1999 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB177)

Received: **02/28/2000**

Received By: **traderc**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Council - IND**

By/Representing: **John Stolzenberg**

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 control

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	traderc 02/29/2000	jgeller 03/01/2000		_____ _____			
/P1			haugeca 03/01/2000	_____ _____	lrb_docadmin 03/01/2000		
/1	traderc 03/01/2000	jgeller 03/01/2000	kfollet 03/01/2000	_____ _____	lrb_docadmin 03/02/2000	lrb_docadmin 03/02/2000	

FE Sent For:

<END>

1999 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB177)

Received: **02/28/2000**

Received By: **traderc**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Council - IND**

By/Representing: **John Stolzenberg**

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 control

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	traderc 02/29/2000	jgeller 03/01/2000		_____ _____			
/P1		1/ 3/1j9	haugeca 03/01/2000	_____ _____	lrb_docadmin 03/01/2000		

FE Sent For:

3/1 KJF KJF/hh 3/1 <END>

1999 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB177)

Received: **02/28/2000**

Received By: **traderc**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Council - IND**

By/Representing: **John Stolzenberg**

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 control

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	traderc	/P1 3/1 jlg	CH 3-1	~~CH~~ ~~3-1~~ SMF			

FE Sent For:

<END>

February 28, 2000
Revised February 29, 2000

DRAFTING INSTRUCTIONS FOR A NEW SUBSTITUTE AMENDMENT TO 1999 SENATE BILL 177

(Based on Amending Provisions in Senate Substitute Amendment 1 to Senate Bill 177 Cited in Brackets)

I. Appropriations--Mercury Reduction [SECS. 1 and 2; s. 20.370 (2) (bh)]

A. No changes in the amount ($500,000 per year) and uses of the appropriation.

B. Change the source of funds from the program revenue assessment under SEC. 4 to the utility public benefits fund:

1. Create a Department of Natural Resources' (DNR) mercury program in ch. 285 that includes the list of funded activities in s. 20.370 (2) (bh).

2. Add to s. 20.505 (10) (s) that this sum sufficient appropriation from the utility public benefits fund will also be used to fund the DNR's mercury program in an amount not to exceed $500,000 per year.

3. Amend the public benefit fee setting for energy conservation and efficiency and renewable resource funding under s. 16.957 (4) (c) 2. to establish that if the Department of Administration reduces the $20,000,000 funding level for the s. 20.505 (10) (s) appropriation after fiscal year 2003-04 under s. 16.957 (2) (b) 2., that the reduced funding level must still be sufficient to fund the mercury program.

II. Appropriations--Small Source Mercury Reduction [SEC. 3; s. 20.370 (2) (bj)]

A. No change.

III. Assessment for Mercury Deposition Activities [SEC. 4; s. 196.854]

A. Delete SEC. 4, as the DNR's mercury program is funded under the new substitute amendment by public benefit funds. [See item I. B.]

IV. Mercury Research [SEC. 5; s. 285.11 (19)]

A. Add that, once the comprehensive program required under point VIII. is established, this research must be conducted under, and coordinated with the comprehensive program.

V. Subchapter title [SEC. 6; title preceding s. 285.41]

A. No change.

VI. Definitions [SEC. 7; s. 285.50 (1)]

A. Retain all definitions except as noted below.

B. Delete the definition of "major utility" in s. 285.50 (1) (d) and substitute a definition of "electric utility":

1. "Electric utility" has the meaning specified in s. 196.485 (1) (bs).

2. Change references throughout the new substitute amendment from "regulated major utility boiler" to "regulated electric utility boiler."

C. Change the term "partially regulated boiler" to "industrial boiler."

VII. Advisory Council [New Provision]

A. Direct the Secretary of Natural Resources to appoint a mercury advisory council composed of up to 12 members. Rely on s. 15.09 for terms, selection of officers, etc.

B. The advisory council shall advise the DNR on the implementation of its mercury program, including any required reports, mercury research and rule-making on setting mercury emission limits and goals.

VIII. Mercury Control Report [New Provision]

A. Direct the DNR to submit to the Legislature and Governor by July 1, 2001 a mercury control report that summarizes the department's review of mercury emission sources in Wisconsin and methods for obtaining reductions in mercury emissions from these sources and presents the department's comprehensive program for addressing mercury in the environment.

B. The review shall address at least the following:

1. Mercury emissions by sources in Wisconsin.

2. A description of each method for obtaining reductions in mercury emissions for the sources identified in point 1. that includes an analysis of the method's:

a. Effectiveness.

b. Technical feasibility.

c. Cost.

d. Impact on emissions of other pollutants.

e. Unintended environmental consequences.

f. Impact on electric reliability or the delivery of other goods or services.

C. The comprehensive program shall include the following components:

1. Mercury-related research funded by this act and others.

2. Mercury deposition studies and monitoring activities.

3. Public education.

4. Technical assistance for stationary sources that emit mercury.

5. Mercury emission reduction techniques, including mercury emission limits and reduction goals established under this act and any additional limits recommended by the DNR to the Legislature.

6. Cooperative mercury regulatory activities under point XX.

7. Other components identified by the department.

D. Require the DNR to update the report under points A., B. and C. by May 1, 2006 and May 1, 2011 and to include in the updates an analysis of the impacts of the trading program on water quality in specific locations and a description of the actions that the DNR will take to address any adverse impacts of the trading program on water quality in specific locations.

IX. Determination of Mercury Emissions [SEC. 7; s. 285.50 (1m)]

A. No change.

X. Emission Limits; Major Utility and Government-Owned Boilers [SEC. 7; s. 285.50 (2)]

A. New and modified boilers; no change in s. 285.50 (2) (a).

B. Existing boilers:

1. Emission cap; no change in s. 285.50 (2) (b) 1.

2. Reduction in 2005-2009; modify s. 285.50 (2) (b) 2. to:

a. Establish that the owner or operator of an existing regulated electric utility boiler or regulated government-owned boiler must annually obtain mercury emission reductions between 2005 and 2009, using one or more of the techniques authorized under point XIV., equal to 25% of the base line mercury emissions of the boiler.

b. Authorize the DNR to reduce by rule the 25% percentage reduction under point a. to a percentage not less than 15% if the DNR determines based on the report required under point VIII. that emission reduction techniques, authorized under point XIV., for achieving the 25% annual reduction in the period 2005 to 2009 are not technically and economically feasible.

c. Direct the DNR to submit the draft rule under point b. to the Legislative Council Rules Clearinghouse by December 31, 2001.

3. Reduction in 2010-2014; modify s. 285.50 (2) (b) 3. to:

a. Establish that the owner or operator of an existing regulated electric utility boiler or regulated government-owned boiler must annually obtain mercury emission reductions between 2010 and 2014, using one or more of the techniques authorized under point XIV., equal to 50% of the base line mercury emissions of the boiler.

b. Authorize the DNR to reduce by rule the 50% percentage reduction under point a to a percentage not less than 35% if the DNR determines based on the report required under point VIII., and the revision to the report, that emission reduction techniques, authorized under point XIV., for achieving the 50% annual reduction in the period 2010 to 2014 are not technically and economically feasible.

c. Direct the DNR to submit the draft rule under point b. to the Legislative Council Rules Clearinghouse by December 31, 2006.

4. Reduction in 2015 and on; modify s. 285.50 (2) (b) 4. to:

a. Establish that the owner or operator of an existing regulated electric utility boiler or regulated government-owned boiler must annually obtain mercury emission reductions beginning in 2015, using one or more of the techniques authorized under point XIV., equal to 60% of the base line mercury emissions of the boiler.

b. Authorize the DNR to increase by rule the 60% percentage reduction to a percentage no greater than 90% if the DNR determines based on the report required under point VIII., and the revision to the report, that emission reduction techniques authorized under point XIV., for achieving a greater reduction are technically and economically feasible.

c. Establish that if the DNR increases the 60% percentage reduction under point b., that the higher reduction does not go into effect until four years after the DNR promulgates the rule under point b. (i.e., the rule must specify that the new percentage reduction has a four-year delayed effective date).

C. Notwithstanding the emission reductions specified in points B. 2. to 4., direct the DNR to adjust the annual percentage reduction required at any individual source so that the emissions from all stationary sources that are located at the same site are not required to reduce mercury emissions below a total of 10 pounds per site per year.

XI. Emission Limits; Nonboiler Sources [SEC. 7; s. 285.50 (3)]

A. Establish the nonboiler source mercury limits and reduction percentages to be the same as those that apply to regulated electric utility boilers and regulated government-owned boilers in points X. A., B. and C.

XII. Increase in Required Reductions [SEC. 7; s. 285.50 (3e)]

A. Create an exception to this provision if the owner of a source subject to point X. or XI. receives a variance under point B.

B. Add the variance language from *1999 Senate Bill 177*, page 7, line 4 to page 8, line 12, with the following changes:

1. Apply the variance provision to regulated electric utility boilers, regulated government-owned boilers and nonboiler sources.

2. Simplify the process so the DNR is the decision maker, and the DNR consults with the Public Service Commission on the existence of one or more variance conditions, as appropriate.

3. Clarify that the events in sub. (4) (a) 1. to 3. c. constitute a variance condition if the described event either has or is likely to result in an increase in mercury emissions by the person requesting the variance.

4. In the fourth variance condition, par. (a) 4., delete "not anticipated in the plan submitted under sub. (3)."

5. Delete the second sentence in par. (b).

6. Add a new variance condition if there is no technically and economically feasible mercury reduction technique, based on the techniques authorized under point XIV.

