



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2017 Senate Bill 459

Senate Substitute Amendment 1

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BACKGROUND

Current law directs the Department of Natural Resources (DNR) to promulgate rules implementing and consistent with ch. 285, Stats., the chapter governing air pollution, and s. 299.15, Stats., which sets forth certain reporting requirements for discharges, including air contaminants, in this state. [s. 285.11 (1), Stats.] In addition to this general authority, DNR is directed to establish, by rule, consistent with the Clean Air Act, the amount of offsetting emissions reductions required under s. 285.63 (2) (a), Stats., which relates to emissions offset requirements for new or modified major sources located in nonattainment areas.¹ [s. 285.13 (7), Stats.] Under state law, if an emission standard for a hazardous air contaminant is promulgated under SECTION 112 of the Clean Air Act, DNR must promulgate, by rule, a similar standard, but this standard may not be more restrictive than the federal standard. If an emission standard for a hazardous air contaminant is not promulgated under SECTION 112 of the Clean Air Act, DNR is authorized to promulgate, by rule, an emission standard for the hazardous air contaminant if DNR finds the standard is needed to provide adequate protection for public health or welfare. [s. 285.27 (1) and (2), Stats.]

¹An area that fails to meet federal air quality standards for any of the six criteria pollutants: carbon monoxide (CO); nitrogen dioxide (NO₂); ozone (O₃); particulate matter; sulfur dioxide (SO₂); and lead, may be designated a “non-attainment” area by the Environmental Protection Agency.

2017 SENATE BILL 459

2017 Senate Bill 459 (“the bill”) requires DNR to identify and repeal all administrative rules that it has promulgated relating to the regulation of air pollutants that are not regulated under federal law no later than **December 31, 2018**.

The bill also provides that a rule promulgated by DNR relating to the control of an air pollutant not regulated under federal law expires on January 1 of the 10th year after the year in which the promulgation or re adoption of the rule takes effect, unless the rule provides for an earlier repeal date. No earlier than January 1 and no later than March 1 of the year preceding the expiration date of the rule, DNR may, using the administrative rule-making process, promulgate a rule to readopt the rule that is expiring. DNR is prohibited under the bill from promulgating an emergency rule to readopt the expiring rule.

SENATE SUBSTITUTE AMENDMENT 1

Senate Substitute Amendment 1 (SSA 1) requires DNR to identify and repeal all administrative rules that it has promulgated relating to the regulation of air pollutants that are not regulated under federal law no later than **three years after the effective date of the bill**. SSA 1 does not contain any other requirements contained in the bill that are related to the expiration or re adoption of any rule promulgated by DNR relating to the control of an air pollutant not regulated under federal law.

BILL HISTORY

Senator Stroebel introduced SSA 1 on January 4, 2018. On January 9, 2018, the Senate Committee on Government Operations, Technology, and Consumer Protection voted to recommend adoption of SSA 1 by a vote of Ayes, 3; Noes, 2; and passage of the bill, as amended, by a vote of Ayes, 3; Noes, 2.

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