

1 A bill to be entitled
2 An act relating to clean air; creating ss.
3 252.934, 252.935, 252.936, 252.937, 252.938,
4 252.939, 252.940, 252.941, 252.942, 252.944,
5 252.945, and 252.946, F.S.; providing for the
6 Florida Accidental Release Prevention and Risk
7 Management Planning Act; providing a short
8 title and purpose; defining terms; directing
9 the Department of Community Affairs to seek
10 delegation from the U.S. Environmental
11 Protection Agency to implement the Accidental
12 Release Prevention Program under the federal
13 Clean Air Act or specified sources; providing
14 department powers and duties; providing for
15 funding and fees; providing enforcement
16 authority; providing penalties; authorizing the
17 department to conduct inspections and audits;
18 providing for tort liability; providing for a
19 startup loan; providing procedures for the
20 release of information; amending s. 252.85,
21 F.S.; deleting certain standard industrial
22 classification codes from certain annual
23 reporting requirements; allowing the Department
24 of Community Affairs to consider certain
25 factors in assessing late fees; providing for
26 review of the Florida Accidental Release
27 Prevention and Risk Management Planning Act;
28 providing an effective date.
29
30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Part IV of chapter 252, consisting of
2 sections 252.934, 252.935, 252.936, 252.937, 252.938, 252.939,
3 252.940, 252.941, 252.942, 252.944, 252.945, and 252.946,
4 Florida Statutes, is created to read:

5 252.934 Short title.--This part may be cited as the
6 "Florida Accidental Release Prevention and Risk Management
7 Planning Act."

8 252.935 Purpose.--The purpose of this part is to
9 establish adequate state authorities to implement, fund, and
10 enforce the requirements of the Accidental Release Prevention
11 Program of Section 112(r)(7) of the federal Clean Air Act and
12 federal implementing regulations for specified sources. To
13 ensure the efficient use of resources, it is the intent of the
14 Legislature for the state to seek delegation of the Section
15 112(r)(7) Accidental Release Prevention Program from the
16 United States Environmental Protection Agency for specified
17 sources, and for duplication and redundancy to be avoided to
18 the maximum extent practicable with no expansion of or
19 addition to the regulatory program.

20 252.936 Definitions.--As used in this part, the term:

21 (1) "Accidental release" means an unanticipated
22 emission of a regulated substance into the ambient air from a
23 stationary source.

24 (2) "Accidental Release Prevention Program" means the
25 program to implement the accidental release prevention,
26 detection, and response provisions of Section 112(r)(7) of the
27 Clean Air Act and federal implementing regulations.

28 (3) "Audit" means a review of information at a
29 stationary source subject to Section 112(r)(7), or submitted
30 by a stationary source subject to Section 112(r)(7), to
31 determine whether that stationary source is in compliance with

1 the requirements of this part and rules adopted to implement
2 this part. Audits must include a review of the adequacy of the
3 stationary source's Risk Management Plan, may consist of
4 reviews of information submitted to the department or the
5 United States Environmental Protection Agency to determine
6 whether the plan is complete or whether revisions to the plan
7 are needed, and the reviews may be conducted at the stationary
8 source to confirm that information onsite is consistent with
9 reported information.

10 (4) "Chemical Safety and Hazard Investigation Board"
11 means the federal Chemical Safety and Hazard Investigation
12 Board created under Section 112(r)(6) of the Clean Air Act.

13 (5) "Clean Air Act" means the federal Clean Air Act,
14 as amended, codified at 42 U.S.C. ss. 7401-7671q.

15 (6) "Commission" means the State Emergency Response
16 Commission for Hazardous Materials created by Executive Order
17 94-138.

18 (7) "Committee" means any local emergency planning
19 committee established in the state under s. 301 of the federal
20 Emergency Planning and Community Right To Know Act, 42 U.S.C.
21 s. 11001, et seq.

22 (8) "Department" means the Department of Community
23 Affairs.

