

ENVIRONMENTAL SELF-EVALUATION ACT

AMENDMENTS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Bill Wright

This act modifies the Environmental Self-Evaluation Act. The act extends the time period for disclosure of an instance of noncompliance with an environmental law or requirement from ten to 21 days. The act makes technical changes.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

19-7-109, as enacted by Chapter 91, Laws of Utah 1996

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **19-7-109** is amended to read:

19-7-109. Incentives for voluntary disclosure and compliance -- Waiver of civil penalties.

(1) As used in this section, "regulated entity" means any person, business, or other entity subject to regulation under Title 19, Environmental Quality Code.

(2) The department shall waive civil penalties for an instance of noncompliance with an environmental law or requirement:

(a) that a regulated entity discovered through an environmental self-evaluation;

(b) that a regulated entity voluntarily disclosed to the department in writing within [~~ten~~] 21 days after the entity's discovery of the violation;

(c) that a regulated entity remedied or corrected within 60 days after discovery of the violation, or within a reasonable amount of time if the violation cannot be remedied within 60 days; and

(d) regarding which the regulated entity submitted to the department a written outline of reasonable steps the regulated entity will take to prevent a recurrence.



28 (3) The department may not waive penalties under Subsection (2) if:
29 (a) the instance of noncompliance resulted from a lack of due diligence in complying with
30 environmental laws, taking into account the size and nature of the regulated entity;
31 (b) the instance of noncompliance is a recurrence of a similarly caused specific violation
32 or a violation of the specific terms of a judicial or administrative consent order or agreement;
33 (c) the instance of noncompliance resulted from reckless or willful disregard of
34 environmental laws;
35 (d) the regulated entity conducted the environmental self-evaluation for a fraudulent
36 purpose;
37 (e) the department had already initiated a compliance investigation at the time of the
38 disclosure and the regulated entity had been advised of or was aware of the investigation;
39 (f) the instance of noncompliance was discovered pursuant to a legally mandated
40 monitoring, testing, or sampling requirement prescribed by law, rule, permit, order, or consent
41 agreement; or
42 (g) the instance of noncompliance resulted in serious actual harm or imminent and
43 substantial endangerment to human health or the environment.
44 (4) (a) To the extent the instance of noncompliance resulted in an economic benefit or
45 competitive advantage over other similar regulated entities that did achieve compliance, the
46 department may seek a civil penalty to recover the monetary amount of the economic benefit or
47 competitive advantage resulting from the incidence of noncompliance.
48 (b) Action under this Subsection (4) is not prohibited by Subsection (2).
49 (5) This section does not limit the department's discretion in reducing penalties for
50 noncompliance with an environmental law which may not fully qualify for waiver under this
51 section, but which the department determines should be appropriately reduced.

Legislative Review Note
as of 7-30-01 8:08 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel