Regulating air pollution from residential and commercial wood heaters

**Fiscal Effect**

**State:**
- No State Fiscal Effect
- Indeterminate
  - Increase Existing Appropriations
  - Decrease Existing Appropriations
  - Create New Appropriations
  - Increase Existing Revenues
  - Decrease Existing Revenues
  - Increase Costs - May be possible to absorb within agency’s budget
  - Yes
  - No

**Local:**
- No Local Government Costs
- Indeterminate
  - Increase Costs
    - Permissive
    - Mandatory
  - Decrease Costs
    - Permissive
    - Mandatory
  - Increase Revenue
    - Permissive
    - Mandatory
  - Decrease Revenue
    - Permissive
    - Mandatory

**5. Types of Local Government Units Affected**
- Towns
- Village
- Cities
- Counties
- Others
- School Districts
- WTCS Districts

**Fund Sources Affected**
- GPR
- FED
- PRO
- PRS
- SEG
- SEGS

**Affected Ch. 20 Appropriations**

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**Date**
- 2/19/2015
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Assumptions Used in Arriving at Fiscal Estimate

The federal Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to establish regulations (called new source performance standards, or NSPS) to limit air pollution from categories of air pollution sources that cause or contribute significantly to air pollution that may endanger public health or welfare. A NSPS standard does not apply to a source that is in existence when EPA establishes the standard. The Clean Air Act authorizes EPA to delegate to a state the authority to implement and enforce the NSPS standard; Wisconsin has received such delegation. In 1988, EPA established a NSPS standard for certain wood-burning appliances used for residential heating, commonly called residential wood stoves. In 2015, EPA updated the NSPS standards to apply to more types of residential wood heaters and also make them more stringent. The updated NSPS standards apply to both manufacturers and retailers of the regulated wood heaters. Current state law provides that, when EPA promulgates a NSPS standard, the Department of Natural Resources (DNR) must promulgate by rule a NSPS standard, which must be no more restrictive than EPA’s standard. DNR promulgated a NSPS standard for residential wood stoves in 1990. This bill prohibits DNR from promulgating a rule, or enforcing a federal regulation, that specifies a NSPS standard or other emission standard for residential or commercial wood stoves that is more stringent than any NSPS standard in effect on December 31, 2014.

State Fiscal:

EPA has formally delegated to Wisconsin the authority to implement and enforce NSPS regulations. The terms of this delegation require the state to incorporate federal NSPSs into state rule. It is unknown how EPA might interpret this legislation in light of our delegation or if this legislation could potentially imperil the Federal funding the DNR receives to implement Federally-required Clean Air Act programs. DNR is currently discussing this issue with EPA. DNR is not aware of EPA taking action against either Michigan or Missouri after those states passed similar legislation. This fiscal estimate assumes that Federal funding to the state will not be affected by this law.

Private Sector Fiscal:

Even if the NSPS were never incorporated into the state administrative code, the NSPS would still apply to both manufacturers and retailers of these devices because the NSPS standards are federal law. If a state agency was prohibited by statute to implement and enforce the NSPS, it is likely that EPA would retain that authority. Therefore, amending Wisconsin statutes to prohibit the state from promulgating or enforcing NSPS standards for residential wood heaters would not create a different economic impact to private sector businesses because the federal rule will apply to wood heater manufacturers regardless.

Long-Range Fiscal Implications

DNR does not foresee long-term fiscal implications from this legislation, unless EPA determines that the state has violated the terms of its delegation and that Federal funding may therefore be withheld.