Across the United States, thousands of biologists, lawyers, economists, geologists, anthropologists, engineers, and sociologists, to name a few disciplines, hold positions in federal, state, and local agencies to implement environmental policy. The vast majority of these individuals are career civil servants responsible for overseeing food safety and safe drinking water or designating critical habitat to prevent the polar bear in Alaska from going extinct. We rarely read about these individuals on our daily Twitter newsfeed. Instead, social media sites (e.g., Twitter, Facebook, Instagram) engender doom scrolling about U.S. environmental policy because of a deeply divided Congress.

However, these negative perspectives, we argue, bring opportunity for alternative understanding. Environmental policy in the twenty-first century is often not made in the halls of Congress. In this edited collection, we argue that understanding the nuances of U.S. environmental regulations is imperative. Our focus is simple: We want readers to understand how federal environmental agencies (rule writers) and state inspectors implement environmental policy. For everyday Americans, environmental policy is complex and, for some, falls short of expectations. After reading this text, readers should understand how environ-
mental policy is quietly guided by experts in regulatory agencies to weather a bumpy political storm.

This chapter serves as a foundation, where we introduce the theme of the text—understanding the evolution of environmental rulemaking and regulations from creation to implementation. Subsequent chapters are guided by rich case studies or real-world examples to foster among students an understanding of the connection of theory to practice and an appreciation of the pathways and opportunities for environmental policy outside of Congress. Collectively, the chapters serve as the baseline for an environmental policy tomorrow, the descriptive framework described in Chapter 8.

The focus in this introductory chapter is to examine the process and implementation of U.S. environmental regulations. Specifically, I describe why and how regulations are made and what happens after a regulation goes into effect. This chapter challenges us to rethink the notion that environmental policy is made only in Congress. Instead, environmental policy is shaped and defined across federal and state agencies.

Context Defined

Many college courses do not spend much time defining regulation or the actors involved. We believe it is important to provide context into the interconnectedness between the so-called fourth branch of government (bureaucracy), environmental policy, regulation (and its process of rulemaking), and its unsung heroes (front-line actors). As we know, the United States has three major branches of government—legislative, executive, and judicial. Within this system of governance, each branch provides checks and balances on the others.

For example, when Congress (the legislative branch) passes a law, the president (the executive branch) must sign for the law to go into effect. Unfortunately, we do not spend enough time discussing with students what occurs after a congressional law is enacted. Congress delegates its lawmaking authority to administrative agencies (the bureaucracy), where policy is implemented. An administrative agency is also known as a federal organization or agency (e.g., the Environmental Protection Agency, U.S. Fish and Wildlife Service, Bureau of Land Management, National Park Service). Bureaucrats are the individuals such as scien-
tists and policy analysts who work in these agencies. We begin with a discussion of why Congress delegates its lawmaking authority to agencies before turning to defining regulations, its process (rulemaking), and an overview of the chapters in this text.

**Congressional Delegation**

When Congress grants policy-making power to federal agencies, it is described as delegation of authority. There are numerous motivations for why delegation of authority occurs, and they warrant explanation. We identify three areas—setting guidelines, shifting responsibility, and expertise—to explain why Congress delegates its lawmaking authority to agencies.

**Setting clear and specific guidelines.** The first explanation for delegation of authority is because members of Congress do not want to specify particular details about programs in legislation. Doing so could be detrimental for their reelection efforts.² We use a coal-burning power plant to illustrate this point. Let’s consider Congress creates legislation setting guidelines for allowable emission levels (a cap) for coal-burning power plants across the United States. These new standards make the air cleaner, reducing health consequences. However, such parameters could also lead to layoffs in a congressional member’s district if the coal company does not have the financial resources to install new technology to meet targets. In turn, citizens of these districts might become angry, harming the Congress member’s reelection efforts. Alternatively, members of Congress leave legislation ambiguous so that experts in an administrative agency will use their expertise to interpret and implement the law.

