



Fall 1986

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Recommended Citation

Paulette L. Stenzel, *Environmental Law and American Business: Dilemmas of Compliance, by Joseph F. DiMento*, 26 Nat. Resources J. 906 (1986).

Available at: <https://digitalrepository.unm.edu/nrj/vol26/iss4/18>

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ENVIRONMENTAL LAW AND AMERICAN BUSINESS: DILEMMAS OF COMPLIANCE

By Joseph F. DiMento.
New York: Plenum Press. 1986.
Pp. 228. \$ 29.50.

Over the past two decades we have adopted a myriad of statutes and regulations designed to require clean up of pollution and prevent environmental injury. In spite of the enforcement efforts of regulatory agencies and environmental advocates, however, violations of environmental laws by American businesses are numerous. On a daily basis the news media convey stories of illegal disposal of toxic wastes, release of hazardous substances into our drinking water, and similar violations of law. Non-compliant behavior can be attributed to varying reasons ranging from ignorance of regulations to knowing violations motivated by profit.

In his book *Environmental Law and American Business*, Professor Joseph F. DiMento gives an overview of noncompliance by American business and inventories various tools available for compelling compliance. He examines the enforcement process, the importance of communicating the law, and the roles of the various parties involved in environmental lawmaking and enforcement. After concluding that multiple strategies are needed in order to gain a higher degree of compliance by American business, Professor DiMento presents a set of proposals for reform. The crucial question addressed in the book is: "What system of government-business interaction most effectively promotes compliance?" (p. 65)

Professor DiMento presents a well rounded analysis of his topic by drawing from several types of information sources. Existing literature on firm responsiveness to regulatory law provides a framework for his analysis. The details of his analysis come from two sets of case studies. First, he uses interviews with business people and with government enforcement officers. Second, he draws from secondary data such as court decisions. This multi-faceted approach adds perspective to the author's analysis and enhances the credibility of his conclusions and proposals.

The author sets the stage for his discussion by presenting four varied cases of noncompliance in detail. Then he presents an overview of the noncompliance problem. Statistics illustrate the magnitude of the problem, and types of wrongs are discussed. The author explores reasons which business cites to explain noncompliance.

Tools available to society for pursuing compliance are examined. Examples of and arguments for and against the use of criminal, civil, and

administrative sanctions are given. The author explores the strengths and weaknesses of less formal approaches such as conference, conciliation, negotiation, and the use of economic incentives.

Next, a theoretical framework for the compliance system is presented. A flow chart illustrates interactions between and among the three major groups of actors who affect compliance with environmental law: businesses, government regulators (policy makers and enforcers), and support groups (environmental organizations, employees of the regulated business, etc.). Those actors and their interactions are examined in detail in subsequent chapters.

The author emphasizes that strong enforcement techniques are necessary but are not sufficient in and of themselves. He notes that criminal sanctions may work as a deterrent to environmental crime, because white-collar crimes are often committed based on calculated risk. Business, however, prefers self-policing techniques and views criminal sanctions as appropriate only for egregious, repeated violations. On occasions when a firm calculates violations in cost-benefit terms, Professor DiMento asserts that effective enforcement depends on whether the government can identify the point at which fines affect the competitive profile of the firm. Also discussed are the importance of the fairness, legitimacy, and rationality of enforcement policy.

Effective communication of the law is a crucial corollary to enforcement. Clarity, perceived rationality, and effective articulation of the law are important. Professor DiMento discusses organizational obstacles to consistent policy within the regulatory system. He examines valid and invalid reasons which industry asserts in arguing that environmental law is irrational. Scientific uncertainty in assessing risks to health is discussed, and how that uncertainty provides regulatees with fodder for charges of irrationality is explained.

Professor DiMento concludes his survey of the compliance system by describing the actors involved in the regulatory process. Regulatory agencies and factors which affect their operation and effectiveness in promoting compliance are examined. Support groups and their roles in generating and transferring information to regulators and the regulated are analyzed. Finally, the author discusses characteristics of individual business firms which help explain why a firm does or does not comply with environmental law.

In the concluding chapter, the author proposes reforms aimed at achieving compliance with environmental law. Professor DiMento sets a modest goal: to eliminate flagrant, willful violations of law. His recommendations are divided into three groups. First, the author explains how environmental law can be more effectively communicated. Second, he suggests

means for improving enforcement. Third, specific proposals are made for locating critical support groups and strengthening their influence.

Overall, Professor DiMento presents a well-rounded view of American businesses' failures to comply with environmental law. His survey of reasons for noncompliance and of the dynamics of interactions between and among the actors who affect or are involved in enforcement is comprehensive, yet concise in style. Avoiding the grandiose, Professor DiMento presents practical suggestions for obtaining the reasonable goal of eliminating egregious, willful violations of environmental law. *Environmental Law and American Business* provides informative, worthwhile background for any lawyer or legal educator who is interested in environmental law.

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