Lobbying and Environmental Policy:

Why the Fossil Fuel Industry is so Successful

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Abstract

The United States policymaking process is a complex set of rules, institutions, and influences that work together to generate laws. Set within this context is environmental policymaking, where several different agencies, Congressional committees, and a slew of special interests work tirelessly and spend millions in an attempt to create legislation. Given the importance of environmental policy, there is surprisingly little research that studies how and why the fossil fuel energy sector, especially coal - the dirtiest energy source, has so much influence over policy decisions. This paper aims to explore the ways that lobbyists, particularly those for the coal industry, subvert environmental groups and ensure that America does not move forward on climate change policy. Resources, policy environment, and public perception will all be considered to explain why the coal and other non-renewable energy industries so often succeed in thwarting regulation and blocking environmental legislation.

Introduction

Lobbying, though one of the most criticized professions in Washington, is constitutionally protected as the right to petition the government for redress of grievances. Lobbyists are critical players in a functioning government; however, they exert significant influence over policy. This leads many to believe that lobbyists subvert the public interest, are bad for democracy, and must be regulated. As with all parts of the government and policy process, the activity and influence of lobbyists is well documented. While the effects of lobbying are well document in the scholarly literature, there is little that specifically addresses environmental lobbying and the role that lobbyists play in development of those policies. Despite the vast sums of money that lobbyists on both sides spend influencing legislation, little research has been done about the mechanisms and tactics that environmental lobbyists employ.

We are living in a generation with almost irrefutable scientific evidence that points to anthropogenic climate change, yet the US, a major contributor to green house gas emissions, has not passed serious environmental legislation since the 1970s, when the Clean Air Act, the Clean Water Act, and other environmental laws were passed. Why is this? It is certainly not for a lack of trying. In 2009, the House of Representatives passed the American Clean Energy and Security Act, which would have established a national cap and trade system, but the bill did not pass the Senate and was killed when Republicans took the House in the 2010 midterm elections. Additionally, the EPA has attempted to implement stricter standards on coal-fired power plants, which were heavily opposed by the coal industry, which has successfully tied these regulations up in the court system.

Fossil fuel industry spending on lobbying and campaign donations has skyrocketed over the last decade; yet, there is almost no scholarly literature to address the scope, nature and effects of these efforts. Time and time again, non-renewable energy interests have been able to undermine the work of environmental groups, the EPA, and Congressional legislation by either blocking or weakening attempts at regulation. What is it that allows these groups to exert such influence over environmental policy? Is it sheer resources and ability to make campaign donations, or does the policy environment and public perception also play a role? The level of polarization and how divided a government is may also impact the effectiveness of lobbying as well. If one party controls the House, the Senate, and the Presidency, it is easier to get legislation passed. However, if government is divided and legislators have extreme ideologies, compromise is difficult and lobbyists working for a proposal cannot influence the other side as easily. Through this paper, I will explore how these different factors lead to the continued success of the fossil fuel industry in defeating environmental policy.

Literature Review

Given the rapidly accelerating pace of climate change, it is important to understand US environmental policy and the process by which it is made and influenced. Environmental legislation is made through a messy combination of Congress and the agencies of the executive branch. While the process by which Congress passes a bill is known to most people, what is not as well known is that Congress also delegates significant authority to the agencies to interpret loose guidelines and implement laws (Fiorino 1995, 23). In fact, rulemaking, the process by which agencies make policy, actually accounts for 90% of what we consider laws because agencies are able to fill in the wide gaps in Congressional legislation (Yackee 2012, 375). While the agencies can make significant impacts on policy, it is still important to realize that they are held accountable to Congress through oversight and the appropriations process and to the courts through judicial appeals (Fiorino 1995, 23). With so many players in the environmental policy realm, there is often overlap, confusion, and differing agendas across the separate organizations. The major players within the government are the President, several different agencies (EPA, the Department of Defense, the Department of Energy, the Department of Agriculture, and the Department of Interior), Congress (specifically the Environment, Energy, Agriculture, and Appropriations Committees), and the courts. There are also factors influencing environmental policy from outside the government including special interest groups, such as trade organizations and business interests, and lobbyists (Fiorino 1995, 23). All of these factors combine to create environmental policy, and it is imperative to know what role they all play in the process, since environmental policy impacts our health and the sustainability of our earth.

On Lobbyists

While many would blame all the evils in Washington on the lobbyists attempting to influence policy on behalf of special interests, lobbying is an explicitly protected right under the First Amendment to the Constitution. It is the right to petition the government to redress of grievances, and for better or worse, that is what Washington's lobbyists do (Morrison 2008, 1). Lobbyists play a vital role in our government by providing law makers with information, drafting legislation, and helping clients understand dense laws and Washington politics.

While there are many good things that lobbyists bring to the table, there is also cause for concern and reason to believe lobbying should be a regulated activity. Many worry, for good reasons, about money in politics and undue influence on government officials, which is why Congress passed a series of reforms to regulate lobbyists and make the public more aware of their work. This has partially dispelled the notion of lobbyists buying votes and has helped keep the industry transparent (Morrison 2008, 2-5). Despite criticisms of what lobbyists do, it is easy to see that they have a lot of power and influence over policy in Washington, and it is critical to understand how they influence policy and what power they have in the government, as their work can have implications for every American citizen.

Lobbying groups have two main ways in which they can influence policy. They can either attempt to influence legislation in Congress or they can attempt to influence rulemaking by the agencies. When lobbying agencies, interest groups can influence a rule both in the pre-proposal state and during the notice and comment period, which happens after a rule has been proposed. The pre-proposal lobbying efforts can be viewed as off the record, and have been found to have an important influence on the development of rules (Yackee 2012, 374). This type of lobbying may be important because there is little transparency in the pre-proposal stages of

developing a rule. The public is often unaware of these proceedings and, therefore, it may make it easier for special interests to leave their mark on a rule without anyone even knowing how they influenced it (Yackee 2012, 375). Once a rule is proposed, the agency opens up a process known as the notice and comment period, at which time special interests can publicly attempt to influence a rule. This is an important stage of the rule making process, but is more transparent. Lobbyists participate in the notice and comment phase of rulemaking to voice their concerns on an issue, and after the comments are considered, a final rule is issued (Yackee 2012, 375).

