
Rent Seeking Behind the Green Curtain

Jonathan H. Adler

On August 4, 1992, vice-presidential candidate Senator Al Gore appeared in Orange County, California, to attack the incumbent president's regulatory record. In a speech at an Evergreen Company used-oil treatment facility, Gore attacked President George Bush for making it "impossible [for] companies like this one to survive." Because of the Bush administration's inaction, Gore charged, "A lot of jobs were lost."

Senator Gore was not calling for "reinventing" regulation or reducing the paperwork burden. He was not attacking President Bush for presiding over too much regulation, but too little. Gore's complaint was that the Bush administration hurt companies that rely on federal regulations to turn profit by failing to promulgate *more* regulatory standards.

In particular, Gore attacked the administration's failure to define used motor oil as a hazardous waste under the Resource Conservation and Recovery Act (RCRA). Such regulation would have increased the cost of oil changes for consumers and discouraged recovery and recycling of used oil; however, it would have guaranteed additional business for the Evergreen Company and members of the Hazardous Waste Treatment Council (HWTC). This policy proposal

Jonathan H. Adler is director of environmental studies at the Competitive Enterprise Institute.

had as much to do with promoting narrow economic interests as it did with protecting the environment.

Green Politics Is Still Politics

Most Americans recognize that politics has a lot to do with the pursuit of power, privilege, and special interests; however, there is a general presumption that environmental politics is somehow different. We take for granted that environmental laws are what they seem; that the legislators who enact those laws and the bureaucrats who implement them are earnestly struggling to protect public interests; and, that these laws will be enforced in a fair and sensible manner. All too often, however, environmental regulations are designed to serve narrow political and economic interests, not the public interest.

The details of environmental policies have major economic consequences. America spends well over 2 percent of the gross domestic product on pollution control, and the figure is rising. As the cost of environmental regulation increases, so does the value of potential comparative advantages in the marketplace. Seeking regulatory policies that will carve out niche markets or obstruct competition becomes an increasingly profitable investment. One should not be surprised that economic interests lobby, litigate, and make alliances with "public interest" organizations to ensure favorable

treatment for their own interests and to utilize environmental regulations to transfer wealth.

Attempts "to gain a competitive advantage through manipulation of the regulatory process [are] occurring with increasing frequency," notes former Environmental Protection Agency Deputy Administrator A. James Barnes. Examples are everywhere:

- The Business Council for a Sustainable Energy Future, a coalition of gas, wind, solar, and geo-thermal power producers and related firms, is lobbying for deep cuts in greenhouse gas emissions.
- The Environmental Technology Council, a successor to the Hazardous Waste Treatment Council (HWTC), wants to ensure that various wastes, such as fluorescent bulbs, are covered by hazardous-waste regulations.
- The Alliance for Responsible Thermal Treatment (ARTT), an HWTC spinoff of incinerator operators, wants to prevent the burning of hazardous waste in cement kilns, and thereby eliminate its members' toughest competitors.
- Major utilities recently lobbied to require the sale of electric vehicles in California and the northeastern United States and have sought policies that would subsidize the purchase of electric cars at the ratepayers' expense.
- Ethanol producers attempted to secure a portion of the lucrative oxygenate market for federally mandated reformulated gasoline.
- A primary purpose of the Conservation Reserve Program is to increase farm commodity prices by taking acreage out of production, though the program does little to control agricultural runoff.

The list could go on and on, for painting special-interest policies green makes them easier to enact, irrespective of whether they further environmental protection. In this sense, environmental politics is as polluted as the rest.

Desperately Seeking Rentseekers

For years many academics have suggested that regulatory policies are more the result of interest-group manipulation than dispassionate consideration of the public interest. Many firms find it easier to lobby for wealth transfers than to compete for wealth in an open marketplace. This practice

is commonly referred to as "rent seeking." The "rents" sought are economic returns in excess of those that a competitive marketplace would allow. As defined by economist Robert Tollison, "Rent seeking is the expenditure of scarce resources to capture an artificially created transfer."

Rent seeking occurs, in part, because firms can receive concentrated benefits through government action while the costs are dispersed throughout the whole of society. In the case of sugar subsidies, for example, the benefits accrue directly to U.S. sugar producers, while the costs, estimated at \$1.4 billion per year, are paid by sugar consumers in the form of higher sugar prices. When such policies are enacted, a narrow interest arguably wins while everyone else loses.

