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 Details: Department of Natural Resources Air Management Program audit

(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2003-04

(session year)

### Joint

(Assembly, Senate or Joint)

### Committee on Audit...

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (September 2012)

## Handrick, Diane

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**From:** Steven M Jorgensen [Jorges@execpc.com]  
**Sent:** Wednesday, January 10, 2001 3:21 PM  
**To:** Rep.Jeskewitz@legis.state.wi.us  
**Cc:** Jorges@execpc.com  
**Subject:** Dept. of Natural Resources - Air Program Audit

Rep. Jeskewitz:

This email message is somewhat of a follow-up to a phone conversation I had with you within the past year or so.

I have been a staff employee of the DNR for 10 years now, 9 of which have been in Southeast Region (SER). The SER - Air Program is currently involved in its' 3rd teambuilding effort during this time. I have already interviewed with the mediator hired for this teambuilding effort, and told him that he can not help me given the current management I report to in SER and what they have done (first-line supervisor, second-line supervisor, and regional director).

Over the past 2+ years, I have been openly expressing my concerns about DNR operations in SER (incl. those of the Air Program & regional director) in particular, and statewide in general, with ever increasing levels of DNR managers in the hierarchy, including, 2 inquiries I sent directly to Sec. George Meyer in August of 2000.

As a result, I have been harassed, ignored, and, attempts have been made to intimidate me, depending upon the particular circumstance. Throughout all of this, I have made it known to some of the applicable parties that there would be a proportionate response to any further "negative action" which may be taken against me. On December 5, 2000, I was given a "bizarre" verbal reprimand by my first- line supervisor. In response, on January 4, 2001, I filed a grievance against Gloria McCutcheon, the SER - Regional Director.

For some time, I have been aware of a Legislative Audit which is planned for the DNR - Air Program. As my state representative, I am asking you to urge your colleagues on the Legislative Audit Committee, to make the DNR - Air Program audit a top priority for early in this fiscal year.

Fyi, I have already talked to Don Bezruki two times about this matter, and intend to continue contacts with him. When my opportunity comes to speak during the actual audit, I intend to focus on actions and statements I attribute, either directly or indirectly, to SER Regional Director, Gloria McCutcheon, as I believe an investigation of her conduct is warranted.

I would appreciate a reply to this email message from you (email would be fine).

Thank you for your attention to this matter.





# Joseph K. Leibham

STATE REPRESENTATIVE • 26TH DISTRICT

*Co-Chairman of the Joint Legislative Audit Committee  
2001-2003 Legislative Session*

January 25, 2001

State Representative Suzanne Jeskewitz  
314 North, State Capitol  
Madison, WI 53708  
HAND-DELIVER

*Sue*  
Dear Representative Jeskewitz,

I am in receipt of your letter requesting an audit of the Department of Natural Resources Air Management Program, dated January 24, 2001. Your interest in this important subject is understood and appreciated.

On January 10, 2001 I received the same request from Representative Richards and Senator Grobschmidt. I will meet with the Senate co-chair, Senator George, soon to discuss all pending audit requests. A copy of your request has also been forwarded to State Auditor Jan Mueller and the Assembly members of the Joint Audit Committee.

Thanks again for contacting my office. I will contact you personally in the near future to further discuss the status of your audit request. Please contact me in advance if I can answer any questions or provide any additional information.

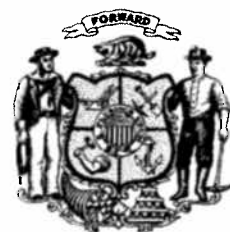
Thank you for your service to the State of Wisconsin.

Sincerely,

*Joseph K. Leibham*  
Joseph K. Leibham  
*Co-Chairman  
Joint Legislative Audit Committee*



# WISCONSIN STATE LEGISLATURE





State of Wisconsin \ LEGISLATIVE AUDIT BUREAU

JANICE MUELLER  
STATE AUDITOR

22 E. MIFFLIN ST., STE. 500  
MADISON, WISCONSIN 53703  
(608) 266-2818  
FAX (608) 267-0410  
Leg.Audit.Info@legis.state.wi.us

July 10, 2003

Mr. Steve Jorgensen  
W181 N8279 Destiny Drive  
Menomonee Falls, Wisconsin 53051

Dear Mr. Jorgensen:

Thank you for the information contained in both your February 14 and June 10, 2003 correspondence. At the request of the Joint Legislative Audit Committee we are currently conducting an evaluation of the Department of Natural Resources (DNR) air management programs. Included as part of our evaluation is a review of DNR's compliance and enforcement activities.

Because we are already undertaking an evaluation of DNR's air management programs, and because you have already notified other relevant federal and state governmental agencies about your concerns, we will not be conducting a separate investigation based solely on your correspondence. However, we appreciate you sharing this information with us as we continue in our audit fieldwork. We also will furnish you with a copy of the final report when it is completed later this year.

Sincerely,

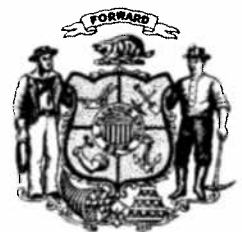
A handwritten signature in cursive script that reads "Janice Mueller".

Janice Mueller  
State Auditor

JM/bm



# WISCONSIN STATE LEGISLATURE



**Matthews, Pam**

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**From:** Bott, Eric  
**Sent:** Friday, October 31, 2003 1:56 PM  
**To:** Sue's Home (E-mail); Matthews, Pam  
**Subject:** FW: Lasee's Notes 10-30-03

-----Original Message-----

**From:** Lasee, Frank  
**Sent:** Thursday, October 30, 2003 4:32 PM  
**To:** Lasee, Frank  
**Subject:** Lasee's Notes 10-30-03

## **Lasee's Notes**

October 30, 2003

### **DNR Chief Has Right Idea**

Nobody likes getting pulled over. Admit it: you've cursed under your breath at the officer who gives you a ticket, even when you deserve it.

But that doesn't mean you hate the police. In fact, most of us are happy they're around. And when an individual officer misbehaves, there's a procedure for complaining. Police officers get investigated for complaints.

Contrast that with the DNR. Not only are the DNR's regulatory enforcers among the most disliked of state bureaucrats, they take pride in being the "black hats" of Wisconsin government. Too frequently, judging by the calls I get, the DNR has developed an adversarial relationship with the Wisconsin residents and Wisconsin businesses they are supposed to serve.

This isn't how it should be. True, sometimes environmental protection and economic growth are going to butt up against each other. Sometimes the DNR will have to make a ruling that an individual doesn't like.

But the system has evolved into one in which one side has all the power, knows it, doesn't care whether anyone likes it, or them, or the system. Service to the public is no longer the goal. The needs of the citizenry and the economy are secondary to sometimes strict, sometimes subjective adherence to administrative rules. The power of the bureaucracy is preeminent.

Enter Scott Hassett, the relatively new DNR Secretary, appointed by Governor Doyle. Secretary Hassett has been hearing the complaints since he took over the department - if from no one else, from offices like mine.

Earlier this month, Hassett gave a speech at a Rotary club. He said he intends to create "the new DNR." He said he wants to set up a telephone line so individual property owners, business owners, and citizens - the public, whom the DNR is here to serve - can call to complain when a DNR employee behaves badly.

The employees didn't like it. They're afraid the complaint line will become a way for people to slander them, and that the Secretary's intent will mean abandoning environmental regulation entirely.

