

OCT 10 2006

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL STATE OF WYOMING

Terri A. Lorenzon, Director Environmental Quality Council

IN THE MATTER OF THE ADDITION OF SECTION NINE TO CHAPTER SIX OF THE WYOMING AIR QUALITY STANDARDS AND REGULATIONS ) STATEMENT OF PRINCIPAL REASONS FOR ADOPTION

- 1. The Environmental Quality Council, pursuant to the authority vested in it by the Wyoming Statutes 35-11-112 (a) (i), has added Section 9, Best available retrofit technology (BART) to Chapter 6, Permitting Requirements, of the Wyoming Air Quality Standards and Regulations.
2. Section 35-11-202 (a) of the Environmental Quality Act states that the Administrator, after consultation with the Advisory Board, shall recommend to the Director such ambient air standards and regulations that may be necessary to prevent, abate, or control pollution.

Section 35-11-202 (b) of the Act states that in recommending such standards the Administrator shall consider all facts and circumstances bearing upon the reasonableness of the emissions involved including:

- (A) The character and degree of injury to, or interference with the health and physical well being of the people, animals, wildlife and plant life;
(B) The social and economic value of the source of pollution;
(C) The priority of location in the area involved;
(D) The technical practicability and economic reasonableness of reducing or eliminating the pollution; and
(E) The social welfare and aesthetic value.

- 3. Chapter 6, Permitting Requirements, Section 9, Best available retrofit technology (BART) is a new section which is being proposed to meet the BART requirements established under the Regional Haze Rule, 40 CFR part 51. The Regional Haze Rule requires Wyoming to submit a State Implementation Plan (SIP) to address visibility impairment in the seven Federally-protected parks and wilderness areas in the state as well as impacted surrounding Class I areas. The Federal rule specifically directs states to examine visibility impairment resulting from large, older emission sources, i.e., BART sources. This rule continues to allow Wyoming participation in emission trading programs with other Western states. All changes to Chapter 6, Section 9 will be considered changes to the Wyoming State Implementation Plan.
4. Chapter 6, Section 9(c) "Guidelines for BART Determinations", allows the Air Quality Division to incorporate by reference 40 CFR part 51, Appendix Y. Appendix Y establishes the procedure for implementing BART requirements under the Regional Haze Rule. Operators must use Appendix Y in establishing BART emission limitations for power plants with a total capacity exceeding 750 MW. All other facility owners will use Appendix Y as guidance in preparing BART determinations.
5. Chapter 6, Section 9(d) "Identification of Sources Subject to BART", identifies the air quality modeling procedure for determining which sources are subject to BART, and the requirement that the Air Quality Division provide written notice to each source subject to BART.
6. Under Chapter 6, Section 9(e) "BART Requirements", BART requirements are established including: submission of a BART permit application; administrative procedures for review of the permit; proposal of a permit; opportunity for public

comment; modifications to a BART permit; operating permit requirements; fees associated with permitting; timing requirements for installation of BART technology; and operation and maintenance of the BART technology.

7. Chapter 6, Section 9(f) "BART Alternative", allows the Air Quality Division to require participation in an emission trading program or other measures as an alternative to installing, operating and maintaining BART.
8. Chapter 6, Section 9(g) "Monitoring, Recordkeeping and Reporting", establishes monitoring, recordkeeping and reporting requirements for BART sources.

The Council finds that these regulations are reasonable and necessary to accomplish the policy and purpose of the ACT, as stated in W.S. 35-11-102, and that they have been promulgated in accordance with rulemaking provisions of the Wyoming Administrative Procedures Act.

Dated this 9<sup>th</sup> day of October, 2006.



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Hearing Examiner  
Wyoming Environmental Quality Council