

HOW CAN CONGRESS LEGISLATE FOR THE LONG RUN? A MULTIPLE STREAMS
EXPLORATION

by
Thomas V. Fehsenfeld

A thesis submitted to Johns Hopkins University in conformity with the
requirements for the degree of Master of Arts in Government

Baltimore, Maryland
August, 2020

© 2020 Thomas Fehsenfeld
All Rights Reserved

Abstract

This exploration of four case studies develops a theory of how the United States Congress can enact forward-looking legislation. The theory is set in the multiple streams framework developed by John Kingdon and modified with insights of subsequent scholars. A case study of the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection and Consumer Protection Act (P.L. 111-203) was employed to test the usefulness of the framework. A case study of the Washington DC-based Bipartisan Policy Center's lobbying strategy and insights from the literature of forward-looking policymaking were then used to develop ten propositions for a theory. The propositions were evaluated by examining the enactment of the Clean Air Act Amendments of 1970 (P.L. 91-604), and the failed 2009-2010 effort to address climate change with legislation for capping and trading greenhouse gas emission credits. Six of the ten propositions found good support. It is recommended that these six be developed into hypotheses and used in quantitative empirical studies of forward-looking policymaking.

Keywords: multiple streams, policymaking, forward-looking policy, Congress, Dodd-Frank, Bipartisan Policy Center, Clean Air Act, Climate Change, Cap and Trade, Waxman-Markey, Global Warming.

Advisor: Dr. Kathryn Wagner Hill

Foreword

This study began with the conviction that policymakers in democratic countries have a strong bias towards the present concerns of constituents to the detriment of future generations. As a person in his 70s, I wonder what type of legacy we are leaving for our children and grandchildren. My hope is that this work may spark ideas—and motivation—to improve the policy balance between the needs of the present and the needs of future generations.

I would like to thank my life partner Carolyn for her emotional support and editing help during my years with Johns Hopkins. Jonathan Boston, Alan Jacobs, Kathryn Wagner Hill, Jacob Straus, and Douglas Harris provided excellent criticism and suggestions. This work is much better for their input.

Table of Contents

Abstract.....	ii
Foreword.....	iii
List of Tables.....	vi
List of Figures	vii
Chapter 1 Forward-Looking Policy in Democracies.....	1
Chapter 2 Multiple Streams in the Enactment of The Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L 111-203).....	5
Kingdon’s Multiple Streams Framework for Policy Change.....	6
Modifications Based On Subsequent Contributions.....	10
Examining the Modified Framework.....	14
Narrative of the Case	15
2009 1 st Quarter.....	17
2009 2 nd Quarter.....	19
2009 3 rd Quarter.....	20
2009 4 th Quarter.....	22
2010 1 st Quarter.....	25
2010 2 nd Quarter.....	26
Discussion.....	29
Conclusion	36
Chapter 3 The Bipartisan Policy Center: Lobbying for the Future	38
Literature Review	39
Case Study: Strategies of the Bipartisan Policy Center (BPC).....	43

Background.....	45
Findings	47
Discussion: Comparing BPC's Strategies on a Current and Long-term Issues.....	51
Conclusion and Next Steps	54
Chapter 4 A Tale of Two Bills	56
The Work of Forward-Looking Problem Brokers.....	57
The Work of Forward-Looking Policy Entrepreneurs	59
The Work of Forward-Looking Political Entrepreneurs	61
Propositions	62
Findings: The Clean Air Act Amendments of 1970 (91-604)	63
Problem Brokers.....	64
Policy Entrepreneurs.....	66
Political Entrepreneurs.....	68
Findings: Cap and Trade Legislation 2009-2010	71
Problem Brokers.....	73
Policy Entrepreneurs.....	74
Political Entrepreneurs.....	77
Conclusion	82
Chapter 5 One Investigation Ends, Others Begin.....	86
Bibliography	98
Curriculum Vita.....	103

List of Tables

Table 1 Comparison of Communication Efforts.....	48
Table 2 Infrastructure Communication and Lobbying Efforts - November 1, 2014 – October 31, 2019.....	48
Table 3 Energy Communication and Lobbying Efforts - November 1, 2014 – October 31, 2019.....	50

List of Figures

Figure 1 Kingdon's Multiple Streams Framework.....	9
Figure 2 Modified Multiple Streams Framework.....	13
Figure 3 Modified Multiple Streams Framework.....	35

Chapter 1 Forward-Looking Policy in Democracies

In 2019, the Pew Research Center asked a representative panel of U.S. citizens what issues should be top, important, or low priorities, “in order for the federal government to improve the quality of life for future generations.” Strong majorities raised issues that Congress has not been able to address as top priorities: climate change, immigration reform, Social Security viability, healthcare access and affordability, technology-driven unemployment, the growth of government debt, energy security, and income inequality.¹ Why does Congress find it difficult to face long-term and emerging problems? Jonathan Boston summarizes general reasons why democratic governments find it difficult to enact forward-looking policies including, “...incomplete information, disputed evidence, deep uncertainty, scarce resources, vigorous distributional conflicts, competing moral imperatives, impatient voters, powerful and well-organized interests, multiple veto points, and many unwelcome surprises.”²

Other scholars have added a number of ideas about the difficulty of enacting forward-looking policies. Creating policies to address emerging problems often requires careful thinking about the future, but Alan Jacobs argues that projecting the effects of a policy decades into the future involves the interaction of complex causal chains that are often beyond our intellectual capabilities.³ Some issues are not addressed because they are “slow problems” that develop gradually and never activate public pressure.⁴ Some scholars have blamed short electoral cycles.⁵ Others argue long-term issues are not addressed because the young, who would benefit most by forward-looking decisions, are practically excluded from policymaking.⁶ Sometimes, the potential tradeoffs are difficult to evaluate because they are between different measures of value,

¹ Kim Parker, Rich Morin, and Juliana Horowitz, "Looking to the Future, Public Sees an America in Decline on Many Fronts," (Washington, DC: Pew Research Center, 2019).

² Jonathan Boston, *Governing for the Future: Designing Democratic Institutions for a Better Tomorrow* (Bingley, UK: Emerald Group Publishing, 2017), xxiii.

³ Alan M. Jacobs, *Governing for the Long Term: Democracy and the Politics of Investment* (New York: Cambridge University Press, 2011).

⁴ Robert L. Olson, "Missing the Slow Train: How Gradual Change Undermines Public Policy & Collective Action," (Washington DC: Wilson Center, 2016).

⁵ Anthony King, *Running Scared: Why America's Politicians Campaign Too Much and Govern Too Little* (New York: The Free Press, 1997).

⁶ Ronald Brownstein, "The Young and the Powerless," *National Journal* (2013).

for instance short-term financial costs for long-term cleaner air.⁷ Legislating for the future has even been called *politically* illogical because the majority party must often impose short-term costs on voters and organized interests while another political party may be in control and claim credit when the future benefits arrive.⁸

While addressing long-term issues is difficult for democratic governments, it is not hopeless. Boston documents 27 major laws with long-term implications passed in his native New Zealand since 1989.⁹ Jacobs examined ten historical cases of four nations making decisions about pension program reforms and found many in which governments showed foresight, designing programs that imposed near-term costs to assure the long-term stability of benefits.¹⁰ If forward-looking policies are occasionally enacted under democratic governments despite the obstacles, how does it happen?

For this study, a forward-looking policy is defined as one that addresses a long-term legacy—or emerging—problem with a solution flexible enough to meet a range of possible future developments, and a policy outcome that relies on long-term goals or future scenarios.¹¹ Long-term is defined as a policy designed to affect social conditions 20 or more years in the future, implying that policymakers are thinking beyond several congressional and presidential terms to improve the lives of citizens too young to make their voices heard.

The focus of this study is on Congress because it is the premier policy-making body in the United States, accounting for 64% of significant domestic policy enactments at the federal level between 1945 and 2004 according to one study.¹² Of course, the executive and judicial branches also create federal policy. A comprehensive study would include all three branches, but that would make this study unmanageable. Congress's control of the appropriations process for

⁷ Boston.

⁸ Sarah A. Binder, "Can Congress Legislate for the Future?," John Brademas Center for the Study of Congress, <https://wagner.nyu.edu/files/admissions/Binder.pdf>.

⁹ Boston, 34-35.

¹⁰ Jacobs.

¹¹ W. D. Pot et al., "What Makes Long-Term Investment Decisions Forward Looking: A Framework Applied to the Case of Amsterdam's New Sea Lock," *Technological Forecasting and Social Change* 132 (2018).

¹² Matt Grossmann, *Artists of the Possible: Governing Networks and American Policy Change since 1945* (Oxford: Oxford University Press, 2014), 53.

implementation also makes it a central player, especially as many policy efforts became gridlocked beginning in the 1990s.¹³

To explore this topic, a three part study was undertaken. Chapter 2 describes a framework that is later used to supply the categories for a forward-looking theory of policy development. For reasons explained in the chapter, John Kingdon's multiple streams framework was selected and then modified with contributions from later policy scholars. In contrast to Kingdon's focus on the single role of policy entrepreneur in coupling information streams, the modified framework provides the differentiated roles of *problem brokers* who frame social conditions as public problems, *policy entrepreneurs* who develop and promote policy solutions to address the problems, and *political entrepreneurs* who work through governing networks to modify and combine policies in ways that will gain majority support.

In part, the multiple stream framework was chosen because it is flexible enough to accommodate *foresight efforts* as a source for the stream of problems that policymakers deal with. Foresight efforts are converted by policy actors into theories of how future conditions will develop and those theories become a source of policy ideas. The chapter then relates a case study about the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank; P.L 111-203) to assess the usefulness of the framework.

Chapter 3 begins development of a theory of forward-looking policy enactment by studying lobbying strategies of the Washington, DC-based Bipartisan Policy Center (BPC). This organization simultaneously advocates for increased spending by the federal government on infrastructure and for research and development spending to change the future mix of energy sources in the U.S. The question on their work was how their lobbying and education strategies changed when dealing with the current, well-understood issue of inadequate infrastructure spending compared to their strategies when advocating a forward-looking policy of changing the nation's energy mix.

¹³ Christopher McGrory Klyza and David J. Sousa, *American Environmental Policy, 1990-2006: Beyond Gridlock* (Cambridge, Massachusetts: MIT Press, 2008).

Chapter 4 combines insights from the Dodd-Frank and BPC cases with arguments from the literature of forward-looking policymaking, and the modified multiple streams framework to develop propositions about necessary conditions to enact forward-looking policy in Congress. The propositions are then examined in the context of the successful enactment of a groundbreaking environmental law, the Clean Air Act Amendments of 1970 (CAA70; P.L. 91-604), and a major failed effort to address climate change by enacting a “cap and trade” system for greenhouse gas emissions in 2009-2010 (Cap and Trade).

The study focused on these cases because environmental policy is characterized by complexity, scientific uncertainty, dynamism, precautionary work, and controversy—factors that stress the institutional capacity of Congress.¹⁴ Second, each meets the definition of a forward-looking policy. CAA70 addressed a long-term legacy issue of poor air quality that had been developing for decades. The Cap and Trade effort addressed the emerging issue of climate change, which had been developing unnoticed by most Americans for decades, but was projected to cause major problems in the future. Both the enacted CAA70 and the proposed Cap and Trade had robust regulatory systems to meet a range of possible future developments, and justifications that relied on long-term health and welfare goals. Each was designed to affect social conditions more than 20 years into the future.

Grossmann found striking differences in how policy is enacted in different policy domains by the U.S. Government. By focusing on a particular policy domain, these cases are not necessarily representative of Congress’ efforts to pass forward-looking laws in other domains. However, they provide an initial test of ideas about the enactment of forward-looking policy that future studies can test in other national and policy contexts.

¹⁴ Richard J. Lazarus, *The Making of Environmental Law* (Chicago: University of Chicago Press, 2004).

Chapter 2 Multiple Streams in the Enactment of The Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L 111-203)

To begin this exploration, a search was begun for a theoretical framework that could serve as a foundation to answer the question of how Congress can enact forward-looking policies. These are policies that address problems with solutions flexible enough to meet a range of conditions for a minimum of 20 years, and which meet policy objectives that rely on long-term goals or future scenarios. In addressing the question, it is assumed that individual and organizational actors are dealing with the current institutional context of Congress. Given this context, an examination of recent congressional action implies that it takes tremendous effort for actors inside and outside of Congress to pass any legislation, much less a forward-looking policy that may impose near-term costs to achieve a long-term goal.¹⁵ A useful framework for the study, then, would provide concepts about how actors—inside and outside of Congress—can mobilize to overcome its institutional inertia.

In addition to accommodating a diverse set of actors, the fact that these policies are focused on long-term goals or future scenarios implies that these goals and scenarios must have a way of entering the policy dialogue. Due to the extreme time pressure on Congress to deal with thousands of bills in a session, a focus on must-pass bills such as annual budgets, the short time cycle of elections, and continuous campaigning,¹⁶ it is unlikely that members of Congress will bring up long-term issues on their own. Nor will the often overburdened civil servants of the executive branch, the constituents with immediate problems, or the corporate lobbyists protecting their clients' current interests. A theoretical framework would need to show a source for forward-looking policy ideas outside of these usual influencers of congressional action.

Given these considerations, Kingdon's multiple streams framework seemed the best fit for this study because it emphasizes the agency of individual actors in creating policy and its

¹⁵ A review of the productivity of the 116th Congress (2017-2018) on the Congress.gov website revealed that of 14,436 bills introduced, only 150, or 1%, became law. A very interesting question is how the institutional rules of Congress could be changed to facilitate the enactment of forward-looking policies, but that is outside the scope of this study.

¹⁶ King.

concepts cover many outside sources of policy ideas. It is also well understood—Google Scholar shows 24,000 citations to Kingdon’s foundational work, *Agendas, Alternatives, and Public Policies*.¹⁷ It also supports a very active research program.¹⁸ This study also updates the framework with relevant changes scholars have proposed since its first publication in 1984. A modified framework is then compared to a narrative about the enactment of the Dodd-Frank to evaluate the face validity of its fit with a legislative case.

Kingdon’s Multiple Streams Framework for Policy Change

Kingdon’s multiple stream framework (MSF) is called a framework because it is not a theory in the sense of having testable hypotheses, but supports theoretical work by providing categories for thinking about the policy process.¹⁹ Kingdon concluded that policymakers are confronted by three separate streams of information. The *problem stream* contains information about social conditions that have been framed as public problems. Information about problems is plentiful, but ambiguous, with many competing frames and interpretations being offered. Not only is information about problems plentiful and ambiguous, but policymakers must consider it under severe time constraints, often without pre-existing policy preferences.²⁰

A second is called the *policy stream*. Kingdon found evidence of policy communities that originate policy proposals. These communities are made up of academics, think tanks, civil servants, congressional aides, and stakeholders who originate, critique, and modify each other’s ideas in a process Kingdon calls *softening up*. The communities are specialized in particular policy domains or styles of policies. They often develop a common outlook about policy solutions before there is any great interest from politicians.²¹

Finally, the *political stream* describes the political factors policymakers must navigate when enacting policy. These include elections, partisan interests, the national mood, and interest

¹⁷ John W. Kingdon, *Agendas, Alternatives, and Public Policies*, 2nd ed. (New York: Longman, 2011).

¹⁸ Michael D. Jones et al., "A River Runs through It: A Multiple Streams Meta-Review," *Policy Studies Journal* 44, no. 1 (2016).

¹⁹ Hank C. Jenkins-Smith et al., "The Advocacy Coalition Framework: An Overview of the Research Program," in *Theories of the Policy Process*, ed. Paul A. Sabatier and Christopher M Weible (Boulder, CO: Westview, 2018).

²⁰ Kingdon, 90-115.

²¹ *Ibid.*, 116-45.

group pressures. National mood captures the idea of how politicians and their staffs read public opinion. In large measure, it is policymakers' perception of what interested publics want Congress to do or not do.²²

How does government policy develop in such a context? Kingdon's study is rich with insights, but a simplified framework (Figure 1) developed from this work includes the following elements. Policy develops from a *coupling* of problems that are deemed appropriate for government action, with policy ideas, and politics.²³ Not all social conditions are viewed as problems ready for government action. Social conditions enter the problem stream when new knowledge comes to light, feedback shows existing program failures, social indicators are deteriorating, or focusing events take place.

A growing awareness of social conditions as problems motivates policy experts to either develop policy ideas to address them or to apply existing ideas to them. In the policy stream, proposals develop from dialogue within communities that focus on particular policy domains. Policies are refined within these communities until they meet standards of technical feasibility, value acceptability, and anticipation of future constraints.²⁴

The political stream determines the relative capabilities and constraints on factions within decision-making bodies. It evolves based on the changing alignment of interest groups, the national mood, partisan interests, and elections. Elected officials can affect the political stream by the messages they communicate to interested publics.

Policy entrepreneurs are central figures in the MSF. Kingdon defined policy entrepreneurs as actors who are willing to invest their time and resources in promoting a policy. Policy entrepreneurs often advise policy communities on how to make their proposals more

²² Ibid., 165-95.

²³ Ibid., 172-79.

²⁴ Reimut Zohlnhöfer, Nicole Herweg, and Christian Huß, "Bringing Formal Political Institutions into the Multiple Streams Framework: An Analytical Proposal for Comparative Policy Analysis," *Journal of Comparative Policy Analysis* 18, no. 3 (2016).

politically acceptable. After developing broad support, they work to couple policy proposals with the problem and political streams.²⁵

Policy entrepreneurs successfully couple particular problems, policies, and political considerations when they can persuade policymakers to add proposals to Congress' *decision agenda*. Kingdon defined a *government agenda* as, "the list of subjects or problems to which governmental officials, and people outside of government closely associated with those officials, are paying some serious attention at any given time."²⁶ The *decision agenda* was defined as, "the list of subjects within the governmental agenda that are up for an active decision."²⁷ Kingdon hypothesized policy entrepreneurs were able to insert items in the decision agenda when a *policy window* opens up.

Policy windows are temporary conditions that make coupling the multiple streams easier. The usefulness of the window concept has been criticized because it is difficult to predict or measure for empirical purposes.²⁸ While Kingdon recognized the fuzziness of the concept, writing, "...the beast is complex and a bit opaque,"²⁹ many of his interviewees cited the importance of timing when moving issues to the decision agenda.

Policy windows open for a number of reasons. These include momentous focusing events that change the national mood, feedback on an existing program, changes in party leadership, deadlines for existing programs that must be reauthorized, a change in party control, or a change in presidential administrations.³⁰ It should also be noted that on rare occasions a problem broker may be able to open a policy window, as Rachel Carson is said to have done with the publication of her book *Silent Spring* on the dangers of pesticide use.³¹

²⁵ Kingdon, 122-24.

²⁶ *Ibid.*, 3.

²⁷ *Ibid.*, 4.

²⁸ Zohlnhöfer, Herweg, and Huß.

²⁹ Kingdon, 171.

³⁰ Verna Smith, "Analysing Public Policy: Does Kingdon's Multiple Streams Framework Help?," in *Bargaining Power: Health Policymaking from England and New Zealand* (Singapore: Palgrave Macmillan, 2018).

³¹ Lazarus.

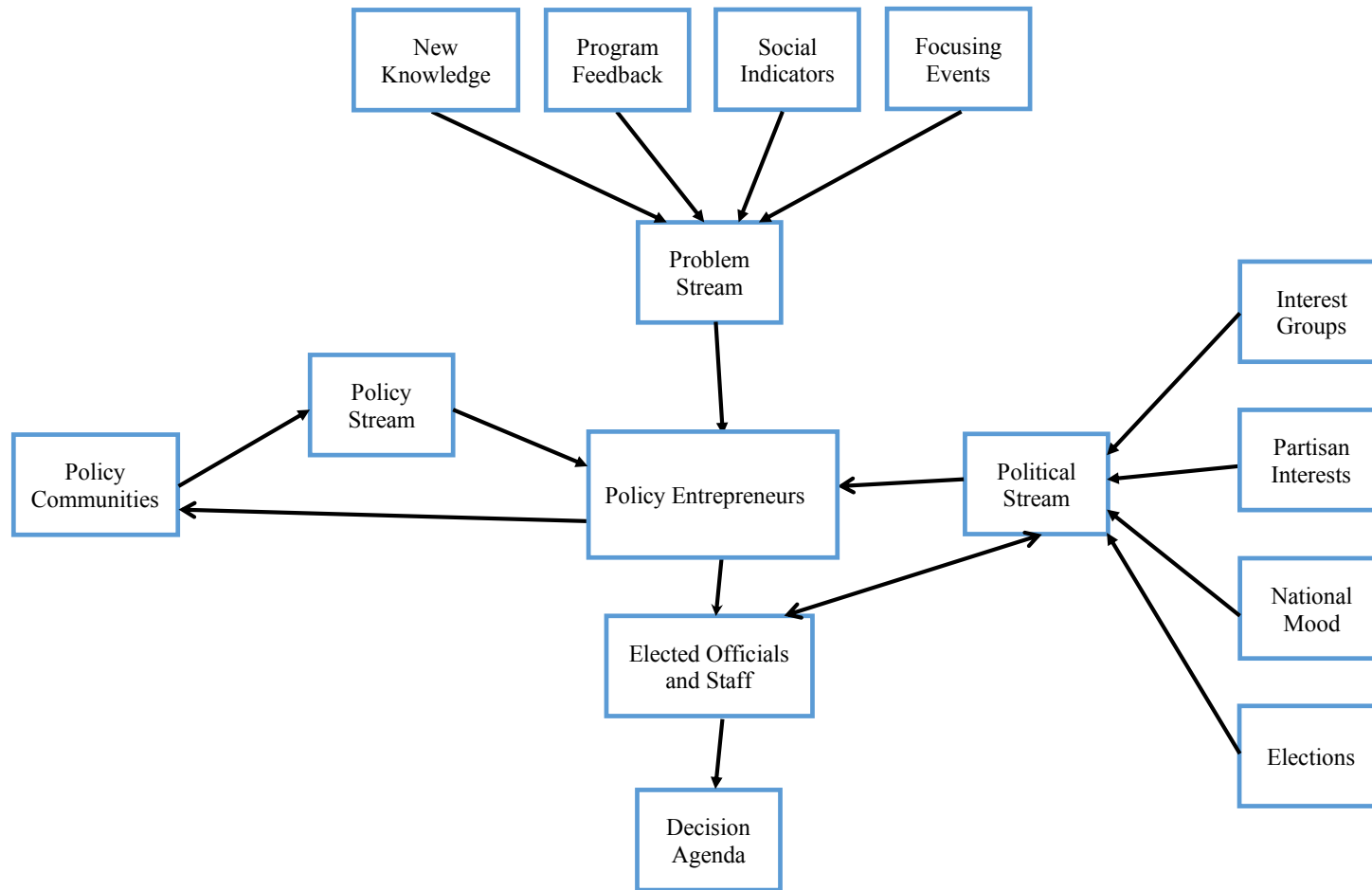


Figure 1: Kingdon's Multiple Streams Framework

Modifications Based On Subsequent Contributions

Since Kingdon published the MSF in the 1980s, other scholars have suggested revisions (Figure 2).³² For intellectual clarity, Knaggård suggested adding the concept of a *problem broker* to the framework. A problem broker “is a role in which actors frame conditions as public problems and work to make policymakers accept these frames.”³³ They design messages using knowledge, values, and emotion to stimulate the attention of voters, elected officials, and policy communities. Knaggård hypothesized that factors contributing to their success are persistence, access to policymakers, credibility, and understanding both the audience and the national mood. Adding the concept of a problem broker facilitates the analysis of problem framing separately from policy development. Problem framing, then, affects the coalitions that can be assembled and the menu of policy options available for discussion.

To obtain enactment of a policy, Zohlnhöfer, Herweg, and Huß. recommended adding the concept of *political entrepreneurs*.³⁴ Political entrepreneurs are advocates with formal policy-making authority, who can assemble majorities for passage by offering concessions, package deals, or by using manipulation. The goal of their efforts is to enact policy while insulating lawmakers from short-term political pressures, which is one of key factors Boston cites to enable long-term policymaking.³⁵

Grossmann’s study of 790 major policy enactments by the U.S. government shows that political entrepreneurs must deal with a subset of political actors who have long trusting relationships.³⁶ Because the American system has many veto points, these subsets of Congressional and executive branch actors, which he labels *governing networks*, are required to

³² Nicole Herweg, Nikolaos Zahariadis, and Reimut Zohlnhöfer, "The Multiple Streams Framework: Foundations, Refinements, and Empirical Applications," in *Theories of the Policy Process*, ed. Paul A. Sabatier and Christopher M. Weible (Boulder, CO: Westview, 2018).

³³ Åsa Knaggård, "The Multiple Streams Framework and the Problem Broker," *European Journal of Political Research* 54, no. 3 (2015).

³⁴ Zohlnhöfer, Herweg, and Huß.

³⁵ Boston.

³⁶ Grossmann.

reach compromises and assemble policy packages that will attract a majority of votes for passage. A few prominent interest groups may assist in assembling the coalitions.

With the addition of the problem broker and the political entrepreneur roles, the role of the *policy entrepreneur* becomes more tightly defined. In the restructured framework, policy entrepreneurs take on a bridging role, translating the output of policy communities from proposals based on evidence about how a policy can effectively address a social condition into the language of practical politics and model legislation.

Lovell has drawn attention to the transnational diffusion of policy ideas and precedents that plays an increasing role among advanced democracies.³⁷ International policy examples are especially important in demonstrating technical feasibility. Because they have been proven in other contexts, they can be readily adopted.

