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Implementing Good Intentions: How Rules and Procedures May Alter Resource Policy Outcomes

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Introduction

U.S. environmental and natural resource policy has many cases of misfired good intentions, or less than good intentions that turned out better than they should have. Administrative rules and procedures ultimately determine what really happens on the land when new policy is enacted. The purpose of those procedures, of course, is to achieve the results embodied in statements of legislative intent that were precursors to policy change. That does not always happen.

All policy changes respond to changing views on how natural resources should be used and, thereby, how rights to determine resource use should be distributed. Demand for change may result from improved knowledge of natural systems or from demographic shifts that bring people with different preferences into contact with existing resource use patterns. Most policy changes are reactive, responding to a resource problem of some kind, rather than anticipatory or seeking long-term management for natural ecosystems.

Our overall policy system structures the opportunities available to people with access to markets, nudging the millions of private choices in directions deemed to have social utility. Some policies do so by eliminating certain options from the opportunity sets of resource users, as with the U.S. Endangered Species Act of 1973 (ESA). Others accomplish change in resource use through elaborate incentives designed to make some options more attractive than others. The Environmental Quality Incentives Program (EQIP) within the 1996 farm bill is an example of that approach. Performance of any new natural resource law or program depends on how people respond to their options as defined by the rules that put the new law to work, and by bureaucrats who interpret those rules. In a real sense, bureaucracy is the fourth branch of government; a critical, nontrivial component of our policy system.

In this paper, I review several examples of natural resource and environmental policy that are instructive of the role of implementation in affecting the real outcomes of those laws. I also provide relevant subject details about the selected cases, and offer suggestions for policy educators.

Endangered Species

Perhaps the most striking example of how implementing rules directly contradict good intentions is the U.S. Endangered Species Act of 1973. This law prohibits the taking of species of flaura and fauna considered to be in danger of extinction. Its purpose certainly sounds reasonable.

Taking as Habitat Modification. The Fish and Wildlife Service (FWS) of the U.S. Department of Interior, charged with responsibility to accomplish objectives of species protection, has defined "taking" to include adversely modifying the habitat that those species need to survive. Harm to a listed species is defined in FWS guidelines to include "significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavior patterns, including breeding, feeding or sheltering" (Welch, p. 166). A 1982 amendment permits private landowners to "incidentally take" members of a protected species so long as there are plenty of that species elsewhere, and a "habitat conservation plan" is implemented on the land in question. While the objectives of ESA are laudable, rules to put these good intentions into effect have caused problems, most of which should have been predictable.

Prohibiting habitat modification that might harm a listed species can severely reduce the land use options of a farmer or forester. This amounts to state and/or federal regulation of that land to achieve a recently defined public purpose. Ownership rights have never been absolute. They are limited by actions that would harm the safety, health or general welfare of others. Those limits are always subject to change as new information becomes available or as rights of *non*-owners are redefined. Some have argued that decisions to list certain species are driven more by anti-development or wildlife protection politics than objective evidence that a species is, in fact, endangered. High visibility "mega-fauna" like the gray wolf and bald eagle are cases in point (Humphrey). Property rights advocates argue that private options are so limited by such restrictions that a "regulatory taking" of private property has occurred (Welch).

Incentives Contrary to Purpose. Many landowners feel that their natural inclination to protect and husband the wildlife inhabiting their farm or woodland is undercut by the draconian controls imposed to protect the habitat. Finding evidence of a listed species on his land may be a time of great excitement for the landowner, but not of a positive form. His immediate concern is how to deal with the bad news that his harvesting or land realignment plan may be unacceptable habitat modification. Too often, the owner's response is to remove evidence of those species before the Fish and Wildlife Service is aware of its presence. The owner feels punished rather than privileged to have the species on his land. That situation hardly bodes well for the species in question. Just the proposal that a certain species *may* be listed as

endangered or threatened can trigger landowner reaction. Some may actually hire their own scientific advocates to argue against the listing (Goldstein).

