

By the Committee on Natural Resources and Senators Dyer, Latvala, Williams, Brown-Waite, Diaz-Balart and Forman

312-1677A-98

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, 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          for funding and fees; providing enforcement

15          authority; providing penalties; authorizing the

16          department to conduct inspections and audits;

17          providing for tort liability; providing for a

18          start-up loan; providing procedures for the

19          release of information; amending s. 252.85,

20          F.S.; deleting certain standard industrial

21          classification codes from certain annual

22          reporting requirements; allowing the Department

23          of Community Affairs to consider certain

24          factors in assessing late fees; providing an

25          effective date.

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27 Be It Enacted by the Legislature of the State of Florida:

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29           Section 1. Part IV of chapter 252, consisting of

30 sections 252.934, 252.935, 252.936, 252.937, 252.938, 252.939,

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1 252.940, 252.941, 252.942, 252.944, and 252.945, Florida  
2 Statutes, is created to read:

3 252.934 Short title.--This part may be cited as the  
4 "Florida Accidental Release Prevention and Risk Management  
5 Planning Act."

6 252.935 Purpose.--The purpose of this part is to  
7 establish adequate state authorities to implement, fund, and  
8 enforce the requirements of the Accidental Release Prevention  
9 Program of Section 112(r)(7) of the federal Clean Air Act and  
10 federal implementing regulations for specified sources. To  
11 ensure the efficient use of resources, it is the intent of the  
12 Legislature for the state to seek delegation of the Section  
13 112(r)(7) Accidental Release Prevention Program from the U.S.  
14 Environmental Protection Agency for specified sources and for  
15 duplication and redundancy to be avoided to the maximum extent  
16 practicable.

17 252.936 Definitions.--As used in this part, the term:

18 (1) "Accidental release" means an unanticipated  
19 emission of a regulated substance into the ambient air from a  
20 stationary source.

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

25 (3) "Audit" means a review of information at a  
26 stationary source subject to Section 112(r)(7), or submitted  
27 by a stationary source subject to Section 112(r)(7), to  
28 determine whether that stationary source is in compliance with  
29 the requirements of this part and rules adopted to implement  
30 this part. Audits must include a review of the adequacy of the  
31 stationary source's Risk Management Plan, may consist of

1 reviews of information submitted to the department or the U.S.  
2 Environmental Protection Agency to determine whether the plan  
3 is complete or whether revisions to the plan are needed, and  
4 the reviews may be conducted at the stationary source to  
5 confirm that information onsite is consistent with reported  
6 information.

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

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

12 (6) "Commission" means the State Emergency Response  
13 Commission for Hazardous Materials created by Executive Order  
14 94-138.

15 (7) "Committee" means any local emergency planning  
16 committee established in the state under s. 301 of the federal  
17 Emergency Planning and Community Right To Know Act, 42 USC s.  
18 11001, et seq.

19 (8) "Department" means the Department of Community  
20 Affairs.

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

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

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

7           (12) "Program 3 source" means any stationary source  
8 subject to 112(r)(7) of the Clean Air Act as defined by 40  
9 CFR, Part 68.

10           (13) "Public source" means any stationary source  
11 subject to Section 112(r)(7) of the Clean Air Act with a  
12 governmental body as owner or operator.

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

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

22           (16) "Section 112(r)" means the provisions of Section  
23 112(r) of the Clean Air Act.

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

27           (18) "Stationary source" means any buildings,  
28 structures, equipment, installations, or regulated substance  
29 emitting stationary activities which belong to the same  
30 industrial group, which are located on one or more contiguous  
31 properties, which are under the control of the same person (or

1 persons under common control), and from which an accidental  
2 release may occur. The term does not apply to transportation,  
3 including storage incident to transportation of any regulated  
4 substance under the provisions of this part. A stationary  
5 source includes transportation containers used for storage not  
6 incident to transportation and transportation containers  
7 connected to equipment at the stationary source for loading or  
8 unloading. Transportation includes, but is not limited to,  
9 transportation that is subject to oversight or regulation  
10 under 49 CFR parts 192, 193, or 195 or a state natural gas or  
11 hazardous liquid program for which the state has in effect a  
12 certification to the United States Department of  
13 Transportation under 40 U.S.C. s. 60105. A stationary source  
14 does not include naturally occurring hydrocarbon reservoirs.  
15 Properties may not be considered contiguous solely because of  
16 a railroad or gas pipeline right-of-way.