Congress is another prime target of lobbying groups. This is the more traditional route that lobbyists take. Lobbyists are critical players in the distribution of information and the creation of legislation in Congress. They help draft amendments and work to inform Congressmen and their staff, especially those who are on the fence, about voting on an issue. The influence that lobbyists have over members of Congress is always a subject of intense debate, and led to the creation of laws limiting what lobbyists can do and making sure they disclose important information about their practice (Morrison 2008, 2-5).

In fact, lobbyists can impact the often delicate balance of delegation between Congress and the agencies. Congress often gives the agencies discretion in implementation of laws that have loose guidelines because agencies are technical experts in their fields, however Congress can choose to pass specific legislation as well that gives less discretion to the agencies (Bennedsen et al. 2006, 643). In studying the influence that lobbyists have on this delegation, Bennedsen et al. find that divided control of government decreases delegation to the agencies due to fact that "the administration tends to appoint highly loyal and ideologically compatible administrators to the top posts as well as further down in bureaucratic agencies" (Bennedsen et al. 2006, 661). In divided government, the legislature may not agree with the administration and,

therefore, wants to have more control over the legislative process as opposed to leaving it up to the agencies. The extent to which lobbying efforts can impact this delegation is another important factor in determining their influence on policy.

In general there are two main groups that lobbyists can be in on any given policy proposal: positive lobbying and negative lobbying. These positive (for a proposal) and negative (against a proposal) groups have been shown to have a statistical impact on legislative outcomes. More specifically, it has been shown that negative lobbying is one of the most important factors in policy making, second only to presidential support of a bill (McKay 2012, 116). While resources and numbers also play a role, simply being against a proposal gives your side an advantage in passing legislation, and McKay finds that you need three and a half lobbyists working for a proposal to outweigh the influence of one lobbyist working against a proposal. This is because the US tends to reinforce the status quo and it is difficult to break currently existing legislation (McKay 2012, 135). Beyond negative versus positive lobbying, other researchers have shown the resources that each side has and majority preferences are important in determining how successful lobbyists are in influencing legislation (McKay 2012, 117-119). Another tactic that lobbyists have taken is obfuscation, a tactic that worked for the tobacco companies for years in skirting regulations and is now successfully employed by heavily polluting industries. The coal, oil, and auto industries first denied that climate change existed, then they tried to make it unclear what role people played in the problem, and now they downplay the magnitude of the problem. These tactics make it hard for elected officials to propose new costs on the current generation for the benefit of future generations if the issue seems uncertain (Bazerman 2009, 173).

On Environmental Policy

When we look at lobbying in environmental policy, there are two main groups attempting to influence the direction legislation takes: environmentalists and cornucopians, each of which encompasses many different factors of the environment (Fiorino 2012). Environmentalists generally advocate conservation, albeit they have different specific areas that they focus on. There are many different non-profits fighting for protection of our environment including the Sierra Club, the Natural Resource Defense Council, the Environmental Defense Fund, and Friends of the Earth, just to name a few (Fiorino 1995, 93). These groups all have slightly different aims, such as protecting forests, nature, wildlife, and natural resources, or stopping climate change. These groups have a long list of objectives, but they all have the same overarching goal in mind. On the other side, the cornucopians advocate for fewer environmental regulations. This group does not focus on the limits of Earth's resources like environmentalist do, and they see economic growth as the solution to all the world's problems. They say that environmental regulations impede economic growth and that the government should strive instead to create a business friendly regulatory atmosphere. Cornucopians generally consist of business and non-renewable energy interests and, like the environmental side, they have different aims (Fiorino 1995, 94-95). Some may care about emissions regulations, some about toxic substance and chemical control, and others about materials and packaging they can use in their products. As environmental policy interests represent such a broad range of issues, there is assured to be groups representing both sides of every aspect of environmental policy.

Business interests are a key player in the environmental policy debate, and often fall on the side of lobbying against proposals for stricter environmental standards. Business interests have always had an opinion in environmental legislation and much research has focused on their

lobbying efforts on proposed environmental policy. Corporations generally promote a business friendly environment with few regulations that impose costs and potentially create economic inefficiencies. Because their bottom line is at stake when environmental policy reform is up for debate, "business groups have lobbied intensively at both the national and state levels for policy reforms to reduce regulatory burdens and costs and improve efficiency;" efforts which have been met with mixed success (Kraft and Kamieniecki 2007, 4). Businesses face regulations through programs such as the Toxic Substance Control Act, the Clean Water Act, the Federal Insecticide, Fungicide, and Rodenticide Act, as well as other EPA and Congressional legislation, but they have successfully avoided a cap and trade program as well as attempts to strengthen existing regulations. These attempts to increase regulation will likely continue in the future, which will keep business interests involved in lobbying.

Examining the existing literature on recent environmental legislation can also help us understand how lobbyists have attempted to influence said legislation. The most important piece of environmental legislation that has come up in the last few years is the American Clean Energy and Security Act, which would have established a national cap and trade system. This bill passed the House of Representatives in 2009 but struggled in the Senate, and after Republicans took the House in the 2010 midterm election, the bill was no longer an option (Falke 2011, 22-23). Despite the historic outcome of this bill passing even one chamber of Congress, it was diluted by business lobbying interests from the start. Large power, energy, and industrial interests that would have been most impacted by a market based cap on carbon emissions were able to weaken many provisions of the bill before it even reached the House floor. Eventually the bill was defeated anyway, but even if it had kept moving forward in the Senate, it was already greatly

impacted by cornucopian business interests. With our divided government, Falke concludes that we are even less likely to see progress in climate change legislation (Falke 2011, 22-24).

