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THE COST OF GOVERNMENT REGULATION

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HEARINGS
BEFORE THE
SUBCOMMITTEE ON
ECONOMIC GROWTH AND STABILIZATION
OF THE
JOINT ECONOMIC COMMITTEE
CONGRESS OF THE UNITED STATES
NINETY-FIFTH CONGRESS

SECOND SESSION

APRIL 11 AND 13, 1978

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THE COST OF GOVERNMENT REGULATION

TUESDAY, APRIL 11, 1978

CONGRESS OF THE UNITED STATES,
SUBCOMMITTEE ON ECONOMIC GROWTH AND STABILIZATION
OF THE JOINT ECONOMIC COMMITTEE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 6226, Dirksen Senate Office Building, Hon. Lloyd Bentsen (chairman of the subcommittee) presiding.

Present: Senators Bentsen and Javits; and Representative Brown of Michigan.

Also present: John R. Stark, executive director; Louis C. Krauthoff II, assistant director; Jack Albertine, Kent H. Hughes, Deborah Norelli Matz, and George R. Tyler, professional staff members; Mark Borchelt, administrative assistant; and Charles H. Bradford, M. Catherine Miller, and Mark R. Policinski, minority professional staff members.

OPENING STATEMENT OF SENATOR BENTSEN, CHAIRMAN

Senator BENTSEN. This hearing will come to order.

Ladies and gentlemen, as I travel across the countryside and through my State there is nothing I hear more than people talking about the intrusion of the Federal Government into their personal lives; about the increased regulations.

We have seen in the last decade an explosion of Federal rules and regulations. We write one page of law and you get 50 pages of regulations. Far too many laws have been passed and far too many regulations have been written to implement them. Most of those new laws and regulations are well intended. They are designed to improve the quality of life of our citizens. But the American people are entitled to know the cost that they impose on our society. They are entitled to expect the Congress and to expect the administration to look at their cost-benefit ratios.

To its credit, the Carter administration has shown an awareness of the growing regulatory burden. It has promulgated an Executive order designed to reduce paperwork and increase bureaucratic sensitivity to the problem. But these are only the beginning of an enormous but necessary housecleaning job of Federal regulations to reduce the regulatory burden.

The Paperwork Commission has submitted that it is small business which feels this burden to the tune of \$25 billion to \$30 billion a year. It is not quite as bad for big businesses. They can hire all the

big lawyers and accountants and they are better able to pass these regulatory costs on to consumers.

But for the small businessman running the business during the day and trying to figure out the regulation forms that night, it is a staggering burden.

The American utility industry feels that the proposed Occupational Health and Safety Administration regulations would cost the industry up to \$26 billion and adds as much as \$88 billion to its construction requirements. General Motors has found that it cost \$3 billion and takes a full-time staff of 22,900 of their employees to comply with Government regulations. The Commerce Department has found that pollution abatement control expenditures have increased an average of 17 percent every year over the past 5 years.

A recent study by Mr. Denison of the Brookings Institution found that regulations have accounted for a sharp decline in the growth of labor productivity in the recent past. That study published in the Survey of Current Business last year suggests that one-half of the recent decline in the growth of labor productivity is due to these programs. Perhaps the most comprehensive cost of Federal regulations has been done by Mr. Murray Weidenbaum of Washington University in St. Louis.

He did a study for the Joint Economic Committee that is being released today. In this comprehensive evaluation of regulatory costs, he found that Federal rules and regulations would cost consumers \$102.7 billion and cost homeowners \$4 billion in fiscal year 1979. These figures are only one side of the story.

My recitation of them should not be construed as a blanket condemnation of all regulations. Clearly there are many cases where regulation is necessary. But, the Federal Government has too often not faced up to the costs that they have imposed on society. That is why Mr. Weidenbaum's study is so important.

He is with us today, and I look forward to hearing more from him.

We will hear from a panel of two other gentlemen. Mr. Paul Orefice has consented to review for us the paperwork burden on his firm. And, we have Mr. Raymond Haysbert who is president of Parks Sausage of Baltimore, who will focus on increased regulatory burdens on his and other firms.

First, we are delighted to hear from the Secretary of Commerce, the Honorable Juanita Kreps, who is the leadoff witness for these hearings. I understand she will be reviewing the administration's effort to deal with the paperwork and regulatory burden and discuss one or two new approaches to this whole area.

It is my sincere hope that the testimony of Secretary Kreps and other witnesses plus what we will hear on Thursday will enable Congress to grasp more firmly the illusory effect of paperwork costs. They are too high and are growing even as we sit here.

This hearing and others like it are the first step in reversing that trend and a step that is long overdue.

Madame Secretary, I want to speak of an American's concern for a moment. I think of the promises the President made during the campaign to cut back on paperwork. That is one of the

reasons he won. I think he meant every bit of it. But, I also look at what has happened to the Office of the Presidency, with the Vietnam war, the resignation of a President, and how confidence in government has been shaken over the years.

But, I think there is nothing that has harmed Government more than intrusion into the personal lives of everyone by its regulations. I don't think that you or I or this Congress can make a greater contribution to restoring some of that credibility and confidence in Government than if we turn this thing around and cut back on the amount of Government that we see today.

I am looking forward to having you tell me how we might accomplish that.

STATEMENT OF HON. JUANITA M. KREPS, SECRETARY OF COMMERCE, ACCOMPANIED BY JERRY J. JASINOWSKI, ASSISTANT SECRETARY FOR POLICY

Secretary KREPS. Thank you, Mr. Chairman. It is a pleasure to be here and also see my good friend John Stark again.

I think your introductory statement covered many of the points that I had proposed to make.