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

20 252.937 Department powers and duties.--

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

22 (a)1. Seek delegation from the U.S. Environmental  
23 Protection Agency to implement the Accidental Release  
24 Prevention Program under Section 112(r)(7) of the Clean Air  
25 Act and the federal implementing regulations for Program 3  
26 sources and public sources subject to Section 112(r)(7) of the  
27 Clean Air Act. Implementation for all other sources subject to  
28 Section 112(r)(7) of the Clean Air Act will be performed by  
29 the U.S. Environmental Protection Agency; and

30 2. Ensure the timely submission of Risk Management  
31 Plans and any subsequent revisions of Risk Management Plans.

1           (b) Adopt, modify, and repeal rules, with the advice  
2 and consent of the commission, necessary to obtain delegation  
3 from the U.S. Environmental Protection Agency and to  
4 administer the Section 112(r)(7) Accidental Release Prevention  
5 Program in this state for Program 3 sources and public  
6 sources.

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

9           (d) Coordinate its activities under this part with its  
10 other emergency management responsibilities, including its  
11 responsibilities and activities under parts I, II, and III of  
12 this chapter and with the related activities of other state  
13 and local agencies, keeping separate accounts for all  
14 activities conducted under this part which are supported or  
15 partially supported from the Trust Fund.

16           (e) Establish, with the advice and consent of the  
17 commission, a technical assistance and outreach program on or  
18 before January 31, 1999, to assist owners and operators of  
19 Program 3 and public stationary sources subject to Section  
20 112(r)(7) in complying with the reporting and fee requirements  
21 of this part. This program is designed to facilitate and  
22 ensure timely submission of proper certifications or  
23 compliance schedules and timely submission and registration of  
24 Risk Management Plans and revised registrations and Risk  
25 Management Plans when required for these sources.

26           (2) To ensure that this program is self-supporting,  
27 the department shall provide administrative support, including  
28 staff, facilities, materials, and services to implement this  
29 part for Program 3 and public stationary sources subject to s.  
30 252.939 and shall provide necessary funding to local emergency  
31 planning committees and county emergency management agencies

1 for work performed to implement this part. Each state agency  
2 with regulatory, inspection, or technical assistance programs  
3 for Program 3 and public stationary sources subject to this  
4 part shall enter into a Memorandum of Understanding with the  
5 department which specifically outlines how each agency's  
6 staff, facilities, materials, and services will be utilized to  
7 support implementation. At a minimum, these agencies and  
8 programs include: the Department of Environmental  
9 Protection's Division of Air Resources Management and Division  
10 of Water Facilities, and the Department of Labor and  
11 Employment Security's Division of Safety. It is the  
12 Legislature's intent to implement this part as efficiently and  
13 economically as possible, using existing expertise and  
14 resources, if available and appropriate.

15 (3) To prevent the duplication of investigative  
16 efforts and resources, the department, on behalf of the  
17 commission, shall coordinate with any federal agencies or  
18 agents thereof, including the federal Chemical Safety and  
19 Hazard Investigation Board, or its successor, which are  
20 performing accidental release investigations for Program 3 and  
21 public stationary sources, and may coordinate with any  
22 agencies of the state which are performing accidental release  
23 investigations. This accidental release investigation  
24 coordination is not intended to limit or take the place of any  
25 individual agency accidental release investigation under  
26 separate authority.

27 (4) To promote efficient administration of this  
28 program for public and Program 3 sources, the only agency  
29 which may seek delegation from the U.S.E.P.A for this program  
30 is the Florida Department of Community Affairs. Further, the  
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1 Florida Department of Community Affairs shall not delegate  
2 this program to any local environmental agency.

3 252.938 Funding.--

4 (1) It is the intent of the Legislature that the state  
5 activities and expenditures under this part be self-sustaining  
6 through fees contributed by Program 3 and public sources as  
7 provided in this part.

8 (2) All fees and penalties collected under this part  
9 must be deposited in a separate account in the Operating Trust  
10 Fund for appropriation to fund the state's Accidental Release  
11 Prevention Program under this part.

12 252.939 Fees.--

13 (1)(a) Any owner or operator of a Program 3 or public  
14 stationary source in the state which must submit a Risk  
15 Management Plan to the U.S. Environmental Protection Agency  
16 under Section 112(r)(7) shall pay an annual registration fee  
17 for each Program 3 or public stationary source to the  
18 department. The annual registration fee is due to the  
19 department upon initial submission of a stationary source's  
20 Risk Management Plan to the U.S. Environmental Protection  
21 Agency, and every April 1 thereafter.