The American Clean Energy and Security Act was certainly not the first time that business interests have subverted public interest in reforming energy and environmental policy. Proponents of energy reform have criticized the government and the US legislative system as one in which "money corrupts the potential for an intelligent decisionmaking process on energy policy" (Bazerman 2009, 173). Bazerman laments the special interest groups with significant funding and organization that have disproportionate influence over legislation at the expense of the public good. He refers specifically to the auto, coal, and oil industries that "have succeeded in distorting energy politics and keeping the United States from implanting wise practices regarding climate change" (Bazerman 2009, 173). Environmentalists have long griped about well-funded special interests, especially the non-renewable energy sector, though changing public attitudes about climate change and focusing on small adjustments in individual behavior may be able to give the pro-environment groups an edge on future energy policy and climate change legislation (Bazerman 2009, 176-177).

As shown, there is a wide range of research on the environmental policy making process and the role of lobbying in this process. There are many different players exercising their rights to petition the government by lobbying for and against proposals with a variety of tactics in the House of Representatives and the Senate. This is by no means a new process, but a very important one to examine given increasing concerns about climate change and its consequences.

While there is a lot in the literature about the effects of lobbying, the environmental legislation process, and even business interests in environmental legislation, there is little that ties it all together and explains the effect of the energy lobby's influence on green initiatives in

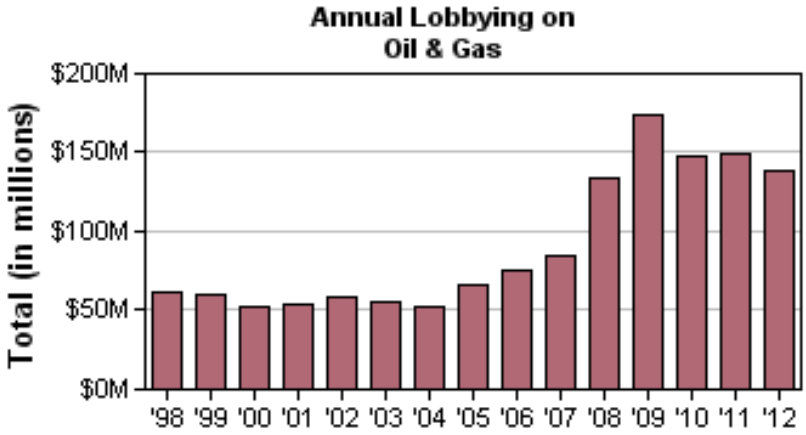
the government. This is especially true about coal, which is surprising as coal is the dirtiest form of energy we use, and thus subject to the most criticism. Mandated disclosures show that oil, natural gas, and coal lobbyists spend millions each year influencing Congress and the agencies, though no research has documented the extent of their reach and why they have such pull on our legislature. Is it money and the ability to contribute to campaigns? Is it because they are trying to maintain the status quo? It could potentially be the effect of divided government, or public perception, public awareness, and the political climate as well. There are many potential reasons why the coal and other non renewable energy industries have such influence over environmental regulation both in Congress and the EPA, and this project will fill this gap in the literature by exploring why these industries have such power and influence.

Hypothesis

I hypothesize that the fossil fuel industry is extremely successful because they have the ability to make more direct financial expenditures than environmental groups. The fossil fuel industry has significantly more financial resources than environmental groups do, and therefore make more direct expenditures to influence legislation. While money can be used in many ways, I am defining direct expenditures as donations to candidates and money spent directly on lobbying. As the general industry trends below will show, the fossil fuel industry has outspent the environmental industry in lobbying and has increased their lobbying efforts significantly more than environmental groups have in recent years. I believe the evidence will show that the ability to dramatically outspend and out-donate environmental groups has given fossil fuel interests a clear advantage in influencing policy.

General Industry Trends

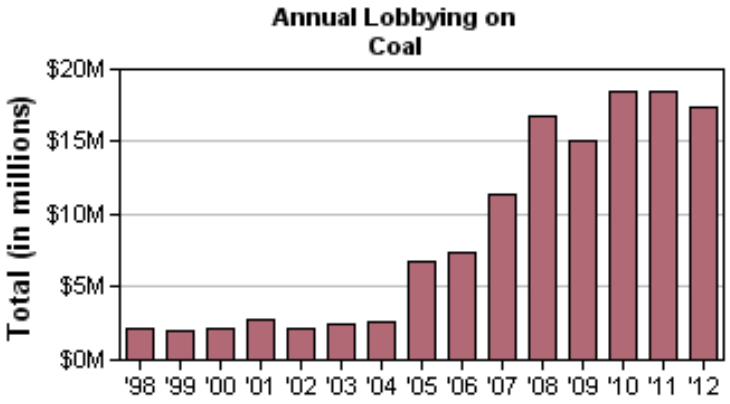
In order to assess the impact that lobbyists have, it is important to look at the lobbying industry trends in the coal, oil, gas, and environmental sector as they show a surprising and potentially problematic increase in activity over the last few years.



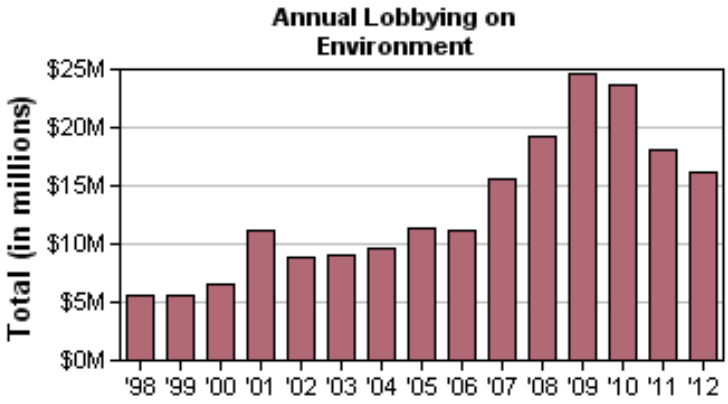
The oil and gas industry has always spent heavily on lobbying, not dropping below $50 million a year in the last 15 years. However, despite these large totals, lobbying dramatically increased beginning in 2008, and hit a peak in 2009, when the American Clean Energy and Security Act was being considered. While levels came down slightly, and have not been close to the almost $175 million spent 2009, they are still very high and hover just under the $150 million mark each year. These exorbitant spending levels mean that the oil and gas sector is in the top five for industries that spend the most on lobbying and have been every year since 2008. For comparison, they are usually only outspent by the pharmaceutical industry, business associations, and the insurance industry (OpenSecrets.org. “Ranked Sectors” 2012). These spending levels are what lead many to say that this industry has undue influence over government.

