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Details:

(FORM UPDATED: 08/11/2010)

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

2009-10

(session year)

Assembly

(Assembly, Senate or Joint)

**Committee on ... Natural Resources
(AC-NR)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**
- Record of Comm. Proceedings ... **RCP**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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

* Contents organized for archiving by: Mike Barman (LRB) (Sept/2010)



122 State Street, Suite 200, Madison, Wisconsin 53703-2500

Telephone: 608.251.7020 Fax: 608.251.1655

Website: www.cleanwisconsin.org

(Formerly Wisconsin's Environmental Decade)

**Assembly Bill 299 Testimony
Amber Meyer Smith, Program Director
Clean Wisconsin**

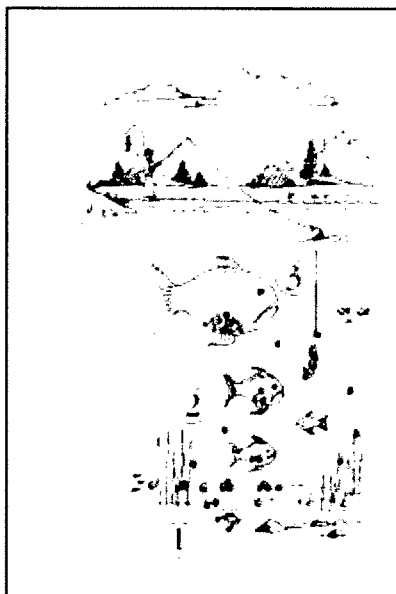
Assembly Natural Resources Committee - July 29, 2009

Clean Wisconsin is the largest statewide environmental organization, and was founded as Wisconsin's Environmental Decade with 10,000 members across the state. We focus on clean air, clean energy and clean water issues, and will celebrate our 40th anniversary in 2010.

Clean Wisconsin strongly supports Assembly Bill 299 and Senate Bill 200, and would like to thank Representative Danou, Senator Jauch and the cosponsors of this bill for their support.

Health Impacts

We all agree that mercury causes serious health impacts, especially to children. Mercury exposure damages the brain and nervous system, resulting in memory loss, speech difficulties, troubles with vision, and cardiovascular problems. The EPA has found that 1 in 6 women of childbearing age has unsafe mercury levels for the developing fetus.



Environmental Impacts

Mercury gets into the environment in several ways, including through products that contain mercury that aren't properly recycled. Specifically, mercury can leach into our waterways, and once in our lakes or rivers, is converted to methylmercury and ingested by fish.

Because of unsafe levels of mercury, all Wisconsin waterways are under a fish consumption advisory by the DNR and DHS. These advisories specify the amount and types of fish we can safely eat from our waters. The advisories are of critical importance for families with children under the age of 12 and women of child-bearing age because of the devastating health affects of mercury.

In fact, walleye, one of the best fish to eat, also contains some of the highest levels of mercury, and its consumption is especially cautioned. An adult walleye can have a mercury concentration

150,000 times as high as the water surrounding it. Mercury consumption also disproportionately impacts other beloved creatures in Wisconsin like loons and bald eagles that have fish-heavy diets.

With Wisconsin's tourism economy heavily relying on the \$2.3 billion fishing industry, we must act to update our laws by stopping products with mercury from being sold.

What can be done - AB 299/SB 200

We have made great progress, but there is still more to be done. Last session, Wisconsin successfully enacted standards for mercury emissions from coal-fired power plants that properly place further restrictions on the mercury in our air. Unfortunately, Wisconsin lags far behind other states in its regulation of products that contain mercury. In fact, 10 other states, including the neighboring states of Illinois, Minnesota and Michigan have enacted laws similar to what is being proposed in AB 299/SB 200.

This bill is similar to 2007 Senate Bill 346, which passed through the Senate last session, but was not taken up in the Assembly. AB 299/SB 200 will ban the sale of certain products that contain mercury: thermometers, manometers, thermostats, products that contain mercury switches, relays and measuring devices, and non-essential household products that contain mercury. In addition, the bill also prohibits schools from knowingly purchasing or using mercury.

The good news is that most of these types of devices are not being manufactured in Wisconsin anymore. Wisconsin businesses long ago stopped producing non-essential household items that contain mercury, but unfortunately, Wisconsin law does not yet recognize such a ban to ensure that these products cannot be sold in the future. However, some of these products are still being manufactured outside of Wisconsin, and mostly overseas, and still legal to sell. That is why restricting the point of sale is the next logical and necessary step.

The Wisconsin DNR estimates that 6600 pounds of mercury are still deposited into our ground, air and water every year from products. The Department's estimates show that the state will reduce mercury deposits by 80% by regulating mercury products, passing mercury emission restrictions on power plants and converting the ERCO plant in Port Edwards to a mercury-free membrane technology. ERCO has already made this conversion and Wisconsin has already passed strong mercury emission restrictions. The next remaining essential piece is banning mercury-containing products.

