

State of Wisconsin



2013 Assembly Bill 444

Date of enactment: **April 16, 2014**
Date of publication*: **April 17, 2014**

2013 WISCONSIN ACT 301

AN ACT *to amend* 289.645 (2) and 289.67 (1) (a); and *to create* 289.63 (6) (d), 289.63 (10), 289.64 (4) (d), 289.64 (8), 289.645 (4) (h), 289.645 (8), 289.67 (1) (fj) and 289.67 (1) (j) of the statutes; **relating to:** fees imposed on the disposal of solid waste and hazardous waste at licensed solid waste and hazardous waste disposal facilities.

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

SECTION 1. 289.63 (6) (d) of the statutes is created to read:

289.63 (6) (d) 1. In this paragraph, "qualified materials recovery facility" means one of the following:

a. A materials recovery facility, as defined in s. 287.27 (1), if the operator of the facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code, and, if the facility has an approved plan of operation, the facility is in compliance with its approved plan of operation.

b. A facility at which materials generated by construction, demolition, and remodeling of structures are processed for recycling if the facility is licensed under this chapter as a solid waste processing facility, the approved plan of operation for the facility requires the reporting of the volume or weight of materials processed, recycled, and discarded as residue, and the facility is in compliance with its approved plan of operation.

2. Subject to subd. 3., the following amounts of solid waste materials are not subject to the groundwater and well compensation fees imposed under sub. (1):

a. For a qualified materials recovery facility described in subd. 1. a., an amount equal to the weight of the residue generated by the qualified materials recovery

facility or 10 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

b. For a qualified materials recovery facility described in subd. 1. b., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 30 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

3. a. The department may require an operator that claims the exemption under this paragraph to certify that the operator's facility satisfies the criteria in subd. 1. a. or b. and to report the weight of the residue for which the operator does not pay the groundwater and well compensation fees and any other information needed to determine eligibility for the exemption.

b. The department may require the owner or operator of a licensed solid or hazardous waste disposal facility to report the weight of any residue received by the solid or hazardous waste disposal facility for which the groundwater and well compensation fees are not paid and to identify the facilities that generate that residue.

c. If the operator of a facility claims the exemption under this paragraph for a greater weight of residue than is authorized under subd. 2., the operator is ineligible for the exemption for any additional residue until it pays the

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

balance of the groundwater and well compensation fees that it owes.

SECTION 2. 289.63 (10) of the statutes is created to read:

289.63 (10) REPAYMENT OR WAIVER OF OVERDUE GROUNDWATER AND WELL COMPENSATION FEES. (a) 1. If a person required under sub. (1) to pay groundwater and well compensation fees to a licensed solid waste or hazardous waste disposal facility fails, within 120 days after the date of disposal, to pay the groundwater and well compensation fees and to pay the charges imposed by the licensed solid waste or hazardous waste disposal facility, the owner or operator of the licensed solid waste or hazardous waste disposal facility may submit an affidavit to the department that includes all of the following:

a. Identifying information for the person that failed to pay the groundwater and well compensation fees.

b. A description of the efforts made to collect the groundwater and well compensation fees that are overdue.

c. A commitment that the owner or operator will not accept any solid waste or hazardous waste from the person that failed to pay the fees until the overdue groundwater and well compensation fees are paid.

2. When the department receives an affidavit that complies with subd. 1., the department shall refund to the owner or operator any amount of the overdue groundwater and well compensation fees paid by the owner or operator and shall grant a waiver to the owner or operator from the requirement to pay any additional amount of the overdue groundwater and well compensation fees. If the person later pays the overdue groundwater and well compensation fees to the owner or operator, the owner or operator shall pay the full amount received to the department.

(b) 1. If a person required under sub. (1) to pay the groundwater and well compensation fees to an intermediate hauler fails, within 120 days after the date of disposal, to pay the groundwater and well compensation fees and to pay the charges imposed by the intermediate hauler, the hauler may submit an affidavit to the owner or operator of the licensed solid waste or hazardous waste disposal facility at which the solid or hazardous waste is disposed of that includes all of the following:

a. Identifying information for the person that failed to pay the groundwater and well compensation fees.

b. A description of the efforts made to collect the groundwater and well compensation fees that are overdue.

c. A commitment that the hauler will not accept any solid waste or hazardous waste from the person that failed to pay the groundwater and well compensation fees until the overdue groundwater and well compensation fees are paid.

2. When the owner or operator of a licensed solid waste or hazardous waste disposal facility receives an

affidavit under subd. 1., the owner or operator shall submit the affidavit to the department.