While separate from the oil and gas industry, the coal industry also spends money on lobbying and often sides with oil and gas on key issues relating to regulation and industry standards. Similarly to the oil and gas industry, lobbying spending for coal have risen

dramatically, though the increase begins in 2005 for the coal industry. While overall levels are much lower for coal than oil and gas, what is particularly interesting to look at is the percentage increase. The oil and gas industry went from approximately $50 million to approximately $150 million, a 200% increase. However, during the same time, the coal industry went from approximately $2.5 million to approximately $17.5 million, a 600% increase.



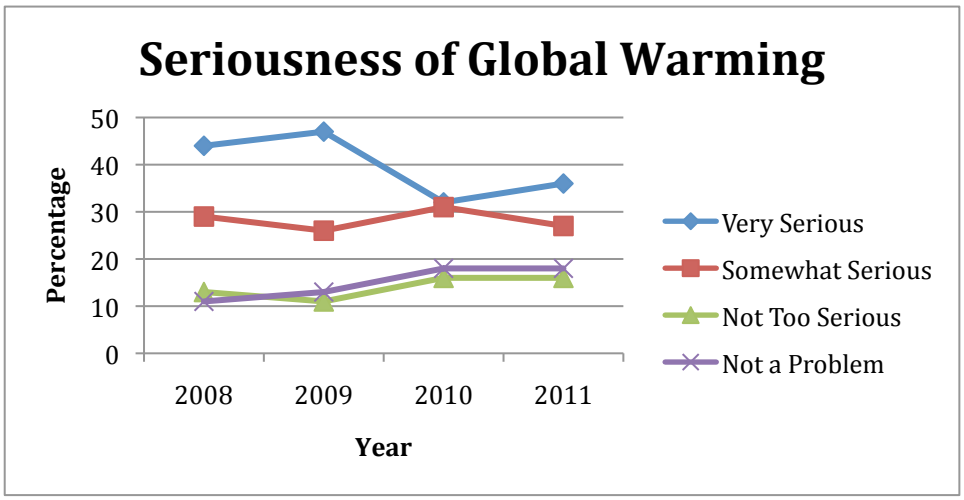
This is a much more drastic increase than in the oil and gas industry and shows that the coal industry is doing the most to ramp up lobbying efforts in the face of growing concerns about the health and environmental impacts from the mining and use of coal.



Annual lobbying on the environment is relatively comparable to lobbying on coal for the last two years, though it tends to be a bit higher. Given the vast totals spent on non-renewable energy sources, spending on environmental lobbying pales in comparison. Additionally, while

totals have risen since 1998, the increase has been more gradual and less drastic than the coal industry. While 2009 and 2010 were particularly high; the percentage increase from 1998 (approx. $5 million) to 2012 (approx. $15.5 million) is just over 200%, meaning levels haven't risen as drastically despite the increased effects of global warming.

Trends in Public Perception



The above chart is a compilation of data on the public perception of the seriousness of global warming. This poll, conducted by Pew Research Center, asked Americans, "In your view, is global warming a very serious problem, somewhat serious, not too serious, or not a problem?" Interestingly, the percentage of Americans who believe that global warming is a very serious problem has fallen since 2008, dipping quite low in 2010 (Polling the Nations). The 2010 midterm elections were a big turning point in American politics, and ushered in a wave of extremely conservative Congressmen and Senators, potentially contributing to the growth of Americans that believe global warming is either not a serious problem or not a problem at all. When the American Clean Energy and Security Act passed the House in 2009, the highest level of people considered global warming a very serious problem, but the bill was killed when Republicans took the House in the 2010 midterm elections, when the lowest level of people

considered global warming a very serious problem. As the government is supposed to be a body that acts on what the people want, public perception of an issue is extremely important. As much as lobbyists, corporations, and other special interests have an influence on government, at the end of the day, members of Congress are beholden to their constituents when it comes time for reelection, and therefore the public's views are quite important.

The public perception of climate change has changed quite a bit recently. The percentage of Americans that believe climate change is either probably or definitely occurring is at their highest levels in at least 5 years. In a recent study, Duke University researchers found that 84% of Americans believe that climate change is definitely or probably occurring. Additionally, 54% of Americans believe that climate change is the result of human activity, also the highest percentage in years (Mayer, et al). Attitudes about climate change can be affected by natural disasters such as Hurricane Sandy, droughts, and flooding. Many Americans have been affected by weather related disasters quite recently, and it has changed opinions about global warming. We have yet to see changes in legislation, but this may come as disasters continue to get worse.

Methods

In order to explore my research questions, I am going to examine three recent environmental policy case studies at the national level. One case is a clear win for cornucopians, one is a draw between cornucopians and environmentalists, though it leans towards the cornucopians, and one is a win for the environmental lobby.

The first case study, surrounding the American Clean Energy and Security Act, is a clear defeat of environmental interests. Through this case study, I will be able to examine how fossil fuel energy interests were able to influence and ultimately defeat America's first national attempt at a cap and trade system. This bill, also known as the Waxman-Markey bill, would have been a

massive step forward for US environmental policy in establishing a national cap and trade system, but special interests spent millions on lobbying. The oil and natural gas industry spent $44.5 million in lobbying in the first three months of 2009, almost 10 times what the environmental interest groups spent (Mulkern 2009). There were many groups involved in the advocacy process of this bill. Entities that reported lobbying on the bill ranged from the traditional suspects, oil, natural gas, and coal companies and environmental groups, to state and local governments, universities, investment banks, unions, and more. As to be expected, there were car companies, airlines, oil companies and utilities groups that lobbied on the bill as well as a range of environmental groups, but also upwards 20 universities, over 25 cities, and more than 60 associations ranging from agriculture to retail to transportation and everything in between ("Lobbying Disclosure"). Since environmental legislation has such far reaching effects, it touches most industries in America, and therefore draws attention from many groups even if it is not that group's primary focus. The map below shows some of the major stakeholders from the ACESA debate.

