sub> emissions and correspondingly more control of SO<sub>2</sub> emissions. The relevant portion of the modeling included in Wisconsin's submission reflects simulations in which SO<sub>2</sub> emissions are reduced between 2.1 and 2.2 tons for every ton that NO<sub>x</sub> emissions are increased. Three different levels of NO<sub>x</sub> emission increase were assessed. For all of these simulations, both the number of days with visibility impacts of at least 0.5 dv and the 98th percentile magnitude of the source's impact remained unchanged or slightly declined with this exchange of SO<sub>2</sub> and NO<sub>x</sub> control. Further simulations conducted by Wisconsin also show environmental benefit according to these same indicators with SO<sub>2</sub> emissions being reduced by 2 tons for every ton of NO<sub>x</sub> emission increase.

On this basis, Wisconsin identified three alternatives to the BART limits described above. These alternatives are listed along with the primary BART limits in Table 1. Each alternative reflects an increase of NO<sub>x</sub> emissions and a corresponding decrease of 2 tons of SO<sub>2</sub> emissions for each 1 ton of NO<sub>x</sub>

<sup>6</sup> "Draft Economic Incentive Policy Guidance," Office of Air and Radiation, September 1999, available at <http://www.epa.gov/ttn/oarpg/t1/memoranda/eip9-2.pdf>

emissions relative to the primary BART limits. According to the draft administrative order included in Wisconsin's SIP submittal, the primary

limits shall be enforceable, except that Georgia-Pacific may, by July 15, 2013, select one of the three specified alternatives, in which case the selected

alternative shall be enforceable. Compliance with the applicable limits must be by the end of 2015.

TABLE 1—BART LIMITS AND ALTERNATIVE LIMITS FOR GEORGIA-PACIFIC

Option	SO <sub>2</sub> Limit (tons)		NO <sub>x</sub> Limit (tons)	
	Annual	30-day	Annual	30-day
Primary Limits .....	2,340	268	977	110
Alternative 1 .....	2,150	246	1,072	121
Alternative 2 .....	1,700	195	1,297	147
Alternative 3 .....	1,250	143	1,522	172

EPA proposes to approve Wisconsin's determinations of BART for Georgia-Pacific. The state has conducted a full analysis of control options and has defined a control strategy that will provide significant reductions in emissions of SO<sub>2</sub> and NO<sub>x</sub>. EPA proposes to find acceptable the use of a collective emission limit governing the sum of emissions from the two BART boilers as well as from the operating non-BART boilers, insofar as the state has set limits that can be expected to assure that overall emissions will be controlled to the same degree as would be the case if the emission limits applied only to the BART boilers. While the establishment of limits governing emissions from the full set of operating boilers rather than just the BART boilers creates some uncertainty as to how much the emissions from the BART boilers will be controlled, Wisconsin has arguably compensated for that uncertainty by providing an "environmental benefit" in the form of a reduction of the overall cap by an amount equal to 10 percent of the emissions of the BART boilers at BART control levels. Wisconsin has provided adequate justification that the three alternative sets of emission limits provide equivalent improvement in visibility, such that any of the three alternatives, like the primary set of BART limits, will suffice to satisfy the BART requirements for Georgia-Pacific. Wisconsin clearly provides for the establishment of one set of SO<sub>2</sub> and NO<sub>x</sub> limits (selected by specified procedure by July 15, 2013 among a primary set and three equally acceptable alternative sets) that will mandate BART controls.

Wisconsin's submission contains a draft administrative order for imposing the emission limits for Georgia-Pacific discussed above, along with the statement that the state will issue a final administrative order once EPA has published this proposed rulemaking. EPA has concerns about the language of the draft administrative order,

particularly with respect to the clarity and enforceability of the alternative limits should the company elect one of the alternatives. However, EPA expects the final administrative order to be modified to resolve these concerns.

EPA can only take final action to approve Wisconsin's plan if the limits needed to satisfy BART requirements are submitted in a fully adopted, fully enforceable form. However, EPA expects Wisconsin to issue a clear and enforceable final administrative order, which will be incorporated into its Regional haze SIP, rendering it Federally enforceable, before EPA signs final rulemaking on Wisconsin's plan, and EPA is proposing approval based on this premise.

