

Governing by Regulation

At What Cost?

ALMOST without our realizing it, a whole new level of government has emerged in America. It is composed of a combination of lawyers and bureaucrats who have come to dominate federal, state, and local government. Nobody likes it, except its practitioners. It is government by regulation. It is now the fourth branch of government. It functions as law maker; though unelected, its rules and regulations have the force of law. It functions also as both judge and jury in cases involving its own rules. The accumulation of legislative, executive, and judicial power in the same hands is the real definition of tyranny. And it has become the essence of environmental overkill.

Since 1954 the number of federal regulations has increased from 16,502 to 200,000.¹ Add to that the proliferation of state and local regulations. Who benefits? Well, lawyers do, expert consultants on environmental law do, and special interests that can manipulate the regulations do. Consider these examples:

1. New federal rules require the closing of most community garbage dumps and increase the cost of opening a new landfill to \$10 million or more, up five times from what it cost in 1975. The revenues of big waste management companies will soar, while their

competitors, the small companies, fold. Adding to the problem are the mountains of mandated "recyclables" that cannot be sold in a glutted market. New York City has already suspended its recycling program because of the high cost—\$300 per ton, compared to the average landfill fee of \$28 per ton.²

2. Three billion dollars have been spent to protect housewives from labels that proclaim spaghetti sauce to be "fresh."³

3. The rehabilitation of 222 sea otters was mandated after the Exxon Valdez oil spill at a cost of more than \$80,000 per animal. At the same time, the population of more than 500 sea otters within Valdez harbor itself was untouched by the spill, and thousands of sea otters occupy Alaskan waters.⁴

4. The Stevens Kangaroo rat recently received exclusive rights to land worth \$100 million (and the rats didn't even ask for it!).⁵

5. The regulatory bureaucracy drains \$13.5 million from the economy for each premature death averted by a rule governing arsenic emissions from glass plants, or \$5.76 trillion per premature death averted by a regulation covering wood-preserving chemicals. Never mind; it's only your money.⁶

6. Dr. J. Laurence Kulp calculates the cost of the acid rain requirements of the 1990 Clean Air Act at \$4 billion a year. The benefits come in at just \$100 million. This is one of the few regulated areas where a cost-versus-benefit study has been conducted. Most environmentalists maintain that it is unlawful to take possible benefits into account!⁷

Enough. Just remember that regulations have required \$1.4 trillion to be spent since 1970 on cleaning up roughly 90 percent of industrial air and water pollution; the next 5 percent will cost an additional \$1.6 trillion, amounting to another \$25,000 per family of four.

In a carefully documented study for the National Chamber Foundation entitled *The Cost of Federal Regulation*, Thomas D. Hopkins, former deputy administrator for the Office of Management and Budget's Office of Information and Regulatory Affairs (now at the Rochester Institute of Technology), wrote:

Regulation is an essential but costly tool of government policy. Complying with federal regulatory requirements, however well-designed they may be, creates costs that mostly do not show up in the federal budget. . . . While it is not possible to provide definitive cost estimates at this point, available evidence exists, however incomplete it may be, to suggest that regulatory costs are substantial and growing. . . . The fastest growing regulatory costs are in the environmental protection area.⁸

The Joint Economic Committee for the U.S. Congress revealed in 1992 that the costs of administering and policing all federal regulations had reached about \$500 billion dollars annually. The committee broke it down in the following categories: environmental regulations, \$115 billion; safety regulations, \$29 billion; economic regulations, \$256 billion, and paperwork (reporting) costs, \$100 billion. The federal budget for fiscal year 1993 includes \$562 billion for implementing federal regulations. That is double the 1992 defense budget! These costs, even without new rules or added laws, are expected to reach an *annual outpouring* of \$688 billion by the end of the century.⁹

In the meantime, regulations keep coming. In October 1991, the *Unified Agenda of Federal Regulations* lists 707 pending regulatory actions that could affect state governments, and another 486 that affect local governments.

In an article for the *American Economic Review*, Wayne B. Gray estimated that 30 percent of the American drop in industrial productivity in the 1970s and 1980s could be traced to regulations imposed by the Environmental Protection Agency and the Occupational Safety and Health Administration.¹⁰ Other economists agree.

Overall, it is the "growth of governmental regulation that is responsible for the shrinking of the private economy," says David Littman, senior economist at Manufacturers National Bank of Detroit. He points out that regulation forces private firms to increase staffing, work longer hours, and add to mail, paperwork, travel, and phone expenses. Further, he points out that the regulations force a "misallocation of time from productive work or research to government paperwork that boggles the mind." These

are all hidden costs, and unproductive, as well. They also impact jobs.¹¹

Since 1991, reports Littman, there have been more than 300 firms sufficiently well known to merit front page coverage in the *Wall Street Journal* that have made layoff announcements.¹² In one year, 1991-1992, private employment decreased by more than 800,000 workers. If we go back to January 1990, the loss is 1.5 million jobs. At the same time, the federal regulatory agencies were hiring; their employment increased by 6.8 percent. The size of the staff at EPA has increased 7.4 percent from 16,999 to 18,262 in just the past two years. Moreover, the total number of federal employees engaged in writing and implementing regulations now exceeds 123,000. The number of bureaucrats involved in the general policing of business alone totals more than 14,000. Somehow, somewhere, greater attention must be given to the burdens that regulations put on private business, the enterprise that generates America's wealth.¹³

Perhaps it would help if more of the lawmakers and regulation writers had experience in trying to make a living in the private economy. Recently, a sadder, wiser Senator George McGovern, after going through bankruptcy, has had to face the true cost of all those federal regulations he helped to pass.

"I wish," he said, "that during the years I was in public office I had had this firsthand experience about the difficulties business people face every day. That knowledge would have made me a better U.S. senator. . . . My business associates and I [have] lived with federal, state, and local rules that we all passed with the objective of helping employees, protecting the environment, raising tax dollars for schools, protecting our customers from fire hazards, etc., etc. While I have never doubted the worthiness of these goals, the concept that most often eludes legislators is: Can we make consumers pay the higher prices for the increased operating costs that accompany public regulation and government reporting requirements with reams of red tape?"¹⁴

The former senator from South Dakota found that his business, operating an inn in Connecticut, could not survive the regulations. He is not alone.

Some time ago, in 1974, Irving Kristol of New York University