Stung by controversy last year over its allegedly light treatment of an environmental rule breaker, the state Department of Natural Resources is rewriting its enforcement procedures. Unfortunately, a draft of its plan calls for making the process less transparent.

When dealing with polluters, the DNR's policy is to apply progressively stricter actions until violations are addressed. Most violations are corrected to the agency's satisfaction early on, through conversation or correspondence.

If a more formal response is needed, the DNR issues a notice of violation to the alleged polluter, identifying the problem and potential consequences. This is typically followed by an enforcement conference between representatives of the DNR and the alleged polluter.

The purpose of these conferences is to solicit information about the alleged violation, indicate what steps are being taken, resolve legal or technical questions, and reach agreement on a solution.

Until it issued the recent draft procedures, the DNR has let neighbors, other citizens and the media attend enforcement conferences, even though this is not typically required under the state's Open Meetings Law . Last March, for example, state media covered an enforcement conference with WE Energies regarding a bluff collapse in Oak Creek.

The benefits of holding these conferences openly are manifold. Doing so lets concerned neighbors and other members of the public obtain up-to-date information while giving them an opportunity to ask questions of the alleged polluter and DNR.

Public attendance at these conferences also helps ensure the pollution problem is addressed. The polluter may favor the cheapest, quickest and least effective solution. The DNR may be susceptible to political pressures. Having others in the room may prevent violations from simply being negotiated away.

The DNR's draft enforcement policy states that closing enforcement conferences to all except representatives of the DNR and the alleged polluter will "ensure a productive, candid discussion."

Yet the DNR is a law enforcement agency—citizens aren't. If the process plays out in private, the public may wonder whether the DNR is cutting deals with polluters and sweeping problems under the rug. At the very least, closing these conferences to outsiders erodes public trust.

The DNR has said that concerned citizens can still get information about the enforcement

conference afterward, from DNR staff. But this information will likely not be as timely or complete.

It's possible that closed conferences may lead to quicker resolutions, as the DNR suggests. But if a fix is inadequate, it hardly matters that it is quick.

As an attorney who has represented citizens concerned about environmental issues, I have seen firsthand the value of conducting these conferences openly. These are generally not high-interest events; attendance is usually sparse and unobtrusive. But openness does help reassure the public that the process is working correctly, which is especially important for chronic polluters and egregious violations.

Environmental laws don't exist for their own sake — they are meant to address real-world problems like polluted air that causes asthma attacks, water that is unsafe to drink, and degraded recreational resources. If an environmental violation occurs, the public is entitled to know about it and to see for itself whether and how the polluters and officials charged with enforcing the law respond.

The DNR should reconsider its draft policy and keep the doors open at enforcement conferences. If the agency really feels that some conferences need to be closed, it should establish strict criteria for doing so, making clear that the default policy is maximum openness.

Your Right to Know is a monthly column distributed by the Wisconsin Freedom of Information Council (www.wisfoic.org), a nonprofit group dedicated to open government. Christa Westerberg, an attorney at McGillivray Westerberg & Bender LLC in Madison, is the group's vice president.