Compliance and Enforcement Transformation

External Stakeholder follow-up meeting
(Phase 2)
Feb 18th, 2011

State Police Auditorium
Horizon Center
1200 Negron Drive
Hamilton, NJ 08691
Today’s Objectives

1. Clarify our challenge and approach
2. Confirm support for expansion of our role and the results we will seek to deliver
3. Explain our steps and thinking so far
   • From big ideas to effective, specific actions
   • How we arrived at current priorities
   • How you can be involved
4. Get input on priorities to move ahead
Our Challenge: making sense of things
Lots to consider…

• 300+ staff suggestions throughout 2010
• 61 ideas/comments in notes from stakeholder session Dec 13\textsuperscript{th} 2010
• More input via email and informal comments
• DEP leadership and manager perspectives
• DEP Transformation Plan, Vision and Mission
• Red Tape Commission, executive orders
In Over Our Heads?

• 70% of large scale change initiatives fail
  – What are we doing differently than the 70%?
  – What is different from our own past?
• Change efforts are well studied
• Change management becoming a science
• People are key, but so is process
• Help exists
What Help Did C&E Find?

• Ken Miller
  – Veteran Change Agent
  – Governing Magazine contributor
  – Over 100 large scale government initiatives
  – Concrete results

• Conceptual framework for change in government
• Detailed Practical guidance (a “How To”)
• Draws on the best of many other “business” frameworks
  – Statistical process control
  – Six Sigma
  – LEAN manufacturing
  – Illuminates when to use each specific tool or approach
Ken Miller

• http://www.wedontmakewidgets.com/

videos at: http://www.wedontmakewidgets.com/videos.htm
Change Concepts

We only get change in three ways:

1. Improve a widget
2. Improve a process
3. Create a new process or widget

All change is affected by teams working on discrete projects, with deliverables and deadlines.
Widget:

- Something *created* by work, which can be given to someone else to achieve a desired outcome.

- Widgets must meet the following four rules:
  - Widgets are things – cars, permits, contracts, licenses, NOVs
  - Widgets are deliverables – rules, regulations, articles, pamphlets
  - Widgets can be counted – invoices, permits, vendor lists, meetings
  - Widgets are specific – inspection reports, training classes

- Widgets come in two types: those you can see such as reports, permits, licenses; and those that are invisible such as answers, meetings, assessments.

- Widgets are the link between our “factory” and our customers.
Systems:

Processes (including the inputs, suppliers, and employees who work in the processes) that produce widgets for customers in order to achieve some desired result or outcome.
Customers:

- End users of our widgets
- The people we had in mind when we designed the widget.
- They will personally use the widget to achieve a desired outcome.
- There could be multiple customers who have competing interests.
- The customer is the link between our widgets and our outcomes.

Note that “the public” or taxpayers are only our customers when they use our widgets. More often our customers are those we regulate.
Investors or Shareholders:
• The public, taxpayers

Stakeholders:
• All those with an interest in our actions and especially our success.
• These will include customers, employees and investors/shareholders/taxpayers.
C&E’s Approach

A. Stakeholder sessions
   • authority to change
   • results/measures

B. Steering group
   • understand our world
   • key systems

C. Teams
   • analysis, project priorities
   • customer focus
   • implementation

http://www.state.nj.us/dep/transformation/enforcement/index.html
A. Stakeholder (shareholder) sessions mid-Dec 2010

1. Obtain useful feedback on possible changes to, and expansion of our role
2. Develop measures or results that we are empowered to seek and capable of delivering
A.1. Authority to Change or Expand Our Role?

- more resources aimed at finding and resolving environmental problems directly

- more resources devoted to collaboration with others both in and beyond the Department

- saving resources through shifts away from lower risk sites (potential, history, performance, etc.)

- saving resources by moving away from regulatory minutiae toward greatest environmental concern and benefit
A.2. Results C&E is expected to deliver and “authorized” to achieve?

• High but meaningful compliance

• Better behavior from others resulting in better environmental protection or outcomes (whether mandated or not)

• Finding, clarifying and fixing environmental problems as directly as possible.
Did we get A.1. and A.2. right?

