



1997 ASSEMBLY BILL 935

March 19, 1998 - Introduced by Representatives BALDWIN, BAUMGART, BLACK, BOCK, HANDRICK, J. LEHMAN, NOTESTEIN, ROBSON and R. YOUNG, cosponsored by Senators BURKE and RISSER. Referred to Committee on Environment.

1 **AN ACT to amend** subchapter V (title) of chapter 285 [precedes 285.41]; and **to**
2 **create** 20.370 (2) (bh), 29.09 (3u), 29.091, 196.854, 281.12 (4), 285.11 (18),
3 285.48, 285.49, 285.495 and 287.07 (8) (a) 2m. of the statutes; **relating to:**
4 mercury emissions from major utilities, reporting mercury emissions, mercury
5 in medical waste sent to incinerators, fish advisories and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill limits the amount of mercury that may be emitted into the air by major utilities beginning in 2001. Under the bill, in each year from 2001 to 2005 a major utility generally may not emit more than 85% of the amount of mercury that it emitted in the year 2000. For 2006 to 2011, the limit is 70% of the amount of mercury emitted in the year 2000 and for 2012 and thereafter, the limit is 50% of the amount of mercury emitted in the year 2000. Under certain circumstances, the department of natural resources (DNR) may grant a variance from the mercury emission limits for a year, but DNR may not grant a major utility more than 2 variances in 10 years.

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

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

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

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

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

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

	1997-98	1998-99
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4 **20.370 Natural resources, department of**

5 (2) AIR AND WASTE

(bh) Air management — mercury de-				
position activities	PR	A	-0-	-0-

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

9 20.370 (2) (bh) *Air management — mercury deposition activities.* The amounts
10 in the schedule for mercury deposition studies and evaluation and monitoring
11 activities. All moneys received under s. 196.854 shall be credited to this
12 appropriation.

13 **SECTION 3.** 29.09 (3u) of the statutes is created to read:

14 29.09 (3u) INFORMATION WITH CERTAIN APPROVALS. The department shall ensure
15 that a copy of the fish advisory issued under s. 281.12 (4) is distributed to each person
16 being issued, under this chapter, an approval that authorizes sport fishing.

17 **SECTION 4.** 29.091 of the statutes is created to read:

18 **29.091 Notice of fish advisory.** The department shall place a sign at each
19 public boat landing on a body of water if fish in that body of water are included in the

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1 fish advisory issued under s. 281.12 (4). The sign shall describe the species and sizes
2 of fish included in the fish advisory.

3 **SECTION 5.** 196.854 of the statutes is created to read:

4 **196.854 Assessment for mercury deposition activities.** (1) The
5 commission shall annually assess against the major utilities, as defined in s. 285.48
6 (1) (f), the amount appropriated under s. 20.370 (2) (bh) for mercury deposition
7 studies and evaluation and monitoring activities conducted by the department of
8 natural resources.

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

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

14 281.12 (4) The department, in consultation with the department of health and
15 family services, shall annually issue an advisory describing the risks to human
16 health of eating sport fish that contain mercury and that are taken from the various
17 waters of this state. The advisory may also describe the risks to human health of
18 eating sport fish that contain other contaminants.

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

20 285.11 (18) Conduct, or contract with other persons to conduct, research on the
21 effects of mercury emissions on human health and the environment and research on
22 methods for reducing those emissions.

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

25

CHAPTER 285

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SUBCHAPTER V

SULFUR DIOXIDE AND NITROGEN

OXIDE EMISSION

RATES AND GOALS;

MERCURY EMISSION LIMITS

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

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

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

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

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

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

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

(1m) DETERMINATION OF MERCURY EMISSIONS. The department shall establish a methodology for determining the annual mercury emissions of major utilities.

(2) EMISSION LIMITS. (a) Except as provided under sub. (4), in 2001 to 2005, the annual mercury emissions of a major utility may not exceed 85% of the annual

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1 mercury emissions of the major utility in the year 2000, as determined by the
2 department using the methodology under sub. (1m).

3 (b) Except as provided under sub. (4), in 2006 to 2011, the annual mercury
4 emissions of a major utility may not exceed 70% of the annual mercury emissions of
5 the major utility in the year 2000, as determined by the department using the
6 methodology under sub. (1m).

7 (c) Except as provided under sub. (4), beginning in 2012, the annual mercury
8 emissions of a major utility may not exceed 50% of the annual mercury emissions of
9 the major utility in the year 2000, as determined by the department using the
10 methodology under sub. (1m).

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

16 1. The major utility's expected electricity demand.

17 2. The major utility's annual operation plan.

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

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

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

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

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1 5. The anticipated mercury emissions from each boiler.

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

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

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

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

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

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

20 2. A major fuel supply disruption.

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

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

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

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

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

11 1. The commission determines that a variance condition exists.

12 2. The department determines that the major utility's compliance plan is
13 adequate.

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

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

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

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

24 **(6) DETERMINATION OF COMPLIANCE.** The department shall determine
25 compliance with sub. (2) using data submitted by the major utilities. Each major

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1 utility shall provide the department with any information needed to determine
2 compliance.

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

6 **SECTION 10.** 285.49 of the statutes is created to read:

7 **285.49 Mercury emission reporting; generators of electricity. (1)**

8 REQUIREMENT. Except as provided in sub. (3), each person who generates electricity
9 in this state shall provide to the department by April 1, annually, a report of the
10 amount of mercury emitted in generating electricity by the person in the previous
11 calendar year.

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

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

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

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

19 1. The amount of electricity generated at the facility.

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

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

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

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

3 1. A generation unit that is operated fewer than 240 hours per year.

4 2. A generation unit with a fuel capacity input of less than 150,000,000 British
5 thermal units per hour.

6 3. A generation unit with a maximum output of 15 megawatts or less.

7 4. A generation unit with annual mercury emissions of 3 pounds or less.

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

11 **SECTION 11.** 285.495 of the statutes is created to read:

12 **285.495 Mercury emission goal; report. (1) GOAL.** It is the goal of this state
13 that in 2010 total annual mercury emissions in this state do not exceed 50% of the
14 total annual mercury emissions in this state in the year 2000.

15 **(2) EXCESS MERCURY EMISSIONS; DEPARTMENT REPORT REQUIRED.** (a) If the
16 department determines in 2011 that total annual mercury emissions in this state in
17 2010 exceeded 50% of the total annual mercury emissions in this state in the year
18 2000, the department shall, after consulting with the public service commission,
19 prepare a report containing recommendations for methods to reduce mercury
20 emissions. The department shall hold a public hearing on the report.

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

24 **SECTION 12.** 287.07 (8) (a) 2m. of the statutes is created to read:

