

2021 DRAFTING REQUEST

Bill

For: **André Jacque (608) 266-3512** Drafter: **zwyatt**
 By: **Bill** Secondary Drafters:
 Date: **9/17/2020 12:00:00 AM** May Contact:
 Same as LRB: **-1445**

Submit via email: **YES**
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Pre Topic:

No specific pre topic given

Topic:

Environmental compliance audit program

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	zwyatt 9/18/2020				
/P1		wjackson 9/22/2020	wjackson 9/22/2020		
/1	zwyatt 2/2/2021		mbarman 2/2/2021	mbarman 2/2/2021	

FE Sent For:

<END>

See attached for further instructions

LRB-0138

Instructions for version /P1

9/16/2020, email from Bill in Sen. Jacque office

Redraft 2019 SB 215 (19-0178/1) as amended by SA1 (19a0422/1).



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0178/1
ZDW:klm

2019 SENATE BILL 215

May 15, 2019 - Introduced by Senators JACQUE, COWLES and MILLER, cosponsored by Representatives BROOKS, BRANDTJEN, KNODL, KULP, SKOWRONSKI, TUSLER and WICHGERS. Referred to Committee on Natural Resources and Energy.

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.

SENATE BILL 215**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

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1 modification, to take corrective action and a description of the stipulated penalties
2 associated with the compliance schedules for those corrective actions.

3 (END)



State of Wisconsin
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LRBa0422/1
ZDW:ahc

**SENATE AMENDMENT 1,
TO SENATE BILL 215**

August 8, 2019 - Offered by Senators JACQUE and MILLER.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 1: before that line insert:

3 “**SECTION 1m.** 299.85 (1) (fm) of the statutes is created to read:

4 299.85 (1) (fm) “Small business stationary source” has the meaning given in
5 s. 285.79 (1).”.

6 **2.** Page 2, line 2: delete that line and substitute:

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

8 299.85 (2) (bm) The notice under par. (b) includes a statement regulated entity
9 submits a statement, signed by an official of the regulated entity who is responsible
10 for environmental compliance, that acknowledges that sub. (7) (a) does not apply to
11 violations discovered by the regulated entity before the beginning of the
12 environmental compliance audit.”.

1 **3.** Page 2, line 17: delete the material beginning with “The regulated” and
2 ending with “(b)” on line 19 and substitute “The regulated entity shall complete the
3 environmental compliance audit, including the final written report of findings,
4 within 365 days after ~~providing the notice~~ submitting the statement under sub. (2)
5 (b) (bm).”.

6 **4.** Page 3, line 1: delete the material beginning with “180” and ending with
7 “within” on line 2 and substitute “60 days of submitting the report or, if the entity is
8 a small business stationary source, within 180 days of submitting the report or
9 within”.

10 **5.** Page 3, line 6: delete the material beginning with “180” and ending with
11 “modification,” on line 8 and substitute “60 days to correct the violations or, if the
12 entity is a small business stationary source, more than 180 days or more than 360
13 days if the correction involves a pollution prevention modification,”.

14 **6.** Page 3, line 14: delete the material beginning with “180” and ending with
15 “modification,” on line 16 and substitute “60 days to correct the violations or, if the
16 entity is a small business stationary source, more than 180 days or more than 360
17 days if the correction involves a pollution prevention modification,”.

18 **7.** Page 3, line 20: delete “180 days, or” and substitute “60 days or, if the entity
19 is a small business stationary source, at least 180 days or”.

20 **8.** Page 4, line 12: delete “180 days, or” and substitute “60 days or, if the entity
21 is a small business stationary source, within 180 days or”.

22 **9.** Page 4, line 18: delete the material beginning with “source,” and ending
23 with “285.79 (1),” on line 19 and substitute “source”.



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0138/P1
ZDW:wlj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to repeal* 299.85 (2) (b) and 299.85 (3m); *to amend* 299.85 (2) (bm),
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 (1)
4 (fm) and 299.85 (8) (g) of the statutes; **relating to:** the environmental
5 compliance audit program.

Analysis by the Legislative Reference Bureau

This bill makes several changes to the environmental compliance audit program. Under the program, an entity that is subject to environmental regulations may limit liability for certain violations by voluntarily submitting an environmental compliance audit report to the Department of Natural Resources that identifies violations and identifies corrective actions to be taken.

Under current law, a regulated entity has 90 days to correct violations identified in the audit. Under the bill, the time that a regulated entity has to correct violations is 60 days generally, 180 days if the entity is a small business stationary source, and 360 days if the entity is a small business stationary source and the corrective action involves a pollution prevention modification.

The bill also eliminates requirements that an entity notify DNR no fewer than 30 days before beginning an audit and that proposed compliance schedules be subject to a public notice and comment period.

Current law requires DNR and the Department of Justice, in determining whether to pursue criminal action for violations revealed by a compliance audit

report, to consider various factors. The bill requires DNR and DOJ to also consider whether the entity 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 (1) (fm) of the statutes is created to read:

2 299.85 (1) (fm) “Small business stationary source” has the meaning given in
3 s. 285.79 (1).

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

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

6 299.85 (2) (bm) ~~The notice under par. (b) includes a statement~~ regulated entity
7 submits a statement, signed by an official of the regulated entity who is responsible
8 for environmental compliance, that acknowledges that sub. (7) (a) does not apply to
9 violations discovered by the regulated entity before the beginning of the
10 environmental compliance audit.

11 **SECTION 4.** 299.85 (2m) of the statutes is amended to read:

12 299.85 (2m) CONSIDERATION OF CERTAIN VIOLATIONS. ~~Upon the receipt of a notice~~
13 ~~under sub. (2) (b), the~~ The department shall consider whether the department of
14 justice has, within 2 years, filed a suit to enforce an environmental requirement
15 because of a violation involving the facility. If the department determines that,
16 because of the nature of the violation involved in the suit, participation by the
17 regulated entity may damage the integrity of the Environmental Compliance Audit
18 Program, the department shall notify the regulated entity that it is not eligible for
19 participation.

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

1 299.85 (3) AUDIT REPORT. (intro.) To participate in the Environmental
2 Compliance Audit Program with respect to a facility, the regulated entity that owns
3 or operates the facility shall submit a report to the department within 45 days after
4 the date of the final written report of findings of the environmental compliance audit
5 of the facility. The regulated entity shall complete the environmental compliance
6 audit, including the final written report of findings, within 365 days after ~~providing~~
7 ~~the notice submitting the statement~~ under sub. (2) ~~(b)~~ (bm). The report submitted
8 to the department shall include all of the following:

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

10 299.85 (3) (d) A commitment to correct the violations within 90 60 days of
11 submitting the report or, if the entity is a small business stationary source, within
12 180 days of submitting the report or within 360 days of submitting the report if the
13 correction involves a pollution prevention modification, or according to a compliance
14 schedule approved by the department.

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

16 299.85 (3) (e) If the regulated entity proposes to take more than 90 60 days to
17 correct the violations or, if the entity is a small business stationary source, more than
18 180 days or more than 360 days if the correction involves a pollution prevention
19 modification, a proposed compliance schedule that contains the shortest reasonable
20 periods for correcting the violations, a statement that justifies the proposed
21 compliance schedule, and a description of measures that the regulated entity will
22 take to minimize the effects of the violations during the period of the compliance
23 schedule.

24 **SECTION 8.** 299.85 (3) (em) of the statutes is amended to read:

1 299.85 (3) (em) If the regulated entity proposes to take more than ~~90~~ 60 days
2 to correct the violations or, if the entity is a small business stationary source, more
3 than 180 days or more than 360 days if the correction involves a pollution prevention
4 modification, the proposed stipulated penalties to be imposed if the regulated entity
5 fails to comply with the compliance schedule under par. (e).

6 **SECTION 9.** 299.85 (3m) of the statutes is repealed.