However, fossil fuel energy groups had the most stake in this legislation. They had a lot to lose from the implementation of a national cap and trade program, and spent lavishly to defeat the legislation. This case study will bring insight into what factors were successful for the fossil fuel energy sources to defeat this piece of legislation.

In order to examine if money from special interest groups and lobbyists had an impact on the votes for the American Clean Energy and Security Act, I first looked at the 'swing votes' in the House of Representatives, that is, Democrats who voted against the bill and Republicans who voted for it. I then compiled a list of every entity that lobbied on the bill during the second quarter of 2009, which was the busiest period of activity as a House vote was held in June. There were close to 750 different entities that lobbied on the ACESA, which I then separated into groups that were directly related to the fossil fuel industry, renewable energy industry, or environmental groups. I took the 300 relevant entities and sorted them once more, into coal, oil and gas, utilities, renewable energy, environmental groups, and miscellaneous interests. Then I went on to examine the donation records for each swing vote from the donation cycle prior to the ACESA and created a list of any donations they had gotten from company PACs that also lobbied on the cap and trade bill. I then coded the list by how many different groups in each category donated to each candidate and ran t-tests between the swing democrats and swing republicans to see if there was a statistical difference in the number of different groups they took donations from in each category. Important to note is that two Democrats who voted against the bill, Dennis Kucinich and Pete Stark, were omitted from the t-test because they explicitly indicated that they were voting against the bill because it was not strong enough and had been diluted too heavily by special interests. This test allowed me to see if there were more companies making donations to swing Democrats from fossil fuel groups than to swing Republicans, as well

as if there were more renewable or environmental groups making donations to swing Republicans than swing Democrats.

The second case study I will look at is the recent regulations that the EPA passed to force coal and oil fired power plants to reach higher standards of environmental protection. These two rules, the Cross State Air Pollution Rule and the Mercury and Air Toxics Standards, would help cut hazardous emissions from power plants and originally seemed like a win for environmental advocates. However, the courts struck down the EPA's Cross State Air Pollution Rule and said that the agency overstepped its authority (Lewis 2012). The Mercury and Air Toxics Standards have just been updated again, and the EPA issued the new final rule in late March. This rule has undergone several revisions and has been in the works since 2004, with major delays from the courts and the notice and comments period along the way. Through this case study, I will be able to explore environmental policy in the agencies and see what tactics are used in lobbying during the rulemaking process. In order to do this, I will conduct interviews with several current and former EPA officials as well as discuss the process that these rules have undergone to draw conclusions about the role of lobbyists in rulemaking. This will shed light on the differences between lobbying Congress versus lobbying the agencies, and will show how the coal lobby is able to thwart regulation in both areas of policymaking.

The last case study in this project is the Keystone XL Pipeline, which is, for now, a win for the environmentalists. President Obama rejected the proposal for an extension of the Keystone Pipeline after significant pressure from environmental groups over the ecological damage and potential risks of building a new line. While this is not a done deal, it originally looked like it would not be built, at least until the end of Obama's term as President. This case study will give us a look at one of the infrequent and unusual wins for the environmentalists.

Through this case, I will be able to examine which tactics worked for the environmentalists and examine what went wrong for those pushing for the creation of the new pipeline. This will be an important case study to contrast to the two other case studies, which were both qualified wins for fossil fuel energy interests.

American Clean Energy and Security Act

Category	T-Stat	P Value
Coal	**2.64515**	**0.0056***
Oil & Gas	**1.36654**	**0.0892**
Utilities	**1.03529**	**0.153**
Renewable	**0.61321**	**0.7286**
Environmental	**-2.8635**	**0.0031***

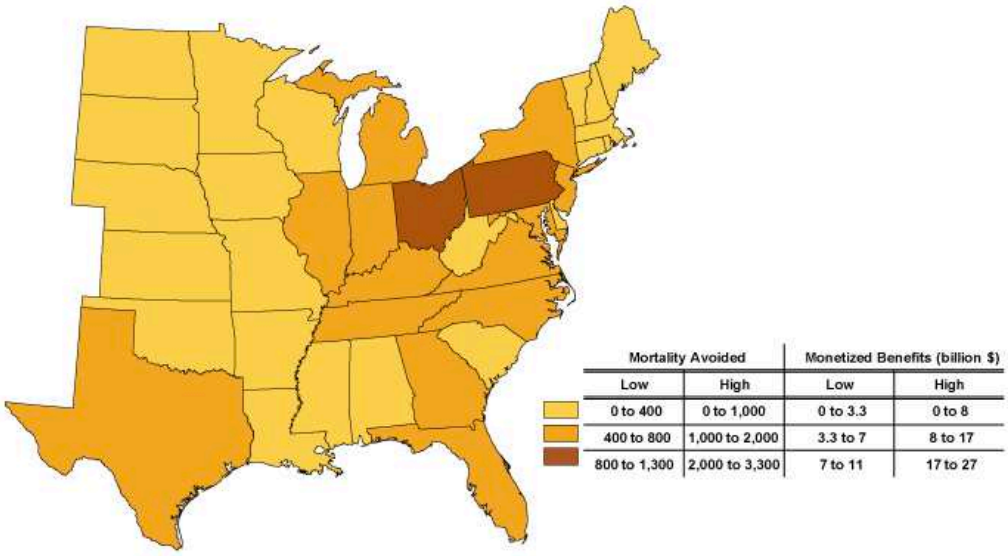
When comparing average number of different donors to campaigns for Democrats that voted against the bill and Republicans that voted for the bill, the only fossil fuel to produce significant results at the 0.05 level is the difference in donations from coal. Coal, oil and gas, and utilities were all compared in a t-test to see if Democrats voting for the bill had statistically more fossil fuel donors than did Republicans voting against the bill, and oil and gas as well as utilities were found to be insignificant. I also tested to see if Republicans voting for the ACESA had received more donations from different environmental and renewable energy companies than did Democrats voting against it. Of these two categories, only environmental donations were statistically significant.