7. Modify par. (c) 1. to have the DNR determine if a variance condition exists (see point 2.).

8. Delete par. (d).

XIII. Emission Reductions and Goals; Partially Regulated Boilers [SEC. 7; s. 285.50 (3m)]

A. Delete provision and substitute that if as a result of the report under point VIII. and any revisions to the report, and in cooperation with owners of industrial boilers, the DNR determines that there are technologically and economically feasible mercury reduction techniques, based on the techniques specified in s. 285.50 (4) c. 1. to 3., available for industrial boilers, direct the DNR to establish, in cooperation with owners of industrial boilers, mercury emission reduction goals for these boilers and schedules for achieving these goals.

XIV. Compliance [SEC. 7; s. 285.50 (4)]

A. Remove references to regulations under sub. (3m); no change in the remaining text.

~~B. Delete the exceptions in s. 287.50 (4) (d) and (e).~~

XV. Emission Allowance System; Banking and Trading Emission Allowances [SEC. 7; s. 285.50 (5)]

A. No change.

XVI. Small Source Mercury Reduction Allowances [SEC. 7; s. 285.50 (6)]

A. No change.

XVII. Storage or Disposal [SEC. 7; s. 285.50 (7)]

A. No change.

XVIII. Report [SEC. 7; s. 285.50 (8)]

A. Delete this provision.

XIX. No Impact on Other Provisions [SEC. 7; s. 285.50 (9)]

A. No change.

XX. Cooperation [SEC. 7; s. 285.50 (10)]

A. No change.

Prepared at the request of
Senator Brian Burke and Representative Dean Kaufert by:

John Stolzenberg, Staff Scientist
Wisconsin Legislative Council Staff
JES:ksm:rv:wu;rv;wu

50346/P1

2/29 - 6:30 p.m. Per John S. -
Instead model the variance on s. 29.31 (without last sentence). Make it for 2 years + available for those subject to s. (2)(a)(3)(b) 2. to 4.

RUT

0346/P1

1999 – 2000 LEGISLATURE

LRB-~~0253/2~~
RCT:jlg:jf

As soon as possible on Wed.
NOW!

SENATE SUBSTITUTE AMENDMENT 1,

TO 1999 SENATE BILL 177

DNote

~~January 25, 2000 – Offered by Senator BURKE.~~

regenerate

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:

Insert 1-6 →

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)~~ (bk) Air management — mercury ~~reduction~~ control	PR S A	500,000	500,000

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

20.370 **(2)** (~~bh~~) (bk) *Air management — mercury ~~reduction~~ control.* 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~~ transferred to this appropriation account from the appropriation account under s. 20.505 (10)(5) letter shall be credited to this appropriation account.

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

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

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

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

INS 2-23

(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. Once the department establishes the program under s. 285.50(1e)(c), research under this subsection shall be consistent with and conducted under that program.

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~~ Electric has the meaning given in s. 196.485(1)(bs). 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.

move dm (g) "~~Partially regulated~~ Industrial boiler" means a boiler that is not owned by a municipality, this state or ~~a major~~ an electric 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~~ electric utility boiler" means a boiler that is owned by ~~a major~~ an electric 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 5-1

(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~~ electric utility boiler, regulated government–owned boiler, regulated nonboiler source and ~~partially regulated~~ industrial boiler by averaging the annual mercury emissions of the boiler or the nonboiler source in 1997, 1998 and 1999.

(2) EMISSION LIMITS; ~~MAJOR~~ (LS) electric 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~~ electric 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~~ electric 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~~ electric 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).

Except as provided under par. (c) 4. or sub. (3c), electric

2. In 2005 to 2009, the owner or operator of a regulated ~~major~~ electric 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 25% of the baseline mercury emissions of the boiler, or the percentage established under par. (c) 1.

3. Except as provided under par. (c) 4. or sub. (3c), in 2010 to 2014, the owner or operator of a regulated ~~major~~ electric 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 the percentage established under par. (c) 2. ~~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. Except as provided under par. (c) 4. or sub. (3c), beginning in 2015, the owner or operator of a regulated ~~major~~ electric 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 60% of the baseline mercury emissions of the boiler, or the percentage established under par. (c) 3. ~~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.~~

Insert 6-14

(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.

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 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 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~~ under 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, unless the owner or operator obtains a variance under sub. (3c).

Insert F-2

(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, 50% of the baseline emissions of the boiler.

4. Beginning in 2015, 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) or (3) (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~~ industrial 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.

Insert 12-22 →

(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 50% and 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)

Note

Insert 1–6

SECTION 1. 15.347 (5) of the statutes is created to read:

15.347 **(5)** MERCURY CONTROL COUNCIL. There is created in the department of natural resources a mercury control council consisting of up to 12 members appointed by the secretary of natural resources.

SECTION 2. 16.957 (4) (c) 2. of the statutes, as created by 1999 Wisconsin Act 9, is amended to read:

16.957 **(4)** (c) 2. 'Energy conservation and efficiency and renewable resource funding.' For fiscal year 1999–2000, a portion of the public benefits fee shall be in an amount that, when added to 50% of the estimated public benefits fees charged by municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal year, shall equal $20,000,000. In each fiscal year after fiscal year 1999–2000, a portion of the public benefits fee shall be the amount determined under this subdivision for fiscal year 1999–2000, except that if the department determines to reduce or discontinue a program under sub. (2) (b) 2., the department shall reduce the amount accordingly. If the department reduces the amount, the department shall ensure that sufficient funds are available to make the transfer from the appropriation account under s. 20.505 (10) (s) to the appropriation account under s. 20.370 (2) (bk).

History: 1999 a. 9.

Insert ~~BA1~~ 2-23

SECTION 3. 20.505 (10) (s) of the statutes, as created by 1999 Wisconsin Act 9, is amended to read:

20.505 **(10)** (s) *Energy conservation and efficiency and renewable resource grants.* From the utility public benefits fund, a sum sufficient for energy conservation and efficiency and renewable resource grants under s. 16.957 (2) (b) 1., to transfer the amounts in the schedule under s. 20.370 (2) (bk) to the appropriation account under s. 20.370 (2) (bk) and to make the transfer to the air quality improvement fund under s. 16.958 (2) (a).

INSERT 5-1

History: 1971 c. 108, 125, 215; 1971 c. 270 s. 104; 1973 c. 90 and supp., 137, 305; 1975 c. 39 ss. 179 to 184f, 735 (5); 1975 Ex. Order No. 24; 1975 c. 224, 397; 1977 c. 29; 1977 c. 196 ss. 70, 131; 1977 c. 377 s. 30; 1977 c. 418 s. 929 (1), (55); 1979 c. 32 s. 92 (5); 1979 c. 34, 175, 221; 1979 c. 355 s. 241; 1979 c. 361; 1981 c. 20 ss. 400b to 421, 2202 (57) (b); 1981 c. 44 s. 3; 1981 c. 62, 121; 1981 c. 202 s. 23; 1981 c. 314, 374, 391; 1983 a. 27 ss. 439 to 456, 2202 (1); 1983 a. 36, 187, 282, 371, 393; 1985 a. 29, 31, 57, 120, 296, 297, 332; 1987 a. 27 ss. 296n, 296q, 297b, 297d, 299a to 299r, 300a, 301a, 418 to 432; 1987 a. 142, 147, 342, 399; 1989 a. 31, 56, 107, 122, 336, 339, 345, 366; 1991 a. 39 s. 469, 593q to 614; 1991 a. 105, 269, 315; 1993 a. 16 ss. 470g, 470m, 470r, 488 to 506m; 1993 a. 33, 73, 193, 349, 358, 374, 414, 437, 477, 491, 1995 a. 27, 56, 201, 216, 225, 227, 370, 403; 1997 a. 3; 1997 a. 27 ss. 199, 227 to 229m, 233, 666g to 692; 1997 a. 237, 283; 1999 a. 5, 9, 24.

(1e) MERCURY CONTROL REPORT AND PROGRAM. (a) No later than July 1, 2001, the department shall submit to the legislature under s. 13.172 (2) and to the governor a mercury control report that summarizes the department's review of mercury emission sources in this state and methods for obtaining reductions in mercury emissions from these sources and describes a comprehensive program that will be administered by the department for addressing mercury in the environment.

(b) In the review under par. (a) of mercury emission sources in this state and methods for obtaining reductions in mercury emissions from these sources, the department shall include at least descriptions of all of the following:

1. Mercury emissions by sources in this state.

2. Each method for obtaining reductions in mercury emissions for the sources identified in subd. 1., including an analysis of the method's effectiveness, technical feasibility, cost, impact on emissions of other pollutants, unintended environmental consequences and impact on the reliability of the supply of electricity in this state or on the delivery of other goods and services.

(c) In its comprehensive program for addressing mercury in the environment, the department shall include all of the following components:

1. Mercury–related research funded under s. 20.370 (2) (bk) and funded from other sources.

2. Mercury deposition studies and monitoring activities.

3. Public information and education.

4. Technical assistance for stationary sources that emit mercury.

5. Methods for reducing mercury emissions, including the requirements under sub. (2) and (3) and any goals under sub. (3m).

6. Cooperative activities under sub. (10).

7. Activities to eliminate the use of mercury by, or reduce mercury emissions from, small sources.

8. Activities to address problems associated with long–term storage and disposal of mercury.

9. Activities to evaluate the effectiveness of the program for addressing mercury in the environment.

10. Any other components identified by the department.

(d) In its report under par. (a), the department may recommend legislation to establish additional mercury emission limits.

(e) The department shall submit updates to the report under par. (a) to the legislature under s. 13.172 (2) and to the governor no later than may 1, 2006, and May 1, 2011, and shall include in the updates an analysis of the impacts of banking and trading authorized under sub. (4) on water quality in specific locations and the actions that the department will take to address any adverse impacts of banking and trading on water quality in specific locations.

(end ins)

Insert 6–14

(c) *Modifying emission limits.* 1. The department may by rule reduce the requirement in par. (b) 2. from 25% to a percentage not less than 15% if the department determines, based on the report under sub. (1e) (a), that it is not technically and economically feasible to meet the 25% requirement in the period 2005 to 2009 using the methods for obtaining emission reductions authorized under sub. (4). If the department decides to promulgate a rule under this subdivision, it shall submit the rule in proposed form to the legislative council staff under s. 227.15 (1) no later than December 31, 2001.

2. The department may by rule reduce the requirement in par. (b) 3. from 50% to a percentage not less than 35% if the department determines, based on the report under sub. (1e) (a) and any updates to the report, that it is not technically and economically feasible to meet the 50% requirement in the period 2010 to 2014 using the methods for obtaining emission reductions authorized under sub. (4). If the department decides to promulgate a rule under this subdivision, it shall submit the rule in proposed form to the legislative council staff under s. 227.15 (1) no later than December 31, 2006.

3. The department may by rule increase the requirement in par. (b) 4. from 60% to a percentage not greater than 90% if the department determines, based on the report under sub. (1e) (a) and any updates to the report, that it is technically and economically feasible to meet the higher requirement higher using the methods for obtaining emission reductions authorized under sub. (4). A rule promulgated under this subdivision may not take effect fewer than 48 months after it is promulgated.

4. The department shall modify the amount of emission reductions required under par. (b) 2. to 4. so that a person is not required to obtain any additional emission reductions for stationary sources on a site once the mercury emissions from all stationary sources on that site, less any mercury emission reductions obtained under sub. (4) from sources that are not on that site to satisfy the requirements under par. (b) 2. to 4. that apply to sources on that site, equals 10 pounds per year.

Insert 7–19

(c) *Modifying emission limits.* 1. The department may by rule reduce the requirement in par. (b) 2. from 25% to a percentage not less than 15% if the department determines, based on the report under sub. (1e) (a), that it is not technically and economically feasible to meet the 25% requirement in the period 2005 to 2009 using the methods for obtaining emission reductions authorized under sub. (4). If the department decides to promulgate a rule under this subdivision, it shall submit the rule in proposed form to the legislative council staff under s. 227.15 (1) no later than December 31, 2001.

2. The department may by rule reduce the requirement in par. (b) 3. from 50% to a percentage not less than 35% if the department determines, based on the report under sub. (1e) (a) and any updates to the report, that it is not technically and economically feasible to meet the 50% requirement in the period 2010 to 2014 using the methods for obtaining emission reductions authorized under sub. (4). If the department decides to promulgate a rule under this subdivision, it shall submit the rule in proposed form to the legislative council staff under s. 227.15 (1) no later than December 31, 2006.

3. The department may by rule increase the requirement in par. (b) 4. from 60% to a percentage not greater than 90% if the department determines, based on the report under sub. (1e) (a) and any updates to the report, that it is technically and economically feasible to meet the higher requirement using the methods for obtaining emission reductions authorized under sub. (4). A rule promulgated under this subdivision may not take effect fewer than 48 months after it is promulgated.

4. The department shall modify amount of emission reductions required under par. (b) 2. to 4. so that a person is not required to obtain any additional emission reductions for stationary sources on a site once the mercury emissions from all stationary sources on that site, less any mercury emission reductions obtained under sub. (4) from sources that are not on that site to satisfy the requirements under par. (b) 2. to 4. that apply to sources on that site, equals 10 pounds per year.

(3c) VARIANCE. If the department determines that compliance with a requirement under sub. (2) (b) 2. to 4. or (3) (b) 2. to 4. would cause undue or unreasonable hardship to any person, the department may issue a variance for up to 2 years from the requirement as long as a variance will not result in undue harm to human health or the environment.

Insert 8–2

(3m) INDUSTRIAL BOILERS. If the department determines, based on the report under sub. (1e) (a) and any updates to the report and in cooperation with owners of industrial boilers, that it is technically and economically feasible to obtain mercury emission reductions for industrial boilers using the methods under sub. (4) (c) 1. to 3., the department shall establish, in cooperation with owners of industrial boilers,

mercury emission reduction goals for industrial boilers and schedules for achieving those goals.

Insert 12–22

(8) COUNCIL. The mercury control council shall advise the department on the implementation and operation of the department's mercury control program, including research, any required reports and rule making.

s0346/1dn

RCT:

John Stolzenberg:

¶ Here's a stab at it. I really rushed so there may be ragged edges, but I thought it would be worth it to give us a chance to look the whole thing over.

¶ Relating to point I. B. 1. of the outline, I just added things from the appropriation in s. 9.1(1) to the comprehensive program under point VIII C. rather than create another program.

¶ I know there were other things I wanted to point out, but they have slipped my mind.

¶ Please don't hesitate to call.

RCT

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0346/P1dn
RCT:jlg:ch

March 1, 2000

John Stolzenberg:

Here's a stab at it. I really rushed so there may be ragged edges, but I thought it would be worth it to give us a chance to look the whole thing over.

Relating to point I. B. 1. of the outline, I just added things from the appropriation in SSA1 to the comprehensive program under point VIII C. rather than create another program.