Banning the sale of these items will encourage production of devices that utilize mercury alternatives that currently exist. Numerous studies have analyzed every mercury use and detailed suitable alternatives for nearly every product containing mercury. The bill does allow the DNR Secretary to make an exception if a mercury-containing product is reasonable and appropriate as outlined by a series of criteria in the bill language, including comparable cost.

Mercury in switches, relays and measuring devices

Switches and relays are still found mostly in industry, but also in some in some household items. Switches and relays open and close the electrical contacts of a device. Banning switches and relays could have a large impact on the market, because these products are still being manufactured with mercury, even though alternatives exist.

Moreover, the passage of this bill could have ripple effects beyond our borders. I have shared support from the national Mercury Policy Project, which fights for mercury reductions at state, federal and international levels. This organization is keenly interested in the passage of this bill because it will help create the tipping point that makes production of these mercury-containing products uneconomical for manufacturers. This is a strategy has been employed many times with regard to mercury – Honeywell stopped production of mercury thermostats in January 2006, after several states developed their own bans and fractured the market.

Mercury in non-essential household products

These are narrowly defined in the bill as only a toy or game, jewelry, clothing or shoes, and over-the-counter pharmaceutical product or a cosmetic, toiletry, or fragrance product. The bill does not address compact fluorescent light bulbs. While very few of these products are still being manufactured in the United States, they are still being produced overseas to some extent, and banning the point of sale will ensure they remain off our shelves and out of our homes.

Mercury in manometers

The DNR and DATCP have made great strides over the last decade at getting mercury-containing manometers, which are used to measure vacuum pressure in dairy cow milking systems, out of farming operations. In 2007, DNR concluded a project to replace manometers, and succeeded in replacing and removing over 500 from farms, equating to approximately 400 pounds of mercury removed.

Mercury in schools

The bill prevents schools from knowingly purchasing or using mercury, historically a staple of science labs. While extensive efforts have been made to get mercury out of schools, the risk cannot be overlooked. In Washington D.C. in 2003, a student took liquid mercury from a science laboratory and sold it to other students, resulting in shutting down the school for 35 days, contamination and cleanup of 11 homes, displacement of 16 families and a total cleanup cost of \$1.5 million.

Extensive progress has already been made to get mercury out of schools in Wisconsin over the last decade. This bill will focus schools on getting what might mercury remain on the shelves of a science lab properly disposed of to avoid any issues with spills in the future.

Support for AB 299/SB 200:

- The Council of Great Lakes Governors supported a series of policies in 2005 aimed at protecting and restoring the Great Lakes. This was during Governor Doyle's tenure as Chair of the Great Lakes Governors' and part of the strategy was aimed at reducing toxic pollutants to the great lakes. The Council urged states, cities and tribes to manage mercury wastes and reduce the use of mercury-containing products.
- The Governor's 2006 Task Force on Waste Materials Recovery & Disposal also recommended legislation directing the Legislature to "ban the use of mercury in products where suitable alternatives exist". While this is just one of the many recommendations this task force made to require effective product stewardship, it is still an important step forward.
- The national Mercury Policy Project has submitted a letter encouraging passage of AB 299/SB 200 because of its potential importance for reducing mercury products across the U.S. The Mercury Policy Project works nationally and internationally to advance mercury-free policies, and has worked in other states where similar sales bans have been successful. They are targeting Wisconsin since we are one of the last great lakes states without such a ban. They are hopeful that like thermostats, where enough states enacted bans that the manufacturer stopped producing them, a ban in Wisconsin will lead to a tipping point nationwide where these products will no longer be economical to produce.
- Other groups supporting the bills include: Wisconsin Council on Children & Families, Wisconsin Wildlife Federation, Wisconsin League of Women Voters, River Alliance of Wisconsin, Wisconsin League of Conservation Voters, Forest County Potawatomi Community, Wisconsin Association of Lakes, Sierra Club – John Muir Chapter, Mercury Free

Wisconsin, Municipal Environmental Group – Wastewater Division, WE Energies, Associated Recyclers of Wisconsin, Physicians for Social Responsibility, Wisconsin Department of Natural Resources, Wisconsin Department of Health Services

There is no doubt that AB 299 and SB 200 are modest steps forward, and that Wisconsin will still be left with many mercury-related issues to tackle. While regulators have had success with curbing mercury in other areas like auto switches and dental fillings through voluntary efforts of those industries, there are no legal requirements. We also need to give people better avenues to recycle these products and prevent them from getting to the landfill.

Thank you for consideration of this bill, and the substitute amendment. Clean Wisconsin urges you act expeditiously in order to impact mercury product policies nationwide.

Mercury:

A threat to the health of our children
and our natural resources



A threat to our health

EPA scientists now estimate that 1 in 6 women of childbearing age have levels of mercury in their blood that are unsafe for a developing fetus. **A potent neuro-toxin, mercury impacts the brain and nervous system resulting in memory loss, speech difficulties, troubles with vision, and cardiovascular problems.** The effects are so harmful that women of childbearing age are advised to limit the number and kinds of fish they eat from Wisconsin waters.