In the regulatory context, rent seeking typically consists of pursuing government intervention that will provide a comparative advantage to a particular industry. By restricting entry or reducing output, regulations often reduce competition, create cartels, and increase returns. Thus, tariffs and licensing restrictions are regulatory measures commonly sought by rentseekers. Less-direct measures can heighten preexisting comparative advantages or manufacture a comparative advantage out of incidental differences in an industrial sector.

While often disparaged, rent seeking can be viewed as the natural outgrowth of firms seeking their best interests in a regulated environment. If regulations are here to stay, the argument goes, a firm might as well make the best of the situation. In fact, given the courts' current interpretations of antitrust laws, one could consider rent seeking as the only legal form of predation. Whether defensible or not, rent seeking has become rather pervasive in regulatory policy. As economist Robert McCormick notes, "There is abundant evidence in the economic literature that when the flag of public interest is raised to support regulation, there is always a private interest lurking in the background."

There is no reason to expect environmental regulations to be immune from the economic pressures that create rent seeking in other contexts. In fact, by their very nature, environmental regulations are conducive to rent seeking, for in the environmental context, both regulated firms and "public interest" representatives stand to gain from reductions in output and the creation of barriers to entry. Regulated firms and public interest groups may not always agree on the nature and design of specific regulatory programs, but they often share a common interest.

One definite effect of much environmental regulation is to privilege larger facilities. "Compliance with environmental laws has not only reduced the number of plants in the affected industries but has placed a greater burden on small than on large plants," concluded B. Peter Pashigian in a 1984 study. "Small plants have found it more difficult to compete and survive with larger plants under environmental regulation."

This should be expected. Small firms by nature are particularly vulnerable to regulatory costs. Reporting and other paperwork requirements, which appear insignificant, often significantly drain the labor force in small firms that have few employees to spare. Even the Environmental Protection Agency (EPA) acknowledges that small firms "do not have legal and engineering staffs to assist them, nor do they have the financial resources available to larger firms. Often their costs per unit of production to comply with environmental regulations are much larger than those of their large competitors." Thus, for larger companies regulation is a hurdle that can be cleared by reducing profit margins or delaying capital investments; for small businesses regulation may be a threat to existence.

Warring Coalitions

A classic example of environmental policy "by and for special interests" is the 1977 Clean Air Act amendments that mandated the use of scrubbers on coal-fired power plants. One book on the subject bears the subtitle *How the Clean Air Act Became a Multibillion-Dollar Bail-Out for High-Sulfur Coal Producers and What Should Be Done About It*.

Under the 1970 Clean Air Act, the EPA established a policy whereby all coal plants were required to meet an emission standard for sulfur dioxide. The original standard of 1.2 pounds of sulfur dioxide (SO₂) per million BTUs (British Thermal Units) of coal could be met in a variety of ways.

Despite its apparent flexibility, the regulation had disparate regional effects. Most of the coal in the eastern United States is relatively "dirty" due to its high sulfur content. Western coal, on the other hand, is cleaner. By using western coal, utilities and other coal-burning facilities complied with the federal standard without installing costly scrubbers. Scrubbers were so expensive that many midwestern firms found that it was



cheaper to haul low-sulfur coal from the West than to use closer, "dirtier" deposits.

When the Clean Air Act was revised in 1977, eastern coal producers got even. As Bruce Ackerman and William Hassler note in *Clean Coal, Dirty Air*, eastern producers of high-sulfur coal elected "to abandon their campaign to weaken pollution standards and take up the cudgels for the costliest possible clean-air solution—universal scrubbing."

The amendments required coal plants to meet both an emission standard and a technology standard. In particular, the law contained "new-source performance standards" (NSPS) that forced facilities to attain a "percentage reduction in emissions." In other words, no matter how clean the coal was, any new facility would still be required to install scrubbers. This destroyed low-sulfur coal's comparative advantage. Since all new facilities had to invest in scrubbers, there was no longer a need to transport low-sulfur coal from the West to meet the SO₂ emission standard—the cheaper, high-sulfur coal from the East would suffice.

