

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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This draft is in support of suspension of ch. NR 411, Wisconsin Administrative Code. The draft supports suspension by prohibiting DNR from requiring air pollution control permits for indirect sources.

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The draft changes the definition of "stationary source" so that it does not include facilities that indirectly emit air pollution and prohibits DNR from requiring permits for indirect sources, as it currently does for some sources under ch. NR 411, Wisconsin Administrative Code. The definition of "indirect source" is based on the definition in s. NR 400.02 (85), Wisconsin Administrative Code.

I have not been able to determine that the federal Clean Air Act or EPA's regulations under the act require states to regulate indirect sources. However, I am not certain of that. Also, in some cases the Clean Air Act requires states to satisfy requirements, such as complying with ambient air quality standards, using strategies that the states themselves choose. The act also requires states to have implementation plans that are approved by EPA. I do not know whether the regulation of indirect sources is part of a state implementation plan or otherwise used to comply with federal requirements. It is possible that eliminating the regulation of indirect sources will necessitate the development of a different control strategy or the modification of a state implementation plan.

Please contact me with any questions or redraft instructions.

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