1999 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB177)

Received: **01/19/2000**

Received By: **traderc**

Wanted: **Soon**

Identical to LRB:

For: **Brian Burke (608) 266-8535**

By/Representing: **Barry**

This file may be shown to any legislator: **NO**

Drafter: **traderc**

May Contact:

Alt. Drafters:

Subject: **Environment - air quality**
Environment - water quality

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Mercury emission reduction, banking and trading

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
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/1			jfrantze 01/20/2000	_____ _____	lrb_docadmin 01/20/2000	lrb_docadmin 01/20/2000	
/2	traderc 01/24/2000	jgeller 01/24/2000	jfrantze 01/24/2000	_____ _____	lrb_docadmin 01/24/2000	lrb_docadmin 01/24/2000	

FE Sent For:

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Topic:

Mercury emission reduction, banking and trading - redraft of s0205-They lost the stripes

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Instructions:

See Attached

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1999 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB177)

Received: **11/10/1999**

Received By: **traderc**

Wanted: **Soon**

Identical to LRB:

For: **Brian Burke (608) 266-8535**

By/Representing: **Barry**

This file may be shown to any legislator: **NO**

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Mercury emission reductions

Instructions:

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Topic:

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Instructions:

See Attached

Drafting History:

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/?	traderc	1 12/9 jcg	12/9	12/9			

FE Sent For:

<END>

BRIAN BURKE

WISCONSIN STATE SENATOR

Senate Chair, Joint Committee on Finance

MEMORANDUM

TO: BECKY TRADEWELL, LRB

FROM: Barry Ashenfelter

DATE: November 10, 1999

RE: Substitute Amendment to SB 177

Please find attached a DNR-proposed substitute amendment to Senate Bill 177, relating to mercury emissions. Senator Burke would like this or similar language drafted as a substitute amendment to SB 177.

I believe the DNR language is relatively self-explanatory, but if you have any specific questions I recommend contacting DNR's legal staff.

Thank you.

STATE CAPITOL, POST OFFICE BOX 7882, MADISON, WISCONSIN 53707-7882

PHONE (608) 266-8535 OR 1-800-249-8173; FAX (608) 267-0274

SENATE SUBSTITUTE AMENDMENT 1 TO
1999 SENATE BILL 177

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

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

				1999-00	**2000-01**
20.370	**Natural resources, department of**				
(2)	AIR AND WASTE				
(bh)	Air management----mercury reduction fund	PR	A	500,000	500,000
(bm)	Air Management----small source mercury reduction projects	PR	C	100,000	100,000

SECTION 2. 20.370(2)(bh) and (bm) of the statutes are created to read:

20.370(**2**)(bh) *Air management---mercury reduction fund.* The amounts in the schedule for mercury deposition studies and research, mercury evaluation and monitoring activities, programs to reduce or eliminate mercury from small sources, programs to address long term storage and disposal of mercury, programs to evaluate the effectiveness of the mercury reduction program in s. 285.48 and public information and education activities (e.g., publicizing and posting fish advisories), . All moneys received under s. 196.854 shall be credited to this appropriation.

(bm) *Air management---small source mercury reduction projects.* All moneys received under s. 285.48(6) to implement small source mercury reduction projects.

SECTION 3. 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. 285.48(1)(e), the amount appropriated under s. 20.370 (2) (bh) for mercury deposition studies and research, mercury evaluation and monitoring activities, programs to eliminate mercury from small sources, programs to address long term storage and disposal of mercury, programs to evaluate the effectiveness of the mercury reduction program in s. 285.48, and public

BRIAN BURKE
WISCONSIN STATE SENATOR
Senate Chair, Joint Committee on Finance

information and education activities conducted or sponsored by the department of natural resources.

(2) The commission, in consultation with the department of natural resources, shall promulgate rules establishing a method for assessing each major utility an amount that is proportionate to its fraction of the total amount of mercury emissions from major utilities in this state.

SECTION 4. 285.11(18) of the statutes is created to read:

285.11 **(18)** Conduct, or contract with other persons to conduct, research on the effects of mercury emissions on human health and the environment and research on methods for reducing those emissions.

SECTION 5. Subchapter V (title) of chapter 285 [precedes 285.41 of the statutes is amended to read:

CHAPTER 285
SUBCHAPTER V
SULFUR DIOXIDE AND NITROGEN
OXIDE EMISSION
RATES AND GOALS;
MERCURY EMISSION LIMITS

SECTION 6. 285.48 of the statutes is created to read:

285.48 Mercury emission limits. (1) DEFINITIONS. In this section:

(a) "Allowance" means a limited authorization to emit 1 pound of mercury a year.

(b) "Annual mercury emissions" means the number of pounds of mercury emissions in a year from all stationary sources which are located on contiguous property and which are under the common ownership or control of a person.

(c) "Boiler" means a fossil fuel-fired boiler.

(d) "Government-owned boiler" means a state, county or municipally owned boiler if the total annual mercury emissions from all boilers located on contiguous property and under the ownership or control of the state, county or municipality exceeds 10 pounds in any year.

(e) "Major utility" means a Class A utility, as defined in s. 199.03 (4), that generates electricity, or an electrical cooperative association organized under ch. 185, if the total annual mercury emissions from all stationary air contaminant sources located on contiguous property and under

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the ownership or control of the utility or association exceeds 10 pounds in any year.

(f) "Non-boiler source" means any stationary source, except a boiler, that has total annual mercury emissions from all sources located on contiguous property and under common ownership and control which exceed 10 pounds in any year.

(g) "Small source mercury reduction project" means an action to eliminate the use of mercury or to reduce mercury emissions from sources which are not subject to emission limitations under this section.

(1m) DETERMINATION OF MERCURY EMISSIONS AND BASELINE. The department shall establish a methodology for determining the annual mercury emissions of boilers and other stationary sources that emit mercury. Using this methodology, the department shall determine a baseline mercury emission level for each major utility boiler, government-owned boiler and non-boiler stationary source of mercury which is subject to an emission limit under sub. (2) or (3) by averaging the annual mercury emissions of each boiler or non-boiler source in 1997, 1998 and 1999. The department shall also use this methodology to determine a baseline mercury emission level for each boiler for which a mercury emission reduction goal is established under sub. (3m) by averaging the annual mercury emissions of each boiler in 1997, 1998 and 1999.

(2) EMISSION LIMITS; MAJOR UTILITY AND GOVERNMENT-OWNED BOILERS. (a) *New or modified boilers.* Beginning one year after the department establishes a methodology for determining mercury emissions under sub. (1m), no person may construct a new major utility boiler or a government-owned boiler or modify an existing major utility boiler or government-owned boiler if the new or modified boiler results in an increase in mercury emissions of 5 pounds or more unless the person obtains reductions of mercury emissions to offset the increase in mercury emissions from the new or modified boiler at a rate of 1.5 to 1 prior to the operation of the new or modified boiler.

(b) *Existing boilers.* 1. Beginning one year after the department establishes a methodology under sub. (1m) and until December 31, 2004, the annual mercury emissions of a major utility boiler or government-owned boiler may not exceed the baseline mercury emissions of the boiler, as determined by the department under sub. (1m).

2. In 2005 to 2009, the annual mercury emissions of a major utility boiler or a government-owned boiler may not exceed 80% of the baseline mercury emissions of the boiler, as determined by the department under sub. (1m).

BRIAN BURKE
WISCONSIN STATE SENATOR
Senate Chair, Committee on Energy

3. In 2010 to 2014, the annual mercury emissions of a major utility boiler or a government-owned boiler may not exceed 65% of the baseline mercury emissions of the boiler, as determined by the department under sub. (1m).

4. In 2015 and thereafter, the annual mercury emissions of a major utility boiler or a government-owned boiler may not exceed 50% of the baseline mercury emissions of the boiler, as determined by the department under sub. (1m).

(3) EMISSION LIMITS; NON-BOILER SOURCES. (a) *New or modified non-boiler sources.* Beginning one year after the department establishes a methodology for determining mercury emissions under sub. (1m), no person may construct a new non-boiler source which emits 5 pounds or more of mercury or modify an existing non-boiler source which results in an increase in mercury emissions of 5 pounds or more unless the person obtains reductions of mercury emissions to offset the increase in mercury emissions from the new or modified non-boiler source at a rate of 1.5 to 1 prior to the operation of the new or modified non-boiler source.

(b) *Existing non-boiler sources.* 1. Beginning one year after the department establishes a methodology under sub. (1m) and until December 31, 2004, the annual mercury emissions of a non-boiler source may not exceed the baseline mercury emissions of the non-boiler source, as determined by the department under sub. (1m).

2. In 2005 to 2009, the annual mercury emissions of a non-boiler source may not exceed 80% of the baseline mercury emissions of the non-boiler source, as determined by the department under sub. (1m).

3. In 2010 to 2014, the annual mercury emissions of a non-boiler source may not exceed 65% of the baseline mercury emissions of the non-boiler source, as determined by the department under sub. (1m).

4. In 2015 and thereafter, the annual mercury emissions of a non-boiler source may not exceed 50% of the baseline mercury emissions of the non-boiler source, as determined by the department under sub. (1m).

(3m) EMISSION OFFSETS AND EMISSION GOALS FOR OTHER BOILER SOURCES. (a) *New or modified boilers.* Beginning one year after the department establishes a methodology for determining mercury emissions under sub. (1m), no person may construct a new boiler or modify an existing boiler which is not subject to the emission limits in sub. (2) and which results in an increase in mercury emissions of 5 pounds or more unless the person obtains reductions of mercury emissions to offset the increase in mercury emissions from the new or modified boiler at a rate of 1.5 to 1 prior to the operation of the new or modified boiler.

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(b) *Existing boilers.* It is the policy of this state that boilers which are located on contiguous property and under common ownership and control, which emit 10 pounds or more of mercury a year and which are not subject to the emission limits in sub. (2) should have the goal to achieve reductions of mercury emissions as outlined in this section.

1. Beginning one year after the department establishes a methodology for determining mercury emissions under sub. (1m) and until December 31, 2004, the goal for annual mercury emissions of the boilers is to not exceed the baseline mercury emissions of the boilers, as determined by the department under sub. (1m).

2. In 2005 to 2009, the goal for annual mercury emissions of the boilers is to not exceed 80% of the baseline mercury emissions of the boilers, as determined by the department under sub. (1m).

3. In 2010 to 2014, the goal for annual mercury emissions of the boilers is to not exceed 65% of the baseline mercury emissions of the boilers, as determined by the department under sub. (1m).

4. In 2015 and thereafter, the goal for annual mercury emissions of the boilers is to not exceed 50% of the baseline mercury emissions of the boilers, as determined by the department under sub. (1m).