In a letter to his own employees (as quoted in the Wisconsin State Journal), Hassett wrote: "Reform does not mean sacrificing environmental standards of quality. Reforming does mean an honest, introspective look at ourselves to see where we can improve and can meet business needs without compromising our mission."

I say amen to that. Perhaps the DNR employees who don't like Mr. Hassett's comments need to be reminded of where their paychecks come from. They come from the taxes and fees paid by businesses. They come from the

11/03/2003



taxes and fees paid by the employees of those businesses. The DNR is here to serve, not to fight, the public.

Secretary Hassett wants his agency to be more responsive to the needs of business. Not to ignore their responsibilities, not to ignore the environment, and not to stop regulating altogether, but to be more willing to work with, rather than against, business owners. To give the needs of business weight in the decision making process.

In the eyes of many business owners, that would be a welcome change from the current system - a system in which the decisions of DNR regulators are made without consideration of the people they affect. A system in which a single bureaucrat has the power to ruin a family's lifeblood, and in which that bureaucrat may or may not do so, seemingly at a whim, and without thought for the real people who have to deal with the aftermath.

Perhaps I'm overstating the reality, but to many Wisconsin citizens, that's the honest truth.

Secretary Hassett wants to change that. As far as I'm concerned, he's doing just the right thing.

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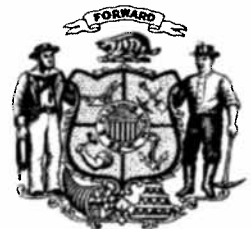
**Lasee's Notes** is a weekly column by Representative Frank Lasee, 2nd Assembly District, covering events in the Legislature and statewide.

If you know of anyone else who would like to receive Lasee's Notes, please send an email to [LaseesNotes@yahoo.com](mailto:LaseesNotes@yahoo.com) with the person's name and email address, and we'll add them to the list.

If you would like to stop receiving Lasee's Notes, email us at [LaseesNotes@yahoo.com](mailto:LaseesNotes@yahoo.com) with "unsubscribe" in the subject line.



# WISCONSIN STATE LEGISLATURE





State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Scott Hassett, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TTY Access via relay - 711

August 18, 2005

Mr. Thomas Skinner  
Region V Administrator – R-19J  
United States Environmental Protection Agency - Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3507

Subject: Wisconsin DNR Response to USEPA Notice of Deficiency Related to the "Title V Program", dated March 4, 2004

Dear Mr. Skinner:

I am very pleased to provide you with Wisconsin's official response to EPA's Notice of Deficiency (NOD) regarding the state's operation permit program. I believe our response clearly addresses the issues raised in the NOD published in the Federal Register, Volume 69, Number 43, on March 4, 2004, and demonstrates that Wisconsin does indeed have adequate resources to run an effective Title V program. I trust you will reach the same conclusion after Region V reviews these materials. I'd like to draw your attention to a few highlights of our submittal:

- the Air Management Program processed the state's entire Title V Federal Operation Permit backlog for major air pollution sources by December 30, 2004,
- the backlog of federally enforceable state operation permits is scheduled for completion by December 31, 2005,
- we have finalized rules for expanded use of general permits and the use of registration permits,
- the state budget bill included financing for the information technology system we need to further streamline the air permitting program, and
- the state budget bill also established a new non-Title V fee that will provide the air program with a revenue stream to support non-Title V work and will clarify accounting and proper fee expenditure for the permitting programs.

Of course our official submittal is quite extensive and will cover each of these points and all of the issues raised in the Notice of Deficiency. Attachment A provides a table itemizing the main components of the Notice of Deficiency, the source of the issue, how the Air Management Program addressed the issue and a reference to applicable attachments.

#### Completion of Permit Work

US EPA identified within Section C. of the NOD that Wisconsin had not issued Title V permits to its sources in a timely fashion. While US EPA did acknowledge Wisconsin's schedule to complete these permit reviews by December 31, 2004, US EPA included this matter in its NOD based upon the totality of facts and circumstances that were associated with the State's Title V program at the time of the NOD.

As of October 2003, Wisconsin had 148 Title V permits yet to issue. Through Governor Jim Doyle's Grow Wisconsin Plan, Wisconsin was successful in issuing the remaining Title V permits. The last of the remaining Title V permits was issued on December 30, 2004 (Attachment B). As a result, Wisconsin has addressed this issue raised by US EPA in its NOD.

US EPA identified several programmatic issues of concern with Wisconsin's permit programs within Section D of the NOD. Although some of these matters are in regard to the State's Title I construction permit program and the procedures and effect of inclusion of terms and conditions from Title I permits into Title V permits, US EPA determined it was appropriate for these issues to be raised in the context of the NOD. These programmatic issues are addressed in detail below.

#### Expiration of New Source Review Permits

At the time of the US EPA's issuance of the NOD, Wisconsin law stated that construction permits expire 18 months after permit issuance. US EPA asserted that this legal construct would allow the basis of the construction permit terms and conditions to expire and could cause Wisconsin to lose authority to include such conditions in a renewed Title V permit. Since Wisconsin construction permits expired after 18 months, EPA was concerned that the state would not have the authority to include expired construction permit conditions in Title V permits. EPA stated in the NOD that because Wisconsin's laws do not ensure that construction permit conditions exist independently of Title V permits, the State's program does not meet the program approval requirements of Title V and 40 CFR Part 70.

2005 Wisconsin Act 25 included the following amendment to the law governing this matter (the text of the law is included in section 2192p of the Wisconsin Budget Attachment):

Section. 285.66(1), Wis. Stats. CONSTRUCTION. Unless otherwise specified in a construction permit, the authorization to construct, reconstruct, replace or modify a stationary source is valid for 18 months from the date of issuance of the permit unless the permit is revoked or suspended. The department may extend the term of the authorization in the construction permit for the purposes of commencing or completing construction, reconstruction, replacement, or modification. Unless otherwise specified in a construction permit, the department may only extend the term of the authorization in the permit for up to 18 additional months beyond the original 18-month period. If construction, reconstruction, replacement, or modification is not completed within the term specified in the permit or any extension granted by the department, the applicant shall apply for a new construction permit. Notwithstanding the fact that authorization to construct, reconstruct, replace, or modify a source expires under this subsection, all conditions in a construction permit are permanent unless the conditions are revised through a revision of the construction permit or through the issuance of a new construction permit.

With the revisions to s. 285.66(1), Wis. Stats. Wisconsin has addressed US EPA's concern that Title I construction permit conditions may expire by clearly stating in the law that such conditions are permanent unless the construction permit is revised or a new construction permit is issued. As a result, only a Title I permit action may change the construction permit conditions.

#### Combined New Source Review and Title V Permits

US EPA raised a concern that Wisconsin's Title V permits must specify the origin of and authority for each term or condition in a Title V permit. US EPA states in the NOD that "Wisconsin does not identify NSR conditions or specify the origin and authority of the NSR conditions in combined permits."

To address the matter of origin and authority of NSR conditions that are included in Title V permits, Wisconsin issued guidance to permit staff on June 3, 2004 (Attachment C). This guidance requires staff to identify pre-construction permit conditions that are included in Title V permits by referencing the pre-construction permit in which the term or condition originated, along with the referenced authority for the

term or condition. Wisconsin issued additional guidance on October 28, 2004 (Attachment D) to staff in regard to the interface between pre-construction and Title V permits further clarifying procedures for combining these types of permits. Further support for this effort is provided in informational materials prepared for the May 2005 Natural Resources Board Meeting (Attachment X) and in a summary of work being conducted by the Air Permit Improvement Initiative Workgroup 4 (Attachment Y). As a result of the implementation of the procedures required by these guidance memorandums, the Department has addressed US EPA concerns over this issue.

