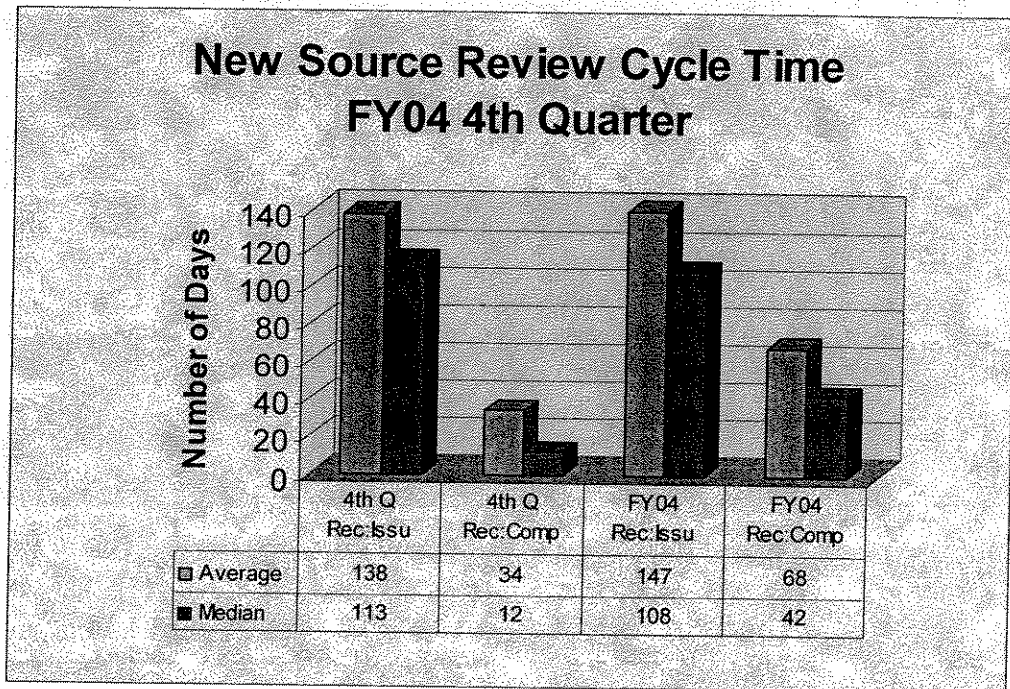


# H. New Source Review Cycle Time

*Stationary Source Subteam Performance Measure*

**Bureau Director comments:** None

**AMT comments:** (to be filled in)



Receipt to Issued = number of calendar days that have elapsed from the date that the permit application was received to the date that the permit was issued.

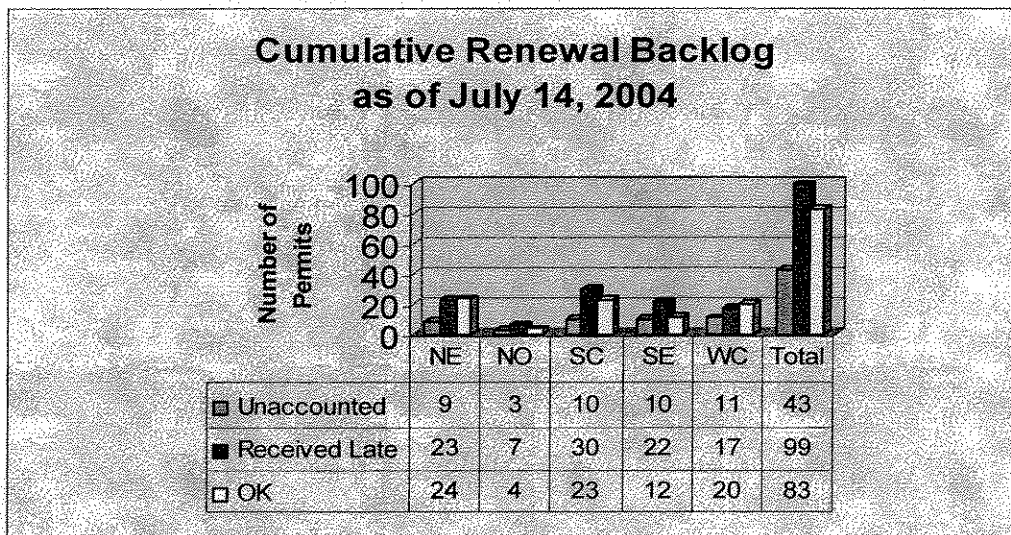
Receipt to Complete = number of calendar days that have elapsed from the date that the permit application was received to the date that the permit application was deemed to be complete.

# I. Cumulative Renewal Backlog

## Stationary Source Subteam Performance Measure

**Bureau Director comments:** None.

**AMT comments:** (to be filled in)



Data includes renewal applications due 7/1/04 or earlier (issued 2/5/00 or earlier).

Permits issued 2/6/00 or later benefit from Act 118 and now have an application due date of 8/6/04 or later. These applications will be included in FY05 1st quarter performance measure report.

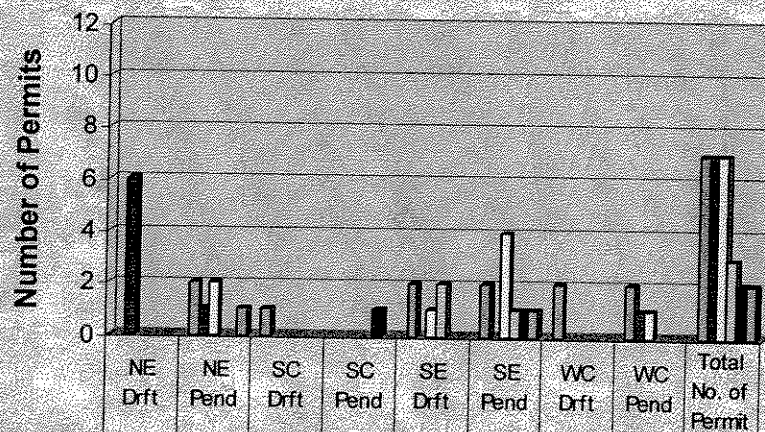
## J. MACT Permit Status

*Stationary Source Subteam Performance Measure*

**Bureau Director comments:** None

**AMT comments:** (to be filled in)

### MACT Permit Status 4th Quarter, FY04



	NE Drft	NE Pend	SC Drft	SC Pend	SE Drft	SE Pend	WC Drft	WC Pend	Total No. of Permit
□ Lg Appliances 7/25/2005		2	1		2	2	2	2	7
■ Boat Mfg 8/22/2004	6	1						1	7
□ Sec Alum 3/24/2003		2			1	4		1	7
□ Leather Fin 2/27/2004					2	1			3
■ Metal Coil 6/10/2005				1		1			2
□ POTW 10/26/2002		1				1			2

No changes from previous quarter.