(4) COMPLIANCE. (a) Except as provided under par. (b) or (c), any person subject to the requirements of sub. (2) or (3) may achieve compliance with the offset requirements or emission limits established under sub. (2) or (3) through any of the following or a combination of the following compliance measures:

1. By reducing mercury emissions at the person's emission source;

2. By trading allowances under the emissions trading program under sub. (5); or

3. By undertaking or sponsoring small source mercury reduction projects under sub. (6).

(b) 1. No person who achieves compliance with the requirements of sub. (2), through the use of emission trading under par. (a) 2. or through small source mercury reduction projects under par. (a) 3. or through a combination of emission trading and small source mercury reduction projects, may achieve more than 50% of the emission reductions required in any year through a combination of trading of emission reductions achieved by a source which is subject to the requirements of sub. (3) and emission reductions achieved from small source mercury reduction projects.

2. No person who achieves compliance with the requirements of sub. (3) through the use of emission trading under par. (a) 2. or through small source mercury reduction projects under par. (a) 3. or though a combination

BRIAN BURKE
WISCONSIN STATE SENATOR
Senate Chair, Joint Committee on Finance

of emission trading and small source mercury reduction projects, may achieve more than 50% of the emission reductions required in any year through a combination of trading of emission reductions achieved by a source which is subject to the requirements of sub. (2) and emission reductions achieved from small source mercury reduction projects.

(c) Notwithstanding pars. (a) and (b), the annual mercury emission of a source subject to the requirements of sub. (2) or (3) may not exceed in any year the baseline mercury emissions of the source, as determined by the department under sub. (1m).

(5) EMISSION ALLOWANCES; BANKING AND TRADING EMISSION REDUCTIONS. (a) *Allowances.* The department shall promulgate rules establishing a mercury emissions allowance system which assigns allowances on an annual basis to emission sources subject to the requirements of sub. (2) or (3). The allowance system shall allocate allowances for up to 5-year periods of time to emission sources based on the emission limits established under sub. (2) or (3). Subsequent 5 year blocks shall be allocated to participating sources based on the lesser of the average emissions of the previous 5 years or the emission limits established in sub. (2) or (3).

(b) *Emission reductions banking and trading.* The department shall promulgate rules for quantifying and certifying reductions of mercury emissions and establishing a system for mercury allowances to be banked, and traded. The department may allow reductions of mercury emissions from sources covered under sub. (3m) to be banked and traded if those reductions are quantifiable, surplus, permanent and enforceable. The department may not allow reductions of mercury emissions which are otherwise required by state or federal law to be banked or traded. The department may not allow emission reductions of other air contaminants to be credited or traded for the mercury emission reductions required under this section.

(6) SMALL SOURCE MERCURY REDUCTION PROJECTS. SMALL SOURCE MERCURY REDUCTION ALLOWANCES. (a) Sources may achieve compliance with the requirements of sub. (2) or (3) by acquiring small source mercury reduction allowances. For purposes of compliance, the small source mercury reduction allowances may not exceed 25 % of the source's emission reductions required under sub. (2) or (3) in 2005 to 2009 and may not exceed 15 % of the source's emission reductions required under sub. (2) or (3) in 2010 to 2014. In 2015 and thereafter, no source may use small source mercury reduction allowances to achieve compliance with the requirements of sub. (2) or (3).

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(b) The department shall issue small source allowances to sources equivalent to the quantity of mercury reductions that are reasonably likely to occur, based on criteria in par. (d).

(c) Sources may acquire small source mercury reduction allowances in one of two ways.

1. A source may propose a project to the department that would be implemented by the source or by a third party. Criteria for evaluating proposed projects shall be established by rule.

2. A source may provide funds to the department to implement small source mercury reduction projects.

(d) The department shall promulgate rules establishing the small source mercury reduction allowance program. The criteria for determining the quantity of mercury reductions reasonably likely to result from projects shall include, but not be limited, to the following:

1. The degree of certainty that the predicted quantity of mercury reductions will be achieved by the small source mercury reduction project.

2. The ability of the department to determine the actual quantity of mercury reduction resulting from the proposed project, taking into consideration any proposed measurement, monitoring and evaluation of the project.

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

4. The degree of permanence of the mercury reduction resulting from the proposed project.

(7) LONG TERM STORAGE OR DISPOSAL. Any person who achieves compliance under sub. (2) or (3) or who seeks certification of emission reductions under sub. (5) or (6) shall demonstrate to the department that mercury removed from use and disposed of or placed in storage will not be re-emitted into the atmosphere through re-use or recycling.

(8) DEPARTMENT REPORT. (a) The department shall prepare two reports assessing the effectiveness of the mercury emission reduction program under this section. The first report shall be prepared by October 31, 2006 and the second report shall be prepared by October 31, 2011. The reports may include an assessment of the effectiveness of any other mercury reduction or elimination programs within the state. The reports shall include an analysis of the impacts of the trading program authorized under sub. (5) on localized water quality and the actions the department will take to address any adverse impacts of the trading program on localized water quality. The reports shall reassess whether the 35% and 50% reductions in mercury

emissions in 2010 and 2015, respectively, under subs. (2) (b) and (3) (b) are achievable. The report shall take into consideration any new scientific or technological developments and shall recommend any appropriate adjustments to the percentage reductions included in subs. (2) (b) and (3) (b).

(b) The department shall submit the report required under par. (a) to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172 (3).

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

(10) PENALTY. Notwithstanding s. 285.87, any person operating a source subject to sub. (2) (b) or (3) (b) that exceeds an annual emission limit under sub. (2) (b) or (3) (b) shall have the allowances established and allocated to the source under sub. (5) in the following year reduced by a ratio of 5 to 1, based on the amount by which the source exceeded its annual emission limit.

SECTION 7. Nonstatutory provisions.

The department of natural resources shall work with other states and organizations, the United States Environmental Protection Agency and the Wisconsin congressional delegation to establish on a national basis regulations for mercury similar to those established under this act, a ban on the re-use or recycling of mercury, a ban on the export of mercury, and international regulations for mercury similar to those established under this act.

Tradewell, Becky

From: Kluesner, Elizabeth M
Sent: Thursday, November 11, 1999 4:00 PM
To: Tradewell, Becky
Subject: FW: SENATE SUBSTITUTE AMENDMENT 1 TO

Becky.

Barry Ashenfelter asked me to send you a clean copy of the proposed amendment to the mercury bill, SB 177. Tom Steidl put this language together and would be an excellent contact if you have additional questions about the amendment. Tom's phone number is: 266-0235.

Thanks.

Elizabeth

2_SENATE
SUBSTITUTE AMENDMENT ...

SENATE SUBSTITUTE AMENDMENT 1 TO
1999 SENATE BILL 177

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

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

				1999-00	**2000-01**
20.370	**Natural resources, department of**				
(2)	AIR AND WASTE				
(bh)	Air management----mercury reduction fund	PR	A	500,000	500,000
(bm)	Air Management----small source mercury reduction projects	PR	C	100,000	100,000

SECTION 2. 20.370(2)(bh) and (bm) of the statutes are created to read:

20.370(2)(bh) *Air management---mercury reduction fund.* The amounts in the schedule for mercury deposition studies and research, mercury evaluation and monitoring activities, programs to reduce or eliminate mercury from small sources, programs to address long term storage and disposal of mercury, programs to evaluate the effectiveness of the mercury reduction program in s. 285.48 and public information and education activities (e.g., publicizing and posting fish advisories), . All moneys received under s. 196.854 shall be credited to this appropriation.

(bm) *Air management---small source mercury reduction projects.* All moneys received under s. 285.48(6) to implement small source mercury reduction projects.

SECTION 3. 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. 285.48(1)(e), the amount appropriated under s. 20.370 (2) (bh) for mercury deposition studies and research, mercury evaluation and monitoring activities, programs to eliminate mercury from small sources, programs to address long term storage and disposal of mercury, programs to evaluate the effectiveness of the mercury reduction program in s. 285.48, and public

information and education activities conducted or sponsored by the department of natural resources.

(2) The commission, in consultation with the department of natural resources, shall promulgate rules establishing a method for assessing each major utility an amount that is proportionate to its fraction of the total amount of mercury emissions from major utilities in this state.

SECTION 4. 285.11(18) of the statutes is created to read:

285.11 **(18)** Conduct, or contract with other persons to conduct, research on the effects of mercury emissions on human health and the environment and research on methods for reducing those emissions.

SECTION 5. Subchapter V (title) of chapter 285 [precedes 285.41 of the statutes is amended to read:

CHAPTER 285
SUBCHAPTER V
SULFUR DIOXIDE AND NITROGEN
OXIDE EMISSION
RATES AND GOALS;
MERCURY EMISSION LIMITS

SECTION 6. 285.48 of the statutes is created to read:

285.48 Mercury emission limits. (1) DEFINITIONS. In this section:

(a) "Allowance" means a limited authorization to emit 1 pound of mercury a year.

(b) "Annual mercury emissions" means the number of pounds of mercury emissions in a year from all stationary sources which are located on contiguous property and which are under the common ownership or control of a person.

(c) "Boiler" means a fossil fuel-fired boiler.

(d) "Government-owned boiler" means a state, county or municipally owned boiler if the total annual mercury emissions from all boilers located on contiguous property and under the ownership or control of the state, county or municipality exceeds 10 pounds in any year.

(e) "Major utility" means a Class A utility, as defined in s. 199.03 (4), that generates electricity, or an electrical cooperative association organized under ch. 185, if the total annual mercury emissions from all stationary air contaminant sources located on contiguous property and under

the ownership or control of the utility or association exceeds 10 pounds in any year.

(f) "Non-boiler source" means any stationary source, except a boiler, that has total annual mercury emissions from all sources located on contiguous property and under common ownership and control which exceed 10 pounds in any year.

(g) "Small source mercury reduction project" means an action to eliminate the use of mercury or to reduce mercury emissions from sources which are not subject to emission limitations under this section.

(1m) DETERMINATION OF MERCURY EMISSIONS AND BASELINE. The department shall establish a methodology for determining the annual mercury emissions of boilers and other stationary sources that emit mercury. Using this methodology, the department shall determine a baseline mercury emission level for each major utility boiler, government-owned boiler and non-boiler stationary source of mercury which is subject to an emission limit under sub. (2) or (3) by averaging the annual mercury emissions of each boiler or non-boiler source in 1997, 1998 and 1999. The department shall also use this methodology to determine a baseline mercury emission level for each boiler for which a mercury emission reduction goal is established under sub. (3m) by averaging the annual mercury emissions of each boiler in 1997, 1998 and 1999.

(2) EMISSION LIMITS; MAJOR UTILITY AND GOVERNMENT-OWNED BOILERS. (a) *New or modified boilers.* Beginning one year after the department establishes a methodology for determining mercury emissions under sub. (1m), no person may construct a new major utility boiler or a government-owned boiler or modify an existing major utility boiler or government-owned boiler if the new or modified boiler results in an increase in mercury emissions of 5 pounds or more unless the person obtains reductions of mercury emissions to offset the increase in mercury emissions from the new or modified boiler at a rate of 1.5 to 1 prior to the operation of the new or modified boiler.