#### Federal Enforceability

US EPA stated in its NOD that "(all) terms and conditions of a permit issued pursuant to a program approved into a state's SIP are federally enforceable. 40 CFR 52.23. Wisconsin, however, does not identify all terms and conditions of its construction permit as federally enforceable. Instead, Wisconsin currently identifies permit requirements in title V permits originating from Wisconsin's non-SIP toxics program (Wis. Admin. Code NR 445) as enforceable by the state only, even when the requirements were established in a permit issued pursuant to a SIP-approved program. Wisconsin's failure to include the terms established in a permit issued pursuant to a SIP-approved program into the federally enforceable side of its title V permits is contrary to 40 CFR 70.6."

To address this matter, Wisconsin issued guidance to permit staff on June 3, 2004 (Attachment C) directing that conditions included in Title V permits that had originated in pre-construction permits should not be flagged as "state-only" conditions. As this guidance has been implemented in all Title V permits issued after June 7, 2004, Wisconsin has addressed US EPA's concerns over this issue.

#### Insignificant Emissions Units (IEUs)

US EPA stated in its NOD that "Wisconsin's regulations contain criteria for sources to identify IEUs in their applications, (Wis. Admin. Code NR 407), and require that permit applications contain information necessary to determine the applicability of, or to impose, any applicable requirement. Although Wisconsin's regulations are consistent with EPA's regulations at 40 CFR Part 70, the State is not properly implementing its regulations because it is not including these applicable requirements in its title V permits. Therefore, Wisconsin's implementation of its regulations is inconsistent with part 70."

To address this concern, Wisconsin has amended its Title V permit template to include a listing of insignificant emissions units within the preamble of the permit. The State has also modified Part 2 of its permit to include the terms and conditions that may apply to these insignificant emissions units, noting, as US EPA had within its March 5, 1996 White Paper 2, that insignificant emissions units typically are associated with inconsequential environmental impacts and present little potential for violations of the generally applicable requirements contained within Part 2 of the permit. Thus if there were no observed, documented or known instances of non-compliance, certification of compliance with the generally applicable requirements is appropriate. Attachment E contains the amended permit template and Part 2 of the permit.

With this change to Wisconsin's Title V permit content, the State has addressed US EPA's concern about this issue.

#### Completion of FESOPs by March 4, 2006

US EPA stated a concern in its August 5, 2004 letter responding to Wisconsin's June 4, 2004 letter entitled "Wisconsin DNR 90-Day Response to USEPA Notice of Deficiency Related to the Title V Program, dated March 4, 2004" over the State's schedule to issue remaining FESOPs by July 2008. US EPA stated "(it) is important to note that sources without issued FESOP permits are Title V sources, and are counted in the Title V universe until the FESOP permit is issued. Further, sources that have submitted FESOP applications

are not protected by application shields as they are under Title V permit applications, making them vulnerable to enforcement actions. Because of the importance of issuing these FESOP permits, Wisconsin must complete issuance of all initial FESOPs in order to resolve the NOD.”

To address US EPA’s matter of concern over initial FESOP issuance, Wisconsin has developed a strategy to issue these remaining FESOPs by March 4, 2006. The strategy was finalized on April 21, 2005 and is included as Attachment F. On January 1, 2005, Wisconsin had identified 159 FESOPs to complete, and as of July 28, 2005 had completed necessary review of 49 of these permits. A memo to permit staff directing the completion of this work effort by December 31, 2005, or at the latest, by March 4, 2006, is included in Attachment G. By following this strategy and schedule, Wisconsin will address US EPA’s concern in regard to FESOP issuance.

### Workload Analysis and Fee Sufficiency

As part of its response to EPA’s March 4, 2004 Notice of Deficiency (NOD), the Wisconsin Department of Natural Resource Air Management Program has prepared a Workload Analysis (WLA) and a companion fee analysis for state fiscal years ‘05-’08. The purpose of these analyses is to evaluate the staff resources, and corresponding funding needs, that would be required to operate a complete, balanced stationary source regulatory program over this time period. The analyses do not cover all parts of the Air Program, but rather focus on the portions of the program related to regulating stationary sources, the parts of the program impacted by the NOD.

Operation of the Air Management Program has evolved over the past several years in response to a number of factors.

- Governor Doyle’s Grow Wisconsin initiative.
- The Air Permit Improvement Initiative (APII), launched by DNR Secretary Scott Hassett in the fall of 2003, which responds to Grow Wisconsin and seeks streamlined ways to issue permits to regulate air emission sources in Wisconsin.
- 2003 Wisconsin Act 118, state legislation that called for the development of a registration permit program and expanded use of general permits within the Air Program, and established timelines for permit issuance, among other things.
- EPA’s Notice of Deficiency, which calls for correction of a number of permit, programmatic, and funding issues within the DNR Air Program.

The Air Management Program developed a strategy to respond to these factors. Key points in this strategy are summarized below.

- Develop detailed and focused plans to issue Title V permits to major (FOP) and synthetic minor (FESOP) sources according to NOD deadlines. Work on other permitting activities (renewals, revisions) will be very limited until issuance of initial permits is completed.
- Invest staff resources in the APII effort. Streamlined permitting procedures and information technology improvements would be identified and developed that would reduce permitting staffing needs in subsequent years.
- Implement the changes called for by 2003 Wisconsin Act 118 through the APII effort.
- Later in the FY ‘05-’08 period, as initial permit issuance and APII efforts are completed, redirect staff from permitting activities to compliance assistance, compliance assurance, and enforcement activities. This would enable the Air Program to fully implement the EPA CMS policy (currently projected to occur in FY ‘07).

This program strategy and details are reflected in both the workload analysis (Attachment H) and fee analysis (Attachment I), and forms the foundation for those analyses. In addition, the draft FY06-07 EnPPA agreement (Attachment W) provides further documentation.

In the workload analysis that Air Management developed shortly after receiving the Notice of Deficiency and at the beginning of the Air Permit Improvement Initiative, we estimated a need for 33 FTE in FY07 and 32 FTE in FY08 for non-Title V activities. As the permit streamlining activities have taken longer than anticipated and the program was not able to request information technology funding to support the streamlining before the biennial budget for FY06 and FY07, the Air Program will not be able to shift as many FTE into the non-Title V funding account quite as quickly as initially planned. To ensure that we meet our Title V commitments, conservative assignment of staffing resources to the new non-Title V account seems appropriate. The state budget funds 10 FTE in FY07 for non-Title V work and we will request an additional 14 FTE be assigned to this account in FY08 in the 2007-09 Biennial Budget.

These analyses show that Wisconsin does indeed have adequate staffing and funding levels to support a well balanced Title V program through state fiscal year 2008 (FY08). The workload analysis identifies the staffing levels required to meet our Title V commitments; while the fee analysis demonstrates we have adequate funding to support those staff and related expenditures. In addition, the fee analysis demonstrates, based on the balance projected for the Title V account, that the Air Management Program will have sufficient funding through FY08 without restoration of the consumer price index. As the adequacy of state funding is evaluated in each biennial budget process, the Air Management Program will be closely watching funding levels so future adjustments can be made if needed.

