

Addressing Environmental Justice through In-Kind Court Settlements

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Abstract

Cash penalties in U.S. environmental court cases can be mitigated if a defendant volunteers to undertake an in-kind project in the location of their violation, for example, by creating an education program or building a public park. A stated goal of the policy is to address environmental justice concerns for low-income and minority populations. However, the historical record shows in-kind settlements most likely occur in the cases involving high-income, majority-white communities. The welfare implications of this inequality are not straightforward. We find evidence that punishment in kind is more lenient than in cash: firms volunteering in-kind punishment receive positive reactions by the public and the stock market. More leniency could have implications for future environmental violations. We account for intertemporal changes in environmental quality in a dynamic discrete choice model of settlement type. Using the record of past decisions, we estimate the implied social welfare weights and show the distribution of in-kind settlements is sensitive to counterfactual welfare weights.

JEL-Classification: Q58, H23, D63

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