

House Research Act Summary

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TOPIC: Environmental Audit Program

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Overview

This act makes changes to the environmental improvement pilot program, which provides an incentive for regulated entities to voluntarily find and correct any environmental problems at their facilities. The act also makes the program, which was set to sunset on July 1, 1999, permanent.

- 1 Deletes the reference to "pilot" because under the act the program a permanent program.
- 2 Replaces the reference to section 114C.31 with a reference to section 114C.28, to make the statutory references consistent with the repeal of certain sections of law by the act.
- 3 Defines "environmental management system" as a documented due diligence procedure for preventing, identifying, and correcting violations of environmental regulations. Provides that to be within the definition, the due diligence efforts must be consistent with any criteria used by the United States Environmental Protection Agency.
- 4 Provides in the definition of "environmental audit" that the audit may be done on a form developed by the regulated entity, a form provided by a consultant, or on a form prescribed or approved by the Pollution Control Agency.
- 5 Defines "regulated material" as any substances generated or released by a facility which is subject to an environmental requirement.
- 6 Modifies the qualification requirements for participating in the program by:
 - extending the time that must have elapsed since the initiation of an enforcement activity that resulted in a penalty involving the facility from one year to two years;
 - requiring submittal of an environmental audit or the findings from the facility's environmental management system (submittal of a self-evaluation no longer qualifies);
 - requiring an environmental audit program pollution prevention plan for a major facility;
 - and

examining steps that could be taken to eliminate or reduce the generation or release of regulated materials at a non-major facility.

Replaces references to a self-evaluation, which no longer qualifies for the program, with references to the facility's environmental management system, which qualifies for the program under the act. Includes a new subdivision establishing the requirements for an environmental audit program pollution prevention plan which is needed for a major facility to qualify for the program.

- 7** Replaces reference to a self-evaluation, which no longer qualifies for the program, with a reference to the facility's environmental management system, which qualifies for the program under the act.
- 8** Modifies the exceptions to the deferred enforcement and waiver of penalty provisions for violations of environmental requirements identified and corrected under the program by:
 - removing the requirement that a criminal enforcement action can only be brought for a violation if it is done "knowingly";
 - providing additional grounds upon which a civil or administrative enforcement action can be brought including a violation of the terms of an order, consent decree, or stipulation, a violation that gives the violator a substantial economic benefit over competitors, and a violation that is identified through legally mandated monitoring or sampling; and
 - modifying some existing grounds upon which a civil or administrative enforcement action can be brought.
- 9** Replaces reference to a self-evaluation, which no longer qualifies for the program, with a reference to the facility's environmental management system, which qualifies for the program under the act.
- 10** Replaces the reference to section 114C.31 with a reference to section 114C.28, to make the statutory references consistent with the repeal of certain sections of law by the act.
- 11** Changes the name of the "Green Star Emblem" to the "Green Star Award." Modifies the requirements for receiving the award.
- 12** Adds requirements to the section limiting public access to documents relating to an environmental audit. The limitations would be applicable only after the report on a environmental audit or the findings of the facility's environmental management system have been submitted to the PCA and only if the facility is in compliance with section 114C.22, regarding environmental audits, and 114C.23, regarding performance schedules. Provides that this subdivision does not limit the ability of the state to seek information about spills, releases, or threatened releases even if the information is contained in documents protected under this subdivision. Deletes references to self-evaluations. Provides that nothing in the section shall limit the ability of the state to seek information it deems necessary to investigate a situation that presents an imminent and substantial threat to human health or the environment, to respond to a continuing violation of an environmental requirement, or to investigate a criminal matter. Also, provides that the section does not prohibit the federal government from seeking information it is authorized to obtain under federal law.
- 13-14** Replaces the reference to section 114C.31 with a reference to section 114C.28, to make the statutory references consistent with the repeal of certain sections of law by the bill.
- 15** Repeals the sunset date for the program, repeals a reporting requirement which is outdated, repeals definitions which are no longer necessary, and repeals a provision relating to survival of rights and protections applicable to reports filed before July 1, 1999 if the program is repealed.

