

# 07hr\_SC-ENR\_CRule\_06-104\_pt02



(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2007-08

(session year)

### Senate

(Assembly, Senate or Joint)

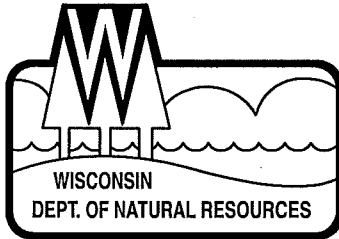
### Committee on ... Environment and Natural Resources (SC-ENR)

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... **HR** ... **bills and resolutions** (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Scott Hassett, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TTY Access via relay - 711

February 28, 2007

Honorable Mark Miller, Chair  
Senate Committee on Environment and Natural Resources  
409 South  
State Capitol

Honorable Scott Gunderson, Chair  
Assembly Committee on Natural Resources  
Room 7 West  
State Capitol

Clearinghouse Rule No. 06-104  
Establishment of provisions for major electric generating units in Wisconsin  
to comply with the Clean Air Interstate Rule (CAIR) promulgated by the  
U.S. Environmental Protection Agency

Gentlemen:

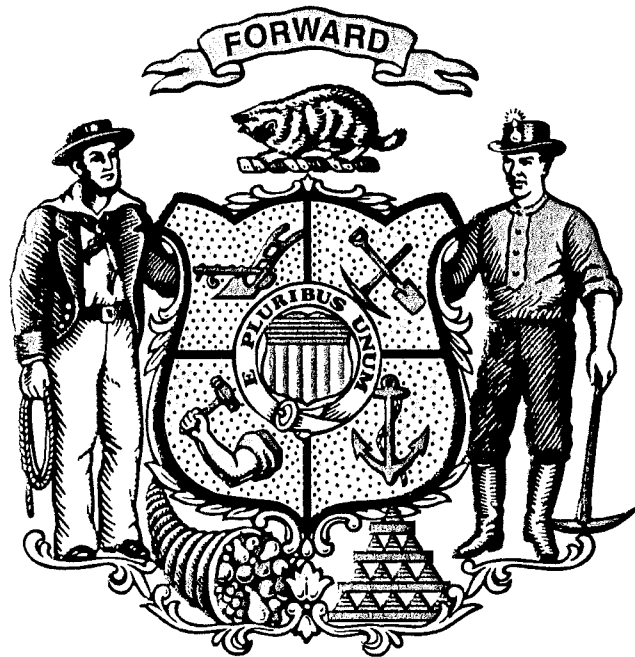
On January 24, 2007, the Natural Resources Board adopted Clearinghouse Rule No. 06-104 and it was referred to your committees for review. After the proposed rule had been submitted to the Natural Resources Board for adoption, the Department received updated generation data that affected the allocation of NOx allowances to the CAIR units. Because the allocations are made from an established budget, an adjustment to one or more unit's allowances impacts the distribution of allowances to other units. The updated and corrected data resulted in the corresponding changes to the allocations for individual units reflected in Tables 1 and 2 of the proposed rule. The differences between the adopted tables and the revised tables are shown in the attached comparison tables.

Under s. 227.19(4)(b)3., Stats., the Department of Natural Resources submits this as a germane modification to Clearinghouse Rule No. 06-104. A copy of the proposed rule reflecting the modifications to the tables is also attached.

Sincerely,

Scott Hassett  
Secretary

cc: Marney Hoefler – AM  
Bob Eckdale – AM  
Tom Steidl – LS/5  
Carol Turner – LS/5





## MANITOWOC PUBLIC UTILITIES

1303 South 8<sup>th</sup> Street P.O. Box 1090 Manitowoc, WI 54221-1090 920-683-4600 FAX 920-686-4348 [www.mpu.org](http://www.mpu.org)

Honorable Scott Gunderson, Chair  
Assembly Committee on Natural Resources  
Room 7 West  
State Capitol  
P.O. Box 8952  
Madison, WI 53708

March 27, 2007

Subject: Clearinghouse Rule 06-104  
Establishment of provisions for major electric generating units in Wisconsin to comply with the Clean Air Interstate Rule (CAIR) promulgated by the U.S. Environmental Protection Agency.

Dear Representative Gunderson:

Manitowoc Public Utilities (MPU) appreciates the opportunity to provide the Committee on Natural Resources with comments regarding Clearinghouse Rule 06-104. This rule relates to the establishment of provisions for major electric generating units in Wisconsin to comply with the Clean Air Interstate Rule (CAIR) promulgated by the U.S. Environmental Protection Agency. The rule will result in the creation of Chapter NR 432, Allocation of Clean Air Interstate Rule NOx Allowances.

Wisconsin's federally-mandated Clean Air Interstate Rule (CAIR) was adopted by the Natural Resources Board on January 24th and the Board approved germane modifications in February. Legislative Clearinghouse Rule No. 06-104 pending before your Committee includes the germane modifications of Order AM-03-06 that were a major concern for MPU.

MPU believes that the revised Tables One and Two of the germane modification to order AM-03-06 reflect accurate and correct data. We appreciate and support the efforts of the Natural Resources Board and the Department of Natural Resources Staff to correct the allocation of NOx allowances detailed in Clearinghouse Rule 06-104.

