

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senators Meekhof, Casperson, Green, Proos, Colbeck, Jones, Marleau and Jansen

ENROLLED SENATE BILL No. 939

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," (MCL 324.101 to 324.90106) by adding part 14.

The People of the State of Michigan enact:

PART 14 CLEAN CORPORATE CITIZENS

Sec. 1401. As used in this part:

(a) "Applicable environmental requirement" means an applicable federal environmental requirement, an applicable state environmental requirement, or an environmental requirement established by a local unit of government.

(b) "Applicable federal environmental requirement" means any of the following:

(i) The federal water pollution control act, 33 USC 1251 to 1387.

(ii) The clean air act, 42 USC 7401 to 7671q.

(iii) The resource conservation and recovery act of 1976, 42 USC 6901 to 6992k.

(iv) The comprehensive environmental response, compensation, and liability act of 1980, 42 USC 9601 to 9675.

(c) "Applicable state environmental requirement" means any of the following or a rule promulgated or permit, order, or other legally binding document issued under any of the following:

(i) Article II or chapter 1 or 3 of article III.

(ii) The safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

(iii) Part 135 or 138 of the public health code, 1978 PA 368, MCL 333.13501 to 333.13536 and 333.13801 to 333.13831.

(d) "Certified", in reference to a statement, means that the statement includes an attestation signed by an authorized official of the facility that he or she has made reasonable inquiry into the basis for the statement and that it is true and correct to the best of the official's knowledge and belief.

(e) "Clean corporate citizen" means a facility that has demonstrated environmental stewardship and a strong environmental ethic by meeting the criteria in this part.

(f) "Department" means the department of environmental quality.

(g) "Director" means the director of the department or his or her designee.

(h) “Environmental management system” means the part of an overall management system that addresses environmental concerns through allocating resources, assigning responsibilities, and evaluating practices, procedures, and processes to achieve sound environmental performance.

(i) “Environmental policy” means a policy, signed by an authorized official of the facility, that does all of the following:

(i) Articulates the facility’s environmental mission and values.

(ii) Promotes pollution prevention.

(iii) Acknowledges the importance of communication with the public with respect to environmental issues.

(iv) Expresses the facility’s commitment to comply with environmental laws.

(v) Emphasizes continuous environmental improvement.

(vi) Recognizes that every employee can contribute to environmental improvement.

(j) “Facility” means any of the following that is situated in this state and is subject to an applicable state environmental requirement or applicable federal environmental requirement:

(i) A source as defined in section 5501.

(ii) A public institution.

(iii) A municipal facility.

(iv) A commercial, industrial, or other business establishment.

Sec. 1403. As used in this part:

(a) “ISO 14001:2004” means the standard adopted by the international organization for standardization in 2004 to prescribe uniform requirements for the purpose of certification or registration of an environmental management system.

(b) “Pollution prevention” means eliminating or minimizing the initial generation of waste at the source, reuse of waste, or utilizing environmentally sound on-site or off-site recycling. Waste treatment, release, or disposal is not pollution prevention.

(c) “RC 2008” means the responsible care program adopted by the American chemistry council in 2008 to provide uniform requirements for the purpose of certification or registration of an environmental management system.

(d) “Supplemental environmental project” means an environmentally beneficial project that an alleged violator agrees to undertake in settlement of an enforcement action, but which the alleged violator is not otherwise legally required to undertake.

(e) “Violation notice” means a written notice or formal enforcement action by the department, the United States environmental protection agency, or the enforcing agency of a local unit of government in response to a violation of an applicable environmental requirement. A voluntary disclosure made under part 148 does not constitute a violation notice.

(f) “Waste” means any environmental pollutant, waste, discharge, or emission, regardless of how it is regulated and regardless of whether it is released to the general environment or the workplace environment.

Sec. 1405. To obtain a clean corporate citizen designation and the benefits described in section 1421, a facility shall meet the qualifications set forth in sections 1407 to 1411 and submit an application under section 1413.

Sec. 1407. (1) To qualify for a clean corporate citizen designation, a facility shall not have been the subject of any of the following at any time within the preceding 3 years:

(a) A conviction for a criminal violation of an applicable state environmental requirement.

(b) An assessment by a court of appropriate jurisdiction, of a civil fine, penalty, or damages of \$10,000.00 or more for violation of an applicable state environmental requirement.

(c) A determination, by a court of appropriate jurisdiction, of responsibility for an illegal action that substantially endangered the public health, safety, or welfare or the environment.

(d) A departmental assessment, a judicial consent decree, or an administrative consent order, imposing a fine or damages of \$32,500.00 or more, excluding the cost of any supplemental environmental project used to offset a fine, for a violation of an applicable state environmental requirement.

