Do Voluntary Programs Work?

It is now clear that voluntary programs cannot reliably maintain the status quo, let alone create significant progress. Some companies do not play by the rules. Some skim off the public relations benefits. Meanwhile, the actions of these laggards and braggarts raise charges of "greenwashing," besmirching companies that really are making environmental improvements

Richard MacLean

At an environmental conference held not long ago, I commented that activists have criticized the American Chemistry Council's Responsible Care program because some ACC member companies were not performing up to the program's high standards. At the break, one corporate official cornered me to express outrage that I would make such a claim, particularly in front of an audience that included representatives of regulatory agencies and environmental organizations. His company's program was excellent, he claimed, and he took my comments as a personal affront.

Unfortunately, he did not stick around for the rest of the day. Later in the meeting, a representative from the ACC openly admitted that Responsible Care had problems with free riders early on, and that this was one of the factors which led to major changes in the program, such as independent verification.

This story is instructive at a number of levels and reminds us of several key facts. First, some companies do not play by the rules. If they sign onto a program that places a significant burden on operations, some will skim off the public relations benefits and avoid the cost of full implementation.

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Second, the actions of a few laggards or braggarts can trigger scrutiny by environmental activists and tarnish an entire industry. Witness the resurgence of media attention to "greenwashing" and the birth of *greenwashingindex.com*, a website devoted exclusively to outing such claims.

Third, some individuals can be so blinded by their company's performance or their own experiences that they are oblivious as to how others operate in the real world.

It is the third point that I find most intriguing, namely the tendency to overestimate the success of voluntary programs based on the performance of a few high-profile organizations. It is more widespread than you might imagine.

For example, the September/October 2006 issue of *The Environmental Forum* offered the views of six commentators on the efficacy of voluntary standards. All were learned experts from academia, government agencies, nongovernmental organizations, and law firms — almost exclusively from inside the Beltway. They expressed their opinions very thoughtfully and with clinical precision, based on their experiences and those of their organizations.

Not surprisingly, the views varied but, overall, the experts offered a generally favorable view of voluntary standards. Two pointed to their limited success in addressing global warming and their low participation rates (more about this later). What I found fascinating was the absence of any acknowledgement of what goes on in the real world — "at the coal face," as they say in the mining industry.

In the environmental world that I traverse, I often find stretched, under-resourced environmental staffs who have all they can handle just keeping ahead of mandatory regulations, let alone volun-

tary ones. This observation is shared by other senior professionals with whom I network. For example, Frank Friedman, author of ELI's *Practical Guide to Environmental Management*, states, "My problem with most voluntary programs is that they don't focus on the real issues — the issues that practitioners face day-to-day. It is a question of priorities and limited resources."

Another senior colleague recently told me, "There are guys like my dad (now retired) who simply 'budget' for environmental fines as opposed to having some 'environmentalist' guy on staff building the company's gallows" — i.e., paper trail — "and getting in the way of commerce. Frankly, it's a model that continues to work today in some industries." Yikes!

Most companies, of course, aim to meet the applicable requirements. When there are crystal-clear links between regulatory compliance and the need for specific environmental resources, access to those resources is usually forthcoming. But in the gray zone — and in the absence of a crisis — it still can be a daunting challenge to obtain resources to formally engage in voluntary initiatives.

Show Me the Money

To gain some insight into the size of this problem, let's examine two of the more well-known and popular initiatives. One is EPA's Performance Track, launched in 2000, which has just under 500 members. The other is OSHA's Voluntary Protection Program, created in 1982, with just under 2,000 federal- and state-plan participants. Contrast this level of participation with the more than 600,000 facilities listed in EPA's Enforcement & Compliance History Online database and the more than 6 million active corporations in the United States.

Why are the participation rates so pathetic? Scholars attribute the problem to factors such as the lack of incentives, a reluctance to take on controversial precedents, an ingrained culture of skepticism and mistrust, legal uncertainty, and potential exposure to tort liability with some programs. But like most everything in business, money ultimately plays a key role, either directly or indirectly.

A revealing insight into this money-is-what-matters approach to the environment appeared recently in a *Business Week* cover story. Titled "Little Green Lies," the article described the frustration Aspen Skiing Company's environmental manager, Auden Schendler, faced when pushing for voluntary initiatives that returned a positive payback over the long term, but did not meet short-term financial objectives.

All the recent focus on feel-good greenness and corporate responsibility can obscure the key point that voluntary programs will never be broadly embraced unless there is irrefutable evidence that they add business value beyond just PR. Bill Blackburn, author of another of ELI's guides to environmental management, *The Sustainability Handbook*, states, "Voluntary codes are good in certain circumstances, but you should not sign up unless you mean to fulfill them and track your progress. Companies going into a voluntary code just to get their name on a list of supporters for PR purposes — something too many companies still do — may find themselves skewered by activists later on if they don't walk the talk."

