



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

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Joint Committee on Finance

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Air Operation Permit Fees and Staff (DNR -- Air, Waste, and Contaminated Land)

[LFB 2009-11 Budget Summary: Page 488, #10]

CURRENT LAW

Certain stationary sources of air pollutants are required to obtain an operation permit to operate the source. Examples of stationary sources are factories, power plants, gas stations, printers, food processors, and nonmetallic mineral processing facilities. The Department of Natural Resources (DNR) issues operation permits, under delegated authority from the U.S. Environmental Protection Agency (EPA), to federally-regulated major sources. The federally-regulated program is generally known as the Title V program, after the title of the federal Clean Air Act Amendments of 1990. Major sources emit pollutants greater than a certain quantity, varying with the type of pollutant and whether the source is in an area of the state with a level of air pollution that does not meet federal air quality standards.

DNR also administers an operation permit program for some facilities that are required under state law, but not under the federal Clean Air Act, to obtain an operation permit. The state program includes issuance of: (a) federally-enforceable state operation permits (FESOPs), a type of permit available as an option to major sources that choose to limit the source's emissions enough to become a minor source subject to state regulation as allowed under federal law; (b) general operation permits (GOPs) for similar categories of stationary sources, such as nonmetallic mineral processing facilities, printers, asphalt plants, and crushers, that are not subject to federal permit requirements; (c) registration operation permits (ROPs) for sources that have actual emissions of less than 25 tons per criteria pollutant, such as ozone, sulfur dioxide, nitrogen dioxide, and particulate matter; and (d) state operation permits (SOPs) for state-regulated sources that are not categorized under (a), (b), or (c).

In 2008-09, DNR is appropriated \$9,956,600 PR with 88.25 PR positions from federally-regulated sources who pay annual air emission fees of \$35.71 per ton. Of this total, \$8,682,700

and 77.5 positions are located in the Bureau of Air Management. The remaining \$1,273,900 and 10.75 positions are located in the Bureau of Cooperative Environmental Assistance, Air and Waste Division Management, Division of Enforcement and Science, and Division of Customer and Employee Services. In addition, the Department of Commerce is appropriated \$234,400 PR with 2.0 PR positions from the federally-regulated sources air emission fees for administration of the small business clean air assistance program. In 2007-08, DNR assessed \$8,294,800 for federally-regulated sources, and collected revenue of \$9,797,800. (The amount collected is larger than the amount assessed because it includes some fees assessed in the prior billing year and collected in 2007-08.)

In 2008-09, DNR is appropriated \$1,320,900 PR with 10.0 PR positions from state-regulated sources. All permit types pay an annual operation permit fee of \$35.71 per ton of certain emissions, except: (a) general operation permit holders pay \$2,300 in the first year, and \$35.71 per ton thereafter; (b) registration operation permit holders pay \$1,100 in the first year, and \$35.71 per ton thereafter; and (c) sources exempt from an operation permit pay a \$300 annual fee.

GOVERNOR

Make the following changes in funding, staff, and fees for the federally-regulated and state-regulated air operation permit program.

a. Transfer \$1,145,300 PR and 10.0 PR positions annually from the program revenue appropriation for federally-regulated stationary sources, to the program revenue appropriation for state-regulated stationary sources. In addition, delete \$1,228,400 PR and 10.5 PR positions annually from the federally-regulated operation permit PR appropriation. (The net decrease in air management positions would be 10.5, with a decrease of 20.5 positions for federally-regulated sources and an increase of 10.0 positions for state-regulated sources.)

b. Delete the existing operation permit fee structure for state-regulated stationary sources, and replace it with a new fee structure, effective January 1, 2010. The administration estimates the current fees would have generated revenue of approximately \$655,000 PR annually, and the new fees would generate \$2,810,700 PR annually. Thus, the fee increases would generate revenue of \$2,155,700 PR annually. The changes in fees would not affect fees paid by federally-regulated sources.

c. Create a fee of \$3,475 annually for an operation permit issued by DNR for one or more points of emission from an existing source in order to limit the source's potential to emit so that the existing source is not a major source, if the operation permit includes federally-enforceable conditions that allow the amount of emissions to be at least 80 percent of the amount that results in a stationary source being classified as a major source. The administration estimates this fee will generate revenue of \$2,224,000 PR annually.

d. Create a fee of \$775 annually for all other stationary sources that are required to obtain an operation permit under state law, but not under the federal Clean Air Act. The administration estimates this fee will generate revenue of \$586,700 PR annually.

e. Eliminate the \$300 permit exemption fee that sources currently pay if they are exempt from the requirement to obtain an operation permit and had actual emissions of over three tons in the preceding year.

f. Authorize DNR to specify that an operation permit may have a term of longer than five years or may have no expiration date, if the permit is for a stationary source regulated under state law, but not under the federal Clean Air Act, and if the permit is not a registration or general permit.

