

## Hill, Maria A - DNR

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**From:** Kaster.Mark@dorsey.com  
**Sent:** Wednesday, March 03, 2021 5:01 PM  
**To:** Hill, Maria A - DNR  
**Subject:** Comment on Guidance Document on Next Business Day Deviation Reporting

*Ms. Maria Hill, Section Chief  
Wisconsin Department of Natural Resources  
[Maria.Hill@wisconsin.gov](mailto:Maria.Hill@wisconsin.gov)*

*Re: Guidance Document on Next Business Day Deviation Reporting*

*Dear Ms. Hill,*

*I am writing in regards to the WDNR's request for feedback and comments on the agency's new proposed guidance document related to "recommended steps" for businesses to take in response to an air permit deviations. Under the new guidance, the agency expects that stakeholders will file next day deviation reports for any deviation from an air permit, regardless of circumstance.*

*I represent a number of stakeholders with operations that could be subject to the new guidance. I share the expressed concern of the Wisconsin Manufacturer's and Commerce Association that strict adherence to the guidance is impracticable and would greatly increase the regulatory burden, cost, and man-hours for permittees -- without measureable environmental benefit. In my experience, next day deviation reporting predicated on emission exceedances has been the routine approach taken by the EPA and other state and local regulators. Indeed, this approach was recognized in guidance issued by the WDNR back in 2010 where discretion was advised and next day reporting compliance focused on situations that had a significant actual or potential environmental or health-related impact. The agency's new position makes any deviation from a permit term or condition a reporting obligation.*

*As you are aware, the WDNR now routinely incorporates by reference, or appends, the entirety of Clean Air Act requirements to agency permits. The result can be hundreds of pages of details, any one of which could create a reporting obligation. The permit requirements have become so voluminous that companies require special expertise to understand and comply. Moreover, the requirements can be subject to varied interpretation, based on any number of criteria.*

*In the WDNR's 2010 guidance document on deviation reporting, there was recognition that Wisconsin reporting requirements should be evaluated and adjusted to better focus reporting obligations. The new guidance does not follow that approach, but rather confirms a broadening of the stakeholder burden.*

*I would ask that the agency reconsider its current approach and seek further input from stakeholders to create a reporting scheme that balances the agency's need for information, the environmental benefits and stakeholder burden.*

*Thank you for your consideration.*

*Mark*

Mark R. Kaster  
Partner



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