I would like to reemphasize one point that you made, which is that it is a primary function of Government to regulate activities in the public interest. The question before us, and I am sure before this committee, is not whether regulation should occur, but how and when it should be used and how we can improve the system of regulation, how we can limit it and still accomplish the goals we have set forth.

Most of all, it is a question of how we assess the costs and benefits of regulations and how we make the public clearly aware of the tradeoffs we make.

Regulations crucially affect our efforts to curb inflation, to promote domestic economic growth, and to increase exports. While Congress and the executive branch have devoted significant effort to coordinating macroeconomic policies, we have treated piecemeal or ignored regulatory measures that may have as much influence on the marketplace.

Over the long term, the implications of regulations for business survival, investment, location, and technological change, while difficult to measure, merit the level of attention we have given to other policies affecting the economy.

By any measure, regulations have burgeoned, particularly during the last decade. The numbers and pervasiveness of these regulations tend to stifle business, frustrate the general public, and undermine the Government's credibility. For these reasons regulatory reform has become a focus of debate and public interest. Thus far, attention has focused on individual regulations and regulatory programs, with protests being leveled at compliance costs, redtape, imposed delays, frequent inconsistencies, and burdensome paperwork.

Government officials do not deny the substance of these concerns. Nor have we been idle. The administration has taken a number of actions. Regulatory agencies have been requested to rewrite

regulations. The Occupational Safety and Health Administration, for example, has proposed elimination of 1,100 of its 5,500 job safety standards. The administration has supported legislation to reform regulation that stifles competition in the airline industry.

And, as you noted, on March 23 the President issued an Executive order requiring agencies which formulate regulations to write them clearly and simply; to reduce paperwork in regulatory compliance; to provide more public information by publishing lists of the regulations that they propose; and to reveal the processes by which they issue regulations. This will produce more public information and participation, greater accountability, and clearer regulations.

It now seems appropriate to begin developing an analytical framework that will provide an overview of the regulatory system as a whole and give us a better understanding of the overall costs and benefits of regulations. I use the phrase "regulatory system" because I believe we have to reach beyond the problems of individual regulations to consider the totality of regulations that affect our economy and our citizens.

REGULATORY BUDGET

At the Department of Commerce, we have raised the question of a possible "regulatory budget." Such a budget, which you have mentioned in the past, Mr. Chairman, would provide a special analysis of all Federal regulatory activities and their influence on private sector expenditures. A regulatory budget could be as helpful to Federal management as was the development in the 1960's of the tax expenditure budget, a special analysis of Treasury revenues foregone as a result of tax concessions.

It would be the function of such a regulatory budget to help provide an overview of Federal regulatory activities, showing policymakers and the public the direct Federal and private costs of regulations. It would show the breakdown of regulatory costs. It would estimate the costs of regulations borne by specific sectors of the economy. It would identify the benefits of regulations. It would provide the framework and data necessary to evaluate the cost-effectiveness of regulatory activities. And it would provide a framework to assess regulatory priorities.

While it is much too soon to talk about the details of developing and administering a regulatory budget, we are working at the Commerce Department to identify the informational requirements, explore model budget formats, develop a model budget for part of the regulatory system, and explore generally the feasibility of such a program.

These first steps toward the design and development of a regulatory budget will demand effort and time. We hope that we will have additional opportunity to explore the budget idea within the executive branch and with this committee.

Indeed, Congress has become so intimately involved in the creation and control of Federal regulatory functions that cooperation between the Executive and legislative would seem to be essential

if we are to develop a fuller understanding of the regulatory system.

The benefits of the enterprise could be impressive: We could have clearer statements of benefits and costs; more reasonable regulation; better regulatory management; and increased public accountability.

I want to spend a moment on the costs and benefits of regulations, although you are well aware of these figures. Implementation of a regulatory budget will require far more information about the costs and benefits of regulations than we possess.

At this time, our best estimates of regulatory costs are those for environmental regulations. Department of Commerce estimates of national pollution abatement and control expenditures show cumulative costs of \$135 billion over the period 1972 to 1976. These data show a steady increase in expenditures from \$18.7 billion in 1972 to \$34.7 billion in 1976. As a share of gross national product, these expenditures were 2.0 percent in 1975 and 1976, up from 1.6 percent in 1972.

Estimates of the cost of other types of regulatory activity are fragmentary. For example, the Commission on Federal Paperwork estimates, as you indicated earlier, that private industry spends between \$25 and \$32 billion annually on completing and filing Federal reports, with approximately \$18 billion of these costs attributable to regulation.

In the area of worker safety and health regulations, we have rudimentary estimates of the capital expenditures required for compliance. These are not comprehensive cost measures, however, since much of the compliance effort may be reflected in increased operating costs and lower productivity, certainly lower productivity in the short range.

Estimates of cumulative regulatory costs are few and quite crude. They have been estimated at totals ranging between \$60 and \$130 billion per year. The wide variation testifies to the need for more careful study of the subject.

Many of the costs of regulations are not directly observable, for while we can count the cost of pollution abatement equipment or safety devices, there are some regulated situations in which no transactions occur. In other cases, the cost impact evolves over time as the behavior of the economy is affected. Consider some examples.

In the early and mid-1960's, when there was a tremendous growth of demand for charter air travel, the Civil Aeronautics Board imposed many restrictions on charter carriers. Until recently, one had to belong to an organization which in turn had to arrange the charter in order to take advantage of such cheap transportation. A later regulation changed the affiliation requirement but stipulated that the charter travelers make three stops in their itinerary at points at least 50 miles apart.

Regulation frustrated the growth of charters and prevented a large segment of the public from taking advantage of this inexpensive form of air travel.

Clearly, the costs to society were significant even though no expenditures by airlines occurred which would be labeled compliance

costs. In one sense, the cost to society was the value of the travel that did not occur. Parallel examples from other areas of regulation include television stations not broadcasting, beneficial drugs not on the market, and freight not carried in empty trucking backhauls.

