
Wisconsin Legislative Council

AMENDMENT MEMO



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2019 Assembly Bill 210

**Assembly
Amendment 1**

2019 ASSEMBLY BILL 210

2019 Assembly Bill 210 makes changes to the environmental audit compliance program, a program that defers civil enforcement and provides considerations regarding possible criminal prosecution if a regulated entity¹ voluntarily submits an environmental compliance audit report to the Department of Natural Resources (DNR) and satisfies certain other requirements. Specifically, the bill does all of the following:

- Increases the time periods during which civil action is deferred and a regulated entity must correct environmental violations from 90 days to 180 days, generally, and from 90 days to 360 days if a correction involves a pollution prevention modification.²
- Removes a requirement that a regulated entity notify DNR, no fewer than 30 days before beginning the audit, of the date on which the audit will begin, the site or facility or the operations or practices at a site or facility to be reviewed, and the general scope of the audit.
- Removes a one-year deadline to complete an audit.
- Removes a requirement to submit a signed statement acknowledging that the deferral of civil action under the program does not apply to violations discovered before beginning the audit.
- Removes a requirement for a public notice and comment period regarding a proposed compliance schedule and any stipulated penalties resulting from a compliance audit.
- Adds a new category to the list of considerations DNR and the Department of Justice (DOJ) must make when deciding whether to pursue a criminal action. Specifically the bill requires DNR and DOJ to consider whether a regulated entity is a “small business stationary source” with a “minor violation.”³

¹ In this context, a “regulated entity” is a public or private entity that is subject to environmental requirements under any of a broad range of specified state and local environmental regulations. [s. 299.85 (1) (f), Stats.]

² Although “pollution prevention modification” is not defined in the bill, another section of ch. 299, Stats., defines “pollution prevention” to mean any action that: (a) prevents waste from being created; (b) reduces the amount of waste that is created; or (c) changes the nature of waste being created in a way that reduces the hazards to public health or the environment posed by the waste. [s. 299.13 (1) (dm), Stats.] Various federal statutes also refer to certain “pollution prevention” measures, including equipment modifications.

³ The bill defines “small business stationary source” as a stationary source that emits no more than 50, 75, or 100 tons of regulated pollutants per year, depending on the circumstances, and satisfies certain other criteria. [s. 285.79 (1), Stats.] “Minor violation” means a rule violation voluntarily disclosed by an independently owned and operated business with 25 or fewer full-time employees, gross annual sales of less than \$5 million, and a history of compliance, if the violation does not cause serious harm to the public, is not willful, and is not likely to be repeated. [s. 227.04 (a), Stats.]

ASSEMBLY AMENDMENT 1

Assembly Amendment 1 makes the following changes to the bill:

- Changes the time periods for compliance and deferral of civil action to 60 days generally, 180 days for small business stationary sources, and 360 days if the correction involves a pollution prevention modification.
- Restores the requirement to submit a statement acknowledging the inapplicability of enforcement deferral to violations discovered before the beginning of an audit.
- Restores the one-year deadline for completion of an audit.

BILL HISTORY

Representative Brooks offered Assembly Amendment 1 on August 12, 2019. On January 16, 2020, the Assembly Committee on Environment voted to recommend adoption of Assembly Amendment 1 by a vote of Ayes, 12; Noes, 0, and voted to recommend passage of the bill, as amended, by a vote of Ayes, 8; Noes, 4.

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