
COMPLIANCE AND ENFORCEMENT IN GHANA

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SUMMARY

Environmental management activities of governments in the developed and developing countries have evolved along similar lines. These involve setting up national authorities for policy formulation, implementation, regulation, compliance and enforcement. In Ghana, the first national environmental management authority set up in 1974 was the Environmental Protection Council. The mandate of the Council was limited at the time. The Environmental Protection Council was responsible for advising the sector Ministry on Policy issues relating to the environment.

In 1994, the Council was transformed into the present day Environmental Protection Agency through an Act of Parliament. This transformation became necessary due to the fact that a new Ministry of Environment, Science and Technology was created charged with policy issues. The Environmental Protection Agency therefore was assigned the new role of regulation and enforcement.

The organizational restructuring of the Environmental Protection Agency saw the creation of an Inspectorate Department within the Agency. Later on the fifth inter-sectorial network, the Compliance and Enforcement Network, was also created. This network is a mechanism whereby law enforcement and regulatory agencies collaborate to bring about swift resolution of environmental issues.

Public complaints on human activities viewed as environmentally unfriendly became the popular mode of seeking redress to many issues. The resolutions of many of these complaints, which constitute potential pollution issues would not have been possible without the establishment of the Compliance and Enforcement Network.

1 ESTABLISHMENT OF THE ENVIRONMENTAL PROTECTION AGENCY

The Environmental Protection Council was established by Decree N.R.C.D.¹ 239 of 1974 and amended by Decree S.M.C.D.² 58 of 1976. The main functional responsibility of the Council was to advise the Sector Minister on environmental issues. The Council had no regulatory and enforcement responsibilities. The Council was therefore instrumental in the formulation of policies that culminated in the creation of the separate Environment, Science and Technology Ministry.

Ghana returned to democratic form of Government in 1992 after a military take over in 1981. Among the changes brought by this democratic form of governance was the creation of a new Ministry to be responsible for the Environment. With the creation of this Ministry, the traditional responsibility of the Environmental Protection Council ended. It became essential to transform the Council to take up new and emerging responsibilities of regulation and enforcement.

The Environmental Protection Agency was therefore established by an Act of Parliament in December 1994. The Act 490 confers on Environmental Protection Agency a legislative function of compliance, enforcement and control. This function is also an essential element in the regulatory cycle for the protection of the environment and the realization of the targets and goals of the National Environmental Policy of the country.

One of the specific regulatory empowerment of Act 490, was the establishment of the Inspectorate Department within the Agency. Inspectors of the Agency were given broad powers to enter and carry out inspection and investigations of all premises for the purpose of compliance and enforcement and regulation.

2 ESTABLISHMENT OF THE COMPLIANCE AND ENFORCEMENT NETWORK IN GHANA.

In order to implement the National Environmental Action Plan, four (4) Intersectorial Networks were set up. These networks were for Natural Resources, Mining & Industry, Environmental Education, and Built Environment. This became necessary because it was realized that the traditional sectorial approach has been responsible for the transfer of pollutants from one medium to another. This situation is also known to encourage the end-of-pipe approach to addressing pollution problems.

The four Intersectorial networks did not however include a compliance and enforcement network. This apparent omission came as a result of the fact that the Environmental Protection Council which existed at the time of drafting the Action Plan had no enforcement powers. The transformation of the Council into an Agency, therefore necessitated setting up the fifth Intersectorial Network responsible for Compliance and Enforcement.

The need for setting up the Compliance and Enforcement Intersectorial Network became apparent at a workshop organized at Akosombo in October 1995. The workshop brought together Law Enforcement and Regulatory Agencies in the country. The objective of the workshop had been to foster cost effective, cross-sectorial and integrated collaboration in compliance and enforcement of environmental regulation. The major outcome of the workshop has been the decision to set up the Compliance and Enforcement Network (Compliance Enforcement Network) to complete the regulatory cycle of the work of the Agency. Subsequently, the network was inaugurated on July 30, 1996.

3 COMPOSITION OF THE COMPLIANCE AND ENFORCEMENT NETWORK.

The network comprises representatives of the following:

- All Law Enforcing Agencies (the Ghana Police Service (GPS), Ghana Army (GA), Ghana Airforce (GAF), Ghana Navy (GN) and Ghana National Fire Service (GNFS).
- The Attorney General's Department.
- Eight regulatory bodies: the Mines Department (MD), Factory Inspectorate Department (FID), Town and Country Planning Department (TCPD), Ghana Standards Board (GSB), Forestry Department (FD), Ministry of Health (MOH),

Ministry of Local Government and Rural Development (MLG & RD), and the Environmental Protection Agency (Environmental Protection Agency) as the coordinating Agency.

- Accra Metropolitan Assembly.
- The Ghana News Agency.
- Ministry of Environment, Science & Technology. (MEST).

The Network is chaired by the Executive Director of the Environmental Protection Agency.

4 FUNCTIONS OF THE COMPLIANCE AND ENFORCEMENT NETWORK

The network is a problem solving forum for potential environmental pollution cases that are referred to the network. The main functions of the network have been:

- establishing complaints and investigation procedures;
- public awareness creation;
- capacity building of member bodies for effective compliance and enforcement monitoring;
- authorization of criteria pollutant(s) measurement and taking decision on appropriate measures;
- joint field monitoring, inspections, and verifications;
- collaborative actions to ensure compliance and enforcement of decisions by the network or other regulatory bodies.

5 MODE OF OPERATION OF THE COMPLIANCE AND ENFORCEMENT NETWORK .

Currently, the Compliance and Enforcement Network is functional only in the capital, Accra but issues dealt with are countrywide. The network holds quarterly meetings in Accra.

There are four subcommittees of the network and they meet as often as there are issues to be considered. The four subcommittees are shown in the table below:

Table 1 Subcommittees of the Compliance and Enforcement Network

NO.	Subcommittee	Members	Lead Agency
1	Small & Medium Scale Manufacturing Enterprises (SMMEs)	EPA, FID, AMA, GNA, TCPD, CEPS, GNFS, FD, AG, MLG & RD, GPS.	EPA.
2	Small & Medium Scale Industrial Mining Enterprises (SMIMEs)	EPA, MD, GPS, AG	MD.
3	Noise Nuisance	EPA, FID, GNFS, AMA, GNA.	AMA.
4	Legal	EPA, GPS, AG.	EPA.

Most of the issues referred to the network are public complaints sent to the Environmental Protection Agency. Some are issues which arise out of routine or proactive inspections, monitoring or investigative activities of officers of the Agency.

Initially complaints are investigated and the appropriate measures recommended. These recommendations may be notifications in the form of one or more of the following:

- Prohibition/ cessation of activity within a specific time frame.
- Removal or mitigation/minimization of the particular offending activity (dust, noise, solid waste, liquid waste, etc.).
- Relocation of the particular activity to such a new location where the activity is compatible with land use.

It is only in cases where the occupier of the affected premises of the activity does not comply with the notification by the Environmental Protection Agency that the case is referred to the Network. The compliance and enforcement network may not necessarily meet on the issue, but the appropriate subcommittee reviews the issue first. Recommendations of the subcommittee of the network are communicated to the operator (occupier) of the facility in question

6 REFERRAL PROCEDURE OF CASES TO THE COMPLIANCE ENFORCEMENT NETWORK

The procedure for referral of cases to the Compliance Enforcement Network for investigation and prosecution involves the following:

- Environmental Protection Agency shall refer difficult cases of enforcement to the Compliance Enforcement Network.
- Environmental Protection Agency shall provide detailed investigation report to the Compliance Enforcement Network on such cases of offending activities or operations.
- The appropriate subcommittee shall then undertake independent investigation to assess the environmental impacts, and also identify other regulatory agency, whose laws have been violated by such activities for joint prosecution when necessary.
- The subcommittee assigned an investigation shall also undertake periodic compliance monitoring. If violations are detected, the legal department of Environmental Protection Agency in collaboration with Attorney General's Department will initiate prosecution proceedings.

The compliance and enforcement network relies on its members to achieve results. Previously environmental compliance and enforcement was considered as the sole responsibility of the Environmental Protection Agency, but the present collaborative approach works differently. It is not possible to outwit one regulatory agency and receive a favorable response from another. The present mechanism ensures that an application, for instance, rejected at the Town and Country Planning Department, does not receive a favorable response at the Environmental Protection Agency or similar regulatory agency.

7 ACHIEVEMENTS OF THE COMPLIANCE ENFORCEMENT NETWORK

Within the short period of its existence, Compliance Enforcement Network has enhanced the following:

- permitting has become less cumbersome, swift and straight forward;
- environmental pollution issues are being resolved faster than previously;
- increased public awareness has led to more effective compliance and enforcement activities;
- fewer issues get resolved at the premises of the courts;
- prosecution proceedings of violators have become faster because the Attorney General's department is represented on the network.

8 THE ENVIRONMENTAL SET UP AND COMPLAINTS

In post-independence Ghana, physical planning has been slow to develop. Most infrastructure development therefore seemed to proceed before physical planning. The results of this situation is that a lot of small scale and sometimes medium scale industrial activities become located in built up residential area.

In most urban centres however, there are clearly designated industrial estates. There is however land use conflict in areas outside these designated industrial areas. Due to the comparatively bad shape of private sector businesses in Ghana not many of the small and medium scale enterprises are able to afford modern and sophisticated equipment for their activities. Not many of these also go through the environmental requirement for getting set up.

Typical examples of such enterprises which are found in the built-up environment include: terrazzo chipping production plants, block moulding enterprises, wood processing/saw milling enterprises, aluminium fabricating enterprises, worship centres, refuse burning, bakeries with traditional ovens, skinning of animals, etc. The nuisance from these activities normally include noise, dust, vibration, odor and smoke. Obviously, neighbors living close to these enterprises find these activities unacceptable because such activities affect their health and comfort.

9 ROLE OF THE PUBLIC AND MEDIA IN COMPLIANCE AND ENFORCEMENT

A number of polluting enterprises are found in built-up areas. The natural tendency is that the public is taking interest in the operations of these enterprises. Accordingly, complaints about the unacceptable level of nuisances and pollution are brought to the attention of the Agency by the public. In addition, media publication is also very effective in drawing public and regulatory agency's attention to environmentally unfriendly activities.

Monitoring for compliance and enforcement has also become the concern of both media and the public. When a complaint is lodged about a particular operation/activity, the complainant does not rest until the issue is resolved to his/her satisfaction. Should the situation reappear after some time, the same person will call the attention of the Agency for redress.

One of the management tools used by the Agency which is paying-off greatly in compliance and enforcement is environmental education. The Environmental Education Department of the Agency has carried out nationwide environmental education in all 110 District Assemblies of the country. The District Assemblies are the decentralized units of Government Administration in the country. According to the Act of Parliament which set them up, the District Assemblies are responsible for the effective management of all resources under their jurisdiction.

The educational program was aimed at equipping the Assembly Members with skills of identification of environmental impacts of various activities. The Assemblies are also to ensure that all new developments meet the Environmental Impact Assessment requirements. Existing enterprises are also required to prepare Environmental Management Plans covering the operations.

The results of the public educational program are that people are highly aware of what constitutes nuisance and pollution to the environment, and are prepared to go to all lengths to ensure resolution of such nuisance situations.

There are Frequency Modulation Radio Stations in all Regional Capitals and some major towns in Ghana. Almost all these stations have phone-in programs for the public to express their views on all issues including environmental issues. These are also channels of complaints of the environment by the public. The Environmental Protection Agency has a mechanism of investigating these complaints and for making recommendations for redress.

In some cases the radio stations serve as monitors for compliance enforcement. Long after an environmental issue is resolved, a radio station may still comment on the effectiveness of the recommended remedial measures. This situation is very helpful to both the public and the regulatory agencies. This consciousness seems to compel most offenders to take the appropriate measures to avoid prosecutions.

10 ENFORCEMENT ACTIONS

A total of 45 complaints on the environment were received by Environmental Protection Agency and investigated in 1997. This shows substantial increase over the 1995 and 1996 records of 16 and 39 complaints respectively. These offending activities predominantly sited in built-up areas can be categorized under one or more of the following:

- small scale activities which have expanded over the years and have become incompatible with current land-use;
- small and medium scale activities which existed in undeveloped residential areas but have now been caught up with development;
- poor waste management practices.

The principal activities and impacts on the built-up areas that are constant sources of complaints are classified as follows:

Table 2 Principal Complaint Activities

NO.	Activities	Environmental Impact
1	Block molding Saw milling Terrazzo chipping production	Noise, dust, and vibration
2	Skinning of animals and hides burning with used tires Open dump solid waste burning	Smoke pollution
3	Open pit latrines Broken sewer lines Fish meal processing	Odor nuisance
4	Lead recovery from car batteries	Hazardous fumes
5	Illegal sand and stone winning	Land degradation
6	Siting of industries in zoned residential areas (built-up)	Land-use conflict

The substantial increase in environmental complaints in the past three years indicates increasing public awareness of environmental nuisance. It also suggests the desire of the public to ensure that private sector businesses (both small and medium) integrate environmental management in their operations. Furthermore, it demonstrates public confidence in the Environmental Protection Agency's activities and that of the Compliance Enforcement Network.

Eight enterprises received letters of advice after inspection. Only two companies had their cases referred to the Attorney General's Department for prosecution for non compliance to enforcement notices served on them. These cases are all pending in the law courts.

This figure is also confirmation that most offending industries prefer to heed the enforcement notices rather than be dragged to court. It also proves the effectiveness of the Compliance and Enforcement Network mechanism that has been set up.

11 CONCLUSION

The Compliance Enforcement Network in Ghana is barely a year and half in existence. Compliance Enforcement Network has however brought about tremendous change in regulating human activities within the built-environment. Environmental complaints are now resolved faster using lesser resources and operators of the offending activities are now anxious to comply with recommended measures in notices served on them. There has been better understanding and cooperation among Law Enforcement and Regulatory Agencies than before. The Compliance Enforcement Network concept has worked effectively in Ghana and is recommended for countries with limited resource allocation for environmental issues.

Table 3 Enforcement Notices Issued in 1997

NO.	Type of Enforcement Notice	NO. Of Notices	Total No investigations
1	Permit withdrawal	1	
2	Relocation	18	
3	Mitigation measures	5	
4	Land reclamation	1	
5	Prohibition/cessation	3	
6	Administrative order to submit Environmental Management Plan, Small Scale Registration Form or Environmental Impact Statement.	3	
7	Prosecution	2	
	Total	33	45

REFERENCES

- 1 National Redemption Council Decree
- 2 Supreme Military Council Decree