Even Responsible Care, which grew out of public backlash to Bhopal and other high-visibility public relations issues, had to change over time — and not just because of activist pressure or the need to up the PR. Debra M. Phillips, managing director of Responsible Care, attributes recent changes to a shifting marketplace. "Customers are demanding that suppliers prove that they are both socially responsible and reliable," she says. "ACC members wanted a single, rigorous program with measur-

able and publicly reported performance indicators backed by a governance system that would eliminate free riders. Today Responsible Care is about performing according to customer expectations and delivering bottom line value."

Jim Hendricks, recently retired vice president of environmental, health and safety at Duke Energy and currently an independent consultant, agrees: "My experience has been that, sure, companies that utilize voluntary approaches are looking for the PR hit, but this is not the major reason for engaging in them. They are also looking for a clear business advantage."

Friedman also emphasizes that "these programs must be business-risk oriented and integrated with operations. The goal is an operational 'we just do it' mentality, without considering whether the task or control is an environmental or compliance issue." Achieving these criteria in the real world is no small feat, as Auden Schendler, the environmental manager from Aspen, would likely attest.

Size Matters

A 2000 research study on voluntary environmental programs by Julio Videras and Anna Alberini found that larger companies are more willing to participate. They found publicity to be an especially significant component for companies with past environmental issues. The 255 companies evaluated in the study were from the S&P 500, so it is clear that these distinctions apply to the biggest of the big.

The study's findings should come as no surprise: Large, publicly traded companies generally have considerable (and more sophisticated) resources, as well as heightened sensitivity about their image and brand. Voluntary initiatives are thus more likely to attract such firms, which already may be concerned about negative environmental publicity and more willing to take proactive steps to improve how they are viewed by the general public, customers, or shareholders.

But as suggested by the numbers, most companies — especially smaller or mid-sized businesses — have a tough time justifying these programs. In addition to the issues previously mentioned, small-source generators of pollutants may not have the expertise, interest, motivation, or resources needed to change the way they manage environmental issues. As a result, they are less likely to participate. But even minor sources can add up and become major pollution contributors.

And for that matter, at the smallest end of the scale, what about the public's voluntary contribution to reducing environmental degradation? Take, for example, compact fluorescent lights. The long-term, highly favorable cost/benefit reasoning in favor of these bulbs has been broadcast for years, but agencies and utilities have failed to convince the public. If it costs a buck more for a light that will save money in a year versus a buck to super size a meal, the choice is clear: the burger gets the extra funding. The incentives offered to electricity ratepayers by companies such as Pacific Gas and Electric Company have reached the point where their subsidized bulbs are so cheap, they make their way across the state line for resale elsewhere. Indeed, some do not play by the rules.

Challenges for Regulatory Agencies

Mounting evidence about the ineffectiveness of voluntary programs raises a very real dilemma for regulatory agencies such as EPA and OSHA and even international efforts. For example, the World Bank's Global Gas

Flaring Reduction partnership has achieved little since its initiation in 2002. Recent satellite data indicate that observed flaring does not match the voluntary data reported. Partnership member ExxonMobil's flaring increased by more than 10 percent in one year alone.

Overall, a growing body of research finds that voluntary programs are extremely limited in their range and impact. Indeed, for some agencies, where the gentle nudge has not worked, they have fallen back to the old standard: mandatory programs. For example, Maine's voluntary thermostat recycling program recovery rate was poor — less than 6 percent of the estimated numbers taken off the walls annually. Legislators, frustrated with the results, passed the first comprehensive product stewardship law for thermostats in the country. Manufacturers are now required to provide a recycling system, including education and collection programs, cash incentives for returns, and annual reporting. Performance has soared.

And look what was done recently to boost fluorescent use rates. Last December, Congress passed a new energy bill and set energy-efficiency standards for light bulbs that traditional incandescent bulbs cannot meet. When politics and results matter it is business as usual: heavy on the mandates.

It is now clear that voluntary programs cannot reliably maintain even the status quo, let alone create significant progress. This is not to say that voluntary initiatives have not helped; they, of course, have.

The United States has seen environmental improvements in many key areas, especially with respect to industrial pollution. Since the early 1990s, EPA has placed increasing emphasis on voluntary programs and standards, often pointing to their successes as a major contributor to these gains. For example, in a recent journal article, Matt Hale, EPA's director of the Office of Solid Waste and Emergency Response, states that "National Partnership for Environmental Priorities partners have already eliminated more than two million pounds of priority chemicals." EPA "simply asks industry, municipalities, government, and the public" to reduce Priority Chemicals using "innovation and ingenuity to achieve a safer environment, not regulation."

While the numbers look impressive, questions remain: how do these compare relative to total emissions; what reductions are needed for a sustainable, healthy environment; and how will these be achieved? Some might also argue that recent reductions in emissions have been achieved because they were cost effective and the companies would have done them anyway or even that the heavy industrial manufacturing that was the source of so much U.S. pollution in the past has been outsourced to other countries.

