

**SENATE SUBSTITUTE AMENDMENT 1,
TO 1999 SENATE BILL 177**

January 25, 2000 – Offered by Senator BURKE.

1 **AN ACT** *to amend* subchapter V (title) of chapter 285 [precedes 285.41]; and *to*
2 *create* 20.370 (2) (bh), 20.370 (2) (bj), 196.854, 285.11 (19) and 285.50 of the
3 statutes; **relating to:** mercury emissions from certain sources, research
4 concerning mercury emissions, granting rule-making authority and making
5 appropriations.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
7 the following amounts for the purposes indicated:

	1999-00	2000-01
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20.370 Natural resources, department of

(2) AIR AND WASTE

(bh) Air management — mercury

reduction	PR	A	500,000	500,000
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SECTION 2. 20.370 (2) (bh) of the statutes is created to read:

20.370 (2) (bh) *Air management — mercury reduction.* The amounts in the schedule for mercury deposition studies and research, mercury evaluation and monitoring activities, activities to eliminate the use of mercury by or reduce mercury emissions from small sources, activities to address problems associated with long-term storage and disposal of mercury, activities to evaluate the effectiveness of the program under s. 285.50 and public information and education activities related to mercury. All moneys received under s. 196.854 shall be credited to this appropriation.

SECTION 3. 20.370 (2) (bj) of the statutes is created to read:

20.370 (2) (bj) *Air management — small source mercury reduction.* All moneys received under s. 285.50 (6) (a) 3. for conducting small source mercury reduction projects.

SECTION 4. 196.854 of the statutes is created to read:

196.854 Assessment for mercury deposition activities. (1) The commission shall annually assess against the major utilities, as defined in s. 285.50 (1) (d), the amount appropriated under s. 20.370 (2) (bh) for the purposes specified in s. 20.370 (2) (bh).

1 (d) “Major utility” means a Class A utility, as defined in s. 199.03 (4), that
2 generates electricity or an electrical cooperative association organized under ch. 185.

3 (e) “Modify” means to make one or more physical changes in, or changes in the
4 method of operation of, a stationary source so that the annual mercury emissions of
5 the stationary source increase by 5 pounds or more over the baseline mercury
6 emissions of the stationary source.

7 (f) “Nonboiler source” means a stationary source that emits mercury and that
8 is not a solid fossil fuel–fired combustion unit. “Nonboiler source” includes a
9 combustion unit that is fired with fossil fuel that is not solid.

10 (g) “Partially regulated boiler” means a boiler that is not owned by a
11 municipality, this state or a major utility if the total annual mercury emissions from
12 all stationary sources that are located on the site on which the boiler is located exceed
13 10 pounds in any year.

14 (h) “Regulated government–owned boiler” means a boiler that is owned by a
15 municipality or this state if the total annual mercury emissions from all stationary
16 sources that are located on the site on which the boiler is located exceed 10 pounds
17 in any year.

18 (i) “Regulated major utility boiler” means a boiler that is owned by a major
19 utility if the total annual mercury emissions from all stationary sources that are
20 located on the site on which the boiler is located exceed 10 pounds in any year.

21 (j) “Regulated nonboiler source” means a nonboiler source if the total annual
22 mercury emissions from all stationary sources that are located on the site on which
23 the nonboiler source is located exceed 10 pounds in any year.

24 (k) “Site” means contiguous property that is under common ownership or
25 control.

1 **(1m)** DETERMINATION OF MERCURY EMISSIONS. The department shall establish a
2 methodology for determining the annual mercury emissions of boilers and other
3 stationary sources that emit mercury. Using this methodology, the department shall
4 determine a baseline mercury emission level for each regulated major utility boiler,
5 regulated government–owned boiler, regulated nonboiler source and partially
6 regulated boiler by averaging the annual mercury emissions of the boiler or the
7 nonboiler source in 1997, 1998 and 1999.

8 **(2)** EMISSION LIMITS; MAJOR UTILITY AND GOVERNMENT–OWNED BOILERS. (a) *New*
9 *and modified boilers.* 1. After the department establishes a methodology under sub.
10 (1m), no person may construct a new regulated major utility boiler or a new regulated
11 government–owned boiler until the person obtains mercury emission reductions, as
12 provided in sub. (4), equal to 150% of the annual mercury emissions from the new
13 boiler.

14 2. After the department establishes a methodology under sub. (1m), no person
15 may modify a regulated major utility boiler or regulated government–owned boiler
16 until the person obtains mercury emission reductions, as provided in sub. (4), equal
17 to 150% of the increased mercury emissions resulting from the modification of the
18 boiler.

