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**SFA****BILL ANALYSIS**

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House Bill 5092 (as reported without amendment)  
Sponsor: Representative Tom Alley  
House Committee: Conservation, Environment and Recreation  
Senate Committee: Natural Resources and Environmental Affairs

### **CONTENT**

The bill would amend Part 148 of the Natural Resources and Environmental Protection Act (NREPA) to specify a time limit for conducting environmental audits that are privileged (i.e., not subject to disclosure); specify additional conditions under which the privilege could not apply; allow audit reports to be used in criminal proceedings; and delete provisions that describe procedures for law enforcement authorities to seize audit reports and for courts to determine whether seized reports are privileged.

In particular, the bill specifies that the privilege created by Part 148 would not apply to criminal proceedings or investigations. Also, the privilege would not apply if it were asserted for a fraudulent purpose, or if the information showed noncompliance with State, Federal, or local environmental laws and the facility owner or operator failed to take prompt corrective action or to eliminate a violation within a reasonable time.

(Part 148, which was added by Public Act 132 of 1996, provides for environmental audits that are privileged and protected from disclosure; specifies conditions under which environmental audits may or must be disclosed; and provides immunity for violations of the NREPA if a person voluntarily discloses a violation. "Environmental audit" means a voluntary and internal evaluation conducted on one or more facilities or an activity at one or more facilities regulated under State, Federal, regional, or local laws or ordinances, or of environmental management systems or processes related to the facilities or activity or of a specific instance of noncompliance, that is designed to identify historical or current noncompliance and prevent noncompliance or improve compliance with one or more of the laws, or to identify an environmental hazard, contamination, or other adverse environmental condition, or to improve an environmental management system or process.)

The bill is tie-barred to House Bill 5093, which would amend Part 148 of the NREPA to limit environmental audit immunity.

MCL 324.14801 et al.

Legislative Analyst: N. Nagata

### **FISCAL IMPACT**

The bill would have no direct fiscal impact on State or local government.

Date Completed: 10-29-97

Fiscal Analyst: G. Cutler

[floor/hb5092](#)

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.