114C.26 ACCESS TO DOCUMENTS.

Subdivision 1. **Public access.** (a) After receipt by the commissioner of a report that complies with section 114C.22, subdivision 2, the state may not request, inspect, or seize a final audit report, draft audit papers, the notes or papers prepared by the auditor or the person conducting the audit, or the internal documents of a regulated entity establishing, coordinating, or responding to the audit, other than the report required in section 114C.22, subdivision 2, provided that the regulated entity is in compliance with its commitments under sections 114C.22 and 114C.23.

(b) This subdivision does not restrict the ability of the state to seek monitoring, testing, or sampling data, or information about the location or nature of spills, releases, or threatened releases related to a suspected violation even if the information is contained in an audit report, draft audit papers, or other document protected under this subdivision.

Subd. 2. **Third-party access.** After receipt by the commissioner of a report that complies with section 114C.22, subdivision 2, the final audit report, draft audit reports, any notes or papers prepared by the auditor or by the person conducting the audit, and the internal documents of a regulated entity establishing, coordinating, or responding to the audit covered by the report are privileged as to all persons other than the state provided that the regulated entity is in compliance with its commitments under sections 114C.22 and 114C.23.

Subd. 3. **Nonwaiver of protections.** Participation by a regulated entity in the environmental improvement program does not waive, minimize, reduce, or otherwise adversely affect the level of protection or confidentiality that exists, under current or developing common or statutory law, with respect to any other documents relating to an environmental audit.

Subd. 4. **Exceptions.** Nothing in this section or any policy or rule adopted by the agency on environmental auditing shall limit the ability of:

(1) the state to seek any information that the state deems necessary to investigate, prevent, or respond to a situation that presents an imminent and substantial endangerment to human health or the environment;

(2) the state to seek any information the state deems necessary to respond to a continuing violation of any environmental requirement;

(3) the state to seek information as part of a criminal investigation; or

(4) the federal government to seek any information it is authorized to obtain under federal law.

History: *1995 c 168 s 15; 1996 c 437 s 24; 1999 c 158 s 12; 2000 c 260 s 94*