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GUEST EDITORIAL

THE CRISIS OF FAILING BUREAUCRACIES

In the late 1980s, the environmental movement is under attack for having delivered lots of laws and words but not enough results when it comes to improving the physical environment. From different vantage points, both right-wing ideologues and radical environmentalists scorn the movement's painstaking efforts to get results through government programs of regulation and land management.

This criticism, and the movement's own impatience, is pushing it toward having to frankly confront the crisis of failing bureaucracies. The agencies entrusted with implementing a host of environmental laws seem to be increasingly immobilized and ineffective. The high promise of so many Congressional enactments is dribbling away in endless delays.

Since 1970 EPA has set standards for only six of the eighty-six known toxics in industrial air emissions; in its first six years with the Superfund, EPA cleaned up only six hazardous waste sites of some 700 identified; and EPA has regulated only ten percent of the potentially dangerous types of hazardous wastes. EPA hardly ever meets its deadlines. The Forest Service's planning process is completely bogged down, and it has virtually ignored the essence of the National Forest Management Act of 1976. The Park Service cannot seem to master the science needed to manage park resources and virtually ignores interpreting the principal features in many of its parks. These failures are all the more galling when one recalls the traditional esprit de corps of land management agencies and the legendary efficiency and "can do" attitude attributed to agencies like the Corps of Engineers. They knew how to get the dams built; why can't EPA get the pollution cleaned up? Why can't agencies be equally efficient in protecting the environment? Where is the passion to succeed?

A number of answers tend to be offered and certainly have weight. Six and a half years of direction by political appointees of the Reagan Administration, who have little sympathy for these programs, is certainly having a telling effect. And James Watt and Anne Gorsuch have probably succeeded in changing the perception in agencies about where the center of gravity is in terms of political viability. It has moved in the direction of development and less regulation. And it is quite true that agencies such as EPA are burdened with twice as much to do as in 1976, with no more money than then to tackle the job. And an agency such as EPA is not in charge of much of the implementation of its programs; that is delegated to the states.

And finally, the career civil service is caught in a relentless cross-fire between industry and environmentalists. This tends to bring things to a

halt easily, with the "out" being to study issues endlessly in a quest for a scientific certainty that will stand up to anybody's scrutiny.

These answers, though, are not entirely convincing. EPA's delays on air toxics and hazardous wastes occurred during the Carter Administration also; and the problems with Forest Service and Park Service go back further too. While EPA doesn't have enough money, even the things on which it is spending money do not seem to be going all that well. And while it must rely on states for much implementation, EPA is lagging badly even on its own share of work. And one must wonder whether the problem of a withering cross-fire is slowing down development-oriented agencies as much as environmentally-oriented ones.

Other more deep-seated factors have to be part of the explanation. One may be that the EPA, as an example, misconstrues itself as primarily a regulatory agency, and not a mission-oriented agency. It may tend to judge itself more in terms of whether its regulatory processes look good than by whether it gets the pollution cleaned up.

Moreover, the EPA may have already moved out of its early reformist stage into a slower mid-life stage where it cautiously balances all questions in accordance with Bernstein's theory of a cycle of "agency decay." Under the theory, such advancing decay is nearly always irreversible.

Hugh Heclo's theory of Issue Networks also suggests that the political appointees who now tend to run such agencies, and have expertise on the issues, are better able to delve more deeply into the decision-making processes of the agencies and dominate them. Thus, more issues are politicized and taken away from the career civil servants. Fewer career personnel consequently get good experience in handling tough questions of public policy. Thus, such agencies are less and less able to chart their own courses anymore. This domination may also tend to demoralize agency personnel, not only leaving them with less substantive work, but few anymore with the ambition to rise to the top, since it is closed to them. With the exception of the Forest Service (which barely hangs on to the tradition of career chiefs), most agency chiefs in the field of environment and natural resources are now political appointees and not careerists.

Finally, there is the question of whether our society is trying to force agencies to take on too much—too much in terms of the complexity of the issues, the complexity of the laws, the number of programs, the half-formed state of the science, and the lack of a social consensus on the precise solutions. Even if these factors have only limited weight, they exert further drag on the system.

Even if true to a degree, though, the problems being addressed are real, important, and are not going away; solutions are needed. All of

these obstacles are not preventing the environmental crises from pressing upon us. We cannot declare a truce with those engendering the crises: Three Mile Islands, Bhopals, Chernobyls, and Love Canals keep happening. Society can not expect its citizens to "just grin and bear it."

No one seems to have a very satisfying explanation for what seems almost a systemic problem and a near collapse. It may simply be that the weight of all these factors—and more others may suggest—would crush any hope for delivering on all the promising initiatives. Yet environmentalists sense that these depressing factors don't press down with equal weight on programs to abuse the environment.

It is time to open a dialogue about what can be done to rectify this condition. While the critics of government programs have their standard answers from both ends of the spectrum, it is most important that those who are concerned with the efficiency of these programs begin addressing the dilemma. A number of ideas have been broached to break the gridlock:

1. Environmental lobbyists are already pursuing a strategy of reducing agency discretion, with more prescriptive statutes, tighter deadlines, and reversals in the burden of going forward (a suspected toxic will be presumed to be toxic unless EPA marshals research by a given date rebutting the presumption).
2. Some suggest pollution laws should be made simpler with pathfinder laws like California's Proposition 65 to keep toxics out of drinking water; they are designed to be almost self-executing, have strong citizen suit provisions and focus on pivotal issues.
3. Reorganization may have a place too, with such ideas as putting EPA's research work in an independent agency like NIOSH that would be less subject to political interference. The job of making regulatory findings could also be placed in independent panels composed of members appointed by dispersed authorities, as with California's Bay Conservation and Development Commission (such panels could not easily be packed).
4. Stand-offs that threaten to paralyze agencies may be broken by resorting to negotiated regulations, but this approach should only be used in exceptional circumstances so as not to encourage agencies to flee from their rule-making responsibilities. A better way to expediate rule-making might arise out of a process of compulsory arbitration of contested points in draft regulations if deadlines are missed (with opportunities for parties to intervene to define the points at issue).
5. And, of course, economists keep pressing the issue of displacing regulations with more market-like approaches. Environmentalists of a pragmatic cast are open to more experimentation with these, but are wary of being bulldozed by ideologues traveling under the rubric of economics.

With changes in the political climate possible after 1988 and a new administration coming into office in any event, the time is ripe for reappraisal of fundamental assumptions about how improvement in the environment can be obtained. Can we look much longer to agencies as they are, which appear to have lost the ability to deliver what Congress and the public have asked of them?

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