Indeed, some cynics argue that the voluntary programs so enthusiastically touted by both the Bush and Clinton administrations have been nothing more than a political strategy to give the illusion that their agencies are aggressively addressing environmental issues while at the same time not alienating powerful business interests.

Where Do Voluntary Programs Fit?

After all this bashing, it is time to step back and examine where voluntary programs really add value and fit into an overall plan to protect the environment. In spite of the previous comments lauding such initiatives, EPA would be the first to state that voluntary programs are not a replacement for regulations. Some within the agency, such as Performance Track Program director Dan Fiorino, author of *The New Environmental Regulation*, believe that voluntary programs like the one he administers offer a stepping stone to "more collaborative, flexible, and

performance-based alternatives" where "information, incentives, and cooperation would be more appropriate" than traditional regulations.

David Case, associate professor of law at the University of Mississippi, would not go quite that far: "EPA's apparently single-minded focus on voluntary, incentive-based policy approaches to [environmental management systems], while perhaps more politically palatable, is shortsighted." He adds, "An EMS-based regulatory strategy is unlikely to ever be a feasible substitute for direct legal controls on corporate environmental behavior. EPA should move towards mandatory EMS approaches as a supplement to traditional regulatory controls."

Jennifer Nash, director of the Regulatory Policy Program at Mossavar-Rahmani Center for Business and Government at Harvard University, believes that "voluntary initiatives should not take the place of regulations. They offer, instead, a laboratory for innovative approaches, an opportunity for participants to share information, and a learning vehicle to craft more informed regulations." Indeed, for every official participant, there may be dozens of manufacturing sites that are influenced by the best practice lessons from these programs.

Al Iannuzzi, senior director, world wide environment, health and safety, at Johnson & Johnson and author of *Industry Self-Regulation and Voluntary Environmental Compliance,* believes that voluntary initiatives can add significant value as long as they contain seven key elements: clear goals; government involvement; beyond-compliance components; clear benefits and incentives; minimum complexity; stakeholder involvement; and legal standing to protect against citizen suits.

Programs such as OSHA's Voluntary Protection Partnership, which meets these criteria, have received high praise. Gus Moffitt, vice president of global safety and environmental affairs at Schering-Plough, states, "The benefits are real and quantifiable: significantly fewer disabling injuries, improved employee morale and motivation, and reduced workers' compensation costs."

Unintended Downsides

There are literally scores of voluntary environmental initiatives that receive similar, high praise: the Department of Energy and EPA joint Energy Star program, World Wildlife Fund's innovative Climate Savers Program and so many more. This article is in no way meant to denigrate the successes of well designed and run programs. Indeed, it can take years to overcome legislative and regulatory challenges to a new federal rule, only to be followed by years for it to become effective and yield results. If companies voluntarily take immediate action not required by regulation, clearly that's a good thing.

Not as apparent is that even programs that meet all of the criteria identified by Dr. Iannuzzi might have unintended downsides. As already mentioned, they can provide the public, media, and politicians with the perception that regulatory action is unnecessary and that voluntary initiatives will solve very pressing and broad-based issues. High-profile success stories get extrapolated to entire industries, when in reality, they represent a minuscule slice.

Participation in programs can give top business executives a false sense of security that all is well. Accolades from agencies can be more broadly interpreted than intended and act as verification that their operations are not just in compliance, but represent performance excellence. Paradoxically, they may also limit resources. One senior professional in the semiconductor industry told me that executives refused to fund new initiatives because they felt that the company already had received sufficient external recognition for excellence.

Complex environmental issues may be reduced to binary questions such as "Are we certified?" If the answer is yes, the attention shifts to the next business issue. In the worst case, well-intended programs can be manipulated by free riding. For example, in the wake of all the negative environmental news coming out of China, we now learn that China is second place only to Japan with the most ISO 14001–certified companies.

Time For a New Approach

It doesn't take a genius to realize that voluntary programs do work and they can be beneficial under certain circumstances. And that they also have downsides, especially the fact that they reach only a tiny fraction of the regulated universe and thus cannot achieve essential national, let alone global, objectives. We know they are not substitutes for regulations, but we also know regulations are not always the right approach. And we know that the current system is broken. So where does all this leave us?

The point is that we have been endlessly debating this question during the course of two administrations, often in the context of a fantasy policy world, not the real world. It is time for a fresh approach to get us not necessarily in agreement, but at least headed in common in a direction that comports with reality. It seems to me that the usual suspects, from think tanks to activist NGOs to regulatory staffers and company officials, have rehashed regulatory policy issues endlessly with somber, clinical precision. Meanwhile, they have not paid much heed to the information coming from the field nor have they exhibited the courage to move the status quo.

Hopefully, I have provided some compelling perspectives on the question presented in the title. Like so many researchers who start a study only to point out the need for more studies, I will end with the question that everyone seems to be is asking, "Where is the leadership?" •