Grossmann's data show little correlation between the significant laws passed and measures of legislative agendas such as State of the Union mentions, elite editorial opinion, or public opinion. The only type of agenda building activity that appears predictive of laws passed is the number of Congressional hearings on a topic. Given this lack of empirical support, it seems the framework can be simplified with no loss of accuracy by eliminating the decision agenda entirely.³⁸

Boston catalogs a number of ways that individuals and organizations can bring concerns about future scenarios into the problem stream.³⁹ These include risk assessments, horizon scanning, scenario analysis, and others. These activities are labeled as *foresight efforts* in Figure 2 and add a fifth source of information to the problem stream. Foresight efforts seldom attempt to predict the future, but discuss a range of scenarios. They often focus on the risks and

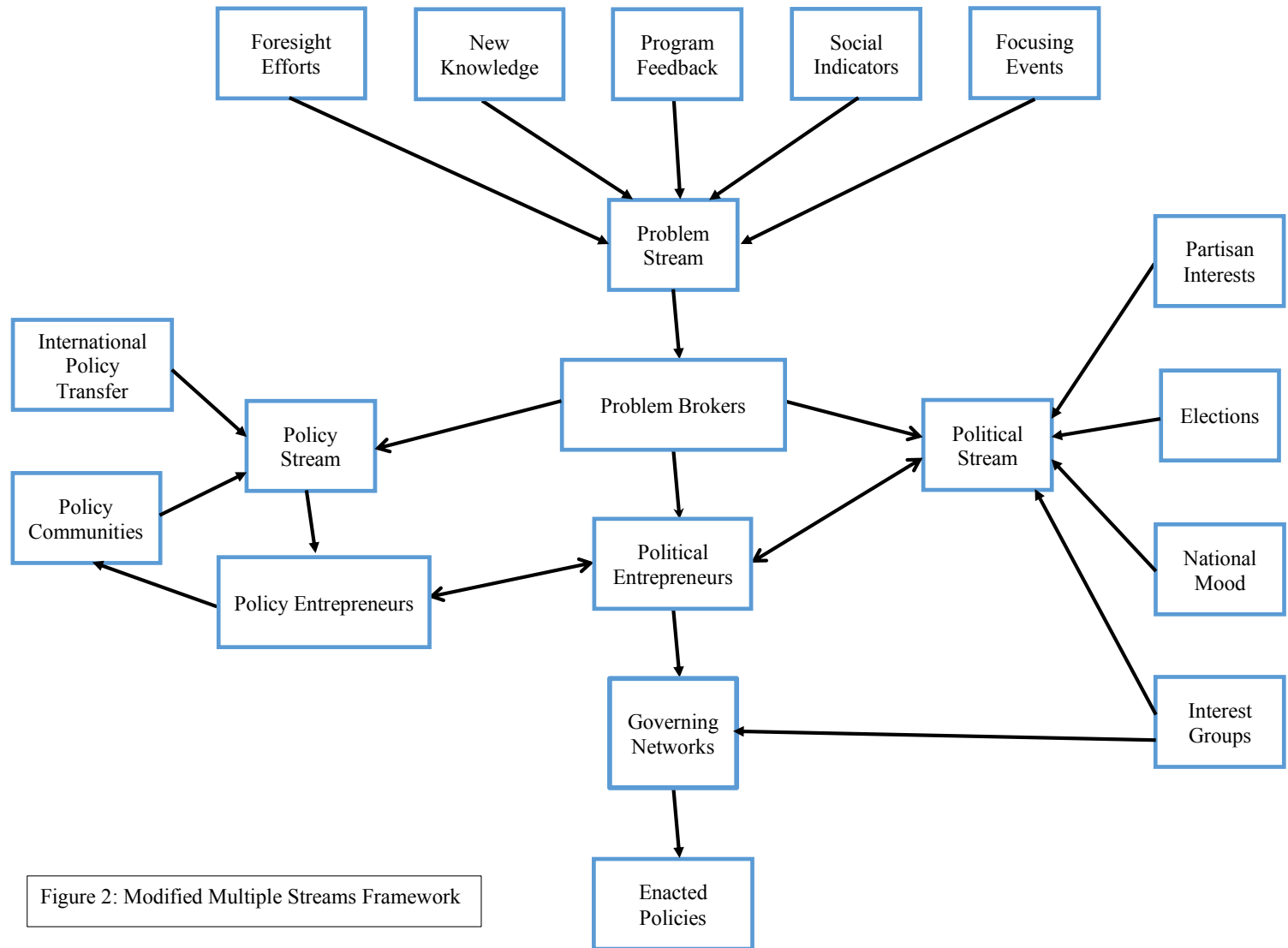
³⁷ Heather Lovell, "The Role of International Policy Transfer within the Multiple Streams Approach: The Case of Smart Electricity Metering in Australia," *Public Administration* 94, no. 3 (2016).

³⁸ The same may not be true in parliamentary systems with stronger party commitments and discipline.

³⁹ Boston.

uncertainties of future conditions.⁴⁰ Foresight efforts enable governments to understand long-term problems by providing clear signals of future harms before they become crises.

⁴⁰ Ibid.



Examining the Modified Framework

How well does the modified multiple streams framework capture key variables in congressional policymaking? As an initial test, a case study of enactment of the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act (Dodd-Frank; P.L. 111-203) was undertaken. A total of 394 events that influenced the Dodd Frank legislation were identified. *Influence events*, were defined broadly as a communications about the opinion of a person or organization on the regulation of financial institutions during the period in which the legislation was considered—from January 1, 2009 to July 22, 2010. These communications included conversations, meetings, hearings, documents, opinion surveys, and editorials.

There is good evidence that members of Congress were aware of many of these communications. Many others were public communications that may have provided indirect influence on Congress by influencing public opinion. Each was classified by who originated the event, who received it, whose opinion was represented, and the results of the event if known. The study then organized those judged the most significant into a chronological narrative, followed by a discussion of how they related to the framework.

A key source of information for influence events was a narrative provided by Robert G. Kaiser's book, *Act of Congress: How America's Essential Institution Works, and How It Doesn't*.⁴¹ During the development and passage of Dodd-Frank, Kaiser, a Washington Post reporter and author of several other books, was given broad access to Representative Barney Frank (D-MA), Senator Chris Dodd (D-CT), their staffs, and committee staff.

To supplement Kaiser's work, searches were performed on several databases for items mentioning either regulation or reform of the banking and finance industry during the time of the study. These searches yielded 13 articles from *CQ Magazine* about the process of the bill, 18 articles from Pew Research on opinion surveys, a legislative history of Dodd-Frank detailing 69 hearings on the bill from ProQuest Congressional, and 128 newspaper editorials from ProQuest

⁴¹ Robert G. Kaiser, *Act of Congress: How America's Essential Institution Works, and How It Doesn't* (New York: Vintage Books, 2013).

Newsstream. Finally, the Nexis Uni database was accessed to understand the amount of coverage given to the issue.

The significance and reliability of the influence events documented for this study varied greatly. While it was important to cast a wide net to understand how events unfolded, it should be understood that a documented interaction of policymakers and other parties for which the outcome is known should be weighted differently from the existence of newspaper editorials that members of Congress may never have seen. Since this was only a test of the descriptive power of the modified framework, these differences did not matter as much as they would for test of predictive hypotheses.

Dodd-Frank meets the criteria of a forward-looking policy as defined in this study because it addresses the long-term legacy problems of institutional weakness and reckless practices in the financial sector as well as abusive practices towards financial consumers. Its regulatory structure is flexible enough to meet a range of possible future developments, and it was created with the long-term goals to protect consumers and insure the stability of the financial system. Having no sunset, it should affect social conditions 20 or more years into the future unless changed by an act of Congress.

Narrative of the Case

In May of 2007, Harvard Professor Elizabeth Warren, who had been studying the underlying financial pressures on American families for many years, presented an academic paper titled "A Fair Deal for Families: The Need for a Financial Products Safety Commission" to a conference on managing risk. Representative Barney Frank was on the conference panel that responded to Warren's paper and told the audience how difficult it would be to get the proposal through Congress.⁴² A summary of the paper was later printed in the journal *Democracy* under the title, "Unsafe at any Rate."⁴³

⁴² Larry Kirsch and Robert N. Mayer, *Financial Justice: The People's Campaign to Stop Lender Abuse* (Santa Barbara, CA: Praeger, 2013).

⁴³ Elizabeth Warren, "Unsafe at Any Rate," *Democracy*, no. 5 (2007).

Warren's argument was that a substantial percentage of middle-class families were at risk of going broke at any downturn in the economy because of their indebtedness. Furthermore, the root of this situation was in deceptive and abusive practices of lenders. In addition, she argued the federal government was not adequately policing the area. She created a memorable symbol for her argument asking why families should have a Consumer Products Safety Commission to protect them from buying an exploding toaster, but no protection from incendiary mortgages or credit cards.⁴⁴

In 2007 and 2008, as housing values in the United States dropped abruptly, homeowners began defaulting on their mortgages, and political leaders started paying attention. On March 28 2008, Senator Barak Obama (D-IL) made a speech at Cooper Union on financial reform and outlined principles calling for greater oversight, higher capital requirements, and new disclosure requirements for financial institutions.⁴⁵ On March 31, 2008, Secretary of the Treasury Henry "Hank" Paulson (R) also made a speech outlining a "blueprint" for regulatory reform.⁴⁶

As the summer wore on, banks, investment firms and insurance companies began to fail or teeter on the brink. The contagion was spread by mortgage-backed securities that had been widely traded because they promised a good return with solid collateral, were insured by well financed companies and had been blessed by respected credit rating agencies. In spite of these protections, they rapidly lost value.

In a near panic, Republican and Democratic leaders pushed a \$700 billion bank rescue fund through Congress as part of the Emergency Economic Stabilization Act of 2008 (P.L. 110-343). Called the Troubled Asset Relief Program (TARP), it established few restrictions on how the Bush Administration could spend the money. TARP and a stimulus program later passed under the Obama Administration—the American Recovery and Reinvestment Act of 2009 (P.L. 110-343)—helped stabilize the economy.⁴⁷ Despite these steps, the financial crisis eventually

⁴⁴ Kirsch and Mayer.

⁴⁵ Kaiser.

⁴⁶ Ibid.

⁴⁷ Ibid.

destroyed the jobs of over eight million workers, slashed the average value of retirement accounts by one third, and put seven million families out of their homes through foreclosure.⁴⁸ Two years later, President Obama signed Dodd-Frank to rein in the risky practices of financial firms that had led to the crash, and to protect consumers from predatory loan practices.

The well-documented evolution of Dodd-Frank provides a rich story of clashing and cooperating interests in American policy development. Lawmakers were caught between an angry public and a financial industry they had courted for financial support. Most institutions in the financial sector strenuously opposed Dodd-Frank because they stood to lose billions of dollars of profitable business under its restrictions and feared its sweeping new reporting and solvency requirements. Public opinion, however, had turned against “Wall Street” with strong suspicions of corruption and resentment against taxpayer-financed bailouts.⁴⁹

Eventually, Dodd-Frank passed, despite the opposition of a financial sector that spent \$300 million lobbying Congress in 2009 and contributed \$475 million to political campaigns in the 2008 election cycle.⁵⁰ The law that emerged as Dodd-Frank included provisions relating to financial stability of banking and insurance companies, transparency for investors, the regulation of financial derivatives trades, measures to limit risk in financial markets, protection for whistleblowers, protection of consumers of financial products against abusive practices, and mortgage market reform. The story of how this happened unfolded in six calendar quarters.

2009 1st Quarter

The Obama Administration and Congress, with Democratic majorities in both houses, began consideration of financial industry reform in January 2009, along with a crowded agenda that included an economic stimulus program, health reform, oversight of the TARP, and continuing wars in Iraq and Afghanistan. Elizabeth Warren was appointed chair of the five member TARP Congressional Oversight Panel. On January 29, the panel released a report

⁴⁸ Phillip Swagel, "The Impact of the September 2008 Economic Collapse," (Washington, DC: Pew Trusts, 2010).

⁴⁹ Pew Research, "Weekly Index Poll," April 6, 2009, www.pewresearch.org.

⁵⁰ "Business Interests Spend to Modify the Financial Reform Bills," *Christian Science Monitor*, December 10 2009.

recommending general principles for financial reform. Among these was a call for a “single federal regulator for consumer credit products.” These recommendations were later used in a call to action to form a consumer-labor coalition to advocate for financial reform.⁵¹

Key congressional leaders met with Obama and members of the cabinet in February. They agreed to let the administration take the lead in drafting legislation. The chairs of the two key financial committees, Representative Barney Frank and Senator Chris Dodd, committed to supporting a consumer financial protection agency (CFPA).⁵²

Dodd spoke to both Republican and Democratic congressional leaders about including strong consumer protection measures as part of the reforms. Frank held a private discussion with Warren about how a consumer protection agency would work. In March, Secretary of the Treasury Timothy Geithner announced the administration’s principles for financial reform. These were focused on insuring financial stability rather than consumer protection.⁵³

During the quarter, Congressional committees held 19 hearings on different aspects of the financial industry. Many focused on the financial system stability, including topics of investment security fraud, derivatives legislation, TARP, systemic risk in the financial system, implications from the failure of the American International Group, modernizing insurance regulation, financial risk management oversight, modernizing bank regulation, issues in deposit insurance, and lessons from the New Deal. Others focused on consumer welfare, including protection against abusive credit card practices, homeowner affordability, consumer protection in financial services, investor protection, mortgage lending reform, and enforcement of consumer protection laws. The interests represented by the witnesses were government officials in twelve of the hearings, business in nine, public interest groups in seven, and expert opinion in six.⁵⁴

⁵¹ Kirsch and Mayer.

⁵² Kaiser.

⁵³ Ibid.

⁵⁴ "Legislative History of PI111-203 "Dodd-Frank Wall Street Reform and Consumer Protection Act", " (Washington, DC2010).

A Pew Research survey showed 60% of those interviewed supported stricter regulation of the financial industry and 36% said they were closely following news about it.⁵⁵ Public facing media published 27,754 articles about financial regulation and reform, a 28% increase over the same quarter in the previous year.⁵⁶

2009 2nd Quarter

In April 2009, 100 consumer, civil rights, fair lending and union organizations issued a *Call to Action* in support of enhanced consumer protection. The group later expanded to more than 200 groups and organized as a coalition called Americans for Financial Reform. They adopted the principles articulated by Elizabeth Warren in January as their platform.⁵⁷

In May, there were private discussions about bipartisan cooperation between Sen. Dodd and Sen. Richard Shelby, the ranking Republican member on the Senate Banking Committee. Shelby committed to work with Dodd, but could not commit his party's leadership. Shelby later stated in an interview that there needed to be strong new regulation. In June, bipartisan staff negotiations began working on the legislation in the Senate. Republican staff seemed unresponsive, neither supporting Democratic staff proposals nor presenting their own. Senate Republican Leaders held a news conference to release their plan for financial reform, which only called for new reporting requirements. Kaiser reports it gained little attention in the press.⁵⁸

Hearings continued in both the House and Senate. There were twelve during the quarter. Again, there was a mix of topics between financial system stability and consumer welfare concerns. On the consumer side, these included mortgage reform, and truth in lending. On the financial stability side, hearings covered risks posed by large financial institutions, strengthening the SEC, a credit crisis for manufacturing firms, insurance regulation, credit rating agency regulation, TARP, municipal finance, derivative market regulation, and compensation structures in

⁵⁵ Russel Heimlich, "Want Tighter Financial Regulation," Pew Research Center, <https://www.pewresearch.org/fact-tank/2009/04/09/want-tighter-financial-regulation/>.

⁵⁶ Figures are the author's calculations from searches the NexisUni database.

⁵⁷ Kirsch and Mayer.

⁵⁸ Kaiser.

financial firms. The interests represented by the witnesses were government officials in twelve of the hearings, business in seven, public interest groups in four, and expert opinion in nine.⁵⁹

The administration released a detailed white paper of their proposals in June and Geithner testified to the Senate Banking Committee about them.⁶⁰ Private briefings were later held to inform Democratic members and their staffs about the proposals. The American Bankers Association took a position supporting reforms in general, but opposed the Consumer Finance Protection Agency as an unnecessary new bureaucracy.⁶¹

Public oriented media articles on the issue continued at about the same level as the previous quarter, while interest in the industry trade press picked up significantly. The percent of the public saying they were closely following news about financial regulation dropped to 27%. Many regional and elite newspapers published skeptical editorials, wondering if financial reforms were correctly targeted, being considered too hastily, or creating unintended consequences.⁶²

2009 3rd Quarter

The National Auto Dealers Association, U.S. Chamber of Commerce, Mortgage Bankers Association, American Financial Services Association, and the American Bankers Association joined together in a lobbying campaign against a consumer protection agency. The coalition of 200 public interest groups and trade unions, Americans for Financial Reform, began to lobby on its behalf. The business lobby had much greater resources and personnel than the citizens' lobby, but the citizens' lobby hoped to activate a nationwide grass-roots campaign in favor of legislation. Chief of Staff Rahm Emmanuel encouraged Frank to accelerate consideration of the CFPA because it was polling well with the public.⁶³

Twenty-six hearings were held on topics such as the impact of the financial crisis on community banks, the role of the Federal Reserve, the consumer protection agency, Security and

⁵⁹ "Legislative History of P1111-203 "Dodd-Frank Wall Street Reform and Consumer Protection Act".

⁶⁰ "Financial Regulatory Reform, a New Foundation: Rebuilding Financial Supervision and Regulation," United State Department of The Treasury, <http://online.wsj.com/public/resources/documents/finregfinal06172009.pdf>.

⁶¹ Kaiser.

⁶² Thomas Fehsenfeld, "Proquest Database Search, "Editorials-Regulation of Financial Institutions." " (2019).

⁶³ Kaiser. Kirsch and Mayer.

Exchange Commission oversight, financial fraud, hedge funds, consumer advocates perspectives on the proposals, preventing foreclosures, business perspectives on the proposals, systemic risks, regulatory perspectives on the proposals, insurance regulation, corporate governance, bank supervision, regulation of credit rating agencies, derivatives proposals, and international standards. The interests represented by the witnesses were government officials in twenty of the hearings, business in twelve, public interest groups in three, and expert opinion in fourteen.⁶⁴

The Senate and House agriculture committees had traditionally overseen regulation of derivative contracts because of their role in limiting risk of price swings for farm commodities. Chairs of the House Agriculture Committee and House Financial Services Committee reached agreement about joint oversight of the derivatives industry. This prevented a potential source of conflict over jurisdiction.⁶⁵

Business lobbies were active. Five hundred car dealers came to Washington to lobby their representatives in person, asking to be exempted from regulation by the proposed consumer protection agency. The Coalition for Derivatives End-Users was formed to minimize regulation of derivatives used to hedge against business risks. They differentiated their hedging needs from those of financial institutions using derivative contracts to speculate.⁶⁶

House legislative staff held meetings with lobbyists for banks, trade associations, individual corporations, consumer advocates, labor unions and others. Administrative and regulatory agency staff were also interviewed. The purpose was to identify issues and proposals for modifications to the pending legislation. Issues that staff could not resolve were forwarded to Chairman Frank for his decisions.⁶⁷

Sen. Shelby demanded that a consumer protection agency be eliminated from consideration as the price of further bipartisan negotiation in the Senate. Dodd broke off negotiations and asked Democratic staff to write the bill. Frank released a discussion draft of the

⁶⁴ "Legislative History of P1111-203 "Dodd-Frank Wall Street Reform and Consumer Protection Act".

⁶⁵ Kaiser.

⁶⁶ Ibid.

⁶⁷ Ibid.

consumer protection agency to the House Financial Services Committee. He made minor adjustments to satisfy concerns of committee members.⁶⁸

Frank spoke at the National Press Club about the importance of the financial reforms and consumer protections. During the speech he signaled that he did not wish to harm community banks with the reforms and followed up with a letter expressing a desire to work with the head of the Independent Community Bankers of America (ICBA). The two met and made an agreement to exempt community banks and credit unions from most regulation by a consumer protection agency, and to change a formula for collecting FDIC fees that was worth \$1.5 billion per year to ICBA members. ICBA dropped its opposition to the financial reform proposals. This reassured committee members they would not face opposition from a group of important constituents.⁶⁹

With the increased pace of Congressional activity, stories on television news about financial reform increased 38% over the previous quarter. Newspaper editorials were still finding fault with the process and the proposals. A Pew Research survey showed 54% of Americans believing stricter regulation of financial institutions was a good idea compared to 38% believing it was a bad idea.⁷⁰

2009 4th Quarter

Twelve hearings were held concerning Federal Reserve perspectives on financial reform proposals, investor protection, oversight of private capital pools, problems with securitization of assets, the future of the mortgage market, restoring credit to manufacturers, the state of the banking business, the state of the U.S. housing market, high frequency trading, systemic regulation, bank overdraft fees, over-the-counter derivative sales, investor protection, and executive compensation. Representation of key groups in the hearings was fairly even with

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Scott Keeter, "Mixed Views of Economic Policies and Health Care Reform Persist," (Washington, DC: Pew Research Center, 2009).

government elites taking part in seven hearings, business representatives seven, public interest representatives five and experts five.⁷¹

The American Bankers Association launched a lobbying campaign, requesting that federal regulatory standards preempt state regulation in regards to national banks. The argument that national banks should not be subject to 50 different state regulatory systems resonated with pro-business “New” Democrats whose votes were needed on the House Financial Service Committee. Frank promised them a floor amendment for federal preemption. The New Democrats threaten to oppose the rules under which the bill was to be considered in the House, but they worked out compromise language on preemption with House leadership, eliminating their opposition. Newspapers publicized how much the New Democrats were receiving in contributions from financial institutions.⁷²

Lobbyists on both sides began working to influence public opinion. Americans for Financial Reform organized demonstrations and call-in efforts in members’ districts to press for passage of reform measures, especially the consumer protection agency. They later called press conferences to highlight their support and involved states’ attorneys general to lobby for protection of states’ rights on financial regulation. The U.S. Chamber of Commerce launched a \$2 million advertising campaign against the consumer protection agency. Republican members of the House Financial Services Committee heard that the community bankers would not oppose the consumer agency and complained publicly that community bankers did not get enough regulatory relief in return for their new position.⁷³

The House Committee on Financial Services began a markup of the bills. Many changes to the underlying document were proposed and voted on. The Financial Services Committee reported a measure reforming derivative trading that required banking derivatives to be traded in a standard form through clearing houses, but carved out derivatives used by manufacturers and

⁷¹ "Legislative History of P1111-203 “Dodd-Frank Wall Street Reform and Consumer Protection Act”."

⁷² Kaiser.

⁷³ Kirsch and Mayer.

other end users to limit their business risks. The Financial Services Committee agreed to an amendment to exempt car dealers from consumer agency regulation. It then reported measures to create a unified regulator for financial risk and the consumer agency.⁷⁴

Members of the Black Caucus who sat on the Financial Services Committee met privately with a group of African-American business owners and heard how the recession was affecting them. They concluded that the Obama Administration was not doing enough to help the African-American business community and decided to use their committee votes on the reform package as leverage to get more help. Frank and members of the Obama Administration worked out a plan to respond to their concerns. The Black Caucus members did not believe it was enough but decided to boycott the final committee vote rather than vote against the reform package.⁷⁵

In December, the House Financial Services Committee had its final votes on elements of the financial reform package. They reported the measure without support of the Black Caucus members. Each reported bill became a section of a unified bill called the *Wall Street Reform and Consumer Protection Act of 2009*.

Republican House leaders met with a hundred business lobbyists, asking their help in defeating the package. Republicans embraced talking points that the bill represented government overreach, would be a job killer, allowed more bailouts, and limited credit for small business. The bill passed the House, largely along partisan lines.⁷⁶

In November, Dodd released a “discussion draft” of the Senate legislation. Newspaper editorials found flaws. He made personal calls to Republican committee members asking for their input and cooperation. Shelby publicly criticized the process because there had not been a formal investigation into the causes of the financial crisis. He promised to deliver an alternative Republican bill, which never arrived. Dodd was successful at recruiting three bipartisan pairs of Senators to work on specific parts of the reform package. Dodd made a decision in December not

⁷⁴ Kaiser.

⁷⁵ Ibid.

⁷⁶ Ibid.

to seek reelection, removing a potential obstacle to bipartisan cooperation.⁷⁷ A chance meeting between a Finance Committee staff member and an official of the Bank for International Settlements led to the introduction of research and ideas about regulation of derivatives from international sources.⁷⁸

This quarter, news articles and broadcasts about financial industry regulation in public and business facing media were down slightly compared to the previous quarter. Magazine and journal articles, however, increased 28%, indicating an interest in longer, more analytical pieces. In polling, 45% of the public thought that stricter regulation of financial firms should be a top priority and 36% an important priority.⁷⁹

2010 1st Quarter

Newspaper editorials at the beginning of the year were generally supportive of the reform effort, but wondered if it was strong enough. Many commented on the amount of campaign contributions Obama and members of the finance committees have received from the financial industry.⁸⁰

The number of hearings dropped to only five in the quarter, only one of which related to consumers. They covered the idea of prohibiting banks from making high-risk investment with their own funds (the Volker Rule), tools needed by financial regulators, small business borrowing, and the impact of credit scores on consumers. Current and past government officials took part in three hearings, business representatives three, public interest representatives one and experts four. Around the same time, Pres. Obama delivered a speech advocating for the Volker Rule.⁸¹

Sen. Dodd found it too difficult to negotiate the Senate bill with Sen. Shelby and began working with a less senior Republican committee member, Sen. Robert Corker. Corker proposed lodging the consumer protection agency within the Federal Reserve System. Dodd discussed the

⁷⁷ Kaiser.

