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*Testimony before the Senate Committee on Natural Resources and Energy
State Senator André Jacque
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Chairman Cowles and Members of the Senate Committee on Natural Resources and Energy,

Thank you for holding this hearing and the opportunity to testify before you today in support of Senate Bill 215. This common sense legislation remove disincentives associated with Wisconsin's Environmental Compliance Audit Program compared to a similar program offered through the federal Environmental Protections Agency, aligning notification and timeline requirements to improve ease of participation for businesses. This legislation was formally requested and unanimously supported by the bi-partisan appointees of the Wisconsin Department of Natural (DNR) Resources Small Business Environmental Council (SBEC) with language suggested by the DNR.

Though presently under-utilized, the DNR's Environmental Compliance Audit Program has the capacity to be a very helpful tool for small businesses and enables participants to voluntarily audit their own environmental compliance, self-disclose findings and correct violations with limited liability and lower penalties for noncompliance. With different timelines, deadlines, and procedures to follow in order to use the Wisconsin audit program and one of EPA's audit policies, companies may avoid using whichever program seems less advantageous. When designed with similar conditions for use/eligibility, the programs can be used simultaneously and offer greater advantage to business while still protecting the environment.

The chart in addendum to this testimony offers a helpful comparison of the state and federal voluntary environmental compliance audit programs and demonstrates what SB 215 would accomplish.

We ask that committee members support this common sense legislation to align and allow better utilization of Wisconsin's Environmental Compliance Audit Program. Thank you for your consideration of Senate Bill 215.

	Current DNR Compliance Audit Policy	Proposed DNR Compliance Audit Policy	Current EPA Small Business Compliance Policy
Advanced audit notification	notify DNR 30 days before audit (Notice of Intent form) audit within 350 days of notification	not required	not required
Discovery method	voluntary audit	Systematic (audit or environmental management system) voluntary (not required monitoring) independent (before regulator discovers)	Systematic (audit or environmental management system) voluntary (not required monitoring) independent (before regulator discovers)
Correction/remediation	correct violation within 90 days, possible extension up to one year with approval, s. 299.85(3), Wis. Stats.	within 180 days of discovery / within 360 days if involves pollution prevention modification	within 180 days of discovery / within 360 days if involves pollution prevention modification
Penalty reduction	capped at \$500 per violation if corrected within required time period, per s. 299.85(7), Wis. Stats.	capped at \$500 per violation if corrected within required time period requires consideration if a small business and minor violation ("reg flex")	up to 100% reduction of civil gravity penalties
Exclusions	imminent threat / serious harm to public health or environment DNR discovers violation before audit begins or before report submitted substantial economic benefit identified through required monitoring repeat violation	imminent threat / serious harm to public health or environment DNR discovers violation before audit begins or before report submitted substantial economic benefit identified through required monitoring repeat violation	caused serious harm or presents imminent & substantial endangerment to public health or environment subject to 2 or more enforcement actions for environmental violations in past 5 years violation already discovered by agency or other entity repeat violations (similar violation within past 3 years)

Criminal Violation	not eligible	not eligible	not eligible
Environmental record	clean environmental record for last 2 years, s. 299.85(9), Wis. Stats.	clean environmental record for last 2 years	subject to 2 or more enforcement actions for environmental violations in past 5 years



Senate Committee on Natural Resources and Energy

2019 Senate Bill 215 *Compliance Audit Reform* *5/30/2019*

Good afternoon Chairman Cowles and members of the Committee. My name is Laurel Sukup, and I am the Chief of Sustainability and Business Support with the Wisconsin Department of Natural Resources. Thank you for the opportunity to testify for informational purposes on Senate Bill 215, which deals with reforming the Environmental Compliance Audit Program. Before I start my formal remarks, I want to acknowledge the work of the Small Business Environmental Council regarding the proposed language. Members of the Council, Senator Jacque and Senator Miller, thank you for your work to empower our regulated customers with a tool that allows for proactive management of their environmental practices, and for benefitting the Department with another tool to work collaboratively with our regulated customers and reduce enforcement actions.

The State's Environmental Compliance Audit Program incentivizes Wisconsin's regulated community to proactively evaluate their environmental compliance. SB 215 suggests language that would align closer with the U.S. EPA's process, which has two audit programs, where one is specifically designed for small businesses (the other is for any size business). To better sync the Federal and State programs the proposed language would:

- 1.) Eliminate the 30-day advance notification to the DNR prior to beginning an audit
- 2.) Expand the time frame within which a facility would need to correct violations to 180 days (360 days if the remedy involves pollution prevention modifications)
- 3.) Eliminate the requirement of a public notice should the regulated entity propose a compliance schedule outside of the 180-day or 360-day (with pollution prevention) window.
- 4.) DNR and DOJ would consider if the entity is a small business when determining whether to pursue criminal enforcement action for violations revealed by a compliance audit

It is important to note that some of the proposed changes do line up closer to the EPA's process, but not completely. Since the EPA breaks their program into two tracks, one for any size businesses and one for small businesses, there is the potential that some (specifically large businesses) who want to take advantage of both the State and Federal law, would not meet the shorter time frame identified in the EPA policy.

One change that might make administering the program more difficult is the elimination of the 30-day advance notice. The notification allows the Department to determine eligibility for the program and potentially manage when a DNR inspector visits a facility. The advanced knowledge of when the audit is going to occur could allow for the facility to take advantage of all the benefits of the program.

Without advanced knowledge, a DNR inspector may find a violation and that violation would not be eligible under the program.

The agency feels this proposed legislation would benefit from a change to maintain advance notification, as well as, more closely aligning with EPA's program by acknowledging the differences between large and small businesses. We look forward to discussing these suggestions with the bill's authors and working with them on our requested changes.

On behalf of the Environmental Analysis and Sustainability Bureau, I would like to thank you for your time today. I would be happy to answer any questions you may have.