No near-term MACT compliance deadlines in Northern region. All the permits in the "Drafted" column have been signed for public notice but have not all been issued. Also, they have been checked to verify that MACT requirements have been addressed in the permit.

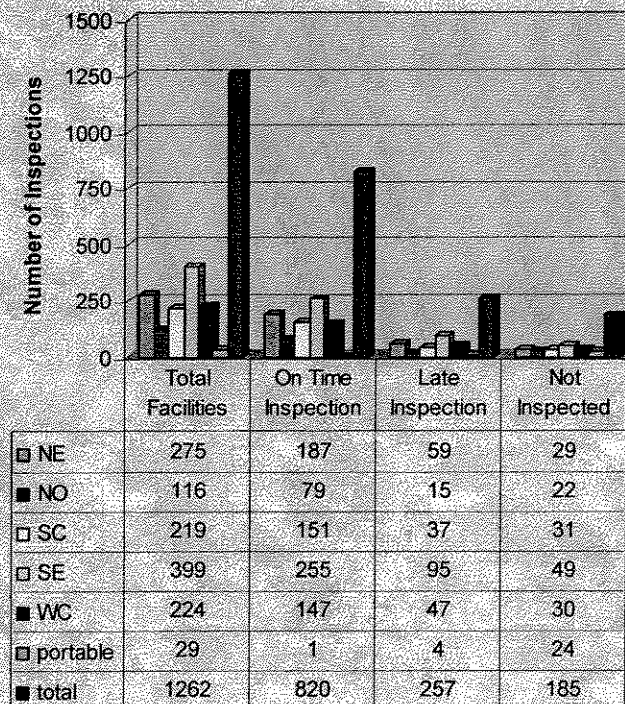
# K. Full Compliance Evaluation Frequency Analysis

*Stationary Source Subteam Performance Measure*

**Bureau Director comments:** None

**AMT comments:** (to be filled in)

## Full Compliance Evaluation FY04 Frequency Analysis



FOPs and FESOPs from CMS inventory.

2 and 5 year inspection schedules determined for the first time for FY04 by ranking based on criteria pollutant emissions, HAPs re: NR445 thresholds, and county population (most affected). The highest 100 facilities have a 2-year inspection frequency; all others have a 5-year inspection frequency.

Our CMS inventory specifies a frequency (either 2-year or 5-year) for completing FCEs at each facility on the list. The frequency analysis looks at whether we have been to the facilities within the frequency specified. The "on time" facilities have had an FCE done within the last 2 years or 5 years (as appropriate for the given facility). At the "late" facilities, it has been more than 2 years or 5 years since the last FCE for the facility.

## APPENDIX I

# DEPARTMENT OF NATURAL RESOURCES

## AGENCY DESCRIPTION

The department coordinates the preservation, protection and regulation of the natural environment for the benefit of the people of this state and its visitors. Included in its objectives are water and air quality maintenance; water supply regulations; solid and hazardous waste management; fish and wildlife management; forest management and protection; providing parks and recreation opportunities; lake management; wetland, shoreland and floodplain protection; and law enforcement.

The department also coordinates federal, state and local aid programs of the U.S. Fish and Wildlife Service, the U.S. Forest Service, the Environmental Protection Agency and other federal agencies and administers federal funds available for outdoor recreation, thereby taking a lead role in planning state outdoor recreation facilities. It administers state aid programs for local outdoor recreation and pollution abatement.

The department is a cabinet agency, with the secretary and a citizen board appointed by the Governor and confirmed by the Senate. The secretary is the department's chief executive officer, and the seven-member citizen Natural Resources Board directs and supervises the department. The department is organized with a headquarters office in Madison, five regional offices and over 200 other field stations and offices. The central office staff assists the secretary in directing the regions, which carry out the field operations of the department. Over 70 percent of the department's personnel operate from field stations outside of Madison.

The department is organized into programs and subprograms to facilitate the accomplishment of its mission. The seven divisions which have primary responsibility for the department's programs are: Land; Forestry; Air and Waste; Enforcement and Science; Water; Customer Assistance and External Relations; and Administration and Technology.

## MISSION

The mission of the department is to protect and enhance our natural resources (air, land, water, wildlife, fish, forests and the ecosystems that sustain all life); provide a healthy, sustainable environment and a full range of outdoor opportunities; ensure the right of all people to use and enjoy these resources in their work and leisure; work with people to understand each other's views and to carry out the public will; and in this partnership, consider the future and generations to follow.

## PROGRAMS, GOALS, OBJECTIVES AND ACTIVITIES

### Program 1: Land

Goal: Assure that the privately owned forests in Wisconsin are managed to sustain environmental, social and economic benefits.

Objective/Activity: Increase the number of management plans annually prepared for private forest landowners that inform, identify and encourage sustainable forestry practices; accelerate growth of the individual trees within the forest; create the forest experience desired by the landowner; and protect water quality within Wisconsin's forest environment.

Goal: Provide the highest quality state park experience, resource stewardship, nature education and service to visitors to the State of Wisconsin Parks System.

Objective/Activity: The Wisconsin State Parks System currently hosts over 14 million visitors each year. To accommodate the significant increase in visitors enjoying the parks over the past decade, expand the opportunities available to visitors through development of additional properties and recreational facilities including: Lakeshore State Park in Milwaukee, the Badger State Trail in south central Wisconsin and the Centennial State Parks.

## **Program 2: Air and Waste**

**Goal:** Attain the one-hour national ambient air quality standard for ozone throughout Wisconsin by 2007.

**Objective/Activity:** Reduce ozone concentrations in Eastern Wisconsin counties (Kenosha, Racine, Milwaukee, Waukesha, Washington, Ozaukee, Sheboygan and Manitowoc). Reduce emissions of volatile organic compounds and nitrogen oxides within Eastern Wisconsin. These are known as ozone precursors and chemically react to form ozone under certain meteorological conditions. Ozone concentrations in Eastern Wisconsin are the result of local air emissions and of ozone and ozone precursors transported into Eastern Wisconsin. This performance measure only measures emission reductions from Eastern Wisconsin sources. Issue federal and federally enforceable operation permits (Title V permits) in Eastern Wisconsin. Title V permits are issued to stationary sources and include limits on their emissions. Other emission sources of ozone precursors in Eastern Wisconsin are mobile and area sources.