DISCUSSION POINTS

1. Prior to calendar year 2005, stationary sources that were required to obtain an air operation permit were required to pay an annual air emissions tonnage fee of \$35.71 per ton for billable emissions of at least five tons. Under 2005 Act 25, changes were made in the operation permit fee structure. The Air and Waste Division stationary source emission fee appropriation was split in two, effective for fees assessed as of January 1, 2006. The two appropriations include: (a) one for revenues from stationary sources that are required to obtain an operation permit under the federal Clean Air Act; and (b) a state permit sources appropriation for sources that are required to obtain an operation under state law, but not under the federal Clean Air Act, or are allowed under federal law to obtain a state permit in lieu of a federal permit.

2. EPA issued a Notice of Deficiency (NOD) for the Title V (major source) air operation permit program in 2004, in which EPA determined that the state's program did not comply with the Clean Air Act. Two of several deficiencies identified by EPA were related to: (a) ensuring fees were sufficient to cover the costs of the state's Title V program; and (b) ensuring Title V program funds were used solely for Title V program costs. The stationary source air operation permit appropriation was split into federally-regulated and state-regulated appropriations in response to the NOD. In February, 2006, EPA determined that Wisconsin had resolved each of the deficiencies. EPA also determined it would not invoke sanctions against the program and would not administer any portion of the state's operation permit program.

3. The statutes require that the fees deposited in each of the two appropriations be used for the following: (a) the costs of reviewing and acting on applications for operation permits; (b) implementing and enforcing operation permits except for court costs or other costs associated with an enforcement action; (c) monitoring emissions and ambient air quality; (d) preparing rules and materials to assist persons who are subject to the operation permit program; (e) ambient air quality modeling; (f) preparing and maintaining emission inventories; (g) any other direct and indirect costs of the operation permit program; and (h) costs of any other activities related to stationary sources of air contaminants.

4. Table 1 shows the operation permit fees assessed for federally-regulated and state-regulated sources, by permit type, for 2006-07 (calendar year 2006 emissions) and 2007-08 (calendar year 2007 emissions).

TABLE 1
Operation Permit Fees by Permit Type 2006-07 and 2007-08

| <u>Permit Type Assessed *</u> | <u>2006-07</u> | | <u>2007-08</u> | |
|--|---------------------------------------|----------------------------------|---------------------------------------|----------------------------------|
| | <u>Number of Permit Type Assessed</u> | <u>2006-07 Assessed Revenues</u> | <u>Number of Permit Type Assessed</u> | <u>2007-08 Assessed Revenues</u> |
| Federally-Regulated Sources | | | | |
| Federal Operation Permit | 436 | \$8,471,400 | 417 | \$8,294,800 |
| State-Regulated Sources | | | | |
| Federally Enforceable State Operation Permit | 442 | \$370,800 | 382 | \$340,700 |
| State Operation Permit | 210 | 159,300 | 207 | 164,100 |
| General Operation Permit - Fee | 0 | 0 | 1 | 2,300 |
| General Operation Permit - Tonnage | 117 | 80,500 | 150 | 85,600 |
| Registration Operation Permit – Fee | 29 | 31,900 | 94 | 103,400 |
| Registration Operation Permit – Tonnage | 0 | 0 | 11 | 4,300 |
| Exemption from Operation Permit | <u>46</u> | <u>13,800</u> | <u>44</u> | <u>13,200</u> |
| Subtotal State-Regulated Sources | 844 | \$656,300 | 889 | \$713,600 |
| Total, All Sources Assessed Fees | 1,280 | \$9,127,700 | 1,306 | \$9,008,400 |

*All permit types pay an operation permit fee of \$35.71 per ton of certain emissions, except: (a) general operation permit holders pay \$2,300 in the first year, and \$35.71 per ton thereafter; (b) registration operation permit holders pay \$1,100 in the first year, and \$35.71 per ton thereafter; and (c) sources exempt from an operation permit pay a \$300 annual fee.