"Our store relies on Wisconsin's clean lakes, rivers and streams and the thousands of tourists who come to visit them every year.

Protecting Wisconsin waters from mercury pollution protects our economy and our way of life."

– Mitch Mode
owner of Mel's Trading Post, the Northwoods' largest sporting goods store founded in Rhinelander in 1946.

A threat to our environment

Mercury poses an invisible but persistent threat to Wisconsin waters, causing fish consumption advisories because of unsafe levels of mercury.

The Wisconsin Department of Health Services and the Department of Natural Resources currently lists every inland body of water in Wisconsin under a fish consumption advisory as a result of mercury contamination. Many waterways, especially in prime tourist areas in Northern Wisconsin have stringent guidelines for fish consumption, which suggest limitations on the number of recommended meals of fish a person should have to limit their risk potential from mercury. Restrictions are even more stringent for women of childbearing age and children under the age of 15. Walleye, considered one of the best fish to eat from Wisconsin waterways, contain particularly high levels of mercury.

The fishing industry in Wisconsin is a powerful economic driver. The DNR estimates that **it brings \$2.3 billion of revenue to the state and directly employs more than 25,000 individuals.**

Reducing
Mercury
Pollution

Reducing Mercury Pollution

What Can be Done?

There are still some household and industrial products being manufactured with mercury outside of Wisconsin and overseas that are sold or used in Wisconsin. When these products are not properly recycled, that toxic mercury gets deposited into the environment and pollutes our lakes, rivers and streams and creates fish consumption advisories. It is estimated that 6600 pounds of mercury still enter Wisconsin waterways each year from improper disposal of products. Fortunately, there are non-mercury alternatives for most of these products, as documented by a number of recent studies and European initiatives.

Clean Wisconsin is supporting 2009 Senate Bill 200 and Assembly Bill 299 to restrict the sale of non-essential mercury products in households and industrial products. Over 10 states across the United States, including Wisconsin's neighboring states, have already adopted similar laws that will contribute to ultimately ending production of unnecessary mercury products use nationwide.

There are many groups that support this bill because they know it's important for children's health and the future of sport-fishing: * Wisconsin Council on Children & Families * Mercury Free Wisconsin * Wisconsin Wildlife Federation * Wisconsin Association of Lakes * Forest County Potawatomi Community * Wisconsin League of Women Voters * River Alliance of Wisconsin * Wisconsin League of Conservation Voters * Sierra Club - John Muir Chapter * WE Energies * Municipal Environmental Group - Wastewater Division * Wisconsin Department of Natural Resources * Wisconsin Department of Health Services * Associated Recyclers of Wisconsin * Physicians for Social Responsibility.

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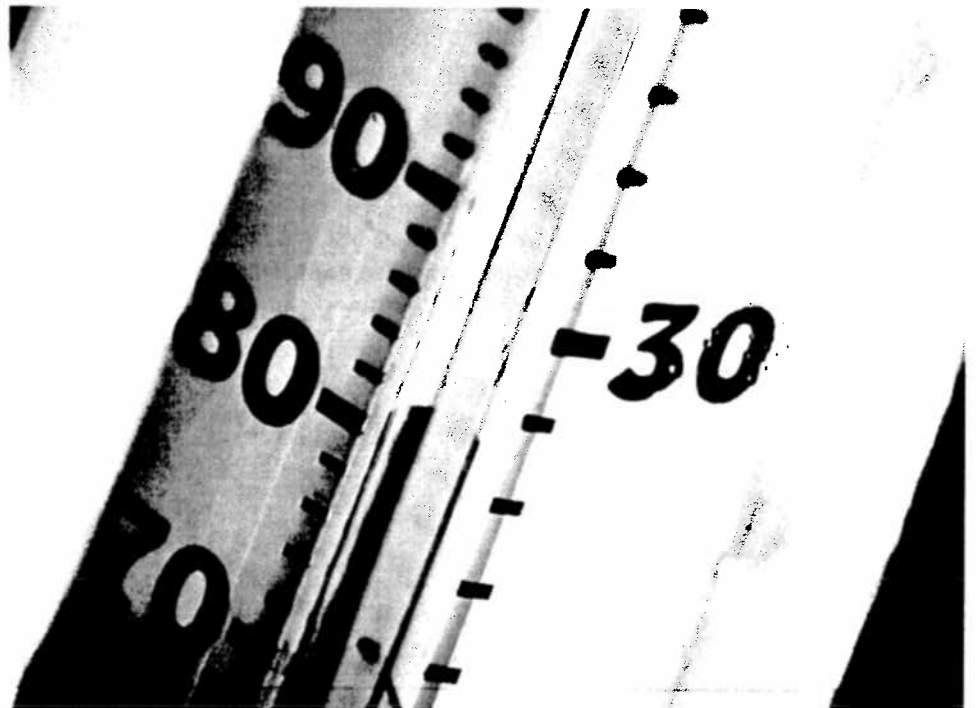
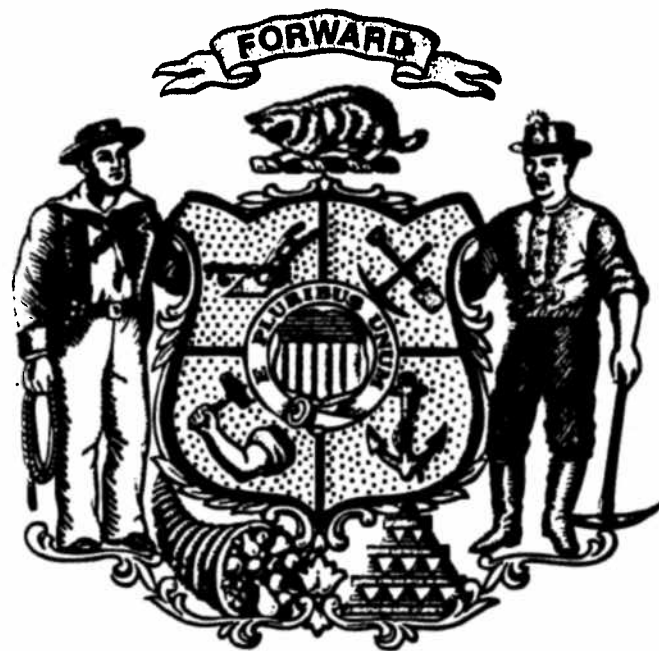


