



# Bureaucracy

## Perceptions and Misperceptions

This is a book about bureaucratic theory. There are many theories of bureaucratic politics and yet few areas of agreement among them. For example, Woodrow Wilson (1987, 18) wrote, “administration lies outside the proper sphere of politics.” While most scholars now agree that there is politics in administration (even Wilson concedes this point), the “politics-administration dichotomy” continues to be reflected in the debate over whether bureaucrats should be “responsive” to elected officials or “neutral competent” (see Moe 1985b; Hecllo 1975). We also learn from the literature that the growth of bureaucratic power has created a “bureaucratic problem” (Wilson 1967), and that policy implementation by the bureaucracy is fraught with politics and usually fails (Moynihan 1969; Pressman and Wildavsky 1973; Mazmanian and Sabatier 1983).

With regard to the nature of bureaucratic politics, is it the politics of agency capture (Huntington 1952; Bernstein 1955), of cozy iron triangles (Cater 1964; Freeman 1965), and subsystem politics? If so, are such important constitutional actors as the president, the Congress (as a whole and not just its individual committees), and the courts mere bystanders without access or influence (see Lowi 1979; Noll 1971; Dodd and Schott 1979; Woll 1963)? Or are these same policy actors keenly involved in attempts at political control of the bureaucracy (Moe 1982, 1985a; Wood and Waterman 1991)? If so, is Congress the dominant actor in bureau-

cratic politics (Weingast and Moran 1983) or is it the president (Moe 1985b)? If either actor is dominant, then what influence do the courts exert (Melnick 1983; Moe 1985a; Wood and Waterman 1993)?

And what of the bureaucrats themselves: do they perform vitally important functions for society (Weber 1946) or are they primarily interested in shirking hierarchical attempts at political control (Mitnick 1980)? Are their behaviors best explained by an economic rather than a political model (Posner 1974), and if so, are they budget-maximizers (Niskanen 1971, 1975, 1991, 1994) or are they motivated by other goals including their own functional and solidary preferences (Downs 1967; Brehm and Gates 1993, 1999)? Do they have too much discretion (Galloway 1951; McConnell 1966; Stone 1977; Lowi 1979) or do they need discretion to carry out the law (Rourke 1984, 37; Davis 1969a, 1969b; Bardach and Kagan 1982; Kiewiet and McCubbins 1991)?

With regard to bureaucrats' relationship to their political principals, does an information asymmetry exist (Bendor, Taylor, and Van Gaalen 1985, 1987)? Are bureaucrats always in goal conflict with political principals (Waterman and Meier 1999)? Are agents mostly passive, choosing only to respond or not to principal political control stimuli, or are agents active, even influencing the principals that seek to control them (Krause 1999)?

In sum, if we read the entire bureaucratic literature, we will find that the answer to most of these questions is often both yes or no (and sometimes it depends) based on which source you consult. There is politics and there isn't. The president and Congress have influence and they do not. Iron triangles dominate and they are no longer relevant. Hence, it is difficult to glean definitive answers from the literature, in part because even prominent theories of the bureaucratic process (such as the principal-agent model and the budget-maximizing bureaucratic thesis) are driven by normative assumptions about the nature of bureaucrats.

These normative assumptions, in turn, have an impact on the answer to such big questions as: who is best suited to promote democratic values, bureaucrats or their elected political masters (Lowi 1979; Wood and Waterman 1991, 1994)? To a large extent the answer depends on a normative consideration: whom do you most trust, bureaucrats or elected officials? This may seem like an easy question (given all of the negative antibureaucratic rhetoric), but just think about the case of the Reagan

administration and the Environmental Protection Agency (EPA) in the 1980s. Of the two, whom did you most trust to deal with environmental policy? The answer probably depends on whether you support vigorous environmental enforcement. If so, then you were more likely to trust the EPA (the bureaucracy) than the Reagan administration.

Our point is that if you look at the bureaucratic literature over the past century you will learn all sorts of contradictory things about bureaucrats, bureaucracy, and the institutions that interact with them. In fact, few governmental institutions have been the subject of more study and less understanding than the bureaucracy. As Meier (1992, 17) notes, "Of all U.S. political institutions, bureaucracy is by far the least known." This situation is perplexing, for as Woll (1963, vii) writes, "Virtually every aspect of our daily lives is regulated to some degree by one or the other of the numerous administrative agencies that make up the national bureaucracy." Peters (1984, 1) also comments, "Government is increasingly a part of the daily life of the average citizen." Likewise, Rourke (1976, 14) writes, "No modern state could operate for a day without the performance of a myriad of tasks by highly trained bureaucracies." Yet we can think of no other literature in which one political institution is described in such a bipolar fashion. Bureaucracy is both good and bad, necessary and wasteful, and, at its worst, a dangerous threat to our democratic way of life.

In this book we employ survey research techniques in an attempt to try to reconcile some of the many controversies and inconsistencies in the bureaucratic theory literature. We examine two sets of bureaucrats who are responsible for protecting the environment: enforcement personnel from the Office of Water of the EPA at the federal level, and employees of the New Mexico Environment Department (NMED) at the state level. A number of top-down studies of the bureaucracy have examined these bureaucrats in considerable detail (Wood 1988; Wood and Waterman 1991, 1993, 1994). It is our intention to bring another perspective to this debate by examining the perceptions of federal- and state-level environmental bureaucrats. Thus, we examine what these officials think about politics, the environment, their agency budgets, and the political officials and institutions with which they interact, including the regulated industry.

## Everybody's Scapegoat

As we have noted, normative themes permeate the bureaucratic literature. To begin with, public and scholarly perceptions of the bureaucracy can be characterized as largely pejorative. Boyer (1964, vii) writes, "Only in the United States is 'bureaucracy' an ugly word." Likewise, Gormley (1989, 3) comments, "Bureaucracy has never been a popular institution in the United States, but for the last decades it has come under continual siege. Presidents, interest groups, members of Congress, and the public at large have blamed their problems on bureaucracy. At the same time that the bureaucracy serves as the political scapegoat in the United States, the expectations for and demands on bureaucracy continue to escalate."

Bureaucracy is everybody's scapegoat. If there is a problem in our society the quick and easy solution is to blame it on the bureaucracy. Why did the terrorist attacks of September 11, 2001 succeed? While there are many factors involved, we have learned that bureaucracies such as the Federal Bureau of Investigation, the National Security Agency, and the Central Intelligence Agency were unable to process and collate vital information in a timely fashion. In short, one explanation is that the bureaucracy let us down. Ironically, the solution is to create new bureaucracies such as the Department of Homeland Security and to federalize airport security, which creates yet another new layer of bureaucracy.

Terrorism is not the only area in which the bureaucracy has been found to be at fault. If the crime rate is too high, if the deficit is out of control, or if American businesses cannot compete with their foreign competitors, then politicians, the media, and many scholars blame the bureaucracy. Long gone are the days when a scholar of the reputation of Paul Appleby (1945) dedicated his book to "Bill Bureaucrat," the average, hard-working guy who toiled in the bureaucracy on our behalf. Today most polemics criticize bureaucrats and the bureaucracy for a lack of compassion (Thompson 1975), a rigid inability to change (Mazmanian and Neinaber 1979; Foster 1990), their immortality (Kaufman 1976), a lack of responsiveness to elected officials and the public (Dodd and Schott 1979), and even their tendency to subvert democratic principles (Lowi 1979).

In short, the overwhelming focus of the literature is on what is wrong with the bureaucracy. One clear consequence of this one-sided fo-

cus is that we have lost our sense of perspective: we no longer understand how or why bureaucracy fits into our overall governmental system. For example, as Boyer (1964, vii) writes, we criticize the bureaucracy, yet “curiously, the same persons and interests who complain about bureaucracy are those who by their demands on government help to make it grow.” When we demand a new prescription drug program or better airport security we tend to forget that it is inevitably the bureaucracy that will implement these programs, and new programs create new bureaucracies with more bureaucrats.