Alternately,

Do you have major objections to us moving ahead openly and transparently under these guiding principles?
B. Steering Group
Charter- Jan 7, 2011 :

• To manage the large scale change initiative within C&E
  – Keep focus on measures and results
  – [Understand our world]
  – Understand systems of work
  – Define key systems that deliver results
  – Ensure a focus on the customer
  – Adjust for political and management demands
  – Prioritize projects for changes to deliver results
  – Possible oversight of specific projects

• To formalize the group’s work into C&E’s continuous improvement system
B. Steering Group

Charter- Jan 7, 2011

• The group will be successful if...

  – selected projects address key systems; are supported by solid analysis, clearly showing why they are the priority; and especially how desired results are maximized.

  – selected projects are realistic and feasible
B. Steering Group

• Must understand the world of compliance and enforcement:
  – Articles, papers, benchmarking against others
  – High level data of our own
  – Key systems - how our work is done

• Must ensure big thinking, innovation, new direction

• Must connect to practical steps for concrete changes

Limited time, demanding schedule
Resources

- **Compliance, Enforcement and Innovation** - Neil Gunningham, *Australian National University*

- **Perceptions of the Regulated Community in Environmental Policy: The View from Below** - Michelle C. Pautz, *University of Dayton*

- **Monitoring, Enforcement, & Environmental Compliance: Understanding Specific & General Deterrence** - State-of-Science White Paper, Jay P. Shimshack, *for USEPA- ORD & OECA*

- **The New Environmental Regulation** - Daniel J. Fiorino

- **Performance Measurement Guidance For Compliance And Enforcement Practitioners** - International Network for Environmental Compliance and Enforcement

Examples in practice

- **UK Modern Regulation**
- **Washington State –Government Management Accountability and Performance process (GMAP)**
- **Citistat – Baltimore and 10 other US cities**
- **COMPstat – NYC Police Dept**
FTE Per Title V Air Permit for Each State.
(Redline represents the average for the combined states)
2009 Compliance Rates of Stewards vs. Non-stewards
Using published, inspection-based, compliance rate report

- Stewardship Sites with a Policy: 86.00%
- All Stewardship Sites: 88.00%
- Non-stewardship Sites: 76.00%
2009 C&E time investment from NJEMS by Activity Class

- Standard Compliance Inspection
- Batch Enforcement Action
- Brief Compliance Inspection
- Compl. Assist. (program specific)
- Compl. Assist. (Multi-media)
- Data Compliance Review
- HW/SW Sampling
- Investigations (incident screen)
- Investigations (Central File)
- Negotiated Enforcement Action
- NJPDES Sampling
- Prescribed Enforcement Action
- Stewardship Review
- Submittal Review
- Prescribed Enforcement Action
- Action

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TOTAL IMPACT ON ENVIRONMENT

- Large sources
- Small sources
- Limited influence - mobile sources
- No influence - out of state

Reductions possible through compliance
High influence - limited potential

Universe of actors
## Systems of Work, Widgets, Customers…

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td><strong>Strategic Management system</strong> (targeting, ensuring deterrence, prioritization, workplans, consistency, measuring and communicating success)</td>
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<td>2</td>
<td><strong>Education system</strong> (training sessions, on-site assistance, guides and materials online)</td>
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### System Descriptions and details

