

B1.05 Regulatory bodies and enforcement agencies

Characteristics

Regulatory and enforcement bodies have an extremely important role in establishing and ensuring the effective application of tools for building IWRM. Their functions range from the allocation of water rights, environmental management related to water use, water quality, land use planning and financial management of water resources management by the state. Regulatory bodies also have a function in setting prices and performance standards for service providers (economic regulation). The actual function of regulatory and enforcement bodies should be set out in a clear legal framework reflecting water policies. In some cases the same body undertakes regulation and enforcement; in others there is a separation. Regulatory and enforcement agencies normally have a range of tools for enforcement - fines, taxes, penalties, withdrawal of permits and licenses etc.

Regulatory bodies and enforcement agencies may be financed through central government funds, or by user fees (e.g. pollution charges) or fines for non-compliance. If the latter, the terms need to be very clear or there is a potential risk of conflict of interest.

Their specific functions are determined by government policy on water resources management. They are usually in the government sector but may subcontract specific activities (e.g. monitoring and testing of samples) to non-governmental organisations including private companies. It is important that they can act without day-to-day political interference.

Effective capacity in regulation and enforcement is essential and this applies whether traditional regulatory instruments or innovative pricing and economic instruments are used. However, capacity in regulatory and enforcement bodies varies widely from region to region and stress on capacity building and support is essential. The legitimacy of the regulatory body is critical in ensuring compliance.

Lessons learned

Important priorities for enforcement and regulatory agencies include:

- Sufficient staff of adequate capability to enforce regulations (enforcement agencies) and make appropriate assessments about water management needs (regulatory bodies).
- Statutes which are practical, enforceable and are based on accurate knowledge of resource management and environmental impacts
- Staff who are knowledgeable about good management practices and have appropriate scientific knowledge in water resources management.
- A sense of ownership on the part of stakeholders so that they accept the monitoring, enforcement and regulation procedures; ownership can be built through use of awareness raising techniques and participatory management.
- Adequate financial resources to support the staff and operations, and transparency in financial management, to minimise regulatory capture.
- Selecting meaningful indicators for technical, economic and social issues and appropriate benchmarks
- A programme of legal education and awareness building – for the regulating parties and public at large – goes a long way towards putting legal instruments into practice and ensuring that the use of regulatory instruments is not limited to specialists.