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The Promise and Perils of 'Second Generation' Environmental Law: A View from the Trenches

The legal framework for environmental protection that has developed in the United States over the past thirty years relies largely on national regulatory standards, applicable to point sources, that are generally enforced through industry-specific rules and facility-specific permits implemented by the states under EPA supervision. All agree that this 'command and control' regulatory system has substantially reduced pollution emissions. However, in recent years the existing, media-specific regulatory system has come under criticism. Uniform industry standards cannot account for the fact that effects of, and cost to control, pollution vary widely among facilities, thus creating economic inefficiencies for them. Such standards can also discourage innovation in pollution control; lead to cross media pollutant transfer; overlap and thus duplicate one another; can exacerbate conflicts between federal and state authorities; and are less effective for many of today's problems, including small point sources, non-point source pollution, and sprawl.

A number of steps have been proposed (and some incorporated in existing laws and policies) to address these concerns, including: a push to better account for and balance regulatory costs and benefits; improve risk analysis and management; use facility emissions caps, emissions trading and other market-based mechanisms; increase use of information- and performance- based systems; and better integrate multi media approaches to environmental planning and management, both nationally and at the water and air shed level. But many fear that however admirable such policy alternatives sound in the abstract, in practice their effects will at best be difficult to measure, and at worse merely a pretext to roll back necessary, hard fought environmental protections whose costs industry simply hopes to go back to avoiding.

This seminar will begin with a brief review of the historical and conceptual underpinnings of command and control regulatory programs, and then provide an overview of "second generation" environmental policies today. (While Mr. Howland will draw on his work in EPA's enforcement and innovations programs, he will be speaking on his own behalf, and his views do not necessarily reflect those of the Agency.)

Date: February 2, 2005
Time: NOON - 1:30 pm
Place: Carolyn Hoff Lynch Auditorium
On the Penn campus: Chemistry Building:
34 & Spruce Streets (enter on 34 Street)

NO REGISTRATION REQUIRED

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