5. The new \$3,475 annual fee would apply to federally-enforceable state operation permits (FESOPs) that choose to limit the allowable emissions in their operation permit to between 80 and 100 tons per year. These sources are also called synthetic minor sources or "SM80." They are sources that have maximum theoretical emissions of more than 100 tons per year (the amount of pollutants that could be emitted if all business processes were running at full capacity without the operation of any emission control devices), but voluntarily accept limits in their operation permit to limit their potential to emit to less than 100 tons per year (the amount of pollutants that could be emitted under permit limits and emission controls operated by the source). These voluntary permit limitations allow FESOPs to be subject to state regulation instead of federal regulation as major sources.

6. Sources with maximum theoretical emissions of more than 100 tons per year and the potential to emit more than 100 tons per year are federally-regulated sources that pay annual emission fees of \$35.71 per ton of actual emissions. (They do not pay a fee in a year in which their

actual emissions are less than five tons.) The fees are deposited in the federally-regulated sources appropriation. This would not change under the bill.

7. Sources that would pay the \$775 annual fee under the bill are known as minor sources or natural minor sources. These sources have maximum theoretical emissions and the potential to emit of less than 100 tons per year. These sources include those with registration operation permits (low actual emissions of less than 25 tons per pollutant), general operation permits (categories of similar sources such as nonmetallic mineral processing facilities, printers, asphalt plants, and crushers), and state operation permits that do not fit registration or general operation permit criteria.

8. Table 2 shows the proposed state-regulated source fee amounts, DNR's estimates of the 1,397 payers of the fees, and \$2,810,700 in annual revenue. The new fees would be assessed on permitted sources, based on the type of permit they hold. In comparison, the existing fees shown in Table 1 are based on the actual number of tons of air pollutants emitted by the source, and 889 sources were assessed operation permit fees in 2007-08. Of the 889 payers, 44 paid a \$300 permit exemption fee, which would be eliminated under the bill. Administrative rule NR 410.04 (3) currently exempts a facility from the requirement to pay annual emission fees under the existing fee authorization in s. 285.69 (2) of the statutes for federally-regulated and state-regulated sources if the source's total annual actual emissions of all specified air contaminants is less than five tons. The proposed state-regulated source fees would be in a new s. 285.69 (2m), and the administrative rule exemption for actual emissions of less than five tons would not apply. DNR indicates the 552 sources that would be assessed the operation permit fees under the bill that did not pay an operation permit fee or permit exemption fee in 2007-08 most likely had actual emissions of less than five tons and were exempt from paying the fee in that year.

TABLE 2

DNR's Estimated Revenues for State-Regulated Sources Under AB 75

| <u>Type of Source</u> | 2009-10 | | | 2010-11 | | |
|-------------------------------|---------------------------------------|---------------------------|----------------------------------|---------------------------------------|---------------------------|----------------------------------|
| | <u>Number of Permit Type Assessed</u> | <u>2009-10 Annual Fee</u> | <u>2009-10 Estimated Revenue</u> | <u>Number of Permit Type Assessed</u> | <u>2010-11 Annual Fee</u> | <u>2010-11 Estimated Revenue</u> |
| Federally-Enforceable State | | | | | | |
| Operation Permit / SM80 | 640 | \$3,475 | \$2,224,000 | 640 | \$3,475 | \$2,224,000 |
| State Operation Permit | 122 | 775 | 94,600 | 72 | 775 | 55,800 |
| General Operation Permit | 302 | 775 | 234,100 | 302 | 775 | 234,100 |
| Registration Operation Permit | <u>333</u> | 775 | <u>258,000</u> | <u>383</u> | 775 | <u>296,800</u> |
| Total Assessed | 1,397 | | \$2,810,700 | 1,397 | | \$2,810,700 |
| Exempt from Operation Permit | 92 | \$0 | \$0 | 98 | \$0 | \$0 |

9. DNR reviewed workload for state-regulated sources, and determined it needs 20

positions for the program, with annual costs of \$2.4 million to \$2.6 million per year. Types of work activities are permit issuance, permit revision, compliance, enforcement, assistance to permit holders, emission inventory, complaint investigation, and policy and program development. DNR officials indicate that FESOPs / SM80s represent approximately 80% of the program workload (16 of 20 positions) because EPA requires DNR to do certain compliance and inspection work for these sources that is not required for solely state-regulated sources. For example, DNR indicates it would have to do full compliance evaluations at these facilities every five years. DNR indicates that the program experiences workload for other state-regulated sources even if they have low actual emissions.

10. The current state-regulated source fees were created in the 2005-07 biennial budget, but have never been sufficient to fund the 10 positions that were moved from the federally-regulated appropriation to the state-regulated appropriation at the same time. Revenue collections under the current fee structure were \$746,800 in 2007-08 and are estimated at \$655,000 annually through 2010-11. In 2008-09, DNR is holding three to five positions vacant in order to maintain a positive balance in the account.

11. Under the current fee structure, DNR receives revenues sufficient to fund approximately five to seven positions, but believes the workload associated with state-regulated sources is 20 FTE.

12. Table 3 shows actual and estimated revenues and expenditures for the state-regulated sources PR appropriation. In 2010-11, anticipated revenues would total \$2,810,700 and authorized expenditures would total \$2,385,200. The estimated balance at the end of 2010-11 would be \$1,454,400. The administration has indicated its intent to transfer \$13,200 annually from the appropriation to the general fund, equal to the 1% across the board agency reductions.

TABLE 3**State-Regulated Air Operation Permits --
Revenues and Expenditures Under AB 75**

| | 2007-08 <u>Actual</u> | 2008-09 <u>Base</u> | 2009-10 <u>AB 75</u> | 2010-11 <u>AB 75</u> |
|--------------------------------|--------------------------|------------------------|-------------------------|-------------------------|
| Opening Balance | \$685,300 | \$827,300 | \$610,600 | \$1,042,100 |
| Revenue | <u>746,800</u> | <u>707,500</u> | <u>2,810,700</u> | <u>2,810,700</u> |
| Total Available | \$1,432,200 | \$1,534,800 | \$3,421,300 | \$3,852,800 |
| Appropriations | \$554,900 | \$1,320,900 | \$2,291,700 | \$2,291,700 |
| Reserves | <u>0</u> | <u>0</u> | <u>74,200</u> | <u>93,500</u> |
| Authorized Expenditures | \$554,900 | \$1,320,900 | \$3,365,900 | \$3,385,200 |
| Planned expenditure reductions | <u>0</u> | <u>-396,700</u> | <u>0</u> | <u>0</u> |
| Total Expenditures | \$554,900 | \$924,200 | \$2,365,900 | \$2,385,200 |
| Transfer to the general fund | \$50,000 | 0 | \$13,200 | \$13,200 |
| Closing Balance | \$827,300 | \$610,600 | \$1,042,100 | \$1,454,400 |
| Number of Authorized Positions | 10.00 | 10.00 | 20.00 | 20.00 |

13. DNR has determined that workload has decreased for federally-regulated sources as the workload has increased for state-regulated sources. DNR anticipates the Bureau of Air Management would need 57.0 positions instead of 77.5 positions for the federally-regulated sources program.

14. Table 4 shows the actual and estimated revenues from emission tonnage fees and expenditures for the federally-regulated sources program revenue appropriations. In 2008-09, DNR is holding approximately seven positions vacant in order to maintain a positive balance in the account. Under AB 75, the number of positions authorized from federally-regulated sources permit fees would decrease from 90.25 in 2008-09, by 21.0, to 69.25 in 2010-11. Of the total positions, the number in the Bureau of Air Management would decrease from 77.5 in 2008-09, by 20.5, to 57.0. (The other 0.5 position deleted under the bill is located in the Bureau of Cooperative Environmental Assistance.) In 2010-11, under the bill, anticipated revenues would total \$7,483,900 and authorized expenditures would total \$8,161,800. The estimated balance at the end of 2010-11 would be \$425,100. While revenues would be expected to be sufficient to fund the positions authorized under AB 75 during the biennium, annualized expenditures will exceed revenue, and funding for the program will need to be reviewed during 2011-13 biennial budget deliberations.