⁷⁸ Kaiser. Fehsenfeld, "Proquest Database Search, "Editorials-Regulation of Financial Institutions." "

⁷⁹ "Public's Priorities for 2010: Economy, Jobs, Terrorism," Pew Research Center, file:///Users/tomfehsefeld/Downloads/publics-priorities-for-2010-economy-jobs-terrorism.html.

⁸⁰ Fehsenfeld, "Proquest Database Search, "Editorials-Regulation of Financial Institutions." "

⁸¹ "Legislative History of P1111-203 "Dodd-Frank Wall Street Reform and Consumer Protection Act"." Kaiser.

idea with Democratic committee members. Democratic staff discussed the idea with consumer advocacy groups. Corker was not able to gain support from any other Republican senators for bipartisan efforts, so Dodd decided to issue his own version of the bill without Republican support. Dodd's version did contain a number of compromises that had already been made with Corker and others. At the urging of Shelby, the bill was reported by the Senate Finance Committee without a committee markup. Knowing he would need some Republican support to achieve cloture, Dodd began building relationships with three moderate Republican Senators not on his committee, and solicited their views.⁸²

Public support and interest remained strong. Polls showed 59% of Americans supporting stricter regulation of financial institutions and 33% thinking it was a bad idea. Americans for Financial Reform activated its members to provide public pressure on senators to enact a consumer protection agency. In March, 900 bankers came to Washington to lobby against the reform package. Republican Senators Corker and Gregg told them financial reform was unstoppable because of the public pressure members of Congress were feeling.

News articles and broadcasts about financial industry regulation in public and business facing media increased 30% over the previous quarter. Industry trade press articles increased 16% and web-based publication increased 71%. Newspaper coverage was especially intense, up 37% and broadcast news segments were up 34%.

2010 2nd Quarter

Republican Senate leaders held private meetings with Wall Street executives to discuss a strategy to modify the reform package. Senator Mitch McConnell then made a speech tying the reform package to unpopular Wall Street bailouts. Later he circulated a letter soliciting support from all members of his caucus for a filibuster of the bill. Several Republican Senators refused to sign.⁸³

⁸² .

⁸³ Ibid.

Senator Blanche Lincoln, Chair of the Senate Agriculture Committee came out with a "tougher" proposal on derivative trading. It would have required big banks to spin off derivative trading operations that created \$20 billion in profit per year for them. The measure passed in the Agriculture Committee. Dodd interpreted that as an effort by Lincoln to shore up her support in Arkansas for a tough primary fight. Dodd believed the changes were deeply flawed, but accepted them because he needed the support of the Agriculture Committee members and did not want to jeopardize Lincoln's re-election chances.⁸⁴

Several focusing events took place during the quarter. The Security and Exchange Commission announced fraud charges against the Goldman Sachs investment firm. The Senate Permanent Subcommittee on Investigations issued a report about the collapse of Washington Mutual, the largest bank failure in U.S. history. Except for the Wall Street Journal, national newspapers including the New York Times, Washington Post, and USA Today were urging Democrats to ignore Republican and bank lobby objections and to pass a strong reform package.⁸⁵

Gallup surveys showed a majority of Americans in favor of the financial reform bill, but only by 46% to 43%. Support rose to 50% to 36% when the words used were "Wall Street" instead of "large banks." Seven of ten Democrats supported the bill regardless of wording. Only 22% of Republicans polled supported the bill when the phrase "large banks" was used, but 35% when the surveys referred to Wall Street.⁸⁶

Americans for Financial Reform posted advertisements calling on senators to support the bill. Obama gave speeches and interviews denouncing financial abuses and advocating for the reform package, saying it would, "hold Wall Street accountable." With the exception of the Wall Street Journal, editorials in national papers were pro-reform. The Senate Permanent Subcommittee on Investigations grilled executives from Goldman Sachs about their behavior.

⁸⁴ Ibid.

⁸⁵ Fehsenfeld, "Proquest Database Search, "Editorials-Regulation of Financial Institutions." "

⁸⁶ Lydia Saad, "Banking Reform Sells Better When "Wall Street" Is Mentioned," Gallup.

There were only two hearings in the quarter on the financial reform package. The witness lists showed the opinions represented as government one, business one, public zero, expert one.⁸⁷

After two votes to consider the bill in the full Senate failed due to Republican opposition, a third vote was successful and debate began. The third succeeded, reportedly due to public pressure. Behind the scenes negotiation on how to wind down failing firms without creating a bailout fund finally succeeded. 150 lobbyists waged an intense campaign to get 30 changes in derivatives regulation—they won only six minor changes. An amendment to require big banks to have as much capital proportionately as small banks, favored by Republican Senator Susan Collins, was adopted. An amendment to exempt non-financial small businesses from regulation by the consumer protection bureau, favored by Republican Senator Snowe, was adopted unanimously.⁸⁸

A vote to invoke cloture and end debate then failed. Two Republican senators voted for cloture, but two Democratic senators voted against it. A third Republican senator, Scott Brown from Massachusetts was expected to vote in favor, but voted against cloture instead, after hearing complaints from his home state financial institutions. Frank, also from Massachusetts, provided him with a letter expressing commitments to work with him to protect the interests of large Massachusetts financial firms. Brown then agreed to vote for cloture. The final Senate debate began and the bill was passed.⁸⁹

News articles and broadcasts about financial industry regulation in public and business facing media increased 17% from the previous quarter. Industry trade press articles were up 24%. Blogs up 37% and web-based publications up 56%.

Public opinion was mixed. Pew reported a survey showing 54% of Americans thought stricter regulation of financial institutions was very important and 28% somewhat important. However, 46% of the public were worried government regulation of financial institutions might go

⁸⁷ Kirsch and Mayer. Kaiser. "Legislative History of P1111-203 "Dodd-Frank Wall Street Reform and Consumer Protection Act"."

⁸⁸ Kaiser.

⁸⁹ Ibid.

too far compared to 44% who are worried they would not go far enough. Only 22% of the public was following news about financial regulation very closely and 62% said it was hard to understand. Editorials continued to be mainly positive, but found fault in various aspects of the bill. The Wall Street Journal and some conservative regional papers criticized it as giving too much power to Washington bureaucrats.⁹⁰

Since the texts of the Senate and House bills were not consistent, a conference committee was called to agree on a common text. Frank decided to hold meetings of the committee in public, hoping transparency would minimize the influence of special interests. Americans for Financial Reforms published "10 Conference Priorities." Committee staff members negotiated proposed compromises on the Volker Rule, derivatives and other matters. The committee worked several days and finally worked through an entire night to reach agreement. All proceedings were broadcast by C-SPAN.⁹¹

After agreement was reached, Sen. Brown balked because there was no mechanism to pay for implementation of the law. The conference committee reconvened and adopted an amendment dedicating part of TARP repayments and an increase of FDIC assessments on large banks to pay for the bill. With that change, the compromise bill was passed in the House with overwhelming Democratic support and a handful of Republican votes. The Senate closed debate with the support of Republican senators Snow, Collins and Brown and subsequently passed it.⁹²

On July 21, 2010 President Obama signed it into law as Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L 111-203).

Discussion

The objective of this section is to assess the usefulness of the Modified Multiple Streams Framework (Figure 2) in understanding policy enactment. In contrast to a model or theory, a framework has been described as a shared platform that researchers can use to describe

⁹⁰ "Public Sees Economic News Turning More Negative," Pew Research Center, <https://www.pewresearch.org/politics/2010/07/08/public-sees-economic-news-turning-more-negative/>.

⁹¹ Kaiser.

⁹² Ibid.

phenomena, providing them with common conceptual categories, category relationships, and a set of assumptions. A framework seldom generates testable hypotheses by itself, but supports models that do.⁹³

The first factor reviewed was whether the actors and events could be easily classified using the framework. To assess that question, events from the narrative above were coded into sixteen categories corresponding to the variables shown in Figure 2 and notations were made about the direction of influence. The coding seemed intuitive, with little ambiguity about the concept to which each event belonged. All of the variables in the framework had at least one event that was recorded in the narrative except for foresight efforts and elections. The most prominently utilized categories in the narrative were policy entrepreneurs, interest groups, the governing network, and political entrepreneurs. The least utilized were social indicators, new knowledge, and international policy transfer.

Frequencies of mention have little significance in evaluating the framework because the selection of events is not random, rather it is biased by the interests of the sources. Furthermore, frequency does not necessarily indicate impact. The important point is that the framework is able to capture the essence of the Dodd-Frank story. A summary of the events might go something like this:

The *focusing events* of a financial crash, mass home foreclosures, and surging unemployment were framed by problem brokers as a case of irresponsible, reckless, and abusive financial institutions threatening the foundations of the economy and causing American families great pain. This created a *national mood* that remained supportive of a major regulatory expansion over six calendar quarters.

Policy entrepreneurs brought ideas about policy responses to the table through publications, meetings with policymakers, testimony, interviews, and speeches. *Political entrepreneurs* in Congress built majorities for enactment of the bills by working with a loosely

⁹³ Jenkins-Smith et al.

defined *governing network* of influential and like-minded senators and representatives. Along the way, they encouraged, received, and utilized a broad spectrum of advice from *policy communities* and *interest groups*.

The *political entrepreneurs* worked to expand their governing network to a majority by persuasion about the value of the bill, involving members of their *governing network* in the design of the bill, encouraging the advocacy of supportive *interest groups*, and by offering concessions and side deals to influential *interest groups* as a way of easing members' anxieties about alienating them.

Interest groups on both sides of the issue advocated for their positions directly with members of the *governing network*, and with publicity to influence the *national mood*. Along the way, the *political entrepreneurs* had to navigate demands for bill provisions or procedures from *party leaders* who were concerned about positioning their parties for the next election. In the end, Dodd-Frank became an enacted policy through these efforts.

A second question was whether the framework concepts were comprehensive, or if there were there significant factors that did not fit. Fourteen of the categories were from the framework while two of the categories, the news media and state government officials, had not been considered in the framework. The intervention of state official was very limited—primarily states' attorney generals who lobbied against federal preemption of their power to regulate the operations of national banks in their states. The creation of a separate category for them in the framework could easily be avoided by thinking of them as an interest group.

The news media is a more difficult case. During the six calendar quarters of the enactment, the Nexis-Uni database recorded over 180,000 news stories and editorials on financial reform, or 30,000 per quarter. In the year before bills were introduced, the rate was only 5,000 per quarter. Was that high level of coverage simply a reflection of the national mood, a driver of it, or part of a positive feedback loop in which events and public interest drove coverage, which in turn drove public interest?

Kingdon's interviewees dismissed the news media as an independent driver of policy development because it seldom brought them useful information and tended to only cover dramatic events for short periods of time.⁹⁴ Recent work has indicated that media coverage can help advocacy groups by influencing the national mood and influence elected officials' calculations about their next election.⁹⁵ There are a number of instances when actors in the Dodd-Frank narrative used news media and advertising to attempt just that. However, the information they communicated was coming either from the events or the actors, so the news media might better be considered a mode of transmitting influence, but not an independent source.

One concept that was found to be missing from the framework—by design—is institutional rules. The story of Dodd-Frank was affected by institutional rules in a number of ways that would become apparent if the framework was used in a comparative study. For instance, some factors that would not be found in a parliamentary system are:

- The role of the president as a party leader, taking the lead in proposing a policy direction and promoting it to the public.
- The need for two political entrepreneurs due to bicameralism.
- The need for Senator Dodd to find a small number of minority party votes to break the filibuster.

It is not necessary to deal with these in a study comparing various policy enactments under the same set of rules, but the concept will be added to the framework (Figure 3) as a reminder for comparative future studies.

If news media and state officials can be viewed in these ways, and the Dodd-Frank case is typical, then the framework appears to provide a comprehensive system of classification for policy enactment in the U.S. Congress. Since we do not know if Dodd-Frank is typical, that conclusion must be considered tentative pending further studies.

⁹⁴ Kingdon, 57-61.

⁹⁵ Gary King, Benjamin Schneer, and Ariel White, "How the News Media Activate Public Expression and Influence National Agendas," *Science* 358, no. 6364 (2017). Iskander De Bruycker, "Blessing or Curse for Advocacy? How News Media Attention Helps Advocacy Groups to Achieve Their Policy Goals," *Political Communication* 36, no. 1 (2019). Kevin Arceneaux et al., "The Influence of News Media on Political Elites: Investigating Strategic Responsiveness in Congress," *American Journal of Political Science* 60, no. 1 (2016).

Next, the question of whether the concepts were at a reasonable scale was considered. Would some have been more useful if combined or divided? The idea of including a role of *problem broker* was recommended to provide intellectual clarity to the multiple streams framework.⁹⁶ However, in the Dodd-Frank case, it seemed unnecessary. While in theory, it is possible that those concerned with a social problem might only focus on framing and publicizing it, in practice those who discussed the problems of the financial crisis, such as Elizabeth Warren, also came with policy prescriptions.

While the framework could be simplified by eliminating the problem broker concept and assuming that policy entrepreneurs typically work both on framing problems and proposing policies, there may be cases in which there is a definite split. The well-known case of Rachel Carson's publication of *Silent Spring* comes to mind as an instance of someone who acted primarily as problem broker. Since these roles are not necessarily performed by the same person or organization, it seems best to accept the conceptual split while keeping in mind they are often combined in practice.

Without question, splitting the roles of policy entrepreneurs and political entrepreneurs appears to enhance our insight. Individuals in these roles perform very different work. Policy entrepreneurs in the Dodd-Frank case focused on framing social conditions as problems, selecting among potential policy recommendations, and then using persuasion, evidence, and logic to gain acceptance. Political entrepreneurs, on the other hand, were political insiders who had to navigate the ambitions and anxieties of colleagues, the concerns of party leaders, and the pressures of interest groups to achieve majority support for their bills. This split between the political and policy entrepreneur roles has been embraced in a recent summation of the MSF by Herweg, Zahariadis, and Zohlnhöfer.⁹⁷

Finally, the question of whether the concepts were correctly positioned in the framework and if information seemed to flow in the direction indicated by the arrows. There were several

⁹⁶ Knaggård.

⁹⁷ Herweg, Zahariadis, and Zohlnhöfer.

instances in the narrative that suggest changes should be made in the positioning of concepts and the direction of influence. The concept of partisan interests was more directly involved in the process than indicated in Figure 2. *Party leaders*, rather than amorphous partisan interests, intervened on several occasions, asking the political entrepreneurs to slow down or speed up on certain parts of the package, and they determined the level of bipartisan cooperation that was available. They also developed talking points for members to use when seeking to influence the political stream.

Events in the case suggest that several arrows should be altered to show information flows. Both pro and anti-reform interest groups directed information at the public in an attempt to reinforce or alter the national mood. The information exchange between political entrepreneurs and the members of the governing network flowed in both directions; members often told entrepreneurs why they might be reluctant to vote for the policy proposals so the entrepreneurs could find solutions. Finally, there was strong two-way communication between party leaders, governing networks, and political entrepreneurs. Figure 3 reflects these changes in the framework.

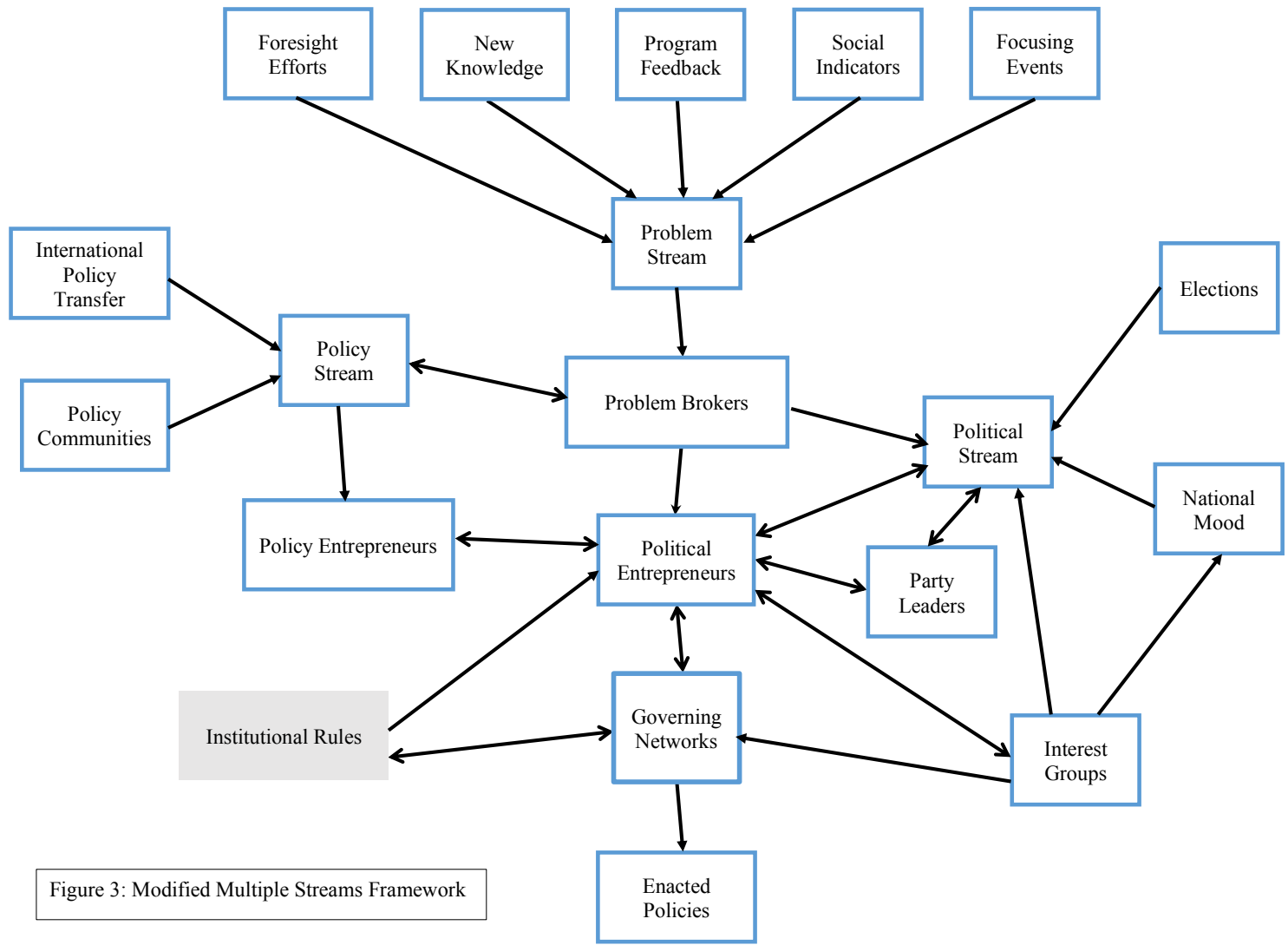


Figure 3: Modified Multiple Streams Framework

Conclusion

More than thirty years after publication of Kingdon's multiple stream framework, the Dodd-Frank case demonstrates that it continues to provide a useful platform for understanding the policy process. Many of the updates proposed by policy scholars have improved the framework without disrupting its core logic. It recognizes both the flows of information into the political system as the raw material for policymaking and the role of human agency in shaping them into policy enactments. With one exception, only minor adjustments were needed to accommodate the factors found in this case study.

The one exception is a recognition of the central role party leaders play. Given the stakes involved in gaining or retaining majority party control in Congress, it makes sense that party leaders will play an outsized role in deciding which legislation is considered, which legislation is blocked, which legislation is pressed forward, and how legislation is positioned to appeal to the public in the next election. Kingdon did not find political parties to be a major influence, although his interviewees mentioned them 23% of the time when speaking about infrastructure and 38% when speaking about health issues.⁹⁸ However, partisanship has grown stronger in Congress since his research was done.⁹⁹ Party leaders have always been important gatekeepers in the legislative process, but never more so than now.¹⁰⁰

Finally, to conclude that the framework accommodates enactment of forward-looking policies, we would have to believe that Dodd-Frank qualifies as a forward-looking enactment. The effort was undertaken in response to a current crisis, but it seems clear it was intended as a long-term effort as implied in the title of the Obama Administration's white paper, "Financial Regulatory Reform, a New Foundation: Rebuilding Financial Supervision and Regulation."¹⁰¹ The final result

⁹⁸ Kingdon, 64.

⁹⁹ Roger H. Davidson et al., *Congress and Its Members*, 16th ed. (Thousand Oaks, CA: CQ Press, 2018).

¹⁰⁰ See for instance, John H. Aldrich and David W. Rohde, "Lending and Reclaiming Power: Majority Leadership in the House since the 1950s," in *Congress Reconsidered*, ed. Lawrence C. Dodd and Bruce I. Oppenheimer (Thousand Oaks, CA: CQ Press, 2017). Steven S. Smith and Gerald Gamm, "Parties and the Politics of Polarization," *ibid.*

¹⁰¹ Financial Regulatory Reform, a New Foundation: Rebuilding Financial Supervision and Regulation.

was a mix of rules for the financial industry and a regulatory structure that would adjust them to a variety of future conditions. Without sunset provisions, the new institutional rules could easily last twenty or more years. On that basis, it appears to qualify as a forward-looking policy.

With these final touches on the updated multiple streams model, Chapter 3 will examine how policy advocacy changes when problems are poorly understood future issues that have not yet become prominent to voters and policymakers. Chapter 3 discusses how the Bipartisan Policy Center uses a variety of strategies to gain the understanding, interest, and commitment of political entrepreneurs. Chapter 4 will then turn to the elements of successful enactment campaigns directed by political entrepreneurs in the field of environmental law.

Chapter 3 The Bipartisan Policy Center: Lobbying for the Future

While administrative agencies and congressional staff play a prominent role in the development of federal government policies, non-governmental organizations and independent experts are strongly represented as well. For example, during the enactment of Dodd-Frank, representatives from these groups accounted for 64% of the witnesses in committee hearings, with the other 36% being current and former government officials. In Kingdon's study, interest group influence was noted in 84% of the interviews, making it the third most influential set of actors behind administration employees and members of Congress.¹⁰²

The MSF shows many ways in which non-governmental organizations influence policy development. These outside groups can monitor the problem stream and frame social conditions as public problems. They interact with policy communities consisting of administration officials, academic experts, and stakeholders. They can act as problem brokers and policy entrepreneurs to publicize information about social conditions, frame them as problems in the political stream, and bring solutions in the policy stream. They can educate, motivate, and gain the commitment of potential political entrepreneurs in Congress. They can frame temporary favorable conditions as policy windows to create a sense of urgency. As we saw in the Dodd-Frank case, interest groups that have large numbers of geographically dispersed members and the ability to mobilize them can obtain policy concessions by threatening the financial support and re-election prospects of elected officials.

In the current context of American government, there are many entry points for non-governmental organizations to influence the policy development and enactment process. The question raised in this chapter is how groups must alter their influence strategies when developing and advocating forward-looking policies to address long-term problems. After a review of the literature on forward-looking policy development, this chapter contrasts the advocacy strategy used by the Washington DC-based Bipartisan Policy Center on the well-known current

¹⁰² Kingdon, 46.

issue of infrastructure funding with its strategy on the uncertain, long-term issue of the nation's energy mix.

Literature Review

What is the playing field that a forward-looking policy advocate faces? Jonathan Boston, who contributed an extensive study of forward-looking policymaking, cites barriers such as a pronounced short-term bias by many citizens, the uncertain nature of the future, uncertainty in the way policy will play out over long periods of time, and institutional weaknesses that fail to ensure long-term compliance for policies. These create a risky playing field for politicians.¹⁰³ Boston's work includes a theoretical examination of the *presentist* bias¹⁰⁴ found in many democratic governments, then assesses research and thinking that has been done about remedies for it. These include structural changes in governmental processes, the use of commitment devices to insure the delivery of long term benefits, insulating policymakers from short-term pressures, advising policymakers on future issues, increasing the foresight capabilities of government, and the political conditions for policy development.

Barriers cited by other authors include a history of projections about future conditions that were wildly off the mark, creating credibility issues for new warnings. Even those with good evidence of future risks are often ignored or ridiculed by powerful leaders with vested interests in the status quo.¹⁰⁵ Short electoral terms of members of Congress that lead them to focus on the most urgent issues of their supporters.¹⁰⁶ Finally, organizations that advocate for future issues are typically outnumbered and outspent by lobbying organizations representing the current interests of businesses, institutions, professional and ethnic groups.¹⁰⁷

¹⁰³ Boston, 167.

¹⁰⁴ Called "short-term-it is" by presidential scholar Paul C. Light, *The President's Agenda: Domestic Policy Choice from Kennedy to Clinton*, 3rd ed. (Baltimore: Johns Hopkins University Press, 1999).

¹⁰⁵ Richard A. Clarke and R. P. Eddy, *Warnings: Finding Cassandras to Stop Catastrophes* (New York: HarperCollins, 2017).

¹⁰⁶ King.

¹⁰⁷ Lee Drutman, *The Business of America Is Lobbying: How Corporations Became Politicized and Politics Became More Corporate* (New York: Oxford University Press, 2015). Matt Grossmann, *The Not-So-Special Interests* (Stanford, CA: Stanford University Press, 2012). Drutman reckons that corporate interests outspend public interest groups and unions combined by a ratio of 34:1.

Despite the difficulties of enacting forward-looking policies, advocates are sometime successful. Joseph E. Aldy addressed this by studying three cases of forward-looking policy enactment in the U.S.—the Social Security Act of 1935 (P.L. 74-271), the Highway Revenue Act of 1956 (P.L. 84-627) that established the Interstate Highway System and the Clean Air Act Amendments of 1970 (P.L. 91-604).¹⁰⁸ Lessons from these cases suggest that effective advocacy strategies include 1) designing policies to deliver broad, near-term benefits that lessen opposition; 2) strategically linking unrelated interest groups, especially insurgent business firms that have more to gain than to lose from the new policy; and 3) mobilizing support from younger people who will receive more of the long-term benefits. This last is intriguing. With many citizens of economically advanced societies living into their 80s and beyond, mobilizing support for long-term policies from people in their 20s and 30s could be more of an exercise in rational self-interest than altruism for future generations.