Over time, the impact of regulatory costs on productivity has become apparent. You have cited the recent study examining the effects of regulatory requirements by Mr. Edward F. Denison of the Brookings Institution. It found that, in 1975, the effect of expenditures for environmental, safety and health regulations, and for crime prevention had cut our productivity growth by 20 to 25 percent.

From these examples, it is clear that in addition to the direct outlays for regulatory compliance, we incur significant economic costs in order to meet our regulatory objectives. Such costs must be weighed against the benefits of regulation. And we must be sure that all the regulatory benefits and costs are included in the balance.

At the Commerce Department we are now conducting studies that we think will help us to estimate the aggregate public and private costs of regulations, the costs of regulations to industry as a whole, and the costs of regulations to specific industries. We are also looking at the implications of regulations for the structure and performance of business, including capacity growth, productivity, and technological change.

It is not our purpose to dwell only on the costs of regulations. Assessment of benefits is equally important, and at least as difficult. Our regulatory system provides a cleaner environment, better workplace safety and health, purer foods, safer drugs, and other benefits that we tend to take for granted.

To the extent possible, these benefits, too, must be documented. Only by doing so, and by relating what we pay to what we receive can we gain a balanced perspective on the whole regulatory system.

Our knowledge of benefits is particularly limited. For example, we have extensive data on reductions in levels of air and water pollutants and improvements in ambient air and water quality. But it is extremely difficult to assign a precise dollar value to these gains.

Yet some measures of value are necessary if we are to compare costs and benefits and make wise policy choices. In other areas of social regulation, our knowledge of benefits is even more limited. For example, in the area of workplace regulation and pension regulation, we lack measures of program effectiveness, let alone measures of the economic benefits of regulation.

We simply must improve our capacity to document these benefits, since they are vitally important. Many of our regulatory programs involve human health and safety, which are among our greatest concerns as a society. Benefits are often mixed. The benefits of environmental regulations typically involve public health as well as the conservation of natural resources. Other regulatory structures are designed to further fundamental national values, such as nondiscrimination, or to secure economic benefits.

In addition, certain benefits, like certain costs, are hidden. For example, the benefits of reducing long-term health risks may be far greater than we know. It should be remembered further that the

absence of regulation in certain areas also produces costs, and the avoidance of these costs is itself a benefit.

I should like to make a brief reference to nonregulatory approaches to achieving economic objectives. My discussion thus far has centered on the development of a framework that will improve the measurement of costs and benefits and the improvement of public accountability for the regulatory system. Let me turn now to another possible objective—that of reducing the volume of regulations by using other methods of achieving the desired objectives.

Government regulation has become an almost reflexive response to economic and social problems. Yet other options to achieve the same ends ought to be considered. Indeed, analysts have long argued that the Government should explore incentives—the carrot instead of the stick. We need to identify areas that are amenable to other methods of control.

Recognizing this, the Department is exploring nonregulatory and alternative regulatory approaches in several areas, notably toxic pollutant control. In the absence of alternative means of control, toxic pollution is likely to be the source of the largest increase in regulations in the environment, safety, and health areas in the coming years.

So, in conclusion, regulatory reform efforts should seek to increase responsiveness and accountability, improve the effectiveness and efficiency of regulations, develop criteria for deciding when regulation is appropriate and when alternative procedures might be more productive, and develop a process by which the regulatory system can be viewed as a whole. The Department of Commerce is working toward these objectives by looking at a regulatory budget, by studying the costs of regulation, and by examining market incentives as alternatives to regulation.

Finally, I should like to return to the initial point. We recognize that a primary function of Government is the regulation of activity in the public interest. The question is not whether regulation should occur, but how and when it should be used; how we can improve the system of regulation; and whether we are fully aware of the costs and benefits involved. Our work should increase public sensitivity to the pros and cons of regulation and lead to an improved program. It should help to heighten our understanding of regulation as used to achieve necessary public goals. It should provide a better basis for Congress, the Executive, and the regulatory entities to evaluate present regulatory actions and to assess any new ones that are proposed. The process should be salutary.

Senator BENTSEN. Thank you, Madame Secretary.

It is pretty easy for Government officials and for the Congress to dismiss the problems of increasing regulations and of trying to turn this trend around. I recall, for example, President Carter's statement about all agency heads reading the regulations that were issued by their particular agency or department.

Brock Adams, as I recall, said "I question seriously whether anyone can do it." Then Mr. Snow, at the National Highway Traffic Safety Association, said, "If he is serious, he can bring the Federal Government to a grinding halt."

What happened to that directive? Are agency heads reading the regulations that are being issued by their agencies and those Depart-

ments? And if they are not, how can they expect small businesses to do it.

Secretary KREPS. I don't know what the other Secretaries are doing about that. I will give you just one example of the size of the problem. We did not issue a great many new regulations in a short period of time, but we did this past year have to write regulations that were mandated by Congress under the Arab boycott law. I have to tell you that, although I examined those regulations in detail and worked with my legal staff in drafting them, I have not read every word of those regulations.

I am not sure that that would be productive. However, I think the important point is that I did feel that it was absolutely necessary to have some intimate knowledge of what those regulations were stipulating for American industry.

I suppose I could in fact meet that requisite since I don't have that a definitive regulatory analysis ought to be available to the public for a period of time, say 60 days, so that they can comment. I think they could have serious input and make a real contribution.