(b) *Existing boilers.* 1. Beginning one year after the department establishes a methodology under sub. (1m) and until December 31, 2004, the annual mercury emissions of a major utility boiler or government-owned boiler may not exceed the baseline mercury emissions of the boiler, as determined by the department under sub. (1m).

2. In 2005 to 2009, the annual mercury emissions of a major utility boiler or a government-owned boiler may not exceed 80% of the baseline mercury emissions of the boiler, as determined by the department under sub. (1m).

3. In 2010 to 2014, the annual mercury emissions of a major utility boiler or a government-owned boiler may not exceed 65% of the baseline mercury emissions of the boiler, as determined by the department under sub. (1m).

4. In 2015 and thereafter, the annual mercury emissions of a major utility boiler or a government-owned boiler may not exceed 50% of the baseline mercury emissions of the boiler, as determined by the department under sub. (1m).

(3) EMISSION LIMITS; NON-BOILER SOURCES. (a) *New or modified non-boiler sources.* Beginning one year after the department establishes a methodology for determining mercury emissions under sub. (1m), no person may construct a new non-boiler source which emits 5 pounds or more of mercury or modify an existing non-boiler source which results in an increase in mercury emissions of 5 pounds or more unless the person obtains reductions of mercury emissions to offset the increase in mercury emissions from the new or modified non-boiler source at a rate of 1.5 to 1 prior to the operation of the new or modified non-boiler source.

(b) *Existing non-boiler sources.* 1. Beginning one year after the department establishes a methodology under sub. (1m) and until December 31, 2004, the annual mercury emissions of a non-boiler source may not exceed the baseline mercury emissions of the non-boiler source, as determined by the department under sub. (1m).

2. In 2005 to 2009, the annual mercury emissions of a non-boiler source may not exceed 80% of the baseline mercury emissions of the non-boiler source, as determined by the department under sub. (1m).

3. In 2010 to 2014, the annual mercury emissions of a non-boiler source may not exceed 65% of the baseline mercury emissions of the non-boiler source, as determined by the department under sub. (1m).

4. In 2015 and thereafter, the annual mercury emissions of a non-boiler source may not exceed 50% of the baseline mercury emissions of the non-boiler source, as determined by the department under sub. (1m).

(3m) EMISSION OFFSETS AND EMISSION GOALS FOR OTHER BOILER SOURCES. (a) *New or modified boilers.* Beginning one year after the department establishes a methodology for determining mercury emissions under sub. (1m), no person may construct a new boiler or modify an existing boiler which is not subject to the emission limits in sub. (2) and which results in an increase in mercury emissions of 5 pounds or more unless the person obtains reductions of mercury emissions to offset the increase in mercury emissions from the new or modified boiler at a rate of 1.5 to 1 prior to the operation of the new or modified boiler.

(b) *Existing boilers.* It is the policy of this state that boilers which are located on contiguous property and under common ownership and control, which emit 10 pounds or more of mercury a year and which are not subject to the emission limits in sub. (2) should have the goal to achieve reductions of mercury emissions as outlined in this section.

1. Beginning one year after the department establishes a methodology for determining mercury emissions under sub. (1m) and until December 31, 2004, the goal for annual mercury emissions of the boilers is to not exceed the baseline mercury emissions of the boilers, as determined by the department under sub. (1m).

2. In 2005 to 2009, the goal for annual mercury emissions of the boilers is to not exceed 80% of the baseline mercury emissions of the boilers, as determined by the department under sub. (1m).

3. In 2010 to 2014, the goal for annual mercury emissions of the boilers is to not exceed 65% of the baseline mercury emissions of the boilers, as determined by the department under sub. (1m).

4. In 2015 and thereafter, the goal for annual mercury emissions of the boilers is to not exceed 50% of the baseline mercury emissions of the boilers, as determined by the department under sub. (1m).

(4) COMPLIANCE. (a) Except as provided under par. (b) or (c), any person subject to the requirements of sub. (2) or (3) may achieve compliance with the offset requirements or emission limits established under sub. (2) or (3) through any of the following or a combination of the following compliance measures:

1. By reducing mercury emissions at the person's emission source;

2. By trading allowances under the emissions trading program under sub. (5); or

3. By undertaking or sponsoring small source mercury reduction projects under sub. (6).

(b) 1. No person who achieves compliance with the requirements of sub. (2), through the use of emission trading under par. (a) 2. or through small source mercury reduction projects under par. (a) 3. or through a combination of emission trading and small source mercury reduction projects, may achieve more than 50% of the emission reductions required in any year through a combination of trading of emission reductions achieved by a source which is subject to the requirements of sub. (3) and emission reductions achieved from small source mercury reduction projects.

2. No person who achieves compliance with the requirements of sub. (3) through the use of emission trading under par. (a) 2. or through small source mercury reduction projects under par. (a) 3. or though a combination

of emission trading and small source mercury reduction projects, may achieve more than 50% of the emission reductions required in any year through a combination of trading of emission reductions achieved by a source which is subject to the requirements of sub. (2) and emission reductions achieved from small source mercury reduction projects.

(c) Notwithstanding pars. (a) and (b), the annual mercury emission of a source subject to the requirements of sub. (2) or (3) may not exceed in any year the baseline mercury emissions of the source, as determined by the department under sub. (1m).

(5) EMISSION ALLOWANCES; BANKING AND TRADING EMISSION REDUCTIONS. (a) *Allowances.* The department shall promulgate rules establishing a mercury emissions allowance system which assigns allowances on an annual basis to emission sources subject to the requirements of sub. (2) or (3). The allowance system shall allocate allowances for up to 5-year periods of time to emission sources based on the emission limits established under sub. (2) or (3). Subsequent 5 year blocks shall be allocated to participating sources based on the lesser of the average emissions of the previous 5 years or the emission limits established in sub. (2) or (3).

(b) *Emission reductions banking and trading.* The department shall promulgate rules for quantifying and certifying reductions of mercury emissions and establishing a system for mercury allowances to be banked, and traded. The department may allow reductions of mercury emissions from sources covered under sub. (3m) to be banked and traded if those reductions are quantifiable, surplus, permanent and enforceable. The department may not allow reductions of mercury emissions which are otherwise required by state or federal law to be banked or traded. The department may not allow emission reductions of other air contaminants to be credited or traded for the mercury emission reductions required under this section.

(6) SMALL SOURCE MERCURY REDUCTION PROJECTS. SMALL SOURCE MERCURY REDUCTION ALLOWANCES. (a) Sources may achieve compliance with the requirements of sub. (2) or (3) by acquiring small source mercury reduction allowances. For purposes of compliance, the small source mercury reduction allowances may not exceed 25 % of the source's emission reductions required under sub. (2) or (3) in 2005 to 2009 and may not exceed 15 % of the source's emission reductions required under sub. (2) or (3) in 2010 to 2014. In 2015 and thereafter, no source may use small source mercury reduction allowances to achieve compliance with the requirements of sub. (2) or (3).

(b) The department shall issue small source allowances to sources equivalent to the quantity of mercury reductions that are reasonably likely to occur, based on criteria in par. (d).

(c) Sources may acquire small source mercury reduction allowances in one of two ways.

1. A source may propose a project to the department that would be implemented by the source or by a third party. Criteria for evaluating proposed projects shall be established by rule.

2. A source may provide funds to the department to implement small source mercury reduction projects.

(d) The department shall promulgate rules establishing the small source mercury reduction allowance program. The criteria for determining the quantity of mercury reductions reasonably likely to result from projects shall include, but not be limited, to the following:

1. The degree of certainty that the predicted quantity of mercury reductions will be achieved by the small source mercury reduction project.

2. The ability of the department to determine the actual quantity of mercury reduction resulting from the proposed project, taking into consideration any proposed measurement, monitoring and evaluation of the project.

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

4. The degree of permanence of the mercury reduction resulting from the proposed project.

(7) LONG TERM STORAGE OR DISPOSAL. Any person who achieves compliance under sub. (2) or (3) or who seeks certification of emission reductions under sub. (5) or (6) shall demonstrate to the department that mercury removed from use and disposed of or placed in storage will not be re-emitted into the atmosphere through re-use or recycling.

(8) DEPARTMENT REPORT. (a) The department shall prepare two reports assessing the effectiveness of the mercury emission reduction program under this section. The first report shall be prepared by October 31, 2006 and the second report shall be prepared by October 31, 2011. The reports may include an assessment of the effectiveness of any other mercury reduction or elimination programs within the state. The reports shall include an analysis of the impacts of the trading program authorized under sub. (5) on localized water quality and the actions the department will take to address any adverse impacts of the trading program on localized water quality. The reports shall reassess whether the 35% and 50% reductions in mercury

emissions in 2010 and 2015, respectively, under subs. (2) (b) and (3) (b) are achievable. The report shall take into consideration any new scientific or technological developments and shall recommend any appropriate adjustments to the percentage reductions included in subs. (2) (b) and (3) (b).

(b) The department shall submit the report required under par. (a) to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172 (3).

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

(10) PENALTY. Notwithstanding s. 285.87, any person operating a source subject to sub. (2) (b) or (3) (b) that exceeds an annual emission limit under sub. (2) (b) or (3) (b) shall have the allowances established and allocated to the source under sub. (5) in the following year reduced by a ratio of 5 to 1, based on the amount by which the source exceeded its annual emission limit.

SECTION 7. Nonstatutory provisions.

The department of natural resources shall work with other states and organizations, the United States Environmental Protection Agency and the Wisconsin congressional delegation to establish on a national basis regulations for mercury similar to those established under this act, a ban on the re-use or recycling of mercury, a ban on the export of mercury, and international regulations for mercury similar to those established under this act.

50205/1

12/2/99 Per Tom Steidl –

1. For the new & modified sources - need a 150% reduction for any new ~~source~~ source on a "10 pound site" and need a 150% reduction for any modification increasing emissions by 5 lbs or more of a source on a 10 pound site.

2. The penalty of reducing allowances is in addition to the current penalties in ch. 285.

1999 – 2000 LEGISLATURE

50205/1

LRB-~~0989/3~~

RCT:jlg:hmh

SSA

To 1999 SENATE BILL 177

May 25, 1999 – Introduced by Senators BURKE, CLAUSING, DARLING, RISSER, ROBSON and WIRCH, cosponsored by Representatives KAUFERT, JOHNSRUD, J. LEHMAN, HANDRICK, BOCK, GOETSCH, BLACK, GUNDERSON, PLALE, MILLER, BOYLE, HASENOHRL, GRONEMUS, SCHOOFF and LA FAVE. Referred to Committee on Agriculture, Environmental Resources and Campaign Finance Reform.

AN ACT ***to amend*** subchapter V (title) of chapter 285 [precedes 285.41]; and ***to create*** 20.370 (2) (bh), 29.024 (9m), 29.409, 196.854, 281.12 (4), 285.11 (18), 285.48, 285.483, 285.49, 285.495, 285.497 and 287.07 (8) (a) 2m. of the statutes; **relating to:** mercury emissions from certain sources, ~~reporting mercury emissions, mercury in medical waste sent to incinerators, fish advisories~~ granting rule-making authority ~~and~~ making ~~an~~ appropriation ~~and providing a penalty~~.

