

5. PROMOTING COMPLIANCE

INTRODUCTION

Compliance promotion is any activity that encourages voluntary compliance with environmental requirements. Promotion helps overcome some of the barriers to compliance discussed in Chapter 2.

Most compliance strategies involve both activities to promote and enforce requirements. Policymakers will need to determine the most effective mix of compliance promotion and enforcement response.

Experience has shown that promotion alone is often not effective. Enforcement is important to create a climate in which members of the regulated community will have clear incentives to make use of the opportunities and resources provided by promotion. Experience in several countries has also shown that enforcement alone is not as effective as enforcement combined with promotion. This is particularly true for example when:

- The size of the regulated community far exceeds the program's resources for enforcement, e.g., when the regulated community consists of numerous small sources, such as individual gasoline stations.
- The regulated community is generally willing to comply voluntarily.
- There is a cultural resistance to enforcement.

Thus, promotion is an important element of most enforcement programs.

This chapter describes six approaches to compliance promotion:

- Providing education and technical assistance to the regulated community.
- Building public support.
- Publicizing success stories.
- Creative financing arrangements.
- Providing economic incentives.
- Building environmental management capability within the regulated community.

EDUCATION AND TECHNICAL ASSISTANCE

Education and technical assistance lay the groundwork for voluntary compliance. They are essential to overcome barriers of ignorance or inability that otherwise would prevent compliance. Education and technical assistance make it easier and more possible for the regulated community to comply by providing information about the requirements and how to meet them, and by providing assistance to help regulated facilities take the necessary steps for compliance. Education and technical assistance are particularly important in the early stages of a new requirement-based program, and whenever the program requirements change.

Approaches

Several types of information and messages can be communicated to regulated groups to promote compliance:

- Who is subject to requirements?
- What are the requirements?
- Why are these requirements important?
- What changes (including technical and managerial changes) must be made to comply with the requirements?
- How can these changes be made (e.g., What equipment should be used? How should this equipment be operated?)?
- What are the consequences of not complying?

If deterrence is an important element of program strategy, the information communicated can include not only educational information, but also reports of enforcement activities. This helps create an "enforcement presence" and an atmosphere of deterrence. This atmosphere will help provide an incentive for sources to seek assistance and comply. Table 5-1 describes different ways to provide assistance to the regulated community.

Promotion can be enhanced by developing a communications plan which specifies what type of information will be communicated, how it will be developed, when it will be released, and how it will be

distributed. Similarly, a technical assistance plan can be developed to indicate what assistance will be provided, to whom, and under what circumstances.

A situation in the Netherlands provides one example of successfully using assistance to solve a compliance problem. Commercial establishments in the Netherlands are required to dispose of their hazardous wastes through permitted processors. However, getting the waste to the processor has been a problem for small businesses. The processors are often unwilling to pick up small amounts of waste, and transporting small quantities of waste long distances to a processor places an economic burden on small businesses. Small companies were therefore often out of compliance with the hazardous waste rules. The Dutch government helped solve this problem by establishing a collection depot in nearly every town in the Netherlands. Both private citizens and small companies may discard their waste at these depots at regular times. This government-facilitated cooperative arrangement was instrumental in helping solve this compliance problem.

BUILDING PUBLIC SUPPORT

The public can be a powerful ally in promoting compliance. Public support can help create a social ethic of compliance. The public can also serve as watchdogs that alert officials to noncompliance. If the laws provide the appropriate authority, members of the public or nongovernment organizations representing the public can bring a citizen suit against noncomplying facilities. Public support can also help ensure that enforcement programs continue to receive the necessary funding and political support to be effective.

Building public support may be particularly important groundwork in societies where personal economic concerns compete with concern for environmental quality, or where there is a general lack of awareness about or concern for environmental problems. The public can be educated about causes and effects of pollution, its short- and long-term threats to human health and natural resources, and the costs to society. The extent of environmental damage may be surprising new information to the public.

