

Kessler, Kevin K - DNR

From: Kessler, Kevin K - DNR
Sent: Tuesday, October 16, 2007 10:23 AM
To: Hoefler, Margaret I - DNR; Shea, Allen K - DNR; Bruss, Larry H - DNR
Subject: RE: PM2.5 Designations

Thanks, Marney, for pointing out the mandatory requirement. I've previously read the statute and believe I understand it. If we need clarification on a particular issue, we'll get back to you. - Kevin

From: Hoefler, Margaret I - DNR
Sent: Tuesday, October 16, 2007 8:54 AM
To: Kessler, Kevin K - DNR; Shea, Allen K - DNR; Bruss, Larry H - DNR
Subject: RE: PM2.5 Designations

Al, Kevin and Larry --

Just so we are clear, the submittal of documents stems from a couple of mandatory requirements.

First, the Clean Air Act requires Governors to submit designation recommendations by certain dates. In the case of PM2.5 designations, this date is December 18, 2007. If the Governor does not submit recommendations, the EPA will make the designations that it deems appropriate. (42 U.S.C. 7407(d)(1)(B) or section 107 of CAA)

Second, Wisconsin statutes requires the Department to submit documents that support the designation recommendations to the legislature "at least 60 days before the governor is required to make a submission on a nonattainment designation." Note that the Department's requirement is tied to the Governor's requirement to submit not an actual submittal. (Wis. Stat. 285.23(6).)

Let me know if you have any questions,
Marney

From: Kessler, Kevin K - DNR
Sent: Monday, October 15, 2007 3:53 PM
To: Shea, Allen K - DNR; Bruss, Larry H - DNR
Cc: Hoefler, Margaret I - DNR
Subject: RE: PM2.5 Designations
Importance: High

Dear Al:

We are currently and definitely on HOLD with respect to any communication to the Legislature (and have been for some time until we're given further direction.

I asked Larry about this issue last Friday and what was needed if we were to meet the 60 day advance notice deadline. For your information and consideration, I received the attached DRAFT information from Larry earlier this afternoon.

<< Message: FW: Emailing: Legislature_transmittal_itr_DRAFT_071015.doc >>
We both received an excerpt from Larry on this information on August 5th.

<< Message: PM2.5 Designation Executive Summary & Technical Analysis >>

I wholeheartedly agree that this is not ready for prime time. We particularly need further dialogue on whether the Department and the Governor want to proceed with recommendations at all. I think the above materials plus what we learned from the LADCO seminar last week will help frame that discussion. I believe that there are some fundamental issues that the Governor might want to raise about the very structure of the Clean Air Act. Let me know when we might want to get together.

- Kevin

From: Shea, Allen K - DNR
Sent: Monday, October 15, 2007 3:20 PM
To: Bruss, Larry H - DNR; Kessler, Kevin K - DNR
Cc: Hoefer, Margaret I - DNR
Subject: RE: PM2.5 Designations

Hold.

From: Bruss, Larry H - DNR
Sent: Friday, October 12, 2007 11:42 AM
To: Kessler, Kevin K - DNR; Shea, Allen K - DNR
Cc: Hoefer, Margaret I - DNR
Subject: PM2.5 Designations
Importance: High

Kevin and Al,

It has come to my attention that we have until next Thursday or Friday (60 days prior to Dec. 18) to submit a report to the legislature regarding PM2.5 designation recommendations. Section 285.23(6) stats. seems to indicate this nondiscretionary report is required regardless of what the Governor decides to do on the recommendations. How would you like us to proceed?

Larry