
STRATEGIC TARGETING FOR ENFORCEMENT

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GOALS

The session addressed the following issues:

- What methods exist or can be developed to target enforcement resources, such as inspections and enforcement response?
- How have these methods been applied in practice?
- What criteria are used for targeting?
- What are the successes and benefits demonstrated from the application of targeting methods in comparison to the alternatives?

1 INTRODUCTION

More than twenty participants discussed, in two separate workshops, strategic targeting for environmental enforcement. Participants represented countries with a broad range of existing environmental enforcement programs, including a few who had strategic targeting plans and many who were interested in developing these plans.

2 PAPERS

One paper prepared for the workshop by Richard Duffy reviews the history of the United States Environmental Protection Agency's efforts to target its resources at sources of environmental pollution over twenty years of implementation. It describes criteria used for strategic targeting, data and analysis performed to identify strategic targets, management systems used to communicate and manage targets, and the results of those efforts. Recent data and information system improvements better support targeting on a geographic, industry and pollutant basis as well as for specific types of violations. Targeting is used to manage a decentralized organization within the U.S.

3 DISCUSSION SUMMARY

3.1 What are the reasons for strategic targeting?

Some of the driving forces for strategic targeting identified by the workshop participants include:

- Public perception and the media.
- Political agendas.
- Desire of an agency to get more results out of their resources.
- Insufficient resources to do the job and the need to use them wisely.
- Need for intelligence capability.
- Desire to stress enforcement within a decentralized organization in which one must get others to enforce laws and establish compliance as a priority.

- Desire to be less fragmented and adopt a more integrated pollution control regimen.
- Desire to protect and manage certain natural resources.

3.2 What is strategic targeting?

Following a review of country legal and organizational frameworks and approaches for achieving compliance, participants defined “strategic” and “target”. “Strategic” entails intentional direction, one in which interactions happen in a consistent manner, focused in a particular direction. A “target” is the focus on activity and resources believed to have the biggest impact and for which to develop a strategy to achieve compliance.

3.3 What activities require strategic targeting?

Most of this discussion did not specifically address strategic targeting, but rather was a general overview of what the participants’ countries did by way of environmental compliance and enforcement program implementation.

All of the participants stated that they operated under laws or rules of a government or agency that ultimately lead to enforcement if a facility is out of compliance. These laws or rules establish regulatory tools, such as permits, that have limits and standards for pollutant emissions. Enforcement tools include inspections, self-monitoring and reporting, citizen complaints and company involvement.

Grades of enforcement allow government agencies to target their resources. Generally, a warning or notice is given to a violating facility stating that they must comply with regulations. The next step taken if the violating facility does not respond is to issue a violation notice. This notice is normally a formal document with penalties attached. If the facility still does not comply then one or more of the following actions are taken: 1) the permit is withdrawn; 2) the facility is shutdown; 3) civil and administrative procedures are taken; or 4) criminal charges are imposed. Some countries such as Jamaica can require a company to submit a management plan and rapid response plan in response to violations to ensure company involvement in resolving non-compliance.

Participants also identified “carrots” such as education, information, tax incentives, prevention, awards, grants and loans, technical assistance, negotiation and the like. It is important that the tax payer not subsidize polluters in any such scheme. In all cases, it was deemed essential by all participants that actions be documented, timely and communicated ahead of time and as follow up to the community, all geared toward the compliance goal.

The level or levels of government that are responsible for establishing and employing enforcement tools varied among countries. In some cases one level of government, either the locality, state/province, or federal, was responsible for the enforcement of all regulations on a particular facility, while in other cases many levels of government had power over a facility.

It was noted that the severity of the violation determines the level of enforcement taken. For instance, if the action is severe, some participants stated that in their country the facility would be shutdown without a warning or notice. However, it was also noted that if the violating facility provides a public service such as sewage treatment then it is impractical to take such action.

3.4 How to start being strategic?

First set priorities, indicating where to spend resources and second analyze the program results to see if it is effective. Programs need plans so they are not just reacting. It is important to focus on health and safety as well as public complaints. The strategic plan addresses:

- What are the problems?
- Why are the problems?
- Where are the problems?
- Who is causing the problems?
- Whether there are means (e.g. technology) to be effective.
- Verification: How do you know?
 - citizen input through the media and politicians
 - monitoring results
 - NGOs
 - health authorities
 - ambient monitoring

The need to then shift resources according to priorities is important; use the full range of carrot and stick compliance and enforcement tools to achieve results in a timely manner.