**Shifting the responsibility.** Vague congressional legislation informs the second rationale for delegation of authority—shifting responsibility.³ Members of Congress shift their policy-making authority to agencies to shift the blame to agencies. We use another example—critical habitat designation for the polar bear—to explore this rationale. Instead of Congress passing legislation setting aside a specific habitat area to protect the polar bear from becoming extinct, the U.S. Fish and Wildlife Service (USFWS) can research the implications of various scenarios. For example, a decision about the designation of habitat decision could anger oil and gas companies because a habitat area is within a large oil
reserve. Leaving policy implementation to the USFWS in this case shifts blame to the experts, not Congress.

Expertise. The final rationale for congressional delegation of authority is expertise. Members of Congress are not experts in each and every policy area. Instead, federal and state agencies are composed of experts in specific policy areas with the knowledge to carry out public policy. For example, a congressional member might not have the expertise to determine the acceptable levels of carbon monoxide for indoor air quality. Experts in the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA) possess the training and educational background to make these determinations.

Delegation of authority may cause us to wonder how unelected bureaucrats can use their expertise to implement public policy. Congress, the president, and the courts serve as accountability checks, and Congress explicitly delegates its policy-making authority. Table 1.1 illustrates how each branch of government serves as a check on agency decision making. We explore the role of each branch in turn.

Congress created the Administrative Procedures Act (APA) of 1946 as the primary oversight mechanism of agency decision making. Agency decision making is also known as rulemaking (discussed later in this chapter). The APA requires agencies to follow its administrative rulemaking guidelines so that government entities can carry out congressional statutes through the creation of rules. An agency rule carries the same weight as a congressional law. Congress requires agencies to provide notice to the public so Americans can participate in processes.

<table>
<thead>
<tr>
<th>Branch of government</th>
<th>Forms of accountability for bureaucracy</th>
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</table>
| Legislative (Congress) | • Administrative Procedure Act of 1946  
• Budgets  
• Legislation |
| Executive (the president) | • Presidential appointments  
• Office of Management and Budget’s Office of Regulatory Affairs |
| Judicial (the courts) | • Litigation |
Congressional budgets and legislation serve as additional accountability measures. Congress controls agency budgets. The U.S. Senate Appropriations Committee determines how much money an agency receives for specific programs. If members of Congress are troubled by the policy direction of an agency, the agency’s budget can be decreased. Moreover, Congress can write legislation to overturn an agency rule. This approach rarely occurs, because it takes a great deal of effort to create and pass congressional legislation.4

The president and Supreme Court play oversight roles in agency decision making. Presidents have the power to appoint (with Senate confirmation) the head of an agency. President Richard Nixon recommended William Ruckelshaus to serve as the first-ever administrator for the EPA. This person serves at the highest level of a federal agency and can determine the policy direction, which often aligns with the president’s political perspective. Ruckelshaus, however, demonstrated otherwise. His approach was to ensure the implementation of the EPA’s mission “to protect environmental and human health.”5 The president also uses the Office of Management and Budget’s (OMB) Office of Regulatory Affairs (OIRA) review. OIRA’s role is to review the costs and benefits associated with agency regulations that may be economically burdensome for business (over $100 million). As stated in President Ronald Reagan’s Executive Order 12291, the OMB director is authorized to “review any draft proposed or final rule or regulatory impact analysis from a covered agency.”6 Succeeding presidents have continued the practice of OIRA review with the goal of ensuring regulations do not have an undue impact on business.

As Neil Kerwin and Scott Furlong suggest, “No institution of government has been as persistent in its oversight of rulemaking for a longer period of time than the federal judiciary.”7 This statement reminds us that individuals or organizations that are not pleased with the outcome of an agency decision are entitled to seek litigation. For example, the EPA might make a determination to ban chemicals used by dry cleaners. In turn, the dry cleaner’s association files suit against the EPA because it does not agree with the rule. The finalization of the rule is pending until courts determine the outcome.

This discussion of the delegation of authority provides insight into the why behind agency decision making and lays the foundation for the
Environmental Policy, Regulations, and Understanding the Process

Congress deals with several public policy issues on a daily basis, and one of these is environmental policy—government action related to the natural environment. Regulation, by way of comparison, implements legislation. Implementation occurs through a process of rulemaking and compliance (inspections). Environmental regulation is legislation carried out by agencies to protect the natural environment.