photo by Axel Buhrmann





STATE REPRESENTATIVE
CHRIS DANOU

WISCONSIN STATE ASSEMBLY

91ST DISTRICT

**Testimony Before Assembly Natural Resources Committee Regarding AB 299
July 29, 2009**

- This bill regulates the sale of products to which mercury has been added during formulation and manufacture (mercury-added products), including fever thermometers, manometers (instruments for measuring pressure), thermostats, instruments and measuring devices, switches and relays, and household items. The bill also prohibits the sale of certain products containing mercury, including thermostats, other instruments and switches, and household items such as toys, clothing and cosmetics.

- The bill authorizes a manufacturer or user of certain mercury-added products to petition the Department of Natural Resources for an exemption from the bill's prohibitions. The DNR may grant such an exemption only if the petitioner establishes certain facts, including that technically feasible non-mercury alternatives are not available at comparable cost.

- This bill prohibits a public, private or charter school from knowingly purchasing or using free-flowing elemental mercury for any purpose, or, with certain exceptions, from knowingly purchasing or using a mercury-containing compound or an instrument or measuring device containing mercury.

- Mercury is a highly potent neuron-toxin that can also cause severe birth defects and has also shown to substantially increase the risk of heart disease in men.

- US EPA estimates that 1 in 6 women of child bearing age have unsafe levels of mercury in their body.

- Currently in WI all inland bodies of water are under a fish consumption advisory due to high mercury levels.

- Fishing is a \$2.3 billion INDUSTRY in WI.

- This bill additionally needs to seeks to remove mercury from our schools, both reducing risks to students and staff as well as a substantial risk to toxic spills and consequent cleanup costs.

- As we seek to address the problem of mercury consumption in our environment we must first turn off the tap. This is hopefully the first step in a multiple step process. It is also necessary to move us in the same direction as our neighborly states.

Serving Buffalo, Pepin, Pierce, Jackson and Trempealeau Counties



WISCONSIN STATE ASSEMBLY

STATE REPRESENTATIVE
CHRIS DANOU

91ST DISTRICT

- There are voluntary programs in place, but we must take legal steps to insure full cooperation.

Serving Buffalo, Pepin, Pierce, Jackson and Trempealeau Counties

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07-29-2009

Wisconsin Wildlife Federation

Good morning Chairman Black and Members of the Assembly Natural Resources Committee. My name is Don Hammes and I am a member of the Board of Directors of the Wisconsin Wildlife Federation. Thank you very much for the opportunity to testify here today in support of AB 299..... reducing the amount of product-based mercury.

Mercury emission reductions are critically important to our members. Our members are hunters, anglers and trappers that consume the fish and wildlife that contain the mercury that is released and then returns to our lakes, streams and land and becomes embedded in the food chain of fish and wildlife. Every lake and stream in this state contains a mercury contaminant advisory recommending that anglers stringently limit the amount of fish that our families eat from our lakes and streams. The limits are especially restrictive for children and women of reproductive age. Studies by National Academy of Science and the Center for Disease Control indicate that 1 out of 12 women in the United States have blood mercury levels in excess of that deemed safe from a health standpoint and that 60,000 children born each year in the United States may have their health impaired by the presence of mercury in their bodies.

The source of mercury in most humans is the ingestion of fish contaminated with mercury and since most of our members are fishermen and women we are greatly concerned about this threat to health of our families and believe that the presence of mercury should be reduced wherever possible.

