

Introduction

Alternative and Nonregulatory Approaches to Environmental Governance

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Abstract

Alternative and nonregulatory approaches to environmental governance have increased in prevalence over the last 16 years, as have scholarly evaluations of them. We reflect on the *Journal of Public Administration Research and Theory's* (JPART's) offerings to the scholarly landscape. We consider the articles published in JPART since these approaches began to take hold and identify three important overarching themes—institutional design, organizational structure, and political economy—that affect the management and performance of these approaches. We then assess the proportion of JPART's publications in this area with its scholarship on non-environmental alternative and nonregulatory approaches and compare both values with the proportion of articles published in other top-ranked public administration and policy journals examining these approaches. Doing so sheds light on the field's focus on these increasingly widespread governance approaches and identifies future research opportunities for further advancing our knowledge in this area.

Introduction

In recent decades, environmental issues have become caught in partisan gridlock, whereas contemporary environmental problems are becoming more technically challenging (and costly) to address via traditional regulation. Against this backdrop, the regulated community, environmental activists, and others have amplified their calls for governance *with* government rather than governance by government (Peters and Pierre, 1998; Fiorino, 2006; Vig and Kraft, 2012). This alternative approach to regulation avoids typical prescriptive compliance mandates and focuses instead on performance standards and flexible policy approaches to improve environmental conditions. Academics have responded by publishing scholarly papers about the context and efficacy of these programs.

In recognition of this emerging trend, the *Journal of Public Administration Research and Theory* (JPART) has published nine articles over the last 16 years on environmental applications of alternative and nonregulatory approaches. We contribute to these discussions

by undertaking three tasks. First, we consider JPART's articles and the crosscutting themes they identify as being salient to their management and performance. We then assess JPART's proportion of articles on the environmental applications of alternative and nonregulatory approaches and compare it to published scholarship on non-environmental applications of these approaches. Finally, we consider both values and how they relate to the proportion of articles discussing environmental and non-environmental applications of alternative and nonregulatory approaches in other top-ranked journals in the field to take stock of how public administration and policy scholarship is accounting for these increasingly widespread approaches.

We find that JPART's prior publications on environmental applications of alternative and nonregulatory approaches emphasize three important crosscutting themes, each of which are related to the management and performance of these approaches: institutional design, organization structure, and political economy. Additionally, relative to publications on other topics, our findings indicate that JPART's emphasis on these approaches appears somewhat limited. However,

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compared to the other top five journals in the field, *JPART* is in the middle of the pack with respect to its proportion of publications on environmental and non-environmental applications of alternative and nonregulatory approaches. Since the journal is uniquely positioned to examine innovations in institutional design and organization structures of these approaches, our findings therefore identify an opportunity for *JPART* to position itself more prominently in assessing aspects of these increasingly prevalent governance approaches. We conclude by highlighting opportunities for future research in the field.

Environmental Applications of Alternative and Nonregulatory Approaches

Alternative and nonregulatory approaches to environmental governance have typically been developed in response to criticisms that the environmental regulatory system leads to inefficient environmental outcomes (Hahn, 2000; Stavins, 2004). These approaches consist of incentive-based policies and programs, such as information-based policies, collaborative partnerships, and voluntary programs, which, in general, complement traditional regulation by encouraging organizations and individuals to reduce their environmental impacts (Carraro and Leveque, 2013). Since the early 1990s, when the US Environmental Protection Agency (EPA) introduced the 33/50 Program—which was the first federal sponsored voluntary environmental program (VEP) for reducing toxic pollution—alternative and nonregulatory approaches have increased in prominence (Fiorino, 2006; Coglianesi and Nash, 2006; Morgenstern and Pizer, 2007). For instance, at the federal level, by 2016, EPA sponsored nearly 50 voluntary environmental programs and partnerships (EPA, 2016), and many more existed within other federal agencies and at the state and local level. Related to climate mitigation alone, by 2012, more than 125 state and federal VEPs were in existence, which were sponsored by the 50 states as well as federal agencies, such as the EPA, the Department of Energy, the Department of Agriculture, and the Department of Transportation (Hsueh and Prakash, 2012). Similarly, related to one specific type of nonregulatory approach, the ecolabel, globally, the prevalence of government-sponsored ecolabels had increased from only a handful in the late 1990s to nearly 200 government-sponsored ecolabels worldwide by 2014 (Darnall and Aragón-Correa, 2014).¹

The popularity of these approaches stem from the fact that volunteerism and flexibility are often more

acceptable to the private sector than prescriptive mandates or economic instruments like pollution taxes and emissions trading (Morgenstern and Pizer, 2007; Hsueh, 2013). Moreover, alternative and nonregulatory governance approaches can be less costly than traditional command-and-control systems because of fewer administrative burdens on regulators for monitoring and enforcement (Arimura, Darnall, and Katayama, 2011; Vig and Kraft, 2012).