In summary, EPA proposes to approve Wisconsin's BART determinations. Wisconsin has followed appropriate procedures and applied appropriate criteria for identifying facilities that are subject to BART. EPA in particular finds the identification of candidate BART sources appropriate, EPA finds the screening modeling used appropriately defined inputs to identify sources with sufficiently low impacts to warrant exempting from the BART requirement, and EPA agrees that the refined modeling appropriately justifies exempting three of the four paper mills from being subject to the BART requirement.

EPA proposes to approve Wisconsin's BART determinations for Georgia-Pacific as a SIP revision, based on the premise that Wisconsin will issue and submit a final administrative order that provides for clear enforceability of the limits identified in the draft administrative order in Wisconsin's submittal.

For EGUs, EPA proposes to approve Wisconsin's reliance on the already promulgated CSAPR FIP for EGU sources in Wisconsin as an alternative to BART for SO<sub>2</sub> and NO<sub>x</sub> for its EGUs. Therefore, EPA is proposing that if EPA finalizes the rule finding that CSAPR

satisfies the BART requirement for EGUs for SO<sub>2</sub> and NO<sub>x</sub> in the CSAPR region, then Wisconsin's submission will satisfy applicable BART requirements for SO<sub>2</sub> and NO<sub>x</sub> for EGUs.

We do not believe that the order issued by the DC Circuit staying CSAPR pending the court's resolutions of the petitions for review of CSAPR in *EME Homer Generation, L.P. v. EPA* (No. 11-1302 and consolidated cases) impacts our proposed approval of the Wisconsin SIP. Under the RHR, an alternative to BART does not need to be fully implemented until 2018. As that is well after we expect the stay to be lifted, EPA believes the Agency and Wisconsin may still rely on CSAPR as an alternative to BART. We note that our proposed approval of Wisconsin's SIP does not impact the implementation of CSAPR or otherwise interfere with the stay of CSAPR.

EPA also proposes to approve the tightened PM limits for Alliant Energy's Columbia facility and the existing PM limits for other EGUs as BART.

*E. Long-Term Strategy*

Under section 169A(b)(2) of the CAA and 40 CFR 51.308(d), states' regional haze programs must include a long-term strategy for making reasonable progress toward meeting the national visibility goal. Section 51.308(d)(3) requires that Wisconsin consult with the affected states in order to develop a coordinated emission management strategy. As a contributing state, Wisconsin must demonstrate that it has included in its plan all measures necessary to obtain its share of the emissions reductions needed to meet the RPGs for the Class I areas affected by Wisconsin sources. As described in section III.E., above, the long-term strategy is the compilation of all control measures Wisconsin will use to meet applicable RPGs. The long-term strategy must include enforceable emissions limitations, compliance schedules, and other measures as

necessary to achieve the RPGs for the affected Class I areas.

Wisconsin relied on MPRO's modeling and analysis along with its emission information in developing a LTS. Wisconsin consulted with Class I states through its participation in MRPO. MRPO facilitated consultations with other Midwest states and with states in other regions through inter-RPO processes. Wisconsin consulted with Minnesota and Michigan on their Class I areas. Wisconsin also participated in MRPO's inter-RPO consultations. MANE-VU, the RPO for the Northeastern states, facilitated consultation between Wisconsin and Maine, New Hampshire, New Jersey, and Vermont. Wisconsin also consulted with Arkansas and Missouri through their RPO.

At 40 CFR 51.308(d)(3)(v), the RHR identifies seven factors that a state must consider in developing its long-term strategy: (A) Emission reductions due to ongoing programs, (B) measures to mitigate impact from construction, (C) emission limits to achieve the RPG, (D) replacement and retirement of sources, (E) smoke management techniques, (F) Federally enforceable emission limits and control measures, and (G) the net effect on visibility due to projected emission changes over the long-term strategy period. Wisconsin considered the seven factors in developing its long-term strategy.