19 (b) *Existing boilers.* 1. Beginning in the year after the year in which the
20 department establishes a methodology under sub. (1m), the annual mercury
21 emissions from a regulated major utility boiler or regulated government–owned
22 boiler to which par. (a) does not apply may not exceed the baseline mercury emissions
23 of the boiler, except as provided in sub. (4) (b).

24 2. In 2005 to 2009, the owner or operator of a regulated major utility boiler or
25 regulated government–owned boiler to which par. (a) 1. does not apply shall annually

1 obtain mercury emission reductions, as provided in sub. (4), equal to 20% of the
2 baseline mercury emissions of the boiler.

3 3. In 2010 to 2014, the owner or operator of a regulated major utility boiler or
4 regulated government–owned boiler to which par. (a) 1. does not apply shall annually
5 obtain mercury emission reductions, as provided in sub. (4), equal to 50% of the
6 baseline mercury emissions of the boiler or equal to the difference between the
7 baseline mercury emissions of the boiler and the average annual mercury emissions
8 of the boiler during 2005 to 2009, whichever is greater.

9 4. Beginning in 2015, the owner or operator of a regulated major utility boiler
10 or regulated government–owned boiler to which par. (a) 1. does not apply shall
11 annually obtain mercury emission reductions, as provided in sub. (4), equal to 90%
12 of the baseline mercury emissions of the boiler or equal to the difference between the
13 baseline mercury emissions of the boiler and the average annual mercury emissions
14 of the boiler during the preceding 5–year period, whichever is greater.

15 **(3) EMISSION LIMITS; NONBOILER SOURCES.** (a) *New and modified nonboiler*
16 *sources.* 1. After the department establishes a methodology under sub. (1m), no
17 person may construct a new regulated nonboiler source until the person obtains
18 mercury emission reductions, as provided in sub. (4), equal to 150% of the annual
19 mercury emissions from the new nonboiler source.

20 2. After the department establishes a methodology under sub. (1m), no person
21 may modify a regulated nonboiler source until the person obtains mercury emission
22 reductions, as provided in sub. (4), equal to 150% of the increased mercury emissions
23 resulting from the modification of the nonboiler source.

24 (b) *Existing nonboiler sources.* 1. Beginning in the year after the year in which
25 the department establishes a methodology under sub. (1m), the annual mercury

1 emissions from a regulated nonboiler source to which par. (a) does not apply may not
2 exceed the baseline mercury emissions of the nonboiler source, except as provided in
3 sub. (4) (b).

4 2. In 2005 to 2009, the owner or operator of a regulated nonboiler source to
5 which par. (a) 1. does not apply shall annually obtain mercury emission reductions,
6 as provided in sub. (4), equal to 20% of the baseline mercury emissions of the
7 nonboiler source.

8 3. In 2010 to 2014, the owner or operator of a regulated nonboiler source to
9 which par. (a) 1. does not apply shall annually obtain mercury emission reductions,
10 as provided in sub. (4), equal to 50% of the baseline mercury emissions of the
11 nonboiler source or equal to the difference between the baseline mercury emissions
12 of the nonboiler source and the average annual mercury emissions of the nonboiler
13 source during 2005 to 2009, whichever is greater.

14 4. Beginning in 2015, the owner or operator of a regulated nonboiler source to
15 which par. (a) 1. does not apply shall annually obtain mercury emission reductions,
16 as provided in sub. (4), equal to 90% of the baseline mercury emissions of the
17 nonboiler source or equal to the difference between the baseline mercury emissions
18 of the nonboiler source and the average annual mercury emissions of the nonboiler
19 source during the preceding 5-year period, whichever is greater.

20 **(3e) INCREASE IN REQUIRED REDUCTIONS.** Notwithstanding the mercury emission
21 reductions required to be obtained in sub. (2) (b) 2. to 4. and (3) (b) 2. to 4., if the owner
22 or operator of a stationary source subject to those requirements fails to obtain the
23 required mercury emission reductions under sub. (2) (b) or (3) (b) in a year, the
24 department shall increase the amount of mercury emission reductions that the
25 owner or operator must obtain under sub. (2) (b) or (3) (b) for the next year by 5 times

1 the difference between the amount of emission reductions required and the amount
2 of emission reductions obtained.

3 **(3m)** EMISSION REDUCTIONS AND GOALS; PARTIALLY REGULATED BOILERS. (a) *New*
4 *and modified boilers.* 1. After the department establishes a methodology under sub.
5 (1m), no person may construct a new partially regulated boiler until the person
6 obtains mercury emission reductions, as provided in sub. (4), equal to 150% of the
7 annual mercury emissions from the new boiler.