Degree and Development of Environmental Applications of Alternative and Nonregulatory Approaches in *JPART*

As the number of practical environmental applications of alternative and nonregulatory approaches increased, research scholars have increased their assessments of them. This Virtual Issue explores *JPART*'s contribution to the discussion about the multifaceted issues surrounding environmental applications of alternative and nonregulatory governance approaches. To assess the landscape of *JPART*'s emphasis, we began first by searching the journal's publications between 2000 and 2016 using the following search terms: "beyond-compliance," "nonregulatory program," "self regulation," "voluntary program," and "voluntary compliance," along with "environment" or "environmental." These terms yielded nine *JPART* articles that examine the construction, adoption, and/or the implementation of alternative and nonregulatory approaches to environmental governance, including VEPs, collaborative management, and environmental dispute resolution processes that go beyond the expectations of legal compliance. The articles also address the administration of nonregulatory approaches, in instances of both strong and weak institutional authority and for industrialized and developing country contexts. In considering the factors that are critical to their implementation and efficacy, three theoretical themes emerged: institutional design, organizational structure, and political economy.

Institutional Design

Institutional design refers to the rules that structure nonregulatory programs, such as incentives for encouraging proactive practices and/or beyond-compliance activities by private or public actors, as well as the rules that address monitoring and conformance. The manner in which these rules are assembled has important implications for whether these programs improve environmental outcomes. Two of the nine *JPART* articles addressed the institutional design of alternative environmental management approaches. Whitford (2009) specifies how characteristics of core constituencies—those who benefit or bear the costs of

1 More than 460 ecolabels exist worldwide, with almost 200 of them being sponsored by government. The other ecolabels are sponsored by independent organizations, industry groups, and environmental nongovernmental organizations (Ecolabelindex, 2016).

policies—help determine the institutional designs of community “right-to-know” rules at the state level.² Analyzing data on community “right-to-know” protections regarding environmental hazards, Whitford finds that organizational costs limit the ability of affected constituencies to obtain institutional designs that reflect their interests. Further, the preferences and abilities of constituencies—whether they are environmental groups, private industry, or affected workers—help determine the choice of institutional forms of information revelation policies rather than institutional choice determining participation.

Further advancing the discussion about institutional design, Darnall, Potoski, and Prakash (2010) assess business’s participation in government- versus industry-sponsored VEPs. Drawing on multi-country survey data, the authors find that even when programs are designed similarly, organizations differentiate among them based on incentives created by their key constituencies. That is, firms participating in government-sponsored VEPs are more likely do so to appeal to community stakeholders, whereas firms that respond to environmental stakeholders are less likely to join both government- and industry-sponsored VEPs. Moreover, firms participating in industry-sponsored VEPs are more likely to seek approval from industry and regulatory stakeholders. These findings highlight the fact that the institutional design of these approaches is imbedded within a broader political economic context, and this context is likely to have bearing on their overall efficacy.

Organizational Structure

Organizational structure refers to the capacity of private or public actors to adhere to program expectations and, like institutional design, affects program outcomes. Two of the nine *JPART* Virtual Issue articles addressed topics related to organizational structure, including one of the first articles published by *JPART* on the topic. O’Leary and Yandle’s (2000) research investigates why some states adopt successful voluntary approaches (i.e., environmental dispute resolution programs) that allow stakeholders to meet face-to-face to resolve controversial environmental issues. Drawing on original interview data and an analysis of state laws and archival documents, the authors find that states’ successful adoption relates to “innovation variable change agents” (or policy entrepreneurs) and existing organizational structures and capacity.

2 Community “right-to-know” rules are information-based policies that have gained much public and political salience (Fung and O’Rourke, 2000). They are intended to improve information problems between the regulated community and their stakeholders. Increased transparency creates incentives for the regulated community to improve their environmental performance.