Thank you for your consideration. Please feel free to contact me at 920-686-4351 if you need additional information or clarification.

Sincerely,

*nilaksh kothari*

Nilaksh Kothari, P.E.  
General Manager  
Manitowoc Public Utilities

This letter emailed on March 27, 2007 to Representative Scott Gunderson,  
Rep.Gunderson@legis.wisconsin.gov, and to everyone copied on the attached list.

Copies to:

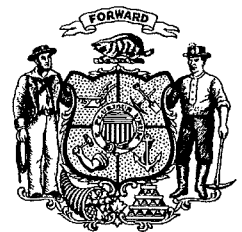
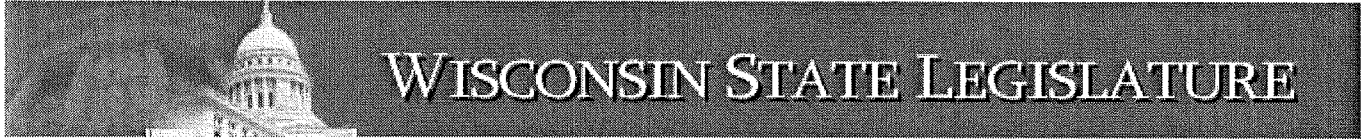
Representative Robert Ziegelbauer  
Room 207 North  
State Capital  
P.O. Box 8953  
Madison, Wisconsin 53708  
Rep.Ziegelbauer@legis.wisconsin.gov

Mayor Kevin Crawford  
City Hall  
900 Quay Street  
Manitowoc, WI 54220-4543  
kcrawford@manitowoc.org

Honorable Mark Miller, Chair  
Senate Committee on Environment and Natural Resources  
Room 409 South  
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P.O. Box 7882  
Madison, WI 53707-7882  
Sen.Miller@legis.wisconsin.gov  
Kevin Kessler  
Wisconsin Department of Natural Resources  
P.O. Box 7921  
Madison, Wisconsin 53707-7921  
kevin.kessler@dnr.state.wi.us

Senator Joseph Leibham  
Room 5 South  
State Capital  
P.O. Box 7882  
Madison, Wisconsin 53707-7882  
Sen.Leibham@legis.wisconsin.gov

cc: MPU - Tom Reed, MPU - Don Duenkel, MPU - Engineering Files



# Scott Gunderson



STATE REPRESENTATIVE • 83RD DISTRICT

April 17, 2007

Senator Mark Miller  
409 South, State Capitol  
Madison, WI 53708

Dear Senator Miller,

I am writing to inform you that on April 11, 2007 the Assembly Natural Resources Committee adopted the following motion with respect to Clearinghouse Rule 06-104, relating to the establishment of provisions for major electric generating units in Wisconsin to comply with the Clean Air Interstate Rule (CAIR) promulgated by the U.S. Environmental Protection Agency:

MOVED: that the Assembly Committee on Natural Resources, pursuant to s. 227.19 (4) (b) 2., Stats., requests the Department of Natural Resources to consider modifications to Clearinghouse Rule 06-104 relating to the establishment of provisions for major electric generating units in Wisconsin to comply with the Clean Air Interstate Rule (CAIR) promulgated by the U.S. Environmental Protection Agency. If the Department of Natural Resources does not agree to consider modifications to Clearinghouse Rule 06-104 in a letter to the chair of the Assembly Committee on Natural Resources, or fails to respond in writing to this request for modification, by 5:00 p.m., April 13, 2007, the Assembly Committee on Natural Resources objects to Clearinghouse Rule 06-104 pursuant to s. 227.19 (4) (d) 6., Stats., on the grounds that the proposed rule is arbitrary and capricious, and imposes an undue hardship.

This motion was adopted on a vote of Ayes, 8; Noes, 5.

The Wisconsin Department of Natural Resources failed to respond in writing to this request for modifications, by the 5:00 p.m., April 13, 2007 deadline. Therefore, the

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E-Mail:  
Rep.Gunderson@  
legis.state.wi.us

**83rd District:**

P.O. Box 7  
Waterford, WI  
53185

(262) 895-6254

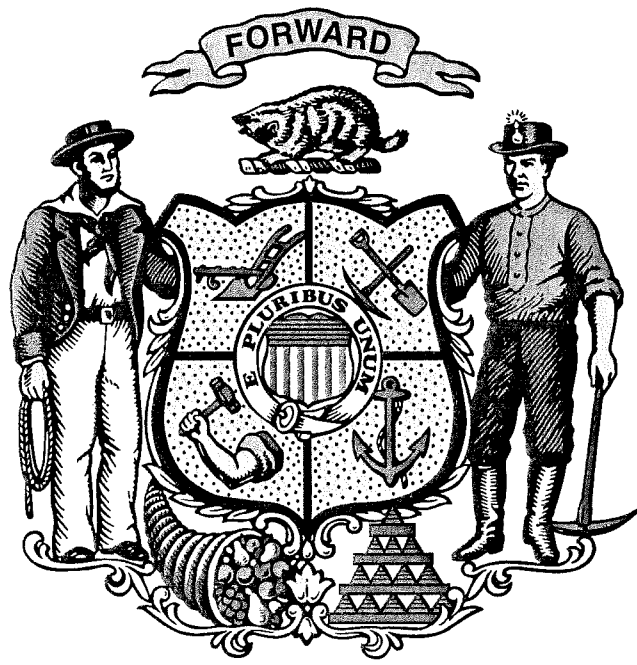
Assembly Natural Resources Committee, pursuant to s. 227.19 (4) (b) 5. and (d), Stats., objected to Clearinghouse Rule 06-104. This letter is meant to inform you of the Assembly Natural Resources Committee's objection to Clearinghouse Rule 06-104.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Gunderson', written in a cursive style.

