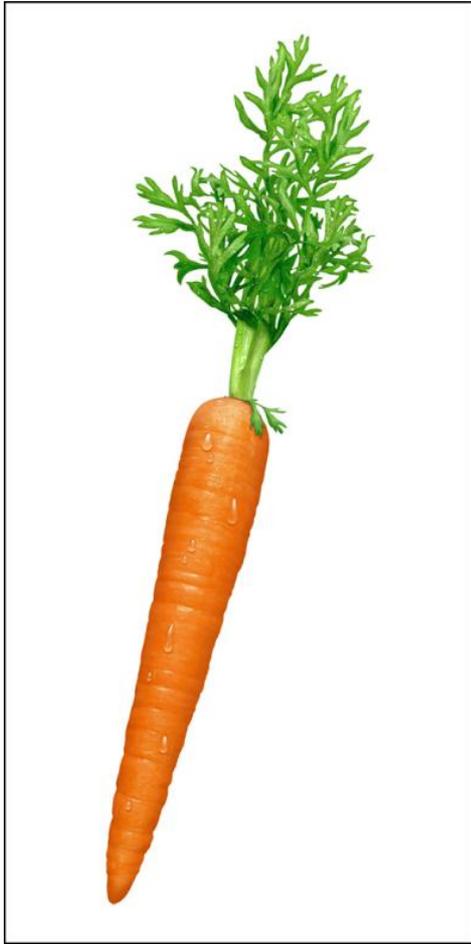




Water Quality Coordinating Committee Enforcement Panel

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Competing Strategies for Enforcement





Enforcement Theories

- Deterrence-Based Enforcement
 - Based on rational economic model actor: Regulated entities comply where costs of noncompliance outweigh benefits of noncompliance.
- Cooperative Based Enforcement
 - Based on view that businesses generally inclined to comply with law because of social or moral values, or market forces
- In practice, agencies use hybrid approach

Elements Needed for Deterrence

- Credible likelihood violations will be detected
- Sanctions must be swift & certain
- Sanctions must be appropriate
- Perception of the first 3 factors by regulated entities



Empirical Research

- Consistent finding: Deterrence based enforcement improves compliance

Empirical Research



- Numerous studies in pulp & paper, steel industries, oil tankers, also OSHA enforcement
 - Increased levels of enforcement activity– inspections, threat inspections, timely and appropriate enforcement responses, enforcement actions– increase compliance
- DTSC study (1999)
- ECOS survey (2001)

Empirical Research



- The absence of deterrence based enforcement leads to non-compliance:
 - POTWs in 1980's, 1,500 systems in noncompliance
 - UST study in Alameda County



Empirical Research

– General Accounting Office:

- “Penalties play a key role in deterring violators.... The Clean Water Act and other environmental statutes have been violated repeatedly when penalties have not been applied”

– Detailed Study of State, Federal Programs

(Ringquist):

- Federal enforcement efforts and state programs that were “consistent, focused and well-supported ” led to greater pollution reductions than “weak and inconsistent state programs.”

Empirical Research

- More limited research suggests compliance assistance & incentive programs also can improve compliance
- Few Comparative Studies:
 - U.S. v. Canada pulp & paper industries
 - Environment Canada study of British Columbia
 - Nonpoint source pollution in North Carolina

Strengthening Enforcement

- Expedited Enforcement Procedures
 - Streamlining Inspections
 - Field Citations
- Administrative Citizen Enforcement Actions
- Enhanced Compliance Assistance
- Combine Compliance Assistance with Traditional Enforcement
- Spotlighting compliance status of regulated firms

British Environment Agency: Spotlight on Business Performance

The top ten fines as a result of our prosecutions in 2007 were:

Company	Fine (£)	No of events	Sector	Reason for prosecution
Easco (Wheelers) Limited	159,996	6	Waste	Breach of Licence (Waste)
Bibendum Wine Limited	70,000	16	Wholesale and retail	Waste (Producers Responsibility)
Severn Trent Water Limited	63,330	8	Water	Water pollution; Breach of Licence (Abstraction)
Von Essen Hotels Limited	56,000	12	Tourism	Breach of consent (Water)
Grosvenor Waste Management Limited	55,000	6	Waste	Illegal shipment of waste; Illegal waste activity
Yorkshire Water Services Limited	52,000	9	Water	Water pollution; Breach of consent (Water)
Cemex UK Cement Limited	50,000	1	Minerals	Breach of permit
Alan Hadley Limited	50,000	2	Waste	Illegal waste activity
Arthur Wright & Son Waste Management Services Limited	50,000	2	Waste	Breach of Licence (Waste)
United Utilities Water PLC	50,000	7	Water	Water pollution; Breach of consent (Water)

We regulate all of these companies under EPR apart from Von Essen Hotels Ltd (who held a consent to discharge to water issued by us) and Bibendum Wine Ltd (who should have registered with us under producer responsibility packaging regulations – but didn't).

Other penalties as a result of our prosecutions in 2007 were:

Penalty	Total number of defendants	Duration of penalty	Number of defendants – companies	Number of defendants – directors	Number of defendants – individuals
Custodial Sentence	6	93 months	0	0	6
Suspended Custodial Sentence	11	428 months	0	1	10
Conditional Discharge	57		8	2	47
Community Punishment Order (Community Service Order)	19	4132 hours	0	1	18
Community Punishment Rehabilitation Order (Combination Order)	1	100 hours	0	0	1
Compensation Order	4		2	0	2
Injunction	8	60 months	3	0	5

Contact Information

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