24 (9) "Inspection" means a review of information at a
25 stationary source subject to Section 112(r)(7), including
26 documentation and operating practices and access to the source
27 and to any area where an accidental release could occur, to
28 determine whether the stationary source is in compliance with
29 the requirements of this part or rules adopted to implement
30 this part.

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1 (10) "Owner or operator" means any person who owns,
2 leases, operates, controls, or supervises any stationary
3 source subject to Section 112(r)(7) of the Clean Air Act.

4 (11) "Person" means an individual, corporation,
5 partnership, association, state or any agency or institution
6 thereof, municipality, political subdivision of the state, and
7 any agency, department, or instrumentality of the United
8 States, and any officer, agent, or employee thereof, and, for
9 the purposes of s. 252.941, any responsible corporate officer.

10 (12) "Process" means a process as that term is defined
11 under 40 C.F.R. part 68.

12 (13) "Program level" means a Program 1, Program 2, or
13 Program 3 stationary source level as determined under 40
14 C.F.R. part 68.

15 (14) "Regulated substance" means any regulated
16 substance defined or listed under Section 112(r)(3) of the
17 Clean Air Act and federal implementing regulations. Consistent
18 with Section 112(r)(7) federal implementing regulations,
19 ammonia used as an agricultural nutrient, when held by
20 farmers, is exempt from this part.

21 (15) "Risk Management Plan" means the Risk Management
22 Plan required under Section 112(r)(7) of the Clean Air Act and
23 federal implementing regulations.

24 (16) "Section 112(r)" means the provisions of Section
25 112(r) of the Clean Air Act.

26 (17) "Section 112(r)(7)" means the accidental release
27 prevention, detection, and response provisions in Section
28 112(r)(7) of the Clean Air Act.

29 (18) "Stationary source" means any buildings,
30 structures, equipment, installations, or regulated substance
31 emitting stationary activities which belong to the same

1 industrial group, which are located on one or more contiguous
 2 properties, which are under the control of the same person (or
 3 persons under common control), and from which an accidental
 4 release may occur. The term does not apply to transportation,
 5 including storage incident to transportation of any regulated
 6 substance under the provisions of this part. A stationary
 7 source includes transportation containers used for storage not
 8 incident to transportation and transportation containers
 9 connected to equipment at the stationary source for loading or
 10 unloading. Transportation includes, but is not limited to,
 11 transportation that is subject to oversight or regulation
 12 under 49 C.F.R. part 192, part 193, or part 195 or a state
 13 natural gas or hazardous liquid program for which the state
 14 has in effect a certification to the United States Department
 15 of Transportation under 40 U.S.C. s. 60105. A stationary
 16 source does not include naturally occurring hydrocarbon
 17 reservoirs. Properties may not be considered contiguous solely
 18 because of a railroad or gas pipeline right-of-way. Stationary
 19 sources subject to chapter 527 whose only regulated substance
 20 subject to Section 112(r)(7) is liquefied petroleum gas are
 21 exempt from this part.

22 (19) "Trust fund" means the Operating Trust Fund
 23 established in the department's Division of Emergency
 24 Management.

25 252.937 Department powers and duties.--

26 (1) The department has the power and duty to:

27 (a)1. Seek delegation from the United States
 28 Environmental Protection Agency to implement the Accidental
 29 Release Prevention Program under Section 112(r)(7) of the
 30 Clean Air Act and the federal implementing regulations for
 31 specified stationary sources subject to Section 112(r)(7) of

1 the Clean Air Act. Implementation for all other sources
2 subject to Section 112(r)(7) of the Clean Air Act will be
3 performed by the United States Environmental Protection
4 Agency; and

5 2. Ensure the timely submission of Risk Management
6 Plans and any subsequent revisions of Risk Management Plans.

7 (b) Adopt, modify, and repeal rules, with the advice
8 and consent of the commission, necessary to obtain delegation
9 from the United States Environmental Protection Agency and to
10 administer the Section 112(r)(7) Accidental Release Prevention
11 Program in this state for the specified stationary sources
12 with no expansion or addition of the regulatory program.

13 (c) Make and execute contracts and other agreements
14 necessary or convenient to the implementation of this part.