TABLE 4**Federally-Regulated Air Operation Permit (Emission) Fees --
Revenues and Expenditures Under AB 75**

| | 2007-08 <u>Actual</u> | 2008-09 <u>Base</u> | 2009-10 <u>AB 75</u> | 2010-11 <u>AB 75</u> | 2008-09 <u>Positions</u> | 2010-11 <u>Positions</u> |
|---|--------------------------|------------------------|-------------------------|-------------------------|-----------------------------|-----------------------------|
| Opening Balance | \$1,374,100 | \$2,995,400 | \$1,485,900 | \$1,103,100 | | |
| Revenue - Emission Fees | <u>9,797,800</u> | <u>7,892,300</u> | <u>7,621,400</u> | <u>7,483,900</u> | | |
| Total Revenue Available | \$11,171,900 | \$10,887,800 | \$9,107,300 | \$8,586,900 | | |
| Expenditures and Reserves | | | | | | |
| DNR Division of Air and Waste | \$7,599,000 | \$9,402,900 | \$6,738,100 | \$6,738,100 | 83.50 | 62.50 |
| DNR Division of Enforcement and Science | 76,900 | 107,400 | 110,000 | 110,000 | 1.00 | 1.00 |
| DNR Division of Customer and Employee Services | 266,900 | 446,300 | 461,800 | 461,800 | 3.75 | 3.75 |
| Commerce Small Business Clean Air Assistance Program | 233,600 | 238,500 | 239,300 | 239,300 | 2.00 | 2.00 |
| Reserves and Encumbrances | | <u>6,700</u> | <u>445,100</u> | <u>612,600</u> | | |
| Authorized Expenditures | \$8,176,500* | \$10,201,800 | \$8,004,300 | \$8,161,800 | | |
| Planned expenditure reductions | <u>0</u> | <u>-800,000</u> | <u>0</u> | <u>0</u> | | |
| Estimated Expenditures | \$8,176,500 | \$9,401,800 | \$8,004,300 | \$8,161,800 | | |
| Closing Balance | \$2,995,400 | \$1,485,900 | \$1,103,100 | \$425,100 | 90.25 | 69.25 |

* 2007-08 expenditures are actual.

15. The appropriate allocation of resources and staff time to permitting of federally-regulated and state-regulated sources has been an issue for several years. The appropriate level of fees paid by sources has also been a subject of debate. Table 5 shows the allocation of revenue and positions under the bill, and the allocation of operation permits and tons of emissions to federally-regulated and state-regulated sources. While approximately three-fourths of revenue and staff would work on permitting of federally-regulated sources, those sources comprise over 90% of billable emissions and approximately 25% of permitted sources. Therefore, while the bulk of the workload and staffing is associated with the federally-regulated major sources, an even larger share of the air emissions tonnage fees revenue is associated with these facilities. This leaves only a small share of revenues (less than 8%) remaining under the current system for regulation of the much more numerous, but smaller, emissions sources under the primarily state regulated program.

TABLE 5

**Allocation of Air Operation Permit Resources
Under AB 75**

| | <u>Federally- Regulated Sources</u> | <u>State- Regulated Sources</u> | <u>Total Sources</u> |
|--|---|-------------------------------------|--------------------------|
| Estimated Revenue, 2010-11 | \$7,483,900 | \$2,810,700 | \$10,294,600 |
| Percent of Total | 72.7% | 27.3% | 100.0% |
| Authorized Positions, 2010-11 | 69.25 * | 20.00 | 89.25 |
| Percent of Total | 77.6% | 22.4% | 100.0% |
| Estimated Number of Operation Permits, 2010-11 | 475 | 1,397 | 1,872 |
| Percent of Total | 25.4% | 74.6% | 100.0% |
| Billable Tons of Emissions, 2007-08 | 232,200 | 17,000 | 249,200 |
| Percent of Total | 93.2% | 6.8% | 100.0% |

* Of the 69.25 positions authorized for federally-regulated sources, 57.0 are located in the Bureau of Air Management.

16. Some level of fee increase could be viewed as necessary to fund the workload of regulating state-funded sources. The fee structure in the bill would charge higher fees to sources that generate higher workload for the Department (the SM80s). The transfer of 10.0 positions from the federally-regulated to state-regulated sources appropriation could be considered a way of properly aligning staff resources with workload.

17. On the other hand, concerns could be raised about the amount of the fee increase for individual businesses, especially for facilities with low actual emissions. Some facilities have five or 10 tons of actual emissions and currently pay an annual emissions tonnage fee of \$178.55 or \$357.10, but under the bill would pay \$775 or \$3,475, depending on which type of permit is held by the facility.

18. The level of fee increase could be a burden on businesses during difficult financial times. The fee structure could be viewed as a penalty on facilities that voluntarily accepted emission limits of less than 100 tons per year in their permit in order to hold federally-enforceable state operation permits instead of federal operation permits. Such facilities, if they have low actual emissions, would pay higher fees per ton of actual emissions than if they had remained classified as federally-regulated sources with emissions limits higher than 100 tons.