Senator BENTSEN. You can imagine the job facing a person in small business. It is just very difficult for them to understand all the regulations that affect his or her business, to even know which ones they are, and to understand the Government language. The President's Executive order calls for a regulatory analysis on any regulation that has over \$100 million economic impact. But I don't see anything in there that requires the final and definitive regulatory analysis to be put out prior to the regulations going into effect. I know that draft regulations and draft regulatory analyses must be disseminated for public review and comment before regulations are issued. They don't mean much we've discovered. I'm talking now about the fuel regulatory analysis. That should be subject to comment before regulations based on it are issued. It is important that the final regulatory analyses—not this or that draft paper—be available to the public for a period of time, say 60 days, so that they can comment. I think they could have serious input and make a real contribution.

Secretary KREPS. May I ask my Assistant Secretary, Mr. Jasinowski, if he has any information on whether there is a chance for public comment, and then I would like to speak to the general problem of what you say of publishing regulations.

Mr. JASINOWSKI. My understanding is that both the regulations and the regulatory analysis are to have public review. That is my reading of the Executive order. So there has been a significant effort to put that in.

Senator BENTSEN. The order didn't require that a final and definitive regulatory analysis be available for public comment before a rule or regulation is promulgated. That is the point. Rules and regulations should not be issued until a definitive regulatory analysis have been open to public comment. It does no good at all to issue such a statement on the same day as a rule or regulation is promulgated.

Mr. JASINOWSKI. I would disagree.

Senator BENTSEN. The regulatory analysis must be done how long before the regulations are issued?

Mr. JASINOWSKI. The order was promulgated on March 23, so we are now in the process in each agency of determining the number of regulations and establishing the procedures to fulfill the Execu-

tive order. But the Executive order itself indicates that both the regulations and the regulatory analysis should have public participation and review. It could be that it is not strong enough, and that maybe something else—

Senator BENTSEN. Do you have a timespan that the public has to react to the analysis after you have made the regulatory analysis?

Mr. JASINOWSKI. It indicates that each agency head shall develop procedures for developing the regulatory analysis and obtaining public comment. So, to some extent this leaves it to the agencies and it is not mandated in the Executive order.

Senator BENTSEN. I wish you would do a little checking on the regulatory analysis before the regulations are issued, because I am getting contradictory evidence.

Mr. JASINOWSKI. We will work with your staff, Senator Bentsen.¹

Secretary KREPS. I do want to say that I am in agreement with the principles you are stressing in the issuance of major regulations, such as the Arab boycott set of regulations.

We did have public hearings and a long period after we had published the proposed regulations before we actually finalized them.

Senator BENTSEN. I have supported much of what has been done to try to clean up the environment. I don't want to see us take any steps backward. But I would like to have some information on what it has cost us in foreign trade, in our competitive position, because so many of these things are not carried forth in this country.

Can you give us an analysis of that soon?

Secretary KREPS. I wish I could give you numbers. In talking with a gentleman from Dow Chemical prior to the opening of your hearing, I learned that they do have some numbers that I think are not untypical for their type firm, and they also have some rough estimates of the difference between those costs to Dow Chemical and the costs to a chemical firm abroad. So they will be able to give you specific numbers.

We don't have an aggregate study that will give us the kind of data we need that we can relate to the different impacts on imports. I don't know whether Mr. Weidenbaum has such information.

Senator BENTSEN. Don't you think these industries would delight in giving you this? Could you put together some kind of study that deals with the international competitive effect of our regulations.

Secretary KREPS. I think so. The only problem would be not with getting data from our own firms, but with getting estimates of what is being done abroad. We have to do some estimating there, I think.

Senator BENTSEN. I would like to turn now to Senator Javits, the senior Senator from New York.

Senator JAVITS. I came specifically to hear the Secretary of Commerce. By the way, the Governmental Affairs Committee is dealing with this problem of regulation in a legislative way.

I have a bill. Other Members of Congress have bills. Therefore, I hope the Secretary and our chairman will not mind if I distribute this testimony to the members of the Governmental Affairs Committee, because it directly applies to the regulatory study which we have undertaken.

Also, Madame Secretary, I am appalled by our position in productivity: we are "in the cellar," as they call it in baseball. If you look

¹ See Secretary Krep's response to additional written questions posed by Senator Bentsen, p. 12.

at the charts of the 10 leading industrial nations of the world, you will see that we are at the bottom. This is a strange position for our great industrial nation to be in. Therefore, it is staggering to read in your statement that the effect of expenditures for environmental safety and health regulations and for crime prevention have cut our productivity growth rate by 20 to 25 percent.

What are those figures based on? I see that it is a study done by the Brookings Institution. Do you think that this is a reliable study?

Secretary KREPS. Yes. We have no reason to question Mr. Denison's work. He is highly regarded in this kind of study.

We would put great credence in his findings.

Senator JAVITS. I see there are a number of studies referred to here being made in your Department. However, I don't see any time limits given as to when we may expect some results or reports.

I suggest respectfully that we have the right to know what, how long, and how much the regulations and paperwork will cost for the work you are doing. You refer to this in your statement, where you say, "These first steps toward the design and development of a regulatory budget will demand effort and time."

These figures are staggering. Would you kindly give us some word for the record as to specifically what studies actually are going on and their completion date? I think this ties in directly with the work of this committee and the work which is being done in the Governmental Affairs Committee.

Secretary KREPS. We would be glad to give you a work plan with dates and our best estimates of when we can come forth with different parts of the study.¹

Senator JAVITS. I also note with great interest the idea of a non-regulatory approach to regulation that is not particularly detailed. You speak of other options, et cetera. If there is any expansion of that idea which could be reflected in legislation, I think you ought to let us know what you are thinking about.

Madame Secretary, before I finish, I would like to express my appreciation for what you have submitted to Chairman Bolling of our committee for it is something I also requested; that is, how we can expand the export activities of specific small businesses. I assure you that I will pay strict attention to what seems to be a crying need in our balance of payments problem and to provide what is needed by way of legislation or cooperation with you in that regard.

Secretary KREPS. Thank you, Senator Javits. I think the President may make a reference to our attempt to develop a national export policy today. I hope he would refer to that.