The focus of this book is an examination of how environmental agencies at the federal and state level carry out congressional laws. Table 1.2 provides a brief list of federal and state environmental agencies to illustrate the types of organizations tasked with carrying out environmental regulations in the United States. Each federal and state agency contains a mission statement that indicates the expectations of policy implementation by Congress (federal level) or a state legislature.

Administrative rulemaking is the process through which environmental policies are interpreted and defined into rules by rule writers. A rule writer is the overseer of the rulemaking process. His or her training and expertise vary by agency (e.g., environmental science, law, policy, wildlife biology). This is a step-by-step process (see Figure 1.1).

Once a rule is final, to ensure compliance and implementation, state-level agencies use an inspection process (see Chapter 5) and state-level rulemaking (Chapter 6) to monitor activities and behaviors of regulated entities (e.g., businesses). The inspection process is guided by state-level regulators (also known as inspectors).

The Rulemaking Process: Step-by-Step Guide

With the initial foundational concepts defined, we offer a step-by-step outline of the rulemaking process. Each of these stages is explored in later chapters through case studies. This chapter introduces the
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<tr>
<th>Federal agency</th>
<th>Mission statement</th>
<th>State agency</th>
<th>Mission statement</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. Environmental Protection Agency</td>
<td>To protect human health and the environment&lt;sup&gt;1&lt;/sup&gt;</td>
<td>Montana Department of Environmental Quality</td>
<td>Protect, sustain, and improve a clean and healthful environment to benefit present and future generations&lt;sup&gt;2&lt;/sup&gt;</td>
</tr>
<tr>
<td>U.S. Fish and Wildlife Service</td>
<td>Conserve, protect, and enhance fish and wildlife, and their habitats for the continuing benefit of the American people&lt;sup&gt;3&lt;/sup&gt;</td>
<td>Ohio Environmental Protection Agency</td>
<td>Protect the environment and public health by ensuring compliance with environmental laws and demonstrating leadership in environmental stewardship&lt;sup&gt;4&lt;/sup&gt;</td>
</tr>
<tr>
<td>National Park Service</td>
<td>Preserves unimpaired the natural and cultural resources and values of the National Park System for the enjoyment, education, and inspiration of this and future generations&lt;sup&gt;5&lt;/sup&gt;</td>
<td>Colorado Department of Public Health and Environment</td>
<td>To protect and improve the health of Colorado’s people and the quality of its environment&lt;sup&gt;6&lt;/sup&gt;</td>
</tr>
<tr>
<td>Bureau of Land Management</td>
<td>Sustain the health, diversity, and productivity of public lands for the use and enjoyment of present and future generations&lt;sup&gt;7&lt;/sup&gt;</td>
<td>Wisconsin Department of Natural Resources</td>
<td>To protect and enhance our natural environment&lt;sup&gt;8&lt;/sup&gt;</td>
</tr>
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basics of the process (see Figure 1.1) and how various institutional entities (Congress, the courts, the president) and noninstitutional actors (stakeholder groups) are involved. The case of biking routes in Mammoth Cave National Park is used to explore the intricacies of rulemaking.9

Mountain Biking in Mammoth Cave National Park

Mountain biking is a favorite pastime for many Americans. In 2018 alone, more than eight million Americans participated in mountain biking as a leisure activity. One might assume that mountain biking is an environmentally sustainable activity. However, environmental policy is much more complex than decreasing carbon emissions through sustainable practices such as biking.

Across the United States, national parks confront the impact of mountain biking on native plants and species or cultural sites within park boundaries. Since the 1970s, the common approach has been to ban mountain bike use across all national parks, because the language Congress used to create the National Park Service (NPS) indicated a dual purpose. The NPS was created “to promote and regulate the use of the Federal areas known as national parks, monuments, and reservations . . . by such means and measures as conform to the fundamental purpose to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.” Since the agency’s inception, NPS management and staff have continuously attempted to reconcile the tensions between preserving and promoting resources.