#### Changes to Fee Structure Instituted in Biennial Budget

The Wisconsin 2005-07 biennial budget bill has been enacted into law as 2005 Wisconsin Act 25. While the entire budget bill may be obtained on the Wisconsin State Legislature website, located on <http://www.legis.state.wi.us/2005/data/acts/05Act25.pdf>, the pages pertaining to the Air Program are included in Attachment J. Act 25 will be incorporated into existing statutes by the Wisconsin Revisor of Statutes Bureau. Current statutes (updated through May 12, 2005) may be found on their website: <http://www.legis.state.wi.us/rsb>.

The budget bill includes funding for the first two years of the information technology (IT) portion of permit streamlining, the creation of a new appropriation to separate Title V from non-Title V funding and expenditures, and a new fee structure for the non-Title V program that takes effect on January 1, 2006. In anticipation of securing the IT permit streamlining funding, the program worked with a consultant for the past six months to develop a systems design. The design provides a comprehensive roadmap to move our separate database systems into an integrated, streamlined system. The details of the IT portion of the permit streamlining project are outlined in Attachment K. A compact disk is also included to provide all the links of supporting material in the attachment. The timeline included in the report is two years. However, the IT project will be developed and implemented over a four year period. The funding for the third and fourth years of the effort will be requested in the 2007-2009 biennial budget.

The expenditure authority for the Title V program is included in s. 20.370 (2) (bg). Language has been included to clarify the fees collected from this account are to be imposed on "owners and operators of stationary sources for which operation permits are required under the federal clean air act". Similar language was included in the DNR programs outside the Air Program that received funding from this account. These programs have initiated changes to their activity codes to ensure staff code their time appropriately: Title V vs. non-Title V as reflected in Attachment L.

The expenditure authority for the non-Title V program is included in s. 20.370 (2) (bh). This account is for "stationary sources of air contaminants for which an operation permit is required under 285.60 but not under the federal clean air act".

The changes to the stationary source fee structure will be programmed into the emission fee and permit databases in the fall of 2005 to assist with the new billing structure that will be implemented in Spring

2006. The flowchart of the structure is included in Attachment M. The fee analysis has also been updated to reflect the final budget bill.

The budget bill also includes a requirement that the Department of Natural Resources submit a report to the Joint Committee on Finance. Two of the items the agency must report on are: 1. the progress on the development of an information technology system for the air pollution permitting program, and 2. an analysis of the costs of the air pollution permitting program and the revenues necessary to run the program after the information technology system is implemented.

Since the non-Title V fee established in s. 20.370 (2) (bh) was just established, there is some uncertainty about the amount of revenue that it will receive in the biennium. In addition, the stationary source funding account previously received emission fees from both Title V and non-Title V sources. To ensure that the non-Title V fee account would be solvent in its first two years, the state Legislature included a one time transfer of \$175,000 from the existing emission fee account as starter funds.

Therefore, we believe adequate fee structures and funding are in place to separate accounts to prevent commingling of funds, to assure Title V fee collected will be used for their intended purpose, and to produce the information technology system efficiencies assumed within our workload analysis.

#### Internal Management Systems

The Wisconsin State Management Accounting and Reporting Tool (WISMART) is the financial system the DNR utilizes. The system requires separation of duty, is based on Generally Accepted Accounting Principles (GAAP) and has several checks and balances built into the procedures. The Bureau of Finance has financial oversight responsibility for the DNR and each program is assigned a management accountant. The management accountants work closely with their programs to ensure proper financial procedures of the DNR and state are followed. Management accountants must also follow the DNR Internal Control Plan (Attachment N). The five sections of the internal control plan are: control environment, risk assessment, control activities, information and communication, and monitoring. The plan is reviewed and updated annually with significant changes to the plan reported to the Wisconsin State Controller's Office.

A budget code is established for each funding source or appropriation. One key component of the budget code is the activity code. The activity code is also used by staff when completing timesheets. The Air Program works closely with the Bureau of Finance to define activity codes, the funding sources of the activities and developing budgets for the funding sources. Examples of communication between the Air Program and Bureau of Finance are included in Attachment O.

The Activity Code Handbook is maintained by the Bureau of Finance and updated monthly. It is available to all staff on the DNR's Intranet site. Attachment P provides more information on the handbook. As the program updates activity codes, emails are also sent to staff to notify them of the changes or additions (Attachment Q).

In addition to the financial management systems, the WDNR utilizes a work planning system for planning resources to meet Department objectives according to funding constraints. Attachment R provides information on the work planning process and provides the FY05 work plan. The program managers evaluate the implementation of the work plan on a quarterly basis and adjust resources accordingly. Attachment S is an example of the Work Plan to PALs report and a quarterly performance measure report on funding commitments. PALs is the Payroll and Leave System (timesheet data) the agency uses.

As part of a Continuous Quality Improvement (CQI) approach to addressing program management, the Air Management Program developed a Management Response Plan, Attachment T, utilizing scenario planning. It was adopted to enable the program to be more strategic in work planning and budget development.



The redeployment of the Air Program in October 2003 used the Management Response Plan and work planning data to make sound decisions to meet funding constraints. Information on the redeployment is included in Attachment U.

The program reported to the Legislative Audit Committee last Fall on the progress made on each of the recommendations in the Audit Report of the Air Management Program. The report also highlighted the relationships of our response to the Legislative Audit Bureau recommendations to the permit streamlining effort and the NOD. The committee was quite impressed with the report and commended the Air Management Program on their diligence and progress.

As clearly demonstrated by all of these materials, the Wisconsin Air Management Program has accounting and management controls in place to adequately administer the fees and resources of the Title V program, prevent the improper use of this funding source, and prevent the use of Title V funds as match for the EPA 105 Air Pollution grant.

In conclusion, after your review, I believe you will concur with my assessment that Wisconsin's Air Management Program has adequate authority and fiscal and staffing resources to implement the Title V provisions of the 1990 Clean Air Act Amendments. During your review, please feel free to contact Lloyd Eagan (608-266-0603 or [lloyd.eagan@dnr.state.wi.us](mailto:lloyd.eagan@dnr.state.wi.us)) or Sheralynn Stach (608-264-6292 or [sheralynn.stach@dnr.state.wi.us](mailto:sheralynn.stach@dnr.state.wi.us)) if you have questions about the materials in the attached package.

Sincerely,



Scott Hassett  
Secretary

Attachments

cc: Pat Henderson – Governor's Office (no attachments)  
Joint Legislative Audit Committee (no attachments)  
Steve Rothblatt – EPA, Region (w/attachments)  
Cheryl Newton – EPA, Region 5 (no attachments)  
Pamela Blakely – EPA, Region 5 (w/attachments)  
Air Management Team (no attachments)  
Bruce Nilles – Sierra Club (w/attachments)

Al Shea – AD/5 (no attachments)  
Lloyd Eagan – AM/7 (w/attachments)  
Jeff Hanson – AM/7 (w/attachments)  
Sheralynn Stach – AM/7 (w/attachments)  
Marcia Penner – LS/5 (w/attachments)  
Dan Derr – FN/1 (no attachments)



*FROM  
WMC*

**Issues Relating to the**  
**DNR Air Bureau**  
**Audit Request**

**Operation Permit Issues**

Attention has recently been focused on the DNR's Air Bureau performance relating to the issuance of Title V Operation Permits. Misleading comments about facilities "lacking permits" has led to the mistaken impression, at least by some, that these facilities are not subject to the same environmental standards as other facilities that have been issued operation permits. This is simply not true.