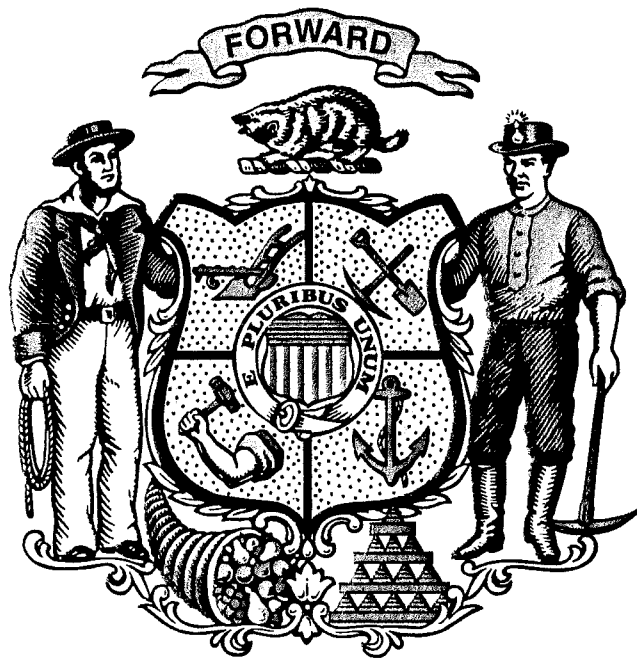
Representative Scott Gunderson  
83<sup>rd</sup> District  
Wisconsin State Assembly





Committee members  
~~should~~ should

Chair for follow up  
questions



**NOTICE TO PRESIDING OFFICERS  
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Natural Resources Board Order No. AM-03-06

Legislative Council Rules Clearinghouse Number 06-104

Subject of Rules Establishment of provisions for major electric generating units in Wisconsin to comply with the Clean Air Interstate Rule (CAIR) promulgated by the U.S. Environmental Protection Agency

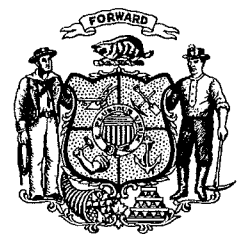
Date of Transmittal to Presiding Officers January 30, 2007

Send a copy of any correspondence or notices pertaining to this rule to:

Carol Turner, Rules Coordinator  
DNR Bureau of Legal Services  
LS/5, 101 South Webster

Telephone: 266-1959  
e-mail: [turnec@dnr.state.wi.us](mailto:turnec@dnr.state.wi.us)

An electronic copy of the proposed rule may be obtained by contacting Ms. Turner





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**WISCONSIN LEGISLATIVE COUNCIL  
RULES CLEARINGHOUSE**

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**Ronald Sklansky**  
*Clearinghouse Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

**CLEARINGHOUSE REPORT TO AGENCY**

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 06-104**

AN ORDER to create chapter NR 432, relating to the establishment of provisions for major electric generating units in Wisconsin to comply with the Clean Air Interstate Rule (CAIR) promulgated by the U.S. Environmental Protection Agency.

Submitted by • **DEPARTMENT OF NATURAL RESOURCES**

09-13-2006 RECEIVED BY LEGISLATIVE COUNCIL.

10-10-2006 REPORT SENT TO AGENCY.

RNS:JES

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Ronald Sklansky  
Clearinghouse Director

Richard Sweet  
Clearinghouse Assistant Director

Terry C. Anderson  
Legislative Council Director

Laura D. Rose  
Legislative Council Deputy Director

### CLEARINGHOUSE RULE 06-104

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]**

#### 4. Adequacy of References to Related Statutes, Rules and Forms

a. The statutory authority for the rule cited in the summary accompanying the rule includes s. 227.14 (1m), Stats. This reference should be to the more specific par. (a) or (b) in sub. (1m) as these paragraphs refer to different administration of the rule, as compared to the corresponding federal rule, i.e., whether the state rule will be administered in a manner identical or similar to the federal rule. The explanation of agency authority in the summary accompanying the rule should be revised accordingly.

b. The statutory authority for the rule cited in the summary accompanying the rule includes s. 285.11 (6), Stats., though this subsection does not grant rule-making authority.

c. The department should review the entire rule for references to “this chapter” to ensure that the references are to the appropriate state or federal rule. As drafted, “this chapter” refers to ch. NR 432. See, for example, the references to “this chapter” in s. NR 432.02 (10) and (11).

d. Is the reference in s. NR 432.07 (1) (intro.) to “this section” correct? Should this reference be to “this subsection”?

#### 5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section NR 432.02 (10) includes a reference to a “permitting authority.” Since this type of authority is not defined in s. NR 400.02 or 432.02, the department should clarify the rule by providing a definition of this term.



