

AMENDMENT TO H.R. 2869
OFFERED BY MR. BALLENGER

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Self-Audit Promotion
3 Act of 1998”.

4 SEC. 2. EMPLOYER SAFETY AND HEALTH ASSESSMENTS,
5 AUDITS, AND REVIEWS.

6 Section 8(b) of the Occupational Safety and Health
7 Act of 1970 (29 U.S.C. 657(b)) is amended by adding
8 “(1)” before “In making” and by adding at the end the
9 following: “Records, reports, or other information ob-
10 tained or prepared in connection with safety and health
11 assessments, audits, or reviews conducted by or for the
12 employer shall not be required to be disclosed in any in-
13 spection, investigation, or enforcement proceeding pursu-
14 ant to this Act, except as provided in paragraph (2). Such
15 records, reports, or other information may be disclosed in
16 the course of an inspection, investigation, or enforcement
17 proceeding to the extent that the owner or operator of the
18 facility expressly authorizes the disclosure.

1 “(2) Such records, reports, or other information may
2 be required to be disclosed to the extent that—

3 “(A) the record, report, or information is
4 sought as part of a criminal proceeding; or

5 “(B) the record, report, or information is
6 sought for purposes of establishing the cause of, or
7 an employer’s actual knowledge of, a particular al-
8 leged violation, but only if—

9 “(i) the Secretary establishes, on evidence
10 independent of such records, reports, or infor-
11 mation, that a condition or practice of the em-
12 ployer is not in compliance with the require-
13 ments of this Act; and

14 “(ii) the employer has not undertaken good
15 faith efforts to address items identified in the
16 assessment, audit, or review, or initiated a proc-
17 ess to abate hazards or potential hazards identi-
18 fied in the assessment, audit, or review.

19 “(3) For purposes of this subsection, the term ‘health
20 and safety assessments, audits, or reviews’ means an eval-
21 uation of 1 or more processes, operations, or facilities or
22 of management systems related to such processes, oper-
23 ations, or facilities that is designed to identify and prevent
24 noncompliance with this Act and hazards or potential haz-
25 ards to employees. The records, reports, and information

1 subject to paragraph (1) do not include medical records
2 or records of employee exposure to potentially toxic mate-
3 rials or harmful physical agents, or records of work-related
4 deaths, injuries, and illnesses required to be maintained
5 under this section.”.