Wisconsin hunters, anglers and trappers pay well in excess of \$70 million dollars a year in hunting, fishing and trapping license fees and stamps to manage and protect fish and wildlife and their habitat. It is important to us that this important investment in our lakes and streams and fish and wildlife should be protected from mercury contamination.

The Wisconsin Wildlife Federation has been working on all fronts to seek the reduction of mercury emissions in the State of Wisconsin. We worked and supported ERCO Worldwide in its efforts to change the production process at its Port Edwards chlor-alkali facility so that it could eliminate its mercury emissions that comprise approximately 25% of the total mercury emissions in the state.

In 2000, the Wildlife Federation was one of the initial groups that petitioned the DNR for strong mercury emission regulations for utility coal-fired boilers.

In 2003, the National and Wisconsin Wildlife Federations did a poll of Wisconsin hunters, anglers and trappers about proposals to reduce mercury emissions from utility boilers in the state. Seventy-two percent of those polled agreed that very stringent standards should be adopted by the end of the decade even if the cost of making such reductions would be expensive. To the credit of DNR, those tougher mercury emissions standards have now been adopted.

The legislature now has the opportunity to tackle another potential major source of mercury in the state, the release of mercury from products. AB 299 calls for the regulation of mercury in fever thermometers, manometers, thermostats, instruments, measuring devices, switches and household items. Cumulatively, the amount of mercury in all of these products found throughout Wisconsin is significant and it is only right that a strong effort, as exemplified in this bill, should be made to curtail these emissions.

In conclusion, it is of paramount importance to Wisconsin hunters, anglers and trappers to reduce mercury in our waters, our fish and our families. Please adopt AB 299 and stop this significant source of mercury release into the environment.

On behalf of the Wisconsin Wildlife Federation, thank you for the opportunity to share this testimony with you today.

Submitted by:

Don Hammes, Member
Board of Directors
Wisconsin Wildlife Federation

July 29, 2009



MADISON METROPOLITAN SEWERAGE DISTRICT

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Jon W. Schellpfeffer
Chief Engineer & Director



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- John E. Hendrick
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July 29, 2009

Assembly Committee on Natural Resources

(Representatives Black-Chair; Danou-Vice Chair; Steinbrink; Hraychuck; Hebl; Mason; Clark; Gunderson; Huebsch; LeMachieu; Mursau; Nerison)

Subject: Public Hearing Comment on Assembly Bill 299

Madison Metropolitan Sewerage District supports Assembly Bill 299, which will reduce potential sources of mercury to the environment by controlling the sale of mercury containing products. However, we are concerned that as written, AB 299 would preclude the sale/purchase of calibration thermometers containing mercury. The District operates a state of the art laboratory, with the results being held to exacting standards by the Department of Natural Resources and other entities. Accurate calibration of ovens, incubators, refrigerators and other similar equipment is critical to meet these exacting standards. Our experience is that mercury calibration thermometers are more accurate than the available alternatives. Therefore, we respectfully request that AB 299 be revised to allow for the sale/purchase of calibration thermometers containing mercury.

There are at least two potential places in AB 299 where a revision could be made to address the above request:

- 100.275(2)(1)(i) could be amended to specifically exclude certified mercury thermometers that are used by laboratories to calibrate ovens, incubators, refrigerators, and similar equipment.
- 100.275(3) could be expanded to specifically exclude certified mercury thermometers that used by laboratories to calibrate ovens, incubators, refrigerators, and similar equipment.

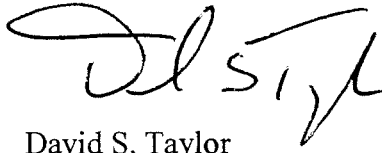
The District recognizes that 100.275(3) would allow DNR to approve exemptions on a case-by-case basis. However, the District believes that DNR could receive a significant



number of requests from laboratories for exemptions and it is likely that DNR would approve these exemption requests. Therefore, responding to these requests on a case-by-case basis would not be an efficient use of DNR resources, which are severely impacted by current economic conditions.

The District appreciates your consideration of the above request. If you have any questions, please feel free to contact the District's Laboratory Manager directly (Rhonda Riedner; phone: 608-222-1201, ext. 218; email: rhondar@madsewer.org).

Respectfully submitted;

A handwritten signature in black ink, appearing to read "D. S. Taylor". The signature is fluid and cursive, with a large initial "D" and "S".

David S. Taylor
Director of Special Projects





Anderson & Kent, S.C.

Attorneys and Counselors at Law

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TO: Assembly Committee on Natural Resources
Attention: Representative Spencer Black (Chair)

FROM: Paul G. Kent and Julie M. Baldwin
On behalf of Municipal Environmental Group – Wastewater Division.

DATE: July 29, 2009

RE: AB 299 Mercury Response

MEG is an association of over 95 communities throughout the state of Wisconsin who own and operate wastewater facilities. Our members range in size from some of the largest metropolitan areas to some of the smallest communities in the state. For over 20 years, MEG has been partners with the DNR in maintaining and enhancing water quality.