(2) A facility does not qualify for a clean corporate citizen designation if the department determines that the facility was responsible for a pattern of illegal actions, at any time within the preceding 3 years, that endangered the public health, safety, or welfare or the environment.

(3) To qualify for a clean corporate citizen designation, a facility shall address any outstanding violation that is cited in a violation notice that, as determined by the department, substantially endangers the public health, safety, or welfare or the environment, by doing 1 or more of the following:

(a) Promptly resolving the violation.

(b) Demonstrating to the department, the United States environmental protection agency, or the local enforcing agency that issued the violation notice that the violation did not occur.

(c) Adhering to a compliance schedule that is acceptable to the department, the United States environmental protection agency, or the local enforcing agency that issued the violation notice, to correct the violation.

Sec. 1409. To qualify for a clean corporate citizen designation, a facility shall meet 1 of the following requirements:

(a) Obtain and operate in accordance with requirements for certification or registration under an environmental management standard, such as ISO 14001:2004, or, for the chemical industry, RC 2008, that is approved by the director.

(b) Adopt and maintain an environmental management system that is set forth in writing and is consistent with the requirements of ISO 14001:2004, or, for the chemical industry, RC 2008, and appropriate for the nature, scale, and potential environmental impact of the operation at the facility.

(c) Adopt and maintain an environmental management system that is set forth in writing, approved by the director, and applicable to a specific group or classification of facilities including that facility. The environmental management system shall be consistent with the requirements of ISO 14001:2004, or, for the chemical industry, RC 2008, and be appropriate for the nature, scale, and potential environmental impact of the operation.

(d) For a facility with 100 or fewer employees, adopt and maintain the following elements of an environmental management system, which shall be set forth in writing:

- (i) An environmental policy.
- (ii) The environmental aspects.
- (iii) The objectives and targets of operations.
- (iv) The roles and responsibilities.
- (v) The procedures for internal and external communication.

Sec. 1411. (1) To qualify for a clean corporate citizen designation, a facility shall do all of the following:

(a) Adopt and maintain a written environmental policy.

(b) Establish and maintain a program specific for that facility under which the operator does all of the following:

- (i) Posts at the facility the environmental policy required in subdivision (a).
- (ii) Conducts periodic assessments that identify opportunities for pollution prevention.
- (iii) Establishes goals for reducing or preventing pollution, indicating the types of pollution; whether each pollutant would affect the air, water, or land; the pollution prevention measures to be undertaken; and the projected time frames.
- (iv) Prepares and maintains reports to demonstrate progress toward attaining the goals established under subparagraph (iii).

(2) Facilities are encouraged, as part of the program under subsection (1)(b), to do all of the following:

- (a) Initiate community-based activities.
- (b) Provide for the exchange of information concerning pollution prevention activities, such as the following:
 - (i) Attend or sponsor workshops.
 - (ii) Assist in developing and disseminating case studies.
 - (iii) Establish pollution prevention supplier networks.
 - (iv) Provide the department with pollution prevention information for possible publication.
- (v) Provide the department with access to electronic copies of the facility's emergency response plan, pollution incident plan, stormwater pollution prevention plan, and other plans as appropriate.

Sec. 1413. (1) To obtain a clean corporate citizen designation, a facility shall submit an application to the department. The application shall be submitted on a form provided by the department, together with all of the following:

(a) A list of any criminal convictions or any civil fines, penalties, or damages assessed relative to applicable federal environmental requirements arising out of operations at the facility during the past 3 years.

(b) A certified statement that the applicant meets the requirements of sections 1407, 1409, and 1411.

(c) Information demonstrating the applicant's compliance with section 1409, including a detailed summary of each required element of an environmental management system.

(d) Information demonstrating the applicant's compliance with section 1411, including a copy of the applicant's environmental policy.

(e) A list of significant goals established in the environmental management system and the environmental policy.

(f) If the facility is already designated as a clean corporate citizen with respect to that facility when the application is filed, the latest annual report required under section 1419.

(2) The department shall determine whether the application is administratively complete within 14 days after receipt of the application.

(3) If the application is administratively complete, the department shall publish in the department calendar and post on its website a notice of receipt of the application and related documentation and of the availability of the application and related documentation for public review and comment. The notice shall include the department's electronic mail and postal mailing addresses for receipt of comments. Comments shall be received for a period of at least 30 days after notice is given under this subsection.

