

2001 DRAFTING REQUEST

Bill

Received: 04/19/2001

Received By: traderc

Wanted: As time permits

Identical to LRB:

For: Mark Pocan (608) 266-8570

By/Representing: Glen and Ian

This file may be shown to any legislator: NO

Drafter: traderc

May Contact:

Addl. Drafters:

Subject: Environment - air quality

Extra Copies:

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Reduction of emissions from power plants

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	traderc 10/02/2001	hhagen 10/03/2001	jfrantze 10/03/2001	_____	lrb_docadmin 10/03/2001		
/1	traderc 01/24/2002	hhagen 01/25/2002	jfrantze 01/25/2002	_____	lrb_docadmin 01/25/2002	lrb_docadminState 01/29/2002	

FE Sent For: *at introduction*

<END>

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/P1	traderc 10/02/2001	hhagen 10/03/2001	jfrantz 10/03/2001		lrb_docadmin 10/03/2001		

12/hmh
1/25/02

1/25

J/cl

<END>
1/25

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May Contact:

Addl. Drafters:

Subject: Environment - air quality

Extra Copies:

Submit via email: NO

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Reduction of emissions from power plants

Also do version with addl
CO2 provisions

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	traderc	IA hnh 10/3/01	Jb10/3	Self 10/3			

FE Sent For:

<END>

Drafting Instructions
Representative Pocan
April 17, 2001

These drafting instructions are for a bill to be entitled the "Wisconsin Clean Power Act of 2001."

The bill is to be patterned after S.556, the "Clean Power Act of 2001," introduced into the U.S. Senate by Senator Jeffords (see attached).

Four pollutants are to be addressed: Sulfur Dioxide, Nitrogen Oxides, Mercury, and Carbon Dioxide.

- Sulfur Dioxide and Nitrogen Oxides: The first goal for these pollutants is the elimination of the grandfathering clause included in the Clean Air Act of 1970 (as amended in 1978). The emissions caps for "existing sources" should be equal to those for "new sources" (as defined in the Clean Air Act under Section 111 <http://www.epa.gov/oar/caa/caa111.txt> and Wisconsin administrative code, NR 440). The second goal is a 75% reduction beyond the levels required in Section 405 of the Clean Air Act (<http://www.epa.gov/oar/caa/caa405.txt>). Relevant state statutes include 285.41, 285.45, 285.47, 285.48. See also NR 417.07, NR 428.04-.05, NR 440.19-.20.
- Mercury: It should be noted that the DNR is currently in the process of rulemaking regarding emissions reductions for mercury, pursuant to NR 446. We do not wish to interfere with this or set specific limits, merely to reaffirm this as an important aspect of pollution from power plants. Relevant Statute is 285.11(9). See also NR 446.03.
- Carbon Dioxide: The goal for carbon dioxide is a return to 1990 levels of emissions. No current restrictions exist for the emission of carbon dioxide, and the statutes and code only provide for registration of early emissions reductions (285.78, proposed NR 437). The DNR will, of course, oversee the reductions and will be empowered to employ whatever mechanisms it deems appropriate.

These emission reductions shall be completed no later than January 1, 2010 (note that this is three years longer than S.556).

It is at the discretion of the drafter whether this would be best accomplished by amending current sections of Chapter 285 or by creating a new section on the Reduction of Emissions from Power Plants, as done by S.556.

Clean Power Act of 2001 (Introduced in the Senate)
S 556 IS

107th CONGRESS
1st Session
S. 556

To amend the Clean Air Act to reduce emissions from electric powerplants, and for other purposes.

IN THE SENATE OF THE UNITED STATES

March 15, 2001

Mr. JEFFORDS (for himself, Mr. LIEBERMAN, Ms. COLLINS, Mr. SCHUMER, Ms. SNOWE, Mrs. FEINSTEIN, Mr. LEAHY, Mrs. CLINTON, Mr. KERRY, Mr. DODD, Mr. TORRICELLI, Mr. CORZINE, Mr. KENNEDY, Mr. REED, and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Clean Air Act to reduce emissions from electric powerplants, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Clean Power Act of 2001'.

SEC. 2. REDUCTION OF EMISSIONS FROM POWERPLANTS.

Part A of title I of the Clean Air Act (42 U.S.C. 7401 et seq.) is amended by adding at the end the following:

'SEC. 132. REDUCTION OF EMISSIONS FROM POWERPLANTS.