A Case. Among the many horror stories that compromise good intentions is the case of timber owner, Benjamin Cone, in North Carolina. Nesting red-cockaded woodpeckers were found on his land during preparation of a timber sale. With the required one-half mile radius around each bird colony protected from modification, Mr. Cone lost the planned use of 1,560.8 acres of his timberland, reducing its appraised income potential from $2.3 million to $86,500 (Welch, p. 173-79). His loss is society's gain, of course, but it seems to many like a stiff price for one person to pay. He may sue under the Fifth and Fourteenth Amendments to the U.S. Constitution to seek compensation for rights taken through confiscatory regulation. Because he can still earn *some* income by harvesting pine straw and leasing hunting rights, the likely result of such a costly legal step is unclear. Such cases breed distrust and then disrespect for what seems like a reasonable public purpose and the agency responsible for implementing it. Government agencies seeking the public interest simply cannot succeed in an environment of rampant hostility, at least not for long. In another well known case, FWS staff in Florida were reluctant to define needed habitat for the endangered Florida panther for fear of landowner reaction. Even in the late 1990s, more than ten years after the species was listed, there is no plan in place (Maehr).

Seeking Better Incentives. Alternative incentive-based measures are under consideration to mobilize rather than frustrate a landowner's inherent appreciation of resident wildlife. A "safe harbor" agreement with owners of red-cockaded woodpecker habitat would permit the owner to have assured future development in return for immediate improvements to bird habitat elsewhere. Various tax incentives (such as deductibility of expenses for habitat protection) are on the table as well (Stone). An effort to lease habitat modification rights from Florida ranchers in the interest of protecting at least a portion of the 925,000 acres of prime habitat for panthers is under consideration (Evans).

Developing "habitat conservation plans" is the price an owner must pay for the incidental taking of protected species through adverse modification of necessary habitat. Again, the intent is honorable; to fashion a compromise that corrects some of the harsh results of outright regulation. The question is how these new rules actually function and whether they help achieve the declared intent of ESA. The Nature Conservancy learned that people who dealt with FWS in implementation were generally not convinced that agency staff were up to the task of granting "incidental take permits" and approving habitat conservation plans in a consistent and scientific manner. Landowners were afraid that after they developed costly plans, FWS might not actually grant permits to modify habitat elsewhere or might come back to them with additional demands. FWS staff made little effort to inform landowners about how habitat conservation plans could work, thus action on the ground was far below potential. Since cost of establishing plans was borne almost

entirely by the owner, small land holders were at a disadvantage to larger holders. There was too little information available on what practices would truly help protected species, and how. Owners resented the feeling that FWS held regulation over their heads as a threat but made little effort to establish effective habitat conservation plans (Humphrey).

Performance of New Incentives. There is little evidence that the combination of incidental taking and habitat conservation planning will really contribute to recovery of endangered species populations. That is, of course, the fundamental purpose of ESA, but these implementing procedures seem targeted more at quelling controversy than facilitating recovery. The "no surprises" language that is now part of the permitting process assures the landowner that once a plan is approved, no changes will be required during the 20 to 100 years of the agreement. That makes life easier for the owner, and perhaps *some* protection is better than none, but the stated purpose of the law that started all of this negotiation may be lost in the shuffle. New information could not be brought to the table if it might mean altering the agreement provisions. This "no surprises" policy is becoming a standard part of new agreements, but it has been challenged in the courts as being arbitrary and inconsistent with the stated intent of the law (Shilling).

Large area multi-species plans are being encouraged by FWS, but biologists observe that actual habitat requirements of a selected few species in the mix typically drive the whole plan. Some endangered species are being compromised to protect the target species in many such plans. FWS staff nationally are preoccupied with reviewing habitat conservation plans with little energy left over to consider new species listings or to measure the performance of rules that have evolved from negotiations between owners and governments.

