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HEADLINE: GROUP: WATER LAWS NOT ENFORCED

BYLINE: Anita Weier The Capital Times

BODY:

An environmental group is accusing the state Department of Natural Resources of failing to enforce water pollution laws.

Midwest Environmental Advocates alleges that the state loses millions of dollars in penalties each year by not prosecuting facilities that violated the laws, and that lack of enforcement has encouraged violations.

The group analyzed DNR and EPA databases from the 1990s for its report, titled "Who is Guarding Our Waters?"

The report states that from 1990 to 1998, between 28 and 46 percent of major industrial facilities were in "significant" noncompliance with their state pollutant discharge permits, depending on the year. During that time, from 31 to 55 percent of major municipal facilities did not comply.

On average during those eight years, the DNR sent notices of violation to only 10 percent of all municipal and industrial facilities that did not comply, according to Midwest Environmental Advocates. During that same time period, the DNR referred to the Department of Justice for prosecution only 2.5 percent of all non-complying industrial and municipal facilities, the report says.

"When the odds of getting penalized for pollution are this low, it is no surprise to see such a high number of facilities violating their permits and treating our rivers and streams like waste conveyers," said Melissa Scanlan, executive director of Midwest Environmental Advocates and primary author of the report.

Those who pollute have no incentive to improve their facilities if they do not have to pay penalties for pollution, she said. State law allows the DNR to prosecute polluters and seek up to \$10,000 per day in penalties for every violation. If the DNR had been awarded the maximum penalty for the 28,436 assessable violations in 1998, the state could have received more than \$284 million, the report says.

In 1999, according to the report, the DNR failed to inspect 53 percent of all major industrial facilities with permits. In 2000, only four industrial and municipal facilities were prosecuted for water pollution, and they paid only \$

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Capital Times (Madison, WI) January 30, 2002 Wednesday, ALL Editions 212,217 to the state for penalties, the report says.

But Darrell Bazzell, secretary of the DNR, said that Midwest Environmental Advocates looked at a very small part of the agency's compliance programs, by focusing on municipalities and larger industrial facilities.

"We take a look at where the impacts and risks are. We have found over the years that the biggest concern is with the smaller operations. Larger facilities have staff who can solve problems on the spot," Bazzell said.

"The EPA direction is not to inspect all of them. They agreed with us to concentrate on the smaller ones. We operate on delegated authority from the EPA."

Bazzell also said that the group's report makes an assumption that any violation will result in a large fine and be referred to the Department of Justice. However, he said, many cases are resolved before that.

"Our goal is to solve the problem, not see how many cases we can refer to the Department of Justice," he said. "If you have a situation where there is an imminent threat to public health or safety, it is automatically referred."

GRAPHIC: Photos of Melissa Scanlan and Darrell Bazzell