Given our society’s continuous demand for new programs, and hence indirectly for new bureaucracies, why have politicians, the popular press, and the public been so critical of the bureaucracy? One reason is that few people make this obvious connection between programs and bureaucracy. As importantly, there are few individuals who are willing to defend the bureaucracy. Whereas the president and his/her advisers speak for the presidency, representatives and senators speak for the Congress, and judges speak for the courts, no one speaks for the bureaucracy. There is no high-profile Bill or Bertha Bureaucrat possessing the necessary credibility to defend the institution. Rather, most high-profile bureaucrats, such as the secretary of state or the chairman of the Federal Reserve Board would be loath to even acknowledge that they are in fact bureaucrats. While they can be counted on to defend their own agencies, they cannot be expected to defend the bureaucracy as a whole. Because there is no one willing to speak on its behalf, most people perceive the bureaucracy as a faceless and highly impersonal entity, a point often emphasized in political stump speeches, as well as literature (e.g., George Orwell’s 1984) and film (Terry Gilliam’s *Brazil*). In these accounts, the bureaucracy is represented as a cold, uncaring automaton that is unresponsive and impersonal.

Since no one represents the bureaucracy, it is highly susceptible to attack. Likewise, there is a clear incentive to bash the bureaucracy. As Wilson (1989, 236) notes, “No politician ever lost votes by denouncing the bureaucracy.” Likewise, Stanley Greenberg (1995, 281), formerly President Bill Clinton’s chief pollster, comments, “Today, any party aspiring to national leadership . . . will have to establish its bona fides as hostile to bureaucracy . . .” As a result of such advice, many politicians eagerly take up the cause, attacking the bureaucracy as bloated, unproductive, inefficient, and lumbering, among other pejorative terms. Politicians also

regularly accuse the bureaucracy of being out of touch and unresponsive to the public, charges they are, on occasion, guilty of themselves.

Politicians were not always so critical of the bureaucracy. Rather, this popular propensity to blame the bureaucracy surfaced during the late 1960s, largely as a response to the perceived failure of many of Lyndon Johnson's Great Society programs. As Pressman and Wildavsky (1973) and Moynihan (1969) ably demonstrate, many of the Great Society programs failed to achieve their basic objectives. President Johnson himself was aware of these problems and, as a result, established the President's Task Force on Government Organization. In its 1967 report, the committee reported, "Many domestic social programs are under severe attack. Some criticism is political. . . . Some criticism stems from deflated hopes, with current funding levels well below ultimate need and demand. Some criticism arises because of alleged organizational and managerial weakness. After several months of study, we believe the organizational criticism is merited."

The failure of many Great Society antipoverty programs, along with the Johnson administration's support for civil rights, prompted George Wallace to criticize the bureaucracy in his populist stump speeches during his 1968 third-party presidential campaign. As Theodore White (1969, 345) writes, "If George Wallace hates anything, it is not Negroes—it is the Federal government of the United States and its 'Pointy-head' advisers, the 'intellectual morons,' the 'guideline writers' of Washington who try to upset the natural relations of the races." Wallace's campaign, though replete with hot racial rhetoric, was well received by a significant portion of the American electorate, including many middle-class Americans (see Greenberg 1995). As a third-party candidate, Wallace won several southern states in the 1968 presidential campaign. He also did well in many northern suburban areas. Furthermore, four years later, at the time of the assassination attempt that effectively removed him from the 1972 presidential campaign, Wallace had won more primary votes than any of his Democratic opponents.

Therefore, even if Wallace's racial message was abhorrent, his anti-government message was popular. As a result, other politicians soon adopted the Wallace strategy of bashing Washington bureaucrats. In the 1972 presidential election, it was Richard Nixon, the incumbent president, who co-opted Wallace's message. His law and order theme and his

attacks on federally mandated busing borrowed generously from Wallace's anti-Washington rhetoric.