8 2. After the department establishes a methodology under sub. (1m), no person
9 may modify a partially regulated boiler until the person obtains mercury emission
10 reductions, as provided in sub. (4), equal to 150% of the increased mercury emissions
11 resulting from the modification of the boiler.

12 (b) *Existing partially regulated boilers.* It is the goal of this state that annual
13 mercury emissions from a partially regulated boiler do not exceed the following:

14 1. In the year after the year in which the department establishes a methodology
15 under sub. (1m) to 2004, the baseline mercury emissions of the boiler.

16 2. In 2005 to 2009, 80% of the baseline mercury emissions of the boiler.

17 3. In 2010 to 2014, 50% of the baseline emissions of the boiler.

18 4. Beginning in 2015, 10% of the baseline mercury emissions of the boiler.

19 (c) *Report on emissions from partially regulated boilers.* If the department
20 determines, in 2006 or 2011, that the goals in par. (b) are not being met, the
21 department shall prepare a report describing the extent to which the goals are not
22 being met and any measures that the department recommends should be taken
23 because the goals are not being met. The department shall submit any report
24 required under this paragraph to the chief clerk of each house of the legislature for

1 distribution to the appropriate standing committees of the legislature under s.
2 13.172 (3).

3 **(4) COMPLIANCE.** (a) A person who owns a stationary source that is subject to
4 sub. (2) (a), (3) (a) or (3m) (a) may obtain the required emission reductions by one or
5 more of the following methods:

6 1. Reducing the annual mercury emissions from another stationary source
7 owned by the person if the reduction is permanent and enforceable and is not
8 otherwise required by this section or other state or federal law.

9 2. Entering into an agreement under which another person reduces the annual
10 mercury emissions from a stationary source owned by the other person if the
11 reduction is permanent and enforceable and is not otherwise required by this section
12 or other state or federal law.

13 (b) A person who owns a stationary source that is subject to sub. (2) (b) 1. or (3)
14 (b) 1. may only increase the annual mercury emissions in a year above the baseline
15 mercury emissions for that stationary source if the person reduces mercury
16 emissions in that year from another stationary source on the same site by the amount
17 of the increase and if the emission reduction is not otherwise required by this section
18 or other state or federal law.

19 (c) Except as provided in par. (d) or (e), a person who owns a stationary source
20 that is subject to sub. (2) (b) 2. to 4. or (3) (b) 2. to 4. may obtain the required emission
21 reductions by one or more of the following methods:

22 1. Reducing mercury emissions from that stationary source or another
23 stationary source on the same site.

24 2. Using banked or traded allowances as provided under sub. (5).

25 3. Using small source mercury reduction allowances as provided under sub. (6).

1 (d) 1. A person who owns or operates a stationary source that is regulated under
2 sub. (2) (b) 2. to 4. may not obtain more than 50% of the required emission reductions
3 for that stationary source by using allowances from a stationary source that is
4 regulated under sub. (3), by using small source mercury reduction allowances or by
5 using a combination of those methods.

6 2. A person who owns or operates a stationary source that is regulated under
7 sub. (3) (b) 2. to 4. may not obtain more than 50% of the required emission reductions
8 for that stationary source by using allowances from a stationary source that is
9 regulated under sub. (2), by using small source mercury reduction allowances or by
10 using a combination of those methods.

11 (e) 1. In 2005 to 2009, a person who owns a stationary source that is regulated
12 under sub. (2) (b) 2. to 4. or (3) (b) 2. to 4. may not obtain more than 25% of the
13 required emission reductions for that stationary source by using small source
14 mercury reduction allowances.

15 2. In 2010 to 2014, a person who owns a stationary source that is regulated
16 under sub. (2) (b) 2. to 4. or (3) (b) 2. to 4. may not obtain more than 15% of the
17 required emission reductions for that stationary source in 2010 to 2014 by using
18 small source mercury reduction allowances.

19 3. After 2014, a person who owns a stationary source that is regulated under
20 sub. (2) (b) 2. to 4. or (3) (b) 2. to 4. may not obtain any of the required emission
21 reductions for that stationary source by using small source mercury reduction
22 allowances.

