



# Feedback switching and the evolution of U.S. coastal management



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## ABSTRACT

Feedbacks occur when advocates engage to clarify the implementation of a policy innovation such as the requirement that federal activities be consistent with objectives of state coastal management plans. Discrete policy feedbacks include advocacy, litigation, appeals of decisions as well as other activities inserted into policy implementation by interests or government agencies acting in their behalf. Feedback analysis is applied to the time after the passage of the 1972 U.S. Coastal Zone Management Act. Conflicts after passage of the law resulted in a negative feedback in the form of a Supreme Court decision in 1984 and a subsequent positive feedback through the 1990 revision of the law effectively reversing the Court decision. New insights documented here suggest that feedback switching, wherein old disputes are moved to new arenas, provides the greatest opportunity for overcoming negative feedbacks that could diminish or eliminate the policy innovation. Furthermore observing feedbacks through time and across multiple policy spaces as demonstrated here provides a robust interpretation of policy evolution from a new perspective. This analysis demonstrates how feedbacks convert a voluntary state program into one with authority over certain federal actions. These findings will be important for other areas of coastal policy and, more broadly, policy evolution in general.

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## 1. Introduction

Passage of a policy innovation, such as the United States Coastal Zone Management Act of 1972 initiates a period of change where the response of those governed affects success. During this time, implementation ignites many of the conflicts related to the original passage as the details become apparent or are created through regulations. Feedbacks from interests materialize as regulatory debates, litigation and through other processes. Feedback analysis heightens the importance of interests and their tactics as a means to see into post-passage policy evolution. The dynamic that ensues either advances the policy innovation or results in its demise. The interests and agencies supporting the change control, to a large degree, the advancement and ultimate implementation of the innovation.

This analysis focuses on the consistency provision of U.S. coastal management and the impacts that policy feedbacks have had in operationalizing the concept. Consistency presumes that actions of federal agencies, when undertaken in coastal regions, will be consistent with the objectives of federally approved state coastal zone management plans. Federal leasing for oil development adjacent to state waters often threatens coastal lands and waters and as a result has been incompatible with consistency. Because the consistency

section of coastal law intertwines state controls of federal actions and extends across many federal agencies and all branches of government, it tests federalism through acknowledging differing views about the importance of the environment. The presentation that follows applies the feedback framework to the durability of a coastal policy innovation. In particular, I ask how the limited power in coastal management could expand to shape oil development in federal waters.

The 1972 law is described in the next section followed by a more detailed description of feedbacks and their role in policy evolution. Next, consistency, the concept that federal actions should be subsidiary to state wishes, is presented. Consistency feedbacks, positive and negative, include litigation, legislation, state determinations, and federal appeals. Together, feedbacks and responses, map the trajectory of a policy innovation in the time after the law is passed. Novel aspects of this case follow in a discussion. Finally, the conclusion affirms the importance of feedback analysis and in particular feedback switching as a potent means to understand changing US policy toward the coast.

## 2. Coastal management

The 1972 passage of the Coastal Zone Management Act heralded a new conception for the relationship that American citizens and businesses would have with the coast. Considering multiple

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uses and their interactions through state level planning was not only an important advance in federalism, but also a creative means to govern in a manner that could insure greater benefits to more individuals. The coastal management reform spawned its own politics as interests tested their roles under the new program.

The law created a voluntary program for states to establish land and water management plans subject to federal approval. Among the incentives for participation are enhanced authorities over federal actions and financial support for plan creation, implementation, and specific coastal improvements. Through enhanced state authority or consistency, federal agencies were required to consider state interests before taking action that would affect land, water, or other natural resources. Among the obligations that states assume through a federally approved program are identification of areas for particular concern, access to beaches, and attention to shoreline erosion [2]. This approach of thinking regionally prior to focusing on uses of specific parcels of land or water was a major innovation. Through coastal management states and local governments exert new controls over land and sea uses [23]. State programs could be viewed positively to the extent that they produce more timely and predictable results [14] based on consistent criteria for reaching decisions. The enforceable policies of a federally approved plan are implemented through new state laws and organizations (California and Rhode Island for example) or through the networking of existing state law (Florida).