All facilities in the state must meet the same environmental standards, whether or not they have an operation permit. As the critics of DNR's performance point out in their own background information, "Title V does not impose new requirements on major sources...". An operation permit simply organizes all of the existing requirements in one place. This has advantages for DNR, the regulated facilities, and the general public, but it has little to do with air quality.

**Permit Fee Issues**

The DNR Air Bureau received a significant increase in fees as part of the 1999-2001 state budget. Two other important changes were made in the 1999-2001 budget bill relating to fees and Air Bureau performance.

- First, the legislature shifted to a "performance-based" fee system for both air emissions and wastewater discharges. Previously, both fee programs included automatic fee increase mechanisms (in the air program it was an annual consumer price index increase). The result of these automatic fee increase mechanisms was that, very often, facilities would reduce emissions or discharges, only to see fees increase. The legislature recognized that this created a financial disincentive for reducing emissions and discharges, and eliminated the automatic increase mechanisms for both the air and water programs. As a result, when companies reduce emissions or discharges, fees will decrease, creating a direct financial incentive for better environmental performance. This is a sound policy that must be maintained.
- Second, the legislature adopted s.285.11(18), Wis. Stats., requiring DNR to "Adopt and apply objective performance measurements, for the subunit of the department that administers this chapter, relating to the issuance of permits under subch. VII and to overall performance of the subunit." (Subch. VII covers both air operation and construction permits.) This provision was adopted because there was no connection between funding levels and Air Bureau performance. More funding was always assumed to be the solution

and the performance of the Air Bureau (efficiency and effectiveness) was never systematically reviewed or questioned. In the nearly four years since the legislature imposed this requirement on DNR, the Air Bureau has done nothing to adopt and apply objective performance measures. In these difficult times – for both the State and its manufacturers – the state simply cannot increase fees and funding for a program that is unwilling to examine its own performance.

### Construction Permit Issues

Of most concern to manufacturers is the issuance of construction permits. These permits are important for obvious reasons – businesses must constantly improve and upgrade equipment to remain competitive in a global marketplace and these improvements must be undertaken quickly to respond to competitive pressures.

Under Wisconsin law, a wide variety of projects must be approved by DNR before the project can even be started. It is the perception of the business community that construction permits issued in Wisconsin are subject to a level of “micro-management” that is not present in most other states. This leads to permitting requirements that are either not present in other states or that are easier to comply with in other states. The results are longer permitting times, more expensive permits (because of additional requirements), and more restrictive operating conditions (that limit flexibility and increase the need for additional permitting). We are not aware of any significant benefits in environmental quality that result from these additional permitting requirements.

The ultimate result is that the level of investment in Wisconsin is limited. Wisconsin is not an island. Many companies have the ability to invest in plants throughout the country and world. These companies invest where they will get the best return on this investment. More and more, we are hearing that it is difficult for Wisconsin facilities to obtain needed investments because of the frustration and costs associated with the construction permit process.

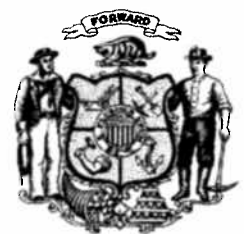
### Specific Audit Components

Others have suggested specific issues that should be addressed in an audit that relate to the general program workload and cost. While these general issues are important and should be evaluated, they may miss significant differences in the impacts on permittees from varying permitting approaches. The Legislative Audit Bureau should also examine the following specific permitting issues. Although seemingly very detailed, the answers to these questions are critical to a proper assessment of the DNR's permitting programs. Also, whenever construction permits are referenced the Audit Bureau should further subdivide this category into construction permits required for major modifications to major sources and construction permits required for other projects.

- For both construction and operation permits, what are initial permit application requirements compared to other states?
- How do the thresholds that trigger the need for a permit in Wisconsin compare to other states? If there are differences, what are they?
- What is the average time between when an initial permit application is received and when the Department determines that it has a complete application? If there is a difference between Wisconsin and other states, why is there a difference?
- What is the average time between when a permit application is determined to be complete and when a final permit is issued? If there is a difference between Wisconsin and other states, why is there a difference?
- What is the average time for the total permitting process, from initial application submittal to final permit issuance? If there is a difference between Wisconsin and other states, why is there a difference?
- What is the average cost to the permit applicant for obtaining a construction or operation permit, including internal and external staff, legal, and engineering costs, as well as state permit fees? If there is a difference between Wisconsin and other states, why is there a difference?
- How do recordkeeping requirements contained in operation or construction permits compare between Wisconsin and other states? If there are differences, what are they?
- For operation and construction permits, how do source testing requirements compare between Wisconsin and other states, both as part of the permit application and permit compliance? If there are differences, what are they?
- What is the average cost to the permit holder for complying with a construction or operation permit, including recordkeeping, monitoring, testing, and reporting costs? If there is a difference between Wisconsin and other states, why is there a difference?
- How much operational flexibility is provided in permit operating conditions in Wisconsin compared to other states? For example, if a facility has several machines that can perform the same task, do permits allow the task to be performed on any machine or is the task restricted to a single machine? Similarly, if a limitation applies to a process, does the permit allow changes in the inputs to the process without further state review, as long as the limitation is met, or are input changes subject to reporting or other state review/approval, even if the changes would maintain compliance? If operational flexibility is restricted in Wisconsin compared to other states, does this result in more permit applications (for projects that would be covered by the additional flexibility in other states) than in states with greater operational flexibility?
- Do other states allow regulated facilities to begin construction on a project prior to final issuance of a construction permit? If so, how has this approach worked for other states?
- To the extent that differences exist between permit requirements in different states, is there any association between certain program characteristics and environmental protection? In other words, for the more costly programs (for permittees), is the benefit worth the cost?



# WISCONSIN STATE LEGISLATURE



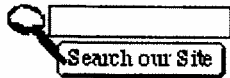


## Green Bay Weather



Temp: 33 °F  
Hi: 34 °F  
Lo: 31 °F

## LOCAL NEWS



Posted Feb. 03, 2003

## Air program audit called bad idea

Some critics fear industry is behind it

By Peter Rebhahn

[prebhahn@greenbaypressgazette.com](mailto:prebhahn@greenbaypressgazette.com)

Environmentalists who petitioned the federal Environmental Protection Agency last month over deficiencies in the state's air management program are uneasy about a Northeastern Wisconsin legislator's request for an audit of the program.

If approved by a vote of the Legislature's Joint Audit Committee at a public hearing Wednesday, the audit requested by committee member Sen. Robert Cowles, R-Allouez, would investigate backlogs in the issuance of air pollution permits to businesses.

"There are a lot of questions in this program that need answers before we can move forward with a solution," Cowles said.

A petition filed in December with the EPA by environmental groups correctly claimed that nearly half of the state's biggest air polluters are operating without permits.

But the audit is a bad idea, the environmentalists said.

"We've been waiting for seven years for the permits, and this audit may just delay things further," said Melissa Scanlan, an attorney and director of the Madison-based Midwest Environmental Advocates.

Sierra Club attorney Bruce Nilles, who worked with Scanlan on the EPA petition, also dislikes the audit.

"I hate to be cynical, but that's exactly what Wisconsin Manufacturers and Commerce was asking for as of last week," Nilles said.

True. WMC asked the Legislature's Joint Audit Committee for the audit in a letter dated Jan. 20.

### What's Title V?

Title V of the 1990 amendment to the federal Clean Air Act directed states to develop programs to issue operating permits to all large sources of air pollution by 1998. The state Department of Natural Resources is Wisconsin's permitting authority.