Environmental Quality Incentives Program

This program is still in the early implementation phase, so conclusions about any deviations from the original statement of good intentions must be tentative. EQIP consolidates several incentive programs included in previous farm legislation into a single effort to encourage farmers to protect environmental quality through their choice of farm practices. The overall goal is to "maximize environmental benefits per dollar spent" from the $200 million of non-discretionary funds allocated as part of the 1996 farm bill ($130 million the first year, $200 million each year thereafter through 2002). EQIP is combined with a revamped Conservation Reserve Program in the new Environmental Conservation Acreage Reserve Program. Half of the dollars must be directed toward environmental problems of livestock production.

Voluntary Approach to Maximizing Benefit per Dollar. Unlike ESA, EQIP relies completely on positive monetary incentives to lure landowners into actions

that would "reconcile productivity and profitability with protection and enhancement of the environment."

Maximizing the benefits of environmental enhancement spending would seem to require that the program target the most costly environmental problems and induce private land use behavior that mitigates those problems at least cost. The missing phrase in this language is "to whom-so-ever they accrue," the guiding principle of benefit-cost analysis of U.S. public works projects as required under Senate Document 97 of 1962 (U.S. Senate) and the national income account of the Principles and Standards of the Water Resources Council, signed by President Nixon in 1973. Maximizing anything implies disregard of *who* is affected by the result. That principle has already been compromised with the requirement to spend half of EQIP dollars on livestock. Perhaps environmental problems from livestock are indeed the most costly and damaging environmental impacts of farming. But, even if that is the case, the one-half rule makes little sense. Perhaps *all* of the $200 million should be spent on livestock pollution problems to truly maximize benefits.

EQIP also allocates discretion to the states to identify priority problems and relative likelihood of success in treating them. Thus, it seems that the national optimum spending pattern is a composite of state optima. That is not a surprising feature, given the extensive state-level structure in place for all USDA programs, but it does fly in the face of the maximizing principle. Of course, not all state priority areas can be funded, thus some degree of national priority setting does enter the picture. EQIP targeting refers to *areas* or *locations* of high priority rather than specific problems or economic returns to pollution reduction.

Farmers are invited to submit bids—what they could do for the environment at what price. Incentives go with defined practices rather than performance standards because of the inherent difficulties in sorting out the amount of pollution contributed by any given farm. Farmers do have special knowledge of how their production systems perform with a unique set of resources, thus encouraging their bids would seem to be a relatively efficient approach. An eligible farmer must first have an approved conservation plan. The State Conservationist will then provide the incentives to those farms deemed to generate the most net environmental benefit per dollar. Individual farm contracts must be for at least five years, but not more than ten. States also propose "areas of statewide concern," problems beyond the individual farm that affect the overall quality of state resources. An eligible farmer within those areas will get special consideration for cost share and incentive payments. States must convene local work groups to provide guidance on highest priority environmental problems from farming within the state.

Inducing More Environmental Quality. There is a very interesting allocation rule involved. "CCC shall provide incentive payments for a land management practice that would not otherwise be initiated without government assistance" (EQIP Rules

1466.23 (a2)). Included are integrated pest management, manure management and irrigation water management. The intent is to go beyond what would be economically rational for the business and induce private actions that have social value. There would likely be considerable variation among farmers in the price for performing an environmental service. We must also assume that the farmer has a right *not* to manage his resources in an environmentally sound manner if the program is completely voluntary.

Experience shows that farmers actually invest in soil conservation practices at levels not explained by economic returns alone (Batie). Thus, determining what it would take to induce a farmer to do more than he would in the absence of those incentives is problematic. Farmers are not permitted to "double-dip" by getting EQIP incentives for land in the Conservation Reserve.

There is an implicit income distribution filter in the program in that "large" confined livestock operations are not eligible for cost sharing. Large means greater than 1,000 animal units. Additionally, no farmer may receive more than $50,000 in a year.