I know there were other things I wanted to point out, but they have slipped my mind.

Please don't hesitate to call.

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

SO346/P1

3/1/2000

Per John Stolzenberg:

1. P. 3, line 2 - add mercury research under s. 285.11(19) + delete "(1e)(c)

2. P. 4, lines 2 & 4 - change to "mercury control"

3. P. 9, line 11 & p. 11, line 18 - make clear that this applies to one person, not across the board

4. Page 16, lines 15 & 16 - say "program under this section, including research under s. 285.11(19)."

Also - there may be a change in sub. (7) & there will be changes in sub. (3m).

_____ Amendment __ to

Senate Substitute Amendment 1

to Senate Bill 177

At the locations indicated, amend the substitute amendment as follows:

1. Page 3, line 7: Delete the material after the word "emissions" through the end of line 8 and substitute:

"from state sources on the Wisconsin environment, and identify technologically and economically feasible control technologies which have been implemented successfully in reducing mercury emissions at comparable facilities in or out of the state.".

2. Page 8, line 3: Delete the material beginning at that line through the end of page 9, line 2, and substitute:

"(3m) STUDY OF EMISSION REDUCTION FEASIBILITY AND GOALS; PARTIALLY REGULATED BOILERS. (a) The department shall, in cooperation with owners of partially regulated boilers, study mercury emission reduction options that are technologically and economically feasible and which have been successfully employed for the purposes of mercury reduction for similarly situated, partially regulated boilers.

(b) For each mercury reduction option that is determined to be technologically and economically feasible, the department shall estimate the potential environmental benefit to fish and aquatic resources in this state from implementation of the reduction option.

(c) If technologically and economically feasible mercury reduction options are available for partially regulated boilers that would result in significant environmental benefits to fish and aquatic resources in this state, the department shall, in cooperation with owners and

State of Wisconsin
1999 – 2000 LEGISLATURE

Thurs. 9 a.m.

LRBs0346/1
RCT:jlg:ch
rmr

~~PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION~~

SENATE SUBSTITUTE AMENDMENT,

TO 1999 SENATE BILL 177

Regen

AN ACT ***to amend*** 16.957 (4) (c) 2., 20.505 (10) (s) and subchapter V (title) of chapter 285 [precedes 285.41]; and ***to create*** 15.347 (5), 20.370 (2) (bj), 20.370 (2) (bk), 285.11 (19) and 285.50 of the statutes; **relating to:** a mercury control program ~~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. 15.347 (5) of the statutes is created to read:

15.347 **(5)** MERCURY CONTROL COUNCIL. There is created in the department of natural resources a mercury control council consisting of up to 12 members appointed by the secretary of natural resources.

SECTION 2. 16.957 (4) (c) 2. of the statutes, as created by 1999 Wisconsin Act 9, is amended to read:

16.957 **(4)** (c) 2. 'Energy conservation and efficiency and renewable resource funding.' For fiscal year 1999–2000, a portion of the public benefits fee shall be in an amount that, when added to 50% of the estimated public benefits fees charged by municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal year, shall equal $20,000,000. In each fiscal year after fiscal year 1999–2000, a portion of the public benefits fee shall be the amount determined under this subdivision for fiscal year 1999–2000, except that if the department determines to reduce or discontinue a program under sub. (2) (b) 2., the department shall reduce the amount accordingly. If the department reduces the amount, the department shall ensure that sufficient funds are available to make the transfer from the appropriation account under s. 20.505 (10) (s) to the appropriation account under s. 20.370 (2) (bk).

SECTION 3. 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					
(bk) Air management — mercury control	PR–S	A		500,000	500,000

SECTION 4. 20.370 (2) (bj) of the statutes is created to read:

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

SECTION 5. 20.370 (2) (bk) of the statutes is created to read:

20.370 **(2)** (bk) *Air management — mercury control.* The amounts in the schedule for the mercury control program under s. 285.50 ~~(1e) (c)~~. All moneys transferred to this appropriation account from the appropriation account under s. 20.505 (10) (s) shall be credited to this appropriation account.

SECTION 6. 20.505 (10) (s) of the statutes, as created by 1999 Wisconsin Act 9, is amended to read:

20.505 **(10)** (s) *Energy conservation and efficiency and renewable resource grants.* From the utility public benefits fund, a sum sufficient for energy conservation and efficiency and renewable resource grants under s. 16.957 (2) (b) 1., to transfer the amounts in the schedule under s. 20.370 (2) (bk) to the appropriation account under s. 20.370 (2) (bk) and to make the transfer to the air quality improvement fund under s. 16.958 (2) (a).

SECTION 7. 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.~~ Once the department establishes the program under s. 285.50 (1e) (c), research under this subsection shall be consistent with and conducted under that program.

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~~ CONTROL ← ALL CAPS

SECTION 9. 285.50 of the statutes is created to read:

285.50 Mercury ~~emission limits~~ control. (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) "Electric utility" has the meaning given in s. 196.485 (1) (bs).

