



[Ann Carlson](#) and I have just sent West the manuscript for the 8th edition of “[Environmental Law: Cases and Materials](#).” (The third member of our author team, [Jody Freeman](#), didn’t participate in the revision because of her White House duties.) Some thirty years ago, [Roger Findley](#) and I started work on the first edition of the book. This seems like an apt time for some retrospective reflection. What has changed in thirty years (apart from my graying hair)?

Not as much as you might expect. Roger and I actually sent in the manuscript about a month before Ronald Reagan was elected president. Several colleagues joked that the book could probably still be salvaged for use in a legal history course, because environmental law was finished as a form of regulation. It hasn’t worked out that way. In fact, perhaps the most striking observation is that no significant environmental statute has ever been repealed. That’s despite the best efforts of Ronald Reagan, Newt Gingrich, and George W. Bush.



It’s also striking that the early editions of the casebook contained a separate chapter on energy issues. That chapter disappeared in later revisions because the energy focus had begun to seem passe. The materials were mostly retained but integrated with other materials. And here we are, thirty years later, with energy issues again in the spotlight and at many law schools now the subject of a separate course.

What *has* changed? Two things are most striking: the increases in legal complexity and in the influence of economists on regulation. Even in 1981, people complained a lot about the complexity of environmental law, with lots of comparisons to the statutory intricacies of tax law. But environmental law has grown much more complex in the meantime. The Clean Air Act of 1970 was complicated enough, but the complexities multiplied with the 1990 Amendments. There were only a couple of major Supreme Court rulings on environmental standing by 1986, now there are at least a half dozen more, each one adding another layer of doctrinal difficulty. The concrete evidence of this complexity is the much smaller print in the most recent editions — and even so, the book has gotten longer.

The influence of economists has also increased over the years. Reagan’s executive order mandating the use of cost-benefit analysis did not appear until the book was already in press. Quantative risk analysis was not yet the paradigm, and the first edition considered

marketable permits (now called “cap and trade”) only as a theoretical possibility. For better or worse, there’s no doubt that economists have now had a huge impact on the regulatory process in a way that they could only have dreamed of three decades ago.

“Predictions are difficult, especially when they’re about the future.” So who knows what next decades of environmental will bring. If I had to guess, I’d say much more linkage between domestic and international law and increased integration between environmental law, land use, and energy policy. But only time will tell.