Efficiency vs Distribution. Implementation of EQIP reveals the inherent tension between efficiency and distributional goals. The notion of system-wide efficiency built into EQIP law is sound, but inoperable. There is no real constituency for national efficiency, except perhaps within the community of professional economists who, incidentally, fight diligently to protect the market distorting principle of job tenure. Implementation in a democracy confronts the "reality of who," that is—who must give up something to help someone else and who gains at someone else's expense. The fact that such shifts may enhance national efficiency of environmental investment is scant comfort to those asked to sacrifice for the principle. The more telling questions are where do the gainers and losers live, and what is their ethnic or income category? These characteristics will affect real performance of any law, including EQIP, since success of any policy requires a generally positive balance of support which, in turn, depends on distribution of impact. A conceptually "good" policy that offends nearly everyone will not long survive for long. That certainly was the experience with water project development under the Principles and Standards noted above. The Principles were modified from a strict national efficiency criterion to a multi-purpose framework that includes regional, environmental and social well-being consequences of the planned project. Then, people could argue over the magnitudes of impact calculated for each category.

EQIP may be a case where implementation improves on good intentions. Efficiency is largely an economist's pipe dream and not a practical decision rule for policy. Despite current rhetoric about privatization and market-like devices for public programs, there is no reason to assume that competition for EQIP dollars will produce a result that is inherently "better" than many other decision rules for fund allocation.

National efficiency, maximum environmental benefit per dollar, is already sacrificed when the implementing delivery system favors state-level decisions and livestock operations smaller than 1,000 animal units. Ohio received $3 million of the $130 million allocated this year. Presumably, states where livestock predominates received an even larger portion of the total. Within Ohio, funds will be distributed fairly evenly among two state priority areas and all farms outside of those areas (Rausch and Sohngen). The result is certainly not random, but neither is it the economic optimum for Ohio. It is probably the best option under the circumstances and can be defended in Washington.

With no explicit medium of exchange to accomplish efficient allocation through open competition, the information cost of determining the net environmental benefit of alternative farm level projects could be enormous. In reality, the allocation will be done as it always has in natural resource programs of USDA, some for nearly every place within the state and county distribution structure. If cloaking it all in a veneer of competition and national efficiency helps keep OMB and other forces for privatizing resource policy at bay, so much the better.

Florida's Property Rights Protection Act

Property rights protection statutes have been enacted in about twenty states since 1992. Most of these are of the "look before you leap" variety, requiring state agencies to anticipate the likely effects of proposed rules on the rights of private land owners. They are patterned after language contained in President Reagan's Executive Order 12630 of 1988, requiring federal agencies to consider whether proposed rules might constitute a "taking" under prevailing legal standards. As such, property rights laws do not constitute substantive limits on the authority of state and local governments to enact regulations to protect the health, safety and general welfare of the public. Like the environmental impact statements required under the National Environmental Protection Act (NEPA), these statutes only require that agencies document and weigh these impacts before moving ahead (Cordes).

Statutory Limits on Loss of Property Value. Florida and Texas have enacted laws that require compensation when a defined level of impact on the market value of private property has been attributed to a particular change in law or implementing rules. The threshold in Texas is 25 percent reduction in property value; the Florida rule applies when a policy or procedure "inordinately burdens" a private landowner. Both laws establish what lawyers call a "bright line" for defining a legal taking of private property through the regulatory process. They attempt to cut through the conflicting signals of case law dealing with Constitutional takings to establish a clear signal that *too much* private value has been taken by rule changes that limit options of the land owner to protect the public interest. Further, they establish a threshold much lower than the prevailing Constitutional test that essentially *all* economic value must be regulated away before property is lost to the owner, requiring

compensation. The U.S. Supreme Court has generally deferred to the legislative intent of regulations, acknowledging that important public purpose is served unless full economic value is lost (Cordes).