3. When the department receives an affidavit that complies with subd. 1., the department shall refund to the owner or operator any amount of the overdue groundwater and well compensation fees paid by the hauler and shall grant a waiver to the hauler from the requirement to pay any additional amount of the overdue groundwater and well compensation fees and the owner or operator shall pay any refund to the hauler. If the person later pays the overdue groundwater and well compensation fees to the hauler, the hauler shall pay the full amount received to the owner or operator and the owner or operator shall forward the payment to the department.

SECTION 3. 289.64 (4) (d) of the statutes is created to read:

289.64 (4) (d) 1. In this paragraph, “qualified materials recovery facility” means one of the following:

a. A materials recovery facility, as defined in s. 287.27 (1), if the operator of the facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code, and, if the facility has an approved plan of operation, the facility is in compliance with its approved plan of operation.

b. A facility at which materials generated by construction, demolition, and remodeling of structures are processed for recycling if the facility is licensed under this chapter as a solid waste processing facility, the approved plan of operation for the facility requires the reporting of the volume or weight of materials processed, recycled, and discarded as residue, and the facility is in compliance with its approved plan of operation.

2. Subject to subd. 3., the following amounts of solid waste materials are not subject to the solid waste facility siting board fee imposed under sub. (1):

a. For a qualified materials recovery facility described in subd. 1. a., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 10 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

b. For a qualified materials recovery facility described in subd. 1. b., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 30 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

3. a. The department may require an operator that claims the exemption under this paragraph to certify that the operator’s facility satisfies the criteria in subd. 1. a. or b. and to report the weight of the residue for which the operator does not pay the solid waste facility siting board fee and any other information needed to determine eligibility for the exemption.

b. The department may require the owner or operator of a licensed solid or hazardous waste disposal facility to report the weight of any residue received by the solid or

hazardous waste disposal facility for which the solid waste facility siting board fee is not paid and to identify the facilities that generate that residue.

c. If the operator of a facility claims the exemption under this paragraph for a greater weight of residue than is authorized under subd. 2., the operator is ineligible for the exemption for any additional residue until it pays the balance of the solid waste facility siting board fee that it owes.

SECTION 4. 289.64 (8) of the statutes is created to read:

289.64 (8) REPAYMENT OR WAIVER OF OVERDUE WASTE FACILITY SITING BOARD FEE. (a) 1. If a person required under sub. (1) to pay the waste facility siting board fee to a licensed solid waste or hazardous waste disposal facility fails, within 120 days after the date of disposal, to pay the waste facility siting board fee and to pay the charges imposed by the licensed solid waste or hazardous waste disposal facility, the owner or operator of the licensed solid waste or hazardous waste disposal facility may submit an affidavit to the department that includes all of the following:

a. Identifying information for the person that failed to pay the waste facility siting board fee.

b. A description of the efforts made to collect the waste facility siting board fee that is overdue.

c. A commitment that the owner or operator will not accept any solid waste or hazardous waste from the person that failed to pay the waste facility siting board fee until the overdue waste facility siting board fee is paid.

2. When the department receives an affidavit that complies with subd. 1., the department shall refund to the owner or operator any amount of the overdue waste facility siting board fee paid by the owner or operator and shall grant a waiver to the owner or operator from the requirement to pay any additional amount of the overdue waste facility siting board fee. If the person later pays the overdue waste facility siting board fee to the owner or operator, the owner or operator shall pay the full amount received to the department.

(b) 1. If a person required under sub. (1) to pay the waste facility siting board fee to an intermediate hauler fails, within 120 days after the date of disposal, to pay the waste facility siting board fee and to pay the charges imposed by the intermediate hauler, the hauler may submit an affidavit to the owner or operator of the licensed solid waste or hazardous waste disposal facility at which the solid or hazardous waste is disposed of that includes all of the following:

a. Identifying information for the person that failed to pay the waste facility siting board fee.

b. A description of the efforts made to collect the waste facility siting board fee that is overdue.

c. A commitment that the hauler will not accept any solid waste or hazardous waste from the person that

failed to pay the waste facility siting board fee until the overdue waste facility siting board fee is paid.

2. When the owner or operator of a licensed solid waste or hazardous waste disposal facility receives an affidavit under subd. 1., the owner or operator shall submit the affidavit to the department.

3. When the department receives an affidavit that complies with subd. 1., the department shall refund to the owner or operator any amount of the overdue waste facility siting board fee paid by the hauler and shall grant a waiver to the hauler from the requirement to pay any additional amount of the overdue waste facility siting board fee and the owner or operator shall pay any refund to the hauler. If the person later pays the overdue waste facility siting board fee to the hauler, the hauler shall pay the full amount received to the owner or operator and the owner or operator shall forward the payment to the department.