19. DNR officials indicate sources that currently have permits that limits emissions to between 80 and 100 tons per year, and have actual emissions of less than 80 tons, may want to revise their operation permit to allow less than 80 tons of emissions. This would move the source

from the \$3,475 fee level to the lower \$775 fee. DNR officials also indicate they may be able to help permit holders through the process of obtaining permit revisions before December 31, 2009, so that interested and eligible permit holders could become eligible for the lower permit fee. DNR indicates such modifications would not be subject to permit revision fees.

20. It is unknown how many of the estimated 640 permit holders who could be assessed the \$3,475 fee under the bill would be eligible, or willing, to revise their permit to accept emissions limits below 80 tons per year and become eligible for the \$775 fee. Any sources that go through this process would reduce the ongoing workload DNR has for FESOPs, and would reduce the revenue from the amounts estimated under the bill.

21. A fee increase could be implemented that provides more revenue than the current \$655,000 annual revenue, but less revenue than the \$2,810,700 estimated under the bill. There are many ways this could be done. For example, if the annual fees would be created at approximately one-half the level in the bill (\$1,740 instead of \$3,475, and \$390 instead of \$775), the new fee structure may generate revenue of approximately \$1,401,800 annually. This would represent an increase of \$753,900 over the current law revenue, and a decrease of \$746,800 from the amounts anticipated under the bill (Alternative 2). This option would be sufficient to fund 14 positions in the state-regulated sources appropriation, including the 10.0 currently authorized positions, and 4.0 positions which could be transferred from the federally-regulated sources appropriation (instead of transferring 10.0 under the bill). However, if a significant number of sources opt for permit revisions, revenues would be substantially lower.

22. There are approximately 552 permitted sources that did not pay an annual emission fee in 2007-08 because they had actual emissions of less than five tons and so were exempt from paying the fee. DNR officials indicate these facilities would pay the fee under the bill based on their permit type. Some of these would be FESOPs that would be subject to the \$3,475 fee, but most would be permit types subject to the \$775 fee. A fee of some amount may be appropriate for workload associated with sources with low actual emissions. However, some might view going from \$0 currently to \$775 or \$3,475 to be unacceptable. A lower fee amount could be considered for sources with actual emissions of less than five tons. For example, the bill could be amended to set the annual fee at \$400 for sources with actual emissions of less than five tons (Alternative 3a). Under this alternative, the fee would be approximately half of the \$775 fee under the bill, and revenues may be approximately \$207,000 less annually than under the bill, or \$414,000 during the biennium (based on approximately 552 sources). Another option would be to set the annual fee at \$175 for sources with actual emissions of less than five tons (Alternative 3b) which is slightly less than the \$178.55 in emission tonnage fee paid by sources with five tons of emissions. This would generate approximately \$331,200 less in revenue than under the bill, or \$662,400 during the biennium. Finally, if the bill would be amended to exempt sources from the permit fee in a year in which the source has actual emissions of less than five tons (Alternative 3c), this would generate approximately \$427,600 less revenue than under the bill, or \$855,600 during the biennium.

23. DNR officials have expressed concern that if the Department is not able to increase fees to a level sufficient to fund anticipated workload related to state-regulated sources, EPA could

again review whether the state's operation permit program meets federal Clean Air Act requirements. This would be of particular concern at FESOPs (SM80s) which are under greater EPA review and oversight than other state-regulated sources (because FESOPs would be major sources subject to federal operation permit requirements if they did not voluntarily reduce their emissions). It is unknown what budget decisions might lead to an EPA issuance of another Notice of Deficiency. However, DNR believes the current level of five to seven staff, or the currently authorized level of 10, will raise EPA concerns.

24. If no fee increase is approved and if none of the 20.5 positions in the federally-regulated sources appropriation are transferred to the state-regulated appropriation or deleted (Alternative 4), it is likely all or most of the 20.5 positions would have to be held vacant in order to hold expenditures within available revenues from federally-regulated sources. In addition, DNR would probably have to continue to maintain three or more vacant positions in the state-regulated sources appropriation to hold expenditures within available revenues.

25. If no fee increase is approved, the Committee could consider deleting 23.5 unfunded positions (Alternative 5). This would include the 20.5 positions that would be deleted from the federally-regulated sources appropriation under the bill and 3.0 positions in the state-regulated sources appropriation.