The Florida law deliberately goes beyond Constitutional taking. "It is the intent of the Legislature that, as a separate and distinct cause of action from the law of takings, the Legislature herein provides for relief, or payment of compensation, when a new law, rule, regulation or ordinance of the state or political entity within the state, as applied, unfairly affects real property. The owner of that real property is entitled to relief, which may include compensation for the actual loss to the fair market value of the real property, caused by the action of government" (Florida Statutes, Section 70.001(2)). A "government entity" under this statute does *not* include a federal agency and the section "does not apply to any actions taken by a government entity which relate to the operation, maintenance or expansion of transportation facilities." An "existing use" is defined in the law to include a reasonably foreseeable future use, thus giving owners rights in potential future value (Powell 1995, p. 266-68). The law became effective on October 1, 1995, and applies only to laws enacted after May 11, 1995, the last day of the 1995 legislative session. It does not attempt to redress past impacts on property values, but looks at future actions only. Additionally, future implementing actions based on statutes passed before May 11, 1995, are not covered under this law.

Procedures. The damaged property owner must file a claim against the responsible agency or agencies and include an appraisal showing loss of value. The agency has six months to respond with a settlement offer that could be a land swap, modification of the project or rules to mitigate the impact, an agreement to purchase the affected property, or denial that inordinate burden has occurred. If the owner rejects the government offer, he or she may file a claim for compensation in the circuit court. The court then decides if an inordinate burden has, in fact, been imposed and, if so, which agency is responsible for what share of that burden. The agency can appeal the court's decision and, if successful, the landowner must bear the cost of the appeal process. If the claim survives, a jury is impaneled to determine the amount of compensation due on the basis of property values only, not any loss of business that may not be reflected in property value. If the agency wins in court and the court determines that the landowner turned down a reasonable settlement offer, the owner pays court costs. If the agency is forced to compensate the owner, the agency then owns the rights or interests it acquired and may transfer those rights for development elsewhere under a transfer of development rights program.

The Florida law goes further than any other state property rights law to grant statutory protection for property rights. But, the law was really a compromise fashioned by the governor to divert more stringent proposals. The proposal achieved a remarkable balance among interests while sustaining the basic purpose of enhancing rights of property owners. It passed by a unanimous vote in the Florida House and

had only one dissenter in the Senate. A proposed amendment to the state constitution, endorsed by enough voters to go on the general ballot in 1994, would have required compensation for *any* regulatory reduction in private property value. The State Supreme Court struck this and two similar amendment proposals from the ballot as being too vague in language and presentation for the voters (Powell 1995, p.261-64).

What are the Results? The Bert J. Harris, Jr. Property Rights Protection Act in Florida is a relatively new law, too new for definitive conclusions about performance. Like any law, however, it is a bundle of incentives designed to alter system functioning in a particular way. In this case, the law responds to claims by private landowners that state, local and regional laws designed to protect natural resources or guide the path of growth are forcing owners to bear an unfair portion of the cost of achieving those public goals. Clear intent of the law is to shift more of the cost onto the implementing agency and, thereby, onto the general taxpayer. It does so by giving property owners the right to demand settlement from the agency without the burden of raising the issue to the level of a Constitutional taking.

Results of the law will inevitably depart somewhat from stated intentions. Observations about unintended consequences of the complex mix of incentives contained in the law may be grouped into two major categories—boundary issues and distributional effects.

Boundary Issues. Rules determining which actions are subject to the law and which are not, as well as who has the rights and who does not, provide important indications of overall performance.

- Timing—the magic of May 11, 1995. An essential compromise along the road to unanimity was the cut-off date. If the landowner's right to settlement was made retroactive, the system would be immediately out of control. Thus, laws, rules, regulations or ordinances passed before that date are exempt from the provisions of the law. An amendment to an old law, as in the amendment of a local zoning ordinance, for example, is covered only to the extent that the amendment itself imposes inordinate burden. Based on this eligibility rule, several of the nine demands for settlement filed thus far were rejected by the governmental units. The City of Miami Beach rejected a claim brought under its historic preservation district enacted in 1996, but as part of a general zoning ordinance enacted several years earlier (Boulris, p. 41). In another case, the owner claimed that the 1996 decision by the City of Clearwater to deny continuation of a variance to the zoning ordinance constituted an inordinate burden on his property value. The City continues to argue that since the zoning ordinance is not covered under the property rights law, the claim is invalid (Powell, 1997). An unintended incentive of this eligibility provision is that local governments will be reluctant to change

old laws that perhaps should be dropped altogether. They will try to tie future enforcement actions back to earlier rules rather than enact new ones.