The second *JPART* article within this space is authored by DeHart-Davis and Bozeman (2001). The article takes on the puzzle of why firms regulated under Title V of the 1990 Clean Air Act Amendments would go beyond what is legally mandated. The authors survey more than 500 Title V-regulated firms in four states and examine their internal organizational and decision-making processes. After holding constant the political economic context, the authors conclude that overcompliance by firms can be explained by interorganizational factors (i.e., interpersonal contact with state regulators) and external organizational factors (i.e., high rates of subcontracting of compliance tasks).

Political Economy

The third and most prominent theme among the *JPART* articles discussing environmental applications of alternative and nonregulatory governance relates to the importance of the political economy. The political economy refers to stakeholder and interest group politics and macropolitical and economic dynamics, which influence program efficacy, either directly or indirectly. Six of the nine *JPART* articles addressed issues related to the political economy. All of these articles focus on the unique roles that stakeholder groups have in the implementation of alternative and nonregulatory approaches. In particular, Koski and May (2006) examine the role of state regulatory agencies, local environmental groups, and trade associations in shaping how operators of marine facilities implement water quality improvements in California and Washington. Based on multivariate analyses of survey data, the authors find that interest groups appear to impart a positive influence on firms’ implementation actions and fill important information gaps between regulated entities and regulatory requirements, as long as there is sufficient trust among affected parties.

Further exploring the roles that stakeholder groups play in the implementation of alternative and nonregulatory approaches, Nikolic and Koontz (2008) examine how government might encourage or impede the work of nonprofit organizations (NPOs) in collaborative watershed partnerships. Employing an in-depth, longitudinal case study comparing two watershed organizations, the authors find that government institutions and actors affect how NPOs frame issues and solutions. Government institutions and actors also augment financial, human, and technical resources and influence how an NPO is structured and makes decisions. However, this relationship is highly dependent on the quality of the government-NPO engagement, NPO leadership structure, and the passage of time.

Lubell and Fulton (2008) shift attention from government as the central actor in the implementation of alternative and nonregulatory approaches toward a

constellation of actors that make up local policy networks. Drawing on a survey of 408 orchard growers in California's Sacramento River watershed, the authors assess the implementation of watershed management practices that are adopted through the cooperation of diverse stakeholders. They find that local policy networks made up of government officials, NPOs, and agricultural producers increase the probability that best practices are implemented. Moreover, local networks help facilitate technology diffusion, social capital development, and cultural change.

Although the article by [Darnall, Potoski, and Prakash \(2010\)](#) (discussed earlier) focuses on how stakeholder preferences might influence firms' decisions to join a government- or industry-sponsored VEP, the authors suggest that because participants self-select into these programs, even when programs are designed similarly, environmental performance outcomes of similarly designed programs may differ. Since industry-sponsored VEPs appear to attract firms that are undergoing greater scrutiny by regulatory stakeholders because of their greater environmental problems, compared to government-sponsored programs, they may be less successful at improving the natural environment. Alternatively, firms participating in industry-sponsored VEPs may have a greater success at improving participants' environmental performance because even small changes in their environmental strategies could lead to potentially significant environmental benefits. These findings suggest that important political economic linkages likely exist between stakeholders during program adoption, which affect VEP efficacy.

Building on earlier *JPART* research (i.e., [Koski and May, 2006](#)), [Lee's \(2011\)](#) article sheds light on the positive role of interest groups in mediating regulatory information and, in doing so, facilitating and aiding regulatees' compliance with environmental regulation. Using a case study of the Korean-American dry cleaning industry in Massachusetts, the article identifies the importance of interest groups in translating, systemizing, and linking diverse and complex information for small and minority-owned businesses that lack the capacity to sort and comprehend regulatory information. By serving such a role, interest groups have the potential to enhance program efficacy.

Finally, the publication of [Yee, Tang, and Lo's \(2016\)](#) article marks a turning point for *JPART's* published work on alternative and nonregulatory approaches to environmental governance. The authors consider these approaches in a developing world context that is known for its weak environmental regulations. This issue is important because as nonregulatory environmental approaches gain salience outside of Western countries and/or in the developmental context, the

question of institutional fit becomes relevant. Yee, Tang, and Lo address this issue by analyzing the political economic conditions under which Chinese firms engage in compliance and beyond-compliance environmental management practices. Drawing on survey and interview data, the authors suggest that firms' compliance and beyond-compliance practices in weak environmental policy settings are "regulator-driven." That is, when regulatees perceive they are being targeted arbitrarily in regulatory enforcement they are inclined to adopt beyond-compliance practices as a way to fend off unreasonable interference from the regulators.

