

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

SENATE BILL 861

By: Muegge

AS INTRODUCED

An Act relating to environment and natural resources; creating the Oklahoma Voluntary Environmental Compliance Incentives Act; providing short title; stating legislative intent; authorizing the Department of Environmental Quality to not seek certain administrative or civil penalties under certain conditions; stating exception; requiring Department to promulgate rules; providing act shall not limit certain reporting requirements or authority; prohibiting creation of certain privileged or confidential communications; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-14-501 of Title 27A, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Voluntary Environmental Compliance Incentives Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-14-502 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise required by law or to maintain federal authorization for state environmental programs, in determining enforcement action for a regulated entity's noncompliance with Department of Environmental Quality rules and the laws of the State of Oklahoma, the Department shall not seek an administrative or civil penalty where the regulated entity can demonstrate all of the following conditions are present:

1. The regulated entity voluntarily and promptly discloses, in writing, the noncompliance with the applicable state environmental statutes or rules to the appropriate regulatory program at the Department of Environmental Quality before the Department has notice of such noncompliance or is in a position where imminent discovery is likely. Noncompliance first discovered by the regulated entity through the assistance of any pollution prevention or customer assistance program of the Department shall not constitute prior knowledge nor shall information given to the Department's customer assistance programs constitute disclosure to the Department pursuant to this paragraph;

2. The noncompliance is not deliberate or intentional;

3. The noncompliance occurs despite the regulated entity's good faith attempt to understand and comply with applicable state environmental statutes or rules through environmental management systems appropriate to the size and nature of the activities of the regulated entity;

4. The regulated entity, upon its discovery of a violation, has taken immediate and reasonable action to correct the noncompliance;

5. The regulated entity has taken, or has agreed, in writing, to complete remedial action as may be necessary;

6. The regulated entity has not received a significant economic or competitive advantage as a result of noncompliance;

7. The regulated entity must disclose information to the Department and the public in a manner as the Department shall specify if any incidence of noncompliance creates a danger to health and human safety; and

8. The regulated entity provides such information as the Department reasonably requests to verify the entity's compliance with these conditions.

B. Despite the failure of a regulated entity to meet all of the conditions set forth in subsection A of this section, the Department

may consider the nature and extent of good faith efforts by the regulated entity, or the lack thereof, in assessing or reducing any administrative penalty or seeking a civil penalty which may otherwise be appropriate.

C. The Department of Environmental Quality shall promulgate rules to implement the provisions of this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-14-503 of Title 27A, unless there is created a duplication in numbering, reads as follows:

Nothing in the Oklahoma Voluntary Environmental Compliance Incentives Act shall limit, waive or abrogate any existing requirements for data or information collection, recordkeeping or reporting under federal or state law. Nothing in this act shall be construed to limit the authority of a state or federal environmental agency to seek temporary or permanent injunctive relief, or other appropriate relief authorized by law.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-14-504 of Title 27A, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Voluntary Environmental Compliance Incentives Act shall not be construed to create either a privileged or confidential communication where none previously existed pursuant to law.

SECTION 5. This act shall become effective November 1, 2000.

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