Alan M. Jacobs took a different tack in a study of eight major reforms of pension programs in Germany, Canada, Great Britain, and the United States.¹⁰⁹ He found that, under certain conditions, political elites are motivated and able to enact policies that entail short-term costs because they offer long-term gains. He characterizes these as *investment* policies. Unlike short-term distributional battles between interest groups with zero-sum outcomes, long-term programs have the possibility of creating positive-sum outcomes. These programs become positive-sum when a short-term imposition of costs is paired with a credible mechanism to deliver greater future benefits.

Jacobs defined investment policies as, “a choice with two key structural features: (1) the extraction of resources in the short term and (2) the dedication of those resources to a mechanism of intertemporal transfer....”¹¹⁰ An example familiar to Americans is the collection of Social Security taxes to fund the Social Security Trust Fund. Jacobs explores the political

¹⁰⁸ Joseph E. Aldy, "Mobilizing Political Action on Behalf of Future Generations," *Future of Children* 26, no. 1 (2016).

¹⁰⁹ Jacobs.

¹¹⁰ *Ibid.*, 17.

conditions that caused policymakers in some countries to set aside pension funds for future obligations while policymakers in other countries opted to pay current year pension obligations from current year revenues.

From his cases, Jacobs concluded there are three necessary conditions that allow governments to put forward-looking programs in place. First, governing elites must believe that voters will not punish them for imposing short-term costs. This is more likely when electoral competitiveness is low, when politicians can frame the short-term costs as minimal, and when there is a focusing event that makes clear the long-term costs of not acting. It is also more likely if one party is dominant, or if there is a cross-party consensus.

Second, policymakers must believe the mechanisms they put in place will actually deliver the future benefits. This is often difficult to determine because of complex and uncertain social processes that react to any large-scale government program. In addition, future governments cannot be counted on to carry through with program commitments. Enactment of investment programs are more likely if the mental models of policymakers are reassuring on these points.

Finally, policymakers must have the institutional capacity to enact the program into law over the objections of special interest groups. This will be more likely if a proposal does not impose significant costs on organized interests. Or, if it does impose costs on organized interests, success will be more likely if there are few “veto-points,” if policymaking authority is centralized, if leaders of organized interests believe there is a reliable mechanism for them to capture greater future benefits, or if they believe some action is inevitable and a proposal is the “least bad” alternative.

A number of implications flow from this literature. To persuade members of Congress to enact forward-looking policies, advocates must reassure them that supporting their proposed measure will not jeopardize the members’ re-election. If Boston is correct about voters being present oriented, then we could expect it would be difficult for forward-looking advocates to make this argument if a policy will require near-term costs, such as increased tax rates. On the other hand, Jacobs presents evidence that the time preference of voters is very small. He argues that

grassroots skepticism about forward-looking policies has more to do with the risk that the long-term benefits will not be delivered. Strong mechanism for future benefit delivery could well overcome a time preference slightly discounts future benefits. Jacobs and Boston both affirm the importance of having believable commitment mechanisms in policies in order to enact investment policies.

Beyond reassurance about re-election prospects, Baumgartner *et al.* present evidence that it is necessary to build support with a large coalition of organized interests to create large scale policy change in the American context.¹¹¹ A large, supportive coalition seemed critical in the Dodd-Frank case when 200 organizations joined Americans for Financial Reform to support the bill. Building and maintaining a large coalition may be difficult for forward-looking advocates, however, if organized groups are called on to pay the short term costs of a policy. Furthermore, organized groups typically have current interests to pursue, so their loyalty to goals that will unfold in decades may be jettisoned at the first sign of trouble for their short-term interests.¹¹²

In summary, the work cited by Aldy, Jacobs, and Boston implies a number of strategies forward-looking policy advocates can use to overcome organized group or voter opposition. They can design broad near-term benefits into policies to gain voter support. Or spread costs broadly to avoid imposing objectionable costs on particular organized interests. They may find ways to delay the costs such as issuing debt for long lived infrastructure. They may be able to design automatic mechanisms to deliver the greater long-term benefits in return for short-term costs. They may be able to create a coalition with insurgent business firms that will benefit from a policy.

Advocates could set a strategy of small incremental steps that may lead to a long-term policy goal without arousing strong opposition. The multiple streams literature suggests that advocates could also simply prepare their problem framing and policy proposals, build relationships with potential political entrepreneurs, and wait for a focusing event to create a

¹¹¹ Frank R. Baumgartner et al., *Lobbying and Policy Change: Who Wins, Who Loses, and Why* (Chicago: The University of Chicago Press, 2009).

¹¹² Drutman.

window of opportunity for a major initiative. With any of these strategies, the authors agree that framing is important. Advocates will be most successful if their proposed policies can be framed in terms of dominant popular values and in line with, or at least not contradictory to, the agenda of the majority party.

Case Study: Strategies of the Bipartisan Policy Center (BPC)

The method chosen for this portion of the inquiry is a case study of future and current-oriented issue advocacy by a Washington DC-based advocacy organization. Since groups do not generally advertise themselves as advocates for forward-looking policies an initial sample of organizations was assembled by searching for issues the American public believes will be important in the future, and then identifying groups that work on those issues. The source on issues was a survey performed by the Pew Research Center in 2018 that asked 2,524 respondents what issues should be top, important, or low priorities, “in order for the federal government to improve the quality of life for future generations” in the year 2050.¹¹³ This yielded ten issues. Republicans and Democrats expressed large differences of opinion on the first two issues, and broad consensus on the remaining eight. The issues were

- Climate change: 90% of Democrats were very or fairly worried.
- Undocumented immigrants: 65% of Republicans rated reducing the number of undocumented immigrants coming into the U.S. as their top priority.
- Protecting retirement income: 72% expect people in 2050 will have a harder time paying their way in retirement. 84% believed that Social Security will either not be available or that benefits will be cut by 2050.
- Healthcare access and affordability: 58% expect healthcare to be less affordable in the future and 68% said that providing high-quality, affordable health care to all Americans should be a top priority of government.
- Technology-driven underemployment: 82% believed that robots and computers will do much of the work currently performed by people. 49% believed workers will have less job security.
- Public debt: 63% say the national debt will continue to grow.
- Energy security: 67% believe a world-wide energy crisis will definitely or probably happen before 2050.
- Income inequality: 73% believe the gap between rich and poor will widen and 62% believe the lower class will grow. Only 20% believed the average standard of living for American families would get better by 2050.
- Government effectiveness: 86% said they were very or fairly worried about the way the government in Washington works.

¹¹³ Parker, Morin, and Horowitz, "Looking to the Future, Public Sees an America in Decline on Many Fronts."

- Educational quality: 77% worried about the ability of public schools to provide a quality education for students in the future.

A search for interest groups that advocate on at least one of these issues in the *Washington Information Directory 2019-2020*¹¹⁴ found 125 listed. For each issue-area, there were at least ten organizations identified. Many were listed in more than one category. To further refine the selection of this sample of organizations, their websites were examined, looking for evidence that they worked to promote forward-looking policies to Congress. That eliminated thirty-five of the organizations that either did not work with Congress, or focused primarily on near-term concerns. While many policies have both near-term and long-term implications, the definition from Chapter 1 was used to differentiate them—a forward-looking policy addresses a long-term problem with a solution flexible enough to meet a range of possible future developments, and a policy outcome that relies on long-term goals or future scenarios at least 20 years into the future.

The remaining organizations fell into two broad categories—think tanks and organizations that directly engage in lobbying activities. Fortunately, the Bipartisan Policy Center operates as a think tank, but has a partner organization, the Bipartisan Policy Center Action Network, that lobbies Congress (jointly BPC). An examination of its website (bipartisanpolicy.org) and lobbying records on Open Secrets¹¹⁵ demonstrated that it works on all of the issues identified in the Pew study with the exception of income inequality. In 2018, its staff included 22 registered lobbyists, and BPC took positions on 66 bills then being considered by Congress. This certainly indicates a robust level of lobbying activity.

Two of BPC's policy areas stood out as contrasting examples for this study: energy and infrastructure. A review of BPC's website revealed energy proposals oriented towards a long-term transformation of the sector while its infrastructure proposals are largely meant to address current funding problems. Both energy security and climate change are rated highly in the Pew survey

¹¹⁴ *Washington Information Directory 2019 - 2020*, Kindle ed. (Thousand Oaks, CA: SAGE, 2019).

¹¹⁵ "Opensecrets.Org," Center for Responsive Politics, www.opensecrets.org.

cited above, while infrastructure was not. This contrast revealed different policy design considerations and advocacy methods for future and present-oriented policy advocacy.

To make sense of BPC's advocacy strategies, 346 documents culled from the organization's website and other sources were reviewed concerning their think tank work and 74 lobbying reports from the Open Secrets website, primarily from the five years between November 1, 2014 and October 31, 2019. The think tank documents fell into five categories of influence attempts by the organization: reports, events, testimony, letters, blog postings, pages on their website, and podcasts. From these, 26 issues were identified that related to energy and 14 issues related to infrastructure. The Findings section below includes tables showing the distribution of influence attempts by issue and type. The blog postings and podcasts were eliminated from the analysis because most simply repeated what was in the other types of communications.

Background

Democrat Jason Grumet and Republican Cameron Lynch founded BPC in 2007 with the goal of encouraging members of Congress to tackle long-term issues on a bipartisan basis.¹¹⁶ In the beginning, they planned to focus on health care, relations with Iran, and climate change. Past Republican and Democratic leaders of the U.S. Senate endorsed the idea and were actively involved in its formation. BPC soon attracted significant funding from corporations and foundations.

Grumet and Lynch's idea was to be bipartisan—not nonpartisan—and have the views of both parties strongly represented on task forces and staff, hashing out feasible compromises on significant issues, then lobbying for their adoption. Grumet hoped that task force members would represent "...seventy or eighty percent of the political spectrum."¹¹⁷ A defining characteristic of BPC seems to be the early involvement of retired political leaders to find a political middle ground

¹¹⁶ Shawn Zeller, "Bipartisan Policy Center Dives Headfirst into the Partisan Pool," *Congressional Quarterly Today*, August 25 2008.

¹¹⁷ Jason S. Grumet, "Interview with Jason Grumet by Brien Williams," George J. Mitchell Oral History Project, <https://digitalcommons.bowdoin.edu/mitchelloralhistory/195>. Jason Grumet, *City of Rivals: Restoring the Glorious Mess of American Democracy* (Guilford, CT: Lyons Press, 2014).

on significant issues. To put BPC in context, among the eighty DC-based public interest think tanks and advocacy groups identified in this study, BPC is relatively new, having been founded in 2007. It has achieved significant size with a \$23 million annual budget, ranking 21st among this group, and has a staff of 122, including many who formerly served in government policy roles.

BPC's work on energy began in 2008 when it formed the American Energy Innovation Council (AEIC). AEIC's mission was to study the nation's energy options and make recommendations. It was composed of prominent business CEOs assisted by technical experts. Their work was embodied in a 2010 report called, "A Business Plan for America's Energy Future."¹¹⁸ The forward-looking nature of this effort was made clear in the introduction to the report:

As business leaders, we feel that America's current energy system is deficient in ways that cause serious harm to our economy, our national security, and our environment. To correct these deficiencies, we must make a serious commitment to modernizing our energy system with cleaner, more efficient technologies.

Such a commitment should include both robust, public investments in innovative energy technologies as well as policy reforms to deploy these technologies on a large scale. By tapping America's entrepreneurial spirit and longstanding leadership in technology innovation, we can set a course for a prosperous, sustainable economy, and take control of our energy future.

Conversely, if we continue with the energy status quo, we will expose ourselves to risks that pose significant threats to our way of life.¹¹⁹

This report formed the basis for BPC's early policy recommendations concerning energy by focusing on a forward-looking program of research and commercialization of new technologies, funded by a tripling of federal expenditures on energy technology research. BPC's proposals met the criteria of forward-looking policy as defined for this study because they addressed the emerging problem of shifting the nation to cleaner, more sustainable energy systems that would take decades to accomplish. Focusing on research and development followed by private sector commercialization was flexible enough to meet a range of possible future

¹¹⁸ "A Business Plan for America's Energy Future," Bipartisan Policy Center, https://bipartisanpolicy.org/wp-content/uploads/2019/03/AEIC_REPORT_Final.pdf.

¹¹⁹ *Ibid.*

developments concerning what would be researched, what developed, and what would be commercialized. It rested on a vision of an energy future that would certainly take 20 or more years to achieve.

By contrast, BPC's work on infrastructure began in 2015 with this conception of the problem:

BUSINESS CAN HELP BRIDGE THE INFRASTRUCTURE GAP

America faces a \$1 trillion infrastructure funding crisis. Government alone can't fully fund all of the roads, bridges, and other critical infrastructure our economy needs – let alone upgrade our airports, shipping hubs and water facilities to meet the challenges of the coming decades. Private investors, working together with government, will have to step up with additional resources in order to bridge the gap.¹²⁰

The shortfall in infrastructure funding was viewed as an immediate crisis. A 2014 book by Grumet cites the fact that the American Society of Civil Engineers gave the U.S. a grade of D+ for its infrastructure and estimated it would take \$3 trillion to make it acceptable.¹²¹ BPC's energy strategy could be summarized as triple federal budgets for basic research and wait for commercialization of new energy technologies by entrepreneurs over a period of decades. A summary of its infrastructure efforts might read that we have an immediate problem rooted in a lack of funding, so find ways to make infrastructure investments attractive to private investors as soon as possible.

Findings

What difference did it make in BPC's strategies that one area involved a long-term problem and one concerned a near-term problem? On both issue areas, BPC used a combination of communication efforts meant to educate policymakers and direct lobbying. The big picture can be seen in the types of communication efforts BPC made in the five years under study. Its website lists 160 energy and 161 infrastructure efforts in this period. As shown in Table 1 below, their work on energy put a greater emphasis on reports and events than their work on

¹²⁰ "Business Can Help Bridge the Infrastructure Gap," Bipartisan Policy Center, <https://bipartisanpolicy.org/report/business-can-help-bridge-the-infrastructure-gap/>.

¹²¹ Grumet.

infrastructure. This differing profile of communication events suggests BPC’s staff saw a need for more detailed interaction to educate policymakers and create the political support for a forward-looking policy change.

Table 1 Comparison of Communication Efforts

Communication Efforts	Energy	Infrastructure
Report	23	9
Event	38	21
Press Release	28	11
Blog	62	97
Podcast Episode	2	18
Page	5	5
Person	2	-
Total	160	161

Table 2 Infrastructure Communication and Lobbying Efforts - November 1, 2014 – October 31, 2019¹²²

Infrastructure Topics	Reports	Events	Testimony/		Total	Percent	Cumulative Percent
			Letters	Lobbying			
Regulatory Reform	3	9	3	20	35	22%	22%
Private Financing	5	8	1	15	29	18%	40%
Water	6	7	1	6	20	13%	53%
Government Funding	2	5	1	11	19	12%	65%
Barriers	3	4	1	2	10	6%	71%
Asset Inventory	2	4	1	0	7	4%	75%
Innovation	2	5	0	0	7	4%	80%
Rural Infrastructure	1	0	1	5	7	4%	84%
Centers	3	3	0	0	6	4%	88%
Public Health & Education	3	2	1	0	6	4%	92%
Taxation	1	2	0	2	5	3%	95%
Regional Approaches	3	1	0	0	4	3%	97%
Affordability	1	1	1	0	3	2%	99%
Natural Disasters	0	1	0	0	1	1%	100%
Total	35	52	11	61	159		

¹²² "Infrastructure," Bipartisan Policy Center, <https://bipartisanpolicy.org/policy-area/infrastructure/>. "Client Profile: Bipartisan Policy Center," Center for Responsive Politics, <https://www.opensecrets.org/federal-lobbying/clients/summary?cycle=2019&id=D000047798>. The lobbying numbers represent the number of times BPC reported its lobbyists working on an issue during the five year period.

Table 2 shows the range and frequency of BPC’s infrastructure communication events. Fourteen identifiable topics were found in these communications, but the six most frequent topics, amounting to 43% of topics represent 75% the activity. All but one of the topics relate to BPC’s overall diagnosis of the problem and proposed solution—a shortage of government funds and the need to bring private capital into the funding of public infrastructure.

The communication efforts showed that BPC was engaging with the wider infrastructure policy community in a variety of ways to both create and popularize policy solutions. Kingdon saw this interaction as an essential process of circulating ideas to *soften up* policy communities so they would take ideas seriously.¹²³ Some examples of these communications were

- A fact sheet on the infrastructure funding gap and the barriers preventing private investors from providing funds.¹²⁴
- A symposium on innovative infrastructure financing.¹²⁵
- A report on how to modernize infrastructure.¹²⁶
- A letter to the 2016 presidential candidates on infrastructure.¹²⁷
- A report on utilizing private capital for rural infrastructure.¹²⁸

BPC also advocated for additional sources of government funding, but its main focus was on removing the regulatory barriers to private investment. A concern with aging water and sewer systems in the U.S. is the only outlier in the mix. Forward-looking ideas about infrastructure, embodied in potential innovation funds and having research centers, were given little attention. With a couple of exceptions, BPC did not take a visionary stance of asking if the nation would need the same mix of infrastructure in twenty or thirty years.

¹²³ Kingdon, 127-28.

¹²⁴ Business Can Help Bridge the Infrastructure Gap.

¹²⁵ "Innovative Financing: Filling the Infrastructure Pothole," Bipartisan Policy Center, <https://bipartisanpolicy.org/event/innovative-financing-filling-the-infrastructure-pothole/>.

¹²⁶ "Bridging the Gap Together: A New Model to Modernize U.S. Infrastructure," Bipartisan Policy Center, <https://bipartisanpolicy.org/event/recommendations-for-a-new-american-model-for-infrastructure-investment/>.

¹²⁷ Haley Barbour, "An Open Letter to the Presidential Candidates on Infrastructure," Bipartisan Policy Center, <https://bipartisanpolicy.org/wp-content/uploads/2019/03/BPC-Infrastructure-2016-Election.pdf>.

¹²⁸ "Putting Private Capital to Work in Rural Infrastructure," Bipartisan Policy Center, <https://bipartisanpolicy.org/wp-content/uploads/2019/03/BPC-Putting-Capital-to-Work-in-Rural-Infrastructure.pdf>.

Table 3 Energy Communication and Lobbying Efforts - November 1, 2014 – October 31, 2019¹²⁹

Energy Topics	Reports	Events	Testimony/		Total	Percent	Cummiulative
			Letters	Lobbying			Percent
Innovation	16	9	15	26	66	15%	15%
ARPA-E	3	2	5	33	43	10%	25%
Government Funding	7	6	10	19	42	10%	35%
Energy Diversity & Security	12	6	5	14	37	8%	43%
Nuclear Power	6	6	4	18	34	8%	51%
Fossil Fuels	5	5	5	14	29	7%	57%
Carbon Capture	2	1	5	17	25	6%	63%
Energy Efficiency	7	5	8	4	24	5%	69%
Climate Change	8	7	3	0	18	4%	73%
Renewable Energy	4	2	0	9	15	3%	76%
Energy Storage	1	2	5	6	14	3%	79%
Regulation	2	12	0	0	14	3%	83%
Electric Power	4	8	0	0	12	3%	85%
Regulatory Reform	5	1	5	0	11	3%	88%
Trade	1	2	3	4	10	2%	90%
Centers	3	0	1	4	8	2%	92%
Coalition	2	1	4	0	7	2%	94%
Economics	4	3	0	0	7	2%	95%
Economic Benefits	2	2	2	0	6	1%	97%
Permitting	3	0	1	0	4	1%	97%
International Comparisons	2	1	0	0	3	1%	98%
Modeling	3	0	0	0	3	1%	99%
Regional Cooperation	1	2	0	0	3	1%	100%
Labor	0	1	0	0	1	0%	100%
Litigation	0	1	0	0	1	0%	100%
Total	103	85	81	168	437		

BPC’s communications around energy were more extensive, intensive, and diverse than its messages on infrastructure as shown in Table 3. Twenty-five identifiable topics were found in the energy communications compared to fourteen for infrastructure. Like infrastructure, its energy efforts were unevenly distributed. The ten most frequent topics, amounting to 40%, accounted for 76% of its activities. Eight of the most frequent ten deal with technical innovations that would take many years to develop, commercialize, and bring to scale.

Similar to its work on infrastructure, BPC used a diverse set of venues and methods to soften up energy policy communities to its ideas. Some of examples of BPC’s focus on innovation were

¹²⁹ "Energy," Bipartisan Policy Center, <https://bipartisanpolicy.org/policy-area/energy/>. Client Profile: Bipartisan Policy Center. ARPA-E is an acronym for the Advanced Research Projects Agency – Energy, the research arm of the U.S. Department of Energy.

- An event to discuss the relationship between federal research and development and advanced battery technology.¹³⁰
- A report on the state of energy innovation in the U.S.¹³¹
- Congressional testimony on energy innovations in the U.S.¹³²
- A report analyzing proposed policies under the Obama Administration's Clean Power Plan.¹³³
- A symposium engaging a former Energy Secretary on the need for nuclear power expansion.¹³⁴

Discussion: Comparing BPC's Strategies on a Current and Long-term Issues

In the five years of this study, BPC initiated many activities that were identified in the literature review as necessary conditions for policy change. In 2015, it appeared that a window of opportunity for policy change on infrastructure was opening. The American Society of Civil Engineers had identified the problem of deteriorating infrastructure and a lack of funding. By 2016 both of the major party candidates for president were advocating increased infrastructure spending, but Congress had failed to find a sustainable source of funding for highways.¹³⁵ In response, BPC's Executive Council on Infrastructure had authored a report detailing policy changes that could make infrastructure financing attractive for private investment.¹³⁶

During this period, BPC courted potential political entrepreneurs by giving senators prominent roles in their events and recognizing their support in blog postings and press releases. Its lobbyists worked consistently over five years to spread the word among policymakers as shown in every quarterly lobbying report.¹³⁷ It formed a coalition with top level business groups.¹³⁸

¹³⁰ "Batteries for Vehicles and the Electric Grid: Maximizing the Return on Federal R&D Investments," Bipartisan Policy Center, <https://bipartisanpolicy.org/event/batteries-for-vehicles-and-the-electric-grid-maximizing-the-return-on-federal-rd-investments/>.

¹³¹ Jason Burwen and Stuart Iler, "Bpc's American Energy Innovation Council Releases Recommendations on "Restoring American Energy Innovation Leadership"," Bipartisan Policy Center, <https://bipartisanpolicy.org/blog/bpcs-american-energy-innovation-council-releases-recommendations-on-restoring-american-energy-innovation-leadership/>.

¹³² Jason Grumet, "Testimony by BPC President Jason Grumet to the House Energy and Commerce Subcommittee on Energy and Power," Bipartisan Policy Center, <https://bipartisanpolicy.org/wp-content/uploads/2019/03/Grumet-6-2-15-Testimony.pdf>.

¹³³ Jennifer Macedonia et al., "Insights from Modeling the Proposed Clean Power Plan," Bipartisan Policy Center.

¹³⁴ "Conversation with Former Energy Secretary Ernest Moniz: Why the U.S. Needs a Robust Nuclear Power Sector," Bipartisan Policy Center, <https://bipartisanpolicy.org/event/conversation-with-former-energy-secretary-ernest-moniz/>.

¹³⁵ Ben Ritz, "Congress Goes Off-Road with Highway Funding Bill," Bipartisan Policy Center.

¹³⁶ Bridging the Gap Together: A New Model to Modernize U.S. Infrastructure.

¹³⁷ Client Profile: Bipartisan Policy Center.

¹³⁸ Jordan LaPier, "BPC's Executive Council on Infrastructure Announces New Coalition," Bipartisan Policy Center, <https://bipartisanpolicy.org/press-release/executive-council-on-infrastructure-announces-new-coalition/>.

Also, BPC attempted to influence the Trump administration by submitting a transition memo on infrastructure and a first 100 days plan.¹³⁹

In contrast to its infrastructure work, BPC's energy work envisioned a forward-looking transition to a new mix of energy sources over a period of decades. They argued this could be achieved through a strong increase in government funding for research and development and commercialization by the private sector. 76% of its documented communications and lobbying concern innovation on all forms of energy to provide more energy security and address climate change—key concerns of respondents to the Pew poll on 2050 issues.

Advocating for a new mix of requires a much more diverse message than, *we need \$2 trillion for infrastructure--here is how to get it*. It encompasses regulatory relief and research for advanced nuclear power, encouragement for renewable energy, carbon capture technologies to compensate for the fossil fuels we will still be using in the decades ahead, and better energy storage technologies for the electric grid. This diversity of approach required more reports and events to educate policymakers. The core recommendation to triple federal energy research budgets¹⁴⁰ supported most of these initiatives. Investing more in research and development is a prime example of a forward-looking policy because it requires spending funds in the present for future benefits that may or may not materialize.

How well does BPC's energy work support the implications outlined in the literature review? First, it appears they either discounted the importance of grassroots support, or assumed with Boston that voters are too impatient to care about a long-term strategy for energy. There was no evidence of citizen panels being used in formulating their policies or outreach efforts to the general public. Instead, they relied on recommendations of elite businesspeople, former government officials, academics and professional staff. With the exception of several regional

¹³⁹ Sarah Kline, "First 100 Days Infrastructure Agenda: Laying the Foundation," Bipartisan Policy Center, <https://bipartisanpolicy.org/blog/first-100-days-infrastructure-agenda/>. "Transition Memo: A Plan to Modernize America's Infrastructure," Bipartisan Policy Center, <https://bipartisanpolicy.org/report/transition-memo-modernize-infrastructure/>.

