



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

**STATE OF CONNECTICUT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION**

Public Hearing – March 8, 2018
Commerce Committee
Testimony Submitted by Commissioner Robert J. Klee

SB 269 – AN ACT CONCERNING THE ASSESSMENT OF CIVIL PENALTIES AGAINST SMALL BUSINESSES BY THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Thank you for the opportunity to present testimony regarding SB 269 – An Act Concerning the Assessment of Civil Penalties Against Small Businesses by the Department Of Energy and Environmental Protection.

The Department of Energy and Environmental Protection (DEEP) strongly opposes this proposal for three reasons:

- It runs afoul of federal requirements and may risk funding.
- It is unnecessary because DEEP already has the discretion necessary to focus enforcement on the most significant environmental, human health and noncompliance problems.
- It presents a perverse incentive that would reward violations of environmental standards.

DEEP is obligated to operate its enforcement programs across our air, water and waste programs in accordance with federal delegations of authority. This proposal is inconsistent with portions of the federal delegations and, as a result, jeopardizes the receipt of significant federal funding. Due to DEEP's federally delegated enforcement programs, DEEP's authority is limited to suspend penalties for high priority violations and requires that penalties be assessed.

The two primary policies DEEP employs to assure consistent enforcement are the Enforcement Response Policy (ERP) and the Civil Penalty Policy. The ERP provides DEEP with the discretion necessary to prioritize its enforcement resources by focusing on the most significant environmental, human health and noncompliance problems. DEEP's Civil Penalty Policy sets forth a process for calculating civil penalties in cases where a penalty is warranted.

This Committee should be aware that in a majority of cases where a first violation is minor and inadvertent in nature, DEEP is able to work constructively with the violator to remedy the issue without imposing a civil penalty. In addition, DEEP has invited ongoing dialogue with the Connecticut Business and Industry Association as well as other business and trade groups to identify and address common areas of inadvertent noncompliance, and several programs within the agency are dedicated to assisting businesses in understanding and following environmental regulations.

While DEEP is already engaging in compliance assistance consistent with the spirit of this proposal, we must oppose any measure that would excuse certain violations as a matter of course. This proposal, if passed, will lend a competitive advantage to businesses that choose not to take their environmental compliance responsibilities

In summary, we understand the importance of providing timely responses to permit applicants, we are always working hard to improve, and we believe significant progress has been made. The Department would welcome the opportunity to work with members of the committee and proponents of the bill to discuss our concerns.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact DEEP's legislative liaison, Lee Sawyer at 860-424-3332 or Lee.Sawyer@ct.gov.