## **Program 3: Enforcement and Science**

**Goal:** Reduce the number of outdoor recreation accidents.

**Objective/Activity:** Reduce accidents related to outdoor recreation activities, including hunting and fishing, and those involving boats, snowmobiles and all-terrain vehicles (ATVs). Historically, an increase in hours devoted to snowmobile enforcement has resulted in a reduction in snowmobile fatalities.

## **Program 4: Water**

**Goal:** Protect public health and safety by ensuring high-risk dams are maintained in a safe condition.

**Objective/Activity:** By 2007 increase by 20 percent the number of dams which have been inspected and are compliant with state standards.

## **Program 8: Administration and Technology**

**Goal:** Reduce the number of lost workdays due to workers' compensation claims.

**Objective/Activity:** Support, train and mentor department staff through systems that allow them to manage work load, be productive and maintain a safe work environment. By 2003, the number of lost workdays per 100 employees resulting in workers' compensation claims will be reduced by 13 percent.

## **Program 9: Customer Assistance and External Relations**

**Goal:** Improve delivery of boat, snowmobile and ATV registration services.

**Objective/Activity:** Reduce the high-season registration processing times to a maximum of 14 business days. Processing times for recreational vehicle registrations are seasonally driven by recreation type. Performance measures reflect high-season processing times. Our objective is to reduce processing time during the high-season, which impacts the customer the most. Reduction in processing times during the recreational season improves customer service and delivery, which in turn reduces staff time responding to customer calls about delays. The time responding to these calls greatly impacts processing production as the same staff perform both duties.

## PERFORMANCE MEASURES

### HISTORICAL DATA

Prog. No.	Performance Measure	Actual 2000	Actual 2001	Actual 2002
1.	Total number of forest management plans prepared.	4,450	4,639	4,713
1.	Number of visitors to the Wisconsin State Parks System.	14,040,600	14,379,669	14,628,083
2.	Attain declining maximum one-hour ozone design values <sup>1</sup> (adjusted for meteorology) in Eastern Wisconsin. Measured in parts per billion (ppb).	131 ppb <sup>2</sup>	129 ppb	128 ppb
2.	Reduce stationary source emissions of volatile organic compounds (VOC) in Eastern Wisconsin during the ozone season. Measured in tons per day (tpd).	32 tpd <sup>2</sup>	30 tpd	27 tpd
2.	Reduce stationary source emissions of nitrogen oxides (NOx) in Eastern Wisconsin during the ozone season. Measured in tons per day (tpd).	172 tpd <sup>2</sup>	231 tpd	226 tpd
2.	Issue 90 federal and federally enforceable operation permits in Eastern Wisconsin.	17 permits	22 permits	24 permits
3.	Reduce the number of snowmobile-related fatalities by a factor of 25 percent annually through an increase in enforcement hours.	39 fatalities in FY00	26 fatalities	15 fatalities
4.	Number of high-risk dams inspected per year.	5 <sup>2</sup>	13	13-14 <sup>2</sup>
4.	Number of high-risk dams which are compliant with state standards.	50 <sup>2</sup>	54	57 <sup>2</sup>
8.	The number of lost workdays per 100 employees resulting from workers' compensation claims.	2.4	3.2	3.43
9.	Reduce high-season (April 1 to August 1) registration processing time for boats (564,312 registrations in 1999).	25 days	2-10 days	15-20 days
9.	Reduce high-season (November 1 to February 1) registration processing time for snowmobiles (214,772 registrations in 1999).	20 days	10-15 days	N/A, season has not begun



Prog. No.	Performance Measure	Actual 2000	Actual 2001	Actual 2002
9.	Reduce high-season (April 1 to June 1 and September 1 to December 1) registration processing time for ATVs (97,420 registrations in 1999).	20 days	15-20 days	15-20 days

Note: Based on fiscal year.

<sup>1</sup>"Design value" is the measure of whether an area is attaining the national ambient air quality standard for ozone. The design value is equal to the fourth highest daily maximum one-hour ozone concentration measured over three consecutive years. A design value of 125 parts per billion (ppb) or greater indicates that the area is measuring a violation of the ambient air quality standard for ozone.

<sup>2</sup>Based on calendar year, so amounts are estimates

#### 2003 AND 2004 GOALS AND ACTUALS

Prog. No.	Performance Measure	Goal 2003	Actual 2003	Goal 2004	Actual 2004
1.	Total number of forest management plans prepared.	5,312		4,700	
1.	Number of visitors to the Wisconsin State Parks System.	14,800,000		14,900,000	
2.	Attain declining maximum one-hour ozone design values <sup>1</sup> (adjusted for meteorology) in Eastern Wisconsin. Measured in parts per billion (ppb).	127 ppb		127 ppb	
2.	Reduce stationary source emissions of volatile organic compounds (VOC) in Eastern Wisconsin during the ozone season. Measured in tons per day (tpd).	45.3 tpd		45.37 tpd	
2.	Reduce stationary source emissions of nitrogen oxides (NOx) in Eastern Wisconsin during the ozone season. Measured in tons per day (tpd).	121.90 tpd		118.92 tpd	
2.	Issue 90 federal and federally enforceable operation permits in Eastern Wisconsin.	30 permits		35 permits	
3.	Reduce the number of snowmobile-related fatalities by a factor of 25 percent annually through an increase in enforcement hours.	17 fatalities		13 fatalities	
4.	Number of high-risk dams inspected per year.	18		20	

Prog. No.	Performance Measure	Goal 2003	Actual 2003	Goal 2004	Actual 2004
4.	Number of high-risk dams which are compliant with state standards.	59	█	63	█
8.	The number of lost workdays per 100 employees resulting from workers' compensation claims.	2.11	█	2.11	█
9.	Reduce high-season (April 1 to August 1) registration processing time for boats (564,312 registrations in 1999).	14 days	█	10 days	█
9.	Reduce high-season (November 1 to February 1) registration processing time for snowmobiles (214,772 registrations in 1999).	10 days	█	10 days	█
9.	Reduce high-season (April 1 to June 1 and September 1 to December 1) registration processing time for ATVs (97,420 registrations in 1999).	10 days	█	10 days	█

Note: Based on fiscal year.

