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United States Environmental Protection Agency

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EPA

# Efficiency and Compassion:

# The Carter Regulatory Program

My subject today is regulatory reform — an important topic which, like so many important topics, can be deadly dull. So, in the best "once-upon-a-time" tradition, let me begin with a few stories:

• The public library in Rudd, Iowa was nearly forced — in conformity with federal regulation — to install ramps for handicapped persons. It was exempted from the rule when it was learned that the cost of building the ramps would almost equal the library's annual budget — and that not a single handicapped person lived in Rudd.

• An unregulated trucker can haul railroad ties if they are cut from logs that were sawn crosswise; if the logs were sawn lengthwise, however, the trucker must get a certificate from the Interstate Commerce Commission. Similarly, he can haul riding horses to be used for personal

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**Remarks by Douglas M. Costle,**
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**The Town Hall, Biltmore Hotel**
**Los Angeles, California**
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pleasure, but not race horses; whole wheat, but not wheat germ; and parrot food, but not hamster or gerbil food.

• Hospitals in Baltimore are required by federal regulations to keep the water in patients' rooms at 110 degrees or less; they are required by city law to keep the water at 110 degrees or *more.*

• A meat-packing plant was told by one federal agency to wash its floors several times a day for cleanliness . . . and was told by another federal agency to keep its floors dry, so that employees wouldn't slip and fall down.

This sort of story shows up regularly in the newspapers and on television. If such anecdotes were rare, they might merely amuse us — as reminders of our common, human fallibility. But they are not rare; they have become frequent enough to arouse resentment, and a demand for reform.

The federal government today has 90 regulatory offices — most of them in the Executive branch, but 18 of them in independent regulatory commissions. These offices issue a total of 7,000 rules of various kinds a year. About 2,000 of those rules have a significant impact on state and local governments or private industry, and about 100 have major economic impacts.

The cost of these regulations is disputed. It's estimated that federal environmental rules alone impose direct costs of nearly $20 billion a year; state and local environmental rules impose even more. A 1979 study by the Business Roundtable of federal regulation on 48 large companies placed regulatory costs on them at $2.6 billion. Nobody really knows the total cost of federal regulation, nor the benefits that should be deducted from the overall figure. I've seen estimates ranging between $50 and $150 billion a year. Whichever figure is nearer the mark, federal regulation costs a lot of money.

Now let me tell you a different kind of story about federal regulation:

• In 1933, bank-failures ran at the rate of 40 percent; since then, because of federal requirements, the failure-rate has dropped to less than one percent — and not a single depositor has lost a cent in the failure of a federally insured bank.

tration has a capital cost $2.1 billion below the original Ford Administration proposal. As a result of intensive analysis by OSHA and the President's Regulatory Analysis Review Group, the cost of a regulation to control acrylonitrile — a chemical used to produce resin, rubber, and other products — was reduced by $100 million below the original proposal.

Elimination of unnecessary regulation and reduction of paperwork has also resulted from the President's reforms:

- OSHA has cut out 1,000 standards that did not contribute to worker safety, and exempted 40,000 low-risk businesses from annual reporting requirements.

- EPA has speeded up average processing time for rural water-treatment applications by more than a year — saving local governments several hundred million dollars annually.

- HEW has reduced the reporting burden associated with its education programs by an estimated 274,000 hours annually — by omitting superfluous data, combining forms, and reducing the number of people required to fill them out.

Finally, by making regulation easier to understand, federal agencies believe they can encourage voluntary compliance and reduce the need for enforcement. My personal favorite in this category is the following regulation from the FCC:

> "Except as provided in paragraph B of this section, applications, amendments thereto, and related statements of fact required by the Commission shall be personally signed by the applicant, if the applicant is an individual."

The new version, translated into plain English, reads as follows: "If you are an individual, you must sign the application personally."

In all these ways, the reforms mandated by the President are saving billions of dollars, millions of hours, and heaven only knows how many ulcers. But because regulatory programs are created by Congress, comprehensive, *permanent* reform requires new legislation approved by Congress.

Hence the President has submitted a proposal known as the Regulation Reform Act of 1979. In addition to making permanent the improvements already initiated by the President within the Executive Branch, it would extend them to the independent agencies. Among the features of the bill are these:

• An agency proposing a major rule must list alternative ways of achieving the same objective, as well as the costs and benefits of each. If the agency does not select the least expensive option, it must explain why.

• Each agency must review all its major regulations every 10 years, to eliminate outmoded rules and keep others up to date.

• Agencies must publish lists of proposed rules every six months — both to help other agencies spot duplications, and to give industry and the general public a chance not merely to *comment* on the rules, but to participate in their formulation.

• Finally, the bill would simplify procedures for agency hearings, reducing needless formality and delay. It would also require agencies to set deadlines for most proceedings.

Simply stated, President Carter's reforms emphasize three main goals: to get rid of bad regulations, to save the good, and to improve federal management of the regulatory process. This is an important goal, and a worthwhile one. Precisely because it *is* so popular, however, we can oversimplify the complexity of regulatory reform and demand hasty action where thoughtful analysis is needed.

We must recognize, for example, that our modern, industrialized society has created problems no government ever had to deal with. Until 1945, to choose just one sector of industry, most chemicals were derived from natural plants. Each of them had been "screened" by our environment; three million years of human beings had found out, through the process of trial and error, whether these plants were edible, or useful, or dangerous.

Since World War II, our synthetic-chemicals industry has developed substances which the human kind — and perhaps even our planet — has never encountered before. Among them are thousands of chemicals that save lives, increase agricultural production, and improve our standard of living.