Unsatisfied with this measure alone, eastern coal producers and the eastern-based United Mine Workers successfully pushed for additional provisions to encourage the use of "local" coal in the eastern United States. In particular, Congress adopted "Measures to Prevent Economic Disruption or Unemployment" (Section 125). This provision gave state and federal officials the authority to order power plants to use regional coal if purchasing coal from elsewhere would threaten to put local mine workers out of work.

Section 125 was naked regional protectionism, pure and simple. "The dominant thrust of this amendment is not its relationship to clean air, but its relationship to the economics of the areas it is designed to protect," complained Senator Edmund Muskie (D-Maine). No matter. The amendment was adopted by an unrecorded vote in the House and squeaked by with a 45-44 victory in the Senate, with most senators voting along regional lines.

Ironically, the 1977 amendments extended the life of older, otherwise obsolete, coal-fired plants. By imposing scrubber requirements on all new coal plants, Congress made older plants relatively more cost-effective, delaying the environmental gains that would have been achieved by using and building modern, less-polluting facilities. As a result, some regions of the country actually saw

an *increase* in sulfur-dioxide emissions, and the amount of scrubber sludge requiring disposal increased substantially.

More Regional Rent Seeking

Another element of the 1977 Clean Air Act amendments affected by special interest considerations was the "prevention of significant deterioration" (PSD) policy. This policy was designed to ensure that the areas that were meeting federal clean-air standards would continue to do so. As refined in the 1977 amendments, "clean" areas were classified based on their prescribed level of growth. Each classification imposed limits on the rate at which new industrial facilities could emit criteria air pollutants into the regional air shed. New facilities in clean areas became subject to "new source review" reporting requirements, and new facilities of a sufficient size were required to adopt emission-control technologies, such as scrubbers.

The PSD policy imposed disproportionate costs on those parts of the country that had less air pollution. It benefited northern urban areas vis-à-vis western- and southern-rural areas, reducing the North's comparative disadvantages that were brought about by the first round of environmental regulations. As Pashigian concluded in a 1985 analysis, "PSD policy raised the cost of factor mobility and thereby allowed northern locations with lower air quality to improve local air quality without as large a loss of factors to areas with superior air quality."

If this theory is correct, one would expect to find regional disparity in support for the PSD policy; when Pashigian analyzed five congressional votes on the PSD policy in 1976 and 1977, that is exactly what he found. Moreover, there was a greater regional difference in support for PSD policy than for other air-pollution control policies considered at the same time, which could not be explained by ideological or party differences. Indeed, the most likely cause of the pattern of support and opposition to the PSD policy was regional self-interest.

Green Pork in the Corn Barrel

It is difficult to discuss rent seeking without mentioning the ethanol lobby, in particular the agricultural powerhouse Archer Daniels Midland (ADM). As documented in a Cato Institute Policy

Analysis by James Bovard, ADM has perfected the art of rent seeking as well as, if not better than, any other company in America. The agricultural conglomerate has benefited from a range of subsidies, agricultural and otherwise. ADM is "totally immersed" in government programs, according to Archer Daniels Midland's CEO Dwayne Andreas.

A key component of the 1990 Clean Air Act amendments was a set of provisions governing the content of automotive fuels. The amendments required that oxygenates be added to gasoline in cities with high carbon monoxide (CO) levels and that reformulated gasoline be used in cities with high ground-level ozone (smog) levels. Both provisions created opportunities for the use of ethanol, a corn-based alcohol fuel. Ethanol is an oxygenate that can be added to gasoline to reduce CO emissions.

The ethanol lobby, politically supported by midwestern agricultural interests, swung into action. The lobby wanted both provisions to require the maximum amount of oxygenates possible, in order to increase the demand for ethanol. In particular, ethanol interests lobbied for a mini-

mum oxygen content that could not be met by nonethanol oxygenates. Reducing air pollution quickly became a secondary concern. As one Senate committee report noted, "In the absence of other avenues through which to encourage domestically produced ethanol to enter the fuel stream, this [requirement] is necessary."