'(a) EMISSION REDUCTION OBJECTIVES- The emission reduction objectives of this section are to reduce in the States, not later than January 1, 2007--

'(1) aggregate sulfur dioxide emissions from powerplants by 75 percent from the levels required at full implementation of the Phase II sulfur dioxide requirements under title IV (relating to acid deposition control);

'(2) aggregate nitrogen oxide emissions from powerplants by 75 percent from 1997 levels;

'(3) aggregate carbon dioxide emissions from powerplants to the level of carbon dioxide emissions from powerplants in 1990; and

'(4) aggregate mercury emissions from powerplants by 90 percent from 1999 levels.

'(b) AGENCY ACTION-

'(1) REGULATIONS-

'(A) IN GENERAL- Not later than 2 years after the date of enactment of this section, the Administrator shall promulgate regulations to achieve the emission reduction objectives specified in subsection (a).

'(B) ELEMENTS- The regulations promulgated under subparagraph (A)--

'(i) shall achieve the objectives in a manner that the Administrator determines will allocate required emission reductions equitably, taking into account emission reductions achieved before the date of enactment of this section and other relevant factors;

'(ii) may include market-oriented mechanisms (such as emissions trading based on generation performance standards, auctions, or other allocation methods), except that emissions trading in mercury shall be prohibited;

'(iii) shall prevent localized adverse effects on public health and the environment and ensure that significant emission reductions are achieved in both the eastern and western regions;

'(iv) shall ensure that any captured or recovered mercury is not re-released into the environment; and

'(v) shall include--

'(I) appropriate incentives to increase energy efficiency, and to use renewable energy, to achieve the emission reduction objectives specified in subsection (a); and

'(II) policies to reduce the rate of growth of natural gas consumption that are at least as effective as the advanced demand-side policies for end-use sectors and advanced supply-side policies for the electricity sector described in the report prepared by the Department of Energy entitled 'Scenarios for a Clean Energy Future' and dated November 2000.

'(2) EFFECT OF FAILURE TO PROMULGATE- If the Administrator fails to promulgate regulations in accordance with paragraph (1) by the date specified in that paragraph, each powerplant shall achieve the emission reduction objectives specified in subsection (a) that are applicable to the powerplant.

'(c) ADDITIONAL REDUCTIONS- The regulations promulgated under subsection (b) may require additional reductions in emissions from powerplants if the Administrator determines that the emission levels necessary to achieve the emission reduction objectives specified in subsection (a) are not reasonably anticipated to protect public health or welfare.

'(d) MODERNIZATION OF OUTDATED POWERPLANTS-

'(1) IN GENERAL- On the later of the date that is 30 years after the outdated powerplant commences operation or the date that is 5 years after the date of enactment of this section, each outdated powerplant shall comply with--

'(A) the most recent new source performance standards promulgated under section 111; and

'(B) the requirements under parts C and D that are applicable to modified sources.

'(2) ADDITIONAL REQUIREMENTS- The requirements of this subsection shall be in addition to the requirements of the regulations promulgated under subsection (b).

'(e) OTHER REQUIREMENTS- This section does not affect the applicability of any other requirement of this Act.

'(f) DEFINITIONS- In this section:

'(1) WESTERN REGION- The term 'western region' means all States that have a majority of their land area within the region encompassed by the Western Systems Coordinating Council.

'(2) EASTERN REGION- The term 'eastern region' means all States that are not in the western region.

'(3) OUTDATED POWERPLANT- The term 'outdated powerplant' means a powerplant that has been in operation for a period of 30 years or more.

'(4) POWERPLANT- The term 'powerplant' means an electric generation facility with a nameplate capacity of 15 megawatts or more that uses a combustion device to generate electricity for sale.'



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3122/P1

RCT: kmh

SOON (in 10/2)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ONote

Generate

1 AN ACT ...; relating to: emissions of air pollutants from certain power plants and
2 granting rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

3 SECTION 1. 285.28 of the statutes is created to read:

4 **285.28 Standards applicable to certain power plants.** (1) In this section:

5 (a) "Affected power plant" means a power plant that has been in operation for
6 30 years or more.

7 (b) "Applicability date" means the later of the date that is 30 years after the day
8 on which a power plant began operating or the first day of the 60th month beginning
9 after the effective date of this paragraph [revisor inserts date].

1 (c) "Power plant" means a facility for the generation of electricity for sale that
2 uses a combustion device and that has a nameplate capacity of 15 megawatts or
3 more.

4 (2) Beginning on the applicability date for an affected power plant, the operator
5 of the affected power plant shall comply with the standards of performance for
6 stationary sources that were promulgated under s. 285.27 (1) most recently before
7 the applicability date for the affected power plant.

8 SECTION 2. 285.50 of the statutes is created to read:

9 **285.50 Sulfur dioxide, nitrogen oxide, and carbon dioxide emissions**
10 **from power plants.** (1) DEFINITION. In this section, "power plant" means a facility
11 for the generation of electricity for sale that uses a combustion device and that has
12 a nameplate capacity of 15 megawatts or more.