Analysis by the Legislative Reference Bureau

This bill limits the amount of mercury that may be emitted into the air by major utilities beginning in 2001. Under the bill, in each year from 2001 to 2004 a major utility generally may not emit more than the amount of mercury that it emitted in the year 1999. For 2005 to 2009, the limit is 85% of the amount of mercury emitted in the year 1999, for 2010 to 2014, the limit is 70% of the amount of mercury emitted in the year 1999 and for 2015 and thereafter, the limit is 50% of the amount of mercury emitted in the year 1999. Under certain circumstances, the department of natural resources (DNR) may grant a variance from the mercury emission limits for a year, but DNR may not grant a major utility more than two variances in ten years.

This bill limits the amount of mercury that may be emitted into the air by certain incinerators and plants that use mercury to produce specified products

SENATE BILL 177

(chlor–alkali plants) beginning in 2001. Under the bill, in each year from 2001 to 2004 these incinerators and chlor–alkali plants generally may not emit more than the amount of mercury that it emitted in the year 1999. For 2005 to 2009, the limit is 85% of the amount of mercury emitted in the year 1999, for 2010 to 2014, the limit is 70% of the amount of mercury emitted in the year 1999 and for 2015 and thereafter, the limit is 50% of the amount of mercury emitted in the year 1999. The bill requires DNR to promulgate rules under which it may grant a variance from the mercury emission limits for incinerators and chlor–alkali plants.

The bill imposes an assessment on major utilities for the costs of DNR's activities related to mercury emissions. The bill also requires persons who generate electricity to annually report the amount of mercury emitted in generating electricity, with certain exceptions.

This bill allows a person to sue DNR if the person believes that DNR is not performing an act under the mercury emission provisions created by the bill and the act is not discretionary with DNR. The bill also allows a person to sue another person who is alleged to be in violation of the mercury emission provisions created by the bill unless DNR has commenced a civil or criminal action concerning the alleged violation.

This bill requires DNR to ensure that a copy of a fish advisory is distributed to each person obtaining a sport fishing license. The fish advisory describes the risks to human health of eating sport fish that contain mercury. The bill also requires DNR to post signs about the fish advisory at public boat landings.

Finally, this bill requires persons who generate medical waste that is sent to a medical waste facility to develop policies to reduce the amount of mercury in medical waste.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

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

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

				1999–00	**2000–01**
20.370	**Natural resources, department of**				
(2)	AIR AND WASTE				
(bh)	Air management — mercury reduction ~~deposition activities~~	PR	A	500,000	500,000

effectiveness of the program under s. 285.48 and public information and education activities related to mercury

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

20.370 **(2)** (bh) *Air management — mercury* ~~*deposition activities*~~. The amounts in the schedule for mercury deposition studies and evaluation and monitoring activities. All moneys received under s. 196.854 shall be credited to this appropriation.

reduction

eliminate the use of mercury by or

research, mercury

, activities to reduce mercury emissions from small sources, activities to evaluate the

Insert 3-5

SECTION 3. 29.024 (9m) of the statutes is created to read:

29.024 **(9m)** INFORMATION WITH CERTAIN APPROVALS. The department shall ensure that a copy of the fish advisory issued under s. 281.12 (4) is distributed to each person being issued, under this chapter, an approval that authorizes sport fishing.

SECTION 4. 29.409 of the statutes is created to read:

29.409 Notice of fish advisory. The department shall place a sign at each public boat landing on a body of water if fish in that body of water are included in the fish advisory issued under s. 281.12 (4). The sign shall describe the species and sizes of fish included in the fish advisory.

SECTION 5. 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. 285.48 (1) (d), the amount appropriated under s. 20.370 (2) (bh) for ~~mercury deposition studies and evaluation and monitoring activities conducted by the department of natural resources~~ the purposes specified in s. 20.370 (2)(bh).

(2) The commission, in consultation with the department of natural resources, shall promulgate rules establishing a method for assessing each major utility an amount that is proportionate to its fraction of the total amount of mercury emissions from major utilities in this state.

~~**SECTION 6.** 281.12 (4) of the statutes is created to read:~~

281.12 **(4)** The department, in consultation with the department of health and family services, shall annually issue an advisory describing the risks to human health of eating sport fish that contain mercury and that are taken from the various waters of this state. The advisory may also describe the risks to human health of eating sport fish that contain other contaminants.

SECTION 7. 285.11 (18) of the statutes is created to read:

285.11 **(18)** Conduct, or contract with other persons to conduct, research on the effects of mercury emissions on human health and the environment and research on methods for reducing those emissions.

SECTION 8. Subchapter V (title) of chapter 285 [precedes 285.41] of the statutes is amended to read:

CHAPTER 285

SUBCHAPTER V

SULFUR DIOXIDE AND NITROGEN

OXIDE EMISSION

RATES AND GOALS;

MERCURY EMISSION LIMITS

SECTION 9. 285.48 of the statutes is created to read:

285.48 Mercury emission limits; ~~major utilities~~. (1) DEFINITIONS. In this section:

(a) "Annual mercury emissions" means the number of pounds of mercury emissions from all boilers under the ownership or control of a person in a year.

Insert 4-22

(c) "Boiler" means a fossil fuel–fired boiler.

(d) ~~"Commission" means the public service commission~~.

(e) "Environmental dispatching" means the operation of the various units under the ownership or control of a major utility in a manner that minimizes the discharge of mercury emissions rather than minimizing the cost of operation.

(f) "Major utility" means a Class A utility, as defined in s. 199.03 (4), that generates electricity or an electrical cooperative association organized under ch. 185, if the total mercury emissions from all stationary air contaminant sources in this state under the ownership or control of the utility or association exceeds 10 pounds in 1999.

Insert 5-8

(1m) DETERMINATION OF MERCURY EMISSIONS. The department shall establish a methodology for determining the annual mercury emissions of major utilities boilers and other stationary sources that emit mercury.

Insert 5-10

(2) EMISSION LIMITS. (a) Except as provided under sub. (4), in 2001 to 2004, the annual mercury emissions of a major utility may not exceed the annual mercury emissions of the major utility in the year 1999, as determined by the department using the methodology under sub. (1m).

(b) Except as provided under sub. (4), in 2005 to 2009, the annual mercury emissions of a major utility may not exceed 85% of the annual mercury emissions of the major utility in the year 1999, as determined by the department using the methodology under sub. (1m).

(c) Except as provided under sub. (4), in 2010 to 2014, the annual mercury emissions of a major utility may not exceed 70% of the annual mercury emissions of the major utility in the year 1999, as determined by the department using the methodology under sub. (1m).

(d) Except as provided under sub. (4), beginning in 2015, the annual mercury emissions of a major utility may not exceed 50% of the annual mercury emissions of

the major utility in the year 1999, as determined by the department using the methodology under sub. (1m).

(3) ANNUAL COMPLIANCE PLAN REQUIRED. (a) *Submission; contents.* On or before October 1 of each year beginning with the year 2000, each major utility shall submit to the department and the commission a plan for achieving compliance with the emission limit under sub. (2). The plan shall include, at a minimum, all of the following:

1. The major utility's expected electricity demand.

2. The major utility's annual operation plan.

3. The expected operation characteristics of each boiler, including all of the following:

a. The order to be used in placing the boilers into operational production.

b. The planned maintenance schedule for each boiler and how the maintenance is expected to affect the methods of meeting electricity demands.

4. The amount and mercury content of coal, other fossil fuel or other materials to be used for each boiler in operational production. The mercury content shall be expressed in pounds of mercury per million British thermal units of heat input.

5. The anticipated mercury emissions from each boiler.

6. Contingency plans for unexpected events or increased demand including a summary of generation costs and the anticipated additional costs for reducing mercury emissions under those circumstances.

7. The methods that will be used to achieve compliance with sub. (2) in the following year.

8. The total anticipated annual mercury emissions from all boilers under the ownership or control of the major utility for each of the next 3 years.

(b) *Review.* The department shall review the adequacy of each compliance plan and, after consulting with the commission, shall approve or disapprove the plan within 90 days after its receipt.

(4) VARIANCE. (a) *Request; variance conditions.* A major utility may request a variance from the emission limit under sub. (2) for a year by submitting the request to the commission and the department. No request for a variance may be submitted if the department has served the major utility with written notice under s. 285.83 that the major utility has violated sub. (2). Upon receipt of a request, the commission shall, within 45 days, determine if any of the following variance conditions exists and shall report its determination to the department:

1. A major electrical supply emergency within or outside this state.

2. A major fuel supply disruption.

3. An extended and unplanned disruption in the operation of a nuclear plant or a boiler with low mercury emissions under the ownership or control of the major utility.

4. The occurrence of an uncontrollable event not anticipated in the plan submitted under sub. (3).

5. A plan by the major utility to install and place into operation new technological devices that will enable it to achieve compliance with sub. (2).

(b) *Compliance plan required.* With the request for a variance, the major utility shall submit its plan for achieving compliance with the emission limit. If the request is based on a variance condition specified under par. (a) 1. to 4., the request shall include an explanation of why the major utility cannot achieve or remain in compliance by using fuel with a lower mercury content or by environmental dispatching.

(c) *Grant of variance.* The department shall grant a request for a variance if all of the following apply:

1. The commission determines that a variance condition exists.

2. The department determines that the major utility's compliance plan under par. (b) is adequate.

3. The major utility has not received more than one variance in the 9 years preceding the year for which the major utility requests the variance.

(d) *Denial of variance.* The department shall deny a request for a variance if the conditions in par. (c) 1. to 3. do not all apply.

(e) *Time limit for response.* The department shall grant or deny a request for a variance within 90 days after its receipt of the request or the request is considered to be denied.

(5) NO IMPACT ON OTHER PROVISIONS. Nothing in this section exempts a major utility from any provision of ss. 285.01 to 285.39 or 285.51 to 285.87. Compliance with this section is not a defense to a violation of any of those provisions.

(6) DETERMINATION OF COMPLIANCE. The department shall determine compliance with sub. (2) using data submitted by the major utilities. Each major utility shall provide the department with any information needed to determine compliance.

(7) PENALTY. Notwithstanding s. 285.87, any major utility that exceeds the annual emission limit under sub. (2) in violation of this section shall forfeit not less than $100,000 nor more than $500,000 for each year of violation.

SECTION 10. 285.483 of the statutes is created to read:

285.483 Mercury emission limits; incinerators and chlor-alkali plants.

(1) DEFINITIONS. In this section:

(a) "Annual mercury emissions" means the number of pounds of mercury emissions from a source.

(b) "Chlor–alkali plant" means a plant that uses mercury to produce chlorine gas, hydrogen gas, sodium hydroxide or alkali metal hydroxide and that has annual mercury emissions that exceed 10 pounds in 1999.