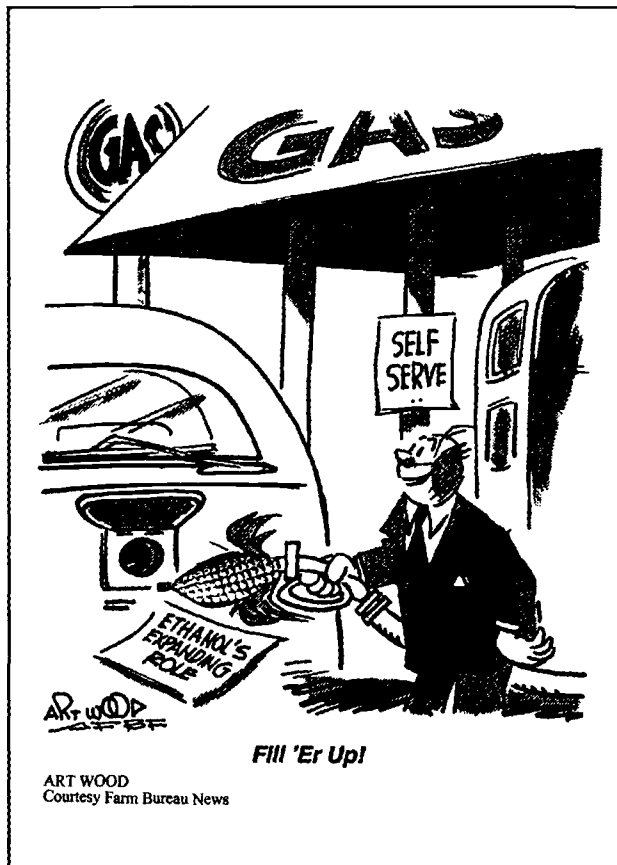
Regrettably, the solicitation of the ethanol lobby did not end there. Desperate to attract votes from agricultural interests during the 1992 presidential campaign, George Bush proposed relaxing clean-air standards on fuel volatility to encourage the use of ethanol. At the time, the Clinton campaign blasted the move as a cynical attempt "to buy the votes of the corn growers."

Fifteen months later it was the Clinton administration's turn. The administration proposed rewriting environmental regulations to guarantee ethanol producers 30 percent of the oxygenate market for reformulated gasoline, which had been mandated in nine cities under the 1990 amendments.

The 30 percent share was proposed, in EPA administrator Carol Browner's words, to "create additional markets for ethanol and ETBE [an ethanol derivative]." According to Browner, "The EPA's proposal would help farmers by boosting the demand for ethanol and ETBE while protecting the environment." The EPA estimated that the rule "could increase the production and use of ethanol by as much as 60 percent over current levels." Agriculture Secretary Mike Espy crowed, "One of my top priorities is improving farm income and this initiative will do just that."

Guaranteeing a market for ethanol would come at a significant cost. The EPA estimated that the direct cost to consumers would be \$48 million annually. Petroleum industry analyses put the annual price tag at \$350 million. Because ethanol is exempt from most fuel taxes at both the state and federal level (a rent-seeking story in itself), the ethanol mandate also would have reduced government revenues. Analysts predicted that the Federal Highway Trust Fund, which is used for highway maintenance and construction, would lose as much as \$340 million per year in revenues from the federal gas tax.

There are few things upon which the Sierra Club and the American Petroleum Institute agree, but both agree that the EPA's proposal was bad for consumers, producers, and environmental protection. "This proposal is illegal and it's bad policy," A. Blakeman Early, then of the Sierra Club, told the *National Journal*. In Early's view, "It's not



the role of the Clean Air Act to make mandatory markets for ethanol." It is clear, however, that some of the law's authors felt otherwise.

Eager to paint the ethanol giveaway green, the EPA claimed that the proposal would reduce greenhouse gas emissions, energy demand, and foreign-oil consumption. However, a report published by Resources for the Future cast serious doubts on the EPA's claims, concluding that there are "unsubsidized, lower-cost, domestically produced [oxygenates that can] produce environmental benefits indistinguishable from those [of ethanol]." A Department of Energy (DOE) study went further, concluding that the proposal would increase energy use and greenhouse gas emissions. The DOE sought to include this analysis in the rule-making docket while the proposal was under consideration, but the EPA objected.

Eventually the federal judiciary stepped in, after the American Petroleum Institute filed suit. In April 1995, the D.C. Circuit Court ruled that the Clinton administration did not have the authority to propose the policy in the first place. The court held, "The sole purpose of the RFG program is to reduce air pollution, which it does through specific performance standards for reducing VOCs and toxics emissions. [The] EPA admits that the [ethanol rule] will not give additional emission reductions for VOCs or toxics . . . and has even conceded that the use of ethanol might possibly make air quality worse." No matter how important the ethanol lobby, the court declared, the Clinton administration did not have the statutory authority to subsidize it through environmental regulations.