13 (2) EMISSION LIMITATIONS. The department shall promulgate rules to achieve
14 all of the following beginning on January 1, 2010:

15 (a) Annual aggregate sulfur dioxide emissions from power plants no greater
16 than 25% of the annual aggregate sulfur dioxide emissions authorized at full
17 implementation of the requirements under 42 USC 7651d.

18 (b) Annual aggregate nitrogen oxide emissions from power plants no greater
19 than 25% of the aggregate nitrogen oxide emissions from power plants in 1997.

20 (c) Annual aggregate carbon dioxide emissions from power plants no greater
21 than aggregate carbon dioxide emissions from power plants in 1990.

22 (3) CONTENT OF RULES. (a) The department shall promulgate rules under sub.
23 (2) to achieve the specified emission levels in a manner that the department
24 determines will allocate required emission reductions equitably, taking into account

1 emission reductions achieved before the effective date of this paragraph [revisor
2 inserts date], and other relevant factors.

3 (b) The department may include mechanisms such as emissions trading in the
4 rules promulgated under sub. (2), but the department shall prevent localized adverse
5 effects on public health and the environment from the use of those mechanisms and
6 shall ensure that significant reductions are achieved throughout this state.

7 (c) The department shall include in the rules under sub. (2) incentives to
8 increase energy efficiency and to use renewable energy to achieve the requirements
9 in the subsection and provisions to reduce the rate of growth of natural gas
10 consumption.

11 (d) The department may promulgate rules that require lower levels of
12 emissions than those specified in sub. (2) if the department determines that the
13 levels specified in sub. (2) are not reasonably anticipated to protect public health or
14 welfare.

15 (4) EFFECT OF FAILURE TO PROMULGATE RULES. If the department does not
16 promulgate the rules required under sub. (2) by the first day of the 25th month
17 beginning after the effective date of this subsection [revisor inserts date], all of
18 the following apply beginning on January 1, 2010:

19 (a) Annual sulfur dioxide emissions from a power plant may not exceed 25% of
20 the annual sulfur dioxide emissions authorized for that power plant at full
21 implementation of the requirements under 42 USC 7651d.

22 (b) Annual nitrogen oxide emissions from a power plant may not exceed 25%
23 of the nitrogen oxide emissions from that power plant in 1997.

24 (c) Annual carbon dioxide emissions from a power plant may not exceed carbon
25 dioxide emissions from that power plant in 1990.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3122/P1dn

RCT. *hnh*

DATE

2 This is a preliminary version of the proposal for reducing emissions from power plants. The federal Clean Air Act and Wisconsin's air statutes and rules are complex and I am ~~not~~ not certain that this draft meshes properly with the existing body of air law. It might be helpful to ask the DNR legal staff that specialize in air issues to review this draft.

Provisions related to old power plants (proposed s. 285.28)

The instructions indicated that "existing" power plants should comply with the sulfur dioxide and nitrogen oxide requirements (new source performance standards) applied to new power plants. The federal legislation requires compliance with all of the new source performance standards, which currently also include particulate matter requirements. This draft requires compliance with all of the new source performance standards. Please let me know if you want only the sulfur dioxide and nitrogen oxide requirements to apply.

I was uncertain whether the intent of the federal legislation was to apply the new source performance standards only to power plants that are 30 years old when the legislation is enacted or to those plants plus plants that "turn 30" after the legislation is enacted. This draft does the latter. I was also unsure whether the intent was to require compliance with the new source performance standards that are in place when the legislation is enacted or with any later standards that are in place when the legislation begins to apply to a particular power plant (that is, when the plant turns 30 or 5 years after the legislation is passed, whichever is later). Again, this draft does the latter.

The federal legislation requires old power plants to comply with "the requirements under parts C and D that are applicable to modified sources." This draft does not include that provision because I do not know what federal statutory requirements that language refers to.

Other provisions

The federal legislation requires each power plant to achieve the specified levels of emissions if EPA does not promulgate the regulations within two years after

In case DNR does not promulgate rules

* enactment. This draft has a similar provision. However, it is unclear how a power plant that began operation after 1997, for nitrogen oxide limits, or after 1990, for carbon dioxide limits, would be affected.

Unless different penalties are specified, the penalties in s. 285.87 will apply to violations of the provisions in this draft.

Please let me know if you want to provide DNR with any funding to administer this proposal.

This draft does not include any requirements concerning mercury because the instructions indicated that the intent is to allow DNR's current rule-making to proceed.

I received instructions to also do a version of this proposal without the carbon dioxide requirements. It seems to me that the most efficient way to do that will be to get this draft into final form and then base a version without the carbon dioxide requirements on the final version of this draft. If you have decided that you do not want the carbon dioxide requirements, please let me know.