In the section that follows, we discuss how *JPART's* focus on environmental governance applications of alternative and nontraditional approaches compares to *JPART's* publication of articles addressing other applications of alternative and nontraditional approaches during the same time period. We then assess how these publication trends compare with the other top-ranked public administration and policy journals.

Comparative Analysis of Publications on Alternative and Nonregulatory Approaches

In comparing the *JPART* articles focusing on environmental applications versus non-environmental applications of alternative and nontraditional approaches during the same time period, we conducted another article search using the same key words mentioned above (minus those mentioning the environment). We considered all articles with key words that appeared anywhere within the article and then qualitatively assessed whether the article's substantive focus was on alternative and nontraditional approaches.

The black line in [Figure 1](#) represents the counts of all articles published in *JPART* over the past 16 years. The black bar in [Figure 1](#) identifies the number of *JPART* articles examining environmental applications of alternative and nonregulatory approaches. In the first few years of the millennium, no articles were published by *JPART* related to environmental applications of alternative and nonregulatory approaches. That trend started to change starting in the mid-2000s. Every year between 2006 and 2011 (except for 2007), *JPART* published an article (or two) focused on aspects of alternative and nontraditional approaches to environmental governance.

At first glance, the focus on environmental applications of alternative and nonregulatory approaches appears to be a small number, particularly in the context of the increasing prevalence of environmental applications of alternative and nonregulatory approaches worldwide. However, when comparing

this number to the number of published papers on non-environmental applications of alternative and nonregulatory approaches, we see a similar pattern. Each year between 0 and 5 non-environmental articles were published (30 total; white bar in Figure 1), accounting for less than 5% of the journal’s share of articles (Figure 2).

We then identified the highest five-ranked journals (in addition to *JPART*) according to *Google Scholar Metrics*. Figure 2 illustrates how *JPART*’s focus on alternative and nonregulatory governance approaches compares with other top public administration and public policy journals, both within and outside the environmental area.

Two observations emerge from this broader analysis. First, although ranking behind *PSJ*, *Governance*, and the *Journal of Public Policy Analysis and Management*, *JPART* places ahead of *Public Administration Review*

and *Public Administration* in publishing research on environmental applications of alternative and nonregulatory approaches. Second, *JPART* is ranked fourth with respect to published articles on non-environmental applications (behind *Public Administration*, *Governance*, and the *Journal of Public Policy Analysis and Management*). These observations suggest that there is interest and expertise among the *JPART* community on alternative and nonregulatory governance approaches. However, opportunities exist for greater emphasis of these increasingly widespread governance approaches.

Discussion and Conclusions

The nine articles in this *JPART* Virtual Issue show the breadth and depth of the journal’s scholarship on environmental applications of alternative and nonregulatory approaches over the last 16 years. We identify three crosscutting themes—institutional design, organization structure, and political economy—that appear among the articles and offer evidence that across these *JPART* articles, authors have focused more on the political economic context of these approaches rather than their institutional design and organization structure. Across all themes, the articles emphasize the key roles that government actors and other stakeholders have had in the design and implementation of these approaches.

In comparing the number of environmental and non-environmental applications of alternative and nonregulatory approaches to other publications in the journal, the emphasis on these approaches appears to be limited, particularly in the context of the increasing prevalence of environmental applications of alternative and nonregulatory approaches worldwide. These findings may point to a potential dearth of scholarly expertise on these approaches. However, they may also be due to a lack of high-quality papers submitted to *JPART* or perhaps competing editorial emphases.