15 (d) Coordinate its activities under this part with its
16 other emergency management responsibilities, including its
17 responsibilities and activities under parts I, II, and III of
18 this chapter and with the related activities of other state
19 and local agencies, keeping separate accounts for all
20 activities conducted under this part which are supported or
21 partially supported from the trust fund.

22 (e) Establish, with the advice and consent of the
23 commission, a technical assistance and outreach program on or
24 before January 31, 1999, to assist owners and operators of
25 specified stationary sources subject to Section 112(r)(7) in
26 complying with the reporting and fee requirements of this
27 part. This program is designed to facilitate and ensure timely
28 submission of proper certifications or compliance schedules
29 and timely submission and registration of Risk Management
30 Plans and revised registrations and Risk Management Plans when
31 required for these sources.

1 (f) Make a quarterly report to the State Hazardous
2 Materials Emergency Response Commission on income and expenses
3 for the state's Accidental Release Prevention Program under
4 this part.

5 (2) To ensure that this program is self-supporting,
6 the department shall provide administrative support, including
7 staff, facilities, materials, and services to implement this
8 part for specified stationary sources subject to s. 252.939
9 and shall provide necessary funding to local emergency
10 planning committees and county emergency management agencies
11 for work performed to implement this part. Each state agency
12 with regulatory, inspection, or technical assistance programs
13 for specified stationary sources subject to this part shall
14 enter into a Memorandum of Understanding with the department
15 which specifically outlines how each agency's staff,
16 facilities, materials, and services will be utilized to
17 support implementation. At a minimum, these agencies and
18 programs include: the Department of Environmental
19 Protection's Division of Air Resources Management and Division
20 of Water Facilities, and the Department of Labor and
21 Employment Security's Division of Safety. It is the
22 Legislature's intent to implement this part as efficiently and
23 economically as possible, using existing expertise and
24 resources, if available and appropriate.

25 (3) To prevent the duplication of investigative
26 efforts and resources, the department, on behalf of the
27 commission, shall coordinate with any federal agencies or
28 agents thereof, including the federal Chemical Safety and
29 Hazard Investigation Board, or its successor, which are
30 performing accidental release investigations for specified
31 stationary sources, and may coordinate with any agencies of

1 the state which are performing accidental release
2 investigations. This accidental release investigation
3 coordination is not intended to limit or take the place of any
4 individual agency accidental release investigation under
5 separate authority.

6 (4) To promote efficient administration of this
7 program for the specified stationary sources, the only agency
8 which may seek delegation from the United States Environmental
9 Protection Agency for this program is the Florida Department
10 of Community Affairs. Further, the Florida Department of
11 Community Affairs shall not delegate this program to any local
12 environmental agency.

13 252.938 Funding.--

14 (1) It is the intent of the Legislature that the state
15 activities and expenditures under this part be self-sustaining
16 through fees contributed by specified sources as provided in
17 this part.

18 (2) All fees and penalties collected under this part
19 must be deposited in the Operating Trust Fund for
20 appropriation to fund the state's Accidental Release
21 Prevention Program under this part.

22 252.939 Fees.--

23 (1)(a) Any owner or operator of a specified stationary
24 source in the state which must submit a Risk Management Plan
25 to the United States Environmental Protection Agency under
26 Section 112(r)(7) shall pay an annual registration fee for
27 each specified stationary source to the department. The annual
28 registration fee is due to the department upon initial
29 submission of a stationary source's Risk Management Plan to
30 the United States Environmental Protection Agency, and every
31 April 1 thereafter.

1 (b) Prior individual written notice shall be provided
2 by United States mail by the department to owners or operators
3 of specified stationary sources in the state subject to the
4 requirements under Section 112(r)(7) to submit Risk Management
5 Plans and corresponding state registration fees. This notice
6 must include the requirements of the state fee schedule and
7 must be mailed at least 90 days before the due date for the
8 specified stationary source's initial registration and Risk
9 Management Plan submission year and at least 30 days before
10 the registration fee due date for subsequent years.