Enforcement programs can build public support by developing and distributing information about environmental problems, the importance of compliance, program activities and successes, and ways the public can support the program. Program officials can also work with nongovernment organizations that represent the public to develop and distribute information and promote public involvement.

Nongovernment organizations can independently help promote compliance by publicizing information to increase public awareness of environmental problems and to build support and pressure for compliance.

PUBLICIZING SUCCESS STORIES

Program officials can provide an incentive for the regulated community to comply by publicizing information about facilities that have been particularly successful in achieving compliance. In societies where the public does support environmental protection, positive publicity about a firm's compliance success can enhance its reputation and public image. Such publicity helps create a positive social climate that encourages compliance.

TABLE 5-1. WAYS TO PROVIDE INFORMATION AND ASSISTANCE TO THE REGULATED COMMUNITY

- **Publications**, such as brochures and guidance manuals, that are created specifically for educational purposes and are distributed or made available to regulated groups.
- **Training Programs**, designed specifically to educate the regulated community about requirements and compliance.
- **Conferences** and other meetings that bring together officials from the enforcement program, regulated communities, and other interested parties.
- **"Hot Lines"** - dedicated telephone numbers that the regulated community can call to ask questions and receive information and assistance.
- **Technical Assistance**, which can be provided (1) by trained personnel who are available to visit individual members of the regulated community and assist them in making the necessary changes for compliance, (2) by inspectors who provide technical assistance as part of their inspection, and (3) by special assistance programs, set up for example at universities, that provide a central resource for information on and assistance with compliance.
- **Cooperative Arrangements** - Program officials can facilitate cooperative arrangements among small businesses that may want to comply but do not have the necessary resources to do so. An "arrangement" could include, for example, small facilities set up with program funds to serve as processing centers for pollutants that must be controlled or recycled. In such cases, policymakers will need to decide whether the services provided by the center are free or whether users must pay a charge.
- **Media Announcements** - information distributed through newspapers, television, or radio. This can include information about requirements, ways to meet requirements, and enforcement activities. Reports of enforcement activities can be particularly useful in deterring other potential violators. Public disclosure of violations and of the environmental benefits of the program's enforcement activities can help create public pressure for compliance.
- **Trade and Professional Associations**. These groups usually have established good communication networks through their publications and meetings. These activities provide forums for the regulated community and enforcement program personnel to exchange information and ideas.
- **Universities**. In some countries, universities are important centers for professionals. University publications or conferences, for example, may be important channels for educating the members of the regulated community.
- **Professional Journals**. Articles and announcements in these publications are an important way of reaching members of a specific professional community.

CREATIVE FINANCING ARRANGEMENTS

One barrier to compliance is cost. Facility managers may want to comply but may not be able to afford the cost of fulfilling the requirements. Creative financing arrangements that can help solve this problem include:

- Offset Requirements. This arrangement is essentially a tax on new investments. It requires investors interested in building a new facility to pay for modifications (e.g., installation of new process technology or controls on existing technology) that will reduce or "offset" pollution at an existing facility. Offset requirements should not be so expensive that they will discourage new investments. Some mechanism will be needed to ensure that the equipment in the existing facility is maintained and operated once it has been installed.
- Peer Matching. Peer matching is similar to offset requirements, but voluntary. In this case, investors interested in building a new facility are asked to "adopt" an existing facility and help it reduce pollution. Foreign investors, in particular, may be interested in this arrangement as a means of promoting good will in the local community and with government authorities.
- Sales of Shares. In situations where a government-owned facility is being privatized, the facility can raise money by selling shares in the facility to investors. This option can be particularly attractive if members of the local community are willing to invest. Proceeds can be used to renovate the facility so that it can comply with requirements and reduce or eliminate the impacts of pollution on the local community.
- Loans. Under this arrangement, institutions loaning money for new investments require that a certain portion of the loan be applied to restoration or protection of environmental quality.
- Environmental Bonds. Government or private owners of a facility subject to environmental requirements can issue bonds to raise money to finance the changes needed to meet the requirements. The owners pay interest on the loan to the bondholders until they are able to pay back the loan in full. In some countries, the interest earned from environmental bonds is tax-free. Environmental bonds are particularly appropriate in situations where the facility can recoup the cost of compliance by charging users of the service or product a fee (e.g., municipalities can charge citizens and industry for water use to help pay the costs of water treatment). This revenue helps assure bondholders that their loan will be repaid.