One of the areas in which MEG has been in partnership with DNR has been in mercury reduction efforts. Even though nearly all of the sources of mercury that enter our waterways come from atmospheric deposition and other sources, municipal treatment plants are required to meet extremely stringent discharge standards – 1.3 nanograms per liter. That is 1.3 parts per trillion. Municipal treatment plants cannot treat to that level so they have been working with DNR to develop pollutant minimization plans (PMPs) to meet their permit requirements.

PMPs require municipalities to find potential sources of mercury in their communities and work with schools, hospitals, dental offices, industry and other sources to encourage mercury reduction. Many communities have done an excellent job and many more will be doing so under new permits or voluntary agreements through the Green Tier program.

These efforts can and have been effective, but they can be time and resource intensive for communities and they are reactive in nature. Pollutant minimization programs are an attempt to voluntarily control the release of mercury from products in use. Ultimately it will be more cost effective to control mercury at the point of production and sale. AB 299 is a positive step in that direction.

Assembly Bill 299 seeks to regulate the dispensation of several mercury containing products, such as banning the sale of mercury-containing manometers, thermostats, and other instruments and switches. While the bill does allow for a manufacturer or user to petition the DNR for an exemption, the exemption may only be granted if it is found that a technically feasible alternative is not available at a comparable cost. Schools are also prohibited from knowingly purchasing or using elemental mercury or mercury containing compounds or instruments in most situations under the bill. MEG Wastewater supports AB 299. Please contact me with any questions.





Forest County Potawatomi Community

P.O. BOX 340 • Crandon, WI 54520

**Testimony of the Forest County Potawatomi Community
Assembly Bill 299 regarding products containing mercury
Assembly Committee on Natural Resources
July 29, 2009**

Thank you, Chairman Black and committee members.

My name is Zach Shawano. I am here on behalf of the Forest County Potawatomi Community in support of AB 299, the mercury products bill. I also happen to be a member of the Forest County Potawatomi Tribe.

A clean environment is essential to the lives, culture and beliefs of the Potawatomi. But, as the largest employer in Forest County, the Tribe also knows that a clean environment – including having fish that are safe to eat – is essential to the health of the Northern tourism economy.

As you know, the Potawatomi have a proud history of environmental stewardship, including successful opposition to the Crandon Mine, the Tribe's successful 14-year effort to obtain a Class I Air designation by the EPA for its reservation and, more recently, extensive participation in the Governor's Task Force on Global Warming. The Tribe recently began a television campaign in support of global warming initiatives, and launched a new website, www.endglobalwarmingwi.com.

However, dealing with mercury pollution has been a particular priority. The Tribe has invested nearly \$400,000 for studies by Dr. Carl Watras of the effects of mercury deposition on Devils Lake on its reservation. We also had representation on the DNR's Citizens Advisory Committee on Mercury several years ago. And the Potawatomi were strong, vocal supporters of the DNR's mercury rule last spring.

The U.S. Environmental Protection Agency has estimated that 630,000 children are born every year with levels of mercury in their blood that put them at risk of learning disabilities and other developmental problems. As shocking as that number is, the risks are even greater for the Potawatomi and for other Native Americans, who have cultural traditions of eating fish. The EPA's assumption that Native Americans eat more than eight times the amount of fish, compared to the general public, likely understates the risk to the Potawatomi and other tribes.

In addition, the lakes of Northern Wisconsin, where the Potawatomi live, are the types of lakes where mercury pollution has severe impacts. The Tribe knows that from a study of Devils Lake on its reservation. The Tribe also owns land by Deep Hole and Little Sand lakes, which have even more stringent fish consumption advisories than the average Wisconsin lakes.

The Potawatomi believe AB 299 is an essential tool in reducing the amount of mercury pollution in our environment and we urge you to support it.

Thank you again for the opportunity to testify.



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SEWERAGE DISTRICT**

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Jon W. Schellpfeffer
Chief Engineer & Director



Protecting Public Health and the Environment

September 9, 2009

SEP 10 2009

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Commissioner

Assembly Committee on Natural Resources
(Representatives ~~Black, Chitt~~ Danou-Vice Chair; Steinbrink; Hraychuck; Hebl; Mason;
Clark; Gunderson; Huebsch; LeMachieu; Mursau; Nerison)

Subject: Assembly Bill 299

In written comments submitted during the July 29th public hearing on AB 299, Madison Metropolitan Sewerage District stated its support for the bill, which will reduce potential sources of mercury to the environment by controlling the sale of mercury containing products. The District also asked that consideration be given to include a provision that would allow for the sale/purchase of calibration thermometers containing mercury. This request was based on our past experience with alternatives to mercury containing calibration thermometers.

Based on subsequent discussion with our Department of Natural Resources laboratory auditor and others, we now believe that including the above referenced provision is not necessary. However, the District does believe that it will be important for DNR to develop a streamlined approach to handle requests for exemptions, which they would have the authority to approve on a case-by-case basis under 100.275(3).

