
CREATING ENFORCEABLE PERMIT PROGRAMS AND REQUIREMENTS: DISCUSSION FOCUS ON WATER POLLUTION AND CONTAMINATION OF DRINKING WATER SUPPLIES

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GOALS

This session addressed the following issues:

- How permit programs have been designed to balance pressures to get permits issued in a timely fashion with the need to ensure enforceable permits and real impacts on environmental quality.
- Different approaches for how to improve or ensure enforceability in developing new laws, regulations, and permit requirements.
- What works and does not work well in drafting laws, regulations, standards, and permits.
- Problems that have been encountered in numerous settings with examples of regulations and permits that are impossible or difficult to enforce and the actions taken to improve them.

1 INTRODUCTION

Several participants discussed, in two separate workshops, the need for requirements that are clearly defined and understandable and the need to communicate to the regulated community what is expected of them to reach compliance.

2 PAPERS

The Pollution of Surface Waters Act in the Netherlands: A Story of Successful Enforcement, P. van Erkelens, M. Olman.

The Enforcement of the Drinking Water Quality in The Netherlands, J. Lijmbach-Hendrikx.

Potassium and Nitrate Pollution of Surface Water in the Catchment Area of the "Blankaert" Water Production Centre in Flanders (Belgium), R. Baert, R. Loontjens, M. Devos.

Protecting Drinking Water Quality Through the Clean Water Act and the Safe Drinking Water Act, B. Devlin.

3 DISCUSSION ISSUES

The session began with a summary of some basic concepts regarding developing requirements. It is important to be clear about what the environmental outcome is that is to be achieved before you begin drafting your requirements. Requirements must be clear and understandable and adapted to the specific area (country). Precisely define sources or activities subject to the requirements and include any exceptions or variances. It is very important to be specific about how compliance will be determined. What will compliance look like when it is achieved by the regulated community? In addition, requirements must include all timelines and/or deadlines that the regulated community must meet to comply. One of the most critical elements

of enforceable requirements is that they are based on technology or methods that are available, reliable and affordable. Creating standards and requirements that cannot be met will significantly reduce the credibility of the regulating agency.

Discussion centered around the difficulties in implementing permitting/requirement programs. Participants shared similar concerns and problems in regard to getting people to change their behavior whether it be a major industry or individual actions. Countries with mature permitting programs shared their processes for managing and gaining compliance with point source industries and businesses. All countries are facing similar problems in effectively dealing with non-point or diffuse pollution sources such as agriculture and stormwater runoff. Non-point problems do not lend themselves readily to permit/license type of solutions.

Participants discussed the need for good data regarding the status of the environment. Many countries are developing information and data by watershed or region. This data, both scientific and resource availability, is important for helping build an understanding and awareness with the public and the entities to be regulated as to the importance of complying with environmental requirements.

Some participants were just in the first stages of drafting and implementing their country's laws that protect the environment. All participants agreed that good environmental laws as the base from which to build your requirements/regulations is a must. Enforcement and compliance from the regulated community would not be possible without these underlying laws. Some countries discussed the difficulties of having many different environmental laws and agencies responsible for carrying out these laws. These overlapping responsibilities and roles create confusion and conflict and make compliance of the regulated community more difficult. Some countries have consolidated their environmental laws into one law or are starting out with a comprehensive law that will regulate the environment for the country.

Much of the discussion centered on the need for balancing enforceable requirements with voluntary efforts. Participants agreed that starting with the education of young children in school will be very important to developing and maintaining the "public will" to support good environmental management. There are several activities that promote education and awareness that include public outreach and media campaigns. It was suggested that every country should adopt a "national environment day" that could help focus environmental education. It is also important that as you enhance the public's knowledge and willingness to change their behavior that opportunities are provided for them to "do the right thing." An example would be providing waste collection sites in areas where they had not previously existed coupled with an educational campaign to not litter. Participants agreed that educational programs are more cost effective than implementing major permitting and enforcement programs which are very resource intensive. Other examples of involving people in changing behavior was including industry groups in monitoring and gaining compliance from members of their own industry through peer pressure or other mechanisms.

It is important that environmental information come from a credible source that is trusted by the people or the regulated community. In some countries the government may not be a trusted credible source of information. In these cases, it is important to involve others (citizens, NGOs, industry) in the collection and dissemination of environmental information. Involving others will also help gain understanding and awareness of the problems, help with solutions and take more responsibility in implementing the requirements/standards. It is also important to look for incentives both financial and other economic or social incentives that will motivate the regulated community to comply with requirements.

4 CONCLUSION

"YOU CAN NOT HAVE AN ECOLOGICAL PARADISE IN A SOCIAL ECONOMIC DESERT."

All participants underlined that clear surface water and safe drinking water must be a top priority. Some countries choose a way of using one integral environmental law to realize this. Other countries prefer separate legislation because they do not want solving the clean water problem to be mixed up with other environmental issues and difficult legislation. Another problem in solving the clean water problem is that the use of watershed requirements does not fit to existing responsibilities.

During the discussions it became clear that environmental requirements that are enforceable are critical for gaining compliance from the regulated community but these requirements cannot be drafted in a vacuum. It is essential that the requirements are developed in the context of the country's social and economic conditions. Adopting requirements that cannot be complied with by the country's industry or population in a timely, reliable and affordable fashion will be difficult if not impossible to enforce and may result in "political" backlash that causes more harm to the environment.