ECONOMIC INCENTIVES

Environmental programs can encourage compliance by providing economic incentives for compliance. This may be an effective approach in public agencies, which are less likely to be deterred by monetary penalties, since they are funded by the government. The benefit from compliance can be applied to the facility generally, or to an individual based on his or her performance. Incentives include:

- Fees. The facility is charged based on characteristics (e.g., amount, rate, toxicity) of its pollution (e.g., effluent, emissions, waste). Unlike monetary penalties, fees create an immediate cost to the facility for polluting. Fees generate revenue that can be used by the enforcement program. Fees should be high enough to deter pollution, otherwise they are no more than a "license to pollute."
- Tax Incentives. These are reduced taxes for costs associated with improving environmental quality, e.g., installing pollution control equipment, or changing a process to prevent pollution.
- Pollution Taxes. These taxes are based on the volume and/or toxicity of emissions, effluents, or wastes generated. Pollution taxes can be a purely economic alternative to setting standards.
- Subsidies for Complying Facilities. Facilities that comply with requirements can receive a subsidy to help defray the cost of compliance.
- Facility or operator bonuses for achieving better results than specified in permits, licenses, or regulations.
- Promotion points for senior managers in government-owned facilities achieving compliance.

BUILDING A FACILITY'S ENVIRONMENTAL MANAGEMENT CAPABILITY

Many nations and international organizations, including the U.S., Canada, the Netherlands, the European Community, the International Chamber of Commerce, and the United Nations Environment Programme, are

promoting the concept of building internal environmental management capabilities within facilities to promote compliance and generally improve environmental quality. One specific approach to building this management capability is environmental auditing.

Environmental auditing is a periodic and comprehensive evaluation of the management systems and practices within a firm that affect environmental compliance. An environmental audit may examine the need for many different management changes including:

- Development of a formal environmental compliance plan or policy, including environmental management goals.
- Education and training programs for employees.
- Purchase, operation, and maintenance of equipment needed to achieve environmental goals.
- Creating specific jobs or departments within the facility dedicated to achieving environmental compliance.
- Budgeting and planning for environmental compliance.
- Developing monitoring, recordkeeping, and internal and external reporting systems.
- Developing internal communications and chain-of-command systems to ensure compliance.
- Assessment of hazards and risks posed by facility emissions and/or wastes.

Environmental auditing may be performed by specially trained employees or by an independent auditor that periodically visits and assesses the firm's compliance status and recommends changes if necessary. The concept of environmental auditing is gaining support as industry managers are finding good business reasons to run their operations in an environmentally sound manner. For example, many firms have discovered that valuable materials and energy can be recovered from waste streams and reused or resold. Other firms want to reduce their chances of being sued by the government or members of the public. In the U.S., securities' laws for corporations require that publicly owned firms assess and disclose their potential environmental liability; this requirement provides an incentive for internal environmental auditing.

Enforcement program officials are also promoting the concept of environmental auditing as an integral part of good business practice. Ideas for promoting environmental auditing include:

- Pilot projects to introduce the concept of auditing to small- and medium-sized firms.
- Environmental advisors that assist firms in setting up simple internal auditing systems.
- Regional auditing centers run by industry that can provide auditing and advisory services to members of that industry upon request.
- International workshops to bring the concept of environmental auditing to countries that would like to encourage this practice among their regulated facilities.
- Hiring university staff or other management specialists to develop programs to train auditors.
- Required disclosure of environmental liabilities (environmental impacts and violations) in the written statements made when a company is issuing stocks or bonds.