SECTION 5. 289.645 (2) of the statutes is amended to read:

289.645 (2) COLLECTION. The owner or operator of a licensed solid waste or hazardous waste disposal facility shall collect the recycling fee from the generator, a person who arranges for disposal on behalf of one or more generators or an intermediate hauler and shall pay to the department the amount of the fee required to be collected according to the amount of solid waste or hazardous waste received and disposed of at the facility during the preceding reporting period, except as provided under sub. (8).

SECTION 6. 289.645 (4) (h) of the statutes is created to read:

289.645 (4) (h) 1. In this paragraph, “qualified materials recovery facility” means one of the following:

a. A materials recovery facility, as defined in s. 287.27 (1), if the operator of the facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code, and, if the facility has an approved plan of operation, the facility is in compliance with its approved plan of operation.

b. A facility at which materials generated by construction, demolition, and remodeling of structures are processed for recycling if the facility is licensed under this chapter as a solid waste processing facility, the approved plan of operation for the facility requires the reporting of the volume or weight of materials processed, recycled, and discarded as residue, and the facility is in compliance with its approved plan of operation.

2. Subject to subd. 3., the following amounts of solid waste materials are not subject to the recycling fee imposed under sub. (1):

a. For a qualified materials recovery facility described in subd. 1. a., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 10 percent of the total weight of material

accepted by the qualified materials recovery facility, whichever is less.

b. For a qualified materials recovery facility described in subd. 1. b., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 30 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

3. a. The department may require an operator that claims the exemption under this paragraph to certify that the operator's facility satisfies the criteria in subd. 1. a. or b. and to report the weight of the residue for which the operator does not pay the recycling fee and any other information needed to determine eligibility for the exemption.

b. The department may require the owner or operator of a licensed solid or hazardous waste disposal facility to report the weight of any residue received by the solid or hazardous waste disposal facility for which the recycling fee is not paid and to identify the facilities that generate that residue.

c. If the operator of a facility claims the exemption under this paragraph for a greater weight of residue than is authorized under subd. 2., the operator is ineligible for the exemption for any additional residue until it pays the balance of the recycling fee that it owes.

SECTION 7. 289.645 (8) of the statutes is created to read:

289.645 (8) REPAYMENT OR WAIVER OF OVERDUE RECYCLING FEE. (a) 1. If a person required under sub. (1) to pay the recycling fee to a licensed solid waste or hazardous waste disposal facility fails, within 120 days after the date of disposal, to pay the recycling fee and to pay the charges imposed by the licensed solid waste or hazardous waste disposal facility, the owner or operator of the licensed solid waste or hazardous waste disposal facility may submit an affidavit to the department that includes all of the following:

a. Identifying information for the person that failed to pay the recycling fee.

b. A description of the efforts made to collect the recycling fee that is overdue.

c. A commitment that the owner or operator will not accept any solid waste or hazardous waste from the person that failed to pay the recycling fee until the overdue recycling fee is paid.

2. When the department receives an affidavit that complies with subd. 1., the department shall refund to the owner or operator any amount of the overdue recycling fee paid by the owner or operator and shall grant a waiver to the owner or operator from the requirement to pay any additional amount of the overdue recycling fee. If the person later pays the overdue recycling fee to the owner or operator, the owner or operator shall pay the full amount received to the department.

(b) 1. If a person required under sub. (1) to pay the recycling fee to an intermediate hauler fails, within 120 days after the date of disposal, to pay the recycling fee and to pay the charges imposed by the intermediate hauler, the hauler may submit an affidavit to the owner or operator of the licensed solid waste or hazardous waste disposal facility at which the solid or hazardous waste is disposed of that includes all of the following:

a. Identifying information for the person that failed to pay the recycling fee.

b. A description of the efforts made to collect the recycling fee that is overdue.

c. A commitment that the hauler will not accept any solid waste or hazardous waste from the person that failed to pay the recycling fee until the overdue recycling fee is paid.

2. When the owner or operator of a licensed solid waste or hazardous waste disposal facility receives an affidavit under subd. 1., the owner or operator shall submit the affidavit to the department.

3. When the department receives an affidavit that complies with subd. 1., the department shall refund to the owner or operator any amount of the overdue recycling fee paid by the hauler and shall grant a waiver to the hauler from the requirement to pay any additional amount of the overdue recycling fee and the owner or operator shall pay any refund to the hauler. If the person later pays the overdue recycling fee to the hauler, the hauler shall pay the full amount received to the owner or operator and the owner or operator shall forward the payment to the department.