¹⁴⁰ A Business Plan for America's Energy Future.

meetings with local and state officials, all of their documented outreach efforts were aimed at the Washington policy community.

Next, there was no evidence they were able to build as large and powerful a coalition or organized interests as they did for infrastructure. The only evidence of an energy coalition referred to around fifty universities, businesses and nonprofits that supported increased research spending.¹⁴¹ With the exception of the nonprofits, the cited organizations would directly benefit from increased research funding. This hardly compares with BPC's infrastructure coalition including the U.S. Chamber of Commerce, the National Association of Manufacturers, North American's Building Trades Unions, and others lobbying for \$2 trillion in funding.¹⁴² The limited coalition they did build for energy included some insurgent business firms, the type of potential allies that Aldy identified.

In the absence of a powerful coalition, BPC's energy strategy is consistent with playing the role of a policy entrepreneur. It has built a broad portfolio of credible, incremental policies that their lobbyists can bring up when the opportunity arises. Their 22 lobbyists are armed with analytical reports supporting the policies and often have fact sheets providing overviews. Through their face to face meeting, events, and blogs, they keep the policies in view and wait for focusing events that provide opportunities to advance them. While they have not achieved their goal of tripling the federal energy research budget, they have achieved success in urging Congress to increase funding in the face of the Trump administration suggesting severe cuts.¹⁴³

Finally, they have thought strategically about framing their energy policies. BPC's materials speak about their push for research funding with a focus on popular bipartisan American values such as innovation and entrepreneurialism.¹⁴⁴ There is no evidence in the

¹⁴¹ "Open Letter from Universities, Businesses, and Ngos in Support of Fy19 ARPA-E Funding," BPC Action, <https://bpcaction.org/2018/04/open-letter-universities-businesses-ngos-support-fy19-arpa-e-funding/>.

¹⁴² LaPier.

¹⁴³ "Advanced Research Projects Agency – Energy (Including Cancellation of Funds)," Department of Energy, <https://arpa-e.energy.gov/sites/default/files/ARPA-E%20FY%202018%20Budget%20Request.pdf>. "Advanced Research Projects Agency - Energy," Department of Energy, <https://arpa-e.energy.gov/sites/default/files/ARPA-E%20FY%202019%20Budget%20Request.pdf>.

¹⁴⁴ "The Power of Innovation: Inventing the Future," Bipartisan Policy Center, <https://bipartisanpolicy.org/wp-content/uploads/2019/03/AEIC-The-Power-of-Innovation-Inventing-The-Future.pdf>.

documents that they support carbon taxes or cap-and-trade legislation, which would contradict typical Republican positions of low taxes and less regulation on business. BPC has framed energy research funding as very low-cost relative to the federal budget, but as a good investment, which, like previous government funded research, would pay for itself many times over through private sector investment, new company formations, patents, and academic publications.¹⁴⁵ It helped their argument that once the research is done, it does not require the assent of a future Congress to benefit the country—their literature assumes the private sector naturally finds ways to create benefits through commercialization of new technology. Whether enough policymakers assume that is a strong enough commitment mechanism to assure the delivery of long-term benefits is an open question.

Conclusion and Next Steps

This chapter explored how BPC used one strategy to advocate for governmental policies that address a current problem and a different strategy for policies that address future conditions. Pending further research, we can assume these differences are not random, but are caused because present-oriented advocates and forward-looking advocates face different political realities. Among those differences are the difficulty for forward-looking advocates of building and maintaining grassroots support, the difficulty of building and maintaining powerful coalitions, a greater need to educate policymakers, and a need to frame proposals within popular values that are supportive of party agendas.

As in all case studies, it cannot be claimed that BPC's experience represents the best strategy to advance its proposals, that its experience can be generalized to other organizations, or that they would have made the same choices in other time periods. Only further research could confirm that forward-looking advocates face a political reality different from actors dealing with current issues and that these differences mandate different strategies. It does speak well for BPC's energy strategy that their incremental goal of increasing federal support for energy

¹⁴⁵ "ARPA-E Reauthorization an Important Step for Energy Innovation", Bipartisan Policy Center, <https://bpcaction.org/2019/09/arpa-e-reauthorization-an-important-step-for-energy-innovation/>.

research has partially succeeded in the face of Trump Administration opposition while its infrastructure initiative has failed despite an apparent bipartisan consensus on the need for additional funding and a broad business-labor coalition supporting it. The proof of whether its energy strategy is viable will come if they continue to advance incrementally towards policies that lead the nation to a new mix of energy sources in the decades ahead.

Chapter 4 A Tale of Two Bills

Using the modified MSF, insights from the literature, and the findings of the Dodd-Frank and BPC cases, how can we understand the process of enacting forward-looking policies in Congress? To develop propositions, this study relies primarily on ideas from Jacobs' *Governing for the Long Term: Democracy and the Politics of Investment*¹⁴⁶ and Boston's *Governing for the Future: Designing Democratic Institutions for a Better Tomorrow*.¹⁴⁷ As discussed in Chapter 3, these are the most comprehensive works found in a literature search concerning the ways democratic governments enact policies that are sensitive to long-term conditions.

This study differs from Jacob's and Boston's work in one important way—both authors emphasized the impact of institutional arrangements. Jacobs' case studies considered institutional arrangements as variables. A large portion of Boston's work focused on how institutional arrangements can be altered to decrease the “presentist” bias in democratic governments. Zohlnhöfer made the sensible recommendation that institutional factors could be added to the MSF,¹⁴⁸ however, in this research, the American institutional context was treated as a given, recognizing that the findings must then be limited to the American context.

Based on Jacobs' and Boston's work, and assuming a stable institutional context in the U.S. Congress, it appears there are three areas of activity that must be addressed for a forward-looking policy to be enacted: 1) problem brokers must frame legacy or emerging social conditions as public concerns and create compelling narratives about the need for government action in both the policy and political streams, 2) policy entrepreneurs must couple the problem with policy ideas and recruit political entrepreneurs in the face of great skepticism, and 3) political entrepreneurs must obtain the support of party leaders and gain majority support for enactment within a governing network.

¹⁴⁶ Jacobs.

¹⁴⁷ Boston.

¹⁴⁸ Reimut Zohlnhöfer, Nicole Herweg, and Christian Huß, "Bringing Formal Political Institutions into the Multiple Streams Framework: An Analytical Proposal for Comparative Policy Analysis," *Journal of Comparative Policy Analysis: Research and Practice* 18, no. 3 (2016).

In line with Kingdon's model, these activity areas are not presented as stages of policy development, but as necessary conditions that could be addressed in different orders. The American policy world is a fluid one, in which political entrepreneurs may search for problems to enhance their reputations. Leaders in governing networks may focus on increasing their institutional capacity before a policy proposal arrives. A policy's journey to enactment may start at different points in the framework, be stalled, start again at a different point, and go through multiple cycles of development before it passes.

To test the realism of these ideas, this chapter develops specific propositions and then explores how they played out in two qualitative case studies. The cases discuss attempts to enact major environmental laws in Congress. The first case is the successful enactment of The Clean Air Act Amendments of 1970 (CAA70; P.L. 91-604). The second is Congress's failed effort to address climate change in 2009-2010 (Cap and Trade). The focus was to find out if all the elements listed below were present in the successful case while some were missing in the unsuccessful case.

The Work of Forward-Looking Problem Brokers

Forward-looking problem brokers may focus on well-known legacy conditions from the problem stream that will require several decades to address. An example is an analysis by the Brookings Institution showing that the median wealth of Black American families is only 10% of the median wealth for white families.¹⁴⁹ Their data shows that this differential has been persistent over almost 40 years and, with the long-term history of racial discrimination in the U.S., it seems reasonable to assume this has always been the case. Is this a public problem that government policy can address, or a regrettable social condition no feasible policy can mitigate? The job of a problem broker is to create awareness of a legacy condition like this, advance its framing as a public problem, and motivate others to search for policy solutions.

¹⁴⁹ Kriston McIntosh et al., "Examining the Black-White Wealth Gap," Brookings Institution.

Alternatively, problem brokers may focus on future conditions they expect, but which have not fully emerged. Framing emerging conditions as public concerns begins with foresight efforts such as horizon scanning, trend analysis, risk analysis, modeling, and scenario analysis.¹⁵⁰ Ideas about emerging problems often come from mandated reports of governmental institutions such as the Census Bureau, Bureau of Labor Statistics, or the Governmental Accountability Office (GAO). Nongovernmental organizations such as academic institutions, think tanks, and commercial services also publish foresight efforts. An example from the nongovernmental sector is the World Economic Forum's *Global Risks Reports*.¹⁵¹

Boston suggests it is very difficult to motivate action with foresight efforts alone when policymakers must also deal with a host of current issues. Venkataraman argues projections about the future and historical analogies have poor motivational value because they are always multiple and disputed. Often projections deny human agency to alter future conditions.¹⁵² Brokers for long-term problems must marshal evidence and create compelling arguments, just as trial attorneys would. Ideally, they provide reliable evidence that failure to take early action will cause serious future problems or opportunities lost.¹⁵³

Foresight efforts and legacy conditions are simply the raw materials for the definition of a public problem. Effective problem brokers frame messages about foresight in familiar terms, values, and symbols to make them more salient to both policymakers and voters, often with explicit reference to the costs of not acting in the short-term.¹⁵⁴ Often social conditions become more salient as problems if they are framed with villains, as Wall Street institutions were portrayed in the Dodd-Frank case. Problem brokers are successful to the extent they can alter the

¹⁵⁰ Boston.

¹⁵¹ Emilio Granados Franco, "The Global Risks Report 2020," (Geneva: World Economic Forum, 2020).

¹⁵² Bina Venkataraman, *The Optimist's Telescope: Thinking Ahead in a Reckless Age* (New York: Riverhead Books, 2019).

¹⁵³ Pot et al.

¹⁵⁴ Boston.

motives and incentives of policymakers, especially by creating the threat of electoral punishment if no action is taken.¹⁵⁵

As well as creating awareness and concern, under Knaggård's definition problem brokers seek to frame conditions as *public* problems. This implies that the conditions can be addressed through public policy at an acceptable cost. If not, they will be seen as intractable and not motivate either policy or political entrepreneurs. News of a legacy or emerging problem can lead to fatalism unless a path to a better future state can be imagined; political actors are motivated by visions and plans emphasizing some level of control over the future.¹⁵⁶ The problem stream provides the raw materials to fashion a narrative, but the problem broker must inject an element of hope in it to motivate action.

The Work of Forward-Looking Policy Entrepreneurs

We might expect that policymakers will require forward-looking policies to meet the normal criteria of technical feasibility, value acceptability, and anticipation of future constraints. The long-term aspects of their costs and benefits, however, create additional criteria that policy communities must consider in developing them. These are due to the uncertainty inherent in policies meant to last decades. A key part of a forward-looking policy entrepreneur's role is to reduce the uncertainty about future conditions and about the effectiveness of the proposed policy in addressing them. Forward-looking policies must be robust enough to deliver benefits under a wide and uncertain range of future conditions.¹⁵⁷

Despite projections of future benefits, forward-looking policies requiring near-term costs can be controversial due to the uncertainty that the future benefits will materialize as expected. Policies that take decades to show significant results often depend on complex and unpredictable causal chains.¹⁵⁸ Future governments may subvert the policy by diverting resources to other

¹⁵⁵ Boston identifies the motives and incentives of policymakers as critical factors in enacting long-term policy. This effect can either be directly on the thinking of policymakers or indirectly by influencing voters and elites who influence policymakers.

¹⁵⁶ Venkataraman.

¹⁵⁷ Pot et al.

¹⁵⁸ Boston.

uses. Under these conditions of uncertainty, Jacobs concluded a policy must include a mechanism to deliver long-term benefits that is believable under the common mental models of members of the governing network.

In response to these concerns, policy entrepreneurs can pursue a number of commitment or balancing mechanisms to insure policy stability. Commitment devices are mechanisms that increase the costs of future changes. Boston provides examples that include requirements for future governments to perform certain actions, limits on their actions, cross-party agreements, the creation of rights enforceable by courts, automatic triggers for policy changes, trust funds, transferring decision-rights to independent bodies, and mandatory reporting requirements.¹⁵⁹ A balancing mechanism is one in which the timing of costs corresponds with the timing of the benefits—for instance borrowing to finance long-life infrastructure with interest and principal payments made by the same generations enjoying the benefits.

Boston's reference to cross-party agreements raises the issue of how long-term policies can survive changes in government control. If a policy must survive a decade or more to show results, it must be acceptable to each of the potential majority parties. In the U.S. bipartisan system, this is critical because party control often shifts within a decade or less. Bipartisan support may be especially important in this era of unstable majorities and often divided governments.¹⁶⁰

As related in Chapter 3, the Bipartisan Policy Center framed their proposed energy policies in this way, avoiding support for carbon taxes or cap-and-trade legislation, either of which would be unacceptable to most Republican members. BPC instead focused on increased energy research funding as a very low-cost alternative relative to the federal budget, but a good investment that would pay for itself many times over as the private sector commercialized the

¹⁵⁹ Ibid.

¹⁶⁰ Frances E. Lee, *Insecure Majorities: Congress and the Perpetual Campaign* (Chicago: University of Chicago Press, 2016). Sarah A. Binder, *Stalemate: Causes and Consequences of Legislative Gridlock* (Washington, DC: Brookings Institution Press, 2003).

research.¹⁶¹ It strengthened their argument that once the research was done, it would not require the assent of a future Congress to benefit the country—in their model, the private sector will naturally find ways to commercialize research for the benefit of all.

The Work of Forward-Looking Political Entrepreneurs

Boston cites obtaining high-level political backing as one of the key challenges facing advocates for forward-looking policies, a view supported by Grossmann's research.¹⁶² Political entrepreneurs capable of assembling majorities in Congress, are rare however. Research by Bernhard, Sewell and Sulkin identified a small minority—slightly less than 4% of members of Congress—as ambitious entrepreneurs who are the likely to build coalitions to pass bills, often on a bipartisan basis.¹⁶³ The importance of the capacity to build bipartisan support in the governing networks was recently supported in research by Curry and Frances showing that 96% of laws enacted by Congress between 1985 and 2016 had some bipartisan support in at least one chamber.¹⁶⁴

There may be an even smaller number of political entrepreneurs willing to work on forward-looking policies that create unpopular near-term burdens and may not show their worth until long after the entrepreneurs are retired. Despite these deterrents, Boston, Jacobs, and Aldy¹⁶⁵ all found cases in which policymakers led efforts to enact long-term policies. Perhaps these forward-looking political entrepreneurs care strongly about creating good policy or have an eye to their place in history.

When political entrepreneurs make the commitment to enact a forward-looking policy, there are special concerns that do not arise with near-term policies. If there are near-term burdens that will be imposed, they will face concerns from their governing network members about interest group opposition. Jacobs argues that policy advocates blunt the opposition of

¹⁶¹ ARPA-E Reauthorization an Important Step for Energy Innovation

¹⁶² Grossmann.

¹⁶³ William Bernhard, Daniel Sewell, and Tracy Sulkin, "A Clustering Approach to Legislative Styles," *Legislative Studies Quarterly* 42, no. 3 (2017).

¹⁶⁴ James M. Curry and Frances E. Lee, "Non-Party Government: Bipartisan Lawmaking and Party Power in Congress," *Perspectives on Politics* 17, no. 1 (2019).

¹⁶⁵ Aldy.

powerful groups through a variety of strategies. These advocates may design policies in ways that diffuse costs broadly so the impact on organized interests is minimal, or by providing believable mechanisms to direct significant long-term benefits to the same groups that incur the near-term costs, limiting the menu of feasible options from which groups can choose, creating broad coalitions for policy change to prevent rent-seeking from any particular group, or limiting veto points that groups can exploit¹⁶⁶

A bipartisan agreement in the presence of a focusing event, especially if the event provides a clear signal of future losses, can also provide electoral safety. Jacobs found that was a factor in the case of the U.S. 1977 Social Security reforms. Voters were willing to accept the near term pain of tax increases because there were projections of Social Security difficulties that were specific and concrete, making it easy for voters to imagine the cost of doing nothing.

Finally, in the face of strong opposition and the absence of public pressure from effective problem brokering or a major focusing event, political entrepreneurs may pursue an incremental strategy of partial—but politically possible—enactments that move Congress towards a comprehensive policy. This strategy was not found in the literature reviewed, but was followed by the Bipartisan Policy Center. Their end goal was to achieve policy enactments that would radically change the mix of energy sources used in the American economy, but their incremental goal was to achieve an increase in federal support for energy research and development.

Propositions

If this characterization of the legislative process is realistic, then enacting forward-looking policies in the U.S. Congress requires the cooperation of problem brokers, policy entrepreneurs, and political entrepreneurs to accomplish specialized tasks that are not required with current issues. The specialized tasks are derived from the nature of problems relating to future conditions, which generally involve a higher degree of unknowns, uncertainty, and risk than well-researched current problems.

¹⁶⁶ Jacobs.

Based on the MSF and the insights from the literature and cases of forward-looking policy development, the following propositions were explored. It appears that enactment of forward-looking laws in the U.S. Congress will be more likely when the following conditions are met:

- Problem brokers:
 - Mobilize public pressure by framing expected social conditions as public problems that will cause specific harms if nothing is done, using narratives emphasizing focusing events that evoke emotions, values and hope as well as reason.
 - Educate policy communities and policymakers at a higher level than for well-understood short-term problems.
- Policy entrepreneurs:
 - Develop proposals that meet the normal policy criteria of technical feasibility, value acceptability, and anticipation of future constraints.
 - Provide rationales about how the recommended policies will minimize future harms, including mechanisms to assure the delivery of long-term benefits despite uncertain future social and political conditions.
 - Include broad near-term benefits, if possible.
- Political entrepreneurs:
 - Evaluate whether political conditions are favorable for enactment of a comprehensive policy, an incremental policy, or not favorable for any policy enactment.
 - Gain and maintain the support of party leaders.
 - Reassure members of the governing network about electoral security.
 - Offer concessions or alternative benefits to overcome the resistance of influential organized groups bearing the near-term costs of the policy.
 - Gather enough bipartisan political support to prevent the policy from being overturned at the next change of government.

Findings: The Clean Air Act Amendments of 1970 (91-604)

The Clean Air Act Amendments of 1970 (CAA70) was a forward-looking environmental law that created enforceable national air quality standards in the U.S. for the first time. The law required the newly formed Environmental Protection Agency (EPA) to set standards based solely on human health risk, without regard to cost for the six most common air pollutants, and required states to submit plans to achieve those standards. Industrial plants that emitted pollution were required to obtain permits and auto manufacturers were required to achieve a 90% reduction in emissions from their fleets by 1975.¹⁶⁷

¹⁶⁷ Richard N. L. Andrews, *Managing the Environment, Managing Ourselves: A History of American Environmental Policy*, 3rd ed. (New Haven: Yale University Press, 2020).

Since its enactment, the EPA reports that concentrations of pollutants in the nation's air such as nitrogen dioxide, sulfur dioxide, carbon monoxide, and lead have all dropped by amounts between 62% and 99% despite significant economic and population growth during the period.¹⁶⁸ In 2007, a ruling by the Supreme Court extended the reach of the Clean Air Act to regulate the emission of greenhouse gases such as carbon dioxide.¹⁶⁹ The effect of that ruling has yet to be decided due to changing policy at the EPA.

CAA70 qualifies as a forward-looking act because it addresses the long-term legacy problem of unhealthy air quality. It was enacted without a sunset date, so would operate in perpetuity unless amended by Congress. In remarks during the Senate debate, Chairman of the Public Works Committee Senator Jennings Randolph (D-WV) expressed his expectation that its effects would be felt by generations twenty years into the future.¹⁷⁰ With subsequent amendments, it has continued to operate for fifty years.

CAA70's design was flexible enough to meet a range of possible future developments. It invested states with the responsibility to create their own implementation plans, created a process for industries to dispute standards and requirements, allowed the Director of the EPA to suspend deadlines that proved unrealistic, and for the federal government to change its air quality standards as new information was discovered. Finally, CAA70 had a justification that relied on long-term goals of creating healthier air for the nation.

Problem Brokers

Mobilize public pressure by framing expected social conditions as public problems that will cause specific harms if nothing is done, using narratives emphasizing focusing events that evoke emotions, values and hope as well as reason.

The early 1970s saw an exponential rise in public concern about all types of pollution. Rachael Carson's 1962 book detailing the effects of DDT and other chemicals, *Silent Spring*,¹⁷¹

¹⁶⁸ Judith A. Layzer and Sara R. Rinfret, *The Environmental Case: Translating Values into Policy*, 5th ed. (Thousand Oaks, California: Sage, 2020).

¹⁶⁹ *Massachusetts v. Environmental Protection Agency* 549 U.S. 497

¹⁷⁰ "91 Cong. Senate Debates 1970; CAA70 Leg. Hist. 10," (Washington, DC: U.S. Senate, 1970).

¹⁷¹ Rachel Carson, *Silent Spring* (New York: Houghton Mifflin, 1962).

was on the *New York Times* bestseller list for 31 weeks. Its success spawned a number of other popular books, including John Esposito's *Vanishing Air*,¹⁷² Paul Ehrlich's *The Population Bomb*,¹⁷³ and Joseph Sax's *Defending the Environment: A Strategy for Citizen Action*.¹⁷⁴ It appears that this work had a significant impact because the membership in national environmental lobbying organizations grew from 123,000 in 1960 to 819,000 in 1969.¹⁷⁵

During this period, presidential hopeful, Senator Edmund Muskie (D-ME), used his position as Chair of the Senate Subcommittee on Environmental Pollution to act as a problem broker. In 1963 he held six days of committee hearings on water pollution and three days of hearings on air pollution. Using these hearings, he was able to characterize pollution as a public health problem. In 1964, he held air pollution hearings in six cities to build awareness.¹⁷⁶

There were also a number of focusing events that brought the public's attention to pollution in general and air pollution specifically. An oil well off the coast of Santa Barbara, California blew out and fouled beaches with an estimated 20,000 gallons of crude oil per day. Industrial pollution on Cleveland's Cuyahoga River caught fire.¹⁷⁷ A "choking smog" covered the entire East Coast during summer 1970.¹⁷⁸ Each of these events served to focus public attention on the need for air quality legislation.

The focusing events and efforts by problem brokers had an impact on public interest and concern. As demonstrated by the *New York Times*, the use of the term "environment" increased significantly in the late 1960s. In 1965, it used the term in the title of articles only twice; in 1970, it was used 86 times. Between 1965 and 1970, surveys showed respondents believing air pollution was a serious problem in their area rising from 28% to 69%. Surveys showed the public's estimation of pollution's importance rose from the bottom of a list of domestic public issues in

¹⁷² John C. Esposito, *Vanishing Air* (Washington, DC: Center for Study of Responsive Law, 1970).

¹⁷³ Paul R. Ehrlich, *The Population Bomb: Population Control or Race to Oblivion* (New York: Ballantine Books, 1970).

¹⁷⁴ Joseph Sax, *Defending the Environment: A Strategy for Citizen Action* (New York: Knopf, 1971).

¹⁷⁵ Robert Cameron Mitchell, Angela G Mertig, and Riley E Dunlap, "Twenty Years of Environmental Mobilization: Trends among National Environmental Organizations," *Society & Natural Resources* 4, no. 3 (1991).

¹⁷⁶ Joel K. Goldstein, "Edmund S. Muskie: The Environmental Leader and Champion," *Maine Law Review* 67, no. 2 (2017).

¹⁷⁷ Layzer and Rinfret.

¹⁷⁸ "91 Cong. Senate Debates 1970; CAA70 Leg. Hist. 10."

1969 to the second highest after inflation in 1971.¹⁷⁹ On April 22, 1970, an estimated 20 million people participated in the first Earth Day to show their concern.¹⁸⁰

Educate policy communities and policymakers at a higher level than for well-understood short-term problems.

There was little evidence in the documents consulted for this study that problem brokers were reaching out to educate policymakers about the problems of air pollution in great numbers. In 1969, there were only two full time lobbyists serving the environmental movement in Washington.¹⁸¹ An analysis of the 123 witnesses who testified at hearings in the House and Senate on CAA70 revealed that only 6% were identified with advocacy organizations and only 4% were academic experts.¹⁸² The hearings were dominated by witnesses from industry (46%), executive branch and state government officials (32%), and members of Congress (18%). The only nationally known environmental leader to testify at a hearing was Barry Commoner and none of the national environmental advocacy groups were represented. Environmentalist Paul Ehrlich did meet with Senator Gaylord Nelson and inspired him to begin organizing the first Earth Day. Senator Muskie used his numerous hearings to educate his colleagues about the issues involved.

Policy Entrepreneurs

Develop proposals that meet the normal policy criteria of technical feasibility, value acceptability, and anticipation of future constraints.

Surprisingly, it did not seem that some of the normal policy criteria applied in this case. Proponents conceded in the Senate debate that certain deadlines for the auto industry might not be technically feasible—that technology to meet the standards did not yet exist. The report on the bill by the Senate Committee on Public Works states, The Committee determined that "...1) the health of people is more important than the question of whether the early achievement of ambient air quality standards protective of health is technically feasible...."¹⁸³ Also, the benefits were

¹⁷⁹ Layzer and Rinfret. Respondents were told to not to consider the Vietnam War in this list.

