

Bill No. CS for SB 812

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Dyer moved the following amendment:		
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13	Senate Amendment		
14	On page 2, line 6, through page 7, line 28, delete		
15	those lines		
16			
17	and insert:		
18	<u>252.935 Purpose.--The purpose of this part is to</u>		
19	<u>establish adequate state authorities to implement, fund, and</u>		
20	<u>enforce the requirements of the Accidental Release Prevention</u>		
21	<u>Program of Section 112(r)(7) of the federal Clean Air Act and</u>		
22	<u>federal implementing regulations for specified sources. To</u>		
23	<u>ensure the efficient use of resources, it is the intent of the</u>		
24	<u>Legislature for the state to seek delegation of the Section</u>		
25	<u>112(r)(7) Accidental Release Prevention Program from the U.S.</u>		
26	<u>Environmental Protection Agency for specified sources and for</u>		
27	<u>duplication and redundancy to be avoided to the maximum extent</u>		
28	<u>practicable with no expansion or addition of the regulatory</u>		
29	<u>program.</u>		
30	<u>252.936 Definitions.--As used in this part, the term:</u>		
31	<u>(1) "Accidental release" means an unanticipated</u>		

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1 emission of a regulated substance into the ambient air from a
2 stationary source.

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

7 (3) "Audit" means a review of information at a
8 stationary source subject to Section 112(r)(7), or submitted
9 by a stationary source subject to Section 112(r)(7), to
10 determine whether that stationary source is in compliance with
11 the requirements of this part and rules adopted to implement
12 this part. Audits must include a review of the adequacy of the
13 stationary source's Risk Management Plan, may consist of
14 reviews of information submitted to the department or the U.S.
15 Environmental Protection Agency to determine whether the plan
16 is complete or whether revisions to the plan are needed, and
17 the reviews may be conducted at the stationary source to
18 confirm that information onsite is consistent with reported
19 information.

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

23 (5) "Clean Air Act" means the federal Clean Air Act,
24 as amended, codified at 42 USC ss. 7401-7671q.

25 (6) "Commission" means the State Emergency Response
26 Commission for Hazardous Materials created by Executive Order
27 94-138.

28 (7) "Committee" means any local emergency planning
29 committee established in the state under s. 301 of the federal
30 Emergency Planning and Community Right To Know Act, 42 USC s.
31 11001, et seq.

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1 (8) "Department" means the Department of Community
2 Affairs.

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

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

13 (11) "Person" means an individual, corporation,
14 partnership, association, state or any agency or institution
15 thereof, municipality, political subdivision of the state, and
16 any agency, department, or instrumentality of the United
17 States, and any officer, agent, or employee thereof, and, for
18 the purposes of s. 252.941, any responsible corporate officer.

19 (12) "Process" means a process as that term is defined
20 under 40 C.F.R. Part 68.

21 (13) "Program level" means a Program 1, Program 2, or
22 Program 3 stationary source level as determined under 40
23 C.F.R. Part 68.

24 (14) "Regulated substance" means any regulated
25 substance defined or listed under Section 112(r)(3) of the
26 Clean Air Act and federal implementing regulations. Consistent
27 with Section 112(r)(7) federal implementing regulations,
28 ammonia used as an agricultural nutrient, when held by
29 farmers, is exempt from this part.

30 (15) "Risk Management Plan" means the Risk Management
31 Plan required under Section 112(r)(7) of the Clean Air Act and

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1 federal implementing regulations.

2 (16) "Section 112(r)" means the provisions of Section
3 112(r) of the Clean Air Act.

4 (17) "Section 112(r)(7)" means the accidental release
5 prevention, detection, and response provisions in Section
6 112(r)(7) of the Clean Air Act.

7 (18) "Stationary source" means any buildings,
8 structures, equipment, installations, or regulated substance
9 emitting stationary activities which belong to the same
10 industrial group, which are located on one or more contiguous
11 properties, which are under the control of the same person (or
12 persons under common control), and from which an accidental
13 release may occur. The term does not apply to transportation,
14 including storage incident to transportation of any regulated
15 substance under the provisions of this part. A stationary
16 source includes transportation containers used for storage not
17 incident to transportation and transportation containers
18 connected to equipment at the stationary source for loading or
19 unloading. Transportation includes, but is not limited to,
20 transportation that is subject to oversight or regulation
21 under 49 CFR parts 192, 193, or 195 or a state natural gas or
22 hazardous liquid program for which the state has in effect a
23 certification to the United States Department of
24 Transportation under 40 U.S.C. s. 60105. A stationary source
25 does not include naturally occurring hydrocarbon reservoirs.
26 Properties may not be considered contiguous solely because of
27 a railroad or gas pipeline right-of-way. Stationary sources
28 subject to chapter 527 whose only regulated substance subject
29 to Section 112(r)(7) is liquefied petroleum gas are exempt
30 from Part IV, chapter 252.

31 (19) "Trust fund" means the Operating Trust Fund

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1 established in the department's Division of Emergency
2 Management.
3 252.937 Department powers and duties.--
4 (1) The department has the power and duty to:
5 (a)1. Seek delegation from the U.S. Environmental
6 Protection Agency to implement the Accidental Release
7 Prevention Program under Section 112(r)(7) of the Clean Air
8 Act and the federal implementing regulations for specified
9 sources subject to Section 112(r)(7) of the Clean Air Act.
10 Implementation for all other sources subject to Section
11 112(r)(7) of the Clean Air Act will be performed by the U.S.
12 Environmental Protection Agency; and
13 2. Ensure the timely submission of Risk Management
14 Plans and any subsequent revisions of Risk Management Plans.
15 (b) Adopt, modify, and repeal rules, with the advice
16 and consent of the commission, necessary to obtain delegation
17 from the U.S. Environmental Protection Agency and to
18 administer the Section 112(r)(7) Accidental Release Prevention
19 Program in this state for the specified stationary sources
20 with no expansion or addition of the regulatory program.
21 (c) Make and execute contracts and other agreements
22 necessary or convenient to the implementation of this part.
23 (d) Coordinate its activities under this part with its
24 other emergency management responsibilities, including its
25 responsibilities and activities under parts I, II, and III of
26 this chapter and with the related activities of other state
27 and local agencies, keeping separate accounts for all
28 activities conducted under this part which are supported or
29 partially supported from the Trust Fund.
30 (e) Establish, with the advice and consent of the
31 commission, a technical assistance and outreach program on or

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1 before January 31, 1999, to assist owners and operators of
2 specified stationary sources subject to Section 112(r)(7) in
3 complying with the reporting and fee requirements of this
4 part. This program is designed to facilitate and ensure timely
5 submission of proper certifications or compliance schedules
6 and timely submission and registration of Risk Management
7 Plans and revised registrations and Risk Management Plans when
8 required for these sources.

9 (f) Make a quarterly report to the State Emergency
10 Response Commission on income and expenses for the state's
11 Accidental Release Prevention Program under this part.

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

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1 (3) To prevent the duplication of investigative
2 efforts and resources, the department, on behalf of the
3 commission, shall coordinate with any federal agencies or
4 agents thereof, including the federal Chemical Safety and
5 Hazard Investigation Board, or its successor, which are
6 performing accidental release investigations for specified
7 stationary sources, and may coordinate with any agencies of
8 the state which are performing accidental release
9 investigations. This accidental release investigation
10 coordination is not intended to limit or take the place of any
11 individual agency accidental release investigation under
12 separate authority.

13 (4) To promote efficient administration of this
14 program and specified stationary sources, the only agency
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