Green Baptists and Brown Bootleggers

Rent seeking in the name of environmental policy is prevalent, in part, because green policies shield otherwise ill-fated policies—paint a proposal green, and it will receive less scrutiny than it would otherwise. Moreover, the ability of economic interest groups to supplement their lobbying efforts with "public interest" allies from the environmentalist community greatly enhances their political clout. Clemson University Professor and former-Federal Trade Commission official Bruce Yandle called such efforts "Bootlegger and Baptist" coalitions. "Both bootleggers and Baptists favor statutes that shut down liquor stores on Sunday," Yandle explains. "The Baptists because of their religious preferences. The bootleggers because it expands their market."

In the environmental arena, environmental activists may prefer a policy, such as tightening hazardous-waste regulations, because of their "religious" preferences, while hazardous-waste treatment firms see such regulations as an opportunity to expand their market. The HWTC, a trade association of companies that operate incinerators and other hazardous-waste treatment facilities, often worked in coalitions with environmental groups. In the late 1980s and early 1990s, the HWTC published reports and held press conferences with environmental groups that criticized the EPA's enforcement of hazardous-waste laws, including the Natural Resources Defense Council (NRDC), Environmental Defense Fund, Izaak Walton League, National Audubon Society, and Sierra Club. The HWTC even allowed environmental group officials to testify on its behalf before Congress.

The HWTC's membership benefited from tighter enforcement, as its members specialize in meeting stringent cleanup and treatment standards. The HWTC and the Environmental Technology Council have sought to increase regulatory controls and to classify waste streams as hazardous—from the burning of hazardous waste in cement kilns and Superfund cleanup standards, to the recycling of fluorescent bulbs and the disposal of used motor oil—thereby creating greater markets for the waste-management services of its members.

This has not always been to the benefit of the environment. "The environmental movement and the waste treatment industry have tried to block efforts to promote the reduction of sources of hazardous-waste generation," according to Marc K. Landy and Mary Hague of Boston College. They note that the HWTC joined with environmental groups to oppose financing Superfund cleanups with a waste-end tax that would have provided firms with an incentive to reduce the production of waste. In their view, "The coalition between the environmental movement is not tactical; it is much more in the nature of a permanent symbiotic alliance."

In addition, these groups supported the stringent regulation of hazardous-waste recycling efforts. From 1987 to 1994, the HWTC joined with the NRDC, Izaak Walton League, and other environmental groups in a series of lawsuits seeking to force the EPA to impose more stringent regulations on used motor-oil management. This would have required the treatment of used oil before dis-

posal, providing HWTC members with increased business. As the D.C. Circuit Court of Appeals ruled, the HWTC's efforts were clearly aimed at "having government drive business its way."

Ironically, regulating used motor oil as a hazardous waste potentially causes environmental harm. Several hundred million gallons of used motor oil are disposed of every year. While a substantial portion is reclaimed for reuse, recycling, or energy recovery, much of it is simply discarded into landfills or sewers. Much of this used oil is generated by small service stations performing oil changes and individual car owners at home.

If used oil were regulated as hazardous waste, the costs of handling it would increase as would insurance for potential environmental liability exposure. In turn this would increase the cost of an oil change and discourage voluntary collection programs, such as those run by many service stations at no charge to their customers. "The added costs expected as a result of listing used oil as a hazardous waste would only further decrease the attractiveness of handling these materials," testified a DOE official in 1992. The primary effect would be to drive smaller firms out of the used-oil collection business and reduce the overall percentage of oil collected for reuse, recycling, or energy recovery. It would, however, increase the amount of oil going to those firms that lobbied and litigated in support of such a rule.

When Bootleggers Fund Baptists

Those companies and associations that benefit from increased regulation have become quite aware of the benefits "Baptists" provide as cover for their "bootlegging." Indeed, some executives have cited this as a reason for funding environmental organizations. For instance, WMX Technologies' environmental grants "focus on policy issues that clearly are in the interest of the environment and that would advance our own business interests," said William Y. Brown, director of environmental affairs for then-Waste Management. "We're in a position to benefit from the same objectives that [environmental groups] are pursuing," he said. In particular, larger waste firms benefit when environmental regulations governing waste disposal get tighter because smaller firms have a more difficult time complying. It "helps our business," Brown explained. This may well explain why WMX donates over \$700,000 annually to environmental organizations, which have included the National

Audubon Society, National Wildlife Federation, NRDC, Wilderness Society, and World Resources Institute.

