

An Assessment of Environmental Management in Michigan  
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I. Overview

A. Purposes

1. Describe current regulatory structure and how it developed
2. Recognize accomplishments under this structure
3. Describe characteristics that create limitations
4. Illustrate interrelationships underlying perceived problems
5. Begin to explore the concept of holistic decision-making
6. Describe some possible new directions and impediments

B. Methods

1. FJR: Conceptual description backed by some visual illustrations
2. Julie: Explore through a specific scenario and discussion some of the boundaries of both our current framework and the concept of holistic decision-making

C. Disclaimers

1. Positions expressed are ours alone, not DEQ
2. Not a comment about the bureaucracy
  - a. Common perceptions: bureaucracy is characterized by waste, incompetence, unchecked power, mediocrity, bloat, and inefficiency. A stifling place to work, indifferent to ordinary citizen
  - b. Rather, it is a comment on how characteristics of the US institutional structure and the times in which environmental programs developed affected those programs and how, in turn, those programs have influenced organizational characteristics, employee tendencies and service delivery, with resulting impacts on program effectiveness
3. Discussion is of central tendencies
  - a. Exceptions exist
  - b. Asking you to consider overall effect

## II. Current Structure

### A. DEQ organizational structure: **SLIDE 2**

#### 1. DEQ History

- a. Created in 1995, split from DNR
- b. Programs have been added over the years
  - (1) UST from State Police
  - (2) Radiological protection from Public Health
- c. Organizational units have been added or collapsed
- d. But basic structure—media specific division of labor has persisted

#### 2. Development

##### a. Historic overview: **SLIDE 3**

- (1) General description of programs
- (2) Established as result perception of specific problems
- (3) Vary to some extent with respect to evaluation of risk, level of technology controls, balancing econ and env factors, relative role of state and federal govts and so on.
- (4) But they are a product of a institutional and historical context in which they were developed, and hence share a common approach to solving environmental problems

##### b. Context <sup>1</sup>

###### (1) Institutional

- (a) Constitutional system that fragments power
  - (i) Consensus difficult
  - (ii) Easy to block action
  - (iii) Action more likely when crisis forces the issue
- (b) Incremental policy-making
  - (i) Marginal adjustments to status quo
  - (ii) Reactive, pragmatic, & specific rather than anticipatory, holistic, visionary
- (c) Belief in limited state
  - (i) Defined role in encouraging choices
  - (ii) Appropriate to address externalities (like pollution) but NOT internal behavior: like use of raw materials or industrial processes
- (d) Reliance on rules/litigation for problem solving

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<sup>1</sup> Taken largely from Daniel Fiorino, The New Environmental Regulation. The MIT Press. 2006

- (2) Historical
  - (a) Focus on rights: right to gov protection
    - (i) Adversarial in nature
    - (ii) Winners/losers, not vehicle for collaborative learning
  - (b) Suspicion of capitalism
    - (i) Sole motive is to maximize profits
    - (ii) Escape or ignore env requirements if calculated to be in best interest of bottom line
  - (c) Concern with captured bureaucracy
    - (i) Theory (Bernstein, ICC and CAB): transitional stages from enthusiastic regulator, to balancing of interests, to captured by regulated industry
  - (d) Belief in bureaucratic rationality (Max Weber)
    - (i) Solve problems through technical expertise, neutral rules, meritocracy, and detached competence
- 3. Resulting regulatory structure
  - a. Maintained basic regulatory approach based on governmental role
    - (1) Determine objectives for addressing externalities
    - (2) Design or strict oversight of means of achieving goal
    - (3) Maintain accountability through compliance and enforcement
  - b. State constrained by federal structure in basic program areas
- 4. Evolution through cyclical policy trends
  - a. System manifests key characteristics
    - (1) Successful in reducing certain types of discharges
    - (2) Inefficient and costly
  - b. Created competing policy directions to tighten and loosen grip
    - (1) “regulatory” vs “anti-regulatory” forces
    - (2) **SLIDE 4:** countervailing forces at play within each era
      - (a) 1965 – 1981
        - (i) Rush of major environmental statutes including NEPA, Clean Air Act, 2 major clean water acts, and hazardous waste law
        - (ii) Resistance to concept of regulation
      - (b) 1981 – 1992
        - (i) Reagan administration: reduce size and scope of federal government.
        - (ii) Attacks from inside the agency on regulatory and environmental programs (Gorsuch, Watt)