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"We wanted to have an objective third party give us some analysis and perspective on what the problems are," said Jeff Schoepke, director of environmental policy for WMC.

According to the most recent data from the EPA, 54 percent — 330 of 612 — of the state's pollution sources covered under the Title V permitting requirement of the federal Clean Air Act are operating with permits, the lowest percentage among Midwestern states.

Scanlan's group and the Sierra Club spearheaded the EPA petition — a step they said they took in part to focus attention on overdue increases in permit fees.

"What we need is an increase in the fees so that this issue is addressed immediately," Scanlan said.

Fees paid by polluters fund the permit program, not tax dollars. Polluters pay a permit fee of \$35.71 per ton in Wisconsin up to a 5,000-ton cap, and nothing over the cap.

"So you have the large paper mills and power plants getting all this free pollution and your smaller operator — the bakery in Madison — paying \$35 bucks per ton," Nilles said. "These (large) facilities are paying, if you do the math, less than \$10 per ton."

The 5,000-ton cap means, in effect, that no polluter pays more than \$178,550 (\$35.71 times 5,000) for any one annual permit, though some pay for more than one permit.

According to DNR data, there are 16 pollution sources — most are power plants — that benefited from the 5,000-ton cap in 2001 for the two biggest smoke-stack pollutants, nitrous oxide and sulfur dioxide.

Arithmetic shows that if the cap had been eliminated for 2001, the 16 polluters would have paid an additional \$6.6 million for their permits, and that's nearly the additional amount the permit program needs to add inspectors to do the job right, said Lloyd Eagan, who directs the DNR's Bureau of Air Management.

"I'd really love to run a Cadillac program, and right now I feel like I'm running kind of a Chevy Nova program," Eagan said.

Schoepke concurs with environmentalists who say the state's program is out of whack.

"There are companies that should have had their five-year permit renewed by now that haven't gotten the first permit to begin with," he said.

But Schoepke, whose group opposes an increase in the permit fee or elimination of the 5,000-ton cap, said he expects the audit will find management problems within the program are causing the DNR's lagging performance "despite the fact that the resources they have are on par with the region, and higher than a lot of states that have issued a lot more permits."

Cowles said he wouldn't "presuppose" the outcome of an audit, which would take four to six months. But he bristled at the suggestion that the audit was simply an attempt by industry to blur the need for fee changes.

"The audit bureau cannot be controlled by WMC, or any other business group or any environmental group," Cowles said. "We don't put a collar on them and say, 'You shall do whatever.' They are going to do an independent analysis."



Cowles also said the audit isn't an "attack" of the DNR.

"It may well be that they don't have the resources," he said. "It may be they can manage the resources better and get the permits done quicker. Who knows? We'll look at all that."

Eagan, who's watched her staff fall to 167.5 full-time-equivalent employees statewide from a high of 202 in 1996, thinks the permit program can withstand tough scrutiny.

"While an audit is never pleasant, I think it will allow us to set the record straight as to what we have and how limited we are," Eagan said.

Nilles said the state's permit program will never help clean the air as it was intended to do without elimination of the 5,000-ton cap because, under the cap, a large operator that knows its emissions will exceed 5,000 pounds no matter how much it spends to cut emissions may decide its best option is to do nothing.

"If you don't pay per ton, then you don't have the right incentive to reduce your pollution," Nilles said, adding that Gov. Jim Doyle has an opportunity to address the fee changes in the budget he intends to deliver to the Legislature on Feb. 18.

"From a public health-environmental perspective, this is probably the most important budget decision he will make," Nilles said.

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Appleton Weather



Temp: 11 °F  
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Lo: 6 °F

## LOCAL NEWS

Posted Feb. 23, 2003

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# Air quality plan may choke on cuts

### Environmentalists, governor at odds over permit fees

**By Ben Jones**  
*P-C Madison bureau chief*

MADISON — Environmentalists say Gov. Jim Doyle's budget plan would take the state's air quality program in the wrong direction.

The head of the state Department of Natural Resources Bureau of Air Management has said she needs more employees to issue air quality permits to companies that pollute.

The DNR is behind on issuing hundreds of these permits and has suggested a fee increase to polluters could fund the additional staff. Environmentalists say the permit backlog means that companies are polluting virtually unchecked.

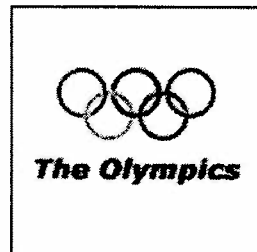
But Doyle's budget does not increase permit fees or add permitting staff. Instead it eliminates the equivalent of 11.5 positions from the 100-person unit that issues the air permits.

"The state has the worst issuance rate in the nation and the governor's cuts will make it worse," said Brett Hulsey, a Sierra Club Midwest representative.

Doyle doesn't believe an increase in permit fees is warranted.

"I have not been convinced that the problem in getting air permits issued quickly enough calls for fee increases," Doyle said. "That's one that I would like to look at and be far more convinced in my own mind that what needs to be done before we throw it into the budget

#### ADVERTISEMENT



"I hope there are ways, administrative adjustments we can make and other ways of doing things that we may be able to speed up that process."

A recent count by the DNR indicated there were more than 500 companies that had applied for, but not yet received, air quality permits. The state Legislative Audit Bureau is auditing the program, officials from the U.S. Environmental Protection Agency have been reviewing the situation and the Sierra Club has threatened legal action if the matter is not resolved.

"Our assessment is that program is on life support and desperately needs more positions, more staff and more resources to perform it's basic function to protect us from the dangers of air pollution," said Bruce Nilles, a representative of the Sierra Club.

Jeff Schoepke, Director of Environmental Policy, at the Wisconsin Manufacturers and Commerce, applauded Doyle's move to not raise fees on business.

"That's great to hear from the governor and I couldn't agree more," Schoepke said.

Lloyd Eagan, director of the Bureau of Air Management at the DNR, said she is prepared to do the best she can with the resources she is given.

"I understand the governor has a very large challenge and we are feeling the pain that everyone else is," she said.

Eagan said the EPA has the option of issuing the state a statement of deficiency that would give the state 18 months to correct the problem.

If the state could not come into compliance, the EPA could take control of the program and set new permit fees.

An EPA spokesperson could not be reached for comment.

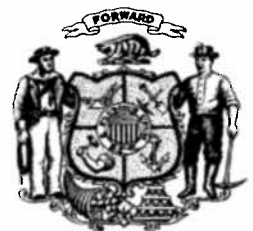
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**[Back to Top](#)**





# WISCONSIN STATE LEGISLATURE



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## DNR air management audit finds big errors

By Anita Weier  
February 28, 2004



A state audit of the Department of Natural Resources' air management program has found huge backlogs in air pollution control programs and some astounding record-keeping and billing errors.

The report issued by the Legislative Audit Bureau on Thursday follows a notice of deficiency issued by the U.S. Environmental Protection Agency earlier this week that hit the DNR for permit backlogs, insufficient staffing and fees too low to finance enforcement.

Al Shea, administrator for the DNR's Division of Air and Waste Management since September, agreed with the criticisms, though he said much has been done in the past year to correct problems.

"We have made a lot of adjustments and corrections and redirection of the program," Shea said. "We are well on our way to addressing the issues they've raised. We are viewing this audit as an important part of our continuous quality improvement efforts. We will take the recommendations to heart."