¹⁸⁰ Ibid.

¹⁸¹ Mitchell, Mertig, and Dunlap.

¹⁸² These figures were developed by a review of hearings listed on the ProQuest Congressional database.

¹⁸³ "91 Cong. Senate Report 1196; CAA70 Leg. Hist. 19," (Washington, DC: U.S. Senate, 1970).

assumed to be great enough that higher costs were not viewed as a problem. President Richard Nixon mentioned in his 1970 State of the Union speech that higher costs would be built into the price of products and higher costs for consumers were also acknowledged in the Senate debate.¹⁸⁴

This law has been characterized as the establishment of a right to clean air, regardless of cost or technical feasibility.¹⁸⁵ The rights concept was reinforced by a provision in the bill authorizing citizen suits when its standards were not met. By the near unanimous margins that the bills were passed in both chambers, it would seem the “rights” approach overcame the normal criteria of value acceptability.

Anticipation of future constraints was built into the law. The EPA was given the ability to delay deadlines that were not feasible and alter criteria in light of new scientific knowledge. It was mandated that the standards be evaluated every five years to account for the latest scientific information. When flexibility did not prove adequate, Congress stepped in to amend the law in 1977 and 1990, under both Democratic and Republican administrations.¹⁸⁶

Provide rationales about how the recommended policies will minimize future harms, including mechanisms to assure the delivery of long-term benefits despite uncertain future social and political conditions.

The CAA70 was passed partially in response to the perceived failure of the Clean Air Act of 1963 (P.L. 86-493), which left pollution control in the hands of states and municipalities. Few states were making progress by 1970. Proponents of the CAA70 argued that national ambient air quality standards, based solely on human health risk, would remedy the weaknesses of the earlier bill. The bill required states to develop implementation plans, which could be rejected by the EPA. It required industrial plants to be licensed by the federal government and new plants to use the best available pollution control technology. Automobile manufacturers were required to

¹⁸⁴Richard M. Nixon, "State of the Union Address," University of Virginia, Miller Center, <https://millercenter.org/the-presidency/presidential-speeches/january-22-1970-state-union-address>. "91 Cong. Senate Debates 1970; CAA70 Leg. Hist. 10."

¹⁸⁵Judith A. Layzer, *Open for Business: Conservatives' Opposition to Environmental Regulation* (Cambridge, MA, United States: MIT Press, 2014).

¹⁸⁶Norman J. Vig and Michael E. Kraft, eds., *Environmental Policy: New Directions for the Twenty-First Century* (Thousand Oaks, CA: SAGE, 2019).

meet stringent emission standards, regardless of whether effective technology was available. Finally, the bill provided grants to states to staff their regulatory agencies.¹⁸⁷

Include broad near-term benefits, if possible.

The promise of lower emissions leading to cleaner air could certainly be considered a major, broad, near-term benefit. A review of the report on the bill by the Senate Committee on Public Works and the language of the bill revealed no others.¹⁸⁸

Political Entrepreneurs

Evaluate whether political conditions are favorable for enactment of a comprehensive policy, an incremental policy, or not favorable for any policy enactment.

The mood of the nation in 1970 has been characterized as “demoralized” by a divisive and probably unwinnable war in Vietnam, anti-war protests, the assassinations of President John F. Kennedy, Senator Robert F. Kennedy and Martin Luther King, Jr., and race riots in major cities.¹⁸⁹ It has been suggested that political leaders were motivated to find a unifying issue like environmental improvement that could bring the country together. With the success of focusing events and problem broker efforts in mobilizing the public, it appeared the time was ripe.¹⁹⁰

From 1963 to 1967, Sen. Muskie pursued an incremental strategy by leading efforts to pass the Clean Air Act of 1963 (P.L. 86-493), which expanded research and assistance to the states, the Motor Vehicle Air Pollution Control Act of 1965 (P.L. 89-272), which established emission standards for automobiles, the Water Quality Act of 1965 (P.L. 89-234), which established water standards for interstate waterways, the Clean Water Restoration Act of 1966 (P.L. 89-753), which provided funds to help implement the 1965 act, and the Air Quality Act of 1967 (P.L. 90-148), which established regional air quality standards. During this period, Muskie also held numerous oversight hearings to evaluate the effectiveness of these laws.¹⁹¹

¹⁸⁷ Andrews.

¹⁸⁸ "91 Cong. Senate Report 1196; CAA70 Leg. Hist. 19."

¹⁸⁹ Lazarus.

¹⁹⁰ Ibid.

¹⁹¹ Goldstein.

Gain and maintain the support of party leaders.

On the Republican side of the aisle, Pres. Nixon sent clear signals of support for the CAA70 by emphasizing environmental issues in the his 1970 State of the Union Address, by issuing a detailed message to Congress about his environmental goals, and by having his administration prepare a draft bill.¹⁹² Republican members of Congress responded by sponsoring the bill in equal numbers with Democrats, testifying in support of the bill at hearings, and by providing near unanimous support in voting for it.¹⁹³

Neither Democratic Speaker of the House John McCormick (D-MA), nor Senate Majority Leader Mike Mansfield (D-MO) appear in histories of the enactment. Given the near unanimous votes for the CAA70 in both chambers, it is safe to assume that they were in support of the efforts to enact the bill, but their role is unclear. Sen. Mansfield later made very positive comments about Sen. Muskie's role in building support for anti-pollution programs.¹⁹⁴ It may be that both McCormick and Mansfield were strong supporters of the efforts, or it may be party leaders simply deferred to the judgment of committee chairs more.

Reassure members of the governing network about electoral security.

No evidence was uncovered showing that special concessions had to be made to reassure members about their electoral security, as there were in the Dodd-Frank case. Members were willing to vote for CAA70 despite objections of the coal coalition, which were important interests in the districts and states of many representatives and senators.¹⁹⁵ Given the groundswell of public support for the bill, even members with dominant fossil fuels and automotive interests in their states and districts may have believed voting against the bill would have created more of a threat to their re-election than voting for it.

¹⁹² Nixon. Richard Nixon, "Message from the President of the United States Outlining Legislative Proposals and Administrative Actions Taken to Improve Environmental Quality," (Washington, DC: U.S. Government Printing Office, 1970).

¹⁹³ "91 Cong. Public Law 604; CAA70 Leg. Hist. 1," (Washington, DC: U.S. Congress, 1970).

¹⁹⁴ Mike Mansfield, "Congressional Record S. 733 - a Conversation with the Majority Leader," University of Montana, https://scholarworks.umt.edu/mansfield_speeches/1029.

¹⁹⁵ Richard H. K. Vietor, *Environmental Politics and the Coal Coalition* (College Station, Texas: Texas A&M University Press, 1980).

Offer concessions or alternative benefits to overcome the resistance of influential organized groups bearing the near-term costs of the policy.

Representatives of industry groups such as the U.S. Chamber of Commerce, the Edison Electric Institute, and the National Coal Policy Conference testified in the House's hearings on the CAA70. These organizations opposed the idea of national air standards, but decided, in light of the intensity of public opinion, they would simply recommend that the standards be "minimal" ones.¹⁹⁶ Representatives of these groups were able to meet over the summer of 1970 with members of Nixon's industry-oriented National Industrial Pollution Control Council. They agreed that stringent legislation was inevitable and their best strategy was to stay quiet on the legislation and afterwards influence the regulatory process at EPA in their favor.¹⁹⁷

Under the CAA70, new industrial plants were required to use the best available pollution control technology, regardless of costs. At the requests of industry lobbyists, Muskie agreed to grandfather older power plants, refineries, and factories until they were upgraded so they would not have to add the most modern air pollution equipment immediately. This eased opposition from the business community. Muskie assumed he was giving nothing away, because all of the older plants would have to be replaced in a reasonable amount of time. However, industry found ways to extend the lives of many of these plants far beyond what was expected.¹⁹⁸

Gather enough bipartisan political support to prevent the policy from being overturned at the next change of government.

The effort to pass air pollution legislation was strongly bipartisan from the start. This was not unusual as environmental legislation gathered an average of 90% of the votes in Congress in the 1970s.¹⁹⁹ The House bill had four Republican co-sponsors and four Democratic co-sponsors.

Recognizing the popularity of the environmental movement, Nixon positioned himself as pro-environment and, in his 1970 State of the Union Address, framed it as a nonpartisan issue

¹⁹⁶ Ibid.

¹⁹⁷ Vietor.

¹⁹⁸ Carl Pope, "The Clean Air Act Story: Back to the Beginning," *Grist*, June 28 2009.

¹⁹⁹ Vig and Kraft.

that would strongly affect a generation of young Americans if the country failed to act.²⁰⁰ Soon after the State of the Union, Nixon sent a message to Congress outlining legislative proposals he advocated to improve environmental quality and his administration provided a draft clean air bill.²⁰¹

The administration proposal was warmly received in the Democratic-controlled House of Representatives Commerce Committee, where a number of witnesses expressed enthusiasm for it over seven days of hearings.²⁰² The House quickly passed a somewhat stronger version of the bill by a vote of 374 to 1. Senator Muskie's subcommittee drafted an even stronger version, which was reported out to the Senate by a unanimous vote of the Committee on Environment and Public Works. It then passed the full senate by a vote of 73 to 0.²⁰³ A conference committee issued a bill close to the Senate's, which was passed by both chambers, and Nixon signed it into law on December 31, 1970.

Findings: Cap and Trade Legislation 2009-2010

The last significant Congressional effort to limit the emissions of greenhouse gases in the U.S. came in the early days of the Obama administration, when Democrats controlled both chambers of Congress. The American Clean Energy and Security Act of 2009 imposed caps on emissions and provided incentives for energy efficiency, renewable energy and technological innovation. It passed the House, largely along partisan lines in 2009. A similar bill, the American Power Act, was introduced in the Senate with the hope that Republican co-sponsors could be found. There was a great deal of lobbying to change the balance of costs and benefits among the various stakeholders. In the end, the 60 votes needed for cloture on the issue could not be found and it was never put on the floor.²⁰⁴ These joint efforts in the House and Senate will be referred to as "Cap and Trade."

²⁰⁰ Layzer and Rinfret.

²⁰¹ Nixon, "Message from the President of the United States Outlining Legislative Proposals and Administrative Actions Taken to Improve Environmental Quality."

²⁰² Vietor.

²⁰³ Layzer and Rinfret.

²⁰⁴ Thomas L. Brewer, *The United States in a Warming World: The Political Economy of Government, Business, and Public Responses to Climate Change* (New York: Cambridge University Press, 2015).

If enacted into law, the bill that passed in the House of Representatives would have set a hard cap on greenhouse gas emissions in the U.S. and enforced it with a system of allowances allocated to industries according to their historic emissions. Any allowances not used in a particular year could be banked for future use or traded to other companies that needed them. This system is commonly referred to as cap and trade, and had been successfully employed to lower the levels of sulfur dioxide in the U.S. Each year, the overall number of emission allowances granted was slated to decline until, in 2050, emissions would only be 20% of what they were in 1990. However, after the introduction of a companion bill in the Senate, a majority for passage could not be assembled after many months of trying.

Cap and Trade fit well within the criteria for a forward-looking law. The findings language in the House bill addresses a long-term problem, citing the scientific consensus on climate change that the concentration of greenhouse gases in the atmosphere has been growing since the 1800s and there would likely be an increase in global average surface temperatures by 2100 in the range of 2°F to 11.5°F depending on emission levels.²⁰⁵ It was designed to affect social conditions until 2050 through its emission standards. Its flexibility to meet a range of possible future developments was demonstrated by fourteen mechanisms that would allow adjustments to compensate for unexpected conditions affecting businesses, states, consumers, and workers.²⁰⁶ Finally, its justification relied long-term goals to lower greenhouse gas emissions by 80% by 2050 and to affect an estimated \$1.3 trillion in energy infrastructure development expected between 2009 and 2030.²⁰⁷

²⁰⁵ "Report on the American Clean Energy and Security Act of 2009," (Washington, DC: U.S. House of Representatives, Committee on Energy and Commerce, 2009).

²⁰⁶ "American Clean Energy and Security Act of 2009," (Washington, DC: Congressional Budget Office, 2009).

²⁰⁷ "Report on the American Clean Energy and Security Act of 2009."

Problem Brokers

Mobilize public pressure by framing expected social conditions as public problems that will cause specific harms if nothing is done, using narratives emphasizing focusing events that evoke emotions, values and hope as well as reason.

Former Vice President Al Gore, Senator Barak Obama (D-IL), Senator John McCain (R-AZ), the UN's Intergovernmental Panel on Climate Change, and many others sounded the alarm on climate change in the years leading up to the Cap and Trade effort.²⁰⁸ Gore's documentary "An Inconvenient Truth" was viewed by millions and became the 11th highest grossing film documentary in history.²⁰⁹ These messages appeared to be making an impact because a 2007 *New York Times* poll showed 90% of Democrats, 80% of Independents, and 60% of Republicans favored immediate action to reverse global warming. Later polling by a consortium of universities showed Republican support dropping off, however, as Republican-leaning organizations published counter narratives questioning the science.²¹⁰

It appears that these messages were having some emotional impact on the public as 63% admitted to being very or somewhat worried about global warming in the university study, but 65% reported they had not yet personally experienced the effects of global warming. A majority of the respondents expected the next 20 years to bring more serious impacts including droughts, severe heat waves, intense hurricanes, extinctions, famines, forest fires, epidemics, refugees, and poverty.

While public opinion had coalesced around the need to do something, intensity of feeling was lacking. In polling, climate change was ranked 10th in importance out of 11 issues in a 2008 Yale-George Mason University study, and its ranking changed little in subsequent years. In 2010, a Pew Research survey, respondents ranked climate change 21st in importance out of 21 national issues.²¹¹

²⁰⁸ Eric Pooley, *The Climate War: True Believers, Power Brokers, and the Fight to Save the Earth* (New York: Hyperion, 2010).

²⁰⁹ P. Bartosiewicz and M Miley, "The Too Polite Revolution: Why the Recent Campaign to Pass Comprehensive Climate Legislation in the United States Failed," Scholars Strategy Network.

²¹⁰ Pooley.

²¹¹ Ibid.; Anthony Leiserowitz, Edward W. Maibach, and Connie Roser-Renouf, "Climate Change in the American Mind: Americans' Climate Change Beliefs, Attitudes, Policy Preferences, and Actions," (SSRN, 2008).

The groundswell of public support was nowhere near that of the 1970s. To follow up on the success of *An Inconvenient Truth*, Gore conceived and executed a \$300 million advertising and organizing campaign called "We." It was planned to mobilize 10 million climate activists, but the campaign ignored grassroots groups already working on the issue and only gained 2.5 million members by 2009.²¹²

In 2007, 643 grassroots groups had come together to form a climate education campaign called 1Sky, with the goal of gaining a cap on emissions to reduce them 25% from 1990 levels by 2020 and create five million green jobs. At its height, it had 2,300 field volunteers in 29 states.²¹³

Educate policy communities and policymakers at a higher level than for well-understood short-term problems.

This study found limited evidence that problem brokers made significant efforts to educate policymakers about climate change. President of the Environmental Defense Fund (EDF) Fred Krupp met with Senator Lindsay Graham to educate him about the basic facts of climate change and convinced him the crucial measure Congress could take was a hard cap on emissions. Graham later became a key political entrepreneur on the issue.²¹⁴ During the 2008 presidential campaign, Gore met with Obama to update him about the potential of renewable energy to substitute for coal.²¹⁵

Policy Entrepreneurs

Develop proposals that meet the normal policy criteria of technical feasibility, value acceptability, and anticipation of future constraints.

It appears that the policy developed in Cap and Trade met all of the normal criteria. The Congressional Budget Office estimated there would be a small positive effect on federal budgets through 2019 from the bill and that it anticipated future constraints by containing fourteen mechanisms to provide financial flexibility.²¹⁶ The Energy Information Administration estimated

²¹² Bartosiewicz and Miley. Naomi Oreskes and Erik M. Conway, *Merchants of Doubt: How a Handful of Scientists Obscured the Truth on Issues from Tobacco Smoke to Global Warming* (New York: Bloomsbury, 2010).

²¹³ Pooley.

²¹⁴ Ryan Lizza, "As the World Burns: How the Senate and the White House Missed Their Best Chance to Deal with Climate Change," June 28 2010.

²¹⁵ Pooley.

²¹⁶ "American Clean Energy and Security Act of 2009."

the cost of the bill to American families at a modest \$ 0.50 per day.²¹⁷ Earlier success with a cap and trade system for sulfur dioxide emissions, enacted during the Administration of President George H. W. Bush, provided evidence of technical feasibility. That program had reduced emissions 50% at a cost of \$3 billion, far less than industry projections of cost.²¹⁸

The cost estimate from the Energy Information Agency was contested as critics shifted from calling climate science into question and began arguing the cost of Cap and Trade was too high. The National Association of Manufacturers and the Chamber of Commerce commissioned and publicized a study from a consultancy called Charles Rivers Associates that projected 40% increases in electric rates by 2020 if the bill was passed and a net loss of four million jobs by 2015. To refute this, the EDF created a study that aggregated the results of five academic studies about the economic impact of Cap and Trade and claimed it would only lower economic growth by a modest 0.5% by 2030.²¹⁹

Provide rationales about how the recommended policies will minimize future harms, including mechanisms to assure the delivery of long-term benefits despite uncertain future social and political conditions.

The U.S. Climate Action Partnership (USCAP), an industry-environmental group alliance, published a 24 page *Blueprint for Legislative Action* describing a policy that was designed to reduce greenhouse gas emission in the U.S. 80% from 2005 levels by 2050 through a cap and trade system. To gain industry support, it included significant offsets and free allowances to current emitters. Representative Henry Waxman (D-CA), Chair of the House Energy and Commerce Committee, based the Cap and Trade bill on this model.²²⁰ EDF publicized the model as a market-based solution, in which the government would not have to choose winners and losers, but could let the market decide which companies and technologies had the best solutions to greenhouse gas emissions.²²¹

²¹⁷ "Report on the American Clean Energy and Security Act of 2009."

²¹⁸ Pooley.

²¹⁹ Ibid.

²²⁰ Bartosiewicz and Miley.

²²¹ Pooley. Bartosiewicz and Miley.

Waxman's bill included an overall cap on the amount of greenhouse gases that could be emitted in a year, controlled by a system of allowances. The cap was mandated to reduce each year until annual emissions were only 20% of 1990 emissions in 2050. While there was great flexibility in handling economic shocks from the program, there were no exceptions in the bill allowing the mandated reductions to be waved without an act of Congress.²²²

Include broad near-term benefits, if possible.

The near term benefits in Cap and Trade were meager. There were provisions for loans and loan guarantees to help businesses manufacture more efficient products, assistance for states to set up various efficiency programs, a voucher program for consumers to purchase fuel efficient vehicles, and assistance for low income families if energy prices rose beyond a certain level.²²³ Efforts were made by supporters to claim the bill would create many green jobs, but there was no mechanism in the bill to insure job creation would be greater than job losses in fossil fuel industries.²²⁴

A bipartisan effort to achieve a simpler bill with broad near-term benefits was carried out by Senators Maria Cantwell (D-WA) and Susan Collins (R-Me) who authored the *Carbon Limits and Energy for America's Renewal (CLEAR) Act*. Their bill capped emissions, auctioned permits to emit, and sent the proceeds to American families as a "dividend" averaging \$1,100 per year. This was designed to compensate for the extra cost built into energy prices due to the emission cap. A Public Opinion Strategies poll showed three quarters of Americans in favor of the "cap-and-dividend" plan with similar levels of support by Republicans and Democrats. It was introduced late in the process--December, 2009. The Washington DC-based environmental groups did not want to switch approaches at that point, believed it was a distraction, and it was not seriously considered.²²⁵

²²² "Report on the American Clean Energy and Security Act of 2009."

²²³ *ibid.*

²²⁴ Pooley.

²²⁵ Lizza.

Political Entrepreneurs

Evaluate whether political conditions are favorable for enactment of a comprehensive policy, an incremental policy, or not favorable for any policy enactment.

The outlook on whether there was a window of opportunity for Cap and Trade in 2009 was mixed. When the House took up the legislation, Representatives Waxman and Markey, Speaker Pelosi, and allied environmental groups believed the time was right to push for a climate bill for a number of reasons. Former Republican Speaker of the House Newt Gingrich (R-GA) had participated in an advertisement with Speaker Pelosi (D-CA) stressing the importance of addressing climate change in a bipartisan way. Both President-Elect Obama (D) and his opponent in the election Senator John McCain (R-AZ) had taken stands in favor of climate legislation during the presidential campaign. Obama had specifically endorsed an economy-wide carbon cap and cutting back greenhouse gas emissions to 20% of 1990's level by 2050.

Rep. Waxman had ousted the skeptical Representative John Dingell from his chairmanship of the House Energy and Commerce Committee on the promise that he would move climate legislation. Public awareness and support on the issue was strong, although this was tempered by polling showing the public did not consider it one of the top issues the government should address.²²⁶

Despite success in the House, there were signs of trouble enacting a bill in the Senate. Fossil fuel and electric utility interests had spent more than \$3 billion on lobbying between 1993 and 2009, leading to the defeat of three major climate bills in the Senate between 2003 and 2008, and they continued to spend heavily in 2009.²²⁷ In the summer of 2008, gasoline prices escalated in the U.S. to almost \$4.00 per gallon and the Senate passed a resolution early in 2009 by a vote of 89-8 indicating that any climate bill must not increase energy prices.

All of the candidates in the Republican presidential primaries other than McCain had come out against climate legislation and the industrial company members of USCAP began to

²²⁶ Pooley, Leiserowitz, Maibach, and Roser-Renouf, "Climate Change in the American Mind: Americans' Climate Change Beliefs, Attitudes, Policy Preferences, and Actions."

²²⁷ Bartosiewicz and Miley.

waver in their support as the economy sank into recession.²²⁸ The grassroots alliance 1Sky was lukewarm to Cap and Trade because of the concessions made to industry in the House. 1Sky finally decided to oppose the bill in the Senate when sponsors eliminated EPA's regulating authority for greenhouse gases.²²⁹ An advertising campaign by environmental groups promising "More jobs. Less Pollution. Greater Security" if the bill was passed was contested by industry advertising warning of massive job losses. Finally, polling by a Gore-connected organization showed public support for immediate action on climate dropping off.²³⁰

Gain and maintain the support of party leaders.

There was also a mixed picture in terms of party leader support for political entrepreneurs trying to assemble majorities. Among President Obama, Senate Majority Leader Reid, and Speaker Pelosi, only Pelosi seemed committed to quick congressional action. She urged Rep. Waxman to put climate legislation on a fast track in the House and participated in whipping the votes for it.²³¹

During the presidential transition, Obama promised his administration would move to establish a federal cap and trade system for emissions with annual targets to bring them down by 80% by 2050, but transition aides told reporters that statement did not indicate a timetable for legislative action. Obama appeared to support the effort rhetorically, but held back from personal involvement. Instead, he left coordination on the bill with staff people and expected Congress to develop the details of the bill. In contrast to their strong action on Dodd-Frank, the administration did not develop language for a bill, or even a memo on what they wanted to see in it.²³² When it came time for the House to vote, Obama did step forward to lobby individual members.²³³

Senator Barbara Boxer, Chair of Senate Environment and Public Works Committee began work on Cap and Trade in 2009. Republican members boycotted a committee mark-up

²²⁸ Ibid.

²²⁹ Ibid.

²³⁰ Ibid. Pooley.

²³¹ .

²³² Ibid.

²³³ Bartosiewicz and Miley.

session and the bill was reported by the committee in November with no Republican support. Since there was no evidence of the bipartisan support that would be needed in the Senate to reach a threshold of 60 votes, it was dropped from consideration. At that point, Senators John Kerry (D-MA), Joe Lieberman (I-CT), and Lindsay Graham (R-SC) began working together to create a "grand bargain" between the parties that would pair a cap on emissions with increased production of natural gas, nuclear power, and offshore oil drilling.²³⁴

Obama's Chief of Staff Rahm Emanuel told the senators that if they could not find 60 votes to support Cap and Trade in the Senate, the White House could not exert much effort to help.²³⁵ Emanuel did not believe it was possible to find the 60 votes and advised them to find an incremental climate bill that could pass, such as a renewable energy mandate on utilities, but the senators rejected the idea.²³⁶

Majority Leader Harry Reid had made no commitment to move climate legislation in the Senate. He said he would put the bill on the agenda for early consideration if the president asked him to, but a request from Pres. Obama never came.²³⁷ Reid resisted bringing it to the floor because the sponsors had not been able to find Republican senators who would support it other than Graham.²³⁸

Reassure members of the governing network about electoral security.

By the time Kerry, Lieberman, and Graham began working to assemble a majority in the Senate, it was difficult for them to reassure Republican senators about electoral security. Grassroots Republican support for a bill had weakened considerably and many were actively opposed. A survey by the Pew Research Center in 2010 showed 53% of Republicans were not convinced that the Earth was warming, so it was unlikely that Republicans lawmakers would be penalized by their constituents for opposing a bill.²³⁹

²³⁴ Ibid.

²³⁵ Lizza.

²³⁶ Pooley.

²³⁷ Ibid.

²³⁸ Bartosiewicz and Miley.

²³⁹ Ibid.