Wisconsin relied on MPRO's modeling and analysis along with its emission information in developing a long-term strategy. Wisconsin consulted with Class I states through its participation in MRPO. MRPO facilitated consultations with other Midwest states and with states in other regions through inter-RPO processes.

Wisconsin considered these ongoing and expected programs in developing its long-term strategy: CAIR; NO<sub>x</sub> SIP Call; BART; inspection and maintenance program; reformulated gasoline; Large Spark Ignition and Recreational Vehicle standards; heavy-duty diesel engine standards; low sulfur fuel; non-road mobile source control programs; area source standards; consent decrees; NO<sub>x</sub> Reasonably Available Control Technology; and measures taken to attain the NAAQS.

Consistent with EPA guidance at the time, Wisconsin, in developing its long-term visibility strategy, initially relied on the visibility improvements expected to result from controls planned or already installed on sources in order to meet CAIR provisions. Wisconsin now relies on CSAPR. As CSAPR will result in greater emission reductions overall than CAIR, we anticipate that the

substitution of CSAPR for CAIR does not weaken Wisconsin's long-term strategy and will enable Wisconsin to meet its obligations to obtain its share of the emissions reductions needed to meet the RPGs for the Class I areas affected by Wisconsin sources. However, we will assess the midcourse review of Wisconsin's SIP to ensure that this is so.

Wisconsin has addressed the requirement to consider measures to mitigate the impacts of construction activities through the general and transportation conformity measures that are included in the Wisconsin SIP. The visibility impacts of new major sources will be mitigated using the existing New Source Review (NSR) and Prevention of Significant Deterioration (PSD) programs. The PSD program requires sources to install stringent emission controls. New and modified sources need to consider the potential affect on visibility in Class I areas under the NSR and PSD programs.

The state is required to investigate whether additional reasonable control strategies are available to help meet the visibility goal. MRPO studied the potential emission reductions from a variety of sources. The results are in section 5.2 of the MRPO technical support document. Electric generating units have the largest impact on Class I areas, but these sources are already being regulated. Reasonable controls can potentially be implemented on industrial, commercial, and institutional boilers. Wisconsin did not include additional controls for these sources in this plan as additional emission reductions are not needed now, but Wisconsin committed to reevaluate options for achieving emission reductions from this category of sources if needed in future. For example, Wisconsin will be required to conduct a midcourse progress review assessing whether the program is making appropriate progress toward mitigating visibility impairment, and EPA expects that review to include an assessment as to whether emission reductions from these sources are necessary to meet the state's obligation to alleviate its impacts on pertinent Class I areas.

Wisconsin will follow the requirement to consider source retirement and replacement schedules with the existing requirements in its PSD program. Wisconsin has met its obligation to consider smoke management during the long-term strategy development by developing a Smoke Management Plan, included in the regional haze SIP as Appendix D. Proper management of fire under the right meteorological conditions will

help to protect public safety and will prevent deterioration of air quality.

Wisconsin must also ensure that the emission limits and control measures it is using to obtain its share of emission reductions are Federally enforceable. Included in the state's SIP submittal is a draft Administrative Order for its non-EGU source that is subject to BART, *i.e.*, Georgia-Pacific, and the state commits to issue a final administrative order following this proposed approval. Other rules that the state is relying on are federal rule or are already approved into the Wisconsin SIP. EPA believes that control measures and emission limits, including the final administrative order for Georgia-Pacific, will be Federally enforceable upon final approval of the Wisconsin regional haze plan.

EPA is proposing to find that Wisconsin has addressed the applicable requirements for a long-term strategy.

#### *F. Monitoring Strategy*

The RHR requires a monitoring strategy for measuring the various pollutants that influence visibility and reporting on visibility impairment that is representative of all mandatory Class I areas. There are no mandatory Class I areas in Wisconsin, so the state does not operate any IMPROVE monitoring sites. Wisconsin does use IMPROVE network data from the Class I states.