22 (b) Prior individual written notice shall be provided  
23 by U.S. mail by the department to owners or operators of  
24 Program 3 and public stationary sources in the state subject  
25 to the requirements under Section 112(r)(7) to submit Risk  
26 Management Plans and corresponding state registration fees.  
27 This notice must include the requirements of the state fee  
28 schedule and must be mailed at least 90 days before the due  
29 date for the Program 3 or public stationary source's initial  
30 registration and Risk Management Plan submission year and at  
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1 least 30 days before the registration fee due date for  
2 subsequent years.

3 (c) The department shall establish a fee schedule by  
4 rule for Program 3 public and private sources and public  
5 sources in Program 1 or Program 2, upon the advice and consent  
6 of the commission. The annual registration fee must be based  
7 on a stationary source's highest program level, as determined  
8 under the federal implementing regulations for Section  
9 112(r)(7) and may not exceed the following:

<u>Program 1 Stationary Sources</u>	<u>\$ 150</u>
<u>Program 2 Stationary Sources</u>	<u>\$ 200</u>
<u>Program 3 Stationary Sources</u>	<u>\$1,000</u>

13 (d) Annual registration fees under this section are  
14 not required until after the department receives final  
15 delegation approval from the U.S. Environmental Protection  
16 Agency to administer the Section 112(r)(7) Accidental Release  
17 Prevention Program for Program 3 and public stationary  
18 sources.

19 (2) The department shall establish by rule late fees,  
20 not to exceed 100 percent of the annual registration fee owed,  
21 for failure to timely submit an annual registration fee. A  
22 late fee may not be assessed against a Program 3 or public  
23 stationary source during the initial registration and  
24 submission year if 90 days prior written notice was not  
25 provided to that Program 3 or public stationary source.

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

29 (a) Mailed via U.S. mail, the date of submittal is the  
30 date evidenced by the postmark.

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1           (b) Delivered by overnight or other private mail  
2 carriers, the date of submittal is the date the package is  
3 deposited with the overnight carrier.

4           (c) Hand-delivered, other than by overnight or private  
5 mail carrier, the date of submittal is the date of actual  
6 receipt.

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

13           252.940 Enforcement; procedure; remedies.--

14           (1) The department has the following enforcement  
15 authority and remedies for Program 3 and public stationary  
16 sources available to it for violations of this part as  
17 specified in s. 252.941:

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

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

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

5 (d) Failure to comply with the fee provisions under s.  
6 252.939 is not a violation under s. 252.941. Section  
7 252.939(2) is the sole remedy for fee provisions in s.  
8 252.939, except that the department may enforce a final order  
9 entered under that section pursuant to s. 120.69.

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

22 (3) For the purposes of this section, the department  
23 may offer and accept the use of Supplemental Environmental  
24 Projects, consistent with the guidelines established by the  
25 U.S. Environmental Protection Agency.

26 (4) The authorities and remedies provided under this  
27 section shall not take effect until after such time as the  
28 department has received final delegation approval from the  
29 U.S. Environmental Protection Agency to administer the Section  
30 112(r)(7) Accidental Release Prevention Program for Program 3  
31 and public stationary sources.

1           252.941 Prohibitions, violations, penalties, intent.--  
2           (1) It is a violation of this part, and it is  
3 prohibited for any person to:  
4           (a) Fail to make any submittal required by this part  
5 or by rule or regulation implementing this part, or to violate  
6 or fail to comply with any rule, regulation, order, plan, or  
7 certification adopted or issued by the department pursuant to  
8 its lawful authority under this part, other than fees under s.  
9 252.939.  
10          (b) Knowingly make any false statement,  
11 representation, or certification in any application, record,  
12 report, plan, or other document filed or required to be  
13 maintained under this part, or to falsify, tamper with, or  
14 knowingly render inaccurate any monitoring device or method  
15 required to be maintained under this part or by any program,  
16 rule, regulation, or order issued under this part.  
17          (c) Fail to report to the appropriate representative  
18 of the department, as established by department rule, within 1  
19 working day of discovery of an accidental release of a  
20 regulated substance from the stationary source, if the owner  
21 or operator is required to report the release to the U.S.  
22 Environmental Protection Agency under Section 112(r)(6).  
23          (2) Any person who willfully commits a violation  
24 specified in subsection (1) is guilty of a misdemeanor of the  
25 first degree punishable as provided in s. 775.083(1)(g) by a  
26 fine of not more than \$10,000 for each offense. Each day  
27 during any portion of which such violation occurs constitutes  
28 a separate offense.  
29          (3) It is the legislative intent that the civil  
30 penalties and criminal fines imposed by the court be of such  
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1 amount as to ensure immediate and continued compliance with  
2 this section.