Tea Party activists and groups backed by the Koch brothers protested strongly against Cap and Trade after it was passed in the House.²⁴⁰ Right-wing media was portraying Cap and Trade as a tax bill that would increase costs for American consumers and make them take products they did not want. Many on conservative media implied Cap and Trade was part of a government plot to control every aspect of people's lives.²⁴¹ Sen. McCain, who had been a strong supporter of climate change legislation, withdrew his support because he was being criticized for it by a right-wing radio host who was planning to challenge him in his 2010 primary election.²⁴²

Most of the national green groups supporting the bill were hamstrung from applying electoral pressure because they were not grassroots-based and could not effectively mobilize voters to pressure lawmakers on their votes. The 1Sky alliance did have strong grassroots capacities, but was not included in negotiations over the bills.²⁴³

Offer concessions or alternative benefits to overcome the resistance of influential organized groups bearing the near-term costs of the policy.

Opposition to Cap and Trade by the majority of large businesses and business associations was fierce. In 2009, when it was under consideration in the House, 1,150 firms and organizations lobbied on it. Business lobbying was overwhelmingly against the bill, both in terms of lobbyists on Capitol Hill and expenditures.²⁴⁴ Waxman defused some of this opposition by allowing an average of 76% of emission allowances to be parceled out for free during the first eight years of the program, based on firms' emission histories. Waxman even negotiated allocation of pollution permits with individual companies.²⁴⁵ Since this concession had an estimated annual value of \$100-300 billion, it was enough to maintain the support of the industrial members of the USCAP alliance.²⁴⁶ Finally, concessions had to be made to the coal industry to maintain the support of Democratic members of Congress from coal states. These included a

²⁴⁰ Ibid.

²⁴¹ Pooley.

²⁴² Lizza.

²⁴³ Bartosiewicz and Miley.

²⁴⁴ Brewer.

²⁴⁵ Bartosiewicz and Miley.

²⁴⁶ Aldy.

delay in enforcing tougher standards on existing coal plants, \$181 billion worth of bonus allowances for plants capturing carbon, \$10 billion for carbon sequestration research and development, and a ban on the EPA regulating carbon emissions from existing plants.²⁴⁷

Once Cap and Trade moved to the Senate, Sen. Kerry offered T. Boone Pickens, a high-profile natural gas developer, tax incentives for natural gas fueling stations to gain his support. Kerry, Lieberman and Graham offered major oil companies representing their industry a deal to stabilize the cost of their emission permits in return for an agreement not to lobby against the bill.²⁴⁸

Gather enough bipartisan political support to prevent the policy from being overturned at the next change of government.

The Cap and Trade effort took place against a background of declining bipartisan support for environmental issues. Democratic votes in Congress for environmental measures increased from 56% in the 1970s to 86% in the 2000s while Republican support declined from 27% to 10%. This trend was evident when only eight Republicans voted for Cap and Trade in the House. After the vote, the Republican Congressional Campaign Committee issued press releases and advertisements targeting Democrats in swing districts who voted for it, framing the bill as a tax.²⁴⁹

Senators Kerry, Lieberman, and Graham took up the role of political entrepreneurs with gusto. Sen. Lieberman and his staff met with 40 senators in the first half of 2009 to find out what they would need to support climate legislation. He coaxed nine Republicans to work on legislation supporting the nuclear industry that would be merged with a climate bill. Senators Kerry and Graham jointly wrote an op-ed for the New York Times arguing for a climate bill that also expanded oil drilling and provided help for the nuclear industry.²⁵⁰

Sen. Graham was anxious about his participation, though. He warned Senators Kerry and Lieberman they needed to push the bill through as fast as possible because he was already

²⁴⁷ Brewer.

²⁴⁸ Lizza.

²⁴⁹ Bartosiewicz and Miley.

²⁵⁰ Lizza.

receiving criticism in his state for cooperating with them. If it lingered too long, he was fearful Fox News would pick up on the "cap and tax" theme. He was stung when the Obama administration undercut his ability to attract more Republicans by unilaterally opening new areas on the continental shelf for drilling and by proposing loan guarantees for the nuclear industry in the budget. Eventually, he quit the effort, seriously impairing the effort for a bipartisan compromise.²⁵¹

Senators Kerry and Lieberman tried to carry on, having conversations with Republican senators. Then, in what might be called a *defocusing* event, a massive oil spill from an explosion on the BP Deepwater Horizon drilling platform in the Gulf of Mexico, seriously jeopardized the chance of enacting a bill that called for additional drilling on the continental shelf. Majority Leader Reid announced he was putting climate change on the back burner to focus on immigration reform and the effort for Cap and Trade was effectively over.²⁵²

Conclusion

How did the propositions fare when tested against the successful enactment of CAA70 and unsuccessful effort for Cap and Trade? It appears that the importance of problem broker success in mobilizing public pressure for forward-looking policies was confirmed. In both cases, problem brokers were able to convince large majorities of the population there was a significant problem that the government should act on. However, in the CAA70 case the public responded by rating pollution as the second most important problem for the nation while in the Cap and Trade case, the surveyed public never rated climate change higher than tenth out of eleven major issues. This translated into a significant difference in mobilization so that even coal-state members of Congress voted for CAA70 while influence of the coal lobby was a key obstacle for Cap and Trade. On the other hand, information uncovered about efforts of problem brokers to educate policy communities and policymakers directly was too limited to draw any conclusions about its importance.

²⁵¹ Ibid.

²⁵² Ibid.

There were some expected and some surprising results for the propositions relating to policy entrepreneurs. Both cases did fulfill the criterion of having a credible regulatory structure to deliver long-term benefits despite the uncertainty of future conditions. Assuming the proposals were implemented as written, they would provide certain reductions in the targeted emissions. The CAA70 was set to deliver broad near-term benefits within a short period in the form of cleaner air. Its implicit promise to deliver the results in less than a decade may have been unrealistic, but it was attractive. The Cap and Trade effort promised only meager and narrowly focused near-term benefits. Without a groundswell of public pressure, as proceeded the CAA70 enactment, that may have been an opportunity missed. The surprising result was that the CAA70 passed in spite of serious questions about its technical feasibility and value acceptability. Those concerns seemed to be swept away by the enthusiasm to enact a citizens' right to clean air regardless. On the other hand, the finding that Cap and Trade had good evidence for value acceptability and technical feasibility could not save it.

The findings concerning political entrepreneurs did seem to conform to the propositions that were advanced. The judgment that the time was ripe for CAA70 to clean up air pollution was supported by scientific research, public opinion on both the reality of the problem and its importance, and the obvious mobilization of the public and advocacy organizations. It was even obvious to representatives of the coal industry who regarded legislation as inevitable.

It was a different story with Cap and Trade. Problem brokers were able to convince most of the public that the problem was real, but not that it was more important than a host of other issues. With the messages going out to the Republican base about the uncertainty of global warming and the government overreach of Cap and Trade, Republican lawmakers could oppose it with no electoral penalty, while supporting it could lose them a primary election.

The importance of party leadership for forward-looking issues was supported in these cases in regards to the role of presidents in the American system. Pres. Nixon took a very active role in CAA70, even sending draft legislation to Congress, and the effort succeeded. Republicans were eager to join Democrats in supporting CAA70. Pres. Obama was supportive of Cap and

Trade, but let others lead on it and the effort fizzled. When Pres. Obama was proactive in setting a direction for Dodd-Frank, financial reform succeeded.

The leaders of Congress have a great deal of power in deciding the substance and pace of legislation, which Speaker Pelosi exercised by speeding consideration of Cap and Trade in the House, and Majority Leader Reid by slowing it down, then finally killing the bill in the Senate. In the CAA70 case, there was no indication they acted in either way. It appears active involvement of presidents and their staffs are an important ingredient in enacting major forward-looking policies in the U.S. while the influence congressional party leaders is secondary.

In terms of building majorities for enactment, it appeared that political entrepreneurs have marginal ways to reassure members about electoral security. In the case of CAA70, there was no need for reassurance and, in the case of Cap and Trade, there was nothing political entrepreneurs could do for Republican senators in the face of grassroots Republican skepticism and concerted Tea Party and business campaigns against the bill.

Similarly, political entrepreneurs have limited room to maneuver in making concessions or offering alternative benefits to neutralize the opposition of influential groups. In CAA70, public sentiment was so strong that there was little need to placate opposition groups. In Cap and Trade, Rep. Waxman, and Senators Kerry and Lieberman gave so many concessions to groups allied with the Republican Party that they lost the support of the largest grassroots environmental alliance. It may be that these represent two extremes. Dodd-Frank appears to fall between these extremes. It had strong public support, but the political entrepreneurs still had to make concessions to locally influential elites to hold their majorities. Perhaps deals to neutralize the opposition of organized groups can complement strong public support, but not substitute for it.

As mentioned above, CAA70 and Cap and Trade may represent extremes, and that was certainly the case in building bipartisan political support. With CAA70, the political entrepreneurs had to do next to nothing to achieve overwhelming bipartisan support. With Cap and Trade, it seemed that, despite great efforts, nothing worked. The durability of the Clean Air Act over 50 years shows the value of a strong bipartisan base, but, in many cases, creating bipartisan

majorities may not be feasible for political entrepreneurs. The chance for bipartisan enactment may belong more in the hands of policy entrepreneurs who can design policies that are framed to fit in the (often) small window where party interests overlap. This is the theory of the Bipartisan Policy Center in developing policies that are comfortable for both parties, even if it means they can only be incremental steps towards a larger goal in the absence of a major focusing event. Several opportunities to find that overlap with Cap and Trade may have been overlooked when Senators Kerry, Graham and Lieberman, failed to follow up on Chief of Staff Emanuel's suggestion about settling for a mandate on utilities to buy renewable power, or when Senators Cantwell and Collins recommended a "Cap and Dividend" plan that a sizeable majority of Americans supported.

In summary, if these cases are typical—an open question—they paint a picture in which public mobilization by focusing events and problem brokers drives the large and lasting bipartisan changes in forward-looking policy made by Congress. Bipartisan support is critical to insure that forward-looking policies will last long enough to be effective but is hard to achieve in the absence of the electoral threat from public pressure.

Public opinion requires intensity as well as broad agreement to be effective. The support of party leadership, especially at the presidential level, can be a strong influencer in moving legislation. Party leadership in Congress can speed up, slow down, or effectively kill legislation, so it is important, but secondary to other factors.

Returning to the lessons of the BPC case, in the absence of strong public pressure, progress can still be made on forward-looking policymaking, but only at an incremental pace. This requires the careful work of policy entrepreneurs to find steps that can be taken towards long-term goals, which also fall in the sometimes narrow region of acceptability to both political parties. The incremental option was available, but not taken in the Cap and Trade case. In choosing between a comprehensive strategy and an incremental strategy, it may be that political entrepreneurs are best served by knowing when public sentiment is so strong that credible threats to opponents' re-election can be made and when they cannot.

Chapter 5 One Investigation Ends, Others Begin

This investigation began with the question of why democratic governments find it so difficult to implement forward-looking policies that address long-term and emerging problems. While that is a worthwhile question for anyone who cares about democratic governance and the welfare of future generations, it is also a question that is too broad to answer in one study. To create a feasible project, the last four chapters have explored the narrower sub-question of what are the necessary conditions to enact forward-looking policies in the United States Congress? The theoretical work around the multiple streams framework and the four case studies in the previous chapters have gone a short way towards suggesting answers to that question.

In Chapter 2, Kingdon's multiple streams framework showed its capacity to grow and improve with the work of multiple scholars. While its basic structure of three streams of information on policies, problems, and politics was retained, a number of additional actors and information sources were identified. Rather than a single role of the policy entrepreneur coupling the three streams during windows of opportunity, scholars working on the MSF have differentiated roles of problem brokers, policy entrepreneurs, and political entrepreneurs to create greater intellectual clarity.²⁵³ In most cases, this seems to reflect the way the world works. Those framing social conditions as problems are often not the same people as those who are exploring policy solutions. Neither the problem brokers nor the policy entrepreneurs are typically the people who are working inside legislative institutions assembling majorities for passage of bills.

The new source of policy ideas, international policy transfer, was added and two additional modifications were made based on work by Grossman.²⁵⁴ The first is a recognition that there are semi-stable governing networks of legislators who have long relationships and adequate levels of trust to work together on legislation. It is these governing networks that political entrepreneurs engage to enact bills. The second modification is a recognition that a

²⁵³ Nicole Herweg, Christian Huss, and Reimut Zohlnhfer, "Straightening the Three Streams: Theorising Extensions of the Multiple Streams Framework [J. W. Kingdon]," *European Journal of Political Research* 54, no. 3 (2015). Knaggård.

²⁵⁴ Grossmann.

legislative agenda is not predictive of what is actually enacted by Congress. So, the concept of an agenda can be eliminated with no loss of explanatory power.

One modification suggested by the case studies was that the influence of partisan interests on the political stream could be more clearly conveyed by labeling party leaders as the relevant actors. In these legislative case studies, it was often presidents and congressional leaders that provided essential support for political entrepreneurs—or blocked them. Presidents Nixon and Obama played very active roles in the passage of CAA70 and Dodd-Frank. Pres. Obama and Sen. Reid’s passivity on Cap and Trade seemed to doom its chances in the Senate. Committee leaders in these cases did the hard work of political entrepreneurs, but party leaders often decided how to frame proposals, which should be heavily supported with the levers of power, which should only receive rhetorical support, which should be fast-tracked, and which should be slowed or killed.

A final modification was a recognition from the literature of forward-looking governance that foresight efforts should be recognized as a separate source of information that enters the problem stream.²⁵⁵ Current concerns about climate change are an example of policy being driven by foresight efforts such as reports by the Intergovernmental Panel on Climate Change.²⁵⁶

Like every model, this framework simplifies a messy reality, leaving out variables others might include. Taking to heart George E. P. Box’s comment that “All models are wrong; some are useful,”²⁵⁷ the chapter then tested the modified framework for its usefulness by applying it to a case study about the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203). The modified framework was found to be a useful way of understanding this legislative history. Actors and actions were easy to identify with the concepts of the framework. The arrows of influence pointed in the expected directions.

²⁵⁵ Boston.

²⁵⁶ Intergovernmental Panel on Climate Change, "Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change," (Geneva, Switzerland 2014).

²⁵⁷ George E. P. Box, William Hunter, and Stuart Hunter, *Statistics for Experimenters: Design, Innovation, and Discovery*, 2nd ed. (Hoboken, NJ: Wiley-Interscience, 2005).

The 2008 financial crisis provided a critical focusing event that problem brokers, such as Elizabeth Warren, Barak Obama, and Americans for Financial Reform, were successful in framing as the result of reckless behavior by financial institutions and a system rigged against consumers. Once in office, Barak Obama's communications about the financial crisis displayed the role of presidents as problem brokers. His communications highlighted the importance of the problem and the need for action.

Obama played the important role of a party leader not only in giving rhetorical support to the Dodd-Frank effort, but by holding in-person meetings to help organize the effort and empowering his Secretary of the Treasury to take the lead in writing the legislation. Congressional party leaders played a secondary role, mainly staying out of the way of their committee chairs, but helping to smooth disputes between committees and intervening when caucus members had concerns.

The national mood, as reflected in opinion polls and most newspapers, displayed anger at "Wall Street" and support for financial reform. This opened a window for the development and enactment of new policies. Given the national mood, Elizabeth Warren was able to transition from a problem broker to a policy entrepreneur role, demonstrating that individuals can play multiple roles.

Secretary of the Treasury Timothy Geithner played the critical role of a policy entrepreneur by overseeing the work of presidential appointees, civil servants, and outside experts in writing the legislation, then educating congressional staff and members about the proposal. He was enabled in this delegated role by Pres. Obama's support.

Representative Barney Frank (D-Ma) and Senator Chris Dodd (D-CT) filled the role of political entrepreneurs by working with governing networks in the House and Senate to obtain passage. They persuaded members about the value of the bill and approved the concessions necessary to reassure members that passage would not threaten their re-election. Based on a detailed description of the numerous meeting, concessions, and design decisions they made, it is difficult to imagine anyone outside of Congress playing the role of a political entrepreneur there.

In sum, the MSF provided convenient ways to think about roles of the different actors, even when the same actor transitioned between multiple roles. On the other hand, it was not predictive of the outcome, which was never certain until the end because success depended on the vote of one skittish Republican Senator. Being able to classify actors in a complex historical drama is not the same as understanding the dynamics of the situation. However, having a robust classification system is a first step towards developing theory, which was the goal of chapters 3 and 4.

Chapter 3 began the process of developing a theory of forward-looking policy enactment through a case study of lobbying by the Bipartisan Policy Center (BPC). This organization has been simultaneously advocating for legislation that would increase spending on infrastructure through public-private partnerships, and for increased federal support for energy research to change the future mix of U.S. energy sources. The question was how their lobbying and education strategies changed when dealing with the current, well-understood issue of inadequate infrastructure spending compared to their strategies when advocating a forward-looking policy of changing our energy mix.

A comparison of their lobbying strategies showed that advocating for forward-looking policies to address future conditions required BPC to engage in more complex messaging advocating on the current issue of infrastructure funding. Their forward-looking efforts on energy included research, long-form reports, seminars, and workshops to educate policymakers and their staffs about the nature of the problem. They presented extensive evidence and logical arguments about how new energy policies would provide long-term social benefits by commercializing new technologies, moderating climate change, and improving energy security. In effect, they were acting as a problem broker as well as a policy entrepreneur.

As an advocate on infrastructure, BPC could assume that the benefits of improved infrastructure funding was a shared goal and well understood by their audience. With this background, they could focus exclusively on policy solutions. On infrastructure, they were able to readily mobilize top-tier business associations and influential businesspeople across the country

to lobby Congress. They judged that a window of opportunity was open for a major expansion of infrastructure funding, driven by a bipartisan consensus on the need, so they helped orchestrate a lobbying campaign for legislation that would enable significant public-private partnerships.

On future energy issues, BPC was not able to create a politically powerful coalition. In the absence of a powerful coalition, they built a portfolio of credible, incremental energy policies their lobbyists could bring up when political conditions were favorable. With this focus, they were only able to create a coalition of insurgent business firms, universities, and nonprofits—none of the major business associates joined.

It is interesting that BPC had some success in convincing members of Congress with its incremental policy to increase energy research funding in the face of the Trump Administration's plan to cut it significantly. This contrasts with the case of infrastructure funding where virtually no progress was made despite the assumption that a bipartisan policy window had opened. The failure of the infrastructure funding initiative was not analyzed as part of the case, but it is interesting to note that the Trump Administration position reflects many of the policy ideas of BPC.²⁵⁸ On infrastructure funding, the administration never marshaled the effort to draft legislation, let congressional leaders know that moving infrastructure funding legislation was a top priority, and delegate a top administration official to act as a policy entrepreneur who would educate members of Congress, as Pres. Obama did for Dodd-Frank.

Chapter 4 combines insights from the Dodd-Frank and BPC cases with arguments from the literature of forward-looking policymaking, and the modified multiple streams framework to develop propositions about the necessary conditions to enact forward-looking policy in Congress. The propositions were then examined in the context of the successful enactment of the Clean Air Act Amendments of 1970 (CAA70; 91-604) and the failure to enact legislation in 2009-2010

²⁵⁸ "Building a Stronger America: President Donald J. Trump's American Infrastructure Initiative," The White House, <https://www.whitehouse.gov/briefings-statements/building-stronger-america-president-donald-j-trumps-american-infrastructure-initiative/>.

period to cap greenhouse gas emissions and reduce them while offering companies the opportunity to trade emission allowances (Cap and Trade).

The term *propositions* was used in this investigation because they were something more than *speculations*, having been based on literature, but not developed enough to be *hypotheses* subject to empirical testing. Each proposition states a condition that makes it more likely a forward-looking proposal will be enacted in the U.S. Congress. Confidence in some of the propositions increased through a study of the cases while some decreased. As the findings are discussed fully in Chapter 4, they are listed here with only summary conclusions. The propositions explored in Chapter 4 all concern enactment of forward-looking laws in the U.S. Congress. It was claimed that enactment will be more likely if

Problem Brokers

Mobilize public pressure by framing expected social conditions as public problems that will cause specific harms if nothing is done, using narratives emphasizing focusing events that evoke emotions, values and hope as well as reason.

This proposition was strongly supported in the cases. In the successful enactment, public pressure was broad enough, and intense enough to cause the parties to join a bidding war to satisfy the demand for action. In the failing case, public pressure was never strong enough to threaten the re-election of the bill's opponents.

Educate policy communities and policymakers at a higher level than for well-understood short-term problems.

It was difficult to draw a general conclusion on this proposition. There were a few examples of problem-oriented education efforts targeted at policymakers in the cases.

- Senator Edmund Muskie used committee hearings to educate colleagues about environmental pollution,
- Environmentalist Paul Ehrlich met with Senator Gaylord Nelson and inspired him to become an activist,
- Elizabeth Warren spoke about her research on financial industry abuses to audiences of policymakers, and
- Former Vice President Al Gore met with Senator Barack Obama during the 2008 presidential campaign to discuss climate change and renewable power, and BPC had many events to educate policymakers about the problems and opportunities of America's energy mix.

These are very few and data about the impact of these encounters is meager. This may be because it seldom happens, seldom has great impact, encounters between problem brokers and policy makers are seldom documented. The example of BPC's educational efforts was only available because of the extensive documentation on its website. Only further research could determine which of these alternatives is more probable.

Policy Entrepreneurs

Develop proposals that meet the normal policy criteria of technical feasibility, value acceptability, and anticipation of future constraints.

It appeared from the environmental cases that this proposition was irrelevant. Because public pressure for CAA70 was high enough, policymakers were willing to bet on a policy that expressed values the public demanded, whether or not it met normal feasibility criteria. Alternatively, when there was not enough public pressure to enact Cap and Trade, studies indicating technical feasibility were not enough to save it.

Enacting policies without strong evidence of technical feasibility may not seem like the best way to enact good policy. However, the opportunities to enact forward-looking policies in Congress may be so rare that a rational strategy might be called *enact it first when a window opens for a bipartisan agreement, and fix it later*. This has actually played out with the Clean Air Act, which has been amended several times with bipartisan support.

Provide rationales about how the recommended policies will minimize future harms, including mechanisms to assure the delivery of long-term benefits despite uncertain future social and political conditions.

Both bills detailed regulatory systems with hard targets, so there were rationales about how they would deliver their long-term benefits. Since these were features of both bills, it is not possible to draw a conclusion about the importance of the proposition. The literature strongly supports this as a necessary condition.

Include broad near-term benefits, if possible.

The CAA70 promised cleaner air for the nation in a short (if unrealistic) timeframe, which was a significant and broad near-term benefit. Cap and Trade offered no broad near-term

benefits. It offered over a dozen programs to compensate groups that might be hurt by its side effects, but these were very narrow in their application. These contrasting conditions provide a moderate amount of support for the proposition.

Political Entrepreneurs

Evaluate whether political conditions are favorable for enactment of a comprehensive policy, an incremental policy, or not favorable for any policy enactment.

This proposition is an elaboration of Kingdon's conviction that policy enactments happens when a policy windows opens. The proposition in this study adds the concept of levels of "openness." As an example, the conditions in 2009 might not have been ripe for Cap and Trade to overturn the American energy system, as surely was intended, but they may have been ripe for BPC's incremental policy of increasing federal support for energy research.

Judging the favorability of political conditions does appear to be a critical function of political entrepreneurs. In the CAA70 case, both Nixon and Muskie surveyed conditions and made political judgments that the time was ripe to move on air pollution with a major initiative. In Cap and Trade, it appears that Waxman and Pelosi misjudged what could be accomplished by not thinking through how fragile Republican base support was.

Gain and maintain the support of party leaders.

What came through in the cases was the importance in the U.S. of the president as the party leader who matters most in marshaling resources for a forward-looking effort. With current issues, powerful interests groups and congressional allies can spark legislative efforts and maintain elite pressure on lawmakers to cobble together a bill. When difficult legacy or emerging issues are considered, it appeared that only presidents can use rhetorical tools to rally public support, provide cover for their partisans if there are costs to be paid, and provide Congress with the material support from the executive branch to launch the effort. Once a president has set a direction and provided material support, party leaders in Congress can exercise their institutional power to enable or block enactment.

Reassure members of the governing network about electoral security.

The environmental cases did not offer insight on this issue. In the case of CAA70, no reassurance was necessary because of the overwhelming public pressure in favor of a bill. In the Cap and Trade case, there was little security that political entrepreneurs could offer to Republicans facing Tea Party pressure. In the Dodd-Frank case, the sponsors did succeed in maintaining their majority by making concessions to locally important constituencies of anxious members.

Offer concessions or alternative benefits to overcome the resistance of influential organized groups bearing the near-term costs of the policy.

This is often an important responsibility of the political entrepreneur, but its effectiveness seems contingent on the national mood and the partisan balance. In the Dodd-Frank case, a series of strategic concessions allowed the sponsors to eke out a victory. In the CAA70 case, few concessions were necessary due to the public pressure on Congress. In Cap and Trade a large number of concessions to industrial interests were enough to enact the bill in the House, but the strategy of concessions and offering alternative benefits fell short of building the needed 60 vote majority in the Senate. A danger of this strategy was apparent in the Cap and Trade case—the sponsors made so many concessions to industry that they lost significant support among environmental constituencies.

Gather enough bipartisan political support to prevent the policy from being overturned at the next change of government.

The durability of CAA70 over 50 years supports the importance of gaining bipartisan support. In contrast, Dodd-Frank, passed with next to no Republican support and was weakened under the Trump Administration just eight years after it was passed.²⁵⁹

The lesson of Cap and Trade, however, is that the potential for bipartisan support may be extremely difficult for political entrepreneurs to find after a bill has been introduced. The work of problem brokers in building public pressure seems critical for enacting major forward-looking policy in the U.S. system. Unless there is overwhelming and intense public support, as there was

²⁵⁹ Erica Werner, "Trump Signs Law Rolling Back Post-Financial Crisis Banking Rules," May 24, 2018 2018.

for CAA70, the opportunity for bipartisan enactment rests in the hands of policy entrepreneurs like BPC to design incremental policies that fit in the often small convergence of interests of the political parties.