- Only those landowners in the path of development will experience reductions in property value from growth management rules. If there is no zoning ordinance now, there probably will not be in the future because of the property rights statute. If there is zoning, but poorly implemented, it is *still* exempt from the law. Perhaps the property rights protection statute will encourage more vigorous enforcement of old ordinances.

- Transportation actions do not count. No public action has greater effect on the pattern of growth and value of private property than those "related to the operation, maintenance or expansion of transportation facilities." But, since these tend to be value enhancing rather than reducing, landowners do not complain. Public transportation investments may create value on private land that owners can then sue to protect. Growth management will be very difficult under these conditions and many citizens will feel damaged by the pressures that road extensions or improvements create. Thus, owners and residents will be penalized to protect the increment in land value that their taxes helped to create.

- Non-owners need not apply. Provisions of the property rights law apply only to private holders of title. Lessees, contractors and units of government may not bring action. Yet, absentee landlords, whether of farmland or inner city neighborhoods, may not represent the interests of those most affected by the change of rules that becomes the cause for action under the law.

- The Feds are golden. Actions of a federal agency are not covered, yet these may have the greatest impact on private property value. Implementating rules for the U.S. Endangered Species Act are a case in point. The notion of shifting the cost of achieving public purpose from private owners to a public agency may be thwarted when federal rules are involved.

- Promptness pays. An owner must bring action within one year of the time the new law is applied to the property in question to have a "ripe" claim. It makes sense to move things along and avoid delays that could further burden the landowner. But, this provision could encourage frivolous suits just to assure access, and might foreclose legitimate claims for losses that take longer to become apparent.

Distribution. The Florida Property Rights Protection Act sets in motion an extensive and costly negotiation process. There is no sharp threshold of eligibility

requiring that an owner be compensated. That makes sense since, under the "bright line" approach—a reduction of 24 percent of land value would not be actionable and 26 percent would be always actionable. Given all of the problems with measuring land values, so sharp a test of eligibility makes little sense. But, defining "inordinate burden" is hardly an exact science, either. Gathering evidence will be expensive. Considerable case law will be needed to establish consistent standards for the inordinate burden. Since the public agency is immediately on the defensive, and the owner has the best information about his own property, the transaction cost burden would seem to rest with the public. The opposite is true under Constitutional takings cases where the property owner is taking on the legal system. This redistribution of the cost of achieving public purpose is exactly what proponents of the new law intended. Some private owners will be better able to manage the expense than others, presumably an unintended result (although the record shows that Florida's largest corporate landowners were the most active supporters of the property rights bill).

- Full employment for appraisers and economists. The initial claim for settlement must include an appraisal showing that reasonable investment-backed expectations have been undercut by the law in question. The agency will counter with its own appraisal. The obvious winners in all of this are the "experts" in economic value. Of course, Constitutional taking cases require costly information as well, but there are fewer such cases.

- Agency priorities. There are no new dollars appropriated to help agencies respond to demands for settlement. No new people will be hired to conduct negotiations. Few public agencies have growing budgets these days; people must be reassigned to get the job done. That means that the ongoing business of the agencies to implement the public interest in use of natural resources must be put aside to deal with compensation claims. Taxpayers pay for agency responses to landowner claims and pay in terms of other environmental benefits foregone by this shift in priorities. Thus, some citizens gain while others lose. Most of the owner actions thus far have been brought by large firms, so it is likely that the relatively wealthy improve themselves at the expense of the less wealthy.