Please contact me with any questions or redraft instructions.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3122/P1dn
RCT:hmh:jf

October 3, 2001

This is a preliminary version of the proposal for reducing emissions from power plants. The federal Clean Air Act and Wisconsin's air statutes and rules are complex and I am not certain that this draft meshes properly with the existing body of air law. It might be helpful to ask the DNR legal staff that specialize in air issues to review this draft.

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Other provisions

The federal legislation requires each power plant to achieve the specified levels of emissions if EPA does not promulgate the regulations within two years after enactment. This draft has a similar provision in case DNR does not promulgate rules. However, it is unclear how a power plant that began operation after 1997, for nitrogen oxide limits, or after 1990, for carbon dioxide limits, would be affected.

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Please contact me with any questions or redraft instructions.

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

1/23/02 Call from Glenn of Rep. Pocran's office:
They are satisfied with the draft as it is.

They do not want a version without the carbon dioxide provisions.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3122/1

RCT:hmh:jf

Fri. (1/25), if possible

T
stays fmr

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Regenerate

1 AN ACT *to create* 285.28 and 285.50 of the statutes; **relating to:** emissions of air
2 pollutants from certain power plants and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Insert →

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9 after the effective date of this paragraph [revisor inserts date].

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3 more.

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19 than 25% of the aggregate nitrogen oxide emissions from power plants in 1997.

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6 shall ensure that significant reductions are achieved throughout this state.

7 (c) The department shall include in the rules under sub. (2) incentives to
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9 in the subsection and provisions to reduce the rate of growth of natural gas
10 consumption.

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2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3122/lins
RCT.....

Insert

the department
of natural
resources

Current state law and the federal Clean Air Act require certain electric utilities to limit emissions of sulfur dioxide. This bill requires (DNR) to promulgate rules to achieve, beginning in 2010, annual aggregate sulfur dioxide emissions from power plants that are no greater than 25% of the annual aggregate sulfur dioxide emissions authorized at full implementation of the current Clean Air Act provisions. The bill defines "power plant" to mean a facility for the generation of electricity for sale that uses combustion and that has a nameplate capacity of 15 megawatts or more.

Current federal law requires certain electric utilities to limit emissions of nitrogen oxide. This bill requires DNR to promulgate rules to achieve, beginning in 2010, annual aggregate nitrogen oxide emissions that are no greater than 25% of the aggregate nitrogen oxide emissions from power plants in 1997.

This bill also requires DNR to promulgate rules to achieve, beginning in 2010, annual aggregate carbon dioxide emissions from power plants that are no greater than aggregate carbon dioxide emissions from power plants in 1990.

The bill authorizes DNR to use mechanisms such as emissions trading in the rules that it is required to promulgate under the bill. The bill also imposes emission limitations on each power plant if DNR does not promulgate the required rules within two years after the bill takes effect.

The Clean Air Act requires the federal environmental protection agency (EPA) to set standards for emissions of air pollutants from categories of stationary facilities that emit air pollution that is likely to endanger public health or welfare. These standards are called standards of performance for new stationary sources or new source performance standards. A new source performance standard generally applies to sources on which construction or modification is begun after the date on which EPA proposes the standard. Under current state law, when EPA sets a new source performance standard, ~~the department of natural resources~~ DNR is required to promulgate a rule setting a similar standard, which generally may not be more restrictive than the federal standard. The current new source performance standards that apply to certain electricity generating facilities regulate emissions of particulate matter, sulfur dioxide, and nitrogen oxide.

This bill requires the operator of a power plant that has been in operation for 30 years to comply with the most recently promulgated new source performance standards beginning on the day that is 30 years after the power plant began operating or, if that date is earlier than five years after this bill takes effect, beginning five years after this bill takes effect.

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

Emery, Lynn

From: Emery, Lynn
Sent: Tuesday, January 29, 2002 3:58 PM
To: Rep.Pocan
Subject: LRB-3122/1 (attached as requested)

Lynn Emery

Lynn Emery - Program Asst. (PH. 608-266-3561)
(E-Mail: lynn.emery@legis.state.wi.us) (FAX: 608-264-6948)

Legislative Reference Bureau - Legal Section - Front Office
100 N. Hamilton Street - 5th Floor
Madison, WI 53703



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

January 25, 2002

MEMORANDUM

To: Representative Pocan

From: Rebecca C. Tradewell, Managing Attorney

Re: LRB-3122/1 Reduction of emissions from power plants

*Could we also
get a "pdf"
version ~~of~~ to
our office. Thanks!* → Done

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

X JACKET FOR ASSEMBLY ___ JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-7290 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.