In 1972 coastal management emerged onto what was becoming a crowded policy space. The Federal Water Pollution Control Act Amendments of that year incorporated important regulations for lands and waters. Earlier the Submerged Lands Act of 1953 and the Outer Continental Shelf Lands Act of 1953 had established the protocols for ownership and development of submerged federal lands for oil exploitation. State jurisdiction extends from mean high tide in most states out to three nautical miles or alternatively three leagues. From the state zone to 200 nautical miles the federal government has jurisdiction. As a result of dividing state and federal authority at three miles offshore, the Submerged Lands Act created a political boundary that left state lands and waters vulnerable to faulty management of federal waters.

The National Environmental Policy Act of 1969 and the Outer Continental Lands Act Amendments of 1978 provide additional guidance. The former requires an environmental impact for significant federal actions, which through comments would allow the states to make non-binding recommendations. The latter allows Governors to participate in the designation of tracts to be sold among other means to limit state vulnerability. In practical terms the states were historically exposed to environmental damage but received limited benefits and until recently none of the revenues the federal government collected through its leasing program.

Consistency promised to bridge this gap, at least in part. Previous articles on consistency ([1,8,11,13,26]) explain the debate but do not analyze the evolution of coastal policy using feedbacks. Feedbacks concerning consistency, pro and con, are the basis for the analysis presented in this article and constitute a new means to understand coastal policy evolution.

In legislating this new direction and inviting the states to voluntarily participate, citizens initiated an experiment that promised to significantly change how traditional sectors such as oil and gas, shipping, fishing, and construction among others operate adjacent to coasts. This comes about because state participation in coastal management requires that a state plan for the coast satisfy regulations created under the federal law. Coastal management, once implemented, introduces additional concerns about government actions, much as the National Environmental Policy Act had done earlier through Environmental Impact Statements. Absent intent and means to integrate across uses and enforceable policies, state coastal plans had little likelihood of approval and success.

Coastal management forced the old system of sector-based decisions to give way to analyses that extend across sectors and are better positioned to promote the general interest. Coastal management was an antidote to fragmentation of policies that ignored the interconnectedness of natural systems and the opportunity to make broader sectors of the public beneficiaries of coasts [5].

### 3. Policy feedbacks

Identifying feedbacks as a means to understand how policy innovations evolve has a long history. When Schattschneider [25] juxtaposed the limited economic value of tariffs to the nation with the vast success of the initiative in cultivating interests he uncovered the power of feedbacks. He observed that, "New policies create new politics" ([25], 288). The new politics of tariffs like the new politics of coastal management spawned feedbacks from those affected. Each in turn shaped policy going forward.

Lowi [15] focused on functions of government where policy development or resource allocation is manifest. They are likely targets for feedback. The distributive function, characterized as decisions made in the short run without consideration of the limits of resources, is calculated to serve clienteles by distributing resources to them. A generous federal oil leasing program would be an example. A consequence of the distributive function is feedback by favored recipients to continue and expand the activity.

Second, the regulatory function, commonly empowering government through specific laws lacks discretion about which entities can be favored [15]. The regulatory function shapes alternatives or costs for private entities equally, at least in theory. If new policy or law transitions a topic from a distributive to a regulatory regime, Lowi [15] anticipates a period of negative feedback by those interests adversely affected. This observation reaches to the center of the consistency debate.

Finally the redistributive function of government, exemplified by income taxes, aims to provide equality among classes within the society [15]. Many coastal policies act to redistribute the benefits of the coast as they affect access to the shore and environmental quality among other values.

Pierson [22] further refines the discussion of feedbacks by recognizing that action may be targeted on resources that include materials, access to authority, or incentives related to both. Alternatively feedbacks may occur through interpretations that arise from learning and observations concerning a policy's impact and traceability. Those responding in this setting include interest groups, government elites, and mass publics. Interest groups expect financing, access, new organizing niches, and other spoils. Governmental entities seek to expand administrative capacities. When mass publics are aware of policy changes, can trace them to specific sources, and find them positive, they may lock in the policy over an extended period. This process heavily influences the state of US coastal management today. The law changes the situation of actors; the actors respond to meet their specific needs; and policy changes like coastal access can be locked in.

If the reform is durable then it will align public authority in new ways and generate the needed positive feedback effects [20,21]. The new political dynamic, if serving the general interest, will last when it increases citizen demands for consistent action, and disempowers narrow groups by exposing them to democratic accountability. For Patashnik [20,21] new policy creates new interests and in so doing reshapes politics. He finds stable groups with multiple supportive clienteles that make specific investments in the new order will entrench the reform. Whereas, if the reform produces changing coalitions and low cohesion, modest investments, and minimum organizational adaptation, then erosion of the reform ensues.

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