Another example of donations to environmental groups being used to support the bottom line involves the Surdna Foundation, founded by the Andrus family in 1917 (Surdna is Andrus spelled backwards). Surdna donated over \$5.2 million to environmental causes in 1993. The foundation also owns approximately 75,000 acres of timberland in northern California and earned \$2.7 million in timber income from 1992 to 1993. Surdna board member Frederick F. Moon III also served on the board of Andrus timber partners that has substantial timberland holdings in northern California.

If timber harvesting is restricted on public lands in the Pacific Northwest, the value of timber on nearby private lands should increase due to the constriction of timber supplies. With this in mind, it is interesting to note that in 1989, the Surdna Foundation began to provide significant support to organizations seeking to limit timber harvesting on federal lands, including the Wilderness Society, National Audubon Society, Western Ancient Forests Campaign, Oregon Natural Resources Council, and Americans for the Ancient Forest. Whether deliberate or not, Surdna's contributions have the potential to increase the value of private timber, benefiting Surdna and the Andrus's timber holdings.

For a Good Cause?

Just because environmental policy measures are often influenced by special interest considerations does not mean they do not achieve environmental goals. More likely, policies influenced by the push and pull of warring interests span the spectrum, like the ethanol giveaway, from bare wealth transfers to measures that are arguably sensible responses to environmental concerns.

A possible example of the latter can be found in the history of the chlorofluorocarbon (CFC) phase out. CFCs, once the most widely used class of refrigerants, are less expensive and less dangerous than their alternatives. As a result, CFCs were found in virtually every car air conditioner, refrigerator, and chiller throughout the world. CFCs also were used as aerosol can propellants, cleaning agents, and foam-blowing agents.

In the 1970s scientists found evidence, which was later confirmed, suggesting that CFCs were contributing to a thinning of the earth's stratos-

pheric ozone layer. Stratospheric ozone deflects substantial amounts of ultraviolet solar radiation. This thinning, some feared, could pose a significant ecological threat, if not to people then to other animal and plant life. Uncertainties about the extent of the risk posed by thinning remain to this day. Nonetheless, in response to this concern, Congress banned the use of CFCs in aerosol cans in 1978, and the United Nations sponsored negotiations with the purpose of drafting a treaty to protect the ozone layer.

The CFC industry initially resisted; however, this posture did not last long. In 1986, the industry signaled that it would support global limits on CFC use, while simultaneously claiming that there was no solid evidence of a real environmental threat. In 1988 DuPont, the world's largest CFC producer, called for a complete global phaseout. Yet the company appears to have been motivated less by concern for the global environment than by the opportunity to increase profits. In fact when DuPont called for CFC controls, the industry's primary association maintained that evidence linking CFCs to tangible environmental harms remained speculative.

As concern about CFCs increased, DuPont stepped-up research for possible substitutes. Everything DuPont's researchers came up with was substantially more expensive or impractical. At the same time, foreign CFC producers were beginning to erode DuPont's market share. Yet under a global phase out, consumers would have no alternative but to replace CFCs and CFC-reliant equipment with substitutes designed and patented by DuPont and other American producers. Thus the American CFC industry changed from a staunch opponent of CFC regulations to a prime backer of international limits. The end result will cost American consumers as much as \$100 billion.

Others got into the act as well, boosting the phase out's overall cost. The Mobile Air Conditioning Society, a trade association representing those who repair automotive air conditioners, successfully pushed to accelerate the restrictions on smaller cans of CFC-12, such as those used by car owners to recharge their car air conditioners. Under the phase out, the purchase of containers with less than 20 pounds of refrigerant was limited to EPA-certified technicians two years earlier than for larger purchases. This rule effectively forced people who would recharge their own car air conditioners to take their vehicles to a service shop.

Green Rents Go Global

The history of the CFC phase out points to the larger trend toward environmental rent seeking on a global scale. Industries that have traditionally sought protection from global competition through trade barriers see opportunity in the push for increased international environmental efforts. "Because environmental standards have a growing national constituency, they are especially attractive candidates for disguised protectionism," notes C. Ford Runge of the University of Minnesota. Daniel Esty, who participated in the NAFTA negotiations on behalf of the EPA, concurs, "Environmental standards can be crafted chiefly to benefit domestic producers, not to protect the environment."