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<tr>
<th>The Order - what drives and initiates production of widgets</th>
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<tr>
<td>Dedicated analysts or managers produce monthly or bi-weekly collection of observations, performance indicators and measures employed in a facilitated discussion with middle managers and our AC about what is working and what is not. Monthly data gets translated into annual summaries for annual trends and longer term planning. Tools used include balanced scorecard, pressure-state-response models and cti-stat type forums.</td>
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<th>The Process - who does what, and how?</th>
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<td>Annual planning and budgeting demands from leaders. Inquiries from the public on the quality and consistency of N/A's oversight of environmental concerns.</td>
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<th>The Widget - what is produced, delivered and used by the customer?</th>
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<td>Workplans, budgets, staff allocations, strategic plans and monthly or bi-weekly targeting, or lists of objectives and assignments. Also must produce reports of results that are both clear and well supported.</td>
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<th>The Customer - who uses the widgets?</th>
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<td>Legislature, Commissioner and Assistant Commissioner (AC), also our middle managers and staff, citizens, community and environmental groups.</td>
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<th>The Purpose - what does the customer's use of the product achieve?</th>
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<td>We currently have no system for evaluating our impact on genuine environmental results. Up until now we have followed directives of others (mainly the Federal govt or regulations) that spell out some default number of inspections, regardless of what we achieve or improve during their execution. This would change that to be managed for environmental improvement (but also ensuring deterrence, compliance, consistency and the communication of results). This system must recognize and be prepared to counter objections over breaking convention that will be seen as undermining laws or creating an uneven playing field. These objections could threaten federal funding or prompt citizen lawsuits.</td>
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<th>Education system - training courses, clear guidelines and materials online</th>
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<td>Regular (quarterly) information gathering to identify the &quot;trends&quot;. Teams specific to the problem identify the target audience, make contact, devise the best vehicle for delivery of information, develop content and distribute or teach it, and check its impact.</td>
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<th>Training courses, clear guidelines and materials describing requirements and best practices</th>
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<td>Those subject to regulation or whose behavior adversely affects the environment.</td>
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| Many customers (mostly aimed at small business) tell us they would do the right thing if only they knew what it was and how to do it. We provide education but lack any consistent means to uncover such knowledge gaps, address them methodically or measure their effectiveness. |
How to Prioritize Systems?

Criteria

– To what degree can each system deliver results demanded by stakeholders?
– To what degree can each system satisfy key stakeholders specifically?
  • Community and environmental interests
  • The customers (those we regulate)
  • Our leaders: Commissioner, Governor, Red Tape Commission
  • Our staff
Identify “drivers”:
Result #3 - Find and Fix Problems

Direction of arrow: A causes B
(X-Y) X-arrows IN  Y-arrows OUT
Goals with max. arrows out are "drivers" or goals that affect other goals the most.
# System Priority Matrix

**Rank Key systems on all Criteria**

Matrix shows rank from 1 (best) to 9 (worst) down each criteria column of the ability of the best improvements to each system of work below to deliver that criteria.

<table>
<thead>
<tr>
<th>Criteria shorthand</th>
<th>Increase Compliance</th>
<th>Improve Behavior</th>
<th>Find and Fix Problems</th>
<th>Sub-total for delivering results</th>
<th>Advances EU &amp; Community Concerns</th>
<th>Satisfy the Customer</th>
<th>Satisfy the Lead</th>
<th>Motivating C&amp;E</th>
<th>Total for all criteria</th>
</tr>
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<tr>
<td>Inspection system (prep, on-site, interview, compliance and stewardship, reports, notes)</td>
<td>60</td>
<td>57</td>
<td>72</td>
<td>189</td>
<td>92</td>
<td>93</td>
<td>94</td>
<td>62</td>
<td>530</td>
</tr>
<tr>
<td>Investigation/Problem ID system (managing and responding to complaints and referrals, community input)</td>
<td>81</td>
<td>89</td>
<td>42</td>
<td>212</td>
<td>40</td>
<td>89</td>
<td>67</td>
<td>52</td>
<td>460</td>
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<tr>
<td>Strategic Management system (targeting, ensuring deterrence, prioritization, workplans, consistency)</td>
<td>36</td>
<td>72</td>
<td>30</td>
<td>138</td>
<td>40</td>
<td>85</td>
<td>29</td>
<td>33</td>
<td>325</td>
</tr>
<tr>
<td>Enforcement system (follow-ups, penalties, case management, settlement, ADR, &quot;conversions&quot; of bad guys)</td>
<td>80</td>
<td>68</td>
<td>72</td>
<td>220</td>
<td>88</td>
<td>91</td>
<td>90</td>
<td>77</td>
<td>566</td>
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<td>Education system (training sessions, on-site assistance, guides and materials online)</td>
<td>29</td>
<td>26</td>
<td>71</td>
<td>126</td>
<td>70</td>
<td>31</td>
<td>73</td>
<td>73</td>
<td>371</td>
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<tr>
<td>Bulk Processing (licensing, fees, billing and collections)</td>
<td>129</td>
<td>124</td>
<td>129</td>
<td>382</td>
<td>123</td>
<td>62</td>
<td>125</td>
<td>115</td>
<td>807</td>
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<tr>
<td>Self-reporting system (self-cert, disclosure, monitoring, audit schemes, etc.)</td>
<td>89</td>
<td>89</td>
<td>105</td>
<td>283</td>
<td>104</td>
<td>72</td>
<td>102</td>
<td>96</td>
<td>657</td>
</tr>
<tr>
<td>Information system for behavior change (devising collection or development of new information, building)</td>
<td>64</td>
<td>38</td>
<td>83</td>
<td>185</td>
<td>85</td>
<td>96</td>
<td>79</td>
<td>102</td>
<td>547</td>
</tr>
<tr>
<td>DEP Strategic Management System (aligning all areas with mission, DEP-wide prioritization, re-allocating resources, ensuring communication and collaboration)</td>
<td>107</td>
<td>111</td>
<td>68</td>
<td>286</td>
<td>33</td>
<td>56</td>
<td>18</td>
<td>20</td>
<td>413</td>
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Grey shading is a NEW system
Outside C&E control
Yellow Shading represents lowest three choices
## Key Systems