For example, in 2012, the National Park Service director, Jon Jarvis, concluded that “bikes are a great way to exercise, get healthy and
experience the great outdoors”; therefore, decisions about prohibiting or allowing biking should be up to specific park unit superintendents. Parks such as Mammoth Cave National Park (MCNP) decided to engage the public through regulatory processes to determine whether mountain biking would be a viable option in carrying out the park’s specific mission.

MCNP, located in southeastern Kentucky, contains more than four hundred caves and fifty-three thousand acres of forest. The mission of MCNP is “to protect and preserve for the future the limestone caverns and associated karst topography, and the biologically diverse Green River, but also to provide for scientific study, public education, and sustainable recreation use.” Part of the regulatory process is to receive input from the public. In this example, park staff heard from environmental organizations, cave divers, and mountain biking companies. These organizations provided input to park staff about mountain biking in the park and helped to shape the park’s path forward. This example is useful to trace through the federal rulemaking process.

Stage 1
As noted earlier in this chapter, one of Congress’s accountability mechanisms is the Administrative Procedures Act of 1946, which defines the parameters for an agency expert (rule writer) to initiate the creation of a rule. Figure 1.1 illustrates the stages of how an agency expert creates a rule. Stage 1 is best described as the pre-rule phase, when information gathering transpires. The National Park Service—and specifically, for the case explored in this chapter, Mammoth Cave National Park—has the statutory authority to create a rule regarding bicycle use because it must “conserve the scenery and the natural and historic objectives of the wild.”

During this stage, agency rule writers informally discuss with affected parties, prior to promulgation of a rule, their goal of examining new bicycle routes in the park. At this point in the process, the agency can gather information and conduct research to best inform the later publication of a proposed rule. In the MCNP case, agency rule writers met with frequent park visitors, scientists (to determine the impact on vegetation), and outdoor recreation groups, to name a few. These conversations inform the agency about potential concerns
Stage 2
The informal pre-rule interactions lead to stage 2, when an agency publishes a notice of proposed rulemaking in the *Federal Register*. Recall that a federal agency uses statutory intent from congressional legislation to propose a rule. The *Federal Register* is a daily publication of all U.S. federal agency regulations. Federal administrative agencies are required by the APA to publish and provide notice to the public about a rule. Daily updates of the *Federal Register* can be found at www.federalregister.gov.

On May 11, 2012, the NPS provided notice to the public (notice of proposed rulemaking), inviting comment on adding connector trails for individuals to ride their bikes from campgrounds, for example, to other parts of the park. During this stage, the public has a set time frame to comment on a proposed rule. Comments can be submitted electronically or, in some cases, sent by mail. As Sara Rinfret, Michelle Pautz, and Denise Scheberle note, “Congress provided for a public comment period to ensure agencies considered public input, creating a mechanism for citizen participation in agency decision making.”

Typically, a federal agency invites public comments for thirty to sixty days. In the case of seeking input about biking in MCNP, the NPS provided ninety days. If an agency believes more time is necessary, the comment period can be reopened or extended. Importantly, anyone can submit a public comment and voice opinions on a given rule. After the comment period commences, agency personnel are required by the APA to review the comments and respond to commenters. After examining the comments, the agency uses this information to determine the language and substance of the final rule. Depending on the volume of public comments and the capacity of agency staff, it can take an agency one to two years to review public comments. In the case of Mammoth Cave National Park’s consideration of biking, it took agency staff four months to complete the review.

Mammoth Cave National Park received twenty-one public comments about adding connector bicycling trails. The comments ranged from suggestions to open more access points in the backcountry for
biking to creating shared routes with horseback riding. Some applauded the NPS staff for ensuring effective use for bicycling in the park that does not impact wilderness areas or vegetation. The agency responded to concerns and made changes from the proposed rule to the final rule. Because of participant feedback, for example, the agency changed the speed limit in the park to fifteen miles per hour to ensure public health and safety for visitors. Chapter 2 details the nuances of this stage to determine how and why comments make an impact on environmental policy making.