If you have any questions, please feel free to contact me directly (phone: 608-222-1201, ext. 276; email: davet@madsewer.org).

Respectfully submitted;

David S. Taylor
Director of Special Projects







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Telephone: 608.251.7020 Fax: 608.251.1655

Website: www.cleanwisconsin.org

(Formerly Wisconsin's Environmental Decade)

September 18, 2009

To: Wisconsin State Legislature

From: Amber Meyer Smith, Program Director, Clean Wisconsin

Subject: SB 200 and AB 299 – on the Senate and Assembly Session calendar for 9/22/09

Clean Wisconsin strongly supports Assembly Bill 299 and Senate Bill 200, and asks that you vote for these bills when they are before you on Tuesday, September 22nd. The bills received unanimous support from both the Senate Committee on Small Business, Emergency Preparedness, Technical Colleges and Consumer Protection and the Assembly Natural Resources Committee.

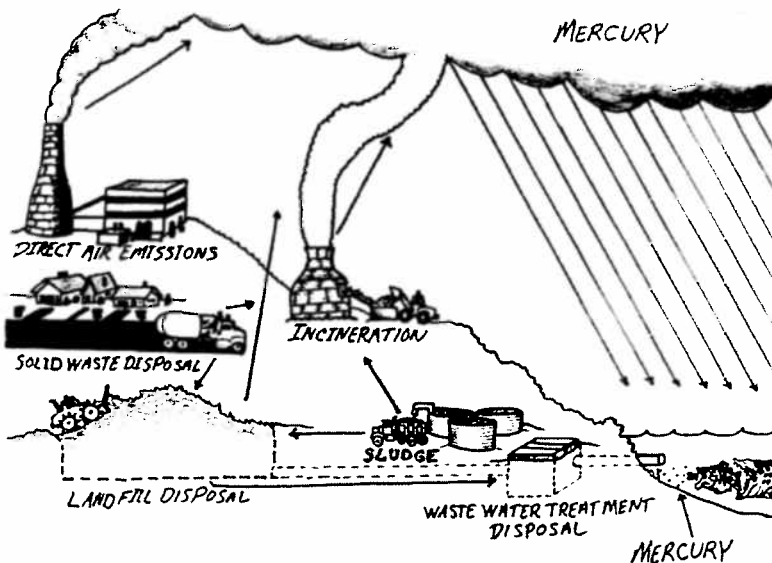
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With Wisconsin's tourism economy heavily relying on the \$2.3 billion fishing industry, we must act to update our laws by stopping products with mercury from being sold.

What can be done - AB 299/SB 200

We have made great progress, but there is still more to be done. Last session, Wisconsin successfully enacted standards for mercury emissions from coal-fired power plants that properly place further restrictions on the mercury in our air. Unfortunately, Wisconsin lags far behind other states in its regulation of products that contain mercury. **In fact, 10 other states, including the neighboring states of Illinois, Minnesota and Michigan have enacted laws similar to what is being proposed in AB 299/SB 200.**

This bill is similar to 2007 Senate Bill 346, which passed through the Senate last session, but was not taken up in the Assembly. AB 299/SB 200 will ban the sale of certain products that contain mercury: thermometers, manometers, thermostats, products that contain mercury switches, relays and measuring devices, and non-essential household products that contain mercury. In addition, the bill also prohibits schools from knowingly purchasing or using mercury.

The good news is that most of these types of devices are not being manufactured in Wisconsin anymore. Wisconsin businesses long ago stopped producing non-essential household items that contain mercury, but unfortunately, Wisconsin law does not yet recognize such a ban to ensure that these products cannot be sold in the future. **However, some of these products are still being manufactured outside of Wisconsin, and mostly overseas, and still legal to sell. That is why restricting the point of sale is the next logical and necessary step.**

The Wisconsin DNR estimates that 6600 pounds of mercury are still deposited into our ground, air and water every year from products. The Department's estimates show that the state will reduce mercury deposits by 80% by regulating mercury products, passing mercury emission restrictions on power plants and converting the ERCO plant in Port Edwards to a mercury-free membrane technology. ERCO has already made this conversion and Wisconsin has already passed strong mercury emission restrictions. The next remaining essential piece is banning mercury-containing products.

Banning the sale of these items will encourage production of devices that utilize mercury alternatives that currently exist. Numerous studies have analyzed every mercury use and detailed suitable alternatives for nearly every product containing mercury. The bill does allow the DNR Secretary to make an exception if a mercury-containing product is reasonable and appropriate as outlined by a series of criteria in the bill language, including comparable cost.

Mercury in switches, relays and measuring devices

Switches and relays are still found mostly in industry, but also in some household items. Switches and relays open and close the electrical contacts of a device. Banning switches and relays could have a large impact on the market because these products are still being manufactured with mercury, even though alternatives exist.