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

8 299.85 (7) (a) 1. For at least ~~90~~ 60 days or, if the entity is a small business
9 stationary source, at least 180 days or at least 360 days if the correction involves a
10 pollution prevention modification, after the department receives a report that meets
11 the requirements in sub. (3), this state may not begin a civil action to collect
12 forfeitures for violations that are disclosed in the report by a regulated entity that
13 qualifies under sub. (2) for participation in the Environmental Compliance Audit
14 Program.

15 **SECTION 11.** 299.85 (7) (a) 2. of the statutes is amended to read:

16 299.85 (7) (a) 2. Notwithstanding minimum or maximum forfeitures specified
17 in ss. 29.314 (7), 29.334 (2), 29.604 (5) (a), 29.611 (11), 29.889 (10) (c) 2., 29.969,
18 29.971 (1) (a), (1m) (a), (3), (3m), (11g) (b), (11m) (b), and (11r) (b), 30.298 (1), (2), and
19 (3), 30.49 (1) (a) and (c), 31.23 (2), 281.75 (19), 281.98 (1), 281.99 (2) (a) 1., 283.91 (2),
20 285.41 (7), 285.57 (5), 285.59 (8), 285.87 (1), 287.95 (1), (2) (b), and (3) (b), 287.97,
21 289.96 (2) and (3) (a), 291.97 (1), 292.99 (1) and (1m), 293.81, 293.87 (3) and (4) (a),
22 295.19 (3) (a) and (b) 1., 295.37 (2), 295.79 (2) and (4), 299.15 (4), 299.51 (5), 299.53
23 (4) (c) 1., 299.62 (3) (a) and (c), and 299.97 (1), if a regulated entity that qualifies
24 under sub. (2) for participation in the Environmental Compliance Audit Program
25 corrects violations that it discloses in a report that meets the requirements of sub.



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0138/1
ZDW:wlj

2021 SENATE BILL 151

February 24, 2021 - Introduced by Senator JACQUE, cosponsored by Representatives BROOKS, KNODL, ROZAR, BRANDTJEN, SKOWRONSKI and TUSLER. Referred to Committee on Natural Resources and Energy.

1 **AN ACT** *to repeal* 299.85 (2) (b) and 299.85 (3m); *to amend* 299.85 (2) (bm),
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 (1)
4 (fm) and 299.85 (8) (g) of the statutes; **relating to:** the environmental
5 compliance audit program.

Analysis by the Legislative Reference Bureau

This bill makes several changes to the environmental compliance audit program. Under the program, an entity that is subject to environmental regulations may limit liability for certain violations by voluntarily submitting an environmental compliance audit report to the Department of Natural Resources that identifies violations and identifies corrective actions to be taken.

Under current law, a regulated entity has 90 days to correct violations identified in the audit. Under the bill, the time that a regulated entity has to correct violations is 60 days generally, 180 days if the entity is a small business stationary source, and 360 days if the entity is a small business stationary source and the corrective action involves a pollution prevention modification.

The bill also eliminates requirements that an entity notify DNR no fewer than 30 days before beginning an audit and that proposed compliance schedules be subject to a public notice and comment period.

Current law requires DNR and the Department of Justice, in determining whether to pursue criminal action for violations revealed by a compliance audit

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report, to consider various factors. The bill requires DNR and DOJ to also consider whether the entity 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 (1) (fm) of the statutes is created to read:

2 299.85 (1) (fm) “Small business stationary source” has the meaning given in
3 s. 285.79 (1).

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

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

6 299.85 (2) (bm) ~~The notice under par. (b) includes a statement~~ regulated entity
7 submits a statement, signed by an official of the regulated entity who is responsible
8 for environmental compliance, that acknowledges that sub. (7) (a) does not apply to
9 violations discovered by the regulated entity before the beginning of the
10 environmental compliance audit.

11 **SECTION 4.** 299.85 (2m) of the statutes is amended to read:

12 299.85 (2m) CONSIDERATION OF CERTAIN VIOLATIONS. ~~Upon the receipt of a notice~~
13 ~~under sub. (2) (b), the~~ The department shall consider whether the department of
14 justice has, within 2 years, filed a suit to enforce an environmental requirement
15 because of a violation involving the facility. If the department determines that,
16 because of the nature of the violation involved in the suit, participation by the
17 regulated entity may damage the integrity of the Environmental Compliance Audit
18 Program, the department shall notify the regulated entity that it is not eligible for
19 participation.