We see the same resistance today on the part of the trucking industry, which has put together a major lobbying effort to kill deregulation on Capitol Hill. And a number of other industries that denounce federal interference with their operations positively *insist* on it when it protects subsidies to which they have long been accustomed, or when it keeps foreign competitors out of domestic markets.

President Carter recognized both the benefits and shortcomings of federal regulation in a message to the Congress last April. Much of it, he said, "is vitally important to modern society. Goals such as equal opportunity, a healthy environment, a safe workplace, and a competitive and truthful marketplace cannot be achieved through market forces alone."

Further on in the same message, however, he said that the overall regulatory system has become "burdensome and unwieldy."

"Our society's resources are vast," he continued, "but they are not infinite. Americans are willing to spend a fair share of these resources to achieve social goals through regulation. Their support falls away, however, when they see needless rules, excessive costs, and duplicative paperwork. If we are to continue our progress, we must ensure that regulation gives Americans their money's worth."

Those measures are already showing results. Among the specific improvements that might be cited are these:

• Airline deregulation saved travelers $2.5 billion in the first year alone; reduced fares attracted more customers and boosted airline profits. (Though it hasn't happened yet, deregulation of trucking will save $5 billion a year.)

• EPA regulations lowering the level of water-pollution control on hundreds of industries that do not discharge toxic pollutants will save about $200 million in control costs — with no loss in water quality. Our "bubble" policy, which allows plant managers to choose the most economical control strategy for air emissions, will permit savings of 25 percent; an electric utility in Tampa reports that the "bubble" approach cut the cost of controlling sulfur-oxide emissions by $20 million.

• According to Labor Department estimates, the cotton-dust standard adopted by this Adminis-

But among them, too, are chemicals that have caused serious harm, and whose effects we cannot judge for years: thalidomide, DES, PCBs, and pesticides ranging from DDT to Kepone. Today about 4.5 million chemicals are known, 45,000 are in commercial distribution, and it takes a team of scientists, 300 mice, two to three years, and about $300,000 to determine whether a *single* suspect chemical causes cancer.

It is both fashionable and easy to say that Big Government creates Big Regulation . . . that bureaucrats write new rules to keep themselves in business. I must admit I have occasionally run into a federal employee who seems to have an ideological repugnance to business, and an evangelical zeal to regulate it.

But this is generally not true. The much larger fact is that a Big Society has spawned a thousand problems that the Founding Fathers could not *dream* of. In the last 20 years, we have come through an era of legislation unprecedented in scope, variety, and quantity. Congress has passed law after law which the Executive Branch is required to administer . . . and even though each may make sense in itself, the accretion of these laws slowly builds a cumulative burden that can interfere with business without bestowing any compensatory benefit on society.

We have to *sort* out our rules, not *throw* them out. We must safeguard vital social goals, yes — and President Carter's reforms do not retreat from any of them.

But we must also get rid of rules that needlessly discriminate between gerbil food and parrot food, between crosswise logs and lengthwise logs; we must restore competition to healthy, mature industries that do not need regulations passed in a time of monopoly 75 or 100 years ago; we must enable American business to devote its energies to production — not of forms and data, but of goods, services, jobs, and national economic health; and we must make American government use its delegated powers with efficiency as well as compassion.

Reform of regulatory operation, not retreat from national goals: this is the course that President Carter has set, and it has already proved its value. It is a course which, I hope you will agree, merits your support.

EPA is charged by Congress to protect the Nation's land, air and water systems. Under a mandate of national environmental laws focused on air and water quality, solid waste management and the control of toxic substances, pesticides, noise and radiation, the Agency strives to formulate and implement actions which lead to a compatible balance between human activities and the ability of natural systems to support and nurture life.

If you have suggestions, questions or requests for further information, they may be directed to your nearest EPA Regional public information office.

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• The federal safety standard for infants' cribs became effective in 1974; since then, crib deaths by strangulation have fallen by half, and injuries by 45 percent.

• According to the General Accounting Office, federal regulations for motor vehicle safety — seat belts, interior padding, and stronger doors — saved 28,000 lives between 1966 and 1974. That figures does *not* include lives saved by lowering the speed limit in response to the energy situation.

These two categories of story capture, it seems to me, the essential difficulty inherent in our current demand for regulatory reform. On the one hand, evidence shows us that some federal regulations are silly, that they impose cost without adding any compensatory benefit, and that they ought to be thrown out. On the other hand, evidence shows us that some federal regulations control individual and corporate behavior in socially beneficial ways that the market cannot, that they are saving lives, and that they must be retained.

The trick, of course, is to know which are which — and there is no easy formula to tell us.

For one thing, the public is ambiguous about federal regulation. According to opinion polls, the citizens believe — by a small margin — that there is too *much* regulation. But when asked about specific *kinds* of regulation — such as that affecting worker safety, clean water, and protection against toxic wastes — they reply that even *more* regulation is needed. Their feelings are reinforced by reading about Love Canal, or Three Mile Island, or the crash of a DC-10.

Moreover, despite *their* criticisms of regulation, businessmen don't agree on which rules should stay, and which should go. The most conspicuous success we have had at deregulation so far is in the airline industry which flatly opposed it. Colonel Frank Borman, Chairman and Chief Executive Officer of Eastern Airlines, recently said that: "As one originally opposed to deregulation . . . I must now go on record as stating that my fears proved groundless." And Fred Kahn, now the President's Chief Inflation Adviser and former Chairman of the Civil Aeronautics Board, stated that: "We dragged the airlines, many of them kicking and screaming, into the free market and right to the bank."