Senator JAVITS. Export policy is certainly an enormous field; we all know the small proportion of American business which is engaged in exports and the enormous capacity of the export market and the need for the whole facilitation of exports by the Export-Import Bank and so on.

Thank you very much.

Senator BENTSEN. Madame Secretary, you mentioned the Paperwork Commission and the fact that they have submitted that private industry is spending between \$25 and \$32 billion in filling out

¹ See Secretary Kreps' response to an additional written question posed by Senator Javits, p. 13.

government forms. The Paperwork Commission made recommendations that would save about \$10 billion in that regard.

It is my understanding that about \$3 billion of those potential savings have been realized to date. That is a significant step forward, but less than half of the economic savings that were proposed and about half of the recommendations have been put into effect.

This Paperwork Commission has been different from most commissions. It was disbanded. But who will take over its load and see that these recommendations are carried out? Wouldn't that be a proper function of your Department?

There ought to be someone to see that all of this work is finally fulfilled, that it is monitored. Why not your department?

Secretary KREPS. We would be happy to do that under instruction. It is my general impression that OMB has been charged with that duty.

Senator BENTSEN. OMB is supposed to be monitoring it?

Mr. JASINOWSKI. They have worked hard on the Executive order and in terms of the overall regulations, OMB has had the principal responsibility for implementing President Carter's broad policy in this area. We have been working with them closely.

Senator BENTSEN. They are specifically looking toward implementation of the Paperwork Commission's recommendations?

Mr. JASINOWSKI. Specifically, yes. We could give you a report on where they stand with respect to those recommendations. That might be most useful.¹

Senator BENTSEN. Thank you. There is another study underway that was announced by the Business Roundtable in January. It has three objectives.

One is to provide an objective measure of compliance costs. Two, to contribute to the basis of the knowledge needed by Congress and the regulatory agencies in their efforts to reform regulations. And, three, to identify the costs associated with the specific regulatory programs and procedures. We expect to have Mr. Frank Carey give us the results of that study later in the year.

I think it would be very productive if Mr. Carey had the opportunity to work with your Department in some aspects of that study.

Secretary KREPS. We have talked with Frank Carey. Indeed, we talked with him when he was just beginning to launch his study, and we are working with him in helping to formulate some of the questions. And we will be in close touch with him as we develop our own set of estimates. There may be some estimates that we can make for him and vice versa.

Senator BENTSEN. I was particularly interested in your comments about the regulatory budget, and I am sure that Mr. Weidenbaum was very involved in that concept. I was delighted to hear your interest in that concept.

I think it would provide a useful framework for the collection and analysis of data on costs and benefits to the Government.

I wish, Madame Secretary, you could sometime go down the campaign trail with me in some of the small towns and listen to the

¹ See Secretary Kreps' response to additional written questions posed by Senator Bentsen, p. 12.

small businessmen. They are really being driven up the wall by Federal regulations.

I think Federal regulations are a little like cholesterol. It is the deposits which impede this country and could lead to terminal illness if we don't catch it in time.

Secretary KREPS. I would be delighted to join you. I get enough letters from those gentlemen, so I do have some feeling for what they are up against.

Senator BENTSEN. They don't lose their temper when they write to you?

Secretary KREPS. Well, not usually.

I would like to go back to your point that although you approve of the notion of a regulatory budget you are primarily interested in getting on with the job and simply not promoting another study. So too are we.

We are concerned to try to bring to the public's attention broad dimensions of the problem, the parameters, the kinds of numbers we are talking about in the aggregate. One of the difficulties we will face in doing this is in making these estimates and getting general acceptability of the numbers that we will come forth with.

So many of the costs, and in particular so many of the benefits, do not lend themselves to simple measurement in dollar terms. So in developing some aggregate numbers or even defining components we will be constantly subject to debate as to whether we have accurate estimates or are far wide of the mark. One is reminded, however, of the need to make the estimates and be as accurate as possible, even though perfection is not going to be within our grasp.

Senator BENTSEN. Thank you very much, Madame Secretary. We appreciate your testimony.

[The following additional written questions and answers were subsequently supplied for the record:]

RESPONSE OF HON. JUANITA M. KREPS TO ADDITIONAL WRITTEN QUESTIONS POSED BY SENATOR BENTSEN

Question 1. Does a regulatory analysis have to be made available for public review? If so, how much time will the public have to comment?

Answer. Yes. The President's Executive Order specifies in Section 3(b) that agency heads shall establish procedures for developing the regulatory analysis and obtaining public comment. In short, these procedures must provide for: (1) a draft regulatory analysis for significant regulations, (2) public notice explaining both the regulatory approach chosen and its alternatives, (3) a statement in the public notice of how a copy of the draft analysis can be obtained, and (4) a final regulatory analysis to be made available when the final regulation is published. The amount of time available for public comment will be established by the respective agency heads.

Question 2. About half of the recommendations of the Commission on Federal Paperwork have been put into effect. Would you find out where the Office of Management and Budget (OMB) stands in following through on implementing these recommendations.

Answer. OMB is implementing the recommendations of the Commission on Federal Paperwork. OMB has instituted an agency reporting system on paperwork burden which establishes paperwork reduction goals and limits the number of new reporting requirements.

As requested by Congress, OMB will present a report to the Senate Committee on Governmental Affairs in May. The report will detail the first six

months of OMB's efforts, as well as the major problems encountered in implementing the recommendations of the Commission on Federal Paperwork.

RESPONSE OF HON. JUANITA M. KREPS TO AN ADDITIONAL WRITTEN QUESTION
POSED BY SENATOR JAVITS

Question. When may we expect the studies that you cited as being done by the Department of Commerce (DOC)? List of studies that are going on; when they are expected to be completed.

