

State of Wisconsin



2021 Senate Bill 151

Date of enactment: **August 6, 2021**
Date of publication*: **August 7, 2021**

2021 WISCONSIN ACT 78

AN ACT to repeal 299.85 (2) (b) and 299.85 (3m); to amend 299.85 (2) (bm), 299.85 (2m), 299.85 (3) (intro.), 299.85 (3) (d), 299.85 (3) (e), 299.85 (3) (em), 299.85 (7) (a) 1., 299.85 (7) (a) 2. and 299.85 (9m) (d); and to create 299.85 (1) (fm) and 299.85 (8) (g) of the statutes; relating to: the environmental compliance audit program.

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

SECTION 1. 299.85 (1) (fm) of the statutes is created to read:

299.85 (1) (fm) "Small business stationary source" has the meaning given in s. 285.79 (1).

SECTION 2. 299.85 (2) (b) of the statutes is repealed.

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

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

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

299.85 (2m) **CONSIDERATION OF CERTAIN VIOLATIONS.** ~~Upon the receipt of a notice under sub. (2) (b), the~~ The department shall consider whether the department of justice has, within 2 years, filed a suit to enforce an environmental requirement because of a violation involving the facility. If the department determines that, because of the nature of the violation involved in the suit, participation by the regulated entity may damage the integrity of the

Environmental Compliance Audit Program, the department shall notify the regulated entity that it is not eligible for participation.

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

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

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

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

* 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."

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

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

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

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

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

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

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

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

299.85 (7) (a) 2. Notwithstanding minimum or maximum forfeitures specified in ss. 29.314 (7), 29.334 (2), 29.604 (5) (a), 29.611 (11), 29.889 (10) (c) 2., 29.969, 29.971 (1) (a), (1m) (a), (3), (3m), (11g) (b), (11m) (b), and (11r) (b), 30.298 (1), (2), and (3), 30.49 (1) (a) and (c), 31.23 (2), 281.75 (19), 281.98 (1), 281.99 (2) (a) 1., 283.91 (2), 285.41 (7), 285.57 (5), 285.59 (8), 285.87 (1), 287.95 (1), (2) (b), and (3) (b), 287.97, 289.96 (2) and (3) (a), 291.97 (1), 292.99 (1) and (1m), 293.81, 293.87 (3) and (4) (a), 295.19 (3) (a) and (b) 1., 295.37 (2), 295.79 (2) and (4), 299.15 (4), 299.51 (5), 299.53 (4) (c) 1., 299.62 (3) (a) and (c), and 299.97 (1), if a regulated entity that qualifies under sub. (2) for participation in the Environmental Compliance Audit Program corrects violations that it discloses in a report that meets the requirements of sub. (3) within ~~90~~ 60 days or, if the entity is a small business stationary source, within 180 days or within 360 days if the correction involves a pollution prevention modification, after the department receives the report that meets the requirements of sub. (3), the regulated entity may not be required to forfeit more than \$500 for each violation, regardless of the number of days during which the violation continues.

SECTION 12. 299.85 (8) (g) of the statutes is created to read:

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

SECTION 13. 299.85 (9m) (d) of the statutes is amended to read:

299.85 (9m) (d) The number of regulated entities requiring longer than ~~90~~ 60 days or, if the entity is a small business stationary source, longer than 180 days or longer than 360 days if the correction involves a pollution prevention modification, to take corrective action and a description of the stipulated penalties associated with the compliance schedules for those corrective actions.