



MAKING GOVERNMENT WORK FOR THE PEOPLE

Repeal the Environmental Audit Law – The Polluter Immunity Law

As the environmental audit law (Iowa Code Section 455K) now stands, a business is given immunity from penalties if it conducts an environmental audit and self-reports non-compliance of environmental laws and regulations, consent decrees or judicial orders to the Iowa Department of Natural Resources (DNR). In addition, the paperwork reporting the non-compliance is shielded from the public, cannot be released during any court proceeding where a subpoena can be issued and can only be used in limited civil court proceedings. The business is expected to upgrade its equipment or processes to come into compliance with the law. Immunity from civil and administrative penalties in the form of fines and fees does not include criminal penalties and the business can be criminally charged.

The law was intended to encourage companies to improve their compliance with environmental laws, but it presents problems in lack of transparency. There is no way to monitor if the company indeed upgraded and improved its operations to comply with the environmental laws. There is no public oversight of the process within the DNR. Furthermore, there is no way for the public to know how serious the non-compliance was to public health or to the environment.

Granting immunity from penalties is problematic. A company non-compliant with environmental laws financially benefits by avoiding the cost of properly disposing of or controlling pollution, by not investing in appropriate pollution control equipment, by not spending money to monitor emissions and discharges. Although the Iowa law provides no immunity when a company receives significant financial benefit that gives the violator clear advantage over their competitors from violating the law¹, there is no way for the public to evaluate whether the DNR is implementing this requirement in a way that benefits the public.

Chronic and repeated violations can cause serious effects on human health and can destroy water quality, reduce air quality and cause other environmental damage. The Environmental Audit law does not allow the immunity to be revoked if serious damage is done.

Clearly the companies that benefit from this law are those that have major problems that they want to hide from the public and therefore want to turn that information into a secret that cannot be seen by the public.

The environmental audit law needs to be repealed or, at minimum, allow public viewing of the audit reports.

¹ Iowa Code Section 455K.8(7)(b)