Are Voluntary Standards Working?

The short answer is: It depends on your definition of "working." I provide a somewhat longer answer in the column that follows.

Background: The Move Toward Voluntary EHS Programs

Since the early 1990s, environmental, health, and safety (EHS) regulatory agencies in the United States have placed increasing emphasis on voluntary programs and standards. The Environmental Protection Agency (EPA) actively promotes Energy Star, ISO 14001, Green Lights, 33/50, WasteWi$e, and similar initiatives. The Occupational Safety and Health Administration (OSHA) offers a Voluntary Protection Program. But what are these efforts accomplishing?

Cynics claim these are feel-good measures that simply give the public an illusion of environmental protection. By contrast, defenders argue that in today's complex world, detailed command-and-control regulations have reached their practical limits and voluntary measures provide needed flexibility. Who is right?

Seeing the World Through Green-Tinted Glasses?

At a 2005 environmental conference, I noted that activists have criticized the American Chemistry Council (ACC) Responsible Care® program in the past because some ACC member companies were not performing up to the program's high standards. At the break, one company representative cornered me to express outrage that I would make such a claim, particularly in front of the audience members, who represented 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. It would have been more interesting if he had done so because, later in the meeting, a representative from Responsible Care® openly admitted that they had had problems with "free riders" early on, and that this was one of the factors that had led to major changes in the program (e.g., 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.[1]

Second, the actions of a few laggards can trigger scrutiny by environmental activists and tarnish an entire industry.

Third, some individuals can be so blinded by their own company's performance that they are oblivious to how others operate.

Expert Views

It is the third point that I find most intriguing. The tendency to overestimate the success of

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voluntary environmental programs based on the performance of a few high-profile organizations is more widespread than you might imagine.

In this context, I was interested to see the September/October 2006 issue of *The Environmental Forum,* a journal published by the Washington D.C.-based Environmental Law Institute. The issue raised exactly the question referenced in this column's title and offered the views of six commentators.[2] 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.

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Not surprisingly, the views varied. Overall, however, the experts offered a generally favorable view of voluntary standards. What I found fascinating in their responses was the complete lack of reference to what goes on in the real world—"at the coal face," as they say in the mining industry.

Real-World Views

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 voluntary ones. This observation is shared by other senior environmental professionals with whom I network. Despite all the media talk about "green," in the land of environmental compliance, the day-to-day struggle continues.

Most companies aim to meet the applicable requirements, of course. 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 build even the most basic EHS management systems in some companies.

Here's an example of what I mean by "stretched" and "under-resourced" environmental staffs: Can one junior auditor provide proper governance to 200 sites dispersed around the globe if he or she does not have the budget to outsource work to consultants and the sites have no local environmental expertise? I don't think so.

Management's view of environmental performance may be shaped by how many fines the company has incurred and how many notices of violation they have received. When these numbers are near zero, the performance outlook may seem bright. In reality, however, this appearance of success may simply reflect local regulatory enforcement inactivity—or perhaps sheer luck—rather than actual environmental performance.

Moreover, in some companies, the people at the very top are not even aware of basic environmental compliance metrics since no system may exist to track, consolidate, and report the relevant numbers.

I could go on and on, but you get the point: Approaches to environmental management vary considerably among companies. We tend to hear about either the disasters or the showcased successes, and not much in between.

Bigger Means Better for Voluntary Environmental Programs

A 2000 research study on voluntary environmental programs found that larger companies are more willing to participate and that publicity is an important motivating factor. Publicity was found to be an especially significant component for companies with past environmental issues.[3] 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 more (and more sophisticated) resources, as well as greater sensitivity about their public image. Voluntary initiatives are thus more likely to attract such companies, which may already be more concerned about negative environmental publicity and more willing to take proactive steps to improve how they are viewed by the public.

Smaller Companies Get Left Behind

But what about all the other companies, especially smaller or midsized businesses that may be privately owned? And for that matter, what about the public's contribution to environmental degradation? Even minor pollutant sources can add up and become major global or regional issues over time.

Small-source generators of pollutants may not have the expertise, interest, incentives, motivation, or resources needed to change the way they manage environmental issues. As a result, they are less likely to participate in voluntary environmental initiatives.

Clearly, voluntary programs are failing to attract many of the companies that most need to improve their environmental performance.