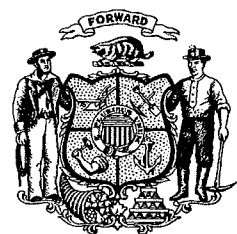
b. Section NR 432.02 (13) refers to the "CAIR NO<sub>x</sub> ozone trading program" under 40 C.F.R. 97.304. If this program is the same as the "CAIR NO<sub>x</sub> ozone season trading program" defined in s. NR 432.02 (11), then the department should add "season" to the phrase in sub. (13).

c. The department should review s. NR 432.02 (29) (b) and correct it, as appropriate, since nuclear power is typically not thought of as a form of hydroelectric power.

d. To assist readers of the rule on the origin of the definition of "renewable resource" in s. NR 432.02 (29), the department should consider adding a note following that definition to the effect that the definition is based upon the definition of "renewable resource" in s. 196.378 (1) (h), Stats.

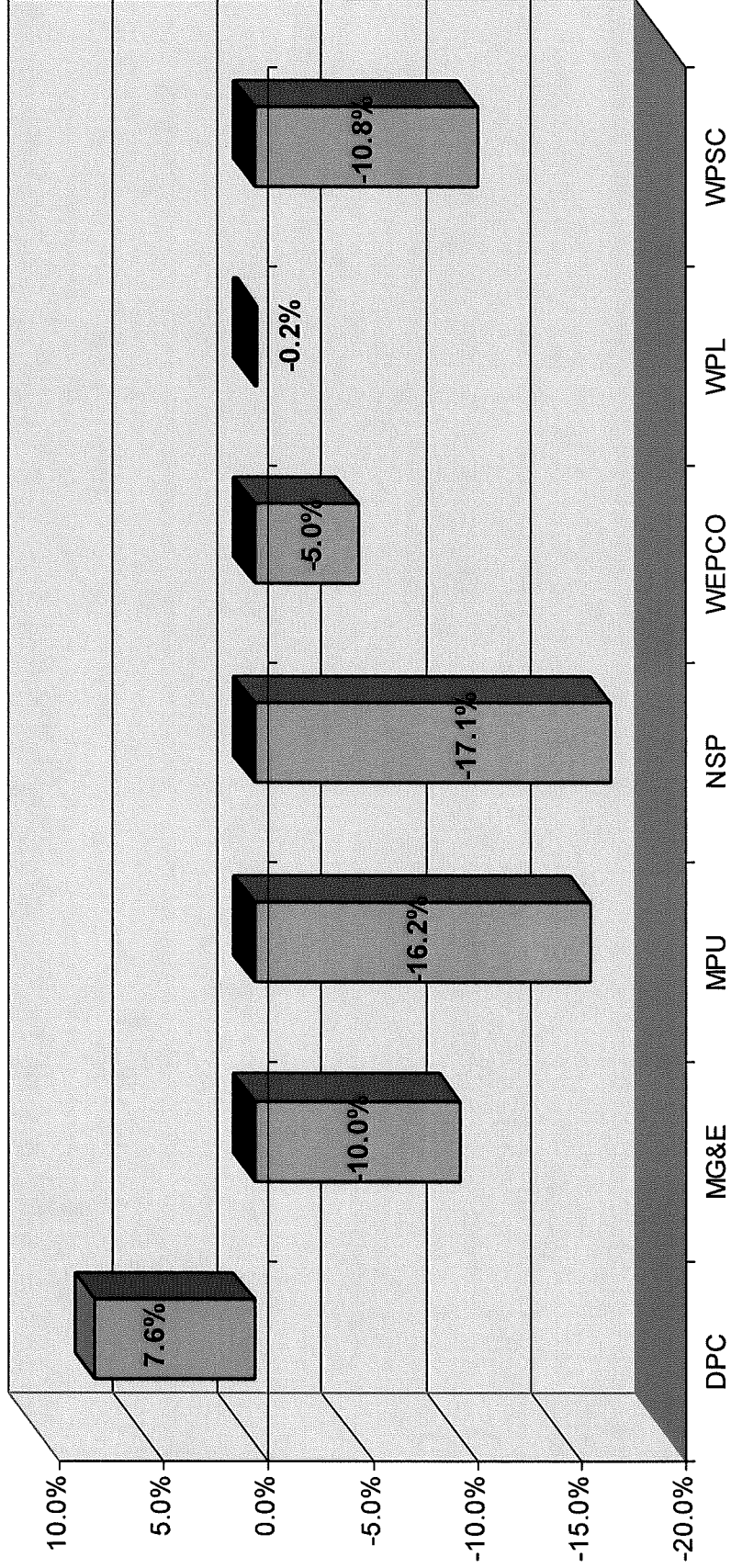
e. Under s. NR 432.06 (1), the department must notify the administrator of the environmental protection agency of the specified allocations by either of the two specified dates. The department should clarify if this notification will occur by the later or the earlier of the two listed dates.