SECTION 8. 289.67 (1) (a) of the statutes is amended to read:

289.67 (1) (a) Imposition of fee. Except as provided under pars. (f) ~~and to~~ (fm), a generator of solid or hazardous waste shall pay an environmental repair fee for each ton or equivalent volume of solid or hazardous waste which is disposed of at a licensed solid or hazardous waste disposal facility. If a person arranges for collection or disposal services on behalf of one or more generators, that person shall pay the environmental repair fee to the licensed solid or hazardous waste disposal facility or to any intermediate hauler used to transfer wastes from collection points to a licensed facility. An intermediate hauler who receives environmental repair fees under this paragraph shall pay the fees to the licensed solid or hazardous waste disposal facility. Tonnage or equivalent volume shall be calculated in the same manner as the calculation made for tonnage fees under s. 289.62 (1).

SECTION 9. 289.67 (1) (fj) of the statutes is created to read:

289.67 (1) (fj) Exemption from environmental repair fee; recycling residue. 1. In this paragraph, "qualified materials recovery facility" means one of the following:

a. A materials recovery facility, as defined in s. 287.27 (1), if the operator of the facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code, and, if the facility has an approved plan of operation, the facility is in compliance with its approved plan of operation.

b. A facility at which materials generated by construction, demolition, and remodeling of structures are processed for recycling if the facility is licensed under this chapter as a solid waste processing facility, the approved plan of operation for the facility requires the reporting of the volume or weight of materials processed, recycled, and discarded as residue, and the facility is in compliance with its approved plan of operation.

2. Subject to subd. 3., the following amounts of solid waste materials are not subject to the environmental repair fee imposed under par. (a):

a. For a qualified materials recovery facility described in subd. 1. a., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 10 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

b. For a qualified materials recovery facility described in subd. 1. b., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 30 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

3. a. The department may require an operator that claims the exemption under this paragraph to certify that the operator's facility satisfies the criteria in subd. 1. a. or b. and to report the weight of the residue for which the operator does not pay the environmental repair fee and any other information needed to determine eligibility for the exemption.

b. The department may require the owner or operator of a licensed solid or hazardous waste disposal facility to report the weight of any residue received by the solid or hazardous waste disposal facility for which the environmental repair fee is not paid and to identify the facilities that generate that residue.

c. If the operator of a facility claims the exemption under this paragraph for a greater weight of residue than is authorized under subd. 2., the operator is ineligible for the exemption for any additional residue until it pays the balance of the environmental repair fee that it owes.

SECTION 10. 289.67 (1) (j) of the statutes is created to read:

289.67 (1) (j) *Repayment or waiver of overdue environmental repair fee.* 1. a. If a person required under par. (a) to pay the environmental repair fee to a licensed solid waste or hazardous waste disposal facility fails, within 120 days after the date of disposal, to pay the environmental repair fee and to pay the charges imposed by the

licensed solid waste or hazardous waste disposal facility, the owner or operator of the licensed solid waste or hazardous waste disposal facility may submit an affidavit to the department that includes identifying information for the person that failed to pay the environmental repair fee; a description of the efforts made to collect the environmental repair fee that is overdue; and a commitment that the owner or operator will not accept any solid waste or hazardous waste from the person that failed to pay the environmental repair fee until the overdue environmental repair fee is paid.

b. When the department receives an affidavit that complies with subd. 1. a., the department shall refund to the owner or operator any amount of the overdue environmental repair fee paid by the owner or operator and shall grant a waiver to the owner or operator from the requirement to pay any additional amount of the overdue environmental repair fee. If the person later pays the overdue environmental repair fee to the owner or operator, the owner or operator shall pay the full amount received to the department.

2. a. If a person required under par. (a) to pay the environmental repair fee to an intermediate hauler fails, within 120 days after the date of disposal, to pay the environmental repair fee and to pay the charges imposed by the intermediate hauler, the hauler may submit an affidavit to the owner or operator of the licensed solid waste or hazardous waste disposal facility at which the solid or hazardous waste is disposed of that includes identifying information for the person that failed to pay the environmental repair fee; a description of the efforts made to collect the environmental repair fee that is overdue; and a commitment that the hauler will not accept any solid waste or hazardous waste from the person that failed to pay the environmental repair fee until the overdue environmental repair fee is paid.

b. When the owner or operator of a licensed solid waste or hazardous waste disposal facility receives an affidavit under subd. 2. a., the owner or operator shall submit the affidavit to the department.

c. When the department receives an affidavit that complies with subd. 2. a., the department shall refund to the owner or operator any amount of the overdue environmental repair fee paid by the hauler and shall grant a waiver to the hauler from the requirement to pay any additional amount of the overdue environmental repair fee and the owner or operator shall pay any refund to the hauler. If the person later pays the overdue environmental repair fee to the hauler, the hauler shall pay the full amount received to the owner or operator and the owner or operator shall forward the payment to the department.

SECTION 11. Effective date.

(1) This act takes effect on January 1, 2015.