- Deep pockets are useful. While the law is meant to apply to all owners who feel aggrieved by public regulations, only those with sufficient resources to fight through all the steps will venture into battle. A well-prepared case with a detailed appraisal is a necessary first step. If the owner fails to accept a reasonable settlement offer after the initial 180-day period, he or she could end up paying for the whole process. Only the wealthy can take that kind of chance.

- Who speaks for the general public? These proceedings are essentially behind closed doors. There are no hearings; no chance for the broader public to register concerns about the public good being bargained away by the agency. The public may want the agency to hold the line to protect natural features or historical buildings and would be willing to pay to protect those qualities, but they never really have the opportunity to say so. An aggressive, well-prepared owner may bluff a timid bureaucrat with public funds behind him into early settlement. Owners lucky enough to live in a community with a compliant, risk-averse public official may benefit substantially, while a neighbor may lose big with the same type of case.

- Beggar thy neighbor. There is concern that communities will be tempted to compete with each other to create the most permissive development environment (Vargus, p. 395-96). This was certainly not intended in the law, but incentives for that result are clearly there.

Conclusions and Recommendations for Policy Educators

Several overall conclusions about policy implementation emerge from the three cases reviewed.

Expectations—what might really happen. Changes in policy and the rules that put them to work alter long-term expectations of people dealing in the resource market. That, after all, is the *purpose* of policy change. People respond not only to the immediate change options, but also to what they think *might* happen in the future. Possible futures influence current actions. Landowners simply do not believe that ESA habitat modification rules are stable. They know that staff of the Fish and Wildlife Service are learning as they go and are basically unable to keep up with demands. Staff are trying to be responsive to landowner needs, but owners are nervous about what new rules may come along. Endangered species are hardly better off in that environment.

Observers of the Florida Property Rights Protection Act have stated that its real purpose is to make governmental agencies think twice about imposing new rules to protect a natural resource amenity at the expense of the private landowner. They do not expect a rash of claims, just enough to plant the seed of caution in the minds of the elected or appointed official. Environmental groups refer to the "chilling effect" of the possibility of expensive administrative and legal proceedings on the willingness of agencies to carry out their mandates. There have been several such instances reported in Florida already. Others may see this as appropriately shifting the burden of responsibility and, thus, generally restoring confidence in government (Powell 1995, p. 296).

Efficiency/distribution. As noted, there is always a political trade-off between efficiency and distribution in policy *implementation,* if not in the law itself. There is always pressure to spread the goodies around, to maintain a positive balance of support for the program and for the implementing agency. National and state efficiency are laudable symbols that are intellectually attractive, but fade quickly with the "reality of who." Few attend rallies for efficiency, except as a proxy for reducing their share of the cost.

Appeal of Voluntarism. Voluntary incentive-based environmental programs are definitely fashionable and can improve efficiency *within* a given firm by providing an incentive to achieve a defined goal at least cost. But, system-wide performance requires setting standards and other boundaries on the behavior of individual firms or governmental entities to assure consistency. Policy efficiency is simply not compatible with a highly decentralized decision system, with no consistent medium of exchange. Incentives would have to be very finely tuned to guide private actions in a collectively rational direction. EQIP implementation requires a tremendous amount of information to build incentives that guide private actions toward public purpose. There are overlapping levels of discretion—national priorities, state priority areas and individual farm bids for incentive dollars. There is an impressive, almost painful, effort to avoid any mention of mandatory action in EQIP. The program will accomplish some useful things, but "maximizing environmental benefit per dollar" is a dream.

Policy education. Useful education about resource policy must do far more than describe the provisions of a new law. In line with alternatives/consequences traditions, the educator must trace through both explicit and implied incentives of the law and implementing rules to judge net effects and their distribution. These observations can also be very helpful in revisions to the rules; educators can participate in these revisions with a clear conscience.

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