In recent decades, candidates of both political parties have adopted anti-Washington, antibureaucratic rhetoric as standard components of their stump speeches; in fact, the anti-Washington "outsider" image has become increasingly popular among presidential candidates of both major political parties (Waterman, Wright, and St. Clair 1999). Of these politicians, Ronald Reagan is perhaps best remembered for attacking the bureaucracy. Yet such ideologically diverse candidates for president as Gerald Ford, Jimmy Carter, and Edward Kennedy each found it palatable to do so. In 1992 all three presidential candidates, Bill Clinton, George Bush, and Ross Perot, attacked the bureaucracy in their standard campaign speeches. Only Ross Perot (1992), on occasion, was willing to compliment bureaucrats. For instance, he wrote, "The word 'bureaucrat' conjures up some bloodless, uncaring robot with a rubber stamp. In truth, I have found almost every federal employee I've encountered to be a dedicated, intelligent professional" The presidential campaigns of 1996 and 2000 likewise included copious anti-Washington and antibureaucratic references.

Politicians have not been the only policy actors to blame the bureaucracy for our nation's problems in recent years. The media also plays a prominent role. As Goodsell (1983, 2) writes, "As for portrayals in mass media, we encounter a relatively simple picture, confidently expressed. The employee of bureaucracy, that 'lowly bureaucrat,' is seen as lazy or snarling, or both. The office occupied by this pariah is viewed as bungling or inhumane, or both. The overall edifice of bureaucracy is pictured as overstaffed, inflexible, unresponsive, and power-hungry, all at once. These images are agreed upon by writers and groups of every shade of opinion. One is hard pressed to think of a concept more deeply ingrained and widely expressed in American cultural life."

What evidence has the media used to come to this critical conclusion about the bureaucracy? Goodsell (1983, 3) continues, "One source the popular critics always draw upon is that item found in almost every edition of every daily newspaper, the bureaucratic horror story." Goodsell describes these stories as a "graphic and sympathetic account of how some poor citizen has been mistreated by incompetent bureaucrats or how in some other way a great bureaucratic error has been committed."

Politicians and other decision makers then focus on these accounts. One can speculate that when a citizen hears a bureaucratic horror story from an official as prominent as the president of the United States, it lends considerable credibility to the account, even if it is an isolated incident and therefore not generalizable, and even if the facts of the particular incident are still in question.

In addition to bureaucratic horror stories, editorial writers and other exalted purveyors of common wisdom have expressed pejorative opinions about the bureaucracy. For example, George Will, in evaluating President Bill Clinton's 1993 plan to reduce the deficit, concluded, "how advanced is a project if bureaucrats in Washington can fathom it?" (1993, 68). When we add to this mix such popular radio and television pundits as Rush Limbaugh on the right and Howard Stern on the left, who likewise profit at the expense of the bureaucracy, there is clearly no reason to believe that bureaucracy will be presented in a more popular light by the mass media anytime soon.

As a result, it is not surprising to find that most Americans hold negative opinions of the bureaucracy. An analysis of public opinion data provides some evidence in this regard. In a poll reported by Larry Hill (1989), 78 percent of the respondents to a 1973 University of Michigan Survey Research Center (SRC) poll agreed, "too many government agencies do the same thing." Likewise, 58 percent expressed the opinion that bureaucrats "gain the most from government services." More than half said that bureaucrats do not take responsibility for anything and nearly one-half agreed that bureaucrats are not interested in the problems of ordinary people. Substantial percentages also believed that bureaucrats pry into their personal lives and use their authority to push people around (see also Hill, Wamsley, and Goodsell 1992).

In contrast, however, 71 percent of the respondents to an early 1980s poll conducted by the *Washington Post* said that they were pleased with their interactions with federal agencies (Hill 1989, 7). While 78 percent of the respondents to the SRC poll believed that "too many government agencies do the same thing," 72 percent also expressed the opinion that "government workers work hard and try to do a good job." Likewise, 68 percent of the respondents said, "governmental workers are usually very helpful" (Hill 1989). These findings suggest that the public holds both highly positive and negative assessments of the bureaucracy simultaneously. Thus, as Wilson (1989, x) writes:



Citizens and taxpayers have their own global view of bureaucracy. To them, bureaucrats are lethargic, incompetent hacks who spend their days spinning out reels of red tape and reams of paperwork, all the while going to great lengths to avoid doing the job they were hired to do. Their agencies chiefly produce waste, fraud, abuse, and mismanagement. That this view is an exaggeration is readily shown by public-opinion surveys in which people are asked about their personal experiences with government agencies. The great majority of the respondents say that these experiences were good, that the agency personnel were helpful, friendly, and competent. This can only mean that those lazy, incompetent bureaucrats must work for some other agency—the one the citizen never sees.

How can we reconcile these contradictory results from various public opinion polls? Hill (1989, 1–2) suggests an answer. He argues that the public has not made a sufficient effort to understand the bureaucracy:

I assume that one of the most conspicuous developments of recent decades is the growth of government and specifically the emergence of large public bureaucracies as important political actors. Furthermore, I believe that the American public has, in general, neglected to integrate this development into its overall understanding of the political process. Most Americans have failed to take bureaucracy seriously: they have not understood bureaucracy in relation to their own demands, priorities, and preparedness to assume the tasks of governance . . . [Rather in] the post-war period, deploring bureaucracy has become an increasingly popular national pastime.

There is another possible answer, however, which is that rather than the public's lack of effort, contradictory public attitudes may be related to the mixed signals the public receives. On the one hand, the public hears from the politicians and the press that the bureaucratic process is the root of many of society's problems. On the other hand, the public, in general, is satisfied with its individual contacts with bureaucracy. Given the nature of the evidence the public receives, we should expect the public to be confused.

Unfortunately, there is little prospect that the signals the public receives will become more consistent in the future. It is likewise difficult to imagine that positive stories about the bureaucracy would sell newspa-

pers or attract large ratings on programs such as *60 Minutes*, *20/20*, or *Dateline*. These programs enjoy high ratings when they expose bureaucratic incompetence, not the reverse. In essence, then, there is a self-serving bias in the political arena and in the media against bureaucracy. We do not hear many positive assessments about bureaucracy, nor should we expect to. The clear incentive is and will remain to bash the bureaucracy despite occasional empirical evidence that the increasing size and representativeness of the bureaucracy actually is related to positive policy outcomes (see Meier, Polinard, and Wrinkle 2000; Hinderer 1993).

### **The Bureaucrats Speak for Themselves**

We conducted two surveys in the mid- to late 1990s, one of personnel working for the National Pollutant Discharge Elimination System (NPDES), the surface water enforcement division of the EPA, and one of all environmental personnel working for the NMED. In this book we analyze these two surveys and apply the results to a diverse set of questions promoted by bureaucratic literatures, such as whether the bureaucracy is too liberal or too conservative and whether bureaucrats have too much discretion. Our primary concern, however, is with the two currently dominant theories of the bureaucratic process: the principal-agent model (see Moe 1982, 1985a; Wood 1988; Hedge, Scicchitano, and Metz 1991) and the theory of the budget-maximizing bureaucrat (Niskanen 1971). We will critique both of these theories and then examine how our survey results reflect on their basic assumptions.

We focus on environmental agencies because they have been the topic of much past research on bureaucratic politics (see Wood 1988; Wood and Waterman 1991, 1993). Our focus on environmental agencies allows us to examine agencies that have a direct daily impact on the quality of our lives. We also think that a focus on two environmental agencies is appropriate because the Environmental Protection Agency and the New Mexico Environment Department are the subject of the same kinds of perceptions and misperceptions that we have identified. Some people vilify them while others believe they perform a vital function. What then are the basic characteristics of these two agencies?

## The Environmental Protection Agency

The Environmental Protection Agency was established by President Richard Nixon via executive order on December 2, 1970, combining a number of federal programs dealing with air pollution from the Department of Health, Education, and Welfare (HEW); water pollution from the Department of the Interior and HEW; solid waste management from HEW; and radiation standards from the Atomic Energy Commission. The new EPA also replaced the National Air Pollution Control Administration, which had been the federal government's primary environmental management agency (see appendix). As Landy, Roberts, and Thomas (1994, 32) write, from Nixon's "point of view, creating a new agency had two very attractive features. First, it was a highly visible innovative action. Second, it represented a compromise between those who wanted to totally redesign the executive branch and those who wanted to change nothing."