While the difference of means test showed significant results for two categories, there is an important caveat to these results. Only 8 Republicans voted for the American Clean Energy and Security Act, and therefore I had to work with a very limited sample size. The small sample size may make it hard to infer significance for this case study.

Cross State Air Pollution Rule and Mercury and Air Toxics Standards

Cross State Air Pollution Rule Information

The Cross State Air Pollution Rule (CSAPR) was finalized in July of 2011 and required 28 states, primarily the eastern half of the US, to reduce air pollution and improve air quality by controlling ozone and fine particle pollutions that cross state lines and worsen health in these areas. The rule requires a reduction of annual sulfur dioxide emissions and nitrous oxide emissions and would deliver health and environmental benefits in the amount of $120 to $280 billion annually at a cost of just $1.6 billion in investments and $800 million in annual costs (EPA "Cross State Air Pollution Rule (CSAPR)" 2013).



The image above details the distribution of some of the benefits of the Cross State Air Pollution Rule. Avoiding mortality is a big factor in pollution control rules, and as the image

shows, Pennsylvania and Ohio stood to avoid the most mortality and reap the largest monetary benefits from the CSAPR. However, the entire Eastern half of the United States would benefit from the new rule in some capacity (EPA "Large Map of Public Health and Environmental Benefits" 2013).

The Cross State Air Pollution Rule would have delivered benefits to much of the U.S., however, as with many EPA rules, it will not be implemented because of a successful challenge to the EPA in the courts.

Mercury and Air Toxics Standards Information

In order to achieve less pollution, more visibility, and a healthier population, the EPA proposed the Mercury and Air Toxics Standards. The Mercury and Air Toxics Standards were introduced on December 16, 2011, making them "the first national Clean Air Act standards to reduce mercury and other toxic air pollution from coal and oil-fired power plants" (EPA Fact Sheet: Mercury and Air Toxics Standards). The MATS came about when a D.C. Circuit Court vacated the EPA's 2005 rule, the Clean Air Mercury Rule, which would have established a cap and trade program to limit mercury emissions (EPA Mercury and Air Toxics Standards. "Regulatory Actions"). In response, the EPA put together the Mercury and Air Toxics Standards, to be consistent with the court's decision on the Clean Air Mercury Rule.

The MATS rule sets standards to reduce pollution from coal and oil-fired power plants with a capacity of 25 megawatts or greater under sections 111 and 112 of the CAA Amendments (EPA Mercury and Air Toxics Standards. "Basic Information"). MATS will reduce emissions of mercury, arsenic, chromium, nickel, and acid gasses including hydrochloric acid and hydrofluoric acid. In addition to the health risks presented by mercury, these toxic air pollutants are known to be carcinogenic and cause other serious health problems. Additionally, reducing

the emission of air toxics will also cut sulfur dioxide and fine particle pollution, which will reduce harmful particle concentrations in the air (EPA Fact Sheet). As coal and oil-fired power plants are responsible for 50% of all mercury emissions as well as 62% of arsenic emissions and 77% of acid gas emissions, these standards will significantly cut pollution from a variety of toxics (EPA Fact Sheet).

According to the EPA, this will affect approximately 1,400 units (1,100 coal-fired and 300 oil fired units) at 600 power plants (EPA Fact Sheet). The Mercury and Air Toxics Standards set numerical emissions limits for mercury, particulate matter (a surrogate for toxic metals), HCI (a surrogates for toxic acid gases), and HF, as well as setting work practices to limit emissions of organic air toxics (EPA Fact Sheet). The technologies needed to achieve these emissions limits are both widely available and economically feasible, and power plants will have between 3 and 4 years depending on their circumstances to comply. Affected entities have a variety of options available to control air toxic emissions such as scrubbers, injection systems, and filters. Many plants have already invested in some form of these technologies, and while some haven't, there are widely available and cost effective options that affected entities can pursue in order to meet the standards (Sjostrom 2010, 45-47). Most of the plants that have no yet upgrade their systems are over 30 years old, and a significant number of these are over 50 years old, meaning that these upgrades will not only cut pollutants but will improve output efficiency as well (Bigham 2012, 39-41).

The EPA has put out a cost benefit analysis for the Mercury and Air Toxics Standards. The estimated annual cost of compliance for MATS is $9.6 billion, which pales in comparison to the annual health savings, which ranges from $37 billion to $90 billion. In addition, MATS is expected to provide 46,000 short term jobs and 8,000 long term jobs in the electric power

industry (Li 2012, 22-23). In addition to jobs growth, MATS should lower mercury emissions from power plants by 90%, acid gas emissions by 88%, and sulfur dioxide emissions by 41% (Bigham 2012, 39). In regards to health benefits from MATS, the following chart shows the estimated annual benefits (EPA Fact Sheet: Mercury and Air Toxics Standards. "Benefits And Costs Of Cleaning Up Toxic Air Pollution from Power Plants").

MATS Will Prevent	Cases/Year Once Implemented
Premature Death	Up to 11,000
Chronic Bronchitis	2,800
Heart Attacks	4,700
Hospital and Emergency Room Visits	5,700
Restricted Activities Days	3,200,000
Asthma Attacks	130,000
Missed Work Days	540,000

It is clear from the EPA's cost benefit analysis that the Mercury and Air Toxics Standards can have a positive impact on the US economy and the health of Americans.

Where Are They Now?