Stage 3
Once an agency completes stages 1 and 2, a final rule is published in the Federal Register if affected parties do not pursue litigation. Although final rules are published electronically on the Federal Register, each rule can easily be downloaded. The final rule for the Mammoth Cave case study was published on September 12, 2012.

Stage 4
A final stage involves possible post-rulemaking activities. If a person or group wishes to contest the final rule, litigation or the court system can be used to challenge the final actions of an agency. Depending on the outcome of a court case, a rule cannot be finalized until a judicial decision is made. This was not the case in the Mammoth Cave rule, but Chapter 4 discusses how post-rulemaking activities can impact the outcome of a rule.

State Rulemaking
Although much of this text focuses on the federal rulemaking process, it is worth mentioning that states mirror a similar process. State legislatures create state-level policy. To implement these policies, state agencies must follow the State Administrative Procedure Act (SAPA) set by their respective states (see Chapter 6 for more information).

Most state rulemaking processes begin with an internal agency review to determine whether rulemaking is the best or most appropriate action to address a particular problem. At this phase, agency staff reach out to stakeholder groups to receive input on a policy issue. The process unfolds when the state agency submits a formal pro-
posed rulemaking in a state register. After the agency publishes the notice of proposed rulemaking, a public comment period begins. In the final phase, the state agency provides a complete text of the rule to notify the governor, the president of the state senate, the speaker of the state assembly, and the administrative regulations reviews commission (if a state has one) that a rule is being finalized. The final terms of the state rule are published in the state’s register.12

State rulemaking is of additional importance when there is an absence of federal policy. For instance, due to the lack of federal policy for hydraulic fracturing (fracking), it is up to states to use rulemaking processes to come up with their own policies (see more on this in Chapter 6).

Environmental Inspectors

Once a federal or state rule becomes a law, regulators and members of the regulated community (businesses and other regulated entities) perform ongoing compliance work. Regulators on the front lines—or street-level bureaucrats—are responsible for the success or failure of policy implementation.13

With environmental policy, state regulators are responsible for the vast majority of implementation.14 For instance, many states have oil and gas regulators whose goal is to ensure compliance with laws such as the Clean Air Act or the Safe Drinking Water Act (see Chapter 6). Typically, these individuals work for their state’s environmental protection agency. A state regulator, for example, visits oil and gas production facilities throughout her or his state. If, during one of the visits, emission levels exceed federal limits, the state regulator could work with the business operator to address the issue or close the facility until the issue is remedied (typically for repeat offenders).

A federal regulator, by way of comparison, performs oversight for the mining of coal and the safety of workers. The U.S. Department of Labor suggests underground coal mining is one of the most hazardous occupations in the nation due to concerns surrounding proper ventilation. If ventilation is not provided, deadly results can, and have, occurred. For this reason, the federal Mine Safety and Health Administration regulators have the statutory authority under the Federal Coal Mine Health and Safety Act of 1969 to monitor underground mining
practices. Regulators from the Mine Safety and Health Administration examine underground mines to make sure proper equipment and ventilation are provided for miners to help prevent respiratory diseases from coal dust.

State and federal regulators cross a variety of policy areas. To ensure public policy is carried out as intended by the law, regulators conduct site visits. The process to ensure compliance with the law is described as an inspection process or site visit, which Chapter 5 explores in depth. The inspection is where some individuals paint a bad picture of regulators, classifying them as “cops” due to their negative interactions with an inspector during a site visit.

Inspectors are often defined by their interactions with facilities during site visits, over time. These interactions are classified as either precision based or intention based. The precision-based approach is strict and by the book; the regulator is a tough enforcer of the law. Intention-based regulators are more flexible in their approach to compliance and use cooperative means to ensure standards are met, working with the regulated community. Given the situation, a regulator may opt to use a combination of precision- and intention-based enforcement mechanisms to seek compliance from the regulated community.15

Highlighting the processes and day-to-day approaches used by rule writers and regulators is especially important for understanding where environmental policy is made in the United States. This edited volume, a first of its kind, is collectively written by the experts in U.S. environmental rulemaking and regulatory policy. Bringing together top scholars in one volume to discuss environmental rulemaking from development (rule creation) to implementation (inspection) advances our understanding of how U.S. environmental policy is made. The chapters are rooted in interview data, explanatory case studies, and real-world examples. The goal is to document why understanding regulatory policy matters for environmental policy tomorrow.

