

House Amendment 8114

Amendment Text

PAG LIN

1 1 Amend the amendment, [H-8054](#), to [House File 681](#) as
1 2 follows:
1 3 #1. By striking page 1, line 4, through page 9,
1 4 line 24, and inserting the following:
1 5 "Sec. ____ . NEW SECTION. 455J.1 DEFINITIONS.
1 6 As used in this chapter, unless the context
1 7 otherwise requires:
1 8 1. "Compliance assistance" means information and
1 9 assistance provided by the department to aid an owner
1 10 or operator in complying with legally mandated
1 11 environmental requirements. "Compliance assistance"
1 12 does not include enforcement inspections or
1 13 enforcement actions.
1 14 2. "Department" means the department of natural
1 15 resources created under section 455A.2.
1 16 3. "Environmental audits" means a systematic,
1 17 documented, periodic, and objective review by
1 18 regulated entities of facility operations and
1 19 practices related to meeting environmental
1 20 requirements.
1 21 4. "Owner or operator" means the person or entity
1 22 who caused the environmental audit to be undertaken.
1 23 5. "Penalty mitigation" means the elimination or
1 24 mitigation of penalties imposed by the department for
1 25 violations of environmental laws, rules, or permit
1 26 conditions.
1 27 Sec. ____ . NEW SECTION. 455J.2 VIOLATIONS.
1 28 In order for an owner or operator to be eligible
1 29 for penalty mitigation under section 455J.3,
1 30 violations of environmental laws, rules, or permit
1 31 conditions must be discovered through an environmental
1 32 audit and not through a legally mandated monitoring or
1 33 sampling requirement prescribed by statute,
1 34 regulation, permit, judicial order, or consent
1 35 agreement. An owner or operator shall report all
1 36 violations discovered during an environmental audit to
1 37 the department within thirty days from the time the
1 38 discovery is made.
1 39 Sec. ____ . NEW SECTION. 455J.3 PENALTY
1 40 MITIGATION.
1 41 1. The department shall eliminate a penalty
1 42 imposed on an owner or operator for a violation
1 43 reported pursuant to section 455J.2 if the department
1 44 determines that the owner or operator satisfies all of
1 45 the following criteria:
1 46 a. The owner or operator has made a good faith
1 47 effort to comply with applicable environmental
1 48 requirements.
1 49 b. The owner or operator has not previously been
1 50 found to violate the same environmental law, rule, or
2 1 permit condition.
2 2 c. The owner or operator remedies the violation
2 3 within one hundred eighty days of the violation. The
2 4 department may grant one extension of one hundred
2 5 eighty days if the remedy requires implementing a
2 6 pollution prevention measure.
2 7 d. The owner or operator demonstrates all of the

2 8 following:

2 9 (1) The violation has not caused actual serious
2 10 harm to public health, safety, or the environment.

2 11 (2) The violation is not one that may present an
2 12 imminent and substantial endangerment to public health
2 13 or the environment.

2 14 (3) The violation does not present a significant
2 15 health, safety, or environmental threat.

2 16 (4) The violation does not involve criminal
2 17 conduct.

2 18 2. The department may mitigate a penalty imposed
2 19 on an owner or operator for a violation reported
2 20 pursuant to section 455J.2 if the department
2 21 determines that the owner or operator satisfies all of
2 22 the criteria listed in subsection 1, except for
2 23 paragraph "c". In determining the appropriate amount
2 24 to mitigate, the department shall consider, at a
2 25 minimum, the nature of the violation, the duration of
2 26 the violation, the environmental or public health
2 27 impacts of the violation, good faith efforts by the
2 28 owner or operator to promptly remedy the violation,
2 29 and the facility's overall record of compliance with
2 30 environmental laws, rules, and permit conditions.

2 31 Sec. ____ . NEW SECTION. 455J.4 COMPLIANCE
2 32 ASSISTANCE.

2 33 1. The department may provide on-site compliance
2 34 assistance to an owner or operator upon request. If
2 35 the department is unable to provide compliance
2 36 assistance to an owner or operator in a timely manner,
2 37 the department shall within thirty days of receiving
2 38 the request for compliance assistance provide the
2 39 owner or operator with notice of the department's
2 40 inability to provide compliance assistance.

2 41 2. Prior to providing on-site compliance
2 42 assistance, the department shall obtain an agreement
2 43 with the owner or operator which includes a statement
2 44 explaining the compliance assistance procedures, the
2 45 responsibilities of each party, the availability of
2 46 penalty mitigation, and the responsibilities of the
2 47 owner or operator for any violation discovered."

2 48 #2. Title page, by striking lines 1 and 2 and
2 49 inserting the following: "An Act providing for
2 50 elimination and mitigation of penalties resulting from
3 1 the reporting of violations discovered in
3 2 environmental audits and on-site compliance
3 3 assistance." "

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3 7 BURNETT of Story

3 8 HF 681.539 77

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