

By the Committees on Governmental Operations,
Environmental Protection and Representatives Edwards,
Burroughs, Dockery and Mackey

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; providing a fee;
21 amending s. 252.85, F.S.; deleting certain
22 standard industrial classification codes from
23 certain annual reporting requirements; allowing
24 the Department of Community Affairs to consider
25 certain factors in assessing late fees;
26 providing for review of the Florida Accidental
27 Release Prevention and Risk Management Planning
28 Act; 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.

31

- 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 the provisions of chapter 527 shall be
20 exempt from the provisions of this part.

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

24 252.937 Department powers and duties.--

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

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

1 subject to Section 112(r)(7) of the Clean Air Act will be
2 performed by the United States Environmental Protection
3 Agency; and
4 2. Ensure the timely submission of Risk Management
5 Plans and any subsequent revisions of Risk Management Plans.
6 (b) Adopt, modify, and repeal rules, with the advice
7 and consent of the commission, necessary to obtain delegation
8 from the United States Environmental Protection Agency and to
9 administer the Section 112(r)(7) Accidental Release Prevention
10 Program in this state for the specified stationary sources
11 with no expansion or addition of the regulatory program.
12 (c) Make and execute contracts and other agreements
13 necessary or convenient to the implementation of this part.
14 (d) Coordinate its activities under this part with its
15 other emergency management responsibilities, including its
16 responsibilities and activities under parts I, II, and III of
17 this chapter and with the related activities of other state
18 and local agencies, keeping separate accounts for all
19 activities conducted under this part which are supported or
20 partially supported from the trust fund.
21 (e) Establish, with the advice and consent of the
22 commission, a technical assistance and outreach program on or
23 before January 31, 1999, to assist owners and operators of
24 specified stationary sources subject to Section 112(r)(7) in
25 complying with the reporting and fee requirements of this
26 part. This program is designed to facilitate and ensure timely
27 submission of proper certifications or compliance schedules
28 and timely submission and registration of Risk Management
29 Plans and revised registrations and Risk Management Plans when
30 required for these sources.
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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 Program 1 Stationary Sources \$50

18 Multiple Program 1 stationary sources which are under
19 common operate control or ownership shall pay a full fee for
20 the first stationary source location and a 50-percent fee for
21 subsequent locations, with no owner or operator of such
22 multiple stationary sources paying more than \$500. To be
23 eligible for this multiple stationary source fee provision,
24 one single fee payment must be submitted by the owner or
25 operator of the eligible multiple stationary source locations
26 with a listing of the multiple stationary source locations.

27 Program 2 Stationary Sources \$100

28 Multiple Program 2 stationary sources which are under
29 common operator control or ownership shall pay a full fee for
30 the first stationary source location and a 50-percent fee for
31 subsequent locations, with no owner or operator of such

1 multiple stationary sources paying more than \$800. To be
2 eligible for this multiple stationary source fee provision,
3 one single fee payment must be submitted by the owner or
4 operator of the eligible multiple stationary source locations
5 with a listing of the multiple stationary source locations.

6 Program 3 Stationary Sources \$1,000

7 (d) Annual registration fees under this section are
8 not required until after the department receives final
9 delegation approval from the United States Environmental
10 Protection Agency to administer the Section 112(r)(7)
11 Accidental Release Prevention Program for the specified
12 stationary sources.

13 (2) The department shall establish by rule late fees,
14 not to exceed 10 percent per month of the annual registration
15 fee owed, and not to exceed a total of 50 percent of the
16 annual registration fee, for failure to timely submit an
17 annual registration fee. A late fee may not be assessed
18 against a stationary source during the initial registration
19 and submission year if 90 days prior written notice of the
20 annual registration fee was not provided to that stationary
21 source.

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

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

27 (b) Delivered by overnight or other private mail
28 carriers, the date of submittal is the date the package is
29 deposited with the overnight carrier.

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1 (c) Hand-delivered, other than by overnight or private
2 mail carrier, the date of submittal is the date of actual
3 receipt.

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

10 252.940 Enforcement; procedure; remedies.--

11 (1) The department has the following enforcement
12 authority and remedies for specified stationary sources
13 available to it for violations of this part as specified in s.
14 252.941:

15 (a) To institute a civil action in a court of
16 competent jurisdiction in order to seek injunctive relief to
17 immediately restrain or enjoin any person from engaging in any
18 activity in violation of this part which is presenting an
19 imminent and substantial endangerment to the public health or
20 welfare or the environment; and to seek injunctive relief to
21 enforce compliance with this part or any rule, regulation,
22 program requirement, or order implementing this part.