With respect to its placement among top public administration and policy journals, *JPART* is in the middle of the pack in its number of publications on environmental and non-environmental applications of alternative and nonregulatory approaches. These findings identify an opportunity for *JPART* to position itself more prominently by setting the research agenda for these approaches. The journal is uniquely positioned to theorize, test, and critique innovations in institutional design and organization structures of environmental and non-environmental applications of alternative and nonregulatory approaches because of its broad and multidisciplinary aim of advancing “the organizational, administrative, and policy sciences as they apply to government and governance.” Doing so

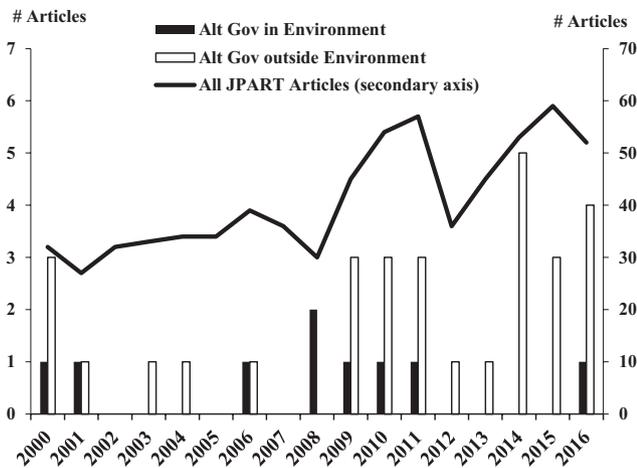


Figure 1. *JPART* published papers on alternative governance and nonregulatory approaches compared with all *JPART* articles, 2000–2016 (year-to-date).

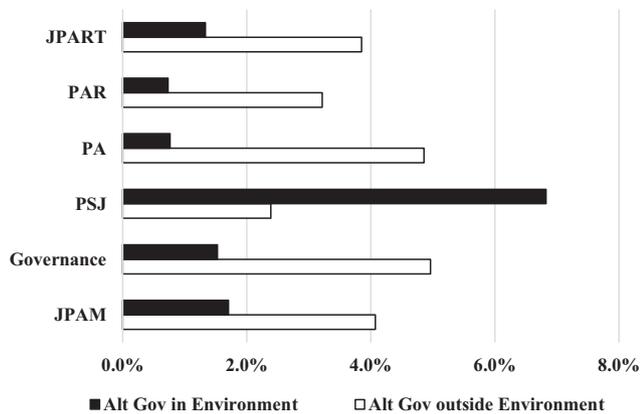


Figure 2. Top public administration and policy journals’ share of articles on alternative governance and nonregulatory approaches, 2000–2016 (year-to-date).

would put *JPART* on the forefront of considering these emerging governance regimes.

Our findings also raise important concerns for future research. First, a question that remains is the extent to which different forms of alternative and nonregulatory governance approaches interact with each other and with existing traditional forms of regulation. How might mandatory and voluntary governance approaches work jointly as a hybrid system of checks and balances in managing natural resources and protecting the environment, particularly in the context of global climate change where pollution and risks are acute, diffuse, and transboundary? Additionally, under what conditions will the benefits of designing alternative and nonregulatory approaches outweigh the costs?

Prospective research should also consider the conditions under which the utility of alternative and nonregulatory governance approaches can be maximized. What are the potential unintended consequences of alternative and nonregulatory environmental governance approaches, such as firms' "greenwashing" behavior or agency capture? How can research in psychology and the related field of behavioral economics be leveraged to help us better understand and anticipate these effects?

This leads us to the question of institutional fit, which *JPART* scholarship has started to address, in Yee, Tang, and Lo (2016). The integration of "bottom-up" and collaborative governance structures could face very different challenges in different countries, especially in the context of political economies with weak institutions. Future research should consider issues of institutional fit by way of comparative studies of alternative and nonregulatory environmental management approaches, especially in the developing world and non-liberal political economies and governance structures.

Questions also remain about the link between innovations in alternative and nonregulatory governance approaches and effectiveness. Prospective scholarship should consider whether these governance and institutional innovations do what they claim to do. What kinds of institutional, organizational, and policy levers are required for translating these new management tools and policies into real behavior changes within organizations, firms, and across sectors to improve environmental conditions?

Finally, most research analyzing the design and efficacy of alternative and nonregulatory approaches consider a single (or limited) case setting. What the field would benefit from are assessments that examine patterns across a population of approaches. Although the data demand for such assessments can be significant,

more aggregated analyses would go a long way toward our understanding of these increasingly widespread governance approaches.

We hope that each of these issues, along with the articles contained in this Virtual Issue, inspires scholars and practitioners to further advance our knowledge of these increasingly prevalent governance approaches.

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