Wisconsin operates a monitoring network that provides data to analyze air quality problems. The monitoring network includes Federal Reference Method monitors, photochemical assessment monitoring, special purpose monitors, and "speciation monitors" that measure components or subcategories of particulate matter. The monitoring network measures and reports the levels of various pollutants throughout Wisconsin, including pollutants that contribute to visibility impairment. EPA finds that Wisconsin meets the monitoring requirements from the RHR and that its network of monitoring sites is satisfactory to measure air quality and assess its contribution to regional haze.

#### *G. Federal Land Manager Consultation*

Wisconsin consulted with the FLMs during the development of its regional haze plan. Wisconsin submitted a draft of its regional haze plan to the FLMs on January 13, 2011, and a revised draft on July 1, 2011. The Forest Service provided comments on July 27, 2011. The National Park Service sent a comment letter on September 2, 2011. Wisconsin later held a public hearing on September 13, 2011. The public comment period for the Wisconsin regional haze plan was from August 11,

2011 to September 16, 2011. Wisconsin has committed to continue to consult with the FLMs as it develops future SIP revisions and progress reports.

#### H. Comments

Wisconsin offered the public an opportunity to comment on its proposed regional haze plan. The public comment period for the Wisconsin regional haze plan was from August 11, 2011, to September 16, 2011. Wisconsin held a public meeting on September 13, 2011. It also had a public comment period from June 28, 2010, to July 29, 2010, specifically on the proposed BART for Georgia Pacific. A July 29, 2010, public hearing concluded the comment period. Evidence of the public notices and the public hearings were submitted to EPA with the regional haze plan.

Wisconsin summarized the comments in its plan and provided its responses to the comments. Wisconsin revised its proposed BART plan for Georgia Pacific following the 2010 and 2011 comment periods. Wisconsin has met the requirements from 40 CFR part 51, Appendix V to provide evidence that it gave public notice, took comment, and that it compiled and responded to comments.

#### V. What action is EPA taking?

EPA is proposing to approve Wisconsin's SIP addressing regional haze for the first implementation period, provided Wisconsin adopts and submits a clearly enforceable administrative order that establishes limits representing BART for Georgia Pacific consistent with the limits in its draft administrative order. Full approval of Wisconsin's use of CSAPR to satisfy the BART requirement for the EGUs at nine facilities is contingent on EPA's finalization of the rule, proposed on December 30, 2011, finding CSAPR as an approvable alternative to BART.

#### VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under

Executive Order 12866 (58 FR 51735, October 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: February 15, 2012.

**Susan Hedman,**

*Regional Administrator, Region 5.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2009-0782-201149, FRL-9638-8]

### Approval and Promulgation of Air Quality Implementation Plans; State of Alabama; Regional Haze State Implementation Plan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a limited approval of a revision to the Alabama state implementation plan (SIP) submitted by the State of Alabama through the Alabama Department of Environmental Management (ADEM), on July 15, 2008, that addresses regional haze for the first implementation period. This revision addresses the requirements of the Clean Air Act (CAA or Act) and EPA's rules that require states to prevent any future and remedy any existing anthropogenic impairment of visibility in mandatory Class I areas (national parks and wilderness areas) caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the "regional haze program"). States are required to assure reasonable progress towards the national goal of achieving natural visibility conditions in Class I areas. EPA is proposing a limited approval of this SIP revision to implement the regional haze requirements for Alabama on the basis that the revision, as a whole, strengthens the Alabama SIP. Additionally, EPA is proposing to rescind the federal regulations previously approved into the Alabama SIP on November 24, 1987, and to rely on the provisions in Alabama's July 15, 2008, SIP submittal to meet the long-term strategy (LTS) requirements for reasonably attributable visibility impairment (RAVI). EPA has previously proposed a limited disapproval of the Alabama regional haze SIP because of deficiencies in the State's regional haze SIP submittal arising from the remand by the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit) to EPA of the Clean Air Interstate Rule (CAIR). Consequently, EPA is not proposing to take action in this rulemaking to address the State's reliance on CAIR to meet certain regional haze requirements.

**DATES:** Comments must be received on or before March 29, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-