11 (c) The department shall establish a fee schedule by
12 rule for the specified stationary sources, upon the advice and
13 consent of the commission. The annual registration fee must
14 be based on a stationary source's highest program level, as
15 determined under the federal implementing regulations for
16 Section 112(r)(7) and may not exceed the following:

17 1. Program 1 Stationary Sources \$100. Multiple Program
18 1 stationary sources which are under common ownership and
19 which have the same single chemical process shall pay a full
20 fee for the first stationary source location and a 50-percent
21 fee for subsequent locations, with no owner of such multiple
22 stationary sources paying more than \$1,000. To be eligible for
23 this multiple stationary source fee provision, one single fee
24 payment must be submitted by the owner of the eligible
25 multiple stationary source locations with a listing of the
26 multiple stationary source locations and the single chemical
27 process.

28 2. Program 2 Stationary Sources \$200. Multiple Program
29 2 stationary sources which are under common ownership and
30 which have the same single chemical process shall pay a full
31 fee for the first three stationary source locations and a

1 50-percent fee for subsequent locations, with no owner of such
2 multiple stationary sources paying more than \$2,000. Multiple
3 Program 2 stationary sources which are under common ownership
4 and which are classified under one of the following Standard
5 Industrial Classification group numbers 01, 02, or 07 shall
6 pay a full fee, not to exceed \$100 for the first stationary
7 source location, and a 50-percent fee for subsequent
8 locations, with no owner of such multiple stationary sources
9 paying more than \$800. To be eligible for this multiple
10 stationary source fee provisions, one single fee payment must
11 be submitted by the owner of the eligible multiple stationary
12 source locations with a listing of the multiple stationary
13 source locations and the chemical process.

14 3. Program 3 Stationary Sources \$1,000.

15 (d) Annual registration fees under this section are
16 not required until after the department receives final
17 delegation approval from the United States Environmental
18 Protection Agency to administer the Section 112(r)(7)
19 Accidental Release Prevention Program for the specified
20 stationary sources.

21 (2) The department shall establish by rule late fees,
22 not to exceed 10 percent per month of the annual registration
23 fee owed, and not to exceed a total of 50 percent of the
24 annual registration fee, for failure to timely submit an
25 annual registration fee. A late fee may not be assessed
26 against a stationary source during the initial registration
27 and submission year if 90 days prior written notice of the
28 annual registration fee was not provided to that stationary
29 source.

1 (3) In determining whether an annual registration fee
2 is timely submitted under subsections (1) and (2), if the fee
3 is:

4 (a) Mailed via United States mail, the date of
5 submittal is the date evidenced by the postmark.

6 (b) Delivered by overnight or other private mail
7 carriers, the date of submittal is the date the package is
8 deposited with the overnight carrier.

9 (c) Hand-delivered, other than by overnight or private
10 mail carrier, the date of submittal is the date of actual
11 receipt.

12 (4) If the Legislature directs the department to seek
13 authority to implement and enforce Section 112(r)(7) of the
14 Clean Air Act for additional stationary sources, the
15 department shall, with the advise of the commission, review
16 and suggest revisions, if necessary and appropriate, to the
17 fees specified in s. 252.939.

18 252.940 Enforcement; procedure; remedies.--

19 (1) The department has the following enforcement
20 authority and remedies for specified stationary sources
21 available to it for violations of this part as specified in s.
22 252.941:

23 (a) To institute a civil action in a court of
24 competent jurisdiction in order to seek injunctive relief to
25 immediately restrain or enjoin any person from engaging in any
26 activity in violation of this part which is presenting an
27 imminent and substantial endangerment to the public health or
28 welfare or the environment; and to seek injunctive relief to
29 enforce compliance with this part or any rule, regulation,
30 program requirement, or order implementing this part.

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1 (b) To institute a civil action in a court of
2 competent jurisdiction to impose and to recover a civil
3 penalty for each violation, as specified in s. 252.941(1), in
4 an amount of not more than \$10,000 per offense. However, the
5 court may receive evidence in mitigation. Each day during any
6 portion of which such violation occurs constitutes a separate
7 offense.