Plan of the Book

To enhance understanding of regulatory policy and its centrality in U.S. environmental policy making, this chapter provides an overview of the regulatory process. Chapters 2 through 7 provide an in-depth
look into U.S. regulatory policy through an environmental lens. Figure 1.2 offers a brief snapshot of each chapter.

Chapter 2 focuses on the first stage of environmental rulemaking: rule development. The rule development phase is where informal communication occurs between interest groups and agency personnel. At this stage, an agency acquires additional research or discusses a rule with affected entities. Explored are the various rule development approaches used by environmental agencies, from Advanced Notices of Proposed Rulemaking, to regulatory negotiations, to informal conversations with stakeholder groups. The chapter documents how this information serves as a baseline to determine how an agency writes a rule and publishes a notice of proposed rulemaking in the Federal Register for public comment. To illuminate how agency rule writers informally gather information to write a rule at this stage, the chapter case explores pet management in the Golden Gate National Recreation Area.

Chapter 3 covers the second stage in the rulemaking process: notice and comment. This stage offers the public the opportunity to influence agency decisions through submitting public comments on proposed rules. This chapter explores and defines the various groups that might participate in a given rule and why they do so. Agency personnel must review and respond to these comments while publicly justifying their preferred course of action. If the justification is inadequate, members of the public can use their comments as the basis to overturn a rule.

Chapter 3 also describes the genesis of the public comment period—to enhance bureaucratic accountability—along with how agencies have sought to engage the public through traditional media, hearings, and, more recently, e-rulemaking. The chapter also summarizes the many pitfalls and challenges associated with relying on notice and comment processes relating to accountability, technical expertise,
implementation, and equity. The chapter’s case further addresses the challenges of technical expertise and equity by summarizing findings from two climate change–related rulemakings to examine why some members of the public are granted rule changes while others are not.

In the environmental arena, rule finalization can be riddled with controversy. Chapter 4 explores the key institutional (official) actors and their impact on the finalization of U.S. environmental rules. This chapter uses the Endangered Species Act as its case study to provide an in-depth perspective into how Congress, the courts, and the president have attempted to influence twenty-first-century environmental rulemaking. We document the roles of executive orders and the courts and how these impact the role of career civil servants tasked with finalizing an environmental rule. Chapter 4 concludes with a description of what happens after a rule becomes final and stresses the essential role of environmental inspectors and state actors in the implementation—the focus of Chapters 5, 6, and 7.

Crucial to understanding environmental policy on the front lines is investigating how environmental policy is implemented. Chapter 5 tells the story of the implementation of the rules and regulations that are discussed in the earlier chapters. Even after rules are promulgated, implementation is neither straightforward nor easily achieved. Federal environmental rules are delegated to the states for implementation, and state environmental agencies monitor the compliance of regulated firms with these regulations. Inspectors from state—and even sometimes local—government agencies conduct routine inspections to ensure regulatory compliance. The regulatory enforcement approaches or styles of these inspectors are significant in understanding how environmental policy is implemented. Furthermore, the nature of the interactions between the inspector and the regulated community remains a vital, but understudied, area of regulatory compliance. The chapter draws on examples of environmental air quality inspectors to convey the complexities associated with monitoring and enforcing compliance with environmental regulations.