3.5 Garnering public support for agency priority setting

Participants discussed issues related to public perception and the fact that the public may not perceive the same priorities as does the responsible governmental organization. While sometimes difficult, participants viewed informing the public to be very important, particularly when, for example, a small plant they see as important may not be viewed by an agency as important in comparison to larger plants - or vice versa. To do this successfully, an enforcement agency needs a tradition of credibility so that when the government makes decisions, they will be trusted. Some countries hold public/private pollution forums to ensure the public understands the problems and it is very helpful when companies establish and implement community plans to establish credibility.

Despite any such efforts to establish and communicate priorities, community and press concerns on a local basis, while not strategic, is important to respond to and difficult to plan. Some countries have established ombudsmen for the environment to serve as a buffer for the agency but ensure they are trusted to look into citizen complaints.

3.6 What criteria are used for targeting?

The target was defined as the area in which an enforcement tool or program can have the most impact. A strategy can be formed that combines these targets enabling the enforcement program to reach the highest level of compliance with limited resources. A strategy is composed of priorities and an analysis of whether the strategy is effective.

Criteria named that are used for targeting include:

- The compliance history of the industry or particular facility.
- Experiences in other countries (e.g. use of cyanide in gold mining or denying permit based upon other country experience).

- Political agenda and issues coming up.
- Public concern.
- Urgency of the problem.
- Quantities of pollutants.
- Geography.
- Topography.
- Specific pollutants.

In several instances, information on compliance history within a community, or outside a community or country has been used successfully to bar a company from obtaining new permits.

3.7 What are the successes and benefits demonstrated from the application of targeting methods in comparison to the alternatives?

The utilization of targeting methods primarily allows the agency enforcing environmental rules and laws to stretch limited resources enabling the most efficient use of funds, resources, and labor.

Targeting also establishes credibility for the enforcement agency. If a public example is made of a polluter then the agency is seen as powerful and penalties are real. Other benefits include the increased likelihood of receiving funding since the agency is perceived as efficient and fair. Improved staff moral is also a benefit of targeting. When staff is given a target to focus on and have success a feeling of accomplishment exists.

The final and most important benefit of strategic targeting is improved compliance rates and more sustainable development.

In Armenia, mobilization of the public enabled the authorities to combat illegal forestry cutting, a strategic focus and means of gaining this public support. Chile, when faced with bakeries in residential areas where pollution from them was a problem held discussions with bakery associations, sent letters to all members of the associations, gained assistance from municipal authorities and conducted outreach to the press to promote compliance. In the USA, one example provided was when small but numerous sources of air pollution in areas exceeding national air quality standards were the source of integrated compliance promotion, assistance and enforcement strategies.

4 CONCLUSIONS

Strategic targeting plans are an essential component of any environmental agency's enforcement program. These plans will allow the agency to focus limited resources and have the largest impact on improving compliance. While it is not possible to control all factors that influence the choice of targets, it is possible to establish priorities and shift the majority of resources accordingly.

Several observations were made by participants in the workshop about strategic targeting:

1. Strategic priority setting requires discussion with others, both within the agency and ministry as well as with other ministries, and with the public.
2. Strategic targeting requires an overall framework (e.g. national action plans) to enable priorities to be set.

3. Strategic targeting and priorities often have to be set without complete information, but all agreed that the following were most useful criteria in targeting resources and setting priorities.

- Very bad environmental (and health) problems.
- Urgency of the problems which could be at a geographic, industry or facility level.
- Practicality of taking compliance and enforcement activity.
- Visibility of activity to encourage further compliance and get social acceptability.
- Public and political priorities.

In addition, the following information is important to have:

- Compliance history of the industry or facility.
- Quantities of pollutants.
- Geography.
- Topography.
- Specific pollutants.

4. Strategic targeting offers several benefits including: stretching limited sources to ensure most efficient and effective use of funds, resources and labor; helps to establish credibility, enhances ability to secure funding; provides sense of accomplishment, compliance and environmental results for sustainable development.