



The Economic Dynamics of Environmental Law (MIT Press)

David M. Driesen

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In this book David Driesen shows in detail how the concept of economic dynamics can reshape thinking about environmental law and policy. He argues that environmental policymaking in the United States has been poorly served by the dominant, static view of the relationship between environmental regulation and the economy, technology, and business. Basing public policy on the concept of economic efficiency, he claims, warps our sense of what is necessary and achievable in environmental lawmaking. According to Driesen, environmentally beneficial technological innovation would be a more effective public policy goal than economic efficiency because it could better keep pace with private-sector innovations that create new forms of pollution and resource destruction. His arguments provide a corrective to the free-market and cost-benefit analysis approaches common to most proposals for regulatory reform. Those who believe that environmental law should focus on economic efficiency assume that efficiency and innovation coincide. But static efficiency may detract from, rather than stimulate, creativity in the real world. Cost-benefit analysis may discourage innovation by adding delay and uncertainty to government decisions. Economic incentives such as emissions trading may facilitate better use of existing techniques rather than bring about fundamental changes in technology. Driesen suggests ways that the regulatory system could better foster environmentally beneficial technological innovations. Using the theory of economic dynamics, he discusses privatizing environmental law, reforming administrative and international legal processes, and improving regulation design. He also explains the significance of economic dynamics for legal theory in general.

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