



POLLUTION LICENCE COMPLIANCE AUDITS - WHAT THEY REALLY TELL US

Has a lack of capacity and mission in the Department of Environment combined with a lack of care by companies to create a pollution-control system, in crisis?

The Office of Department of Heritage has been conducting strategic environmental compliance audits of pollution licences, for a number of years.¹ These are undertaken for selected industry sectors deemed to pose a risk of significant environmental harm. Most recently the department launched another series of audits into 42 high risk facilities following the outrage over the Orica incidents.

The intention of such audits is to require remediation action and educate about best practice. Noticeably the department reports positively on itself and the fact it has done the audits.

In regard to categorising non-compliance, the department explains:

Non-compliances assessed as 'code red' suggest they are of considerable environmental significance and therefore must be dealt with as a matter of priority. 'Code orange' risk assessments for non-compliance still pose a significant risk of harm to the environment, but can be given a lower priority than red risk assessments. A non-compliance assessed as 'code yellow' suggests that it could receive a lower priority but should still be addressed.

While noting that most non-compliances are 'yellow', Total Environment Centre has briefly reviewed a range of compliance audits and found disturbing issues that require urgent government attention and reform of the pollution licensing regime and culture in the department.

Key examples

1. Dust from coal mines

Two audits have been completed in 2004 (which also examined other matters) and 2010. Both found numerous problems with dust management. Various measures were proposed.

2. Management of Chlorinated Solvents

This was carried out in 2011 and the department reports:

The issues identified are similar to those found in the 2005 environmental compliance program on liquid chemical storage, handling and spill management practices (DEC 2005a; DEC 2005b; DEC 2006b).

In response to the 2005 findings the department initiated training courses and fact sheets on its website, and which it says it will continue.

¹ See - <http://www.environment.nsw.gov.au/licensing/complianceaudit.htm>

Unanswered questions

1. Given the large range of non-compliances that were found in the various reviews and clearly not reported to the department over a number of years – what is the estimate of incidents of environmental harm that would have occurred and were also not reported? The number must be significant.
2. Given that the reviews only looked at some industries – what is an estimate of non-compliances and consequent non reporting of environmental harm in total?
3. Why have 2 key industries not been brought up to scratch despite a lapse of 6 years? Are there problems with the resources or culture in the department; the legal effectiveness of the licences; or do companies treat the department and licences as token pieces of paper?
4. In view of the undoubted large number of unreported incidents of code 'yellow' environmental harm and the pollution already allowed by the licences (often not insignificant), what is the cumulative impact of this pollution on the environmental and peoples' health? Does the department retain any ongoing studies of key environmental indicators to inform it of the local and catchment level pollution?

Reforming the Pollution Control System

In our view the state's pollution control system needs urgent reform:

1. A clearer and enforceable process of reporting on incidents of environmental harm. Overseas models require reporting 'without delay' and 'forthwith' for classes of several hundred chemicals that pose a degree of risk (for example the United States: *Emergency Planning and Community Right-to-Know Act 1986*); as well as emergency response plans.
2. An end to the apparent culture of tortoise-like response by the Department of Environment to enforcing best practice requirements, to put the heat on companies to perform to protect the environment and the community's health, rather than accede to industry perceptions of cost.
3. A process of cumulative impact assessment in the granting of pollution licences.

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