8 (c) To seek criminal remedies, including fines, for
9 violations as specified in s. 252.941(2).

10 (d) Failure to comply with the fee provisions under s.
11 252.939 is not a violation under s. 252.941. Section
12 252.939(2) is the sole remedy for fee provisions in s.
13 252.939, except that the department may enforce a final order
14 entered under that section pursuant to s. 120.69.

15 (2) An action may not be commenced or continued under
16 this section if the Administrator of the United States
17 Environmental Protection Agency has commenced and is
18 diligently pursuing an administrative order or civil or
19 criminal action to enforce a specific requirement or to impose
20 a civil or criminal penalty under Section 112(r) with respect
21 to the specific violation. If the United States Environmental
22 Protection Agency initiates any action after the state has
23 initiated an action based on the same cause, the state suit
24 shall be dismissed without prejudice and may be refiled only
25 in the event that the United States Environmental Protection
26 Agency discontinues the enforcement action prior to settlement
27 or final judgment.

28 (3) For the purposes of this section, the department
29 may offer and accept the use of emergency planning, training,
30 and response-related Supplemental Environmental Projects,
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1 consistent with the guidelines established by the United
2 States Environmental Protection Agency.

3 (4) The authorities and remedies provided under this
4 section shall not take effect until after such time as the
5 department has received final delegation approval from the
6 United States Environmental Protection Agency to administer
7 the Section 112(r)(7) Accidental Release Prevention Program
8 for specified stationary sources.

9 252.941 Prohibitions, violations, penalties, intent.--

10 (1) It is a violation of this part, and it is
11 prohibited for any person to:

12 (a) Fail to make any submittal required by this part
13 or by rule or regulation implementing this part, or to violate
14 or fail to comply with any rule, regulation, order, plan, or
15 certification adopted or issued by the department pursuant to
16 its lawful authority under this part, other than fees under s.
17 252.939.

18 (b) Knowingly make any false statement,
19 representation, or certification in any application, record,
20 report, plan, or other document filed or required to be
21 maintained under this part, or to falsify, tamper with, or
22 knowingly render inaccurate any monitoring device or method
23 required to be maintained under this part or by any program,
24 rule, regulation, or order issued under this part.

25 (c) Fail to report to the appropriate representative
26 of the department, as established by department rule, within 1
27 working day of discovery of an accidental release of a
28 regulated substance from the stationary source, if the owner
29 or operator is required to report the release to the United
30 States Environmental Protection Agency under Section
31 112(r)(6).

1 (2) Any person who willfully commits a violation
2 specified in subsection (1) is guilty of a misdemeanor of the
3 first degree punishable as provided in s. 775.083(1)(g) by a
4 fine of not more than \$10,000 for each offense. Each day
5 during any portion of which such violation occurs constitutes
6 a separate offense.

7 (3) It is the legislative intent that the civil
8 penalties and criminal fines imposed by the court be of such
9 amount as to ensure immediate and continued compliance with
10 this section.

11 (4) The prohibitions and violations provided under
12 this section shall take effect after such time as the
13 department has received final delegation approval from the
14 United States Environmental Protection Agency to administer
15 the Section 112(r)(7) Accidental Release Prevention Program
16 for specified stationary sources.

17 252.942 Inspections and audits.--

18 (1)(a) Any duly authorized representative of the
19 department may at any reasonable time enter to inspect and
20 audit, in order to ascertain compliance with this part or
21 rules adopted to implement this part, any specified stationary
22 source subject to the requirements of Section 112(r)(7),
23 except a building that is used exclusively for a private
24 residence.

25 (b) Any duly authorized representative may at any
26 reasonable time have access to any specified stationary source
27 subject to Section 112(r)(7) for inspection and copying any
28 supporting documentation required under this part.

29 (c) A person may not refuse reasonable entry or access
30 to any authorized representative of the department who
31 requests entry for purposes of inspection and who presents

1 appropriate credentials; nor shall any person obstruct,
2 hamper, or interfere with such inspection.