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

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1 299.85 (3) AUDIT REPORT. (intro.) To participate in the Environmental
2 Compliance Audit Program with respect to a facility, the regulated entity that owns
3 or operates the facility shall submit a report to the department within 45 days after
4 the date of the final written report of findings of the environmental compliance audit
5 of the facility. The regulated entity shall complete the environmental compliance
6 audit, including the final written report of findings, within 365 days after ~~providing~~
7 ~~the notice submitting the statement~~ under sub. (2) ~~(b)~~ (bm). The report submitted
8 to the department shall include all of the following:

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

10 299.85 (3) (d) A commitment to correct the violations within 90 60 days of
11 submitting the report or, if the entity is a small business stationary source, within
12 180 days of submitting the report or within 360 days of submitting the report if the
13 correction involves a pollution prevention modification, or according to a compliance
14 schedule approved by the department.

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

16 299.85 (3) (e) If the regulated entity proposes to take more than 90 60 days to
17 correct the violations or, if the entity is a small business stationary source, more than
18 180 days or more than 360 days if the correction involves a pollution prevention
19 modification, a proposed compliance schedule that contains the shortest reasonable
20 periods for correcting the violations, a statement that justifies the proposed
21 compliance schedule, and a description of measures that the regulated entity will
22 take to minimize the effects of the violations during the period of the compliance
23 schedule.

24 **SECTION 8.** 299.85 (3) (em) of the statutes is amended to read:

SENATE BILL 151**SECTION 8**

1 299.85 (3) (em) If the regulated entity proposes to take more than ~~90~~ 60 days
2 to correct the violations or, if the entity is a small business stationary source, more
3 than 180 days or more than 360 days if the correction involves a pollution prevention
4 modification, the proposed stipulated penalties to be imposed if the regulated entity
5 fails to comply with the compliance schedule under par. (e).

6 **SECTION 9.** 299.85 (3m) of the statutes is repealed.

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

8 299.85 (7) (a) 1. For at least ~~90~~ 60 days or, if the entity is a small business
9 stationary source, at least 180 days or at least 360 days if the correction involves a
10 pollution prevention modification, after the department receives a report that meets
11 the requirements in sub. (3), this state may not begin a civil action to collect
12 forfeitures for violations that are disclosed in the report by a regulated entity that
13 qualifies under sub. (2) for participation in the Environmental Compliance Audit
14 Program.

15 **SECTION 11.** 299.85 (7) (a) 2. of the statutes is amended to read:

16 299.85 (7) (a) 2. Notwithstanding minimum or maximum forfeitures specified
17 in ss. 29.314 (7), 29.334 (2), 29.604 (5) (a), 29.611 (11), 29.889 (10) (c) 2., 29.969,
18 29.971 (1) (a), (1m) (a), (3), (3m), (11g) (b), (11m) (b), and (11r) (b), 30.298 (1), (2), and
19 (3), 30.49 (1) (a) and (c), 31.23 (2), 281.75 (19), 281.98 (1), 281.99 (2) (a) 1., 283.91 (2),
20 285.41 (7), 285.57 (5), 285.59 (8), 285.87 (1), 287.95 (1), (2) (b), and (3) (b), 287.97,
21 289.96 (2) and (3) (a), 291.97 (1), 292.99 (1) and (1m), 293.81, 293.87 (3) and (4) (a),
22 295.19 (3) (a) and (b) 1., 295.37 (2), 295.79 (2) and (4), 299.15 (4), 299.51 (5), 299.53
23 (4) (c) 1., 299.62 (3) (a) and (c), and 299.97 (1), if a regulated entity that qualifies
24 under sub. (2) for participation in the Environmental Compliance Audit Program
25 corrects violations that it discloses in a report that meets the requirements of sub.

