

Department of Environmental Affairs and Tourism
south african government

Environmental Compliance and Enforcement

Presentation to the Prosecutor Training Course, Helderfontein Estate, 25 July 2005

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Overview

- This presentation hopes to provide:
 - A brief (but one-sided) history of environmental compliance and enforcement in South Africa;
 - A summary of the evolution of the pollution and waste governance framework in the first decade of freedom;
 - A discussion on the persistent perception that government is unwilling and/or unable to enforce environment law;
 - An insight into the department's organisational development initiatives relating to compliance and enforcement.

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The Way We Were

- 1987 – 1993
 - Thor Chemicals and government complicity
 - Indiscriminate toxic waste dumping & big plans to dump the world's waste
 - Government tip-offs to NGOs
 - Crime, what crime?
- 1994 – 1998
 - DWAF and the ESPU
 - No single-agency solution

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The Evolving Waste & Pollution Governance Framework

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    graph TD
      A[The Constitution (1996)] --> B[The National Environmental Management Policy (1997)]
      B --> C[The National Environmental Management Act (1998)]
      C --> D[The Integrated Pollution & Waste Management Policy (2000)]
      D --> E1[NEMA 1st Amendment (2003)]
      D --> E2[NEMA 2nd Amendment (2004)]
      D --> E3[Air Quality Act (2004)]
      D --> E4[Waste Management Bill (2005)]
  
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Government's Unwillingness and/or Inability to Enforce Environment Law

- Ministerial Statements.
- Willing officials.
- Strong policy.
- Hiding the light under a bush.
- Few successes.
- Negotiating from a position of weakness.
- If an EPA is the answer, what is the question?

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Specialisation And The Environmental Governance Cycle

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    graph TD
      A[Problem identification, prioritisation & strategy development] --> B[Regulations]
      B --> C[Impact assessment]
      C --> D[Authorisations]
      D --> E[Compliance monitoring]
      E --> F[Enforcement]
      F --> A
      A --> G[Information management]
      G --> H[Outreach / awareness raising]
      H --> I[Environmental Quality norms & standards]
      I --> B
  
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So What?

- The separation of the process and policy functions is likely to result in:
 - Increased specialist policy capacity
 - Proactive problem identification
 - Coherent problem prioritisation
 - Multi-stakeholder strategy development
 - Increased regulatory service delivery
 - Better quality authorisations
 - Improved compliance monitoring and compliance trend reporting
 - Increased enforcement success
 - Independent feedback on the efficacy of strategies

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Key Attributes of the Specialist Pollution & Waste Legislation

- Setting environmental quality standards – defining an environment that is not harmful to health and well-being.
- Providing basic regulatory tools to ensure that standards are achieved and maintained.
- Providing the means to initiate the use of cutting-edge environmental management tools and strategies.
- Making sure the punishment fits the crime.

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Thank You For Your Attention