Confirmation from the Literature

Some readers may find my criticisms of voluntary programs unduly harsh. There is, however, a growing body of literature that is coming to the same conclusion—namely, that voluntary programs are extremely limited in their range and impact.[4]

What Might Work Better?

So what would work better than voluntary environmental programs? How about more command-and-control regulatory mandates?

In some instances, of course, they can help. But local or single-country mandates are becoming less effective in a rapidly globalizing economy. The current U.S.-based regulatory command-and-control model is totally inadequate to address the global supply chain.

Moreover, the regulatory system has grown far too adversarial, and moves at the speed of a melting glacier. While this situation may be good for combative lawyers and dueling scientists, it is bad for the planet—not to mention the businesses that are trying to comply with the rules. This is not just my opinion. An endless series of journal papers and think-tank study groups have come to the same conclusion.

I believe the path forward must be shaped by broad policy objectives—at a regional, national, or international level, depending on the issue. The Montreal Protocol, which phased out the production of most ozone-depleting chemicals, was a classic example of success. The Kyoto Protocol, by contrast, is a classic case of a flawed approach left to flounder in endless political and scientific haggling.

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Leadership is critical here. Unfortunately, little of that is available today.

Needed: Transparency, Verification, and Competency

At the company level, the key elements needed to really "make things work" in terms of environmental management are transparency, verification, and competency. Interestingly, regulation aimed at these three areas is rare.

This lack is regrettable because regulations that directly address these key components would have an enormous impact. Such rules would also be much easier to codify than riskbased command-and-control regulations that address individual pollutants. Moreover, they would be more far-reaching in their ability to impact the entire supply chain.

What would such regulations look like? Perhaps the most direct analogy can be found in requirements affecting the financial aspects of companies listed on the major stock exchanges: Specific data must be disclosed; key data must be verified by external auditors; and qualified individuals (such as certified public accountants) play a leading role.

Within publicly traded companies, the individuals who build and run financial management systems need to be well trained in the principles of both finance and business. If they are not, their companies eventually will be out of business.

The system is imperfect, to be sure. But people generally have confidence in it—enough confidence to invest their own money in companies that are listed on the exchanges.

Contrast this with the environmental regulatory system that people bet their health on. Typically, the applicable regulations require companies to disclose only a very narrow list of emission parameters. The complexity of the regulatory system makes it all but impossible for people on the outside to fathom what is really going on within a company in terms of environmental performance. And there is little or no verification.

Moreover, within companies, the individuals who handle environmental management may or may not have any formal training or qualifications. Anyone might be assigned to be the company environmental manager or director, or the vice president of EHS. Contrast this with the financial arena. Can just anyone be appointed chief financial officer? No way.

Challenges for Regulatory Agencies

Mounting evidence about the ineffectiveness of voluntary EHS programs and standards raises a very real dilemma for regulatory agencies such as EPA and OSHA. Over the past decade or more, these agencies have expended much of their effort on promoting voluntary initiatives. It is now clear that these programs have not delivered results that even maintain the status quo, let alone create significant progress.

We have, of course, seen environmental improvement in some key areas, especially with respect to industrial pollution. Many would argue, however, that these gains have been achieved primarily because the United States has outsourced to other countries the heavy industrial manufacturing that was the source of so much pollution in the past.

The environmental and health issues we face today are more closely related to consumption patterns within society—an area of concern that remains largely outside the realm of EPA and OSHA's primary regulatory missions.

Concluding Thoughts

The issues raised in this column are complex and controversial. I realize that I have barely skimmed the surface in my coverage of them. If there is enough interest from readers, I will write a future column offering more ideas on what regulatory measures might work best in today's business environment.

Notes

1. Participation in Responsible Care® is mandatory for ACC members, but the program is not a regulatory requirement.

2. Environmental Forum: Are voluntary standards working? (September/October 2006). The Environmental Forum, 23(4), 42–49.

3. Videras, J., & Alberini, A. (2000). The appeal of voluntary environmental programs: Which firms participate and why? Contemporary Economic Policy, 18(4), 449–460.

4. See, e.g., Coglianese, C., & Nash, J. (2006). Beyond compliance: Business decision making and the U.S. EPA's Performance Track Program. Regulatory Policy Program Report RPP-10. Cambridge, MA: Mossavar-Rahmani Center for Business and Government, John F. Kennedy School of Government, Harvard University. Available at http://www.ksg.harvard.edu/m-rcbg/rpp/Beyondcompliance.

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