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

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

1 (d) Failure to comply with the fee provisions under s.
2 252.939 is not a violation under s. 252.941. Section
3 252.939(2) is the sole remedy for fee provisions in s.
4 252.939, except that the department may enforce a final order
5 entered under that section pursuant to s. 120.69.

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

19 (3) For the purposes of this section, the department
20 may offer and accept the use of supplemental emergency
21 response projects.

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

28 252.941 Prohibitions, violations, penalties, intent.--

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

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1 (a) Fail to make any submittal required by this part
2 or by rule or regulation implementing this part, or to violate
3 or fail to comply with any rule, regulation, order, plan, or
4 certification adopted or issued by the department pursuant to
5 its lawful authority under this part, other than fees under s.
6 252.939.

7 (b) Knowingly make any false statement,
8 representation, or certification in any application, record,
9 report, plan, or other document filed or required to be
10 maintained under this part, or to falsify, tamper with, or
11 knowingly render inaccurate any monitoring device or method
12 required to be maintained under this part or by any program,
13 rule, regulation, or order issued under this part.

14 (c) Fail to report to the appropriate representative
15 of the department, as established by department rule, within 1
16 working day of discovery of an accidental release of a
17 regulated substance from the stationary source, if the owner
18 or operator is required to report the release to the United
19 States Environmental Protection Agency under Section
20 112(r)(6).

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

27 (3) It is the legislative intent that the civil
28 penalties and criminal fines imposed by the court be of such
29 amount as to ensure immediate and continued compliance with
30 this section.

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

7 252.942 Inspections and audits.--

8 (1)(a) Any duly authorized representative of the
9 department may at any reasonable time enter to inspect and
10 audit, in order to ascertain compliance with this part or
11 rules adopted to implement this part, any specified stationary
12 source subject to the requirements of Section 112(r)(7),
13 except a building that is used exclusively for a private
14 residence.

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

19 (c) A person may not refuse reasonable entry or access
20 to any authorized representative of the department who
21 requests entry for purposes of inspection and who presents
22 appropriate credentials; nor shall any person obstruct,
23 hamper, or interfere with such inspection.

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

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

28 (b) The appropriate inspection warrant as provided in
29 this section is obtained.

30 (3)(a) An inspection warrant as authorized by this
31 chapter may be issued by a judge of any county court or

1 circuit court of this state which has jurisdiction over the
2 place or thing to be searched.

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

5 1. It appears that the properties to be inspected may
6 be connected with or contain evidence of the violation of any
7 of the provisions of this part or any rule properly
8 promulgated thereunder; or

9 2. The inspection sought is an integral part of a
10 larger scheme of systematic routine inspections that are
11 necessary to, and consistent with, the continuing efforts of
12 the department to ensure compliance with the provisions of
13 this part and any rules adopted thereunder.

14 (c) The judge shall, before issuing the warrant, have
15 the application for the warrant duly sworn to and subscribed
16 by a representative of the department; and he or she may
17 receive further testimony from witnesses, supporting
18 affidavits, or depositions in writing to support the
19 application. The affidavit and further proof must set forth
20 the facts tending to establish the grounds specified in
21 paragraph (b) or the reasons for believing that such grounds
22 exist.

23 (d) Upon examination of the application and proofs
24 submitted and if satisfied that cause exists for issuing the
25 inspection warrant, the judge shall issue a warrant, signed by
26 him or her with the name of his or her office, to any
27 department representative, which warrant will authorize the
28 representative to inspect the property described in the
29 warrant.

30 (4) The department shall periodically audit Risk
31 Management Plans submitted by owners or operators of

1 stationary sources subject to Section 112(r)(7) and require
2 revisions of such plans when necessary to ensure compliance
3 with this part. The audit and revision requirements must
4 substantially comply with federal regulations implementing
5 Section 112(r)(7). The department shall develop, with the
6 advice and consent of the commission, an annual audit work
7 plan which identifies specified stationary sources or audits
8 based on the program resources available. Stationary sources
9 will be prioritized for audits based on factors which include,
10 but are not limited to, stationary source location and
11 proximity to population centers, chemical characteristics and
12 inventories, stationary source accident history, process
13 accident history, compliance or inspection by allied agency
14 programs, and the results of stationary sources' self-audits.

15 (5) Upon request, owners or operators of specified
16 stationary sources subject to Section 112(r)(7) shall receive
17 an oral exit interview at the conclusion of an inspection or
18 audit.