The EPA is the largest of the federal regulatory agencies. It administers more than two dozen statutes and has some eighteen thousand employees, approximately twelve thousand of them working in one of its ten regional offices. Among its employees are a large number of scientists, engineers, attorneys, and other professionals. In fact, the EPA has distinguished itself by acquiring an impressive cadre of experts on environmental affairs, and many of them are strong advocates of environmental protection. As we shall see, however, it would be a mistake to assume that the EPA personnel constitute a monolith in support of a specific environmental or political approach.

Overseeing the agency is the EPA administrator, who is selected by and serves at the pleasure of the president. To increase presidential influence, the administrator's term was designed to run concurrently with the president's. To ensure that the administrator would be accountable to the public and environmentalists, Senate confirmation was required. The administrator was endowed with a great deal of authority and, perhaps more importantly, a great deal of discretion, extending from rulemaking to the authority to reorganize the EPA's offices and to develop the agency's budget. Still, the administrator does not work alone. In addition to a deputy administrator and the heads of various offices (e.g., the Office of Water or Office of Air, Noise, and Radiation), the administrator

also shares responsibility with regional administrators, one for each of the agency's ten regional offices.

The ability to reorganize the EPA and the ability to control budget allocations to the regional offices are the main centralized powers of the EPA administrator. Indeed, upon appointment by President Bill Clinton, Carol Browner proceeded to change the EPA from a set of media-specific departments (i.e., water and air division, etc.) to industry-based multimedia divisions (this process was still in the planning stages during our data collection). The strong central powers of the EPA administrator, however, are somewhat mitigated by the fact that there are ten diverse regional offices run by administrators who are chosen through the political practice of senatorial courtesy. These regional administrators often demonstrate considerable autonomy from the EPA's central office in Washington, even disagreeing with goals and objectives. As was explained to us by a former head of the Office of Water, while the regional administrators are technically under the control of the administrator, they exhibit a great deal of discretion in terms of how they run their offices. In fact, we were told that some regional administrators were more responsive to regional and local concerns than they were to the dictates of the EPA administrator. The diversity across the ten regional offices of the EPA also is related to geographically based interests and needs, the variety of federal-state power sharing arrangements, and the expertise and priorities of the regional administrators. For example, region two covers New Jersey, New York (regional offices), Puerto Rico, and the Virgin Islands, all of whose administrators have primacy over their NPDES programs. This region's primary concerns are problems associated with heavily populated areas, such as inadequate waste disposal plans that lead to ground water contamination. Region eight covers Colorado (regional offices), Montana, North Dakota, South Dakota (the only non-primacy state in the region), Utah, and Wyoming. This is an area in which who gets water is among the top concerns of regional administrators; water pollution concerns in this region stem primarily from agriculture and mining (Hunter and Waterman 1992, 1996). Historically, the regional offices of New York and Boston (region one) have had such a great influence over the development and content of water pollution regulations that NPDES permit holders or permittees (discharges into surface waterways are not legal without a permit) and EPA personnel in the

western and northwest regions claim that the NPDES laws have an eastern bias and do not address adequately the needs of their regions.

As we shall see, NPDES enforcement personnel perceive their regional administrator as one of the most influential forces in determining how they perform their jobs. It follows, then, that the interests and abilities of those appointed as regional administrators add important elements to the diversity of regional NPDES enforcement. Arguably, the political nature of the appointment of the ten regional administrators allows regional concerns to be articulated and addressed more appropriately than would a centralized, Washington, D.C.-based institution. This institutional configuration, however, leads to broad discretion in the interpretation and enforcement of the NPDES regulations.

Another factor that complicates EPA enforcement is that the agency is not the only one responsible for the development of environmental policy; as many as a dozen other federal agencies share jurisdiction with the EPA on various regulatory issues. In some cases, the EPA is even responsible for regulating other agencies, such as the Tennessee Valley Authority (TVA). In addition to interagency regulatory activity, the EPA must also cooperate with the fifty states in the development of regulatory policy. Under the provisions of the Clean Air Act of 1970, states must submit State Implementation Plans (SIPs) to the Environmental Protection Agency. These plans suggest the method by which state governments will comply with the standards and deadlines enumerated in the act. The EPA then must review the SIPs to determine if they adequately meet federal guidelines. Although this review process gives the EPA oversight authority over state environmental agencies, it does not guarantee control. As a number of EPA personnel told us, the agency does not have enough personnel or sufficient resources to perform a comprehensive study of every state's environmental program (Hunter and Waterman 1992, 1996).