3 (2) An inspection or audit under subsection (1) may be
4 conducted only after:

5 (a) Consent for the inspection is received from the
6 owner, operator, or person in charge; or

7 (b) The appropriate inspection warrant as provided in
8 this section is obtained.

9 (3)(a) An inspection warrant as authorized by this
10 chapter may be issued by a judge of any county court or
11 circuit court of this state which has jurisdiction over the
12 place or thing to be searched.

13 (b) When a proper affidavit is made, the judge may
14 issue an inspection warrant if:

15 1. It appears that the properties to be inspected may
16 be connected with or contain evidence of the violation of any
17 of the provisions of this part or any rule properly
18 promulgated thereunder; or

19 2. The inspection sought is an integral part of a
20 larger scheme of systematic routine inspections that are
21 necessary to, and consistent with, the continuing efforts of
22 the department to ensure compliance with the provisions of
23 this part and any rules adopted thereunder.

24 (c) The judge shall, before issuing the warrant, have
25 the application for the warrant duly sworn to and subscribed
26 by a representative of the department; and he or she may
27 receive further testimony from witnesses, supporting
28 affidavits, or depositions in writing to support the
29 application. The affidavit and further proof must set forth
30 the facts tending to establish the grounds specified in
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1 paragraph (b) or the reasons for believing that such grounds
2 exist.

3 (d) Upon examination of the application and proofs
4 submitted and if satisfied that cause exists for issuing the
5 inspection warrant, the judge shall issue a warrant, signed by
6 him or her with the name of his or her office, to any
7 department representative, which warrant will authorize the
8 representative to inspect the property described in the
9 warrant.

10 (4) The department shall periodically audit Risk
11 Management Plans submitted by owners or operators of
12 stationary sources subject to Section 112(r)(7) and require
13 revisions of such plans when necessary to ensure compliance
14 with this part. The audit and revision requirements must
15 substantially comply with federal regulations implementing
16 Section 112(r)(7). The department shall develop, with the
17 advice and consent of the commission, an annual audit work
18 plan which identifies specified stationary sources or audits
19 based on the program resources available. Stationary sources
20 will be prioritized for audits based on factors which include,
21 but are not limited to, stationary source location and
22 proximity to population centers, chemical characteristics and
23 inventories, stationary source accident history, process
24 accident history, compliance or inspection by allied agency
25 programs, and the results of stationary sources' self-audits.

26 (5) Upon request, owners or operators of specified
27 stationary sources subject to Section 112(r)(7) shall receive
28 an oral exit interview at the conclusion of an inspection or
29 audit.

30 (6) Following an audit or inspection, the department
31 shall issue the owner or operator a written preliminary

1 determination of any necessary revisions to the stationary
2 source Risk Management Plan to ensure that the plan meets the
3 requirements of this part and rules adopted to implement this
4 part. The preliminary determination must include an
5 explanation of the basis for the revisions, reflecting
6 industry standards and guidelines to the extent that such
7 standards and guidelines are applicable, and must include a
8 timetable for their implementation.

9 (7) The department shall provide reasonable notice of
10 its intent to conduct an onsite inspection or audit of a
11 specified stationary source. Inspections or audits may be
12 conducted without notice in response to an accidental release
13 or to protect the public health, safety, and welfare.

14 252.944 Tort liability.--The commission and the
15 committees are state agencies, and the members of the
16 commission and committees are officers, employees, or agents
17 of the state for the purpose of s. 768.28.

18 252.945 Startup loan.--The department may advance a
19 startup loan in the amount of \$400,000 from the hazardous
20 materials account in the Operating Trust Fund to support
21 initial implementation of this part. This loan must be repaid
22 in equal annual installments by 2006, beginning October 1,
23 2001.

24 252.946 Public records.--The Department of Community
25 Affairs, the State Hazardous Materials Emergency Response
26 Commission, and any local emergency planning committee may
27 assist persons in electronically accessing information
28 submitted to the United States Environmental Protection Agency
29 under this part of Section 112(e)(7) which is held by the
30 United States Environmental Protection Agency in its
31 centralized database. If requested, the department, the

1 commission, or a committee may furnish copies of such United
2 States Environmental Protection Agency records.