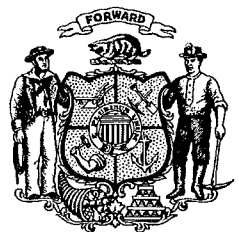
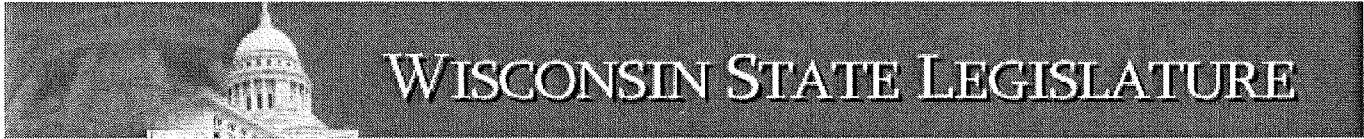
f. The department should clarify whether a source must engage in any one or all of the voluntary activities listed in s. NR 432.07 (1) (a) to (c) to be considered engaging in superior environmental performance.



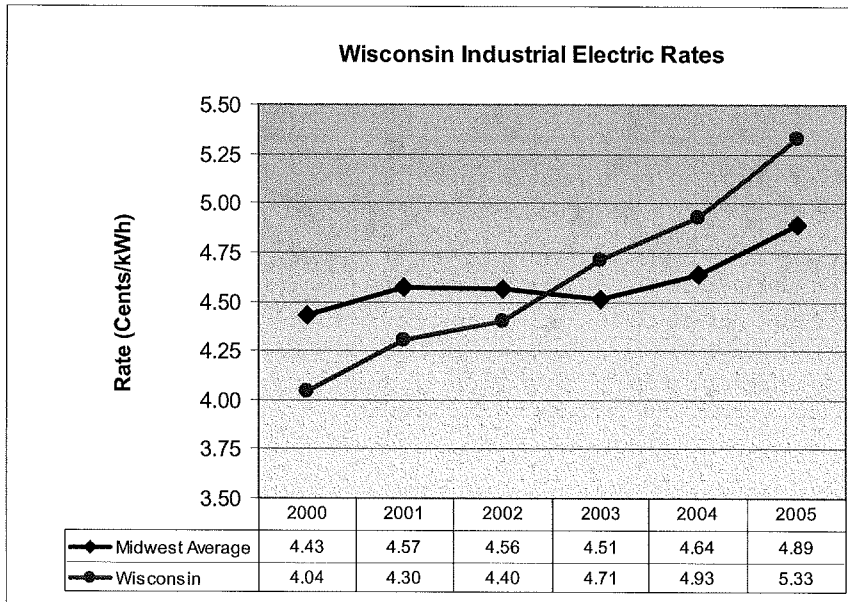
# The DNR CAIR Rule: More Stringent than Federal Law

EPA vs DNR CAIR Ozone Allocations (Percent Difference)





## Electric Rates in Wisconsin: Impacting Our Ability to Compete



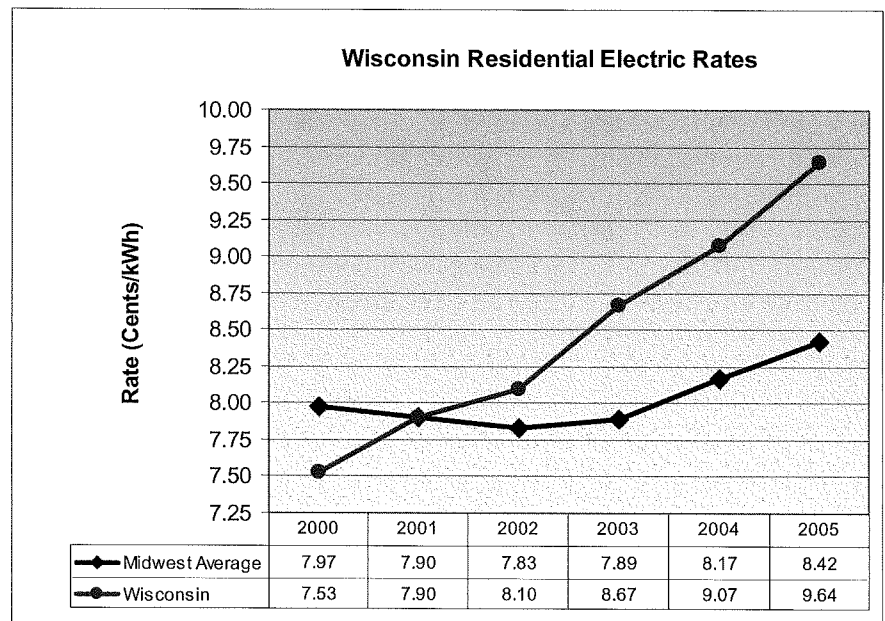
Source: Public Service Commission (PSC) Strategic Energy Assessment Draft Report; June, 2006

### Wisconsin's Electric Rate Advantage is Gone

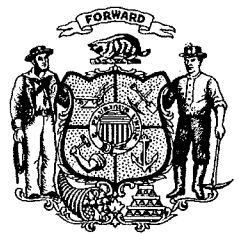
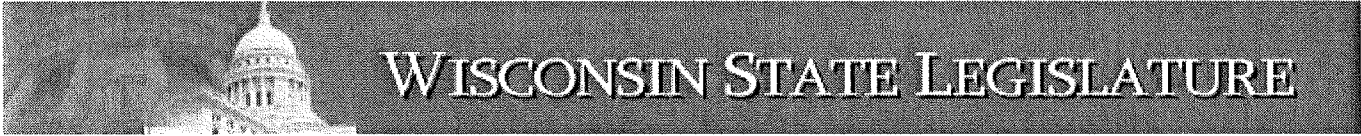
The Wisconsin Public Service Commission (PSC) conducted an analysis of industrial and residential electric rates in Wisconsin as part of its Strategic Energy Assessment in June, 2006. The following charts summarize the data presented by the PSC in their report, which show that Wisconsin has lost its electric rate advantage over other Midwest states for both industrial and residential electricity users. This rate disparity relative to nearby states raises affordability issues for homeowners, and diminishes the competitiveness of our businesses.

### Upcoming DNR Rules Could Worsen Wisconsin's Rate Disadvantage

The DNR is currently drafting a number of environmental rules targeted at reducing air emissions from electric utilities. The Clean Air Interstate Rule (CAIR), Clean Air Mercury Rule (CAMR) and Reasonably Available Control Technology (RACT) rules are all required by federal law. Wisconsin can minimize the rate impact of these rules by following federal guidelines. However, efforts to exceed the federal rules will result in costly and unwarranted rate increases for both homeowners and businesses. WMC is concerned that adding unnecessary electric rate hikes to these proposed rules will have a crippling effect on the ability of Wisconsin manufacturers to compete in the national and international marketplace where energy costs are often less expensive.



Source: Public Service Commission (PSC) Strategic Energy Assessment Draft Report; June, 2006

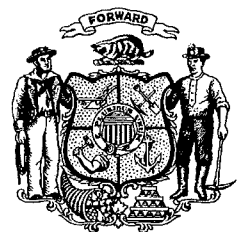


## Issues to be aware of re: CAIR:

- Wisconsin Utilities Association and We-energies both submitted comments regarding the rule. While they have some concerns, and would prefer something more close to the federal model. However, for planning purposes, they both would like to see the rule go forward. Neither plans to testify at the hearing
- Wisconsin Industrial Energy Group has concerns with the rule, in particular it's emphasis on natural gas and renewables and the effect on energy rates that would cause. It is likely they will testify at the hearing
- Manitowoc Public Utilities has a concern with their allocation of NOx and the effect that will have on their rate payers if it is not increased. They will be there to testify.
  - In talking to the DNR, they are aware and sympathetic to this issue. Their plan is to take a germane amendment to the Natural Resources Board in February with this adjustment.
  - An agency can make a germane amendment (under 227.19 (4)(b) 3) at any time prior to a rule being promulgated. When that change is made, the committee will have the remainder of it's jurisdiction to take action if desired. If the amendment occurs within the final 10 days of review, it is extended for 10 more days.
  - The committee's jurisdiction of these rules ends Mar. 8<sup>th</sup>
  - After Manitowoc testifies, let DNR respond with their plan
- Sierra Club has concerns about the rule not being strong enough – will likely testify
- Clean Wisconsin has concerns about not enough emphasis on renewables and energy efficiency. May testify at the hearing.
  - DNR's response to this argument:
  - It is the demand management side of energy efficiency that creates a nearly impossible situation for allocating emissions within the federal trading scheme used in our CAIR rule.
  - However, the rule does accommodate renewables. The DNR position is a compromise between the entities opposing inclusion of renewables and those entities asking that renewables receive allocations from the new source set-aside. To summarize the DNR reasoning: New fossil fuel fired units must hold allowances for compliance purposes. For renewables, participation in the CAIR program is strictly optional and no allowances need to be held. Allowing renewable units to receive allowances from the main pool after they have established a generation history balances compliance requirements for new fossil fuel fired units and including renewables into the CAIR structure.



# WISCONSIN STATE LEGISLATURE





**TODD STUART**  
Executive Director  
WIEG

**THOMAS G. SCHARFF**  
Board Chairman  
Stora Enso

**BOARD MEMBERS**

**CHRISTINE GEORGE**  
Air Liquide  
Industrial U.S. LP

**PAUL LONDON**  
Basic American Foods

**BRUCE WILLIAMS**  
Bemis Company, Inc.

**ROBERT BEHNKE**  
Brillion Iron Works, Inc.

**STEVE HIEGER**  
ERCO Worldwide  
(USA) Inc.

**TRISH BOWLES**  
Georgia-Pacific

**CAL KOOYENGA**  
Fairbanks Morse Engine

**TARI EMERSON**  
Kohl's Department  
Stores, Inc.

**DAVE GREATHOUSE**  
Ladish Co., Inc.

**BERNARD MALNARICK**  
Linde Gas, LLC

**MICHAEL J. POTTS**  
Orion Energy Systems

**BILL WARD**  
Procter & Gamble  
Paper Products Co.

**JOE MUEHLBACH**  
Quad/Graphics Inc.

**TONY KARWOWSKI**  
S.C. Johnson & Sons Inc.

**JEFF LOEFFLER**  
ThyssenKrupp  
Waupaca, Inc.

**MIKE COLWELL**  
USG Interiors, Inc.

**BOB KENNEY**  
Weyerhaeuser Company

WIEG, INC.

### Public Benefits Overhaul Includes Industrial Protections

WIEG helped negotiate amendments to 2005 Act 141 (Public Benefits). Before passage of the act, the industrial caps on low-income programs were set to terminate in 2008.

This likely would have resulted in increased contributions of nearly 3 percent of an industrial's monthly energy bill.