(4) Within 90 days after receipt of an administratively complete application for a clean corporate citizen designation, unless an extension of time is requested by the applicant, the director shall approve or disapprove the application and notify the applicant. The director shall approve the application if the application meets the requirements of this part. Otherwise, the director shall disapprove the application. A notification of disapproval shall include the specific reasons for the disapproval.

(5) If the application is disapproved, the unsuccessful applicant may reapply for a clean corporate citizen designation at any time. In addition, an applicant may withdraw an application without prejudice at any time.

(6) If a document otherwise required to be submitted to the department with an application under this section or an annual report under section 1419 is already in the possession of the department, the application or annual report may incorporate the document by reference without including a copy of the document.

Sec. 1415. The term of a clean corporate citizen designation is 5 years.

Sec. 1417. (1) The director shall terminate a clean corporate citizen designation if the director determines that the facility does not meet applicable requirements of section 1407, 1409, or 1411.

(2) The director shall notify a facility of the director's intent to terminate the facility's clean corporate citizen designation and the specific reason for the termination not less than 30 days before terminating the designation.

(3) A facility whose designation is terminated may reapply for a clean corporate citizen designation at any time.

Sec. 1419. A clean corporate citizen shall submit an annual report not later than 60 days before the annual anniversary date of the current clean corporate citizen designation. The annual report shall do all of the following:

(a) Summarize the activities undertaken over the past year to do the following:

(i) Identify and report on implementation of standardized pollution prevention measures consistent with the program established under section 1411, on a form provided by the department.

(ii) Set, revise, and attain objectives and implement measures in the clean corporate citizen's environmental management system and pollution prevention programs.

(b) Include a certified statement that the clean corporate citizen is in compliance with sections 1407, 1409, and 1411.

Sec. 1421. (1) Upon request, a clean corporate citizen is entitled to each of the following benefits:

(a) The department shall give the facility priority over persons that are not clean corporate citizens in all of the following:

(i) Compliance assistance programs applicable to the facility, such as the retired engineers technical assistance program created in section 14511.

(ii) Processing permit or operating license renewal applications for the facility.

(b) The department shall provide employees of the facility with free training on performing environmental audits under part 148.

(c) The term of a permit issued by the department for the facility shall be twice the term that would otherwise apply.

(d) The facility shall receive a preference for state purchases as provided in section 261 of the management and budget act, 1984 PA 431, MCL 18.1261.

(e) The facility qualifies for any additional clean corporate citizen benefits for the facility set forth in rules promulgated under any of the following:

(i) Article II or chapter 1 or 3 of article III.

(ii) The safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

(iii) Part 135 or 138 of the public health code, 1978 PA 368, MCL 333.13501 to 333.13536 and 333.13801 to 333.13831.

(f) The department shall conduct routine inspections of the facility half as frequently as the inspections would be conducted if the facility were not a clean corporate citizen.

(g) The department shall give the operator of the facility at least 72 hours' advance notice of any routine inspection of the facility.

(h) Subject to subsection (2), the facility is not subject to a civil fine for a violation of applicable state environmental requirements if all of the following conditions are met:

(i) The facility acted promptly to correct the violation after discovery.

(ii) The facility reported the violation to the department within 24 hours after the discovery or within any shorter time period otherwise required by law.

(2) Subsection (1)(h) does not apply if 1 or more of the following are established by clear and convincing evidence:

(a) The actions of the facility pose or posed a substantial endangerment to the public health, safety, or welfare.

(b) The violation was intentional or occurred as the result of the operator's gross negligence.

Sec. 1423. Upon termination of a clean corporate citizen designation, all benefits provided to that facility under section 1421 terminate.

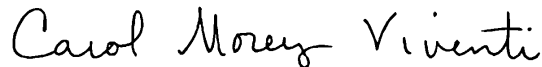
Sec. 1425. (1) The department shall maintain a copy of ISO 14001:2004 and RC 2008 available for inspection at the department's headquarters in Lansing. Upon request, the department shall provide information on how to purchase a copy of ISO 14001:2004 from the American national standards institute and RC 2008 from the American chemistry council.

(2) The department shall maintain on its website a list of facilities currently designated as clean corporate citizens.

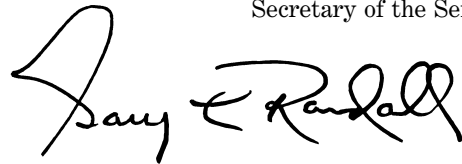
Sec. 1427. This part shall not be construed in a manner that conflicts with or authorizes any violation of state law or federal regulation or law.

Sec. 1429. The clean corporate citizen program rules, R 324.1501 to 324.1511 of the Michigan administrative code, are rescinded.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor