Common ERP Deficiencies

Four most common ERP Issues

- Not having one

- Not updating one

- Not having support for ERP in Code or PT Manual

- Not having more than one "step" in enforcement

Not having an ERP

- Required under 40 CFR 403 and s. NR 211.23(1)(g), Wis. Adm. Code

- Not a case of it being not developed, usually just lost

- Easy Fix-Usually just a case of hunting one up, but it will likely be out of date

No updates

- It isn't a "one and done" document
  - Administrations and organizational changes can render one non-applicable
    - Job title changes
    - Enforcement mechanism name changes
    - Code changes
  - Names and uses of enforcement mechanisms can change over time
    - Delivery methods
      - Phone vs. email
    - Letter vs. Notice

Still a simple Fix

- ERP usually doesn't require council or board approval
- Just rewrite it to fit current conditions and practices, and send it in

No support in PT manual or Code

- There may be actions in ERP that are not replicated in Code or PT manual
  - Names may have changed
  - ERP may be newer than code changes or PT manual
  - ERP may be newer than code or PT manual
- Not technically required if Code or PT manual adopt ERP by reference, but support in both makes for a stronger case if enforcement actions are questioned

Insufficient Responses in ERP

- ERPs frequently contain only 2 steps
  - A "notice"
  - A penalty once found guilty of a violation in court
- Typically, the "notice" doesn't come with an actual mechanism to ensure alterations to discharge

Not a simple fix

- Need buy-in from council or board
  - May need to have habitual offender or consistent plant upset by specific industries
- Need to add additional steps to Code, PT manual and ERP if allowed
  - Compliance Order
  - Consent Order
  - Municipal Citations

Questions?