With passage of Act 141, the cap for industrial customers remains at \$750 per month.

WIEG is currently at the table negotiating changes to the new rules being developed at the PSCW to implement this sweeping new law. WIEG can't rest on its past laurels.

Many state lawmakers campaigned on pledges to expand the existing Renewable Portfolio Standard (RPS).

WIEG needs to be sure that any future legislation to amend the RPS or Public Benefits law has protections and/or cost savings for industrial customers.

A significant increase in the RPS would require the addition of thousands of megawatts of renewable resources, which translates into billions of dollars and rate increases.

WIEG will remain vigilant in challenging such measures in future legislative sessions.

**A customer with a \$1 million per month energy bill will save about \$350,000 per year as a result of this cap; this essentially paid for WIEG dues last year, and for years to come.**

#### Act 141 Highlights:

- ◆ industrial customer contributions frozen at 2006 levels for the first year
- ◆ the equitable allocation of costs for the program among customer classes
- ◆ program distributions will equal contributions within each class
- ◆ RPS "offramps" — cost containment measures
- ◆ availability of industrial self-directed programs

### WIEG Continues Involvement With MISO Issues

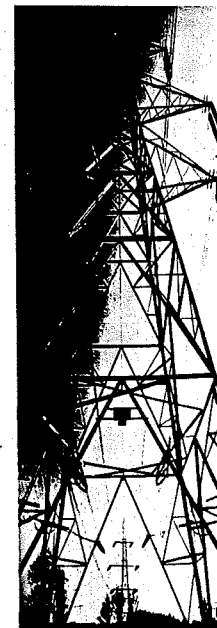
As a MISO member, WIEG is making a concerted effort to evaluate industrial customer concerns related to current and potential cost increases at MISO.

By becoming a MISO member, WIEG is able to directly participate in and influence various facets of MISO's current and potential market design elements to protect industrial customer interests.

WIEG's efforts and participation have resulted in increasing industrial customer clout at the MISO and also have the potential of avoiding significant cost increases.

The top issues for MISO in 2007 include the following items:

- ◆ Ancillary Services Market Tariff Filings - Winter/Spring
- ◆ Assessment of cost/benefits - Spring
- ◆ Transmission Rate Design - Summer
- ◆ Demand Response Programs
- ◆ Long Term Resource Adequacy



#### Inside this issue:

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| WP&L rate increase  | 2 |
| WEPCO 2007 rates    | 2 |
| WPS-Peoples merger  | 3 |
| Fuel Rules Revision | 3 |
| Point Beach update  | 3 |
| Air Emissions       | 4 |

***Bottom line:***  
***WPSC***  
***Industrial***  
***Rate Increase***  
***of 7.05% to***  
***7.38%***  
***in 2007***

### *WPSC Rate Case*

The Commission blamed the increased costs for infrastructure improvements and construction of the Weston 4 power plant.

It was an overall increase of \$57 million that averaged out as a 6.61% increase at 10.9% ROE.

Here are the highlights:

- ◆ Overall increase of 7% for industrials. The company originally requested 14.4%.
- ◆ Capital Structure of 52%.
- ◆ Rate of Return of 10.9% (WIEG asked for 10.5%)

The "Rate Stability Mechanism" adjusted annually was rejected. Commissioners prefer the two-year rate case structure for rate stability. However, they want to explore the "decoupling" concept further in a later docket.

- ◆ Cost of Service — Residential 5.5% increase/Commercial 8.33% increase / Industrial 7.2% increase.
- ◆ MISO Day 2 issues should be dealt with in the current and separate open docket.

Please visit our website at [www.wieg.org](http://www.wieg.org) or contact Todd Stuart for further details on this case and for historical rate case data.

***WP&L***  
***Industrial***  
***Rate Increase***  
***of 4.5% to***  
***4.7% in 2007***

### *WP&L Rate Case*

WP&L revised their request last fall to ask for a 16% rate hike for 2007.

In January, the Commission ultimately approved a \$36.2 million annual rate increase which averaged a 3.91% increase at 10.8% ROE.

Commissioners cited Wis. Statute 196.192 for their rejection of ERCO's proposal and WP&L's mercury abatement rider.

ERCO had proposed increased but constant rates for their facilities over the next ten years. WIEG could possibly use the PSC's comments to build momentum to amend state law. The Commissioners said the law must be amended in order to allow special contracts. This is a competitiveness issue as most states allow for some form of special contracts.

Other highlights of the rate case:

- ◆ Rate of Return of 10.8% (WIEG asked for 10.4%)
- ◆ Capital Structure has 51% target.
- ◆ Cost of Service — Residential 3.4%/Commercial 4.8%/Industrial 4.5%-4.7%.
- ◆ Increased high load factor credits (50% to now 100%) and boosted interruptible credits (16%-18%).

### *WEPCO Upcoming Rate Case*

At our special meeting in December, WEPCO stated they might not file a full-blown rate case in May 2007.

WIEG was successful in gaining the following key points in the last base rate case in late 2005:

- ◆ Rejection of earnings cap proposal, which sought a guaranteed ROE of 12.7%
- ◆ Reduction of ROE from 12.2% (then-current) to 11.2%
- ◆ Revenue allocation for industrials well below PSCW Staff position

WEPCO wants to meet soon to identify issues for their upcoming rate case and get our feedback on alternative rate designs and greater customer options. Performance-based ratemaking, decoupling and rate stability proposals were mentioned as possibilities.