Sen. Carol Roessler, R-Oshkosh, co-chair of the Legislative Audit Committee that requested the audit, praised the quality of the audit. "The concerns raised by both business and environmental groups about the air management program were well founded and a good cause for this thorough and excellent review," she said. What she didn't mention was that state budget limits and staff cuts have hit the DNR's Bureau of Air Management hard. The bureau had 180 full-time equivalent employees in 1996-97 and 157 during the current fiscal year.

"The audit unfortunately focused on the symptoms, not the causes," said Caryl Terrell, director of the John Muir Chapter of the Sierra Club. "The program has been underfunded for years. The program has lost 20 percent of its staff in 10 years. The Legislature is the only one that can solve this problem. They should, at a minimum, reinstitute inflationary CPI indexing of permit fees."

The DNR is required to ensure that the 2,219 utilities, factories and other stationary facilities it regulates are complying with the terms of their permits and to monitor air quality throughout Wisconsin.

The Audit Bureau found that as of last June 30, the DNR had issued operation permits to just over half of the facilities required to obtain them. Although 1,128 permits had been issued since 1995, backlogged facilities totaled 1,091.

"Wisconsin is among the slowest states in the nation to issue operation permits, and

it is the slowest among Midwestern states," State Auditor Janice Mueller said in a letter accompanying the audit.

"The Legislature recently passed 2003 Wisconsin Act 118 to streamline the permitting process and increase the number of permits issued in a timely manner. We have included additional recommendations for streamlining the operation permit process."

Regarding permits for new construction and facility modifications, the audit found that 40 permits - 29.2 percent of all pending applications - had been backlogged at least two years.

As for enforcement efforts, the number of facilities the agency inspects annually has declined from 470 in the 1994-95 fiscal year to 276 in the 2002-03 fiscal year. Fifteen percent of facilities have never been inspected, the audit found, and the DNR is not consistently enforcing a requirement that facilities submit annual compliance reports.

The agency also had failed to issue 113 operation permits even though they had completed a public comment period and could have been issued. And the DNR had no explanation for why 232 facilities have not reported emissions or paid emission fees, why it billed 11 facilities that should not have been billed about \$21,000, and why it failed to bill 13 other facilities about \$27,000, the audit said.

"DNR program management will need to be improved if Wisconsin's air management goals are to be obtained," the audit said. "The DNR does not have the basic, accurate data needed for effective program management." Shea said the DNR refunded the wrongly billed fees this week and has issued 90 of the 113 operating permits that the audit cited.

And the air program has reduced a backlog of major permits from 250 in January 2003 to 140 in January 2004. There will be no backlog by January 2005, he said. A computer-based permitting program is being developed, in order to change from an old-fashioned paper-based system. Shea said the change could reduce permit issuance time by 45 percent. Additionally, changes made recently by what is known as the "Job Creation Act" will allow more flexibility in permitting, so less time will be spent on permits for minor activities and more time on major ones.

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Published: 8:50 AM 2/28/04

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## Editorial: Mismanagement program

From the Journal Sentinel

*Posted: March 15, 2004*

No one much likes the state's Air Management Program. Captains of industry - and lesser ranks as well - think the state takes too long to issue operating permits for facilities that emit air pollutants. They're right. Environmentalists argue that the program doesn't adequately oversee air quality standards. They're right, too.

Just how right both sides are was shown when the U.S. Environmental Protection Agency and the state Legislative Audit Bureau issued reports ripping the program on enforcement and process issues. The feds went so far as to set an 18-month deadline for the state to comply with the federal Clean Air Act. If the Department of Natural Resources fails to meet the deadline, the EPA may take over the program. Wisconsin also could lose federal highway money and environmental grants.

The basic problem in the Air Management Program is a lack of staffing. Yes, some procedures could be streamlined and simplified, as groups such as Wisconsin Manufacturers and Commerce have argued. Streamlining will occur under the recently passed Jobs Creation Act, and more may be warranted.

Still, promises of improved efficiency have been made before. At the end of 2002, a DNR official said it would take about a year to issue 90% of the outstanding permits. Thirteen months later, fewer than 74% had been issued.

But the untimely issuance of permits that plagues business and undercuts the ability of firms to be flexible in Wisconsin isn't the only problem. According to the EPA, only 33% of the 578 major sources of air pollution in the state were inspected in the past two years. The Legislative Audit Bureau found that 15% of the state's 2,219 sources of air pollution had never been inspected.

The Sierra Club argues that "inspections are the cornerstone of any meaningful compliance program," and it's hard to see how anyone could disagree. Industry, especially, should be on the same page as the Sierra Club on this. After all, without adequate inspections, companies that take shortcuts and violate the Clean Air Act have an advantage over responsible companies that obey the law.

The Thompson administration estimated in the mid-1990s that it would take 300 employees to adequately administer the program. Last year, according to the EPA, 66 employees were working on it. And in his first budget, Gov. Jim Doyle further cut the program by \$1.1 million and 11 1/2 positions.

Under the Clean Air Act, fees paid by business are supposed to cover the cost of the entire program. Back in 1999, the EPA urged the Legislature to raise the fee for issuing permits. The Legislature failed to do so and has continued in that failure ever since.

The result has been the degradation of an air pollution program that was once a model for other states. That's a real shame.

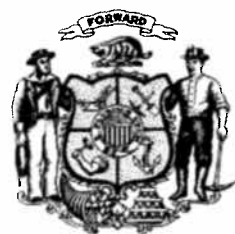
It doesn't have to be that way. The DNR clearly has work to do in making sure the program is run efficiently and fairly, but the heavy lifting has to be done by the Legislature and the governor in making sure that the DNR has the tools and the personnel it needs to do the job. They can start by raising the fees.

From the March 16, 2004 editions of the Milwaukee Journal Sentinel





# WISCONSIN STATE LEGISLATURE



[http://www.wisinfo.com/postcrescent/news/archive/local\\_19667847.shtml](http://www.wisinfo.com/postcrescent/news/archive/local_19667847.shtml)

Posted Feb. 02, 2005

## **Doyle eliminates backlog of permits to state's polluters**

Actions set limits for air emissions; move may boost economy

*Gannett Wisconsin Newspapers*

MADISON — Gov. Jim Doyle's administration has cleared a backlog of 342 air operating permits, some of which had been awaiting state action for several years, state officials said Tuesday.

Doyle had set a goal to eliminate the backlog at the state Department of Natural Resources' Bureau of Air Management when he took office in January 2003.

The backlog of federal air operating permits dropped to 148 permits in January 2004 and was gone by the end of the year, Doyle press secretary Melanie Fonder said.

The permits are part of the Title V portion of the air-management program, under which the DNR manages its biggest air polluters.

The permits set forth emission limits and spell out monitoring requirements for various facilities. Currently, an expedited review process includes a target of 180 days for the permits to receive action, Fonder said.

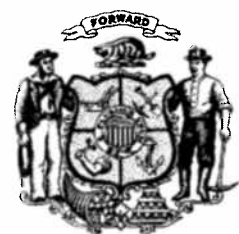
Fonder said the backlog elimination was a goal in Doyle's Grow Wisconsin plan, a series of initiatives to help improve the state's economy.

The DNR ended the backlog by reallocating resources, agency Secretary Scott Hassett said. Other factors that fueled the push to end the backlog includes a "notice of deficiency" issued early last year by the U.S. Environmental Protection Agency for the Title V portion of the DNR's air-management program, as well as a state audit that looked at the DNR's air management program, agency officials said.

*Filed by the Green Bay Press-Gazette*



# WISCONSIN STATE LEGISLATURE



## Audit Dept

? 1) Is this true even w/ the recent chgs to the permitting process?

