

Reforming DEEP Policy



The DEEP needs a productive and efficient enforcement program that increases compliance while identifying and penalizing more significant violations. This can be accomplished by utilizing efficient and effective compliance assistance strategies for smaller businesses having minor violations, while reserving resource-intensive punitive enforcement strategies for those who disregard environmental requirements, have repeat violations, or cause direct harm to human health or the environment.

DEEP's enforcement program expends considerable resources on applying formal enforcement tools to violations posing little or no environmental risk—reducing its ability to identify and respond in a timely manner to more significant violations.

Facility inspections – even those that discover only minor violations, are typically followed by written reports, issuance of notices of violations and/or consent orders, weeks or months of negotiations—often with attorneys and consultants and potentially a settlement or a referral to the Attorney General's Office.

We suggest a bifurcated policy that includes a larger focus on compliance assistance for small business where first-time violations may be discovered that pose no meaningful risk to human health or the environment (ex. “paperwork violations” that are now often “written up” as violations meriting thousands of dollars in fines). The formal, time- and resource-intensive process should be reserved for violations that pose a meaningful or direct risk to human health or the environment. Additionally, DEEP resources saved from the small business/compliance assistance program, could be used to identify and take action against entities that the agency might never become aware of because they don't have a permit, registration or other documentation with the agency.