<sup>1</sup>"Design value" is the measure of whether an area is attaining the national ambient air quality standard for ozone. The design value is equal to the fourth highest daily maximum one-hour ozone concentration measured over three consecutive years, adjusted for meteorological conditions. A design value of 125 parts per billion (ppb) or greater indicates that the area is measuring a violation of the ambient air quality standard for ozone.

<sup>2</sup>This measure is a reduction based on the 2007 one-hour attainment plan approved by the Environmental Protection Agency in 2001.

<sup>3</sup>This reduction based on proposed changes to Chapter NR 428, Wisconsin Administrative Code, relating to NOx emission standards.

#### 2005, 2006 AND 2007 GOALS

Prog. No.	Performance Measure	Goal 2005	Goal 2006	Goal 2007
1.	Total number of forest management plans prepared.	4,700	█	█
1.	Number of visitors to the Wisconsin State Parks System.	15,000,000	█	█
2.	Attain declining maximum one-hour ozone design values <sup>1</sup> (adjusted for meteorology) in Eastern Wisconsin. Measured in parts per billion (ppb).	126 ppb	█	█

Prog. No.	Performance Measure	Goal 2005	Goal 2006	Goal 2007
2.	Reduce stationary source emissions of volatile organic compounds (VOC) in Eastern Wisconsin during the ozone season. Measured in tons per day (tpd). <sup>2</sup>	45.44 tpd		
2.	Reduce stationary source emissions of nitrogen oxides (NOx) in Eastern Wisconsin during the ozone season. Measured in tons per day (tpd). <sup>3</sup>	115.93 tpd		
2.	Issue 90 federal and federally enforceable operation permits in Eastern Wisconsin.	35 permits		
3.	Reduce the number of snowmobile-related fatalities by a factor of 25 percent annually through an increase in enforcement hours.	10 fatalities		
4.	Number of high-risk dams inspected per year.	22		
4.	Number of high-risk dams which are compliant with state standards.	65		
8.	The number of lost workdays per 100 employees resulting from workers' compensation claims.	2.11		
9.	Reduce high-season (April 1 to August 1) registration processing time for boats (564,312 registrations in 1999).	10 days		
9.	Reduce high-season (November 1 to February 1) registration processing time for snowmobiles (214,772 registrations in 1999).	10 days		
9.	Reduce high-season (April 1 to June 1 and September 1 to December 1) registration processing time for ATVs (97,420 registrations in 1999).	10 days		

Note: Based on fiscal year.

<sup>1</sup>"Design value" is the measure of whether an area is attaining the national ambient air quality standard for ozone. The design value is equal to the fourth highest daily maximum one-hour ozone concentration measured over three consecutive years. A design value of 125 parts per billion (ppb) or greater indicates that the area is measuring a violation of the ambient air quality standard for ozone.

<sup>2</sup>This measure is a reduction based on the 2007 one-hour attainment plan approved by the Environmental Protection Agency in 2001.

<sup>3</sup>This reduction based on proposed changes to Chapter NR 428, Wisconsin Administrative Code, relating to NOx emission standards.

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WISCONSIN STATE LEGISLATURE

Joint Audit Committee

Committee Co-Chairs:  
State Senator Carol Roessler  
State Representative Suzanne Jeskewitz

November 4, 2004

Mr. Scott Hassett, Secretary  
Department of Natural Resources  
101 South Webster Street  
Madison, Wisconsin 53703

Dear Mr. Hassett:

Thank you for your report, dated September 1, 2004, which was submitted in response to the recommendations presented in the Legislative Audit Bureau's evaluation of *Air Management Programs* (report 04-1). We are reviewing these materials in preparation for a follow-up hearing on air management programs to be held before the Joint Legislative Audit Committee on Tuesday, November 16, 2004.

As indicated on the enclosed public hearing notice, we anticipate that the air management follow-up will begin at approximately 12:00 p.m. in Room 411 South of the State Capitol. We ask that you, or appropriate members of your staff, be present at the hearing to offer testimony in response to the audit findings and to respond to questions from committee members. Before you begin testifying, please also plan to provide each committee member with a written copy of your testimony at the hearing.

Please contact Ms. Pam Matthews in the office of Representative Suzanne Jeskewitz at 266-3796 to confirm your participation in the hearing. Thank you for your cooperation and we look forward to seeing you on November 16<sup>th</sup>.

Sincerely,

Senator Carol A. Roessler, Co-chair  
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair  
Joint Legislative Audit Committee

Enclosure

cc: Janice Mueller  
State Auditor



State of Wisconsin \ LEGISLATIVE AUDIT BUREAU

JANICE MUELLER  
STATE AUDITOR

22 E. MIFFLIN ST., STE. 500  
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November 10, 2004

Senator Carol A. Roessler and  
Representative Suzanne Jeskewitz, Co-chairpersons  
Joint Legislative Audit Committee  
State Capitol  
Madison, Wisconsin 53702

Dear Senator Roessler and Representative Jeskewitz:

In our February 2004 evaluation of Department of Natural Resources (DNR) Air Management Programs (report 04-1), we highlighted 15 major areas that needed improvement and made a number of specific recommendations. Among these, we recommended that DNR submit a progress report to the Joint Legislative Audit Committee updating the agency's progress toward addressing the issues noted and implementing our recommendations. DNR submitted this report to the Committee in September 2004. In preparation for the November 16<sup>th</sup> hearing, this letter summarizes DNR's progress.

DNR has made progress in addressing our recommendations, including reducing the operation permit backlog, streamlining its operation and construction permit approval processes, and improving its data management systems. As you may recall, we found that DNR lagged behind other midwestern states in issuing operation permits to major sources. As of June 30, 2003, we reported that DNR had yet to issue 210 major source operation permits. By October 1, 2004, DNR reported that it had only 63 major source permits remaining, and it plans to issue those by December 31, 2004. DNR intends to begin implementing permit streamlining recommendations in January 2005 and hopes to complete the process by January 2006. Finally, DNR has submitted a request to the Department of Administration under s. 16.515, Wis. Stats., for up to \$484,900 in additional funding during fiscal year 2004-05 to improve its data management systems, including permit and compliance tracking. Overall, DNR anticipates it will cost nearly \$2.8 million over the next four years to upgrade and integrate its data management systems.

However, additional work is necessary to address many of the recommendations included in our report. For example, the renewal permit backlog continues to grow as DNR focuses on issuing initial permits. As of July 14, 2004, DNR reported an operation permit renewal backlog of 225 permits, compared to 193 in June 2003.

The air management programs will continue to face challenges over the next several years as DNR seeks to implement the audit recommendations and other regulatory and statutory changes. For example, DNR is implementing the changes required by 2003 Wisconsin Act 118, which requires it to streamline permitting programs through expanded permit exemptions, construction

Senator Carol A. Roessler and  
Representative Suzanne Jeskewitz, Co-chairpersons  
Page 2  
November 10, 2004

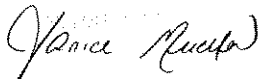
permit waivers, permit consolidation, a new registration permit program, and additional general permits. Concurrently, DNR is implementing federally mandated changes to the construction permit program that eliminate the need for a permit under certain conditions, and it has proposed administrative rules that could be approved by the end of the year. Finally, DNR continues to work with the U.S. Environmental Protection Agency (EPA) to resolve the issues identified in the March 2004 Notice of Deficiency, which include questions about the adequacy of operation permit fees. In addition, the EPA raised concerns in a letter dated August 5, 2004, regarding certain provisions of 2003 Wisconsin Act 118 that DNR will need to address.

Despite these challenges, it appears that DNR has made a reasonable effort toward implementing our recommendations. However, it may be several years before all of the necessary changes are completed.

The enclosed table summarizes DNR's progress toward implementing each major recommendation.

Please contact me if you have any further questions.

Sincerely,



Janice Mueller  
State Auditor

JM/JZ/bm

Enclosure

cc: Senator Robert Cowles  
Senator Alberta Darling  
Senator Jeffrey Plale  
Senator Julie Lassa

Representative Samantha Kerkman  
Representative Dean Kaufert  
Representative David Cullen  
Representative Mark Pocan

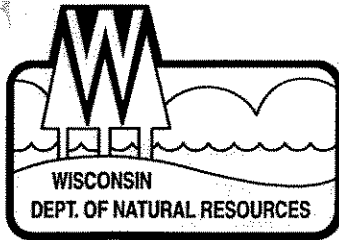
Scott Hassett, Secretary  
Department of Natural Resources

**Summary of DNR's Progress Toward Meeting  
Legislative Audit Bureau Recommendations  
Report 04-1**

	Legislative Audit Bureau Recommendation	Department of Natural Resources Response and Activity
1.	Correct annual emission fee billing errors. (p. 25)	DNR refunded more than \$22,000 to facilities that had been incorrectly billed. DNR also has implemented procedures to ensure that all permitted facilities report emissions and are billed appropriately.
2.	Assign additional staff to address operation permit backlog in the DNR's Southeast Region. (p. 41)	DNR has assigned 57 of the 88 backlogged permits from this region to other staff. In addition, DNR has made overtime available to staff working on issuing permits.
3.	Further streamline the operation permit program, including developing electronic permit applications. (pp. 41 and 44)	DNR is currently reviewing its permitting processes through its Air Permit Improvement Initiative. DNR is working to address the issues highlighted in our report, as well as new requirements resulting from 2003 Wisconsin Act 118. A separate progress report on permit streamlining was submitted to the Legislature in September 2004. DNR anticipates that it will begin implementing its streamlining efforts in January 2005 and be completed by January 2006.
4.	Ensure that facilities have properly applied for permits and are assigned to a permit engineer for review. (p. 46)	DNR is investigating the status of 71 facilities identified in our report as potentially needing to apply for a permit, as well as 175 facilities that DNR had deemed to be exempt. DNR anticipates that this review will be completed by December 2004, and it plans to avoid these issues in the future through its database integration efforts.
5.	Issue permits that had already been through a public hearing but were never issued, and improve tracking of pending permits. (p. 46)	DNR has committed to issuing the 113 permits that we identified as having been completed but not issued. In addition, DNR has made changes to its permit tracking database as a result of 2003 Wisconsin Act 118 that should help to avoid this situation in the future.
6.	Ensure that facilities apply for renewal permits in a timely manner, and notify facilities with expiring permits. (p. 48)	DNR intends to notify delinquent permit holders of their status and implement a notification system to inform permit holders of expiring permits by November 2004. DNR reported that only 32 of 53 facilities with operation permits expiring in fiscal year (FY) 2003-04 submitted their renewal application on time.
7.	Revise the expedited review process so that delays caused by publishing the public notice do not hinder DNR's ability to meet expedited review deadlines. (p. 61)	DNR plans to propose rule changes that would allow the clock to stop while the applicant publishes the public notice. In addition, DNR has made changes to its permit tracking database to account for the time needed for public notification.
8.	Further streamline the construction permit process and re-evaluate the recommendations made by DNR's 1998 workgroup. (p. 63)	DNR anticipates that it will begin implementation of its streamlining efforts in January 2005 and be completed by January 2006. See the response for recommendation #3 above.



	Legislative Audit Bureau Recommendation	Department of Natural Resources Response and Activity
9.	Improve the facility inspection process to ensure facilities that have never been inspected are a priority, and to ensure that changes to the annual inspection list are monitored and approved regularly. (p. 70)	DNR conducted 273 inspections on its federal inventory list in FY 2003-04, exceeding its target of 243. In addition, DNR implemented a system to prioritize facility inspections based upon emissions, county population, and the date of the last inspection. DNR also reported that at the end of FY 2003-04, only one priority facility remained on a list of facilities that had never been inspected.
10.	Improve compliance with federal policy regarding timeliness of addressing high-priority violations. (p. 72)	DNR reports that it is working on database enhancements that will allow it to implement this recommendation. They are expected to be completed in the upcoming winter.
11.	Improve tracking of compliance certification reports. (p. 73)	DNR reports that it is working on database enhancements that will allow it to implement this recommendation. In addition, DNR reports that it is eliminating duplicate records from the database and expects to complete the improvements in fall 2004.
12.	Improve tracking of after-the-fact construction permits (permits applied for after construction was complete) and take appropriate enforcement actions. (p. 74)	DNR reports that it has developed procedures for tracking after-the-fact permits. In FY 2003-04, DNR reported that it approved 21 after-the-fact permits and took enforcement action in 12 of these cases.
13.	Establish additional performance measures to assess program outcomes and program efficiency. (p. 79)	DNR has added several new performance measures to its quarterly reports, including renewal permit tracking and construction permit processing timeliness. DNR intends to re-evaluate all of its performance measures as a result of the changes in the program made since the audit report and 2003 Wisconsin Act 118.
14.	Improve the program's data management systems. (p. 80)	DNR has embarked on a data integration project and has developed a plan for improving its data management systems over the next several years. DNR anticipates it will cost nearly \$2.8 million over the next four years to upgrade and integrate its systems.
15.	Report to the Joint Legislative Audit Committee by September 1, 2004 for follow up. (p. 81)	DNR submitted the required report to the Committee.



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Scott Hassett, Secretary

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### Testimony of Secretary Scott Hassett November 16, 2004, Joint Committee on Audit Air Management Program Audit Follow-up

Good afternoon. I would like to thank Senator Roessler and Representative Jeskewitz for inviting me to be here today. Lloyd Eagan, our Air Management Bureau Director, is with me to answer any technical questions you may have. I appreciate the opportunity to provide an update on my department's progress at addressing the audit recommendations for the air management program. Successfully addressing audit report recommendations will go a long way to meeting other important responsibilities we currently face. These include implementing 2003 Wisconsin Act 118, supporting the Governor's Grow Wisconsin Initiative and responding to USEPA's Notice of Deficiency on our federal permit and compliance programs. We are working to address these responsibilities and I believe we have made good progress.

#### **Progress on Major Audit Report Recommendations**

The Audit Report made several recommendations to the Department. When I testified before your committee in May, I agreed with many of the recommendations in the Audit. We have been working diligently to implement those recommendations.

#### **1. Further Streamline the Operation Permit Program & Improved Program Management**

- When I began as Secretary we had a backlog of 342 Federal Operations Permits. We are on track to eliminate this backlog next month. By the beginning of 2004, we had already reduced the backlog to 148 permits. Of that remaining backlog, we have issued 87 final permits. The remaining 61 are in public comment or under EPA review. Because of the expedited review process now in place with EPA, we will have all remaining federal operation permits issued by the end of this calendar year.
  - We were able to accomplish this by eliminating or reducing certain air management program activities and redirecting the resources to this work. (read if necessary)
  - Eliminated activities – biomonitoring, 17 ambient monitoring sites, visible emissions school, climate-change policy analysis (global warming & greenhouse gases) and forecasting particle pollution levels.
  - Reduced level of effort – small source compliance and enforcement, non-Title V complaint follow-up, mercury modeling & policy analysis, ozone policy analysis, air toxics policy analysis, stack emission testing and asbestos.
  - Our progress on eliminating the backlog of federal operation permits has allowed us to redirect resources to focus on permit streamlining activities, the backlog of other operation permits and permit renewals.

- Our streamlining plan includes replacing the individually negotiated permit approach with simplified permits (registration and general permits) for smaller sources with fewer emissions. Since I last appeared, we have completed public hearings on draft rules to implement the expanded use of general permits and establish registration permits. Rules for adoption of these approaches will be developed next spring.
- We are also developing a proposal to expand permit exemptions for smaller sources.
- We will provide the legislature recommendations for a consolidated permit next spring. A consolidated permit would combine the functions of operation permits and construction permits.

2. Consistency & Ensuring Facilities Apply for Renewal Operations Permits

- We are actively reviewing past records to determine if there are facilities that lack operation permit applications. After an initial review this fall, we will continue with quarterly reviews of records to ensure operation permit applications are being received and that emission fee bills are accurate. By the end of the year we will have a list of all the federally enforceable operations permits. Emission fee bills that will be sent out in January will have the benefit of this review.
- We will establish a permit renewal notification system before the end of the calendar year. This will improve the timeliness of permit renewal applications. The permit renewal notification is the initial piece of a comprehensive permit notification system that we are developing as part of our air permit improvement initiative.

3. Improve the Facility Inspection Process

- We have issued new guidance for inspectors and managers related to our federal inspection commitments. We have improved the inspection tracking system. Air program managers review inspection performance on a quarterly basis to ensure that goals are being achieved. This effort has paid off. In FY'04 the Air Management Program surpassed our federal inspection commitment by completing 30 additional inspections of facilities on the federal inspection inventory.

**Implementing 2003 Wisconsin Act 118**

In addition to the consolidated and registration permit issues mentioned earlier, the Department has also successfully implemented new statutory provisions to streamline the air permit program. This includes providing permit applicants the ability to appeal compliance monitoring requirements and challenge certain permit conditions without delaying the start of construction.

- So far we have received five requests for start of construction waivers. We granted three, denied one and the remaining request was withdrawn by the company.
- We have established procedures for the monitoring requirement appeal process that ensures responses in 30 days. To date we have provided timely response to four appeals.

### **EPA's Notice of Deficiency**

EPA's Notice of Deficiency is a related issue I should touch on. As you know, in February 2004, EPA issued a Notice of Deficiency for Wisconsin's Title V permit program. We must address these deficiencies by March 4, 2006 or face the possibility of sanctions. Sanctions include EPA assuming responsibility for the operation of the federal program, a reduction in federal highway funds, and more stringent requirements for industry in our ozone nonattainment counties.

In order to avoid sanctions we need to:

- Demonstrate that we have adequate funds to run a balanced air management program.
- Issue all federal operation permits by 12/31/04.
- Issue all federally enforceable state operation permits by 3/4/06.
- Address several technical statutory issues.

Recently, EPA has also notified the Department that it needs to document its ability to fund the non-Title V portions of its program. The Department firmly believes that it has and can justify sufficient funding for the Title V program. However, the Department is analyzing whether it has a sufficient fee structure to support the state portion of the program and may request fees to address this NOD-related issue. In striking this balance, however, the Department will not increase the overall fee burden to Wisconsin's industries.

We have made significant progress addressing the NOD. As indicated, we are on target to meet the deadline for issuing operations permits. We are working cooperatively with EPA and intend to demonstrate that after permit streamlining is fully implemented, we will have adequate resources to operate a balanced air management program.

### **Status of Air Permit Program Streamlining Efforts**

Implementing permit streamlining is the key to addressing many of the issues that we are facing. Our streamlining approach goes beyond improving our ability to respond and act quickly to permit applications. We are also dedicated to having a permitting system that is consistent and reliable for all – the public, business and DNR employees.

In September 2004, in addition to our audit report update, we also provided the legislature our *Report on Air Permit Streamlining Efforts*.

- This report was the product of an extensive period of collaboration with stakeholders that commenced in June 2003.
- It presents a road map of our permit streamlining actions including how the permit program will be changed and the schedule for development and implementation of these changes.
- The report includes additional activities we are proposing to provide a more efficient permit system while ensuring that our streamlined permitting efforts provide equal or better environmental protection.

- Electronic submittal of permit applications
- More accurate and timely tracking of who submits or should submit application and the progress of each review
- Determination of which facilities and projects should be exempt from permits
- Timely notification and follow through of permit renewals
- One accomplishment so far, we have completed a successful migration of the existing permit database to Oracle

**What is necessary for continued progress?**

- First, expeditious legislative review of permit streamlining statutory changes and administrative rules. The first two in the upcoming session for your consideration will be statutory changes for the consolidated permit program and the registration and general permit rule.
- Second, the development of an IT-based permit system and upgrade of our data management systems. This system is critical to our streamlining efforts. It will significantly: reduce permit processing time, improve the consistency of permitting decisions across the state, and increase facility's knowledge of permit requirements and permit status.

Thank you for the opportunity to testify today. Lloyd and I are happy to respond to any questions you may have.

**WMC**

REPRESENTING WISCONSIN BUSINESS

**Wisconsin  
Manufacturers  
& Commerce****Memo**

**TO: Joint Committee on Audit**  
**FROM: Jeff Schoepke, Director, Environmental Policy**  
**DATE: November 16, 2004**  
**RE: DNR Air Management Programs**

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Thank you for the opportunity to participate today in this follow-up hearing on the February 2004 audit of DNR Air Management programs. I appreciate the opportunity to provide comments on efforts to improve the Air Permitting Program based on the conclusions of the audit report.

As the Committee is aware, timely air permits rank amongst the top public policy concerns for Wisconsin manufacturers. In particular, air construction permits have an important link to job creation because companies must secure construction permits before proceeding with project construction, before they can install a piece of equipment or even put a shovel in the ground. Delays, therefore, can and do cost jobs.

WMC believes that DNR Leadership is committed to creating a new air program that is focused on its core mission of issuing and enforcing permits for those sources of greatest environmental concern. WMC also shares the vision DNR articulated in its September report to the Legislature on Air Permit Streamlining; that is, a move away from a predominantly individualized process toward operational flexibility, as well as a shift in resources away from process and towards real environmental benefits.

It is, however, too early to call DNR's permit streamlining efforts either a success or a failure. It clearly takes time, energy and patience to make the kind of significant changes contemplated by both industry and DNR. In general, DNR is on the right track in terms of identifying problems and potential solutions. Unfortunately, the slow pace of reform has some within the business community doubting the ability of DNR to change itself.

In the past year, we have seen several steps forward and several steps back for the DNR Air Bureau. For example, while the DNR will issue all of its Title V permits by the end of the year, many of these permits will likely be appealed due to disagreements over permit work and lack of facility input into permit development. In another example, DNR's first registration permit rule draft would have left many potential participants out in the cold, but subsequent efforts appear to better incorporate the Legislature's intent when it passed Act 118.

Success in this overall effort will take continued work by the DNR, the business community, and the Legislature. WMC appreciates the Joint Audit Committee's interest in these issues and strongly recommends the

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committee continue its oversight role by holding additional hearings on the air program in 2005.

In this committee's May 2004 hearing on the audit of the air bureau, WMC provided several recommendations for moving forward. Here is an update, from our perspective, on the status of these recommendations:

***WMC Recommendation I: Act 118 must be implemented quickly and in the spirit with which it was written.***

- *The DNR should use the new tools of registration and general permits contained in Act 118 and develop these "off the shelf" permits quickly.*
- *DNR should immediately act to implement Act 118 requirements exempting small emission sources from permitting altogether.*
- *DNR should utilize the construction ban waiver process provided for in Act 118 to avoid delays in employing capital that creates jobs.*
- *DNR should show the committee and the public how it is meeting new deadlines for permit completeness determinations and major source operating permits.*

**Update November 2004:** In September the DNR issued a report to the Legislature on Air Permit Streamlining as required by Act 118. Industry generally viewed that report as a positive step, with DNR appearing to share industry's vision of a permitting program that relies more on standardized permits and tools and less on costly negotiations. However, WMC continues to be concerned about the speed of reforms and with some details included in various streamlining proposals.

On the positive side, DNR has estimated that nearly 50 percent of all air sources could be eligible for registration permits under its current proposal. If DNR is to meet this goal, it must make changes to its rule draft to make certain that all eligible companies can obtain these "15 day" permits regardless of where in Wisconsin they are located. In addition, DNR should adopt its proposal for a three-tier program that allows facilities taking a cap of up to 80 percent of major source thresholds to get this simple registration permit.

Unfortunately, DNR has yet to act on new legal requirements to issue exemptions for sources that pose no environmental harm. If DNR is to meet its goal of refocusing its work effort on larger sources that pose more complicated environmental questions, it

needs to act on this legislative directive and exempt all minor sources that do not pose a threat to the public.

**WMC Recommendation II: Wisconsin needs to adopt sensible New Source Review (NSR) reforms.**

**Update November 2004:** Nearly two years have passed since the EPA finalized an important set of New Source Review (NSR) reforms. These federal reforms allow companies to avoid cumbersome "paper permits" that cost companies time and resources but do nothing to improve air quality. While every state surrounding Wisconsin has been able to take advantage of these federal reforms since March 2003, the Wisconsin DNR has not been willing to incorporate these reforms into state code. Industry-DNR negotiations broke off earlier this year when DNR insisted on changes to the federal rule that would have put the reforms out of reach for many, if not most Wisconsin manufacturers. While industry is willing to continue discussions, there is little optimism that an agreement suitable to industry can be reached before DNR must submit a plan to the EPA in Dec. 2005.

**WMC Recommendation III: Wisconsin should develop a "facility-wide" permit program.**

**Update November 2004:** Consolidating operating and construction permits into a single facility-wide permit program would save significant time and money by reducing paperwork and administrative requirements. Under this model, currently being used in Minnesota and other states, construction permits are issued as modifications to operating permits rather than separate permits altogether.

Governor Jim Doyle supported this initiative in his "Grow Wisconsin" economic development program in 2003. We do not, therefore, anticipate resistance to the model at DNR, but DNR has not yet outlined a plan to create such a program. Several industry groups are developing a "straw proposal" for DNR to consider that will include the legislative and administrative rule changes needed created a consolidated permitting program.

