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POLITICS AND POLICY

Report Says Many Major Polluters Operate Without Required Permits

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WASHINGTON -- A third of the nation's major polluters operate without permits and monitoring systems that Congress had required by 1997 because of a chronic lack of resources and bureaucratic confusion in state agencies, according to a draft report by regulators.

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The report from the Environmental Protection Agency's inspector general's office concludes that efforts to monitor and enforce pollution levels have fallen behind, and asserts that the EPA has "not realized" benefits that Congress intended in 1990, when it made the last major changes to the Clean Air Act.

The latest report is likely to give Congress pause as it considers deeper cuts in pollution levels being pressed by both Democrats and the Bush administration.

In 1990, Congress required each major industrial polluter to obtain one permit that holds their emissions on regulated pollutants to specific levels and requires monitoring. The permit was to be issued by state agencies paid through fees charged to polluters based on emissions.

The report states that by last July, only 63% of the 19,025 major sources of industrial pollution in the U.S. had obtained permits, although the law imposed a deadline of 1997. The most delinquent region, according to the report, is New England, where on average only 37% of the permits had been issued. Among states, the most delinquent region is New Jersey, where only 30% have been issued.

Kyla Bennett, director of the Boston office of Public Employees for Environmental Responsibility, which had obtained a copy of the internal report, said the "poor track record" of industrial states "should be setting off alarm bells." The largest polluters, such as power plants, are generally the ones lacking permits, according to PEER, which represents employees in some of the 112 state and local agencies that implement the program.

EPA spokesman Joe Martyak acknowledged the program has had problems and blamed some of the delays on lawsuits by industries. "We've given the message to our offices in various regions to focus on things that really matter and to get these permits in place and correctly in place." The final version of the report is expected to be released in April.

Bradley Campbell, named last week as commissioner of New Jersey's Department of Environmental Protection, said, "I share the concerns that are raised in the report." He has launched an investigation on the permit backlog and how to deal with it.

The report noted that several states in the EPA sample lacked sufficient resources to run the program and that many states had difficulties getting EPA guidance on how the agency's regulations should be applied to a specific polluter.

One big problem is a so-called new source review section of the Clean Air Act that applies to power plants and other complex facilities. John D. Walke, a lawyer who formerly oversaw the program for the EPA, said that industries often pressured state legislatures to "low ball" the fees charged to operate the program. Legislatures in states that had collected adequate fees sometimes shifted the money to other purposes. "These were two of the dirty secrets we had to deal with," Mr. Walke said.

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