(dm) "Industrial boiler" means a boiler that is not owned by a municipality, this state or an electric 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.

(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.

(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.

more to 3.4 * (ih) "Regulated electric utility boiler" means a boiler that is owned by an electric 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.

(1e) MERCURY CONTROL REPORT AND PROGRAM. (a) No later than July 1, 2001, the department shall submit to the legislature under s. 13.172 (2) and to the governor a mercury control report that summarizes the department's review of mercury emission sources in this state and methods for obtaining reductions in mercury emissions from these sources and describes a comprehensive program that will be administered by the department for addressing mercury in the environment.

(b) In the review under par. (a) of mercury emission sources in this state and methods for obtaining reductions in mercury emissions from these sources, the department shall include at least descriptions of all of the following:

1. Mercury emissions by sources in this state.

2. Each method for obtaining reductions in mercury emissions for the sources identified in under subd. 1., including an analysis of the method's effectiveness, technical feasibility, cost, impact on emissions of other pollutants, unintended environmental consequences and impact on the reliability of the supply of electricity in this state or on the delivery of other goods and services.

(c) In its comprehensive program for addressing mercury in the environment, the department shall include all of the following components:

1. Mercury–related research funded under s. 20.370 (2) (bk) and funded from other sources.

2. Mercury deposition studies and monitoring activities.

3. Public information and education.

4. Technical assistance for stationary sources that emit mercury.

5. Methods for reducing mercury emissions, including the requirements under sub. (2) and (3) and any goals under sub. (3m).

6. Cooperative activities under sub. (10).

7. Activities to eliminate the use of mercury by, or reduce mercury emissions from, small sources.

8. Activities to address problems associated with long–term storage and disposal of mercury.

9. Activities to evaluate the effectiveness of the program for addressing mercury in the environment.

10. Any other components identified by the department.

(d) In its report under par. (a), the department may recommend legislation to establish additional mercury emission limits.

(e) The department shall submit updates to the report under par. (a) to the legislature under s. 13.172 (2) and to the governor no later than May 1, 2006, and May 1, 2011, and shall include in the updates an analysis of the impacts of banking and trading authorized under sub. (4) on water quality in specific locations and the actions that the department will take to address any adverse impacts of banking and trading on water quality in specific locations.

(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 electric utility boiler, regulated government–owned boiler, regulated nonboiler source and industrial boiler by averaging the annual mercury emissions of the boiler or the nonboiler source in 1997, 1998 and 1999.

(2) EMISSION LIMITS; ELECTRIC 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 electric 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 electric 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 electric 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. Except as provided under par. (c) 4. or sub. (3c), in 2005 to 2009, the owner or operator of a regulated electric 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 25%, or the percentage established under par. (c) 1., of the baseline mercury emissions of the boiler.

3. Except as provided under par. (c) 4. or sub. (3c), in 2010 to 2014, the owner or operator of a regulated electric 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%, or the percentage established under par. (c) 2., of the baseline mercury emissions of the boiler.

4. Except as provided under par. (c) 4. or sub. (3c), beginning in 2015, the owner or operator of a regulated electric 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 60%, or the percentage established under par. (c) 3., of the baseline mercury emissions of the boiler.

(c) *Modifying emission limits.* 1. The department may by rule reduce the requirement in par. (b) 2. from 25% to a percentage not less than 15% if the department determines, based on the report under sub. (1e) (a), that it is not technically and economically feasible to meet the 25% requirement in the period 2005 to 2009 using the methods for obtaining emission reductions authorized under sub. (4). If the department decides to promulgate a rule under this subdivision, it shall submit the rule in proposed form to the legislative council staff under s. 227.15 (1) no later than December 31, 2001.

2. The department may by rule reduce the requirement in par. (b) 3. from 50% to a percentage not less than 35% if the department determines, based on the report under sub. (1e) (a) and any updates to the report, that it is not technically and economically feasible to meet the 50% requirement in the period 2010 to 2014 using

the methods for obtaining emission reductions authorized under sub. (4). If the department decides to promulgate a rule under this subdivision, it shall submit the rule in proposed form to the legislative council staff under s. 227.15 (1) no later than December 31, 2006.

3. The department may by rule increase the requirement in par. (b) 4. from 60% to a percentage not greater than 90% if the department determines, based on the report under sub. (1e) (a) and any updates to the report, that it is technically and economically feasible to meet the higher requirement ~~higher~~ using the methods for obtaining emission reductions authorized under sub. (4). A rule promulgated under this subdivision may not take effect fewer than 48 months after it is promulgated.

4. The department shall modify the amount of emission reductions that a person is required to obtain under par. (b) 2. to 4. so that the person is not required to obtain any additional emission reductions for stationary sources on a site once the mercury emissions from all stationary sources on that site, less any mercury emission reductions obtained under sub. (4) from sources that are not on that site to satisfy the requirements under par. (b) 2. to 4. that apply to sources on that site, equals 10 pounds per year.

