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# The thin green line: Examining environmental regulation and environmental offending from multiple perspectives

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## Abstract

Regulatory and criminological research has long tried to understand environmental offending from the perspectives of offenders and regulators. Often neglected is how these two parties perceive each other—in other words, how do regulatory actors think about decision-making in the context of their interactions? Building on prior research that finds discrepancies in the perceptions of regulators and the regulated community (e.g., May and Wood, 2003; Mascini and Wijk, 2009), the current study uses a randomized vignette survey to assess how both parties weigh various factors in two hypothetical scenarios. In one scenario, we depict a regulator issuing a citation to a noncompliant corporation. In another, we depict a compliance manager engaging in noncompliance. We find that regulators and the regulated community differ in whether they would engage in such behaviors and why. Examining how regulatory actors understand their roles does much to inform policymaking and theories of corporate environmental offending. © 2015 Elsevier Ltd. All rights reserved.

*Keywords:* Corporate crime; Environmental crime; Regulation; Responsive regulation; Rational choice theory; Randomized vignette

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## 1. Introduction

The foundation of regulation lies in understanding the process of decision-making, such as those decisions made by the regulator to recommend sanctions for noncompliance and the decisions by the regulatee to engage in noncompliance. Such decisions are influenced by the perceptions of regulatory actors—about their roles in regulation, other parties' behaviors, and the interactions they have with other stakeholders. Although this acknowledgment is hardly understudied, we explore the perceptions and regulatory decisions of environmental regulators and members of the regulated community using an underutilized methodology: randomized vignette surveys. In this research, we presented a hypothetical vignette to both environmental regulators and those responsible for compliance in the professional domain. We asked them to assess the actions of the hypothetical actors and how they themselves would respond in the situation. This methodology affords researchers the opportunity to more rigorously assess regulatory interactions, reduce concerns of social desirability, and explore regulatory decision-making from a different angle.

This exploratory study contains responses from over 280 environmental actors from across the U.S. We found important differences in how regulators and members of the regulated community perceive both the hypothetical regulator's decision to recommend the firm receive a "Notice of Violation"<sup>1</sup> (NOV) and the hypothetical compliance manager's decision to offend. Regulators are more likely to approach the sanctioning decision with a consideration of a firm's participation in voluntary programs whereas members of the regulated community think prior offending and compliance matter more. When considering the offending decision, regulators appear to be more pessimistic about a firm's likelihood to comply. Furthermore, the economic circumstances of a firm and its broader industry have a pronounced effect. There are important theoretical and policy implications to draw from the conclusions of this research, as well as implications for the use of this methodology to explore regulatory decisions and actions.

## 2. Literature review

Understanding current regulatory efforts and how members of the regulated community react to them is essential to building effective environmental policies. The present study examines two regulatory outcomes: 1) the regulator's decision to issue a NOV against a corporation, and 2) the environmental compliance manager's decision to overlook environmental permit violations. To set up the contributions made by this research, this section reviews the literature on compliance as well as the literature on regulatory decision-making. We then discuss regulatory interactions and the current research questions.

### 2.1. *Why do corporations comply?*

Studies consistently demonstrate that regulations and sanctions directed against the firm can discourage offending (Deily and Gray, 1991; Ervin et al., 2008; Gray and Deily, 1996; Laplante

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<sup>1</sup>The EPA defines a "notice of violation" as a notification to the alleged offender that "EPA believes the recipient committed one or more violations and provides instructions for coming into compliance. NOV's typically offer an opportunity for the recipient to discuss their actions, including efforts to achieve compliance. NOV's are not a final EPA determination that a violation has occurred. EPA considers all appropriate information to determine the final enforcement response." (EPA, 2014).

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