As a result, much authority is necessarily delegated to the states. Ann O'M. Bowman (1984, 1985a, 1985b) argues that this intergovernmental component of environmental regulation impedes progress in implementing environmental programs. Coordination of decision making is more difficult because different levels of government and governmental agencies are involved. Yet as Gormley (1987, 285) notes, over the past two decades, "the federal government has delegated considerable authority

over environmental protection to the states.” In particular, during Ann Gorsuch Burford’s tenure as EPA administrator (1981–1983) “state program responsibilities grew from 33 percent of possible assumptions of responsibility to 66 percent” (Gormley 1987, 285). State involvement in environmental protection continued to grow after Burford’s departure.

In short, the EPA is a curious blend of centralized control (held primarily by its administrator) and decentralized authority over its many functional responsibilities, the other federal agencies with which it shares responsibility, and the intergovernmental component of environmental regulation. These features make it a particularly interesting agency to examine in the context of the principal-agent model, which focuses on information asymmetries and goal conflict.

Specifically, the EPA personnel we interviewed enforce the provisions of the Clean Water Act of 1972 (and its amendments) under the NPDES. The NPDES program is one of three permit programs created under the provisions of the Clean Water Act of 1972. It was designed to oversee point source discharges by municipalities and industrial firms, among other polluters.

### **The NPDES Program**

The Federal Water Pollution Control Act (FWPCA) of 1972, more familiarly known as the Clean Water Act (CWA) was offered as the legislative solution to the uneven and ineffective water protection programs of the past. Passed by Congress over Nixon’s veto, the CWA’s stated objective was “to restore and maintain the chemical, physical and biological integrity of the nation’s waters” (Arbuckle 1993, 155). The act’s basic goal was to regulate every pollutant or contaminant discharged by facilities into the nation’s waters.

The cornerstone of the CWA was the creation of the National Pollutant Discharge Elimination System as the permitting and enforcement body for some sixty thousand conditional authorizations to discharge. Industry-by-industry standards were to be set based on the best available pollution control technology, with consideration given to the cost of implementation to the regulated industries. Industries were required to apply for discharge permits, to confirm compliance, and to report non-compliance to the sovereign agency. NPDES monitoring and reporting functions (whether EPA or state controlled) include: creation and en-

forcement of compliance schedules, setting effluent limitations, re-permitting, and permit revocation. Enforcement tools available under the NPDES range from warning letters to criminal lawsuits.

The responsibility for the development and enforcement of nationwide water-quality standards was assigned to the nascent Environmental Protection Agency. The CWA also created a means by which, under specified circumstances, states could take control of permitting and enforcement tasks. In these primacy states the EPA acts in an oversight capacity.

Under the CWA the EPA is responsible for ensuring that the system's provisions and their enforcement are applied in a generally even and consistent manner across the nation to achieve the fair treatment under the law of all permittees that receive NPDES permits under the program. Toward that end, each state agency and EPA regional office must adhere to the Enforcement Management System (EMS). There is, however, no single "correct" EMS, but each region must establish within acceptable parameters procedures for the tracking of compliance, and for enforcement actions regarding permittees. The purpose of allowing each region and primacy state to develop its own specific EMS is to reflect the wide variations across states and regions with regard to organizational structures, staffing, and water problems, while effectively incorporating the basic principles of the NPDES. For this reason, the organizational structure of NPDES personnel varies from one EPA region to another.

The structure of regional offices is not at all standardized; there is no "standard" location for the system's compliance officials within regional hierarchies. In most cases, the program is part of the water management section. In one case (region seven) it is located in a separate enforcement division. These differences in Enforcement Management Systems also contribute to increased bureaucratic discretion. The parameters of that discretion vary across the ten regions.

