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## Pathological Growth of Regulations

The Congress of the United States has created a huge, multistatutory regulatory machinery. As an example, in the 1970s the Environmental Protection Agency (EPA) was answerable to 15 congressional committees and subcommittees. That figure now exceeds 90. In 1989 alone, EPA officials made 168 appearances before congressional committees. By 1990, EPA was required to administer 11 major statutes and over 9000 regulations. Since then, some of the statutes have been amended, and the number of regulations continues to grow. Other agencies are required to issue regulations, and in total, agencies employing 125,000 bureaucrats are busily engaged in formulating additional regulations. The direct annual cost of meeting these mandates is more than \$500 billion. Additional indirect costs have been estimated at another \$500 billion. Some benefits have resulted from this federal command and control legislation. However, the easy, cost-effective changes have largely been made, and additional federal requirements will result in diminishing returns.

In the 1970s, industry was the principal target of regulations issued by EPA. By now, the major chemical companies are accustomed to dealing with EPA mandates. They have long had health and safety programs solidly in place; they have chemical engineers to improve processes to curtail emissions and a legal staff to fight onerous interpretations of statutes. The new targets of the EPA enforcers are state and local governments and small companies.

The EPA estimate of the costs to companies, public works facilities, and taxpayers of meeting its regulations in 1990 was \$115 billion nationwide. The EPA projection for the year 2000 is that the cost could be \$180 billion. However, estimates by EPA tend to be low. Municipalities have reported instances in which real costs exceeded EPA estimates by a factor of 20 or more. Moreover, the estimates do not take into consideration the disruptive effects of regulations on local governments. They are expected to comply with what EPA has termed 419 "essential" regulations for which the local governments are required to provide funds. Not only do the local governments not have the money to carry out environmental mandates, they frequently do not know what it is they are supposed to implement. Frank Shafroth of the National League of Cities has said, "EPA rules are written in Latin with Greek footnotes." The cities and towns are required to achieve objectives of which they have previously been incapable. For example, they must monitor more than 130 chemicals in their water supplies, some of them in the part per billion or lower range.

Regulations are having an increasing impact on small businesses. EPA is now enforcing standards on smaller companies that cannot afford to develop environmental expertise. One mandate regulates 328 chemicals and requires firms to keep inventories of their use, report the presence to local safety officials and federal authorities, and train their employees for emergencies involving hazardous materials. This is only one of hundreds of regulations that small companies must implement. Moreover, changes in regulations occur frequently, making it difficult to plan ahead. Failure to comply with environmental laws can mean huge fines and jail sentences for company owners, managers, and employees. Companies are being counted on to create jobs. The regulatory pathology impairs their health. Last year during the electoral campaign, candidate Clinton stated, "Expanding regulations threaten to overwhelm the nation's entrepreneurs and divert them from the task of building strong innovative companies."

In its implementation of statutes EPA can be criticized on many grounds. Its performance in dealing with Superfund sites has been less than mediocre. Risk assessments of chemicals by EPA often exaggerate hazards by a factor of 100 and more, and its risk management is questionable. However, EPA is faced with interpreting and implementing complex and fuzzy congressional legislation. For instance, under the Safe Drinking Water Act, EPA is required to set maximum contamination level goals to prevent known or anticipated adverse health effects with an "adequate margin of safety." Accordingly, EPA has set maximum concentration level goals of zero for some major chemicals of doubtful carcinogenicity. By law, cleanup levels of Superfund sites must under certain circumstances meet standards set by EPA under the Safe Drinking Water Act. Thus EPA has an invitation to require expenditures of trillions of dollars at sites around which few if any excess deaths have been seen.

Philip H. Abelson