

1983 Senate Bill 398

Date of enactment: **May 8, 1984**
Date of publication: **May 14, 1984**

1983 Wisconsin Act 414

AN ACT *to create* 144.385 of the statutes, *relating to* limiting emissions of sulfur dioxide and creating a committee.

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

SECTION 1. Legislative findings. (1) The legislature finds that significant components of Wisconsin's economy depend heavily upon the protection of the quality of the state's natural resources including air, water, fish and aquatic life, soil, forests and scenic and recreational resources.

(2) The legislature finds that substantial increases in sulfur dioxide emissions from stationary sources contributes to the acid deposition problem and threatens natural resources.

(3) The legislature finds that a comprehensive program to provide for reductions in sulfur dioxide emissions requires national and international efforts which have not yet occurred.

(4) The legislature finds that the preponderance of sulfur dioxide emissions in Wisconsin is caused by major utility operations.

(5) The legislature finds that in the short term major utility operators could ensure that this state's total sulfur dioxide emissions are not excessive while incurring minimum or no additional costs by cooperating and coordinating their activities and at the same time major utility operators could provide for power generation which meets the general public's needs.

SECTION 2. 144.385 of the statutes is created to read:

144.385 Sulfur dioxide emission limitations. (1) **RESPONSIBILITY; POLICIES; GOAL.** (a) It is the responsibility of this state to protect the quality of this state's navigable waters and related resources under the public trust doctrine.

(b) It is the policy of this state to protect the quality of this state's natural resources, including air, water, fish and aquatic life, soil, forests and scenic and recreational resources, from damage caused by sulfur dioxide emissions and related acid deposition phenomena.

(c) It is the policy of this state to ensure that this state's recreation, tourist and forest industries and other components of this state's economy are not irreparably harmed by sulfur dioxide emissions and related acid deposition phenomena.

(d) It is the policy of this state to control annual sulfur dioxide emissions from stationary sources of air pollution until a comprehensive solution to the acid deposition phenomenon is developed and, as a first step in implementing this policy, to control annual sulfur dioxide emissions by major utilities.

(e) It is the policy of this state to encourage cooperation among major utilities and provide maximum flexibility by which major utilities may comply with annual sulfur dioxide emission limitations.

(f) It is the goal of this state that sulfur dioxide emissions from all stationary air contaminant sources not exceed 675,000 tons annually.

(2) **DEFINITIONS.** As used in this section:

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

(b) "Major utility" means a Class A utility, as defined under s. 199.03 (4) or an electrical cooperative association organized under ch. 185 if all major stationary air contaminant sources in this state under the ownership or control of the utility or association had total sulfur dioxide emissions during 1980 in excess of 5,000 tons.

(3) **SULFUR DIOXIDE EMISSION LIMITATIONS FOR MAJOR UTILITIES.** (a) *Total annual emission limitation.* Except as provided under par. (c), the total annual sulfur dioxide emissions from all major utilities may not exceed 500,000 tons beginning with calendar year 1985.

(b) *Individual annual emission limitation; applicable only if total limitation is exceeded.* Except as provided under par. (c), the sulfur dioxide emissions from a major utility may not exceed the individual sulfur dioxide limitation specified in the joint annual operation plan if the total annual sulfur dioxide limitation is exceeded.

(c) *Variance.* The department may grant a variance from the total annual sulfur dioxide emission limitation or from an individual annual sulfur dioxide limitation after consulting with the commission and considering the joint annual operation plan if a request for a variance is submitted by a major utility and if variance conditions exist. Variance conditions exist only if:

1. A major electrical supply emergency exists within or outside this state;
2. A major fuel supply disruption occurs;
3. An extended disruption occurs in the operation of a nuclear or low sulfur coal unit which could not be anticipated; or
4. Uncontrollable events not anticipated in the joint annual plan occur.

(4) **JOINT ANNUAL OPERATION PLAN.** (a) *Submission; contents.* The major utilities shall submit a joint annual operation plan to the department on or before October 1 of each year. The joint annual operation plan shall include individual annual operation plans, individual sulfur dioxide limitations for each major utility and other details on how the utilities intend to cooperate in operating their electrical supply systems in order to comply with the total annual emission limitation.

(b) *Individual annual operation plan.* Each major utility shall submit an individual annual operation plan as a part of the joint annual operation plan. The individual annual operation plan shall include, at a minimum:

1. The expected electricity demand.
2. The expected operation characteristics of each unit, including:
 - a. The order to be used in placing the units into operational production.
 - b. The planned maintenance of any units and how the maintenance is expected to affect the methods of meeting electricity demands.
3. The amount and sulfur content of coal or other fossil fuel to be used for each unit in operational production. The sulfur content shall be expressed in pounds of sulfur per million British thermal units of heat expected from the coal.
4. The anticipated sulfur dioxide emissions from each unit.
5. Contingency plans for unexpected events or increased demand including a summary of generation costs and costs for reducing sulfur dioxide emissions.

(c) *Review.* The department shall review and comment on the joint annual operation plan after consulting with the commission. If no joint annual operation plan is submitted or if the department determines, after consulting with the commission, that the plan does not provide for compliance with the total annual emission limitation the department may adopt a joint annual operation plan for the major utilities.

(5) **SULFUR DIOXIDE EMISSION REPORT.** The department shall prepare an annual sulfur dioxide emission report which states the total sulfur dioxide emissions from all stationary air contaminant sources and the total sulfur dioxide emissions from all major utilities. This report may be combined with other reports published by the department.

(6) **NO IMPACT ON OTHER PROVISIONS.** Nothing in this section exempts an air contaminant source from the provisions of ss. 144.30 to 144.38 and 144.391 to 144.426 and compliance with this section is not a defense to a violation of those provisions.

(7) **DETERMINATION OF COMPLIANCE.** The department shall determine compliance with sub. (3) using information submitted under s. 144.96 and operational data submitted by the major utilities.

(8) **PENALTY.** Notwithstanding s. 144.426, a major utility which violates sub. (3) shall forfeit not less than \$25,000 nor more than \$50,000 for each violation. Each day of continued violation constitutes a separate offense. The department may recommend the imposition of forfeitures in an amount which are proportionate to the degree to which a major utility caused or contributed to the violation of the total annual sulfur dioxide emission limitation based upon the major utility's responsibility under the joint annual operation plan.

SECTION 3. Nonstatutory provisions; acid deposition review committee. (1) **CREATION.** There is created an acid deposition review committee consisting of the secretary of natural resources or his or her designee, the chair of the public service commission or his or her designee and a designee of the governor.

(2) **EMISSION LIMITATION HEARING; REPORT.** The acid deposition review committee shall conduct a public hearing prior to October 1, 1986, to analyze the impact of section 144.385 of the statutes. The committee shall prepare a written report concerning the hearing and any recommendations for legislation and shall submit a copy of this report to the governor and to the presiding officer of each house of the legislature for referral to the appropriate standing committees prior to January 1, 1987.

(3) **ACID RAIN EVALUATION.** The acid deposition review committee shall request the department of natural resources, in cooperation with the public service commission, to conduct an evaluation of acid deposition in this state. The evaluation shall be submitted to the committee at such time as the committee deems appropriate but not later than

September 1, 1989, or 3 months after the department of natural resources determines that the total sulfur dioxide emissions from all stationary air contaminant sources exceeds 675,000 tons annually, whichever occurs first. The evaluation shall include:

- (a) The results of relevant research relating to acid deposition.
- (b) The impact of section 144.385 of the statutes on major utilities.
- (c) Action of stationary sources not regulated under section 144.385 of the statutes, as created by this act, to limit sulfur dioxide emissions.
- (d) The anticipated impact of any federal legislation concerning acid deposition which is enacted after the effective date of this section.
- (e) Proposals for the establishment of a formal mechanism for emission reduction options, as defined under section 144.30 (12) of the statutes.
- (f) The need for any state legislation related to acid deposition.

(4) **ACID RAIN EVALUATION HEARING.** The acid deposition review committee shall conduct a public hearing commencing within one month after the acid rain evaluation is submitted under subsection (3) to analyze the evaluation. The committee may revise this evaluation following the hearing and shall submit a copy of the evaluation or any revised evaluation to the governor and to the presiding officer in each house of the legislature for referral to the appropriate standing committees within 4 months after the evaluation is submitted under subsection (3).

SECTION 4. Nonstatutory provisions; natural resources. (1) On or before November 1, 1984, the department of natural resources shall prepare proposed rules which limit the emission of sulfur dioxide so as to ensure the attainment and maintenance of ambient air quality standards in all areas of the state and shall submit those proposed rules to the legislative council staff under section 227.029 (1) of the statutes.

SECTION 5. Program responsibility changes. In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

A	B	C
Statute Sections	References Deleted	References Inserted
15. 791	none	144. 385
