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The Flight from Regulations

At this writing the U.S. Congress is debating legislation that could substantially change how health, safety, and environmental protection regulations are promulgated. Critics of the regulatory system correctly point out that regulations and their implementation have a stranglehold on American business, especially small businesses, stifle creativity, and generally frustrate those who are regulated. Even the most ardent advocates for health, safety, and environmental protection know that this is the case. There are cases of overlapping jurisdictions, incredible delays, and high costs that seem to be out of proportion to the significance of the health or environmental risk. One also hears of government agencies delaying or actually preventing the testing of potentially innovative environmental technologies because of legalistic and foolish interpretation of regulations. Many Americans are rebelling against this excessive intrusion of government into their lives and businesses, and Congress is simply reflecting that anger.

One always fears backlashes, however; "throwing the baby out with the bath water" comes to mind. For example, the bill recently passed by the House (H.R. 1022) would require cost-benefit analyses before the promulgation of certain types of regulations. In some cases, this is justified and can be done credibly. In others, we must acknowledge in advance that the process will be imperfect and that policy makers will still be required to use "best judgment." It is simply not possible to measure the cost of a human life, an endangered species, or a hilltop view across a meadow of wildflowers.

Nor will such cost-benefit requirements necessarily result in cost or time savings or relief from frustration. Indeed, it is possible that these requirements will further tie up government, delay innovation, and occasionally require industries to conduct their own cost-benefit scenarios without a "complete" data set. It is also troubling that these new requirements are being advanced in the face of proposed cuts in the government work force, which smacks of unfunded mandates to many.

Our regulatory system is the product of a process that began in earnest only about three decades ago. That process has yielded protection for the environment and for humans in the workplace and in their private lives that simply did not exist before. To accomplish these lofty goals the United States and the rest of the world formulated mechanisms that admittedly went overboard in some cases and no doubt resulted in a system of regulations that is too cumbersome, too expensive, and in some cases not supported by good science. But as a result of this movement, workers are no longer required to endure unsafe conditions, forests and wetlands are being protected, and drinking water is safer than ever. These gains and others were not achieved without a fight from exactly the same group who now says that regulations have become an excessive burden.

Let us hope that whatever occurs as a result of the regulatory backlash, our system for protecting human health and the environment is not dismantled, but rather perfected for the good of all.



William H. Glaze
Editor