



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-3961/en  
CMH:klm

## 2015 SENATE BILL 567

1     **AN ACT to amend** 283.16 (2m), 283.16 (3) (a), 283.16 (4) (d), 283.16 (7) and 283.16  
2           (8) (b) 3.; and **to create** 227.01 (13) (yt), 281.15 (6), 283.15 (11), 283.15 (12),  
3           283.16 (3) (b) 4., 283.16 (3m) and 283.16 (9) of the statutes; **relating to:** the  
4           review of water quality standards and variances to water quality standards by  
5           the Department of Natural Resources and exempting certain actions of the  
6           Department of Natural Resources and the Department of Administration from  
7           the requirement to promulgate rules relating to the statewide water quality  
8           variance for phosphorus.

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*Analysis by the Legislative Reference Bureau*

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

9           **SECTION 1.** 227.01 (13) (yt) of the statutes is created to read:  
10           227.01 (13) (yt) Relates to implementing, interpreting, or administering s.  
11           283.16, including determining social and economic impacts of compliance with

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1 phosphorus effluent limitations, establishing application and eligibility  
2 requirements for obtaining a variance, and providing guidance to the public.

3 **SECTION 2.** 281.15 (6) of the statutes is created to read:

4 281.15 (6) Every 3 years, as part of the review required by 33 USC 1313 (c) (1),  
5 the department shall review the water quality standards promulgated under this  
6 section and determine whether any existing standards should be modified or new  
7 standards should be adopted. The department shall hold a public hearing to receive  
8 information and public comment regarding water quality standards promulgated  
9 under this section. The department shall publish notice of the hearing on the  
10 department's Internet site at least 45 days before the hearing date. The department  
11 shall submit the results of a review under this subsection to the federal  
12 environmental protection agency.

13 **SECTION 3.** 283.15 (11) of the statutes is created to read:

14 283.15 (11) WATER QUALITY STANDARDS REVIEW. As part of the review of water  
15 quality standards under s. 281.15 (6), as required by 33 USC 1313 (c) (1), the  
16 department shall review the variances to water quality standards approved under  
17 s. 283.15 or 283.16. The department shall receive information regarding these  
18 variances at the public hearing held under s. 281.15 (6). If the department  
19 determines that a water quality standard to which a variance applies is attainable,  
20 the department shall modify the standard or variance accordingly at the time the  
21 permit containing the variance is reissued, modified, or revoked and reissued.

22 **SECTION 4.** 283.15 (12) of the statutes is created to read:

23 283.15 (12) FEDERAL REQUIREMENTS. Notwithstanding any of the provisions of  
24 this section, the department shall comply with the provisions of 40 CFR 131.14 when  
25 approving and implementing a variance under this section.

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1           **SECTION 5.** 283.16 (2m) of the statutes is amended to read:

2           283.16 **(2m)** WATER QUALITY STANDARDS REVIEW. ~~Every 3 years as~~ As part of the  
3 review of water quality standards under s. 281.15 (6), as required by 33 USC 1313  
4 (c) (1), if the variance under this section is in effect, the department shall determine  
5 whether formal review under sub. (3) should be undertaken, considering any  
6 comments it receives on the variance ~~under this section.~~

7           **SECTION 6.** 283.16 (3) (a) of the statutes is amended to read:

8           283.16 **(3)** (a) ~~In 2024~~ Within 10 years after the federal environmental  
9 protection agency approves, under sub. (2) (em), the variance under this section, if  
10 a determination under sub. (2) (a) that attaining the water quality standard for  
11 phosphorus through compliance with water quality based effluent limitations by  
12 point sources that cannot achieve compliance without major facility upgrades is not  
13 feasible is in effect, or upon a determination under sub. (2m) that review under this  
14 subsection should be undertaken, the department of administration, in consultation  
15 with the department of natural resources, shall prepare a report, no later than  
16 September 1, to evaluate whether the determination under sub. (2) (a) remains  
17 accurate. The department of administration shall consult with permittees that  
18 would be subject to water quality based effluent limitations for phosphorus and other  
19 interested parties in preparing the report.

20           **SECTION 7.** 283.16 (3) (b) 4. of the statutes is created to read:

21           283.16 **(3)** (b) 4. The results of the most recent review under sub. (3m) (a).

