

Chapter 11

Concluding Opinion: Voluntary Environmental Programs: Are Carrots Without Sticks Enough for Effective Environmental Protection Policy?

Jorge E. Rivera and Peter deLeon

During the last few decades, Voluntary Environmental Programs (VEPs) and the protection they implied became one of the most used public policy alternatives to promote environmental protection in the United States, and, to some degree, in other nations as well. In general terms, VEPs are self-regulatory agreements with firms and industries that commit themselves to improve their environmental protection practices. Not surprisingly, they come in many forms and structures, from strictly voluntary initiatives with no required standards, no reporting, and no evaluative oversight to third-party certification programs with specific performance-based requirements, rigorous assessments, and differential rewards or sanctions. Voluntary environmental programs also vary in terms of their industry and country focus and their unilateral or joint sponsorship by government agencies, industry, and environmental groups.

This volume has highlighted several types and models for VEPs. To briefly summarize, they can include: (1) initiatives established and encouraged by regulators, such as the U.S. Environmental Protection Agency (EPA), including the Performance Track Program; (2) collaborative, negotiated agreements between firms, regulators, environmentalists, and other stakeholders (e.g., the U.S. Department of Agriculture's Organic Certification program); and (3) unilateral programs promoted by industry and/or environmental non-profit organizations and the cooperation of government agencies, such as the U.S.

National Ski Areas Association's Sustainable Slopes Program and the Forest Stewardship Council Certification.

As was noted earlier, the number of VEPs in the US alone now numbers in the hundreds, clearly a trend whose time has come. Yet, despite their widespread popularity and increased use, VEPs are highly controversial, mostly because of the many challenges they face to actually promote enhanced environmental performance by their participants, but at least partly for the regulatory position they tacitly (sometimes, manifestly) espouse. Arguably, those problems are endemic to regulations in general, but certainly to VEPs in specific.

The classified ad below, recently profiled in a *New York Times* story illustrates a few of most important challenges confronted by those seeking to promote the use of VEPs as effective win-win environmental policy alternatives to traditional command-and-control regulations. First and most important, VEPs surely imply and perhaps present the image (or reality) of opportunistic “green washing” behavior by program participants. Second, it is necessary, albeit problematic, to document the distinguishing characteristics of the few credible programs among the hundreds of VEPs established in the United States alone. The *Times* article reads as follows:

chicago craigslist > city of chicago > real estate—by broker

\$279000 1BD & 2BD Condos in Eco-Friendly, LEED Certified Building! (River North) (map)

Reply to: see below

Date: 2009-02-18, 4:15PM CST

With only six units per floor on each of its 10 residential stories, 9 West Erie has a friendly and intimate atmosphere. An eco-friendly building pursuing LEED certification, it will implement earth-friendly design and construction, recycled materials, as well as energy efficient appliances and building systems. Pre-construction pricing is still available. To view a full listing with pictures and a virtual tour, click [here](#).¹

This ad reflects one of the difficulties with a VEP, or in this case “when is a VEP not a VEP” and what that distinction suggests. That is, a careful reading of this listing by someone with expertise in voluntary environmental certification may help most readers of Craigslist realize that a “building *pursuing* LEED certification” (emphasis added) is not quite the same as a “LEED *certified* building.”² Any building, even the most energy inefficient, can *pursue* LEED certification. However, LEED certification can only be received by buildings that demonstrate superior environmental and energy management practices.

Furthermore, LEED certification can only be granted to *finished* buildings and these Chicago condos have not been built yet. To be sure, many (including Craig!) might have not noticed the possibly “misleading” nature of the Craigslist headline and just relied on the commonly held reputation of LEED as a highly credible indicator of a successful VEP. Rather, the issue should be: what is the purpose of a LEED construction? Only then can we consider whether a “successful” LEED equals a “successful” VEP.

Regarding the second challenge, even environmental policy experts have a very difficult time identifying the small number of credible VEPs among the hundreds of self-regulation initiatives established in the United States by government agencies, industry, and nonprofit organizations. Part of this problem, of course, is that the definition of a VEP has been seen to vary as a function of the context in which it is situated; not surprisingly, then, the calibration of what constitutes “success” varies just as widely, if not more so.

To illustrate this second point, let us return to the Craigslist advertisement above and think about the following questions: how many workaday consumers know what LEED is, let alone how it is measured and/or reported? Or do you agree that it constitutes the “preeminent” voluntary environmental certification in the U.S. building industry? Leaving aside the probability of the average consumer knowing the answers, these questions could easily stump the VEP expert. A third question, then, is why are the results of a VEP so open to mistaken judgments?

Our colleague Allen Blackman, from Resources for the Future, also pointed out another key challenge faced by VEPs established under the premise that credible “green” signals are highly valued in the market place: When reading the advertisement, Blackman has observed that perhaps most consumers would not consider “green” (i.e., environmentally oriented) attributes as necessary conditions for purchasing a home and would be just as happy to be able to afford a brand new condominium in a comfortable part of Chicago. We saw an analogous situation when we reviewed U.S. ski areas: repeatedly we were told that the American skiers—nominally serious environmentalists—were more concerned with the location of a resort rather than paying more for a “green” lift ticket. Granted, the “green” certification awarded by the rare credible VEPs is valued by other stakeholders such as government agencies, environmentalists, the media, and large corporations under the scrutiny of watchdog groups. Yet, this challenge remains to the consumer at large in the United States (and we suspect beyond American borders as well). Most people when surveyed say that they care about protecting the environment but, as workaday consumers, most are not yet willing to pay or able to afford certified environmentally friendly products, a condition that renders the recognition and acknowledgment of the “successful” VEP as problematic, at best.

The authors in this volume are fully aware of the critical nature of some these observations and, while not necessarily completely agreeing with them, realize that they are not made lightly. In one specific case, for more than a decade now, Rivera’s academic research and scholarly publications have been

focused on the study of voluntary environmental programs both in the United States and developing countries, at first arguing for the establishment of VEPs in lieu of the suspect command and control regulations, and, more recently, in evaluating such programs. And as our colleagues have noted, VEPs offered great promise for an environmental researcher seeking to emphasize an innovative environmental policy tool that could potentially be able to: (1) reduce implementation and monitoring costs for governments; (2) create greater flexibility, reduce compliance costs, and preempt new regulations and stricter oversight for business; and (3) simultaneously achieve superior corporate environmental performance. Alas, empirical data are stubborn things. Overall, the growing body of credible evidence on VEPs suggests strong caution about the early enthusiasm for these initiatives as alternatives to traditional command-and-control regulations. In brief, this evidence suggests an emerging consensus on the following points:

First, stringent environmental regulations or a credible threat of their adoption are necessary conditions for VEPs to attract a large number of business participation. We are reluctant to admit that the attractiveness of the VEPs is predicated on the growing likelihood that a more invasive set of government-mandated regulations are imminent but perhaps the threat is useful in this case; that is, “mandated” might be necessary to secure the “voluntary.” Second, except for a few remarkable exceptions, most environmental self-regulation initiatives currently established in the United States are *strictly voluntary* and thus lack critical necessary conditions to reduce “free-riding” behavior by participant businesses. The most important of these conditions are:

1. Specific performance-based standards of environmental protection adopted by participant companies;
2. Periodic independent third-party audits that verify the adoption of these standards; and
3. Rewards and sanctions that publicly recognize the different levels of audited performance obtained by VEP participants.

Third and most importantly, *strictly voluntary environmental programs* not only tend to attract the firms characterized as high polluting firms as participants (again, possibly as a ploy to avoid more restrictive governmental intervention) but once enrolled these business show *lower* rates of environmental performance improvement than those firms who chose not to participate.

In other words, and most worrisome, VEPs originally conceived and trumpeted as “win-win” policy alternatives are actually—in *the strictly voluntary form typical of the United States*.—seen to be serving the interest of dirty businesses to the exclusion of environmental protection interests.

Finally, this emerging consensus after more than a decade of empirical social science research on VEPs suggests two basic policy implications:

1. Federal and state government agencies should stop creating and/or endorsing strictly voluntary programs that do not include the specific institutional conditions for preventing the free-riding behavior highlighted above. This includes the necessity of third-party evaluation and the publication of those assessments.
2. Voluntary environmental programs need to award differential certification levels, necessarily including no certification, based on independently audited environmental performance of their participants. Avoiding the granting of blanket green certifications or recognitions to business participants regardless of true performance is vital to increase the environmental protection effectiveness of VEPs and to appeal to the small, but growing, number of environmentally aware consumers.

In sum, third-party, performance-based VEPs can be effective at helping advance environmental protection interest when used as one of many *complements* to mandatory environmental regulations. Yet, even when appropriately designed—unfortunately a rare case during the last decade in the United States—VEPs are only a first step if used as an *alternative* to mandatory regulations.

NOTES

1. L. Vestel, (2009). “Taking liberties with LEED”. *New York Times*, February 19, 2009. Accessed online on February 19, 2009.
<http://greeninc.blogs.nytimes.com/2009/02/19/taking-liberties-with-leed/?hp>
2. LEED is the acronym identifying the Leadership in Energy and Environmental Design program, as sponsored by the U.S. Green Building Council.