Answer. The Department has undertaken a series of studies in conjunction with our regulatory initiatives. The studies which are detailed in an internal work plan are a continuation and expansion of previous Commerce work.

The emphasis of the work plan is on (1) the costs of regulations, (2) a framework for regulatory management and accountability, and (3) alternative regulatory mechanisms. Projects are under way and are being planned in these three areas. In addition, seminars will be held to review DOC activities in this area.

The specific analyses in the work plan are intended (1) to provide factual data and qualitative insights which should be of value to DOC and other Federal officials in discussions about regulatory reform, and (2) to provide policy recommendations.

The projects listed in the work plan represent an *initial* set of studies that are under way within the three major categories. In the area of the costs of regulations, projects are still in the formulative stage, especially those projects that will require the utilization of resources outside DOC.

REGULATORY SEMINARS

We plan to convene seminars of regulatory experts to discuss:

The regulatory budget.

Alternatives to regulation.

Seminars will be conducted with people from academic institutions, business, private interest groups, Congress, and the Executive Branch.

COSTS OF REGULATIONS

1. Aggregate economic costs of regulations

Aggregate analysis based on Bureau of Economic Analysis estimates of expenditures for pollution abatement and control. The most recent estimates were published in the February 1978 *Survey of Current Business*.

Analysis of the macroeconomic impacts of regulations on the economy and the private sector.

The objective of this work is a quantitative assessment of the macroeconomic impacts of regulations through the utilization of a macroeconomic model. The project is currently under discussion with organizations which have macroeconomic models. Initial estimates, at least for environmental, safety and health regulations, may be available by October 1978.

2. Costs of regulations to regions

Regional costs of regulations. The direct regional economic impacts of regulations—especially environmental, safety and health regulations—have not been adequately assessed. Thus, the costs to regions require documentation. A beginning was made in *Toward Regulatory Reasonableness*, January 13, 1977. That analytical work will be extended. Specific regions will be subjected to careful analysis. The selection of regions for study and the scope of the study are being discussed.

3. Costs of regulations to specific industries

Case study of the textile industry.

Case study of the impact of regulations on the jewelers/electroplaters.

Case study of the impact of regulations on the copper industry.

We are considering other case studies to show the benefits of regulations and the costs of regulations to specific industries. As appropriate, we will utilize data and information developed in other studies, such as the project by Arther

Andersen & Company on the measurement of the direct accounting costs of regulations to specific firms. We are exploring prospective industry studies with private research organizations.

4. *The long-term implications of regulations for industry structure and performance (location, investment, and technological change)*

Government regulations impose certain restrictions which tend to alter cost structures of firms and thus affect their profitability and investment decisions. Of particular interest is the impact of regulations upon locational decisions of firms, given the current debate over regional growth.

Phase I of the project will develop a methodological approach to assess the differential impact of environmental regulations on the location of industrial plants and consequently on regional and urban development. Phase II of the project will be an empirical analysis of the nature and pattern of locational changes.

There is a growing view and some evidence that firms are diversifying into areas that are characterized by fewer or less stringent regulations. If this is true, patterns of industrial investment and productivity may be altered. The project will explore the nature and extent of diversification and the implications.

Impact of environmental law and regulations on cost and rate of development and transfer of technology.

Development of a methodology to assess the environmental consequences of new products or new production technologies.

FRAMEWORK FOR REGULATORY MANAGEMENT AND ACCOUNTABILITY (A REGULATORY BUDGET)

The recent *Economic Report of the President* states that " * * * there is no institutional framework within the Federal Government—alogous to the budget for Federal spending programs—in which the total costs of regulations are brought together to permit the evaluation of economic impacts, setting of priorities, and the like." Others have made similar statements.

We believe that the development of a Regulatory Budget can provide such a framework. A Regulatory Budget would build upon the existing Federal budget and also go beyond it to enable a comprehensive analysis of the costs of regulations to the private sector. The work could involve two stages.

A special budget analysis similar to the current *Special Analysis* volume of the budget could be prepared showing expenditures by the Federal Government for regulatory activity.

Based on the framework and information developed in the regulatory special analysis, data could be collected and estimates could be developed of the direct private expenditures and indirect private and public costs (or savings) imposed on the economy by regulation. This information could be analyzed to assess the relative effectiveness of regulations in achieving regulatory objectives, and to assess the tradeoffs that are involved.

The work is currently in the conceptual development process. Interagency and other discussions are being held as to its content and feasibility.

ALTERNATIVE REGULATORY MECHANISMS

We are exploring the use of alternative mechanisms in several areas of regulations, namely, toxic substances, air and water pollution, and solid waste management. The work focuses on the following questions: When should we regulate; that is, what event or cause is sufficient to *trigger* a regulatory action? How should we regulate; that is, how should regulatory needs be matched with appropriate regulatory mechanisms?

Our intention is to provide a broad policy framework which is basic to the formulation and implementation of a rational and efficient policy for the control of toxic substances. We expect to propose a framework for coordinating an approach to toxic substances control; provide criteria by which to determine when to regulate and what regulatory mechanism to use; and recommend alternative regulatory mechanisms to control specific toxic substances.

The work on alternative mechanisms will also involve further analysis of the feasibility of a mixed regulatory-incentive strategy for the control of industrial water pollution discharges. A draft paper on regulatory alternatives should be available this fall.

Senator BENTSEN. Our next witnesses will be appearing as a panel: Mr. Paul Orefice, president of Dow Chemical; Mr. Raymond Haysbert, president of Parks Sausage; and Mr. Murray Weidenbaum, director of the Center for the Study of American Business at Washington University in St. Louis.

Mr. Orefice, please present your testimony.