22           **SECTION 8.** 283.16 (3m) of the statutes is created to read:

23           283.16 **(3m)** HIGHEST ATTAINABLE CONDITION REVIEW. (a) Every 5 years after the  
24 variance under this section is approved by the federal environmental protection  
25 agency, the department shall, as part of the review required by 40 CFR 131.14 (b) (1)

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1 (v), review the interim effluent limitations under sub. (6) (a), or any other effluent  
2 limitations that are in effect as a result of a previous review under this subsection  
3 or sub. (3), and determine whether they are consistent with the highest attainable  
4 condition for the point sources and categories of point sources that are eligible for the  
5 variance under this section. In conducting this review, the department shall use all  
6 existing and readily available information. The department shall hold a public  
7 hearing in order to receive additional information and public comment. The  
8 department shall publish notice of the hearing on the department's Internet site at  
9 least 45 days before the hearing date.

10 (b) The department shall submit the results of a review under this subsection  
11 to the federal environmental protection agency within 30 days after determining  
12 that the review under par. (a) has been completed.

13 (c) If the department does not conduct a review within the time specified under  
14 par. (a), the variance under this section will cease to be available until the  
15 department completes the review and submits the results of the review to the federal  
16 environmental protection agency.

17 (d) If the department does not submit the results of a review to the federal  
18 environmental protection agency within the time specified under par. (b), the  
19 variance under this section will cease to be available until the department submits  
20 the results of the review to the federal environmental protection agency.

21 (e) In addition to the review under par. (a), at the time the variance under this  
22 section is initially approved for a point source, and at the time the source's permit  
23 is reissued, modified, or revoked and reissued, the department may review the  
24 interim effluent limitations under sub. (6) (a), or any other effluent limitations that  
25 are in effect as a result of a previous review under this subsection or sub. (3), and

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1 determine whether they are consistent with the highest attainable condition for the  
2 point source.

3 **SECTION 9.** 283.16 (4) (d) of the statutes is amended to read:

4 283.16 (4) (d) The Notwithstanding sub. (3m) (c) and (d), the variance under  
5 this section remains in effect for ~~a~~ an approved point source until the point source's  
6 permit is reissued, modified, or revoked and reissued.

7 **SECTION 10.** 283.16 (7) of the statutes is amended to read:

8 283.16 (7) MORE STRINGENT EFFLUENT LIMITATIONS. If the department  
9 determines under sub. (3) (cm) or (3m) (a) or (e) that it is ~~appropriate to apply more~~  
10 ~~stringent effluent limitations than those in sub. (6) (a) to all point sources or to a~~  
11 ~~category of point sources~~ the interim effluent limitations under sub. (6) (a), or any  
12 other effluent limitations that are in effect as a result of a previous review under sub.  
13 (3) or (3m), are not consistent with the highest attainable condition for a point source  
14 or category of point sources eligible for the variance under this section, the  
15 department shall include the more stringent effluent limitations that were specified  
16 under sub. (3) (cm) or (3m) (a) or (e) as being consistent with the highest attainable  
17 condition in permits that are reissued, modified, or revoked and reissued after that  
18 determination for all the point sources source or for the category of point sources to  
19 which the more stringent effluent limitations apply.

20 **SECTION 11.** 283.16 (8) (b) 3. of the statutes is amended to read:

21 283.16 (8) (b) 3. No later than May 1 of the 2nd year following a year in which  
22 a county receives payments under this subsection, the county shall submit an annual  
23 report to the department of natural resources, ~~the department of administration,~~ the  
24 department of agriculture, trade and consumer protection, and each permittee from  
25 which it received those payments. In the annual report, the county shall describe the

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1 projects for which it provided cost sharing, quantify, in pounds, the associated  
2 phosphorus reductions achieved using accepted modeling technology, and identify  
3 any staff funded with the payments.

4 **SECTION 12.** 283.16 (9) of the statutes is created to read:

5 283.16 (9) FEDERAL REQUIREMENTS. Notwithstanding any of the provisions of  
6 this section, the department shall comply with the provisions of 40 CFR 131.14 when  
7 approving and implementing a variance under this section.

8 (END)