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

9 252.942 Inspections and audits.--

10 (1)(a) Any duly authorized representative of the  
11 department may at any reasonable time enter to inspect and  
12 audit, in order to ascertain compliance with this part or  
13 rules adopted to implement this part, any Program 3 or public  
14 stationary source subject to the requirements of Section  
15 112(r)(7), except a building that is used exclusively for a  
16 private residence.

17 (b) Any duly authorized representative may at any  
18 reasonable time have access to any Program 3 or public  
19 stationary source subject to Section 112(r)(7) for inspection  
20 and copying any supporting documentation required under this  
21 part.

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

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

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

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1           (b) The appropriate inspection warrant as provided in  
2 this section is obtained.

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

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

9           1. It appears that the properties to be inspected may  
10 be connected with or contain evidence of the violation of any  
11 of the provisions of this Part or any rule properly  
12 promulgated thereunder; or

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

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

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

1 representative to inspect the property described in the  
2 warrant.

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

19 (5) Upon request, owners or operators of Program 3 or  
20 public stationary sources subject to Section 112(r)(7) shall  
21 receive an oral exit interview at the conclusion of an  
22 inspection or audit.

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

3 (7) The department shall provide reasonable notice of  
4 its intent to conduct an onsite inspection or audit of a  
5 Program 3 or public stationary source. Inspections or audits  
6 may be conducted without notice in response to an accidental  
7 release or to protect the public health, safety, and welfare.

8 252.944 Tort liability.--The commission and the  
9 committees are state agencies, and the members of the  
10 commission and committees are officers, employees, or agents  
11 of the state for the purpose of s. 768.28.

12 252.945 Start up loan.--The department may advance a  
13 start up loan in the amount of \$400,000 from the hazardous  
14 materials account in the Operating Trust Fund to support  
15 initial implementation of this part. This loan must be repaid  
16 in equal annual installments by 2006, beginning October 1,  
17 2001.

18 252.946 Public records.--The Department of Community  
19 Affairs, the State Hazardous Materials Emergency Response  
20 Commission, and any local emergency planning committee may  
21 fulfill requests for public records under s. 119.07 for  
22 information electronically submitted under this part or the  
23 Section 112(r)(7) Accidental Release Prevention Program to the  
24 U.S. Environmental Protection Agency's centralized database by  
25 referral to such database or other reasonably accessible data  
26 collection points. Upon request, the department, the  
27 commission, or the committees shall furnish copies of public  
28 records not available through electronic data collection  
29 points, and may elect to furnish copies of public records  
30 which are available through electronic data collection points.  
31 The department, the commission, or the committees may charge a



1 fee of up to \$1 per page, per person, per year for over 10  
2 pages of materials copied.

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 Section  
5 313 ~~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 Section 313 ~~Form R~~ fee  
13 due, 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. This act shall take effect upon becoming a  
20 law.

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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bill 812  
4                   The committee substitute would allow Florida to seek partial  
5                   delegation from the U.S. Environmental Protection Agency of  
6                   the Section 112(r) Accidental Release Prevention Program. The  
7                   partial delegation would allow the Department of Community  
8                   Affairs to administer the program as it relates to public  
9                   facilities and Program 3 facilities, which are the largest  
10                  facilities. The EPA would administer the provisions of Section  
11                  112(r) for all other facilities.  
12                  The definition of stationary source is amended to track the  
13                  new federal definition. The Department of Community Affairs is  
14                  prohibited from further delegating the program to local  
15                  environmental programs.  
16                  The bill allows the fee provisions to be addressed in the  
17                  future if additional facilities are to be covered by Florida's  
18                  program.  
19                  Certain changes are made in the language relating to the  
20                  Community-Right-to-Know Program to track changes made in the  
21                  federal law.  
22                  This bill also includes provisions that were contained in SB  
23                  814 relating to disclosing nonconfidential information and  
24                  establishes a fee for copying.  
25                  The amount of the loan from the Operating Trust Fund to start  
26                  up the program is reduced from \$500,000 to \$400,000.  
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