Much like Chapter 5, Chapter 6 explores the role of state and local governments in the implementation of environmental rules. This chapter offers a case study of oil and gas regulation in Colorado. Few issues have been as controversial in Colorado in recent years as oil and gas development. The dramatic increase in drilling activity—much of it in
populated areas not accustomed to large-scale energy development—unleashed a political firestorm that shows no signs of abating. This chapter examines how the political furor has shaped (and reshaped) the Colorado Oil and Gas Conservation Commission (COGCC), the state agency responsible for regulating oil and gas development, and oil and gas regulation. Since the early 2000s, the composition of the COGCC has been altered twice, and the state’s permitting rules have been amended several times. The state legislature recently fundamentally altered the body’s mandate while giving local governments more authority over permitting. The chapter examines how the COGCC has adapted to these changes and how the changes affect permitting and oversight.

Chapter 7 brings to light the interconnectedness between state and federal regulatory actors. This chapter explores how coal, as a longtime fuel source for the generation of electricity, has been in a steady decline recently because of its negative impacts on environmental quality and climate change as well as its inability to compete in the marketplace with cleaner fuels such as natural gas and renewables. Links between the extraction or combustion of coal and pollution problems are well known. However, an increasingly important policy problem examined in Chapter 7 is what has been done to regulate an unwanted by-product: the disposal and storage of coal ash and the risks it poses for water quality and public health. The interplay among multiple policy actors in the regulatory process, including the EPA, state regulators, and utility officials, has resulted in considerable variation across states. Adding to the policy primeval soup is legal uncertainty that surrounds the relationship between coal ash leaks and the subsequent contamination of nearby underground water sources as well as the occasional rise in public visibility and concern that arises from major events in Kentucky and North Carolina.

Partisan Politics and the Importance of Regulatory Processes

In all likelihood, Congress will remain politically divided and subject to policy gridlock for years to come. In 2019, with Republican control of the White House and U.S. Senate, most policies were dead on arrival. This was especially true of environmental initiatives due to a lack
of trust in science to inform decision making and a discourse asserting that regulations are bad for business. With this said, recall that the first term of the Obama administration maintained a democratically controlled White House and Congress, health care barely passed, and environmental policy was not at the forefront. Even with the 2020 election over, the outcome for the presidency and Congress could involve divisiveness for generations.

Such a condition reinforces the importance of rulemaking and regulation as an alternative pathway for environmental policy making. In the absence of congressional action, we look increasingly to agency rule writers and inspectors for critical and innovative approaches to advance U.S. environmental policy. These individuals are career civil servants who use their expertise to implement environmental policy in an often highly politicized arena. The concluding chapter of this volume highlights our collective work and offers a guidepost to the environmental policy tomorrow framework. The elements of this framework (lessons, listening, and leading), we contend, offer direction for a united regulatory journey.

Concluding Thoughts

U.S. environmental policy has undergone significant change due to a myriad of actors. For decades, the United States led the charge and set high standards to protect endangered species, clean the nation’s waterways, and provide potable water. In 2016, the election of President Donald J. Trump without a doubt changed the direction of U.S. environmental policy. In his mind, environmental policies, or regulations, are bad for business, and his administration aggressively attempted to roll back environmental regulations. Trump rolled back more than one hundred environmental rules and withdrew the United States from the Paris Agreement international treaty on climate change. In his first one hundred days in office, President Biden is already working to undo these rollbacks. The impact of these efforts remains to be seen.

This does not mean environmental regulations are at a standstill, but rollbacks are part of defining the historical context of the regulatory apparatus. At the completion of this text, readers will have learned how environmental policy is made outside of Congress; how regulations
have protected the environment; how public opinion increasingly supports environmental regulations; how business and regulators can and do work together; how states are incubators of environmental innovation; and how agency policy makers (rule writers and inspectors) reconcile external and internal pressures to carry out their agency’s missions.

This collective work delves deeply to uncover why environmental policy is not dead in the United States. The U.S. public supports protecting the environment. In 2017, a public opinion poll conducted by Pew Research Center documented that 74 percent of adults believe “the country should do whatever it takes to protect our environment.” Because of Americans’ willingness to roll up their sleeves and understand the complexities of environmental regulations, there are always positive pathways forward. As we begin this regulatory journey, consider this reminder from Daniel Fiorino: “Regulation has delivered results.”17 As a result, this work serves as the building blocks for environmental policy tomorrow.

Notes


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