



Jeff Mursau

STATE REPRESENTATIVE • 36TH ASSEMBLY DISTRICT

Testimony for 2013 Senate Bill 189

Senator Kedzie and Committee Members,

Thank you for hearing this bill today.

In 1999 the State of Wisconsin made an agreement with the Forest County Potawatomi Community to allow their comment on air permitting.

In 2012, the State of Wisconsin reformed how it handles a number of environmental regulations. Among the decisions by the State was to decide air modeling is:

- a) Not necessary for all minor air emitters; and
- b) An unnecessary cost to both the applicant and the department for no measurable benefit for minor air emitters or the communities they reside in or precede

The law changed to state, "The department is not required to use air dispersion modeling as a basis for making its findings ... for a minor source unless modeling is specifically provided for under the federal clean air act, rules promulgated under this chapter, or a federal or state agreement."

"... not required to use air dispersion modeling" in current statute leaves permission for DNR to require modeling when necessary.

While this language was very close to the desired version by all parties affected by it, true unanimity on the language was the desire. I worked with members of the Forest County Potawatomi Community, the Wisconsin Paper Council and Wisconsin Manufacturers & Commerce and the Department of Natural Resources to address sections 18 through 23 of this bill and to achieve unanimity.

The language included in SB 189 better reflects the desires of all interested parties affected by last year's legislation:

"except as specifically required under the federal clean air act or as provided in par. (b)" in the bill leaves permission for DNR to require modeling when it is necessary for both the Clean Air Act and for the 1999 agreement with the Forest County Potawatomi Community.

Thank you again for your consideration of this bill. I would be pleased to try to answer any questions you might have regarding this section of the bill.



June 5, 2013

Testimony for Senate Bill 189

Chairman Kedzie and Committee members, I want to thank you for the opportunity to testify on Senate Bill 189. The Department views Senate Bill 189 as a “clean-up” bill that addresses a number of smaller issues and drafting errors that Senator Kedzie and Representative Mursau are taking care of in one piece of legislation.

There are three provisions in Senate Bill 189 that the Department would classify, simply, as drafting errors. Last Session, the Sporting Heritage Act lowered the age to spear sturgeon from 14 to 12 years of age. The law changed the age correctly in 29.237 (1m), but unfortunately missed changing the age in 29.569 (3) (bm). Next, the new wetlands law passed last Session intended to give the DNR citation authority for minor wetland fills that may not rise to the level of a referral to the Department of Justice. This was a provision that many parties, including the Wisconsin Wetlands Association, advocated for inclusion in the final bill. This legislation fixes a cross reference to the Uniform Citation process found in 23.50, so that it cross-references 281.36, to give DNR the authority to use the 23.50 process in wetland enforcement. Finally, there was a drafting error contained in the public notice section of the Chapter 30 Regulatory Reform Act. This legislation corrects that error, and allows permit applicants, who are required to publish a class 1 public notice for certain Chapter 30 and wetland permits, to request the department publish the class 1 notice. The Department will charge the applicant the average cost of class 1 notices. This will allow the Department to begin the 30 day public comment period sooner, and ensure that permits are issued in a timely manner.

There are also a number of minor issues that are not the result of drafting errors. First, DNR’s Bureau of Law Enforcement has asked for an update to existing statutes, which protect the identity of people who use the DNR’s toll-free tip line. As technology changes, so too should the statutes. The protection of the identity of people who use e-mail, text, or other electronic means to alert the DNR of possible violations should be afforded the same confidentiality protection as people who use the toll-free hotline. *(1-800-TIP-WDNR or 1-800-847-9367 - Confidentially report suspected wildlife, recreational, and environmental violations).*

Next, SB 189 removes the requirement that one member of the Dry Cleaner Environmental Response Council in Chap. 15.347(2), represent dry cleaning operations with annual gross receipts of less than \$200,000. The \$200,000 threshold was established more than 15 years ago, and working with the industry; it has not been possible to find a member that meets this gross receipts criteria.

Finally, the Department finds the air dispersion modeling provision improves clarity, certainty, and customer service, without reducing our ability to protect the environment.

The bill clarifies that the Department’s Air Program may not require air pollution control permit applicants to perform air dispersion modeling before the Air Program acts on applications other than for major source construction permits. The Air Program will still need to demonstrate that ambient air quality standards and increments are not violated prior to issuing any air pollution control permit. For major source construction permits, applicants will still have to submit air dispersion modeling, as provided under the Federal Clean Air Act.

The bill also states that the Department may require an applicant to perform air dispersion modeling if such modeling is authorized under any agreement between the state and a federally recognized American Indian tribe or band, a federal tribal implementation plan, or administrative rules that cover tribal air interests. The terms of the above mechanisms may be used to implement air programs if the tribe has received treatment as a state status or tribal property has been designated as a class 1 area. This provision maintains the sovereignty of the tribes within the state and upholds any agreements into which the state has entered.



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Citation Authority for Wetland Violations Will Reduce Unauthorized Wetland Development

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Wisconsin Wetlands Association supports the provisions in SB 189 which propose to extend the authority of DNR conservation wardens to issue citations for unauthorized wetland development.

The ability to issue tickets for wetland violations will help the state avoid the need to pursue more costly and controversial enforcement actions for smaller infractions. Citation authority will also help the Department educate the public about how to comply with wetland permit requirements. The Department has effectively used citation authority to enforce lake and river protection laws for many years, and SB 189 simply extends that authority to wetlands.

The bill also clarifies the legislature's intent to establish wetland citation authority as part of 2011 Wisconsin Act 118. Wetland citation authority was one of the provisions of that bill that Wisconsin Wetlands Association strongly supported; however, due to a minor drafting error, the provisions as described in the bill analysis were not fully supported in the enacted statute.

We thank Senator Kedzie and Representative Mursau for recognizing and correcting this omission and for honoring their commitment to improve wetland regulatory compliance.

Questions about this statement can be directed to Policy Director, Erin O'Brien at: 608-250-9971 / erin.obrien@wisconsinwetlands.org

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Wisconsin Wetlands Association is dedicated to the protection, restoration and enjoyment of wetlands and associated ecosystems through science-based programs, education and advocacy. WWA is a non-profit 501(c)(3) organization.



Preserving Wisconsin's Wetland Heritage