A prime example of trade protectionism disguised as environmental protection is the European Economic Community's 1989 ban on the importation of U.S. beef produced with bovine growth hormones, which was defended as a health measure. There was, however, no credible scientific evidence linking hormones in American beef to health problems. Moreover, growth hormones occur naturally in beef. Many observers believed the action was an attempt to exclude American producers from the lucrative European beef and offal markets.

The United States also has used environmental measures to restrict foreign imports. When Corporate Average Fuel Economy (CAFE) standards for automobiles were first enacted in the 1970s, Congress explicitly rejected alternative means of reducing automobile fuel consumption that might encourage foreign imports. The 1975 House report on the legislation explained that the committee "did not want the auto efficiency tax to provide a stimulus to increased imports of autos." Moreover, CAFE standards have discriminated against high-end foreign manufacturers, such as Mercedes Benz, BMW, and Volvo. Because these manufacturers do not make many smaller cars with high fuel economy ratings, they are penalized in a way that America's Big Three, with their complete automobile lines, are not.

In theory, Article XX of the General Agreement on Tariffs and Trade (GATT) has always allowed for exceptions to general free-trade principles for measures "relating to the conservation of exhaustible natural resources." However, cases in which GATT panels have upheld trade-restrictive environmental measures are few and far between.

The use of environmental measures as trade barriers may get a boost from the World Trade Organization Committee on Trade and Environment, which is considering proposals to give countries greater leeway to enact environmental regulations that have discriminatory effects. This could open the door to nontariff trade barriers enacted under environmental pretenses. "If anything, the temptation to use environmental and health standards to deny access to home markets is stronger now than in the 1980s," said Runge.

Gray Hats

There is no doubt that many environmental statutes and regulations have been enacted for reasons other than the private gains of interested firms. However, it is also clear that environmental policy is not immune to special interest pressures. Due to the cost and complexity of environmental rules, the environmental policy arena presents an extremely attractive target for those who wish to seek rents in Washington. Indeed, if there is one consistent interest group, it is the inside-the-beltway consultants, lobbyists, and litigators, who benefit from the continuation of a Byzantine regulatory structure, the intimate knowledge of which is incredibly valuable and rare.

Rent seeking in environmental policy is not new, and it is not likely to go away. So long as environmental decisions can potentially reallocate billions of dollars from one set of interests to another, those interests will be sure to have their say. Lifting the green curtain and exposing the rent seeking that lies behind it, however, is a useful educational exercise that can demystify the public-interest aura that is attached to any policy labeled "pro-environment."

The foregoing strongly suggests that the traditional framing of the environmental debate is a

false one. There is no corporate monolith that opposes regulation across the board, and one can never assume that support for more regulations comes primarily from those who have the public's well-being at heart. Environmental policy conflicts are not epic struggles between white hat public-interest crusaders and greedy black hat corporate interests. Indeed, in the environmental arena, as in most policy debates, there are few black hats or white hats—most are shades of gray.

Suggested Readings

- Ackerman, Bruce A. and William T. Hassler. *Clean Coal, Dirty Air: Or How the Clean Air Act Became a Multibillion-Dollar Bail-Out for High-Sulfur Coal Producers and What Should Be Done About It*. New Haven, Conn.: Yale University Press, 1981.
- Greve, Michael S. and Fred L. Smith Jr. *Environmental Politics: Public Costs and Private Rewards*. New York, N.Y.: Praeger, 1992.
- Maloney, Michael T. and Robert E. McCormick. "A Positive Theory of Environmental Quality Regulation." *Journal of Law and Economics* XXV: 99-123 (1982).
- Pashigian, B. Peter "The Effect of Environmental Regulation on Optimal Plant Size and Factor Shares." *Journal of Law and Economics* XXVII: 1-28 (1984).
- Pashigian, B. Peter. "Environmental Quality Regulation: Whose Self-Interests Are Being Protected?" *Economic Inquiry* XXIII: 551-584 (1985).
- Tollison, Robert D. "Rent Seeking: A Survey." *Kyklos* 35: 575-602 (1982).