



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4 **SECTION 2.** 299.85 (2) (b) of the statutes is repealed.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

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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.