Both of these proposed rules went through a lengthy review process, several updates, and many opportunities for notice and comments. While thousands of comments were submitted on these rules by many different types of organizations, the big players were oil and gas companies, coal companies, and utilities companies. The entire supply chain, from exploration to extraction to refining and distribution would be effected by regulations aimed at coal and oil fired power plants, so those were the big players on the fossil fuel side working to influence these rules. Environmental groups were also working to influence these rules and provide the EPA with suggestions for implementation and feasibility. The fossil fuel companies were not always outright opposed to the rules. Many understand the importance of combating environmental pollutants and would like to take steps in the right direction. The biggest problem for these

companies was the timeline. They were worried about the costs of installing expensive new technology in the timeframe required from these rules, and want to work with the EPA to soften the blow of implementing new rules. Other companies objected to the EPA's estimates and models. These companies say the EPA is overestimating the amount of pollutants being emitted from many plants and worry the rules are too strict because the damage the EPA says is being done is not actually occurring. They say the levels of pollutants do not have to be cut as drastically as the EPA is proposing. There are other companies that just outright oppose the rules as well. However, these companies find it hard to get a seat at the table, because the EPA prefers to work with people who are willing to compromise and come together to create effective rules. The environmental groups that worked with the EPA helped to provide additional information about the harmful effects of pollutants. They also worked with the EPA to come up with feasible ideas for how the regulations could be implemented effectively and efficiently. Some groups advocated for stricter rules while others just wanted to get a more feasible rule completed (Brenner; Fiorino; Funke). All the interest groups that work with the EPA have slightly different aims and objectives, and these cases were no exception, but it is the EPA's job to synthesize all these different opinions into cohesive, effective, and efficient rules.

As with many EPA regulations, both the CSAPR and the MATS have been through a lengthy process in the courts. The U.S. Court of Appeal for the D.C. Circuit vacated the Cross State Air Pollution Rule. After years of research, testing, and adjusting the proposed rule, it was struck down by the courts in August 2012. In January 2013, the EPA was denied an appeal for a rehearing en banc of the August decision, and the EPA has just filed a petition to the Supreme Court to review the Circuit Court's decision on CSAPR (EPA "Cross State Air Pollution Rule (CSAPR)" 2013). This goes to show that even after years of working and finalizing a rule, if

interest groups cannot influence a regulation to their liking during the rulemaking process, they can still win in the courts. Court cases that over turn a rule means that fossil fuel interest groups win again and the EPA must go back to the drawing board and spend several more years coming up with an alternative rule. This delays the billions of dollars in health benefits and lets polluters keep emitting harmful substances into the air. Unless the Supreme Court agrees to review the CSAPR and sides with the EPA, this is another example of how fossil fuel interests beat environmental interests.

The MATS final rule has just been released after over a year of revisions, updates, and extensions on comment periods. On March 28, 2013, the final rule was released with updated limits for certain power plants. Even though this rule was designed specifically in response to a previous court case vacating the first attempt at a rule regarding mercury, Brenner says the EPA is still expecting a preparing for a challenge in the courts, as is the case with almost every major rule they announce. While the EPA is confident this time that the rule will hold up in court, there is still an element of unpredictability in the DC Circuit Court, which handles agency rules. In response, the EPA has modified some of the mercury standards for new power plants that were thought to be a little too strict and vulnerable to scrutiny in the courts. Brenner noted that the EPA often examines their rules and edits those that could be vacated by the courts, however, with the Mercury and Air Toxics Standards, they are expecting a good outcome.

Influencing EPA Regulations

These two case studies are quite indicative of the general process of influencing EPA regulations. Lobbyists work to influence the EPA much differently than they work to influence Congress. According to Dr. Odelia Funke, a Division Director with a long career in the EPA and current executive in residence at American University, lobbyists primarily work to influence

EPA regulations through meetings with EPA officials and through meetings with OMB. Since OMB must evaluate and sign off on agency rules, and generally tends to be more business friendly, Dr. Funke says that lobbyists can more easily delay or slow down a rule by going to OMB and asking them to change provisions or require more testing from the EPA. Since there were no public disclosure laws regarding these meetings, it became difficult to see who had influenced outcomes in this way.

Lobbyists and interest groups could also go to their Congressman, who in turn can write a letter to the EPA or make a public statement about the work the EPA is doing. This point was also echoed by Daniel Fiorino, the former Director of National Environmental Performance Track at the EPA and current Director for the Center of Environmental Policy at American University. This process puts huge delays on regulations because Congressmen can call in EPA officials for hearings and increase public scrutiny on EPA regulations.

Another method by which interests groups can influence the EPA is through the public notice and comments period, though the effect is lest pertinent in the rulemaking process. Fiorino and Funke both note that the EPA is unlikely to change a rule substantively unless there is very important and significant new data that is presented during the comments period; however, it is a way for industry to get attention. Funke explains that comments can get attention from the White House and OMB and get them involved in the process, and both note that the comments period establishes a record to be used for suing the EPA for a proposed rule. The EPA is always faced with the threat of a lawsuit, and Fiorino notes that most rules are taken to court and the threat of litigation constantly plays into the EPA decisions in the rulemaking process.

Both Fiorino and Funke did note the lack of importance of money in influencing the EPA. Since most people working on rules for the EPA are career bureaucrats, there are no

donations made to key decision makers that could potentially influence their actions. However, both also said that good, reliable information is the most important tool a lobbyist can have. The EPA is always looking for more data, and the easiest way to catch their attention is to present new, but always reliable, information about the effects or expected costs of a rule.

Additionally, while good information is always key, Robert Brenner, former Director of the Office of Policy Analysis and Review within the Office of Air and Radiation at the EPA, also notes that a willingness to cooperate, even if you disagree, is also important. Lobbyists and interests groups that walk into the EPA with an 'it can't be done' attitude are much less successful than those who come in with good information and sensible proposals for how to make legislation more feasible or more cost effective. He notes that while there will also be conflicting opinions, a lobbyists for a group opposing a regulation is much more likely to get attention from the EPA if they have valid arguments and realistic proposals.

Keystone XL Pipeline

Overview

The Keystone XL Pipeline is a controversial extension of the already existing pipelines, the Keystone and Enbridge, which would add to the US-Canadian pipeline system and would run from Hardisty, Alberta to Nederland, Texas and would cut through Montana, South Dakota, Nebraska, Kansas, Oklahoma, and Texas. The proposed pipeline would carry up to 900,000 barrels a day from Canada's tar sands region to refineries in Texas. The existing parts of the pipeline, the Keystone and Enbridge, were approved by the State Department in 2008 and 2009, respectively, albeit with much criticism from environmental groups. The Keystone XL addition would round out the pipeline project but has received a firestorm of criticism from environmental

groups over the potential impact to the natural habitats along the route as well as over the use of tar sands oil (Palliser 2012, 8).

