



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-1736/1
ZDW:klm

2017 ASSEMBLY BILL 264

April 24, 2017 - Introduced by Representatives JACQUE, ALLEN, BRANDTJEN, R. BROOKS, KNODL and MURPHY, cosponsored by Senator STROEBEL. Referred to Committee on Environment and Forestry.

1 **AN ACT to repeal** 299.85 (2) (b), 299.85 (2) (bm) and 299.85 (3m); **to amend**
2 299.85 (2m), 299.85 (3) (intro.), 299.85 (3) (d), 299.85 (3) (e), 299.85 (3) (em),
3 299.85 (7) (a) 1., 299.85 (7) (a) 2. and 299.85 (9m) (d); and **to create** 299.85 (8)
4 (g) of the statutes; **relating to:** time limits for correcting violations found by the
5 environmental compliance audit program.

Analysis by the Legislative Reference Bureau

This bill increases the amount of time an entity subject to environmental requirements has to correct violations found as part of the environmental compliance audit program administered by the Department of Natural Resources. The amount of time is increased from 90 days to 180 days for most violations and to 360 days if the correction involves a pollution prevention modification. This bill also eliminates the requirement that an entity notify DNR no fewer than 30 days before beginning an audit and the requirement that proposed compliance schedules be subject to a public notice and comment period.

This bill also requires DNR and the Department of Justice, in determining whether to pursue criminal enforcement action for violations revealed by a

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compliance audit, to consider whether the violator is a small business stationary source that has committed a minor violation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 299.85 (2) (b) of the statutes is repealed.

2 **SECTION 2.** 299.85 (2) (bm) of the statutes is repealed.

3 **SECTION 3.** 299.85 (2m) of the statutes is amended to read:

4 299.85 **(2m)** CONSIDERATION OF CERTAIN VIOLATIONS. ~~Upon the receipt of a notice~~
5 ~~under sub. (2) (b), the~~ The department shall consider whether the department of
6 justice has, within 2 years, filed a suit to enforce an environmental requirement
7 because of a violation involving the facility. If the department determines that,
8 because of the nature of the violation involved in the suit, participation by the
9 regulated entity may damage the integrity of the Environmental Compliance Audit
10 Program, the department shall notify the regulated entity that it is not eligible for
11 participation.

12 **SECTION 4.** 299.85 (3) (intro.) of the statutes is amended to read:

13 299.85 **(3)** AUDIT REPORT. (intro.) To participate in the Environmental
14 Compliance Audit Program with respect to a facility, the regulated entity that owns
15 or operates the facility shall submit a report to the department within 45 days after
16 the date of the final written report of findings of the environmental compliance audit
17 of the facility. ~~The regulated entity shall complete the environmental compliance~~
18 ~~audit, including the final written report of findings, within 365 days after providing~~
19 ~~the notice under sub. (2) (b).~~ The report submitted to the department shall include
20 all of the following:

21 **SECTION 5.** 299.85 (3) (d) of the statutes is amended to read:

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1 299.85 (3) (d) A commitment to correct the violations within 90 180 days of
2 submitting the report, or within 360 days of submitting the report if the correction
3 involves a pollution prevention modification, or according to a compliance schedule
4 approved by the department.

5 **SECTION 6.** 299.85 (3) (e) of the statutes is amended to read:

6 299.85 (3) (e) If the regulated entity proposes to take more than 90 180 days
7 to correct the violations, or more than 360 days if the correction involves a pollution
8 prevention modification, a proposed compliance schedule that contains the shortest
9 reasonable periods for correcting the violations, a statement that justifies the
10 proposed compliance schedule, and a description of measures that the regulated
11 entity will take to minimize the effects of the violations during the period of the
12 compliance schedule.

13 **SECTION 7.** 299.85 (3) (em) of the statutes is amended to read:

14 299.85 (3) (em) If the regulated entity proposes to take more than 90 180 days
15 to correct the violations, or more than 360 days if the correction involves a pollution
16 prevention modification, the proposed stipulated penalties to be imposed if the
17 regulated entity fails to comply with the compliance schedule under par. (e).

18 **SECTION 8.** 299.85 (3m) of the statutes is repealed.

19 **SECTION 9.** 299.85 (7) (a) 1. of the statutes is amended to read:

20 299.85 (7) (a) 1. For at least 90 180 days, or at least 360 days if the correction
21 involves a pollution prevention modification, after the department receives a report
22 that meets the requirements in sub. (3), this state may not begin a civil action to
23 collect forfeitures for violations that are disclosed in the report by a regulated entity
24 that qualifies under sub. (2) for participation in the Environmental Compliance
25 Audit Program.

ASSEMBLY BILL 264**SECTION 10**

1 **SECTION 10.** 299.85 (7) (a) 2. of the statutes is amended to read:

2 299.85 (7) (a) 2. Notwithstanding minimum or maximum forfeitures specified
3 in ss. 29.314 (7), 29.334 (2), 29.604 (5) (a), 29.611 (11), 29.889 (10) (c) 2., 29.969,
4 29.971 (1) (a), (1m) (a), (3), (3m), (11g) (b), (11m) (b), and (11r) (b), 30.298 (1), (2), and
5 (3), 30.49 (1) (a) and (c), 31.23 (2), 281.75 (19), 281.98 (1), 281.99 (2) (a) 1., 283.91 (2),
6 285.41 (7), 285.57 (5), 285.59 (8), 285.87 (1), 287.95 (1), (2) (b), and (3) (b), 287.97,
7 289.96 (2) and (3) (a), 291.97 (1), 292.99 (1) and (1m), 293.81, 293.87 (3) and (4) (a),
8 295.19 (3) (a) and (b) 1., 295.37 (2), 295.79 (2) and (4), 299.15 (4), 299.51 (5), 299.53
9 (4) (c) 1., 299.62 (3) (a) and (c), and 299.97 (1), if a regulated entity that qualifies
10 under sub. (2) for participation in the Environmental Compliance Audit Program
11 corrects violations that it discloses in a report that meets the requirements of sub.
12 (3) within 90 180 days, or within 360 days if the correction involves a pollution
13 prevention modification, after the department receives the report that meets the
14 requirements of sub. (3), the regulated entity may not be required to forfeit more than
15 \$500 for each violation, regardless of the number of days during which the violation
16 continues.

17 **SECTION 11.** 299.85 (8) (g) of the statutes is created to read:

18 299.85 (8) (g) That the regulated entity is a small business stationary source,
19 as defined in 285.79 (1), that has committed a minor violation, as defined in s. 227.04
20 (1) (a).

21 **SECTION 12.** 299.85 (9m) (d) of the statutes is amended to read:

22 299.85 (9m) (d) The number of regulated entities requiring longer than 90 180
23 days, or longer than 360 days if the correction involves a pollution prevention