The EMS for each region specifies how compliance information is to be maintained and translated into enforcement action. Inventories are kept of each permittee's discharge limits, compliance dates, and effluent data through the Permit Compliance System. Permits are reviewed at established intervals, and can be subject to modification. All permittees must regularly submit Discharge Monitoring Reports (DMRs). Pre-enforcement screenings are conducted to review permittees' records and behavior, and to identify noncompliant permittees for possible enforce-

ment action. The EMS for a region also establishes procedures for an enforcement evaluation when an incident of noncompliance is identified. The evaluation determines what enforcement action, if any, is appropriate to the specific circumstances. The procedure may allow for no enforcement action to be taken if an investigation indicates none is warranted. Field investigations (inspections) are an integral part of the enforcement program and are conducted both routinely and by the special efforts of field units. Although investigations are supposed to be conducted every year, they can be initiated at any time in the enforcement evaluation process. The response to a violation might be informal or formal, such as a phone call, an administrative order to respond or abate, or a judicial referral to the U.S. Department of Justice or the state attorney general.

### **New Mexico Environment Department**

As noted above, the states also play an important role in environmental protection. We therefore examined the perceptions of state-level bureaucrats at the New Mexico Environment Department. According to the NMED's Web site, "The Department's mission is to provide the highest quality of life throughout the state by promoting a safe, clean, and productive environment." Administratively, the NMED's secretary reports directly to the governor of New Mexico. According to the Web site, "The Office of the Secretary is responsible for departmental organization, staffing, budgeting and policies that enforce the laws and regulations which the department administers." Among the programs administered by the NMED are the Air Quality Bureau, the Occupational Health and Safety Bureau, the Solid Waste Bureau, the Underground Storage Tank Bureau, the Field Operations Division, the Drinking Water Bureau, and the Community Service Bureau.

The mission of the Air Quality Bureau is "to prevent the decline of air quality in areas that are presently relatively pollution free, and to direct the clean-up of the air in areas which currently do not meet minimum standards." The Occupational Health and Safety Bureau assures "every employee safe and healthful working conditions by providing for: "the establishment of occupational health and safety regulations applicable to places of employment in this state," as well as "the effective enforcement of the health and safety regulations, education and training



programs for employers and employees in recognition of their responsibilities under the Occupational Health and Safety Act, and advice and assistance to them about effective means of preventing occupational injuries and illnesses.” The Solid Waste Bureau assures “solid waste is managed in such a way as to minimize impact on the environment and public health,” while the Underground Storage Tank Bureau seeks to “reduce, mitigate and eliminate the threats to the environment posed by petroleum products or hazardous material or wastes released from underground storage tanks.”

The Field Operations Division of the NMED, according to the Web site,

conducts its diverse programs through offices in twenty-two cities representing a geographical and demographic cross-section of the state. The field offices are divided into four districts with boundaries that generally depict the four quadrants of the state. . . . The majority of the Field Operation Division’s work is concentrated in seven programs. The Drinking Water Bureau coordinates drinking water supplies. The Community Service Bureau coordinates the remaining six programs: Liquid Waste, Food Service and Processors, Public Swimming Pool and Public Bath Safety and Sanitation, Vector Control (plague, hantavirus, and other vector-borne diseases) and more recently, the Radiation Protection Program and WIPP (Waste Isolation Pilot Program) Emergency Response Training Program. Additionally the field offices review plans and specifications for proposed water supply systems and wastewater treatment systems. The division also assists counties in the planning and review process for subdivision development. In this capacity, staff provides input in the areas of water quality, and the disposal of liquid and solid waste.

The mission of the division is to facilitate the programs and other activities directed from the central office in Santa Fe, New Mexico. To do this the division operations include “administrative supervision of field efforts in the Underground Storage Tank, Hazardous and Radioactive Waste, Air Quality, Surface Water, Ground Water and Solid Waste Programs.”

The groundwater division’s goal is “to protect ground water quality and minimize existing and potential ground water contamination.” The Hazardous Waste Bureau regulates “all present hazardous waste man-

agement activities in order to prevent environmental degradation,” while the Surface Water Division protects “the quality of surface waters (lakes, streams, and wetlands).”

Consequently, while the EPA enforcement personnel we interviewed worked only in the field of the surface water division (NPDES), the NMED personnel work in a wide variety of environmental protection fields. Before turning to an analysis of the individuals who work in these agencies, we next address the scholarly literature on bureaucracy.