

ASSEMBLY REGULATORY OVERSIGHT AND GAMING
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 2584

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 12, 2012

The Assembly Regulatory Oversight and Gaming Committee reports favorably and with committee amendments Assembly Bill No. 2584.

This bill would require the Department of Environmental Protection (DEP) to authorize the correction of minor technical and administrative violations of DEP permitting rules. The bill would, in particular, establish a new class of minor DEP violations, based on satisfaction of the following conditions:

(1) the violation is not the result of the purposeful, knowing, reckless or criminally negligent conduct of the person responsible for the violation;

(2) the violation is based on an administrative, technical, clerical, or other non-substantive error or omission in a notice, report, manifest, or document; and

(3) the activity or condition constituting the violation is capable of being corrected and compliance achieved within 45 days.

The bill would also require the DEP to treat as a second category of minor violations, any violation that has not caused actual harm to the public health, safety, or environment.

This bill is consistent with existing State law, which currently requires the DEP to allow for the correction of occasional, unintended, and non-negligent violations of permitting rules and procedures by a permittee or permit applicant, so long as those violations do not materially or substantially undermine or impair the goals of the associated regulatory program, have existed for less than 12 months, and are easily corrected. The bill would merely clarify that this courtesy of minor error correction should be extended whenever a permittee or permit applicant makes an unintended, and easily-correctible, technical or typographical error or omission in a permit application.

The bill would re-categorize the law's pre-existing conditions for a minor violation into a third, and distinct, category of correctible minor violations. It would further clarify that an action or omission would only constitute a minor violation pursuant to those pre-existing

statutory conditions if the violation poses no risk (rather than minimal risk) to public health, safety, or natural resources.

Finally, the bill would amend the existing law in this area to provide that the department must comply with the provisions of the “Administrative Procedure Act” in adopting a technical manual that outlines permit application and review procedures.

COMMITTEE AMENDMENTS

The committee amendments clarify the language in the bill’s title and synopsis, and, in particular, incorporate reference to the bill’s provisions requiring the DEP to adopt technical manuals in accordance with the “Administrative Procedure Act”.