(c) "Solid waste incinerator" means a device that maintains a controlled process by which solid waste is thermally altered into gases and residue containing little or no combustible material and that has annual mercury emissions that exceed 10 pounds in 1999.

(2) DETERMINATION OF MERCURY EMISSIONS. The department shall establish a methodology for determining the annual mercury emissions of solid waste incinerators and chlor–alkali plants.

(3) EMISSION LIMITS. (a) Except as provided in rules promulgated under sub. (4), in 2001 to 2004, the annual mercury emissions from a solid waste incinerator or chlor–alkali plant may not exceed the annual mercury emissions from the solid waste incinerator or chlor–alkali plant in the year 1999, as determined by the department using the methodology under sub. (2).

(b) Except as provided in rules promulgated under sub. (4), in 2005 to 2009, the annual mercury emissions from a solid waste incinerator or chlor–alkali plant may not exceed 85% of the annual mercury emissions from the solid waste incinerator or chlor–alkali plant in the year 1999, as determined by the department using the methodology under sub. (2).

(c) Except as provided in rules promulgated under sub. (4), in 2010 to 2014, the annual mercury emissions from a solid waste incinerator or chlor–alkali plant may not exceed 70% of the annual mercury emissions from the solid waste incinerator or

chlor–alkali plant in the year 1999, as determined by the department using the methodology under sub. (2).

(d) Except as provided under sub. (4), beginning in 2015, the annual mercury emissions from a solid waste incinerator or chlor–alkali plant may not exceed 50% of the annual mercury emissions from the solid waste incinerator or chlor–alkali plant in the year 1999, as determined by the department using the methodology under sub. (2).

(4) RULE MAKING. The department shall promulgate rules for the submission of annual compliance plans by persons operating sources subject to sub. (3), for review and approval or disapproval of compliance plans, for granting variances from emission limits under sub. (3) and for reporting by persons operating sources subject to sub. (3).

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

(6) DETERMINATION OF COMPLIANCE. The department shall determine compliance with sub. (3) using data submitted by persons operating sources subject to sub. (3). Each person operating a source subject to sub. (3) shall provide the department with any information needed to determine compliance.

(7) PENALTY. Notwithstanding s. 285.87, any person operating a source subject to sub. (3) that exceeds the annual emission limit under sub. (3) in violation of this section shall forfeit not less than $100,000 nor more than $500,000 for each year of violation.

SECTION 11. 285.49 of the statutes is created to read:

285.49 Mercury emission reporting; generators of electricity. **(1)** REQUIREMENT. Except as provided in sub. (3), each person who generates electricity in this state shall provide to the department by April 1, annually, a report of the amount of mercury emitted in generating electricity by the person in the previous calendar year.

(2) CONTENT OF REPORT. A report under sub. (1) shall include all of the following:

(a) A list of all generation facilities owned or operated by the person required to report under sub. (1).

(b) Information about the amount of electricity purchased by the person required to report under sub. (1) for use in this state.

(c) All of the following information about each generation facility in this state owned or operated by the person required to report under sub. (1):

1. The amount of electricity generated at the facility.

2. The amount of fuel used to generate electricity at the facility.

3. The amount of mercury emitted in generating that electricity, determined using emission factors, stack tests, fuel analysis or other methods approved by the department.

4. The mercury content of the fuel used to generate electricity if that content is determined in conjunction with a stack test.

(3) EXCEPTIONS. A person is not required to report under sub. (1) for any of the following:

(a) A generation unit that is operated fewer than 240 hours per year.

(b) A generation unit with a fuel capacity input of less than 150,000,000 British thermal units per hour.

(c) A generation unit with a maximum output of 15 megawatts or less.

(d) A generation unit with annual mercury emissions of 3 pounds or less.

(4) REPORT BY DEPARTMENT. By January 1, 2000, and biennially thereafter, the department shall prepare and make available to the public, a report on the amount of mercury emitted in the generation of electricity in this state.

SECTION 12. 285.495 of the statutes is created to read:

285.495 Mercury emission goal; report. (1) GOAL. It is the goal of this state that in 2010 total annual mercury emissions in this state do not exceed 50% of the total annual mercury emissions in this state in the year 2000.

(2) EXCESS MERCURY EMISSIONS; DEPARTMENT REPORT REQUIRED. (a) If the department determines in 2011 that total annual mercury emissions in this state in 2010 exceeded 50% of the total annual mercury emissions in this state in the year 2000, the department shall, after consulting with the public service commission, prepare a report containing recommendations for methods to reduce mercury emissions. The department shall hold a public hearing on the report. In preparing the report, the department shall consider methods to reduce mercury emissions from various sources, including sources that emit 10 pounds or more of mercury per year and that are any of the following:

1. Major utilities, as defined in s. 285.48 (1) (f).

2. Coal–fired or oil–fired commercial or industrial boilers.

3. Solid waste incinerators, as defined in s. 285.483 (1) (c).

4. Chlor–alkali plants as defined in s. 285.483 (1) (b).

(b) If the department is required to prepare a report under par. (a), the department shall submit the report to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172 (3).

SECTION 13. 285.497 of the statutes is created to read:

285.497 Citizen suits; mercury emissions. (1) Except as provided in sub. (2), any person may commence a civil action on his or her own behalf:

(a) Against any person who is alleged to be in violation of s. 285.48, 285.483 or 285.49.

(b) Against the department if there is alleged to be a failure of the department to perform any act or duty under ss. 285.48, 285.483 to 285.495 that is not discretionary with the department.

(2) (a) No action may be commenced under sub. (1) (a) prior to 30 days after the plaintiff has given notice of the alleged violation to the department and to the alleged violator or if the department has commenced and is diligently prosecuting a civil or criminal action concerning the alleged violation, but in any such action any person may intervene as a matter of right.

(b) No action may be commenced under sub. (1) (b) prior to 30 days after the plaintiff has given notice of such action to the department.

(3) The court, in issuing any final order in any action brought under this section, shall award costs of litigation including reasonable attorney and expert witness fees to the plaintiff if he or she prevails, and the court may do so if it determines that the outcome of the controversy is consistent with the relief sought by the plaintiff irrespective of the formal disposition of the civil action. In addition, the court shall award treble damages to any plaintiff proving damages caused by a person mining without a permit or wilfully violating this chapter or any permits or orders issued under this chapter.

(4) Nothing in this section restricts any right which any person or class of persons may have under any other statute or common law.

SECTION 14. 287.07 (8) (a) 2m. of the statutes is created to read:

287.07 **(8)** (a) 2m. Measures to ~~reduce the~~ amount of mercury in medical waste that is sent to a medical waste incinerator.

(END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0205/1dn
RCT:...
JG

This is a draft of the substitute amendment for the mercury emission reduction bill. It is a very complex draft. Please review it carefully and please ask Tom Steidl at DNR to review the draft to ensure that it is consistent with the intent of the proposal.

The main substantive requirements of this proposal are the emission reduction requirements set out in proposed s. 285.48 (2) and (3). As I look at it, the allowances under sub. (5) are a way of facilitating banking and trading and keeping track of whether sources are meeting the requirements of subs. (2) and (3). Therefore, I have drafted the provisions from sub. (11) and the last sentence of sub. (5) in the draft with which I was provided as increases in the amount of the emission reductions that must be obtained rather than as reductions in the number of allowances provided to a source. The number of allowances will be reduced because the required emissions reductions are increased.

It seems to me that there might be sources for which DNR could not establish baselines as required under proposed s. 285.48 (1m), because they are constructed after 1997, but that also would not be regulated as "new," because they are constructed before DNR establishes the methodology for determining mercury emissions. Should the draft address that possibility?

Proposed s. 285.48 (7) requires persons subject to the mercury emissions limitations to demonstrate that mercury disposed of or placed in storage will not be emitted into the atmosphere through reuse or recycling. Might a person do something other than dispose of the mercury or place it in storage? Might the mercury be emitted in some other way than through reuse or recycling? Do you want this provision to be modified in any way?

Please contact me with any questions or with redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266–7290
E–mail: Becky.Tradewell@legis.state.wi.us

Insert 3–5

SECTION 1. 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. 285.48 (6) (a) 3. for conducting small source mercury reduction projects.

Insert 4–22

(a) "Allowance" means a limited authorization to emit one pound of mercury in one year.

(b) "Baseline mercury emissions" means the average annual mercury emissions of a stationary source in 1997, 1998 and 1999, as determined under sub. (1m).

Insert 5–8

(e) "Modify" means to make a physical change in, or change the method of operation of, a stationary source so that the annual mercury emissions of the stationary source increase by 5 pounds or more.

(f) "Nonboiler source" means a stationary source that is not a boiler.

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

(h) "Regulated government–owned boiler" means a boiler that is owned by a municipality or this state if the total annual mercury emissions from all stationary

sources that are located on the site on which the boiler is located exceed 10 pounds in any year.

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

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

(k) "Site" means contiguous property that is under common ownership or control.

Insert 5–10

Using this methodology, the department shall determine a baseline mercury emission level for each regulated major utility boiler, regulated government–owned boiler, regulated nonboiler source and partially regulated boiler by averaging the annual mercury emissions of the boiler or the nonboiler source in 1997, 1998 and 1999.

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

2. Beginning 12 months after the department establishes a methodology under sub. (1m), no person may modify a regulated major utility boiler or regulated

government–owned boiler until the person obtains mercury emission reductions, as provided in sub. (4), equal to 150% of the increased mercury emissions resulting from the modification of the boiler.

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

2. In 2005 to 2009, the owner or operator of a regulated major utility boiler or regulated government–owned boiler to which par. (a) does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 20% of the baseline mercury emissions of the boiler or equal to the difference between the baseline mercury emissions of the boiler and the average annual mercury emissions of the boiler during the period to which subd. 1. applies, whichever is greater.

3. In 2010 to 2014, the owner or operator of a regulated major utility boiler or regulated government–owned boiler to which par. (a) does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 35% of the baseline mercury emissions of the boiler or equal to the difference between the baseline mercury emissions of the boiler and the average annual mercury emissions of the boiler during 2005 to 2009, whichever is greater.

4. Beginning in 2015, the owner or operator of a regulated major utility boiler or regulated government–owned boiler to which par. (a) does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 50% of the baseline mercury emissions of the boiler or equal to the difference between the

baseline mercury emissions of the boiler and the average annual mercury emissions of the boiler during the preceding 5–year period, whichever is greater.

(3) EMISSION LIMITS; NONBOILER SOURCES. (a) *New and modified boilers.* 1. Beginning 12 months after the department establishes a methodology under sub. (1m), no person may construct a new regulated nonboiler source until the person obtains mercury emission reductions, as provided in sub. (4), equal to 150% of the increased mercury emissions resulting from the new nonboiler source.

2. Beginning 12 months after the department establishes a methodology under sub. (1m), no person may modify a regulated nonboiler source until the person obtains mercury emission reductions, as provided in sub. (4), equal to 150% of the increased mercury emissions resulting from the modification of the nonboiler source.

(b) *Existing nonboiler sources.* 1. Beginning in the year after the year in which the department establishes a methodology under sub. (1m), the annual mercury emissions from a regulated nonboiler source to which par. (a) does not apply may not exceed the baseline mercury emissions of the nonboiler source.

2. In 2005 to 2009, the owner or operator of a regulated nonboiler source to which par. (a) does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 20% of the baseline mercury emissions of the nonboiler source or equal to the difference between the baseline mercury emissions of the nonboiler source and the average annual mercury emissions of the nonboiler source during the period to which subd. 1. applies, whichever is greater.

3. In 2010 to 2014, the owner or operator of a regulated nonboiler source to which par. (a) does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 35% of the baseline mercury emissions of the nonboiler source or equal to the difference between the baseline mercury emissions of the

nonboiler source and the average annual mercury emissions of the nonboiler source during 2005 to 2009, whichever is greater.

4. Beginning in 2015, the owner or operator of a regulated nonboiler source to which par. (a) does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 50% of the baseline mercury emissions of the nonboiler source or equal to the difference between the baseline mercury emissions of the nonboiler source and the average annual mercury emissions of the nonboiler source during the preceding 5–year period, whichever is greater.

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

(3m) EMISSION REDUCTIONS AND GOALS; PARTIALLY REGULATED BOILERS. (a) *New and modified boilers.* 1. Beginning 12 months after the department establishes a methodology under sub. (1m), no person may construct a new partially regulated boiler until the person obtains mercury emission reductions, as provided in sub. (4), equal to 150% of the annual mercury emissions from the new boiler.

2. Beginning 12 months after the department establishes a methodology under sub. (1m), no person may modify a partially regulated boiler until the person obtains mercury emission reductions, as provided in sub. (4), equal to 150% of the increased mercury emissions resulting from the modification of the boiler.

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

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

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

3. In 2010 to 2014, 65% of the baseline emissions of the boiler.

4. Beginning in 2015, 50% of the baseline mercury emissions of the boiler.

(c) *Report on emissions from partially regulated boilers.* If the department determines, in 2006 or 2011, that the goals in par. (b) are not being met, the department shall prepare a report describing the extent to which the goals are not being met and any measures that the department recommends should be taken because the goals are not being met. The department shall submit any report required under this paragraph to the chief clerk of each house of the legislature for distribution to the appropriate standing committees of the legislature under s. 13.172 (3).

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

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

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

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

1. Reducing mercury emissions from that stationary source.

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

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

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

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

(d) In 2005 to 2009, A person who owns a stationary source that is regulated under sub. (2) (a) or (b) 2. to 4., (3) (a) or (b) 2. to 4. or (3m) (a) may not obtain more than 25% of the required emission reductions for that stationary source ~~in 2005 to 2009~~ by using small source mercury reduction allowances. In 2010 to 2014, A person who owns a stationary source that is regulated under sub. (2) (a) or (b) 2. to 4., (3) (a) or (b) 2. to 4. or (3m) (a) may not obtain more than 15% of the required emission reductions for that stationary source ~~in 2010 to 2014~~ by using small source mercury reduction allowances. After 2014, A person who owns a stationary source that is regulated under sub. (2) (a) or (b) 2. to 4., (3) (a) or (b) 2. to 4. or (3m) (a) may not obtain any of the required emission reductions for that stationary source ~~after 2014~~ by using small source mercury reduction allowances.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) REPORT. (a) The department shall prepare 2 reports assessing the effectiveness of the mercury emission reduction program under this section. The

department shall prepare the first report by October 31, 2006, and the 2nd report by October 31, 2011. In the reports under this subsection, the department may include an assessment of the effectiveness of any other mercury reduction or elimination programs in this state. In the reports under this subsection,the department shall include all of the following:

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

2. An assessment of whether the 35% and 50% reductions in mercury emissions in 2010 and 2015 under subs. (2) (b) and (3) (b) are achievable, considering any scientific or technological developments.

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

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

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

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

(a) Nationwide regulations of mercury emissions similar to those in this section.

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

(c) A ban on the export of mercury.

(d) International regulations of mercury emissions similar to those in this section.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0205/1dn
RCT:jlg:jf

December 9, 1999

This is a draft of the substitute amendment for the mercury emission reduction bill. It is a very complex draft. Please review it carefully and please ask Tom Steidl at DNR to review the draft to ensure that it is consistent with the intent of the proposal.

The main substantive requirements of this proposal are the emission reduction requirements set out in proposed s. 285.48 (2) and (3). As I look at it, the allowances under sub. (5) are a way of facilitating banking and trading and keeping track of whether sources are meeting the requirements of subs. (2) and (3). Therefore, I have drafted the provisions from sub. (11) and the last sentence of sub. (5) in the draft with which I was provided as increases in the amount of the emission reductions that must be obtained rather than as reductions in the number of allowances provided to a source. The number of allowances will be reduced because the required emissions reductions are increased.

It seems to me that there might be sources for which DNR could not establish baselines as required under proposed s. 285.48 (1m), because they are constructed after 1997, but that also would not be regulated as "new," because they are constructed before DNR establishes the methodology for determining mercury emissions. Should the draft address that possibility?

Proposed s. 285.48 (7) requires persons subject to the mercury emissions limitations to demonstrate that mercury disposed of or placed in storage will not be emitted into the atmosphere through reuse or recycling. Might a person do something other than dispose of the mercury or place it in storage? Might the mercury be emitted in some other way than through reuse or recycling? Do you want this provision to be modified in any way?

Please contact me with any questions or with redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266–7290
E–mail: Becky.Tradewell@legis.state.wi.us

BRIAN BURKE
WISCONSIN STATE SENATOR
Senate Chair, Joint Committee on Finance

1-14-00

BECKY TRADEWELL —

PLEASE MAKE THE FOLLOWING HIGHLIGHTED CHANGES TO THE SUB. AMENDMENT TO SB 177.

A DNR ATTORNEY WROTE IN THE PROPOSED CHANGES. FEEL FREE TO CONTACT DNR IF YOU HAVE QUESTIONS.

THANK YOU.

BARRY

STATE CAPITOL, POST OFFICE BOX 7882, MADISON, WISCONSIN 53707-7882
PHONE (608) 266-8535 OR 1-800-249-8173; FAX (608) 267-0274

State of Wisconsin
1999 – 2000 LEGISLATURE

LRBs0205/1
RCTjlg:jf

SENATE SUBSTITUTE AMENDMENT ,

TO 1999 SENATE BILL 177

AN ACT *to amend* subchapter V (title) of chapter 285 [precedes 285.41]; and *to create* 20.370 (2) (bh), 20.370 (2) (bj), 196.854, 285.11 (18) and 285.48 of the statutes; **relating to:** mercury emissions from certain sources, research concerning mercury emissions, granting rule–making authority and making appropriations.

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

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

			1999–00	2000–01
20.370 Natural resources, department of				
(2) AIR AND WASTE				
(bh) Air management — mercury reduction	PR	A	500,000	500,000

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 the problems associated with long term storage and disposal of mercury, activities to evaluate the effectiveness of the program under s. 285.48 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. 285.48 (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. 285.48 (1) (d), the amount appropriated under s. 20.370 (2) (bh) for the purposes specified in s. 20.370 (2) (bh).

(2) The commission, in consultation with the department of natural resources, shall promulgate rules establishing a method for assessing each major utility an

amount that is proportionate to its fraction of the total amount of mercury emissions from major utilities in this state.

SECTION 5. 285.11 (18) of the statutes is created to read:

285.11 (18) Conduct, or contract with other persons to conduct, research on the effects of mercury emissions on human health and the environment and research on methods for reducing those emissions.

SECTION 6. Subchapter V (title) of chapter 285 [precedes 285.41] of the statutes is amended to read:

CHAPTER 285

SUBCHAPTER V

SULFUR DIOXIDE AND NITROGEN

OXIDE EMISSION

RATES AND GOALS;

MERCURY EMISSION LIMITS

SECTION 7. 285.48 of the statutes is created to read:

285.48 Mercury emission limits. (1) DEFINITIONS. In this section:

(a) "Allowance" means a limited authorization to emit one pound of mercury in one year.

(b) "Baseline mercury emissions" means the average actual annual mercury emissions of a stationary source in 1997, 1998 and 1999, as determined under sub. (1m).

(c) "Boiler" means a solid fossil fuel–fired boiler combustion unit.

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

(e) "Modify" means to make a physical change in, or change the method of operation of, a stationary source so that the annual mercury emissions of the stationary source increase by 5 pounds or more. that emits mercury and

(f) "Nonboiler source" means a stationary source that is not a boiler. solid fossil fueled combustion unit. The term includes a non-solid fossil-fueled combustion unit.

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

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

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

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

(k) "Site" means contiguous property that is under common ownership or control.

(1m) DETERMINATION OF MERCURY EMISSIONS. The department shall establish a methodology for determining the annual mercury emissions of boilers and other stationary sources that emit mercury. Using this methodology, the department shall determine a baseline mercury emission level for each regulated major utility boiler, regulated government–owned boiler, regulated nonboiler source and partially

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

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

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

(a) Nationwide regulations of mercury emissions ~~similar to~~ at least as stringent as those in this section.

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

(c) A ban on the export of mercury.

(d) International regulations of mercury emissions ~~similar to~~ at least as stringent as those in this section.

(END)

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

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

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

(8) REPORT. (a) The department shall prepare 2 reports assessing the effectiveness of the mercury emission reduction program under this section. The department shall prepare the first report by October 31, 2006, and the 2nd report by October 31, 2011. In the reports under this subsection, the department may include an assessment of the effectiveness of any other mercury reduction or elimination programs in this state. In the reports under this subsection,the department shall include all of the following:

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

2. An assessment of whether the 35% and 50% reductions in mercury emissions in 2010 and 2015 under subs. (2) (b) and (3) (b) are achievable, considering any scientific or technological developments.

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

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

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

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

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

(b) The department shall issue small source mercury reduction allowances to a person under this subsection in amounts equal to the amounts of reductions in emissions of mercury that are reasonably likely to occur because of the small source mercury reduction project undertaken or sponsored by the person, as determined based on the rules promulgated under par. (c).

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

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

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

than 25% of the required emission reductions for that stationary source by using small source mercury reduction allowances. In 2010 to 2014, a person who owns a stationary source that is regulated under sub. (2) ~~(a) or~~ (b) 2. to 4., or (3) ~~(a) or~~ (b) 2. to 4. ~~or (3m) (a)~~ may not obtain more than 15% of the required emission reductions for that stationary source in 2010 to 2014 by using small source mercury reduction allowances. After 2014, a person who owns a stationary source that is regulated under sub. (2) ~~(a) or~~ (b) 2. to 4., or (3) ~~(a) or~~ (b) 2. to 4. ~~or (3m) (a)~~ may not obtain any of the required emission reductions for that stationary source by using small source mercury reduction allowances.

(5) EMISSION ALLOWANCE SYSTEM; BANKING AND TRADING EMISSION ALLOWANCES. (a) *Allowances.* The department shall promulgate rules for a mercury emission allowance system that assigns allowances to each stationary source that is subject to sub. (2) (b) or (3) (b). Under the system, the department shall notify the owner or operator of a stationary source of the number of allowances for that stationary source for up to 5 years in advance, based on the requirements of sub. (2) (b) or (3) (b) and of sub. (3e).

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

(b) A person who owns a stationary source that is subject to sub. (2)(b)1. or (3)(b)1. shall comply with the emission limitation by reducing mercury emissions from that stationary source or another stationary source at that site.

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

(4) COMPLIANCE. (a) ~~Except as provided in par. (c) or (d),~~ A person who owns a stationary source that is subject to sub. (2) (a), (3) (a) or (3m) (a) ~~may~~ shall obtain the required emission reductions ~~only~~ by obtaining permanent, quantifiable and enforceable reductions of mercury emissions that are not otherwise required by state or federal law or this section ~~by one or more of the following methods:~~

~~1. Using banked or traded allowances as provided under sub. (5).~~

~~2. Using small source mercury reduction allowances as provided under sub. (6).~~

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

1. Reducing mercury emissions from that stationary source or another stationary source at that site.

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

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

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

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

(e) (d) In 2005 to 2009, a person who owns a stationary source that is regulated under sub. (2) ~~(b)~~ (b) 2. to 4. or (3) ~~(b)~~ (b) 2. to 4. ~~or (3) (b)~~ may not obtain more

3. In 2010 to 2014, the owner or operator of a regulated major utility boiler or regulated government–owned boiler to which par. (a) does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 35% of the baseline mercury emissions of the boiler or equal to the difference between the baseline mercury emissions of the boiler and the average annual mercury emissions of the boiler during 2005 to 2009, whichever is greater.

4. Beginning in 2015, the owner or operator of a regulated major utility boiler or regulated government–owned boiler to which par. (a) does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 50% of the baseline mercury emissions of the boiler or equal to the difference between the baseline mercury emissions of the boiler and the average annual mercury emissions of the boiler during the preceding 5–year period, whichever is greater.

(3) EMISSION LIMITS; NONBOILER SOURCES. (a) *New and modified nonboiler sources.* 1. Beginning 12 months after the department establishes a methodology under sub. (1m), no person may construct a new regulated nonboiler source until the person obtains mercury emission reductions, as provided in sub. (4), equal to 150% of the annual mercury emissions from the new nonboiler source.

2. Beginning 12 months after the department establishes a methodology under sub. (1m), no person may modify a regulated nonboiler source until the person obtains mercury emission reductions, as provided in sub. (4), equal to 150% of the increased mercury emissions resulting from the modification of the nonboiler source.

(b) *Existing nonboiler sources.* 1. Beginning in the year after the year in which the department establishes a methodology under sub. (1m), the annual mercury emissions from a regulated nonboiler source to which par. (a) does not apply may not exceed the baseline mercury emissions of the nonboiler source.

regulated boiler by averaging the annual mercury emissions of the boiler or the nonboiler source in 1997, 1998 and 1999.

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

2. Beginning 12 months after the department establishes a methodology under sub. (1m), no person may modify a regulated major utility boiler or regulated government–owned boiler until the person obtains mercury emission reductions, as provided in sub. (4), equal to 150% of the increased mercury emissions resulting from the modification of the boiler.

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

2. In 2005 to 2009, the owner or operator of a regulated major utility boiler or regulated government–owned boiler to which par. (a) does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 20% of the baseline mercury emissions of the boiler or equal to the difference between the baseline mercury emissions of the boiler and the average annual mercury emissions of the boiler during the period to which subd. 1. applies, whichever is greater.

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

(3m) EMISSION REDUCTIONS AND GOALS; PARTIALLY REGULATED BOILERS. (a) *New and modified boilers.* 1. Beginning 12 months after the department establishes a methodology under sub. (1m), no person may construct a new partially regulated boiler until the person obtains mercury emission reductions, as provided in sub. (4), equal to 150% of the annual mercury emissions from the new boiler.

2. Beginning 12 months after the department establishes a methodology under sub. (1m), no person may modify a partially regulated boiler until the person obtains mercury emission reductions, as provided in sub. (4), equal to 150% of the increased mercury emissions resulting from the modification of the boiler.

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

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

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

3. In 2010 to 2014, 65% of the baseline emissions of the boiler.

4. Beginning in 2015, 50% of the baseline mercury emissions of the boiler.

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

2. In 2005 to 2009, the owner or operator of a regulated nonboiler source to which par. (a) does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 20% of the baseline mercury emissions of the nonboiler source or equal to the difference between the baseline mercury emissions of the nonboiler source and the average annual mercury emissions of the nonboiler source during the period to which subd. 1. applies, whichever is greater.

3. In 2010 to 2014, the owner or operator of a regulated nonboiler source to which par. (a) does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 35% of the baseline mercury emissions of the nonboiler source or equal to the difference between the baseline mercury emissions of the nonboiler source and the average annual mercury emissions of the nonboiler source during 2005 to 2009, whichever is greater.

4. Beginning in 2015, the owner or operator of a regulated nonboiler source to which par. (a) does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 50% of the baseline mercury emissions of the nonboiler source or equal to the difference between the baseline mercury emissions of the nonboiler source and the average annual mercury emissions of the nonboiler source during the preceding 5–year period, whichever is greater.

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

1/14 Per Tom Steidl: 6-0235

1. p. 9 (4)(a) For these people, they could not use small sources + they could not use reductions in prior years. Could get reductions from regulated sources, but the reductions must be above & beyond what is required in this bill.

proposed 2. (4)(b) - Don't want to cap emissions from each source, instead allow offsets from another source on that site

3. p. 4, line 11 - if on-site + same year, it isn't banking or trading

1/18 Per Tom Steidl:

1. Modified boilers - want 150% offset and also to apply 2 reductions from baseline

2. Definition of modify - want to make certain that a series of changes adding up to 5 pounds is covered - and any increases after 5 pounds ⇒ one or more physical changes so that annual emissions (increase) 5 pounds or more over the baseline

1/19 Per Tom -

Eliminate "Beginning 12 months after ..." on p. 6, lines 14 & 18 and p. 8, lines 4 & 8

s0253/1
LRBs0285/1
RCT:jlg:jf
↑ stays

1999 – 2000 LEGISLATURE

Friday 1/21

SENATE SUBSTITUTE AMENDMENT ,

TO 1999 SENATE BILL 177

Regen

AN ACT ***to amend*** subchapter V (title) of chapter 285 [precedes 285.41]; and ***to create*** 20.370 (2) (bh), 20.370 (2) (bj), 196.854, 285.11 (18) and 285.48 of the statutes; **relating to:** mercury emissions from certain sources, research concerning mercury emissions, granting rule–making authority and making appropriations.

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

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

			1999–00	2000–01
20.370 Natural resources, department of				
(2) AIR AND WASTE				
(bh) Air management — mercury reduction	PR	A	500,000	500,000

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. ~~285.48~~ 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. 285.48 (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. ~~285.48~~ 285.50 (1) (d), the amount appropriated under s. 20.370 (2) (bh) for the purposes specified in s. 20.370 (2) (bh).

(2) The commission, in consultation with the department of natural resources, shall promulgate rules establishing a method for assessing each major utility an

amount that is proportionate to its fraction of the total amount of mercury emissions from major utilities in this state.

SECTION 5. 285.11 (19) of the statutes is created to read:

285.11 (19) Conduct, or contract with other persons to conduct, research on the effects of mercury emissions on human health and the environment and research on methods for reducing those emissions.

SECTION 6. Subchapter V (title) of chapter 285 [precedes 285.41] of the statutes is amended to read:

CHAPTER 285

SUBCHAPTER V

SULFUR DIOXIDE AND NITROGEN

OXIDE EMISSION

RATES AND GOALS;

285.50 MERCURY EMISSION LIMITS

SECTION 7. ~~285.48~~ of the statutes is created to read:

~~285.48~~ Mercury emission limits. (1) DEFINITIONS. In this section:

(a) "Allowance" means a limited authorization to emit one pound of mercury in one year.

(b) "Baseline mercury emissions" means the average annual mercury emissions of a stationary source in 1997, 1998 and 1999, as determined under sub. (1m).

(c) "Boiler" means a solid fossil fuel–fired ~~boiler~~ combustion unit.

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

(e) "Modify" means to make a physical change in, or change the method of operation of, a stationary source so that the annual mercury emissions of the stationary source increase by 5 pounds or more.

(f) "Nonboiler source" means a stationary source that is not a boiler.

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

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

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

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

(k) "Site" means contiguous property that is under common ownership or control.

(1m) DETERMINATION OF MERCURY EMISSIONS. The department shall establish a methodology for determining the annual mercury emissions of boilers and other stationary sources that emit mercury. Using this methodology, the department shall determine a baseline mercury emission level for each regulated major utility boiler, regulated government–owned boiler, regulated nonboiler source and partially

regulated boiler by averaging the annual mercury emissions of the boiler or the nonboiler source in 1997, 1998 and 1999.

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

2. ~~Beginning 12 months~~ After the department establishes a methodology under sub. (1m), no person may modify a regulated major utility boiler or regulated government–owned boiler until the person obtains mercury emission reductions, as provided in sub. (4), equal to 150% of the increased mercury emissions resulting from the modification of the boiler.

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

2. In 2005 to 2009, the owner or operator of a regulated major utility boiler or regulated government–owned boiler to which par. (a) 1. does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 20% of the baseline mercury emissions of the boiler ~~or equal to the difference between the baseline mercury emissions of the boiler and the average annual mercury emissions of the boiler during the period to which subd. 1. applies, whichever is greater~~.

3. In 2010 to 2014, the owner or operator of a regulated major utility boiler or regulated government–owned boiler to which par. (a) 1. does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 35% of the baseline mercury emissions of the boiler or equal to the difference between the baseline mercury emissions of the boiler and the average annual mercury emissions of the boiler during 2005 to 2009, whichever is greater.

4. Beginning in 2015, the owner or operator of a regulated major utility boiler or regulated government–owned boiler to which par. (a) 1. does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 50% of the baseline mercury emissions of the boiler or equal to the difference between the baseline mercury emissions of the boiler and the average annual mercury emissions of the boiler during the preceding 5–year period, whichever is greater.

(3) EMISSION LIMITS; NONBOILER SOURCES. (a) *New and modified nonboiler sources.* 1. ~~Beginning 12 months~~ after the department establishes a methodology under sub. (1m), no person may construct a new regulated nonboiler source until the person obtains mercury emission reductions, as provided in sub. (4), equal to 150% of the annual mercury emissions from the new nonboiler source.

2. ~~Beginning 12 months~~ after the department establishes a methodology under sub. (1m), no person may modify a regulated nonboiler source until the person obtains mercury emission reductions, as provided in sub. (4), equal to 150% of the increased mercury emissions resulting from the modification of the nonboiler source.

(b) *Existing nonboiler sources.* 1. Beginning in the year after the year in which the department establishes a methodology under sub. (1m), the annual mercury emissions from a regulated nonboiler source to which par. (a) does not apply may not exceed the baseline mercury emissions of the nonboiler source.

2. In 2005 to 2009, the owner or operator of a regulated nonboiler source to which par. (a) 1. does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 20% of the baseline mercury emissions of the nonboiler source or equal to the difference between the baseline mercury emissions of the nonboiler source and the average annual mercury emissions of the nonboiler source during the period to which subd. 1. applies, whichever is greater.

3. In 2010 to 2014, the owner or operator of a regulated nonboiler source to which par. (a) 1. does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 35% of the baseline mercury emissions of the nonboiler source or equal to the difference between the baseline mercury emissions of the nonboiler source and the average annual mercury emissions of the nonboiler source during 2005 to 2009, whichever is greater.

4. Beginning in 2015, the owner or operator of a regulated nonboiler source to which par. (a) 1. does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 50% of the baseline mercury emissions of the nonboiler source or equal to the difference between the baseline mercury emissions of the nonboiler source and the average annual mercury emissions of the nonboiler source during the preceding 5–year period, whichever is greater.

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

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

(3m) EMISSION REDUCTIONS AND GOALS; PARTIALLY REGULATED BOILERS. (a) *New and modified boilers.* 1. ~~Beginning 12 months after~~ the department establishes a methodology under sub. (1m), no person may construct a new partially regulated boiler until the person obtains mercury emission reductions, as provided in sub. (4), equal to 150% of the annual mercury emissions from the new boiler.

2. ~~Beginning 12 months after~~ the department establishes a methodology under sub. (1m), no person may modify a partially regulated boiler until the person obtains mercury emission reductions, as provided in sub. (4), equal to 150% of the increased mercury emissions resulting from the modification of the boiler.

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

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

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

3. In 2010 to 2014, 65% of the baseline emissions of the boiler.

4. Beginning in 2015, 50% of the baseline mercury emissions of the boiler.

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

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

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

~~1. Using banked or traded allowances as provided under sub. (5).~~

~~2. Using small source mercury reduction allowances as provided under sub. (6).~~

Insert 9-7 ~~P(c)~~ Except as provided in par. ~~(g)~~ d or ~~(h)~~ e, a person who owns a stationary source that is subject to sub. (2) (b) 2. to 4. or (3) (b) 2. to 4. may obtain the required emission reductions by one or more of the following methods:

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

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

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

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

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

~~(d)~~ (e) 1. In 2005 to 2009, a person who owns a stationary source that is regulated under sub. (2) ~~(a) or~~ (b) 2. to 4., (3) (a) or (b) 2. to 4. or ~~(3m) (a)~~ may not obtain more

than 25% of the required emission reductions for that stationary source by using small source mercury reduction allowances. In 2010 to 2014, a person who owns a stationary source that is regulated under sub. (2) (a) or (b) 2. to 4. or (3) (b) 2. to 4. may not obtain more than 15% of the required emission reductions for that stationary source in 2010 to 2014 by using small source mercury reduction allowances. After 2014, a person who owns a stationary source that is regulated under sub. (2) (a) or (b) 2. to 4. or (3) (b) 2. to 4. may not obtain any of the required emission reductions for that stationary source by using small source mercury reduction allowances.

(5) EMISSION ALLOWANCE SYSTEM; BANKING AND TRADING EMISSION ALLOWANCES. (a) *Allowances.* The department shall promulgate rules for a mercury emission allowance system that assigns allowances to each stationary source that is subject to sub. (2) (b) or (3) (b). Under the system, the department shall notify the owner or operator of a stationary source of the number of allowances for that stationary source for up to 5 years in advance, based on the requirements of sub. (2) (b) or (3) (b) and of sub. (3e).

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

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

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

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

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

(b) The department shall issue small source mercury reduction allowances to a person under this subsection in amounts equal to the amounts of reductions in emissions of mercury that are reasonably likely to occur because of the small source mercury reduction project undertaken or sponsored by the person, as determined based on the rules promulgated under par. (c).

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

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

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

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

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

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

(8) REPORT. (a) The department shall prepare 2 reports assessing the effectiveness of the mercury emission reduction program under this section. The department shall prepare the first report by October 31, 2006, and the 2nd report by October 31, 2011. In the reports under this subsection, the department may include an assessment of the effectiveness of any other mercury reduction or elimination programs in this state. In the reports under this subsection,the department shall include all of the following:

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

2. An assessment of whether the 35% and 50% reductions in mercury emissions in 2010 and 2015 under subs. (2) (b) and (3) (b) are achievable, considering any scientific or technological developments.

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

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

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

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

(a) Nationwide regulations of mercury emissions ~~similar to~~ at least as stringent as those in this section.

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

(c) A ban on the export of mercury.

(d) International regulations of mercury emissions ~~similar to~~ at least as stringent as those in this section.

(END)

Insert 9-7, p. 1

text: treat

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

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

Insert 9-7, p. 2

text: treat

¶ (b) A person who owns a stationary source that is subject to sub. (2) (b) 1. or (3) (b) 1. may only increase the annual mercury emissions in a year above the baseline mercury emissions for that stationary source if the person reduces mercury emissions in that year from another stationary source on the same site ¶NO by the amount of the increase and if the emission reduction is not otherwise required by this section or other state or federal law.

(end of insert 9-7)

SO253/1

1/21 Per Tom Steidl - Need 2 changes
1. p. 2, line 17 - fix x-ref. from 285.48 → 285.50

2. p. 7, lines 7-9 - delete "or the difference ..."
as in other part of bill

RT

1/24 Per Barry Ashenfelter - Change % reductions from 35% to 70% and from 50% to 90%. He is sending stripes.

RT

1999 – 2000 LEGISLATURE

LRBs0253/2
RCT:jlg:jf

Today

rmr

SENATE SUBSTITUTE AMENDMENT ,

TO 1999 SENATE BILL 177

Regen

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

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

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

			1999–00	2000–01
20.370 Natural resources, department of				
(2) AIR AND WASTE				
(bh) Air management — mercury reduction	PR	A	500,000	500,000

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. ~~285.48~~ 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).

(2) The commission, in consultation with the department of natural resources, shall promulgate rules establishing a method for assessing each major utility an amount that is proportionate to its fraction of the total amount of mercury emissions from major utilities in this state.

SECTION 5. 285.11 (19) of the statutes is created to read:

285.11 **(19)** Conduct, or contract with other persons to conduct, research on the effects of mercury emissions on human health and the environment and research on methods for reducing those emissions.

SECTION 6. Subchapter V (title) of chapter 285 [precedes 285.41] of the statutes is amended to read:

CHAPTER 285

SUBCHAPTER V

SULFUR DIOXIDE AND NITROGEN

OXIDE EMISSION

RATES AND GOALS;

MERCURY EMISSION LIMITS

SECTION 7. 285.50 of the statutes is created to read:

285.50 Mercury emission limits. (1) DEFINITIONS. In this section:

(a) "Allowance" means a limited authorization to emit one pound of mercury in one year.

(b) "Baseline mercury emissions" means the average annual mercury emissions of a stationary source in 1997, 1998 and 1999, as determined under sub. (1m).

(c) "Boiler" means a solid fossil fuel fired combustion unit.

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

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

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

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

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

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

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

(k) "Site" means contiguous property that is under common ownership or control.

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

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

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

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

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

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

3. In 2010 to 2014, the owner or operator of a regulated major utility boiler or regulated government–owned boiler to which par. (a) 1. does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to ~~35%~~ 50% of the baseline mercury emissions of the boiler or equal to the difference between the baseline mercury emissions of the boiler and the average annual mercury emissions of the boiler during 2005 to 2009, whichever is greater.

4. Beginning in 2015, the owner or operator of a regulated major utility boiler or regulated government–owned boiler to which par. (a) 1. does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to ~~50%~~ 90% of the baseline mercury emissions of the boiler or equal to the difference between the baseline mercury emissions of the boiler and the average annual mercury emissions of the boiler during the preceding 5–year period, whichever is greater.

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

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

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

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

2. In 2005 to 2009, the owner or operator of a regulated nonboiler source to which par. (a) 1. does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to 20% of the baseline mercury emissions of the nonboiler source ~~or equal to the difference between the baseline mercury emissions of the nonboiler source and the average annual mercury emissions of the nonboiler source during the period to which subd. 1. applies, whichever is greater~~.

3. In 2010 to 2014, the owner or operator of a regulated nonboiler source to which par. (a) 1. does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to ~~35%~~ 50% of the baseline mercury emissions of the nonboiler source or equal to the difference between the baseline mercury emissions of the nonboiler source and the average annual mercury emissions of the nonboiler source during 2005 to 2009, whichever is greater.

4. Beginning in 2015, the owner or operator of a regulated nonboiler source to which par. (a) 1. does not apply shall annually obtain mercury emission reductions, as provided in sub. (4), equal to ~~50%~~ 90% of the baseline mercury emissions of the nonboiler source or equal to the difference between the baseline mercury emissions of the nonboiler source and the average annual mercury emissions of the nonboiler source during the preceding 5–year period, whichever is greater.

(3e) INCREASE IN REQUIRED REDUCTIONS. Notwithstanding the mercury emission reductions required to be obtained in sub. (2) (b) 2. to 4. and (3) (b) 2. to 4., if the owner or operator of a stationary source subject to those requirements fails to obtain the required mercury emission reductions under sub. (2) (b) or (3) (b) in a year, the

department shall increase the amount of mercury emission reductions that the owner or operator must obtain under sub. (2) (b) or (3) (b) for the next year by 5 times the difference between the amount of emission reductions required and the amount of emission reductions obtained.

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

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

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

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

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

3. In 2010 to 2014, 65% ~~50%~~ of the baseline emissions of the boiler.

4. Beginning in 2015, 50% ~~10%~~ of the baseline mercury emissions of the boiler.

(c) *Report on emissions from partially regulated boilers.* If the department determines, in 2006 or 2011, that the goals in par. (b) are not being met, the department shall prepare a report describing the extent to which the goals are not being met and any measures that the department recommends should be taken because the goals are not being met. The department shall submit any report

required under this paragraph to the chief clerk of each house of the legislature for distribution to the appropriate standing committees of the legislature under s. 13.172 (3).

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) EMISSION ALLOWANCE SYSTEM; BANKING AND TRADING EMISSION ALLOWANCES. (a) *Allowances.* The department shall promulgate rules for a mercury emission

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. An assessment of whether the ~~35%~~ 50% and ~~50%~~ 90% reductions in mercury emissions in 2010 and 2015 under subs. (2) (b) and (3) (b) are achievable, considering any scientific or technological developments.

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

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

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

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

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

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

(c) A ban on the export of mercury.

(d) International regulations of mercury emissions at least as stringent as those in this section.

(END)