Because the pipeline crosses the boarder between the US and Canada, the State Department has jurisdiction on conducting environmental impact assessments on the Keystone XL addition. The President then needs to sign off on the permits before the project can begin. Just as the State Department was wrapping up its assessments, Congress attempted to force the President into making a decision by putting a deadline on approval in February 2012. Obama rejected the proposal and stated that his administration had not had adequate time to fully review the assessments. In response, TransCanada, the company that applied for the permit to build the Keystone XL extension, changed the northern route of the pipeline so that it would some ecologically sensitive areas that would have been impacted under the original plan. They applied for a new permit, which the State Department is now assessing, and a decision is likely to come in July or August from the President (Eilperin 2013).

Controversy

Many environmental groups rallied to oppose the approval of the Keystone XL extension because of the ecological, environmental, and health risks of the proposal. One of the biggest concerns is that tar sands oil is much dirtier than conventional oil production. It emits about three times as much greenhouse gasses and contains more lead, nickel, mercury, and arsenic than conventional oil. This has serious impacts for climate change and human health. There is always a concern about leaks and spills as well, which can destroy habitats and pollute water supply. Additionally, the pipeline would cut through habitats and disrupt wildlife in the area (Palliser 2012, 9-10). Proponents of the pipeline point to the benefits from importing oil from Canada as opposed to the Middle East as well as jobs that could be created from construction of the

pipeline. These points area all being taken in to consideration in State Department assessments of the new proposal (Palliser 2012, 10).

What does it all mean?

The Keystone XL pipeline debate is an interesting case study because it shows the determination with which environmental groups fight to achieve goals and the fragility of the victories they secure. Environmental protests of the pipeline extension began in DC and spread all over the country. The rallies, which gained national attention and news coverage, helped to pressure Obama into denying the permit the first time around in order to ensure a more thorough analysis of the environmental impacts of the pipeline. These rallies have resumed as the President gets closer to making another decision on Keystone XL.

There are clearly serious environmental concerns regarding the use of tar sands oil and the potential destruction of habitats in the affected area. However, as with all environmental debates, there is a trade off. Proponents are pushing for energy from a more stable and friendly source (Canada) as opposed to imports from the Middle East, and this need for energy security is always a driving force in policy making, while opponents argue this will make the transition to cleaner energy slower and will increase our dependence on fossil fuels.

Though it seemed as if this was a victory for environmentalist and the pipeline would not be approved under President Obama's administration, there is a chance that it will now be approved later this year. Environmentalists are still fighting to ensure the pipeline extension is not built, but it will be an uphill battle and Obama may give this as a concession to Republicans in an attempt to ease partisan gridlock in the government. The role of money in examples of big national protests is very interesting as well. Money can be used to buy paid media and increase awareness that can lead to more media coverage and higher turnouts. In this sense, money will

always have a role in politics. However, this is not a direct expenditure on a member of congress, which is where most of the criticism of money and politics comes from.

Conclusions

The Role of Money

While I hypothesized that direct expenditures played an important role in an interest groups' ability to influence policy outcomes, the evidence largely does not support this conclusion. While the statistics indicated that donations from coal, the dirtiest energy source, were more prevalent with Democrats that voted against the ACESA and that donors in the environmental category gave more to Republicans opposing the ACESA, the number of donors was not statistically relevant in other categories. Given the limited sample size, it is hard to infer statistical significance, however, it may indicate that a support from the coal sector, the dirtiest energy source, means you are more likely to oppose climate change and environmental bills.

This conclusion is supported by all the interviews that I conducted as well. In every instance, interviewees stated that effect of direct expenditures is not as important as the general public may believe. When I asked why this was the case, Michael Willis, Team Leader at Marlowe & Company and former Senior Legislative Assistant to Congressman Mica, stated that a lack of information about the political process makes money, and especially campaign donations, seem to have more influence than it actually does. Willis also stated that people who do not work in government in any capacity lack insight into the process and look for a scapegoat when any legislation they do not agree with passes. Lobbyists and special interests are an easy target, and are often unjustly blamed. Howard Marlowe, President and Founder of Marlowe & Company, also noted that there is no evidence linking donations to political outcomes and that people who have tried to buy votes with donations have often ended up behind bars. When asked

why he thinks the public draws such a connection between money, lobbying, and policy outcomes, he stated it was because there is so much money being spent. With spending totals for lobbying and campaigns in the billions of dollars, money has caused uneasiness and lack of trust of politicians and Congress, however, it does not mean that money is buying votes or influence.

Does money play any role in the political process then? The short answer is, of course it does. According to Marlowe, "money plays a role, I don't know exactly how big a role, but it definitely plays a role." According to Willis, politicians must fundraise and lobbyists have the ability to raise money for campaigns. There are some politicians who refuse to meet with lobbyists that haven't donated to the campaign, but this is the rare exception. Marlowe also notes that there are some lobbyists who only lobby through fundraisers, but again, that is not common. Both agree that inn most instances, money may help gain access but will never buy a vote.

If money isn't the primary factor, what is then? The interviewees from the EPA stressed the importance of data, information, and compromise, however, both Marlowe and Willis noted that reliability, trustworthiness, and knowledge of the political process are important. Marlowe said that a lobbyist's reputation is everything, and therefore most strive to be as upfront, honest, and trustworthy as possible. All of the interviewees also noted that what drives success in policy making is a complex web of interrelated factors that are near impossible to separate from each other.

Limitations and Future Research

This paper leaves the door wide open for future research on lobbying and environmental policy. This study was limited by sample size. With only 8 republicans voting for the American Clean Energy and Security Act, the sample size was very small and may not have given accurate t-test results. Future studies could examine the dollar amounts received by each candidate and

could expand the data to all members of the House of Representatives to see if there is a statistical difference between other categories of House members (ex: between Democrats who voted for and against the ACESA). Additionally, other case studies may yield different results and would be interesting to examine. Environmental policy is a large category and there are many aspects of influence that lobbyists and special interests have.

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