Moreover, the passage of this bill could have ripple effects beyond our borders. I have shared support from the national Mercury Policy Project, which fights for mercury reductions at state, federal and international levels. **The national Mercury Policy Project is keenly interested in the passage of this bill because it will help create the tipping point that makes production of these mercury-**

containing products uneconomical for manufacturers. This is a strategy has been employed many times with regard to mercury – Honeywell only stopped production of mercury thermostats in January 2006, after several states developed their own bans and fractured the market.

Mercury in non-essential household products

These are narrowly defined in the bill as only a toy or game, jewelry, clothing or shoes, and over-the-counter pharmaceutical product or a cosmetic, toiletry, or fragrance product. The bill does not address compact fluorescent light bulbs. While very few of these products are still being manufactured in the United States, they are still being produced overseas to some extent, and banning the point of sale will ensure they remain off our shelves and out of our homes.

Mercury in manometers

The DNR and DATCP have made great strides over the last decade at getting mercury-containing manometers, which are used to measure vacuum pressure in dairy cow milking systems, out of farming operations. In 2007, DNR concluded a project to replace manometers, and succeeded in replacing and removing over 500 from farms, equating to approximately 400 pounds of mercury removed.

Mercury in schools

The bill prevents schools from knowingly purchasing or using mercury, historically a staple of science labs. While extensive efforts have been made to get mercury out of schools, the risk cannot be overlooked. **In Washington D.C. in 2003, a student took liquid mercury from a science laboratory and sold it to other students, resulting in shutting down the school for 35 days, contamination and cleanup of 11 homes, displacement of 16 families and a total cleanup cost of \$1.5 million.**

Extensive progress has already been made to get mercury out of schools in Wisconsin over the last decade. This bill will focus schools on getting what mercury might remain on the shelves of a science lab properly disposed of to avoid any issues with spills in the future.

Support for AB 299/SB 200:

- The **Council of Great Lakes Governors** supported a series of policies in 2005 aimed at protecting and restoring the Great Lakes. This was during Governor Doyle's tenure as Chair of the Great Lakes Governors' and part of the strategy was aimed at reducing toxic pollutants to the great lakes. The Council urged states, cities and tribes to manage mercury wastes and reduce the use of mercury-containing products.
- The Governor's 2006 **Task Force on Waste Materials Recovery & Disposal** also recommended legislation directing the Legislature to "ban the use of mercury in products where suitable alternatives exist." While this is just one of the many recommendations this task force made to require effective product stewardship, it is still an important step forward.
- The **national Mercury Policy Project** has submitted a letter encouraging passage of AB 299/SB 200 because of its potential importance for reducing mercury products across the U.S. The Mercury Policy Project works nationally and internationally to advance mercury-free policies, and has worked in other states where similar sales bans have been successful. They are targeting Wisconsin since we are one of the last great lakes states without such a ban. They are hopeful that like thermostats, where enough states enacted bans that the manufacturer stopped producing them, a ban in Wisconsin will lead to a tipping point nationwide where these products will no longer be economical to produce.

- Other groups supporting the bills include: Wisconsin Council on Children & Families, Wisconsin Wildlife Federation, Wisconsin League of Women Voters, River Alliance of Wisconsin, Wisconsin League of Conservation Voters, Forest County Potawatomi Community, Wisconsin Association of Lakes, Sierra Club – John Muir Chapter, Mercury Free Wisconsin, Municipal Environmental Group – Wastewater Division, WE Energies, Associated Recyclers of Wisconsin, Physicians for Social Responsibility, Wisconsin Department of Natural Resources, Wisconsin Department of Health Services

There is no doubt that AB 299 and SB 200 are modest steps forward, and that Wisconsin will still be left with many mercury-related issues to tackle. While regulators have had success with curbing mercury in other areas like auto switches and dental fillings through voluntary efforts of those industries, there are no legal requirements. We also need to give people better avenues to recycle these products and prevent them from getting to the landfill.

Thank you for consideration of this bill. Clean Wisconsin and our members urge you act expeditiously in order to impact mercury product policies nationwide.



The Times Small Mercury Spill Results In Evacuation At Middle School

The last days of school were quite interesting for the middle school students and teachers as caution tape wrapped around the doors kept many from their classrooms. The middle school hallway was closed off last week and students were rearranged into other classrooms due to a minor mercury spill.

"It's the same stuff we used to play with in chemistry class!" Turtle Lake School Superintendent Chuck Dunlop declared. "Things have certainly changed."

An amount of mercury the size of a pencil eraser accidentally spilled onto a classroom floor from a broken thermometer on

Wednesday at the Turtle Lake School. The school was forced to evacuate the Middle School section of the building for a day and a half while the spill was cleaned up by a team of professionals. By Friday morning, the space was able to be occupied just in time for students and teachers to clean out their lockers and desks for the last day of school.

"We had to certify to the State Health Department that all the residue was gone," Dunlop added.

"The contaminated area in the classroom was only about 5 feet by 9 feet and none of it got anywhere else in the building."

A few years back many of the

hazardous chemicals that were old thermometers, the school is once again combing the building and grounds for any chemicals that may remain and are of no use.