19 (6) Following an audit or inspection, the department
20 shall issue the owner or operator a written preliminary
21 determination of any necessary revisions to the stationary
22 source Risk Management Plan to ensure that the plan meets the
23 requirements of this part and rules adopted to implement this
24 part. The preliminary determination must include an
25 explanation of the basis for the revisions, reflecting
26 industry standards and guidelines to the extent that such
27 standards and guidelines are applicable, and must include a
28 timetable for their implementation.

29 (7) The department shall provide reasonable notice of
30 its intent to conduct an onsite inspection or audit of a
31 specified stationary source. Inspections or audits may be

1 conducted without notice in response to an accidental release
2 or to protect the public health, safety, and welfare.

3 252.944 Tort liability.--The commission and the
4 committees are state agencies, and the members of the
5 commission and committees are officers, employees, or agents
6 of the state for the purpose of s. 768.28.

7 252.945 Startup loan.--The department may advance a
8 startup loan in the amount of \$400,000 from the hazardous
9 materials account in the Operating Trust Fund to support
10 initial implementation of this part. This loan must be repaid
11 in equal annual installments by 2006, beginning October 1,
12 2001.

13 252.946 Public records.--The Department of Community
14 Affairs, the State Hazardous Materials Emergency Response
15 Commission, and any local emergency planning committee may
16 assist persons in electronically accessing information
17 submitted to the United States Environmental Protection Agency
18 under this part or Section 112(r)(7) which is held by the
19 United States Environmental Protection Agency in its
20 centralized database. If requested, the department, the
21 commission, or a committee may furnish copies of such United
22 States Environmental Protection Agency records. For these,
23 and any other records copied, the department, the commission,
24 or the committees may charge a fee of up to \$1 per page for
25 over 25 pages copied, per person, per year.

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

28 252.85 Fees.--

29 (3) Any owner or operator of a facility ~~with a~~
30 ~~Standard Industrial Classification Code between 20 and 39~~ that
31 is required to submit a report or filing ~~United States~~

1 ~~Environmental Protection Agency Form R report to the~~
2 ~~commission~~ under s. 313 of EPCRA shall pay an annual reporting
3 fee not to exceed \$150 ~~per Form R report~~ for those s. 313
4 EPCRA listed substances in effect on January 1, 1998 ~~1996~~.
5 The department shall establish by rule the date by which the
6 fee is to be paid, as well as a formula or method of
7 determining the applicable fee under this subsection.

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

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

20 1. If the report, filing, or fee is submitted within
21 30 days after the receipt of the department's notice, no late
22 fee may be assessed.

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

28 3. If the report, filing, or fee is not submitted
29 within 90 days after the receipt of the department's notice,
30 the department may issue a second notice. If the report,
31 filing, or fee is not submitted within 30 days after receipt

1 of the department's second notice, the department may assess a
2 second late fee in an amount equal to twice the amount of the
3 annual registration fee, filing fee, or s. 313 ~~Form R~~ fee due,
4 not to exceed \$4,000.

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

10 Section 3. In the interim prior to the regular
11 legislative session in 2000, the appropriate substantive
12 committees of the Senate and the House of Representatives
13 shall conduct a review of the Florida Accidental Release
14 Prevention and Risk Management Planning Act. The Department
15 of Community Affairs, the State Hazardous Materials Emergency
16 Response Commission, local emergency planning committees, the
17 Department of Environmental Protection, the Department of
18 Labor and Employment Security, county emergency management
19 agencies, and all other agencies or private entities providing
20 regulatory, inspection, or technical assistance under the
21 state's Accidental Release Prevention Program shall provide
22 information and assist in the review as needed. The review
23 should include an analysis of the effectiveness and efficiency
24 of the program, including the technical assistance and
25 outreach programs offered; the level of participation in the
26 program; the quality of the Risk Management Plans submitted;
27 the adequacy of the administrative support provided and the
28 efficiency and effectiveness of program administration,
29 monitoring, coordination, and recordkeeping; the adequacy and
30 quality of investigative efforts; the adequacy of the fee
31 structure; the adequacy and quality of contracts entered into,

1 audits, or inspections; and any other aspect of the program as
2 determined by the legislative committees. Subsequent to this
3 review, the legislative committees are to make recommendations
4 regarding whether to continue the program. The committees are
5 to address what, if any, statutory provisions should be
6 modified in order to improve the program. Legislation should
7 be promulgated to effectuate the committees' recommendations.

8 Section 4. This act shall take effect upon becoming a
9 law.

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