

State of Wisconsin



2015 Senate Bill 567

Date of enactment: **March 1, 2016**
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2015 WISCONSIN ACT 205

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

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

SECTION 1. 227.01 (13) (yt) of the statutes is created to read:

227.01 (13) (yt) Relates to implementing, interpreting, or administering s. 283.16, including determining social and economic impacts of compliance with phosphorus effluent limitations, establishing application and eligibility requirements for obtaining a variance, and providing guidance to the public.

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

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

review under this subsection to the federal environmental protection agency.

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

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

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

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

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

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

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

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

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

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

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

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

283.16 (3m) HIGHEST ATTAINABLE CONDITION REVIEW. (a) Every 5 years after the variance under this section is approved by the federal environmental protection agency, the department shall, as part of the review required by 40 CFR 131.14 (b) (1) (v), review the interim effluent limitations under sub. (6) (a), or any other effluent limitations that are in effect as a result of a previous review under this subsection or sub. (3), and determine whether they are consistent with the highest attainable condition for the point sources and categories of point sources that are eligible for the variance under this section. In conducting this review, the department shall use all existing and readily available information. The department shall hold a public hearing in order to receive additional information and public comment. The department shall publish notice of the hearing on the department's Internet site at least 45 days before the hearing date.

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

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

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

(e) In addition to the review under par. (a), at the time the variance under this section is initially approved for a point source, and at the time the source's permit is reissued, modified, or revoked and reissued, the department may review the interim effluent limitations under sub. (6) (a), or any other effluent limitations that are in effect as a result of a previous review under this subsection or sub. (3), and determine whether they are consistent with the highest attainable condition for the point source.

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

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

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

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

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

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

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

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

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

