

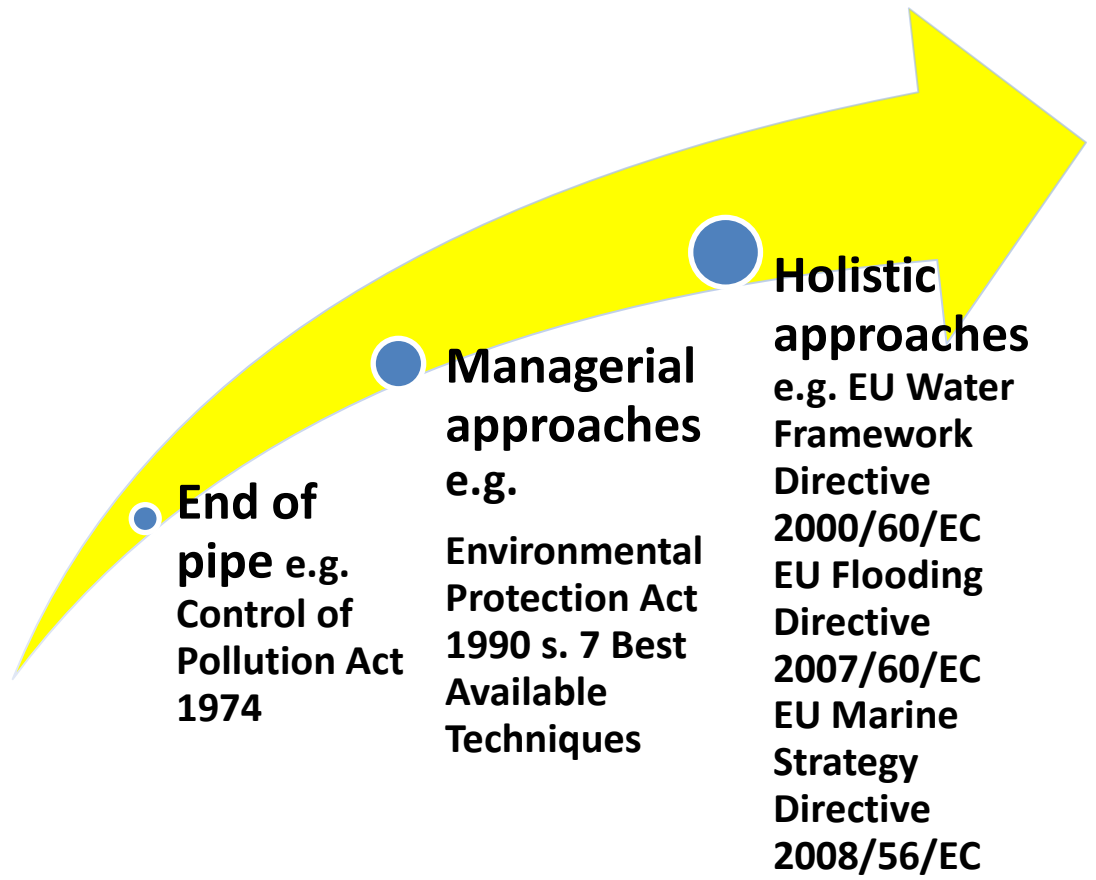


Choosing New Paths at Regulatory Crossroads: Helping Regulatory Agencies to Respond to Change

Elizabeth A. Kirk, School of Law
Alison D. Reeves, School of the
Environment
University of Dundee

Challenges of Regulatory Change

- Changes in legislation & “punctuation points” in internal policy (Baumgartner and Jones. 1991) or “third order” change in policy (Hall, 1993).
- Punctuation points require normative change in agency practices
- Human and financial resources limit ability to change



→ Kirk, Reeves & Blackstock "Path Dependency and Environmental Regulation" (2007) 25 Environment and Planning C 250-268

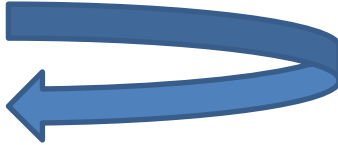



Existing Legislative Devices I

- Obligations to consider particular types of information e.g.
 - Environmental Permitting (England & Wales) Regulations 2010 Schedule 22 para. 7
- Obligations to give reasons for decisions
 - Waste Management Licensing (Scotland) Regulations 2011 reg. 7
- Review Processes
 - Appeals
 - Judicial Review
 - C.f. *R (on the application of Greenpeace Ltd) v Secretary of State for Trade and Industry* [2007] EWHC 311 (Admin) para. 63
 - Adaptive management
 - WFD & Floods Directive Management plans
 - National Environmental Policy Act




Existing Legislative Devices II – Public Participation I

- Bringing in new expertise/ideas  Public represents entrenched view
 - Redressing the balance of power in advocacy-coalitions  Legislation does not ensure a range of voices are heard
- e.g. wind farm objections
- e.g. Environmental Permitting (England and Wales) Regulations 2010 r.26



Existing Legislative Devices II – Public Participation II

- Redressing the balance of power in advocacy-coalitions
 - Bringing in new expertise/ideas
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- Lack of awareness of best practice in PP leads to e.g.
 - Meetings held at inconvenient times
 - Information not conveyed in user friendly way
 - Oversight of pertinent information
 - Lack of consistency across decision making



Participatory Action Research

- Similar to Adaptive Management but feedback loops involve ‘friendly outsider’
- Use in practice has revealed some problems
 - Research v. legislative timescales
 - Divergence in participant and researcher expectations
 - (Collins, Ison and Blackmore, 2005)



Modified Participatory Action Research

- Embed PAR in regulatory process
- Focus on transition stages
- Link to Participatory Processes



The Way Forward

- Research collaborators wanted
 - Grant proposal
 - (see Kirk and Reeves “Regulatory Agencies and Regulatory Change: Breaking Out of the Routine” (2011) 13 Env. L. Rev. 155–168)
 - Edited book on modified PAR and adaptive management processes
- Contact us at e.a.kirk@dundee.ac.uk