23 **(5) EMISSION ALLOWANCE SYSTEM; BANKING AND TRADING EMISSION ALLOWANCES.** (a)
24 *Allowances.* The department shall promulgate rules for a mercury emission
25 allowance system that assigns allowances to each stationary source that is subject

1 to sub. (2) (b) or (3) (b). Under the system, the department shall notify the owner or
2 operator of a stationary source of the number of allowances for that stationary source
3 for up to 5 years in advance, based on the requirements of sub. (2) (b) or (3) (b) and
4 of sub. (3e).

5 (b) *Emission allowance banking and trading.* The department shall
6 promulgate rules for quantifying and certifying reductions in mercury emissions
7 from stationary sources that are subject to sub. (2) or (3) and for a system for banking
8 and trading allowances. The department may allow owners and operators who
9 reduce mercury emissions from partially regulated boilers to obtain allowances that
10 may be banked and traded for, if the reductions are quantifiable, permanent and
11 enforceable. The department may not allow the banking or trading of reductions in
12 mercury emissions if those reductions are required by federal law or by state law
13 other than this section.

14 **(6) SMALL SOURCE MERCURY REDUCTION ALLOWANCES.** (a) A person may obtain
15 small source mercury reduction allowances in any of the following ways:

16 1. Conducting a small source mercury reduction project that is approved by the
17 department.

18 2. Entering into an agreement under which another person conducts a small
19 source mercury reduction project that is approved by the department.

20 3. Providing funds to the department for conducting a small source mercury
21 reduction project.

22 (b) The department shall issue small source mercury reduction allowances to
23 a person under this subsection in amounts equal to the amounts of reductions in
24 emissions of mercury that are reasonably likely to occur because of the small source

1 mercury reduction project undertaken or sponsored by the person, as determined
2 based on the rules promulgated under par. (c).

3 (c) The department shall promulgate rules for issuing small source mercury
4 reduction allowances. In the rules, the department shall include criteria for
5 determining the amounts of reductions in emissions of mercury that are reasonably
6 likely to occur because of a small source mercury reduction project, including all of
7 the following:

8 1. The ability of the department to determine the actual amounts of reductions
9 in emissions of mercury resulting from a small source mercury reduction project,
10 taking into consideration any proposed measurement, monitoring and evaluation of
11 the project.

12 2. The degree of certainty that the predicted amounts of reductions in emissions
13 of mercury will result from the small source mercury reduction project.

14 3. The extent to which the reductions in emissions of mercury would occur in
15 the absence of the small source mercury reduction project.

16 4. The period during which the reductions in emissions of mercury resulting
17 from the small source mercury reduction project will continue.

18 **(7) STORAGE OR DISPOSAL.** A person who is required to comply with sub. (2) or
19 (3), who seeks to obtain an allowance under sub. (5) or who conducts a small source
20 mercury reduction project under sub. (6) shall demonstrate to the department that
21 mercury obtained in the course of taking those actions and disposed of or placed in
22 storage will not be emitted into the atmosphere through reuse or recycling.

23 **(8) REPORT.** (a) The department shall prepare 2 reports assessing the
24 effectiveness of the mercury emission reduction program under this section. The
25 department shall prepare the first report by October 31, 2006, and the 2nd report by

1 October 31, 2011. In the reports under this subsection, the department may include
2 an assessment of the effectiveness of any other mercury reduction or elimination
3 programs in this state. In the reports under this subsection, the department shall
4 include all of the following:

5 1. An analysis of the impacts of the trading program under sub. (5) on water
6 quality in specific locations and a description of the actions that the department will
7 take to address any adverse impacts of the trading program on water quality in
8 specific locations.

9 2. An assessment of whether the 50% and 90% reductions in mercury emissions
10 in 2010 and 2015 under subs. (2) (b) and (3) (b) are achievable, considering any
11 scientific or technological developments.

12 3. Recommendations for any adjustments to the percentage reductions under
13 subs. (2) (b) and (3) (b) that the department determines are appropriate.

14 (b) The department shall submit the reports required under this subsection to
15 the chief clerk of each house of the legislature for distribution to the appropriate
16 standing committees of the legislature under s. 13.172 (3).

17 **(9) NO IMPACT ON OTHER PROVISIONS.** Nothing in this section exempts a person
18 from any provision of ss. 285.01 to 285.39 or 285.51 to 285.87. Compliance with this
19 section is not a defense to a violation of any of those provisions.

20 **(10) COOPERATION.** The department shall work with organizations, other
21 states, the federal environmental protection agency and this state's congressional
22 delegation to establish all of the following:

23 (a) Nationwide regulations of mercury emissions at least as stringent as those
24 in this section.

25 (b) A nationwide ban on the reuse or recycling of mercury.

