Summary:
This legislation adds to the state inspector toolbox one more tool to help ensure compliance with state and federal laws. This tool would be used prior to the issuance of a Notice of Violation (NOV). It allows for the regulated community an opportunity to correct a violation prior to the issuance of an NOV for other and those deficiencies identified below. It should be the goal of the state inspector's to work with the regulated community towards compliance and not to see how many NOV they can issue. This legislation does not remove the other tool the state inspector toolbox but adds to it, to help ensure compliance.

Be it enacted by ____________________________ of the ______________________.

Section 1. Short Title.
This Act may be cited as the "Opportunity to Correct."

Section 2. Opportunity to Correct Program.
A. The inspection report shall contain deficiencies identified during an inspection. Unless otherwise provided by law, the agency may provide the regulated person an opportunity to correct the deficiencies unless the agency determines that the deficiencies are:

1. Committed intentionally.
2. Not correctable within a reasonable period of time as determined by the agency.
3. Evidence of a pattern of noncompliance.
4. A risk to any person, the public health, safety or welfare or the environment.

B. If the agency allows the regulated person an opportunity to correct the deficiencies pursuant to subsection A of this section, the regulated person shall notify the agency when the deficiencies have been corrected. Within thirty days of receipt of notification from the regulated person that the deficiencies have been corrected, the agency shall determine if the regulated person is in substantial compliance and notify the regulated person whether or not the regulated person is in substantial compliance. If the regulated person fails to correct the deficiencies or the agency determines the deficiencies have not been corrected within a reasonable period of time, the agency may take any enforcement action authorized by law for the deficiencies.

SECTION 5. {Repealer clause.}

SECTION 6. {Effective date.}
Adopted by the Natural Resources Task Force at the States and Nation Policy Summit on December 14, 2002. Approved by the ALEC Board of Directors January, 2003.

From CMD: This bill gives regulatory agencies a “tool” to offer regulated entities (such as polluting corporations) an opportunity to correct a violation before issuing a Notice of Violation or penalties. It is largely unnecessary, as agencies already have the authority to do this; the purpose of this law is to create an agency culture of service to the regulated community, rather than protection of the environment and safeguarding of public health. This bill would limit agency discretion to take action quickly in dealing with bad actors, and strain already limited staff resources.

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