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<td>Investigation/Problem ID system (managing and responding to complaints and referrals, community input, observation, research &amp; analysis, DEP science input)</td>
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<td>5</td>
<td>Inspection system (prep, on-site, interview, compliance and stewardship, report, novs)</td>
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<td>Information system for behavior change (devising collection or development of new information, building reports or materials for direct or third party influence)</td>
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<td>8</td>
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Projects

1. Strategic Management System
   - Major undertaking, brand new
   - requires team to devise projects or steps

2. Series of Seminars – all programs
   - Modeled on existing training
   - To be established soon, offerings ongoing

3. SEP rule/policy and process
Concerns on Priorities?

• Do you understand:
  – how we arrived at them?
  – our selection and balancing of criteria?

• Our process acknowledges that stakeholders will vary in priorities.

In spite of concerns or differences, do you have major objections to us moving ahead openly and transparently with these priorities?
Next for “large scale” change:

• Communicate!
  – Sharing progress and details with staff and stakeholders
  – new website, unprecedented transparency
  – meetings, messages, materials, audio and video

Step C: Form Teams (probably just one to start)
  1. Deliberate team selection
  2. Clarify each team charter and mission
  3. Brainstorm but also consider wealth of existing ideas
  4. Analyze systems, customer focus groups, etc.
  5. Recommend discrete projects for maximum results
  6. Execute/implement projects
  7. REPEAT and EXPAND!

5.5 re-confirm with Stakeholders
Other Change?

• Actively seeking more “Quick Wins”
• Compiling some “Recent Wins”
• Cautiously enabling multiple “Small scale” change projects”

• Institutionalizing Transformation/Innovation

• Our approach and process is culture change
  – Thinking big
  – Collaborating
  – Customer focus (only way to results)
  – Unprecedented transparency
  – Ensuring progress through rigorous project management
Recap: C&E’s Transformation Framework

- Need for change?
  - burning platform
    - staffing, remaining problems getting harder, etc.
  - desire to excel (Monitor article)
  - Miller’s notion of public service and giving

- How to change?
  1. focus on results (demanded by stakeholders)
  2. understand widgets, systems and customers
  3. prioritize systems based on results
  4. form effective teams to test, refine and deliver projects

  - change must live within the bounds of stakeholder expectations, but focus on the customer
  - employ proper change process and team tools
How to be Involved

• Teams to actively engage with customers within projects
• Team to consider all logged suggestions relevant to project
• Steering group to continue seeking stakeholder confirmation of all new priorities and large scale team projects
• Continuous sharing and transparency

http://www.state.nj.us/dep/transformation/enforcement/index.html
  – Follow our progress
  – Working to improve postings, summaries
  – Raise concerns/objections immediately
    knute.jensen@dep.state.nj.us (609) 292-6549
  – Collect concepts, advice, ideas for checkpoints/sessions
  – May need to call full stakeholder sessions on concerns
  – May test issues with stakeholders via email or survey
  – Concerns may prompt research or data gathering
  – May request stakeholder assistance or external teams
Today’s Objectives
(How did we do?)

1. Clarify our challenge and approach ✓
2. Confirm support for expansion of our role and the results we will seek to deliver ✓ ✓
3. Explain our steps and thinking so far ✓ ✓ ✓
   • From big ideas to effective, specific actions
   • How we arrived at current priorities
   • How you can be involved
4. Get input on priorities to move ahead ✓