



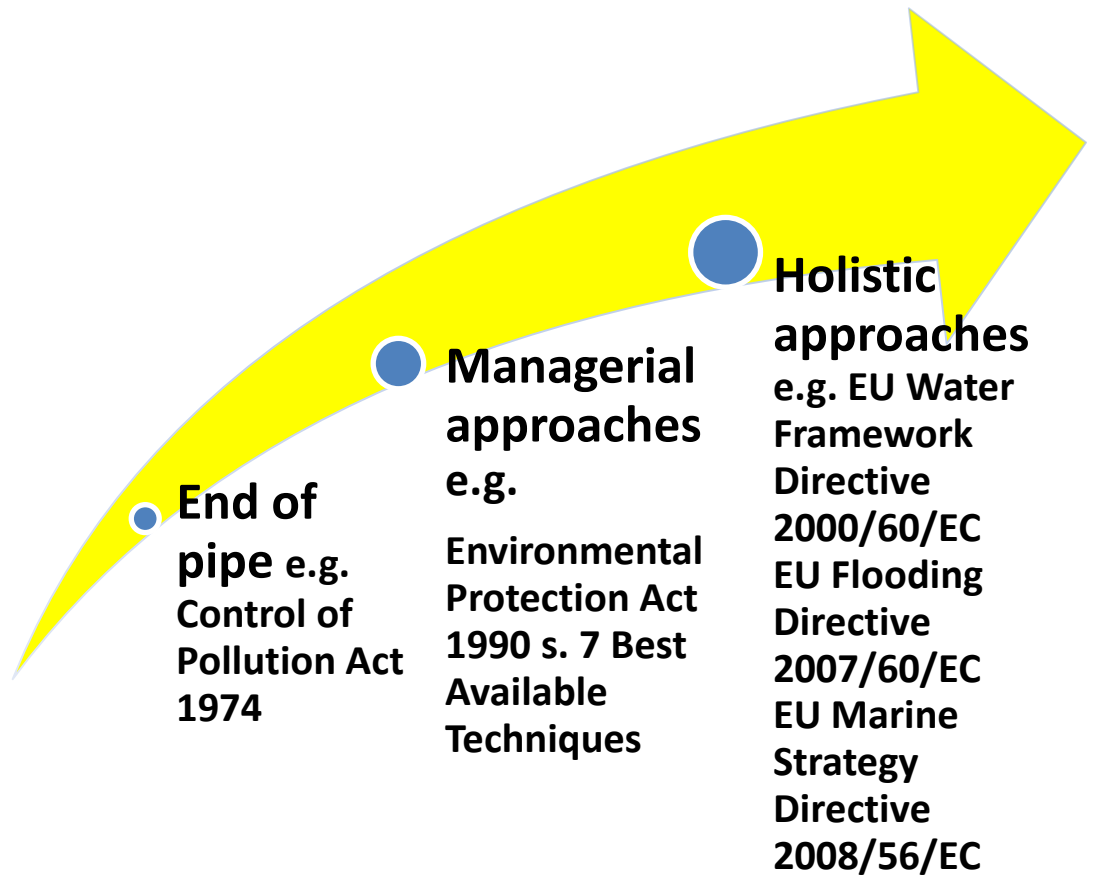
# Choosing New Paths at Regulatory Crossroads: Helping Regulatory Agencies to Respond to Change

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# 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

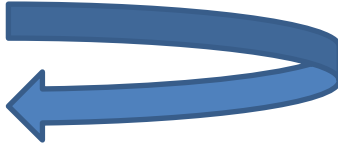



# Existing Legislative Devices I

- 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
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