3 Section 2. Subsections (3) and (4) of section 252.85,
4 Florida Statutes, are amended to read:

5 252.85 Fees.--

6 (3) Any owner or operator of a facility ~~with a~~
7 ~~Standard Industrial Classification Code between 20 and 39~~ that
8 is required to submit a report or filing ~~United States~~
9 ~~Environmental Protection Agency Form R report to the~~
10 ~~commission~~ under s. 313 of EPCRA shall pay an annual reporting
11 fee not to exceed \$150 ~~per Form R report~~ for those s. 313
12 EPCRA listed substances in effect on January 1, 1998 ~~1996~~.
13 The department shall establish by rule the date by which the
14 fee is to be paid, as well as a formula or method of
15 determining the applicable fee under this subsection.

16 (4)(a) The department may assess a late fee for the
17 failure to submit a report or filing that substantially
18 complies with the requirements of EPCRA or s. 252.87 by the
19 specified date or for failure to pay any fee, including any
20 late fee, required by this section. This late fee shall be in
21 addition to the fee otherwise imposed pursuant to this
22 section. If the department elects to impose a late fee, it
23 shall provide the owner or operator with a written notice that
24 identifies the specific requirements which have not been met
25 and advises of its intent to assess a late fee.

26 (b) The department may impose a late fee, subject to
27 the limitations set forth below:

28 1. If the report, filing, or fee is submitted within
29 30 days after the receipt of the department's notice, no late
30 fee may be assessed.

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1 2. If the report, filing, or fee is not submitted
2 within 30 days after the receipt of the department's notice,
3 the department may impose a late fee in an amount equal to the
4 amount of the annual registration fee, filing fee, or s. 313
5 ~~Form R~~ fee due, not to exceed \$2,000.

6 3. If the report, filing, or fee is not submitted
7 within 90 days after the receipt of the department's notice,
8 the department may issue a second notice. If the report,
9 filing, or fee is not submitted within 30 days after receipt
10 of the department's second notice, the department may assess a
11 second late fee in an amount equal to twice the amount of the
12 annual registration fee, filing fee, or s. 313 ~~Form R~~ fee due,
13 not to exceed \$4,000.

14 4. The department may consider, but is not limited to
15 considering, the following factors in assessing late
16 fees: good-faith attempt to comply; history of noncompliance;
17 ability to pay or continue in business; threat to health and
18 safety posed by noncompliance; and degree of culpability.

19 Section 3. In the interim prior to the regular
20 legislative session in 2000, the appropriate substantive
21 committees of the Senate and the House of Representatives
22 shall conduct a review of the Florida Accidental Release
23 Prevention and Risk Management Planning Act. The Department
24 of Community Affairs, the State Hazardous Materials Emergency
25 Response Commission, local emergency planning committees, the
26 Department of Environmental Protection, the Department of
27 Labor and Employment Security, county emergency management
28 agencies, and all other agencies or private entities providing
29 regulatory, inspection, or technical assistance under the
30 state's Accidental Release Prevention Program shall provide
31 information and assist in the review as needed. The review

1 should include an analysis of the effectiveness and efficiency
2 of the program, including the technical assistance and
3 outreach programs offered; the level of participation in the
4 program; the quality of the Risk Management Plans submitted;
5 the adequacy of the administrative support provided and the
6 efficiency and effectiveness of program administration,
7 monitoring, coordination, and recordkeeping; the adequacy and
8 quality of investigative efforts; the adequacy of the fee
9 structure; the adequacy and quality of contracts entered into,
10 audits, or inspections; and any other aspect of the program as
11 determined by the legislative committees. Subsequent to this
12 review, the legislative committees are to make recommendations
13 regarding whether to continue the program. The committees are
14 to address what, if any, statutory provisions should be
15 modified in order to improve the program. Legislation should
16 be promulgated to effectuate the committees' recommendations.

17 Section 4. This act shall take effect upon becoming a
18 law.

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