***Please give us your feedback on options and pilot program ideas.***

### *WPS-Peoples Merger*

WPS Resources announced this summer that it planned to buy Peoples Energy for nearly \$1.6 billion. WPSR executives were looking for quick regulatory approval.

To date, only the FTC has signed off on the deal. To be consummated, the transaction must be approved by the ICC, the PSCW and the FERC.

In January, WPS reached an agreement with the interveners in Illinois. This clears the way for ICC approval.

### *Fuel Rules Revision*

Wisconsin law now prohibits automatic fuel adjustment clauses in utility rate schedules.

When fuel costs rise above or fall below certain established thresholds, rates may be adjusted to account for those changes through the fuel rules.

### *Point Beach Potential Sale*

WEPCO recently filed their application with the PSCW to sell their Point Beach nuclear facilities.

***They want to close the deal by August of 2007.***

FPL Energy LLC said last month that it will pay Wisconsin Electric Power \$998 million for the two-unit, 1,033 MW plants.

Commissioner Ebert has said that he wants to sign off on this early in 2007. WIEG is hoping that our discussions with PSCW staff and involvement in the upcoming contested case will lead to protection measures for Wisconsin industrial customers.

WPSC has had their bond rating placed on credit watch as a result of the pending merger, and we need to be sure the ratepayers are insulated from the transaction.

Currently, the PSCW is reviewing whether the current fuel rules should be amended, and WIEG is actively participating in that review.

The utilities are working to have the current rules amended to benefit their recovery of fuel costs at the expense of ratepayers.

The book value of these plants is assessed at \$400 million. WEPCO plans to replace that rate base by adding another \$400 million in wind assets in the next few years.

The deal will yield about \$500 million in regulatory assets that WEPCO would like to use to hold down future rate increases.

WPSR says it will get \$80 million each year in synergy savings from the merger through combining administrative staffs, staff cuts and economies of scale -- but they need \$200 million up front to achieve those savings.

WIEG will make the case that this money needs to benefit the consumer rather than going directly to the shareholders.

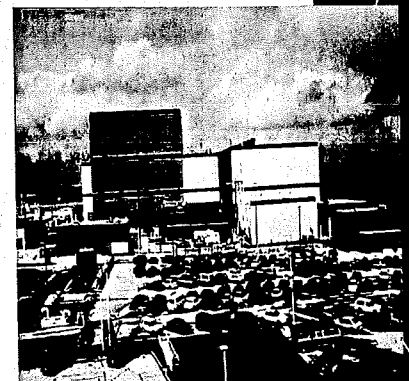
WIEG is working to oppose the return to an automatic fuel adjustment clause and other changes that will hurt ratepayers.

The utilities have submitted their plan at the end of January and we are now awaiting the response of Commission staff. We will keep members updated on the status of the revision.

We are currently reviewing the contract and the other submitted bids.

WIEG's participation in the proceeding will be important to ensure that industrial customers achieve the maximum protections and/or benefits if this base load facility is sold.

***"WIEG's lobbying on Act 141 saved my company hundreds of thousands this year and millions going forward."***  
— Stora Enso



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### 2007 Board Meetings

February 8

May 10

June 14\*

August 9

November 9

\*Annual Business Meeting with featured speaker MISO CEO T. Graham Edwards

February 8th Board Meeting will be held at Alliant's Columbia Power Plant site.

### *Air Emissions Update*

Many lawmakers campaigned on achieving 90% mercury reductions in Wisconsin. This reverses course on the Doyle administration's previously adopted rule to follow federal standards on the Clean Air Mercury Rule (CAMR) requiring a 70% reduction in mercury emissions.

In addition, the Wisconsin Department of Natural Resources has pushed for state implementation of Clean Air Interstate Rule (CAIR) that goes far beyond the federal requirements. And with the new leadership in the State Legislature, it is a certainty that there will be new bills to limit carbon dioxide emissions.

There are several old and dirty plants in Wisconsin's fleet that need to be retired or upgraded soon.

New air emissions regulations that go beyond the federal standards will come at a steep price. Even if restrictions are placed only on the utilities' smokestacks, industrial customers will be paying in one form or another. "Wisconsin-only" regulations will increase costs, have limited benefits and ultimately kill jobs in the state.

WIEG led efforts to coordinate other business groups to talk with PSCW Chairman Dan Ebert regarding air emissions. The DNR openly talks about setting energy and renewables policy via stricter air transport regulation. Ebert has promised to improve coordination between the agencies as there are profound rate impacts of such regulation.

***One study estimated that going beyond the federal CAIR requirements could cost Wisconsin \$700 million per year in rate increases.***

Governor Doyle has made two other significant proposals in the new year.

First, he has called for a new Task Force to address Global Warming in Wisconsin.

Second, Doyle has called for lifting the state's ozone limits. The June 15th deadline must be met. This would be a big boost to business expansion efforts. Businesses, labor and local governments will team up to ensure this happens.

WIEG will be at the table in all these matters to minimize the direct and indirect cost impacts of new air regulations on industrials.