**STATEMENT OF PAUL OREFFICE, PRESIDENT, DOW CHEMICAL
U.S.A., MIDLAND, MICH.**

Mr. OREFFICE. Thank you. I am Paul Orefice, president of Dow Chemical U.S.A. I appreciate this opportunity to appear before the committee today.

It is my sincere conviction that the subject of this hearing; namely, the ever-increasing mass of regulation imposed upon the American people by its various governing bodies, represents a most serious threat to the continued well-being and the political freedom of this country.

I do not make this statement lightly. As one who came to this country as an Italian immigrant escaping a fascist government, I saw what happens when government bureaucrats become veritable tyrants. I passionately believe in our free enterprise system, and feel it is more threatened today than it has ever been. So, you will understand why I am glad to be here and why I speak with so much conviction.

Let me say that I am not against all regulations. I don't object to reasonable regulations, but we have gone far beyond that. My subject is really not regulation but over-regulation.

There are four points that I would like to make. First, I would like to talk about the cost of overregulation. Second, I would like to describe some trends in regulatory policing and harassment that are becoming increasingly serious. Third, I want to talk about the inability of the Government to handle, assimilate, and deal with the mass of information it requires. And, finally, I would like to make some recommendations.

Let me first address the cost. The total dollar cost is enormous, but that is not the only cost. The cost in terms of people resources and the drain in our skilled manpower is unbelievable. The cost to innovation is incalculable. The cost of excess regulation will continue to have a very serious negative impact on our balance of payments.

I would like to present an example supporting this from Dow's own experience. In mid-1975, we set out to identify and quantify our total Federal regulatory costs. In addition, we made an effort to determine which of those costs were appropriate, and which were excessive or unnecessary. I want to emphasize that we were extremely conservative in this determination, probably accepting far too many rules as appropriate. Because Dow is a large and complex company, and this was our first attempt to bring together all of our regulatory expenses, we may have overlooked some items, but the totals are impressive and distressing.

In 1976, Dow spent \$186 million for these Federal regulations, and it was a 27 percent increase over 1975. We consider that at least \$69 million of this was excessive and this category had increased 38

percent over the previous year. In 1976, over \$20 million was spent in Federal paperwork alone. We sure can't see the reduction that you talk about.

The cost in terms of human resources is even more severe.

Senator BENTSEN. Let me stop you on that for a moment, please. I am curious to know if you have numbers for the increase in paperwork costs?

Mr. OREFFICE. Federal paperwork increased in the same order of magnitude. These are 1975 and 1976 figures; the increase was around 30 percent.

As I said, the cost in terms of human resources are even more severe. Some of our best scientists have had to turn from creative pursuits to the chore of collecting and gathering data to meet demands, and these demands are overlapping. I am personally spending about one-third of my time on regulatory related matters, and that is a hell of a way to run a company.

We are paying what might be even a more serious price in stifling innovation and the development of new products. To illustrate this, I would like to give you some data released in January by the Federal Environmental Protection Agency to a U.S. court of appeals judge relating to the Federal Insecticide, Fungicide, and Rodenticide Act.

On January 8, it supplied the judge in a civil case with figures showing that the new product applications under the Federal Insecticide, Fungicide, and Rodenticide Act have declined from 5,400 in fiscal 1975 to 1,700 in 1977. New product registration actually issued declined even more dramatically. In fiscal 1975, EPA issued 2,800 new product registrations under this act, but in 1977 only 103 were issued.

Just think about it. New product applications last year were only one-third of those two years before, but even more startling is the fact that new product registrations were only 1 out of 17 applied for as opposed to 1 out of 3 in 1975.

Let me give you something even more scary—

Senator BENTSEN. That is incredible information.

Mr. OREFFICE. These are figures released by EPA to a judge which I believe are available, if you care to see them. It is something that I consider even more scary. These products are not brandnew chemicals. But, in brandnew chemicals in fiscal year 1975 there were 14 approved—

Senator BENTSEN. Let me interrupt you again, because those numbers are really startling. How can a small company comply with those kinds of percentages?

Mr. OREFFICE. There will be no new products. If you permit me, the next thing I wanted to say was that there were 14 approved in 1975, zero in 1977. I think the results of this can well be that even more research and development will be done abroad instead of here in the United States.

Senator BENTSEN. That means the new products will be developed abroad thereby giving them a substantial competitive edge in the American marketplace. Where American technology has always been in the forefront, we will be behind the rest of the world.

Mr. OREFFICE. That is absolutely correct, if this trend continues.

So while talking of doing it abroad, let me say the chemical industry has a \$5 billion annual positive trade balance. But the costs we have described are weakening our position and our technological position in the world market so strongly that is has us very worried.

I see one hopeful sign. Labor and management have come to realize that this is hurting them both and they are starting to work in concert. I have personally met with many of our labor leaders and we seem to see eye to eye on many of these issues.

Let me turn to something else, which is the increasing heavy handed tactics used by some regulators. I will give you two examples.

Last May, EPA wrote Dow stating that no reports of vinyl chloride emergency discharges had been received from our Michigan location, as required by EPA regulations. Dow responded, stating that since the regulation had been in effect, it had no emergency discharges. An EPA attorney then telephoned, requesting confidential process information and stating that the EPA did not wish to rely on a company's word that it was accurately reporting such releases. Process information is our most prized asset, and we refuse to supply it to those who we believe cannot insure its confidentiality, especially for requests such as this one.

An even more disturbing event occurred last month in what I can only describe as a clandestine spy operation conducted by the Federal Government against its own people. I like to call it the "spy in the sky incident." It took place at Dow plants in Michigan and occurred after we had cooperated fully in hosting a complete inspection tour of our power plants. Not only did we show our facilities in detail to the EPA and answer all their questions, we had even supplied them with photographic slides and layout drawings.

Yet despite all this, and against our will, and without benefit of search warrant, the EPA conducted aerial photo reconnaissance flights over our entire 2,000 acre plant site.