(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. Except as provided under par. (c) 4. or sub. (3c), 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 25%, or the percentage established under par. (c) 1., of the baseline mercury emissions of the nonboiler source.

3. Except as provided under par. (c) 4. or sub. (3c), 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 50%, or the percentage established under par. (c) 2., of the baseline mercury emissions of the nonboiler source.

4. Except as provided under par. (c) 4. or sub. (3c), 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 60%, or the percentage established under par. (c) 3., of the baseline mercury emissions of the nonboiler source.

(c) *Modifying emission limits.* 1. The department may by rule reduce the requirement in par. (b) 2. from 25% to a percentage not less than 15% if the department determines, based on the report under sub. (1e) (a), that it is not technically and economically feasible to meet the 25% requirement in the period 2005 to 2009 using the methods for obtaining emission reductions authorized under

sub. (4). If the department decides to promulgate a rule under this subdivision, it shall submit the rule in proposed form to the legislative council staff under s. 227.15 (1) no later than December 31, 2001.

2. The department may by rule reduce the requirement in par. (b) 3. from 50% to a percentage not less than 35% if the department determines, based on the report under sub. (1e) (a) and any updates to the report, that it is not technically and economically feasible to meet the 50% requirement in the period 2010 to 2014 using the methods for obtaining emission reductions authorized under sub. (4). If the department decides to promulgate a rule under this subdivision, it shall submit the rule in proposed form to the legislative council staff under s. 227.15 (1) no later than December 31, 2006.

3. The department may by rule increase the requirement in par. (b) 4. from 60% to a percentage not greater than 90% if the department determines, based on the report under sub. (1e) (a) and any updates to the report, that it is technically and economically feasible to meet the higher requirement using the methods for obtaining emission reductions authorized under sub. (4). A rule promulgated under this subdivision may not take effect fewer than 48 months after it is promulgated.

4. The department shall modify the amount of emission reductions that a person is required to obtain under par. (b) 2. to 4. so that the person is not required to obtain any additional emission reductions for stationary sources on a site once the mercury emissions from all stationary sources on that site, less any mercury emission reductions obtained under sub. (4) from sources that are not on that site to satisfy the requirements under par. (b) 2. to 4. that apply to sources on that site, equals 10 pounds per year.

(3c) VARIANCE. If the department determines that compliance with a requirement under sub. (2) (b) 2. to 4. or (3) (b) 2. to 4. would cause undue or

unreasonable hardship to any person, the department may issue a variance for up to 2 years from part or all of the requirement as long as a variance will not result in undue harm to human health or the environment.

(3e) INCREASE IN REQUIRED REDUCTIONS. Notwithstanding the mercury emission reductions required to be obtained under subs. (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 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 unless the owner or operator obtains a variance under sub. (3c).

Insert 12-11

(3m) INDUSTRIAL BOILERS. If the department determines, based on the report under sub. (1e) (a) and any updates to the report and in cooperation with owners of industrial boilers, that it is technically and economically feasible to obtain mercury emission reductions for industrial boilers using the methods under sub. (4) (c) 1. to 3., the department shall establish, in cooperation with owners of industrial boilers, mercury emission reduction goals for industrial boilers and schedules for achieving those goals.

(4) COMPLIANCE. (a) A person who owns a stationary source that is subject to sub. (2) (a) or (3) (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 industrial 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) COUNCIL. The mercury control council shall advise the department on the implementation and operation of the department's mercury control program under this section including research, ~~any required reports and rule making~~ under s. 285.11 (9).

(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)

Inserts for 5037s/1

_____ Amendment __ to

Senate Substitute Amendment 1

to Senate Bill 177

At the locations indicated, amend the substitute amendment as follows:

1. Page 3, line 7: Delete the material after the word "emissions" through the end of line 8 and substitute:

Insert 3-15

"from state sources on the Wisconsin environment in this state, and identify technologies of this state that are technologically and economically feasible control technologies which have been implemented successfully in reducing mercury emissions at comparable facilities in or out of the this state.

2. Page 8, line 3: Delete the material beginning at that line through the end of page 9, line 2, and substitute:

(3m) STUDY OF EMISSION REDUCTION FEASIBILITY AND GOALS; industrial PARTIALLY REGULATED BOILERS. (a) The department shall, in cooperation with owners of industrial partially regulated boilers, study mercury emission reduction options that are technologically and economically feasible and which have been successfully employed for the purposes of mercury reduction for similarly situated industrial partially regulated boilers.

Insert 12-11

(b) For each mercury reduction option that is determined to be technologically and economically feasible under par. (a), the department shall estimate the potential environmental benefit to fish and aquatic resources in this state from implementation of the reduction option.

(c) If technologically and economically feasible mercury reduction options are available for industrial partially regulated boilers that would result in significant environmental benefits to fish and aquatic resources in this state, the department shall, in cooperation with owners and

operators, establish mercury emission reduction goals and ~~corresponding~~ timetables for ~~partially regulated~~ industrial boilers.

(End of Insert 12-11)

1/28/00 [1]