## Air Mgmt -

- 1) Operation permits } This Audit
- 2) Construction permits
- 3) Vehicle emissions - already did

\*invite EPA to hearing?

Sue

## Permits

"Major" - Federally required

"Synthetic Minor" - Federally required

Minor - State

Carol - accepted, approved  
or req

Table 2 (42) <sup>pg</sup> - Issuance of permits in Midwest

\* ↳ Appendix 3 (in back) - MA, NJ, & AZ, <sup>NV</sup> - only slower than WI <sup>th</sup> slowest

↳ Gen-Central finding of this report

↳ Business has already paid their fees - no permits

↳ "Neither effective or efficient"

- 2 very basic pieces of info they couldnt give Audit

1) How many permits issued

2) How many they have issued

Tom Held - MJS

Ron Seely (?) - MJS

\* Notice of deficiency "from EPA"

• WI fees not adequate to fund program

• 18-24 mo. to fix or ... (pg. 22)

Constr. - Pg. 55 - table shows new/old law. - new laws says when the clocks starts - upon completed app.

Carol: Because of Act 118  
this should be . . .  
(time for permits)

DNR - Convened a workgroup (Pg 62)

↳ recommendations never  
implemented

- Satisfaction Survey (Pg 51)

↳ most happy/satis w/ fees

Compliance

Pg. 68 - important table

Pg. 39 - Op. permits by region

↳ S.E. region - worst record

? When we would have  
been? before Act 118  
they ~~are~~ were? were  
they S/B now

Carol

- organization - how the  
hell can they do  
their jobs? ~~or~~

Jefferson

## Deficiencies in Program Mgmt of Op. P.

- Failing to Apply for an Operation Permit
- Failing to Issue O.P.
- Renewing Operation Permits

Since 1996  
Applied for

~~Karen is working on a Press~~

- Kinship Care - Email Diane - Amendment
  - debt sub
  - reassured no fiscal note

- Jennifer

- Anne Roessler ?

"Diane - help shepherd thru Senate"

<u>Senate</u>		<u>Assembly</u>	
Bessler	✓	Jeskewitz	✓
Swales	✓	Kaufert	excused
Arling	✓	Kerkman	✓
Wale	✓	Collen	✓
Wassa	✓	Poeran	✓

Speaking Order - Air Mgmt

Jan Mueller - For info (LAB)

Paul Steiber - For info (LAB)

Sec. Hasset - For info (DNR)

Lloyd Egan - For info (DNR)

Jeff Schoepke - (WMC)

Ed ~~W~~ Wilusz - (WI Paper Council)

Scope

Jan Mueller - For Info (LAB)

Sean Dilweg - For Info (DOA)

? Sarah King - " " (DOA)

Vance Rayburn - " " (DNR)

Larry ? - Employee for DHFS

1)

Cowles - fix w/o a fee increase? staffing?

↳ Gen - 180 positions - valid positions on both sides

See - odd for precise fee in statistics?

- prior to last change, fee did have inflationary increases

Pocan - ?? about increased # of facilities adding to prob.

↳ once DNR catches up, staffing s/n be such an issue - more spent on enforcement effort.

Pocan - What % of recommendation are labor issues

↳ diff. to answer - Data so bad - If management issues c/B addressed may answer resource question

See - Has permit prob. held up new companies? Or do we ~~allow~~ allow to build & catch up on permit after?

↳ in theory - no direct effect? A constr. permit w/B needed so it could hold things up. The survey portion of operators were clearly more upset w/constr. permits vs. oper. permits (28% dissatisfied).

Herzeman - Staffing issues in SE WI

Darling - What "teeth" in the recommendations can the legis look to? Way out of line with what other states doing -

↳ can't just - more people, more money - to correct this!

Rossler - will have follow-up in Sept/Oct

DNR =

Cowles - 16.519 request?

↳ online permitting can be a very effective tool,

Cowles - w/B enough to avoid a fee increase.

↳ hoping to pay for w/existing revenues. Sep. data systems



(2)

for a variety of areas w/ Air mgmt - they aren't compatible & don't allow for integration.

7 Cowles - NOD - detailed strategy - committee privy to this?

↳ No public document outlining strategy. Do have a one-page document could share w/committee.

Ressler

\* Focus Group Report on Recommendations to improve Air mgmt Pro

↳ will send to us

Ressler - Was critical of DNR's effort to promulgate Emerg.

Rules on the Job Creation Bill on the permitting Process

? ~~Industry~~ Industry is reducing workers, but the product needs to get the product out the door, - Dist. 5 telling industry they don't have enough staff to get permit done. - Need to do whatever it takes to get the job done. Other industry managers to do it - we do too.

↳ Our demands are not decreasing as in the private sector. We can't expect our employees to absorb increase, but we can & will <sup>re</sup>priority

Sue - If the feds said they will take over the fed permit process, why don't we let them?

↳ Stakeholders don't want to deal with Chicago. Double fees - feds charge more than we do. Stakeholders like to deal with regional people in WI. Also, DNR thinks the EPA's processes/enforcement diff.

Carol - Rec

↳ some recommendations have/w/3 implemented. Some situations they make sense & in others? Will need some funding to

3

implement others. Taking recommendations seriously & expect when we come back in Sept. they will all be implemented or in the

Rossler - When come back in Sept., be able to speak to:

- ① Existing LAB report
- ② Job Creation Legis

↳ Not just 2 things.

NBD, Job Creation, Grow WI, Audit - all need to be considered & how they intersect with each other, etc

\* Color copies for all members of audit

Kerckman - Look at other states, etc

↳ Did look at how other states (16) to see how their programs work, what they regulate - Act 118 will allow us to do some things other states are doing. There are other aspects of IT done in other states we will use to help develop an online program.

↳ Air mgmt is regional. Was<sup>is</sup> a group IL, IN, MI, WI did work together & came up w/ some of the best modeling expertise in nation. Ohio just joined the group.

EPA has to approve where monitoring stations are sited - have cut out 12 monitoring stations for budget reasons.

? But those stations are not in non-attainment zones like Kenosha.

↳ site plans approved by EPA, when

Darling - What is DNR's budget?

↳ \$460M, 2800 empl.?

? Why are we monitoring so many pollutants when we can't get the job done?

↳ 1988 policy established. Preceded 1990 Clean Air Amendment

(4)

We have been in the forefront nationally. Also we took a categorical approach to mgmt - historically.

Darling - Need to re-align our priorities. First we need to meet the Fed standards before we can expend money on additional standards WI wants.

• Hugesness of DNR, prioritizing - legis. frustrating - competing dynamics - legis priorities need to be considered

↳ DNR has made changes recently - add/change pollutants

? to the rules. Fed Clean Air Act has a "back slide" provision?

Darling - How does WI rank?

↳ in the middle - in permitting behind, better than some states on construction & worse than others.

Sue - EPA (4) segregating revenues & expenditures.

↳ make another account - makes sense to do as of new FY

Pocan - what do we regulate over what fed requires

Jeff S. - WMC | written testimony

Sue - evidence of denial waivers?

↳ No - hearing the dept trying to determine policy stands

Ed Wilks - WI Paper Council | written testimony

- tie fees to reduction in emissions

Page 39

Audit shows that DNR spends more time on each permit in SE WI than in other regions. Given that why less resources than other regions.

1/3 of all facilities in state  
26% of resources

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Pg. 13 - regions / Pg. 26 Staff #'s

Central office = 39% of staff  
↳ where resources spent?