26. The assumptions under the bill regarding staffing needs are based on enacting the recommendation to allow DNR to make the term for state-regulated permits non-expiring, or for longer than five years. If this provision is not approved, it is probable workload would increase related to the renewal of expiring permits.

ALTERNATIVES

1. Approve the Governor's recommendation to: (a) transfer \$1,145,300 PR and 10.0 PR positions annually from the federally-regulated to the state-regulated stationary sources appropriation; (b) delete \$1,228,400 PR and 10.5 PR positions annually from the federally-regulated sources appropriation; (c) delete the existing operation permit fee structure for state-regulated stationary sources; (d) create a new state-regulated sources fee structure, effective January 1, 2010; (e) create a fee of \$3,475 annually for an operation permit issued by DNR for one or more points of emission from an existing source in order to limit the source's potential to emit so that the existing source is not a major source, if the operation permit includes federally-enforceable conditions that allow the amount of emissions to be at least 80 percent of the amount that results in a stationary source being classified as a major source; (f) create a fee of \$775 annually for all other state-regulated stationary sources; (g) eliminate the \$300 permit exemption fee; and (h) authorize DNR to specify that an operation permit for a state-regulated source may have a term of longer than five years or may have no expiration date, if the permit is not a registration or general permit. The fees would generate an estimated \$2,810,700 annually (an increase of \$2,155,700 over current law).

2. Approve Alternative 1, as modified to: (a) create a fee amount of \$1,740 instead of \$3,475; (b) create a fee of \$390 instead of \$775; (c) transfer \$458,000 PR annually and 4.0 PR

positions from the federally-regulated sources appropriation to the state-regulated sources appropriation (instead of transferring \$1,145,300 PR and 10.0 positions under the bill); and (d) delete an additional \$687,300 PR and 6.0 PR positions (the portion of the 10.0 positions that would not be transferred to the state-sources appropriation under this alternative). This alternative could generate fees of approximately \$1,401,800 annually (an increase of \$753,900 over current law, and a decrease of \$746,800 from the bill).

| ALT 2 | Change to Bill | | |
|-------|----------------|--------------|-----------|
| | Revenue | Funding | Positions |
| PR | -\$1,493,600 | -\$1,374,600 | - 6.00 |

3. Approve Alternative 1 or 2, as modified to specify that the fee assessed for a year that a state-regulated source had actual emissions of all regulated air contaminants of less than five tons would be one of the following amounts instead of \$775 or \$3,475 under the bill:

a. \$400. This would generate approximately \$207,000 less revenue annually than under the bill.

| ALT 3a | Change to Bill |
|--------|----------------|
| | Revenue |
| PR | -\$414,000 |

b. \$175. This would generate approximately \$331,200 less revenue annually than under the bill.

| ALT 3b | Change to Bill |
|--------|----------------|
| | Revenue |
| PR | -\$662,400 |

c. \$0. This would generate approximately \$427,600 less revenue annually than under the bill.

| ALT 3c | Change to Bill |
|--------|----------------|
| | Revenue |
| PR | -\$855,600 |

4. Delete provision. (The existing fee structure for state-regulated sources would be maintained. The 20.5 PR positions would be restored to the federally-regulated sources appropriation, but would likely be held vacant during the biennium because of insufficient revenue. DNR would also have to hold 3.0 or more of 10.0 positions vacant in the state-regulated sources appropriation.)

| ALT 4 | Change to Bill | | |
|-------|----------------|-------------|-----------|
| | Revenue | Funding | Positions |
| PR | - \$4,311,400 | \$2,456,800 | 10.50 |

5. Delete the proposed fee increase. Approve the Governor's recommendation to delete \$1,228,400 PR and 10.5 PR positions annually from the federally-regulated stationary sources appropriation. In addition, delete: (a) \$1,145,300 PR annually and 10.0 PR positions in the federally-regulated sources appropriation, instead of transferring them to the state-regulated stationary sources appropriation; and (b) \$343,800 PR annually and 3.0 PR positions in the state-regulated appropriation. (The deletion of the 23.5 positions would align expenditure levels with the anticipated resources available under current law.)

| ALT 5 | Change to Bill | | |
|-------|----------------|---------------|-----------|
| | Revenue | Funding | Positions |
| PR | - \$4,311,400 | - \$2,978,200 | - 13.00 |

Prepared by: Kendra Bonderud