**WMC Recommendation IV: DNR's Air Permit Improvement Initiative must show results and successes sooner rather than later.**



**Update November 2004:** There has been significant good-faith activity from the DNR over the course of the past six months. As already mentioned, DNR leadership appears genuine in its interest in retooling the air program. However, there has been little accomplished in terms of actual, implemented reforms and permit streamlining. WMC agrees conceptually with DNR on issues of registration permits, bubble permits, consolidation of permits and other proposed reforms. Yet, we have seen none of these programs, and little of any other reforms, become a reality despite more than 18 months of DNR effort. We hope the DNR will proceed with reform with due haste.

**WMC Recommendation V: DNR should respond to the EPA Notice of Deficiency in a manner that clarifies it has adequate resources to run the title V program.**

**Update November 2004:** In its response to the EPA NOD the DNR attempted to map out a plan for eliminating the Title V operating permit backlog. It appears DNR is on-track to meet its goal of eliminating the backlog by the end of 2004.

However, subsequent EPA communications indicate a continued concern over funding issues. If Wisconsin eliminates the Title V backlog and continues to meet the federal presumptive minimum fee level, DNR's continued position must be that fee increases are not needed to meet program goals. Industry, therefore, expects there will be no fee increases in Governor Jim Doyle's proposed biennial budget.

I look forward to continuing to work on these issues with this committee. Industry's position at this point in time can best be described as optimistic, but not yet satisfied. We hope the Joint Committee on Audit will strongly consider future hearings on this matter as a means of continuing its oversight role. We expect that by mid-2005 DNR will have advanced further many of its streamlining ideas. If not, the optimism expressed today will have waned.

Again, thank you for the opportunity to provide these comments.



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*Protecting our environment ...for our families, for our future.*

**Statement by Jennifer Feyerherm of the Sierra Club Great Lakes Program on the Legislative Audit Bureau's Evaluation of Wisconsin's Air Management Programs**

Wisconsin's Legislative Audit Bureau just released an evaluation Wisconsin's air program. The report essentially affirms the United States Environmental Protection Agency's findings of two days ago, illustrating that Wisconsin's air program is broken and failing to protect our communities from the dangers of air pollution. The report does a good job of pointing out the symptoms of a broken program. The DNR has been unable to perform its most basic permit writing and enforcement functions. State-wide, only 1/3 of the largest polluters in the state were inspected in the last two years.<sup>1</sup> Federal law requires that all major sources of pollution be inspected every two years. In fact, 10% of Wisconsin's major sources have never been inspected at all.<sup>2</sup>

Wisconsin's air program has been cut to the bone and is unable to protect our air. Over the last six years, industry has repeatedly convinced the legislature and the governor to cut permit fees. In 2003, Governor Doyle and legislative leaders cut 1.1 million and 11 positions from the program. As a result, currently there are only 66 inspectors, permit writers, and other staff to administer and enforce a program that Governor Thompson estimated needs 300.<sup>3</sup> In fact, over the last 10 years, the DNR has lost 20% of its staff resources.<sup>4</sup>

Until these problems are addressed, Wisconsin communities are left at risk. EPA agrees that the state's air program must be fixed and, in a Notice of Deficiency released Tuesday, gave Wisconsin 18 months to do so. Failure to fix these problems subjects Wisconsin businesses that want to expand or locate in areas that do not meet federal air quality standards to additional regulations and risks the loss of tens of millions of dollars in federal highway funds.

--end--

<sup>1</sup> EPA Enforcement and Compliance History Online (ECHO) Air Data. <http://www.epa.gov/echo/>

<sup>2</sup> Legislative Audit Bureau Report, p. 67

<sup>3</sup> EPA Notice of Deficiency for Clean Air Act Operating Permit Program in Wisconsin, p. 14-15

<sup>4</sup> DNR response to Legislative Audit Bureau Report.

## NEWS RELEASE

**FOR IMMEDIATE RELEASE**

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### **Audit Confirms Industry Concerns about Air Program Legislative Audit says State Fees on Par, but Permitting is Slow**

**MADISON** -- A non-partisan Wisconsin Legislative Audit Bureau review of the state's air management program released today shows Wisconsin has the lowest permit issuance rate in the Midwest. However, the report concluded that Wisconsin's air fees are on par with other states in the region.

Increased fees for air permits for industry are not needed in Wisconsin because current fees are comparable with fees in other states, and other states approve permits more quickly, WMC said Thursday. Environmentalists have been pushing for higher air permit fees, without demonstrating any environmental benefit to the increased cost to industry.

"The DNR has plenty of money to process permits, but past DNR priorities made permit processing needlessly slow," says Jeff Schoepke, Director of Environmental Policy for WMC. "Our fees are on par with other states in the region, yet we have a much bigger permit backlog than other states. Industry needs permits processed quickly if we're going to keep jobs in Wisconsin."

Wisconsin businesses pay fees to cover the costs of DNR review of permits required for industry. In 2003, industry paid more than \$12 million in air operating and construction permit fees.

Schoepke noted that WMC is encouraged by the DNR's intent to issue all federal Title V permits by December of 2004. "In the past year the DNR has refocused the bureau on its core mission of issuing permits, and we are pleased with progress in the operating permit program. However, the audit also identified several problems that business community has been complaining about for many years, particularly lack of timely construction permits."

Construction permits are generally needed before equipment can be installed or ground turned for new projects. For this reason, construction permit delays can delay capital investments and stymie job growth. WMC has identified lack of timely construction permits as the top regulatory concern for manufacturers. The audit noted that 29.2 percent of all construction permits at the DNR have been backlogged for at least two years.

**(MORE)**

The audit also noted that Wisconsin's many state-only regulatory requirements impose additional cost and delay permitting decisions. For example, Wisconsin regulates 293 more substances as air pollutants than the EPA.

The audit also concluded that several problems with the air permitting program will likely be helped by provisions in 2003 Wisconsin Act 118, also known as the Job Creation Act. Amongst other provisions in the Act, the audit noted that pre-construction waivers, new registration permit options, reduced deadlines for DNR, and mandatory exemptions for minor sources that do not present a significant health hazard should help streamline the permitting process.

"If implemented correctly, the Job creation Act should have a major impact on addressing the deficiencies identified by the audit bureau" said Schoepke.

WMC was a lead supporter of the Job Creation Act, and called for the legislative audit of DNR air permits in 2003.