While conclusions based on qualitative case studies must be tentative, four important implications flow from this investigation. The first is on the importance of problem brokers. If they are able to frame expected future conditions as serious and urgent public problems and create narratives that arouse the public's values and emotions, they will have a chance to mobilize public pressure on Congress and the President to generate legislative action. How they mobilize the public is outside the scope of this investigation, but the effects were clear on CAA70, and their lack was clear on Cap and Trade. Gore commented to friends about his feeling that his advocacy work had failed to create enough intensity of feeling.²⁶⁰

If public mobilization is high and bipartisan support is available, the technical aspects of a policy may not be critical. Public mobilization can evaporate, so it is critical for problem brokers, policy entrepreneurs, and political entrepreneurs to seize the moment and enact a law. If both political parties are committed to a bipartisan law, it can be re-opened and corrections can be made later. Providing broad near-term benefits as part of a policy package can help maintain public mobilization.

Another implication is how critical the work of evaluating political conditions is for policy entrepreneurs who care about the survival of their proposals after enactment. There are often dozens of ways that government policies can address an expected problem with a long-term solution. Only a few of these policy designs (in some cases none) can both be effective in addressing the problem and gain bipartisan support. When one party controls both chambers of Congress, and the presidency, major initiatives can sometimes be passed along exclusively or nearly exclusive partisan lines, as was the case with Dodd-Frank, but their longevity will be in doubt. Unless there are policy mechanisms that can lock in future Congresses, it appears better

²⁶⁰ Pooley.

to take a smaller, incremental approach as BPC did with its energy initiative and then prepare for the next opportunity.

Finally, for major forward-looking initiatives in the American system, a key factor is the commitment of presidents. To be effective, their commitment must go beyond rhetorical support and lead to tangible support in the form of advocacy by a top appointed official, drafting help, and lobbying assistance. Tight coordination between the administration and the political entrepreneurs in Congress is also critical as was shown by a positive experience with Dodd-Frank and missteps with Cap and Trade.

Beyond providing confirmation for the most promising propositions through future research, this study could be extended to issues that were outside its scope. For instance, the investigation led to a strong conclusion that the ability of problem brokers to arouse public mobilization plays a formative role in the passage of major forward-looking policies by Congress. However, there is strong evidence that public opinion is largely irrelevant to the bills Congress passes,²⁶¹ so mobilization would have to be defined and differentiated from public opinion in a future study. If the role of mobilization in enacting major forward-looking policy was confirmed, it would naturally lead to questions about how mobilization happens and the role of problem brokers in creating it.

For issues on which large scale public mobilization is unlikely, the conclusions of this study naturally lead to questions about how policy entrepreneurs can find an overlap of partisan positions that provide windows for incremental forward-looking policy enactments. These compatibilities may be where parties happen to embrace the same values, such as making sure that Social Security benefits are protected for seniors. Often, though, policy entrepreneurs must exercise creative judgment about where one policy can be justified under different partisan rationales, for instance bipartisan support for employee stock ownership programs are justified

²⁶¹ Martin Gilens and Benjamin I. Page, "Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens," *Perspectives on Politics* 12, no. 3 (2014). Grossmann.

because, “Republicans believe they promote the ownership society and Democrats believe they spread the wealth.”²⁶² Ways to find these compatibilities deserves research.

There is no end to interesting questions in any field, but this may be especially true in democratic policymaking where all interests, all sorts of people, and all idealisms meet in the messy process of lawmaking. This investigation has come a ways, but, before trusting any of the propositions, they will need to be operationalized as formal hypotheses and put to the test against a history of many enactments. To understand their scope, international comparisons would be helpful. This will have to be done while keeping a lookout for factors that were assumed away in this study, for instance the influence of campaign contributions and institutional rules. And so, one investigation ends, others begin.

²⁶² Corey Rosen, President, National Center for Employee Ownership, personal communication, April 21, 2015.

Bibliography

- "91 Cong. Public Law 604; CAA70 Leg. Hist. 1." Washington, DC: U.S. Congress, 1970.
- "91 Cong. Senate Debates 1970; CAA70 Leg. Hist. 10." Washington, DC: U.S. Senate, 1970.
- "91 Cong. Senate Report 1196; CAA70 Leg. Hist. 19." Washington, DC: U.S. Senate, 1970.
- "Advanced Research Projects Agency - Energy." Department of Energy, <https://arpa-e.energy.gov/sites/default/files/ARPA-E%20FY%202019%20Budget%20Request.pdf>.
- "Advanced Research Projects Agency – Energy (Including Cancellation of Funds)." Department of Energy, <https://arpa-e.energy.gov/sites/default/files/ARPA-E%20FY%202018%20Budget%20Request.pdf>.
- Aldrich, John H., and David W. Rohde. "Lending and Reclaiming Power: Majority Leadership in the House since the 1950s." In *Congress Reconsidered*, edited by Lawrence C. Dodd and Bruce I. Oppenheimer. Thousand Oaks, CA: CQ Press, 2017.
- Aldy, Joseph E. "Mobilizing Political Action on Behalf of Future Generations." *Future of Children* 26, no. 1 (Spring 2016): 157-78.
- "American Clean Energy and Security Act of 2009." Washington, DC: Congressional Budget Office, 2009.
- Andrews, Richard N. L. *Managing the Environment, Managing Ourselves: A History of American Environmental Policy*. 3rd ed. New Haven: Yale University Press, 2020.
- Arceneaux, Kevin, Martin Johnson, René Lindstädt, and Ryan J. Vander Wielen. "The Influence of News Media on Political Elites: Investigating Strategic Responsiveness in Congress." *American Journal of Political Science* 60, no. 1 (2016): 5-29.
- "ARPA-E Reauthorization an Important Step for Energy Innovation". Bipartisan Policy Center, <https://bpcaction.org/2019/09/arpa-e-reauthorization-an-important-step-for-energy-innovation/>.
- Barbour, Haley. "An Open Letter to the Presidential Candidates on Infrastructure." Bipartisan Policy Center, <https://bipartisanpolicy.org/wp-content/uploads/2019/03/BPC-Infrastructure-2016-Election.pdf>.
- Bartosiewicz, P., and M Miley. "The Too Polite Revolution: Why the Recent Campaign to Pass Comprehensive Climate Legislation in the United States Failed." *Scholars Strategy Network*.
- "Batteries for Vehicles and the Electric Grid: Maximizing the Return on Federal R&D Investments." Bipartisan Policy Center, <https://bipartisanpolicy.org/event/batteries-for-vehicles-and-the-electric-grid-maximizing-the-return-on-federal-rd-investments/>.
- Baumgartner, Frank R., Jeffrey M. Berry, Marie Hojnacki, David C. Kimball, and Beth L. Leech. *Lobbying and Policy Change: Who Wins, Who Loses, and Why*. Chicago: The University of Chicago Press, 2009.
- Bernhard, William, Daniel Sewell, and Tracy Sulkin. "A Clustering Approach to Legislative Styles." *Legislative Studies Quarterly* 42, no. 3 (2017): 30.
- Binder, Sarah A. "Can Congress Legislate for the Future?" *John Brademas Center for the Study of Congress*, <https://wagner.nyu.edu/files/admissions/Binder.pdf>.
- . *Stalemate: Causes and Consequences of Legislative Gridlock*. Washington, DC: Brookings Institution Press, 2003.
- Boston, Jonathan. *Governing for the Future: Designing Democratic Institutions for a Better Tomorrow*. Bingley, UK: Emerald Group Publishing, 2017.
- Box, George E. P., William Hunter, and Stuart Hunter. *Statistics for Experimenters: Design, Innovation, and Discovery*. 2nd ed. Hoboken, NJ: Wiley-Interscience, 2005.
- Brewer, Thomas L. *The United States in a Warming World: The Political Economy of Government, Business, and Public Responses to Climate Change*. New York: Cambridge University Press, 2015.

- "Bridging the Gap Together: A New Model to Modernize U.S. Infrastructure." Bipartisan Policy Center, <https://bipartisanpolicy.org/event/recommendations-for-a-new-american-model-for-infrastructure-investment/>.
- Brownstein, Ronald. "The Young and the Powerless." *National Journal* (2013): 9-9.
- "Building a Stronger America: President Donald J. Trump's American Infrastructure Initiative." The White House, <https://www.whitehouse.gov/briefings-statements/building-stronger-america-president-donald-j-trumps-american-infrastructure-initiative/>.
- Burwen, Jason, and Stuart Iler. "Bpc's American Energy Innovation Council Releases Recommendations on "Restoring American Energy Innovation Leadership"." Bipartisan Policy Center, <https://bipartisanpolicy.org/blog/bpcs-american-energy-innovation-council-releases-recommendations-on-restoring-american-energy-innovation-leadership/>.
- "Business Can Help Bridge the Infrastructure Gap." Bipartisan Policy Center, <https://bipartisanpolicy.org/report/business-can-help-bridge-the-infrastructure-gap/>.
- "Business Interests Spend to Modify the Financial Reform Bills." *Christian Science Monitor*, December 10 2009.
- "A Business Plan for America's Energy Future." Bipartisan Policy Center, https://bipartisanpolicy.org/wp-content/uploads/2019/03/AEIC_REPORT_Final.pdf.
- Carson, Rachel. *Silent Spring*. New York: Houghton Mifflin, 1962.
- Change, Intergovernmental Panel on Climate. "Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change." Geneva, Switzerland, 2014.
- Clarke, Richard A., and R. P. Eddy. *Warnings: Finding Cassandras to Stop Catastrophes*. New York: HarperCollins, 2017.
- "Client Profile: Bipartisan Policy Center." Center for Responsive Politics, <https://www.opensecrets.org/federal-lobbying/clients/summary?cycle=2019&id=D000047798>.
- "Conversation with Former Energy Secretary Ernest Moniz: Why the U.S. Needs a Robust Nuclear Power Sector." Bipartisan Policy Center, <https://bipartisanpolicy.org/event/conversation-with-former-energy-secretary-ernest-moniz/>.
- Curry, James M., and Frances E. Lee. "Non-Party Government: Bipartisan Lawmaking and Party Power in Congress." *Perspectives on Politics* 17, no. 1 (2019): 47-65.
- Davidson, Roger H., Walter J. Oleszek, Frances E. Lee, and Eric Schickler. *Congress and Its Members*. 16th ed. Thousand Oaks, CA: CQ Press, 2018.
- De Bruycker, Iskander. "Blessing or Curse for Advocacy? How News Media Attention Helps Advocacy Groups to Achieve Their Policy Goals." *Political Communication* 36, no. 1 (2019/01/02 2019): 103-26.
- Drutman, Lee. *The Business of America Is Lobbying: How Corporations Became Politicized and Politics Became More Corporate*. New York: Oxford University Press, 2015.
- Ehrlich, Paul R. *The Population Bomb: Population Control or Race to Oblivion*. New York: Ballantine Books, 1970.
- "Energy." Bipartisan Policy Center, <https://bipartisanpolicy.org/policy-area/energy/>.
- Esposito, John C. *Vanishing Air*. Washington, DC: Center for Study of Responsive Law, 1970.
- Fehsenfeld, Thomas. "Proquest Database Search, "Editorials-Regulation of Financial Institutions." ", 2019.
- "Financial Regulatory Reform, a New Foundation: Rebuilding Financial Supervision and Regulation." United State Department of The Treasury, <http://online.wsj.com/public/resources/documents/finregfinal06172009.pdf>.
- Franco, Emilio Granados. "The Global Risks Report 2020." Geneva: World Economic Forum, 2020.
- Gilens, Martin, and Benjamin I. Page. "Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens." *Perspectives on Politics* 12, no. 3 (Sep 2014 2014): 564-81.

- Goldstein, Joel K. "Edmund S. Muskie: The Environmental Leader and Champion." *Maine Law Review* 67, no. 2 (2017): 6.
- Grossmann, Matt. *Artists of the Possible: Governing Networks and American Policy Change since 1945*. Oxford: Oxford University Press, 2014.
- . *The Not-So-Special Interests*. Stanford, CA: Stanford University Press, 2012.
- Grumet, Jason. *City of Rivals: Restoring the Glorious Mess of American Democracy*. Guilford, CT: Lyons Press, 2014.
- . "Testimony by BPC President Jason Grumet to the House Energy and Commerce Subcommittee on Energy and Power." Bipartisan Policy Center, <https://bipartisanpolicy.org/wp-content/uploads/2019/03/Grumet-6-2-15-Testimony.pdf>.
- Grumet, Jason S. "Interview with Jason Grumet by Brien Williams." George J. Mitchell Oral History Project, <https://digitalcommons.bowdoin.edu/mitchelloralhistory/195>.
- Heimlich, Russel. "Want Tighter Financial Regulation." Pew Research Center, <https://www.pewresearch.org/fact-tank/2009/04/09/want-tighter-financial-regulation/>.
- Herweg, Nicole, Christian Huss, and Reimut Zohlnh fer. "Straightening the Three Streams: Theorising Extensions of the Multiple Streams Framework [J. W. Kingdon]." *European Journal of Political Research* 54, no. 3 (08/01 / 2015): 435-49.
- Herweg, Nicole, Nikolaos Zahariadis, and Reimut Zohlnh fer. "The Multiple Streams Framework: Foundations, Refinements, and Empirical Applications." In *Theories of the Policy Process*, edited by Paul A. Sabatier and Christopher M Weible. Boulder, CO: Westview, 2018.
- "Infrastructure." Bipartisan Policy Center, <https://bipartisanpolicy.org/policy-area/infrastructure/>.
- "Innovative Financing: Filling the Infrastructure Pothole." Bipartisan Policy Center, <https://bipartisanpolicy.org/event/innovative-financing-filling-the-infrastructure-pothole/>.
- Jacobs, Alan M. *Governing for the Long Term: Democracy and the Politics of Investment*. New York: Cambridge University Press, 2011.
- Jenkins-Smith, Hank C., Daniel Nohrstedt, Christopher M Weible, and Karin Ingold. "The Advocacy Coalition Framework: An Overview of the Research Program." Chap. 4 In *Theories of the Policy Process*, edited by Paul A. Sabatier and Christopher M Weible. Boulder, CO: Westview, 2018.
- Jones, Michael D., Holly L. Peterson, Jonathan J. Pierce, Nicole Herweg, Amiel Bernal, and Holly Lamberta Raney. "A River Runs through It: A Multiple Streams Meta-Review." *Policy Studies Journal* 44, no. 1 (2016): 13-36.
- Kaiser, Robert G. *Act of Congress: How America's Essential Institution Works, and How It Doesn't*. New York: Vintage Books, 2013.
- Keeter, Scott. "Mixed Views of Economic Policies and Health Care Reform Persist." Washington, DC: Pew Research Center, 2009.
- King, Anthony. *Running Scared: Why America's Politicians Campaign Too Much and Govern Too Little*. New York: The Free Press, 1997.
- King, Gary, Benjamin Schneer, and Ariel White. "How the News Media Activate Public Expression and Influence National Agendas." *Science* 358, no. 6364 (2017): 776-80.
- Kingdon, John W. *Agendas, Alternatives, and Public Policies*. 2nd ed. New York: Longman, 2011.
- Kirsch, Larry, and Robert N. Mayer. *Financial Justice: The People's Campaign to Stop Lender Abuse*. Santa Barbara, CA: Praeger, 2013.
- Kline, Sarah. "First 100 Days Infrastructure Agenda: Laying the Foundation." Bipartisan Policy Center, <https://bipartisanpolicy.org/blog/first-100-days-infrastructure-agenda/>.
- Klyza, Christopher McGrory, and David J. Sousa. *American Environmental Policy, 1990-2006: Beyond Gridlock*. Cambridge, Massachusetts: MIT Press, 2008.
- Knagg rd,  sa. "The Multiple Streams Framework and the Problem Broker." *European Journal of Political Research* 54, no. 3 (2015): 450-65.
- LaPier, Jordan. "BPC's Executive Council on Infrastructure Announces New Coalition." Bipartisan Policy Center, <https://bipartisanpolicy.org/press-release/executive-council-on-infrastructure-announces-new-coalition/>.

- Layzer, Judith A. *Open for Business: Conservatives' Opposition to Environmental Regulation*. Cambridge, MA, United States: MIT Press, 2014.
- Layzer, Judith A., and Sara R. Rinfret. *The Environmental Case: Translating Values into Policy*. 5th ed. Thousand Oaks, California: Sage, 2020.
- Lazarus, Richard J. *The Making of Environmental Law*. Chicago: University of Chicago Press, 2004.
- Lee, Frances E. *Insecure Majorities: Congress and the Perpetual Campaign*. Chicago: University of Chicago Press, 2016.
- "Legislative History of P1111-203 "Dodd-Frank Wall Street Reform and Consumer Protection Act"." Washington, DC, 2010.
- Leiserowitz, Anthony, Edward W. Maibach, and Connie Roser-Renouf. "Climate Change in the American Mind: Americans' Climate Change Beliefs, Attitudes, Policy Preferences, and Actions." SSRN, 2008.
- Light, Paul C. *The President's Agenda: Domestic Policy Choice from Kennedy to Clinton*. 3rd ed. Baltimore: Johns Hopkins University Press, 1999.
- Lizza, Ryan. "As the World Burns: How the Senate and the White House Missed Their Best Chance to Deal with Climate Change." June 28 2010.
- Lovell, Heather. "The Role of International Policy Transfer within the Multiple Streams Approach: The Case of Smart Electricity Metering in Australia." *Public Administration* 94, no. 3 (09/01 / 2016): 754-68.
- Macedonia, Jennifer, Blair Beasley, Tracy Terry, Meghan McGuinness, and Stuart Iler. "Insights from Modeling the Proposed Clean Power Plan." Bipartisan Policy Center.
- Mansfield, Mike. "Congressional Record S. 733 - a Conversation with the Majority Leader." University of Montana, https://scholarworks.umt.edu/mansfield_speeches/1029.
- McIntosh, Kriston, Emily Moss, Ryan Nunn, and Jay Shambaugh. "Examining the Black-White Wealth Gap." Brookings Institution.
- Mitchell, Robert Cameron, Angela G Mertig, and Riley E Dunlap. "Twenty Years of Environmental Mobilization: Trends among National Environmental Organizations." *Society & Natural Resources* 4, no. 3 (1991): 219-34.
- Nixon, Richard. "Message from the President of the United States Outlining Legislative Proposals and Administrative Actions Taken to Improve Environmental Quality." Washington, DC: U.S. Government Printing Office, 1970.
- Nixon, Richard M. "State of the Union Address." University of Virginia, Miller Center, <https://millercenter.org/the-presidency/presidential-speeches/january-22-1970-state-union-address>.
- Olson, Robert L. "Missing the Slow Train: How Gradual Change Undermines Public Policy & Collective Action." Washington DC: Wilson Center, 2016.
- "Open Letter from Universities, Businesses, and Ngos in Support of Fy19 ARPA-E Funding." BPC Action, <https://bpcaction.org/2018/04/open-letter-universities-businesses-ngos-support-fy19-arpa-e-funding/>.
- "Opensecrets.Org." Center for Responsive Politics, www.opensecrets.org.
- Oreskes, Naomi, and Erik M. Conway. *Merchants of Doubt: How a Handful of Scientists Obscured the Truth on Issues from Tobacco Smoke to Global Warming*. New York: Bloomsbury, 2010.
- Parker, Kim, Rich Morin, and Juliana Horowitz. "Looking to the Future, Public Sees an America in Decline on Many Fronts." Washington, DC: Pew Research Center, 2019.
- Pooley, Eric. *The Climate War: True Believers, Power Brokers, and the Fight to Save the Earth*. New York: Hyperion, 2010.
- Pope, Carl. "The Clean Air Act Story: Back to the Beginning." *Grist*, June 28 2009.
- Pot, W. D., A. Dewulf, G. R. Biesbroek, M. J. van der Vlist, and C. J. A. M. Termeer. "What Makes Long-Term Investment Decisions Forward Looking: A Framework Applied to the Case of Amsterdam's New Sea Lock." *Technological Forecasting and Social Change* 132 (2018/07/01/ 2018): 174-90.

- "The Power of Innovation: Inventing the Future." Bipartisan Policy Center, <https://bipartisanpolicy.org/wp-content/uploads/2019/03/AEIC-The-Power-of-Innovation-Inventing-The-Future.pdf>.
- "Public Sees Economic News Turning More Negative." Pew Research Center, <https://www.pewresearch.org/politics/2010/07/08/public-sees-economic-news-turning-more-negative/>.
- "Public's Priorities for 2010: Economy, Jobs, Terrorism." Pew Research Center, <file:///Users/tomfehsefeld/Downloads/publics-priorities-for-2010-economy-jobs-terrorism.html>.
- "Putting Private Capital to Work in Rural Infrastructure." Bipartisan Policy Center, <https://bipartisanpolicy.org/wp-content/uploads/2019/03/BPC-Putting-Capital-to-Work-in-Rural-Infrastructure.pdf>.
- "Report on the American Clean Energy and Security Act of 2009." Washington, DC: U.S. House of Representatives, Committee on Energy and Commerce, 2009.
- Ritz, Ben. "Congress Goes Off-Road with Highway Funding Bill." Bipartisan Policy Center.
- Saad, Lydia. "Banking Reform Sells Better When 'Wall Street' Is Mentioned." Gallup.
- Sax, Joseph. *Defending the Environment: A Strategy for Citizen Action*. New York: Knopf, 1971.
- Smith, Steven S., and Gerald Gamm. "Parties and the Politics of Polarization." In *Congress Reconsidered*, edited by Lawrence C. Dodd and Bruce I. Oppenheimer. Thousand Oaks, CA: CQ Press, 2017.
- Smith, Verna. "Analysing Public Policy: Does Kingdon's Multiple Streams Framework Help?". In *Bargaining Power: Health Policymaking from England and New Zealand*. Singapore: Palgrave Macmillan, 2018.
- Swagel, Phillip. "The Impact of the September 2008 Economic Collapse." Washington, DC: Pew Trusts, 2010.
- "Transition Memo: A Plan to Modernize America's Infrastructure." Bipartisan Policy Center, <https://bipartisanpolicy.org/report/transition-memo-modernize-infrastructure/>.
- Venkataraman, Bina. *The Optimist's Telescope: Thinking Ahead in a Reckless Age*. New York: Riverhead Books, 2019.
- Vietor, Richard H. K. *Environmental Politics and the Coal Coalition*. College Station, Texas: Texas A&M University Press, 1980.
- Vig, Norman J., and Michael E. Kraft, eds. *Environmental Policy: New Directions for the Twenty-First Century*. Thousand Oaks, CA: SAGE, 2019.
- Warren, Elizabeth. "Unsafe at Any Rate." *Democracy*, no. 5 (Summer 2007).
- Washington Information Directory 2019 - 2020. Kindle ed. Thousand Oaks, CA: SAGE, 2019.
- Werner, Erica. "Trump Signs Law Rolling Back Post-Financial Crisis Banking Rules." May 24, 2018 2018.
- Zeller, Shawn. "Bipartisan Policy Center Dives Headfirst into the Partisan Pool." *Congressional Quarterly Today*, August 25 2008.
- Zohlnhöfer, Reimut, Nicole Herweg, and Christian Huß. "Bringing Formal Political Institutions into the Multiple Streams Framework: An Analytical Proposal for Comparative Policy Analysis." *Journal of Comparative Policy Analysis* 18, no. 3 (2016): 243-56.
- — —. "Bringing Formal Political Institutions into the Multiple Streams Framework: An Analytical Proposal for Comparative Policy Analysis." *Journal of Comparative Policy Analysis: Research and Practice* 18, no. 3 (2016/05/26 2016): 243-56.

Curriculum Vita

THOMAS V. FEHSENFELD

EMPLOYMENT:

- 1974 – 2016 President and Chairman, Crystal Flash Corporation (www.crystalflash.com), a fuel distribution business headquartered in Grand Rapids, Michigan that was formerly owned by our family. My 42 year career with the company was completed when it transitioned to employee-ownership through an Employee Stock Ownership Plan. The 250 employee-owners continue to operate the company profitably and expand their operations.

EDUCATION:

- 2020 Johns Hopkins University, Masters in Government.
- 2007 Walden University, PhD in Organizational Design. The dissertation topic concerned the intersection of dynamic systems modeling and stakeholder analysis.
- 1974 University of Michigan, Master of Business Administration
- 1971 University of Michigan, Bachelor of General Studies

BOARD MEMBERSHIPS & COMMUNITY ACTIVITIES:

- Grand Valley Metropolitan Council Blueprint Committee, past chair
- Grand Valley Metropolitan Council, past member
- Woodcliff Park Neighborhood Association, past president
- Heart of West Michigan United Way, past member of allocation committees and campaign cabinet
- Michigan Petroleum Association, past president
- The Heritage Group, past Board of Trustees member
- Community Reconciliation Center, past board president
- Citizens League of Grand Rapids, past board member
- Coalition for Licensing Reform, founder and past president
- West Michigan Sustainable Business Forum, founding board member and past president
- Bay Windpower, LLC, co-founder
- Sustainable Research Group, LLC, investor and board member
- Product Development and Management Association, Great Lakes Chapter, past board president
- Greater Grand Rapids Chamber of Commerce Diversity Council, past member
- Greater Grand Rapids Chamber of Commerce Regional Issues Committee, past member
- Petroleum Management Association Study Group, past president

OTHER ACCOMPLISHMENTS:

- Winner of the Peace 2010 essay contest sponsored by The Christian Science Monitor in 1985.
- Developed and taught a graduate level course in conflict resolution for the Public Administration program of Grand Valley State University.