(iii) Still saw major amendments to air and water laws

(c) 1992 – 2001

(i) Gore: National Performance Review: considering efficiencies and effectiveness in government programs: “works better, costs less, and gets results American’s care about.”

(ii) Government to be more like business: customer service

(iii) Development of broader environmental agenda: P2 and incentive programs

(iv) Conservative control of Congress: Imposing new constraints on regulatory activity

(d) 2001 – 2009

(i) Bush administration widely criticized for favoring business interests and discounting science in decision-making

(ii) Climate change and sustainability driving policy debate

### III. Scenario and Discussion – Julie Sims

### IV. Assessment of regulatory structure

#### A. Successes

1. No question that amount of pollution released to environment has decreased since the 1970’s
2. Has occurred despite doubling of GNP and number of vehicle miles travelled and an increase in population by a third.
3. Significant reductions in criteria pollutants and non-attainment areas
4. Near total elimination of lead and PCBs
5. Reduced discharges of common pollutants such as BOD, COD, mercury and phosphorous due to technology controls on industrial and municipal point sources.

#### B. Weaknesses of current structure

1. Difficulty in addressing some types of issues
  - a. Small, decentralized sources
    - (1) Non-point
    - (2) Small businesses
  - b. Veiled problems, especially if expensive
    - (1) Groundwater discharge
    - (2) Cleanups (LUST, large sites)
  - c. Land use issues and protection of sensitive resources
    - (1) Often applicant inexperienced with regulatory structure
    - (2) Subjective standards
    - (3) Theme: strength of property rights imperative

2. Conflicts created by competing objectives
  - a. Cost and risk: dredge spoils
  - b. Classification issues – beneficial reuse of “waste”
3. The Pogo Effect: “We have met the enemy and he is us”
  - a. Individual conservation practices: recycling and energy use
4. Community involvement
  - a. One-way communication
  - b. Hard D-M criteria
  - c. Locus of D-M authority

V. Explanation: Characteristics of current regulatory structure

- A. SLIDE 5: Not necessarily cause and effect, but associations
- B. Certainty over flexibility interest
- C. Paucity of trust
  1. Regulator: that choices of economic actors must be constrained by strict requirements and prohibitions
  2. Economic actors: that choices of gov must be constrained by rigid D-M criteria

VI. New Path

- A. The Dreamer’s view: What does it look like
  1. Holistic rather than reductionist view
  2. Encourage innovation and stretching performance rather than minimal compliance
  3. Allow gov decisions based on best fit rather than checklists
  4. Collaborative rather than adversarial
  5. Visionary rather than reactive
- B. The Incrementalist’s plan: Practical near term steps to create a trajectory
  1. Theory: maintain baseline, but encourage more
  2. Programs and activities that foster the dreamer’s view
    - a. Distinctions between actors: Recognition programs (C3)
    - b. Use of incentives as well as disincentives: P2 grants
    - c. Compliance assistance: Regulatory manuals, Env Results Programs
    - d. Market mechanism: Emissions trading
    - e. Economic self-interest: Sustainability trends
    - f. Accountability mechanisms: TRI/community involvement
  3. Model and evaluate “best fit” governmental D-M
- C. The Pessimist’s lament: Forces leading in the other direction
  1. See **SLIDE 6**
  2. **SLIDE 7**

- D. Arrive at a basic common understanding
  - 1. Destroy the myth of environment vs economy
    - a. Not us versus them. We all are in this together
  - 2. Seek a position of trust
    - a. Manage for the majority rather than minority
    - b. Provide assurance that problematic minority can be addressed
      - (1) Role of majority: Help hold accountable, not silence