Thanks to the Freedom of Information Act, the sophisticated high-resolution photography involved in these flights could leak our technology to anyone and everyone in the world. And I refer to extensive technology adjacent to, but completely unrelated to the EPA's stated interest.

The EPA has confiscated both the photography and the flight records involved, and we have taken the matter to court in hopes of proper redress. But I must ask this committee: How far is the Government going to go in the name of regulation? Do such spy flights represent the will of Congress?

The EPA in court alleged that no other company could ever obtain these pictures if we claimed technical priority and requested that they not be released. This is sort of an interesting defense because I don't know how the heck we are going to have a say in it if we don't even know what pictures that they have.

We don't believe the Federal Government knows what to do with the vast amounts of information it demands.

Let me give you two examples of this: Just last month we obtained the record of comments filed by interested parties on a new

proposed regulation. In looking through those files we were astounded to discover that the one attributed to us was in fact our filing on an entirely different matter and that the file that we submitted in the other case was nowhere to be found.

It is still not clear whether our original submission has been completely lost by that Agency, or how our submittal on an entirely different matter found its way into this record. We would only say that it is somewhat difficult to develop confidence in regulatory decisions when those who are called upon to make such decisions can't even keep straight the information they are suppose to use in reaching those decisions in the first place.

Second, I must explain that in our Midland, Mich., facility we are continuing to operate two old coal-fired power plants 7 years beyond their planned shutdown because of delays in building a nuclear replacement. To meet air quality standards, Dow switches from coal to oil as the weather dictates. EPA says the switching system is very successful with no violation of SO₂ standards. But to meet Michigan emission standards, Dow is forced to spend \$6 million to convert from coal to 100 percent oil by 1980, the opposite of an emerging national energy policy, with 100 percent oil usage costing Dow \$25 million per year more in operating costs. Now the Federal EPA, citing Clean Air Act amendments, insists Dow burn 100 percent oil by 1979, or else.

The most incredible part of this whole episode is that we cooperatively reached an agreement 4 years ago with the Michigan State Air Pollution Control Commission to allow us to continue utilizing these plants as we presently do until replacement facilities come on line.

The State commission then passed the agreement along to the Federal EPA for its endorsement. Two years later, the Federal EPA sent us a violation notice. When we asked them why they sent us this notice in view of the consent agreement, the EPA said they had never approved the consent agreement because it got lost in their files.

Our good-faith reliance on the agreement that the EPA claims having lost, has already cost us \$3 million in capital to comply with its provisions. And don't forget that the paperwork that these agencies seem to lose cost us over \$21 million to compile.

Let me come now to the fourth and final point in my testimony—some suggestions and recommendations that I believe should be considered by the Government in dealing with the problems of stifling overregulation.

First: The growth and proliferation of Federal agencies and Federal regulation is mindboggling. Direct and powerful management attention must be given to that problem. I believe the time has come to establish a program of overall management of regulatory agencies. This should be a cabinet level post, occupied by an individual with proven management skills, outside of government, and with direct access to the President.

Second: Each agency should be required to perform a cost-benefit analysis on each alternative to a proposed significant regulation, significant as defined in the law; the cost benefit analysis for all

alternatives should be made available for public comment before publication of a proposed regulation.

Third: There is a failure by many to realize that the impact of laws and their attendant regulations are additive. The impact of a single new regulation may be slight but the cumulative effect of regulations from a dozen agencies may be overwhelming. Each agency should be required to determine the cumulative effect of all regulations pertaining to a specific regulatory function, as well as the incremental impact of a contemplated regulatory action. These data should be available to the public for comment prior to the publication of a proposed new regulation.

Fourth: Examples of overlapping and/or conflicting regulations issued by two or more agencies are abundant. Before an agency is permitted to issue a new regulation, it should be required to determine what other agencies have authority to regulate in the same subject area; what regulations have already been promulgated dealing with the same subject; whether the proposed regulations conflict with existing regulations.

Fifth: Many of the newer laws and their regulations as well as the requirements for permits or registrations now being issued under older pieces of legislation demand that a product must be proved safe before its sale or use is allowed, a zero-risk concept. That concept is not only counterproductive, but impossible to achieve. No product of any kind can be produced to zero-risk standards. I submit we can't even get out of the bed in the morning with zero risk.

Each agency must be required to perform a realistic risk-benefit analysis before it is allowed to reject an application for a registration or permit or to take an action which will result in the banning of a product. Reasonable judgments can be made on the basis of facts. We must apply a rule of reason to our regulatory decision, and leave some judgment for the marketplace.

Sixth: In general, the regulatory agencies ignore the concept of self-policing, electing instead to institute rigid programs of enforcement. Dow Chemical U.S.A. has a very successful program for self-regulation in the Equal Employment Opportunity field. ERDA, our enforcement agency, had allowed the self-policing some 2½ years ago and considers the results dramatic and excellent. This concept of self-policing or self-regulation works and should be used more widely.

Seventh: Currently regulations and regulatory agencies are forever. While some of the agencies are beginning to move to zero-base budgeting, they are still assumed to have eternal life. We need to have some sort of self-destruct mechanism built into the system. We need to stop occasionally to see if the problem being regulated still exists.

In his state of the Union message, President Carter said, "The American people are sick and tired of government redtape." I most heartily concur. He also said, "We must do a better job of reducing government regulation that drives up cost."

Again I concur. In that same speech he asked labor and business to show restraint in wage and price increases. It is my belief that labor and business are responding to that. I can think of nothing more

inflationary than the 27-percent increase in the cost of regulations that the United States mandated.

Thank you.

Senator BENTSEN. I think we will proceed with all the witnesses before questioning. You provoke many questions, Mr. Orefice, and I want to get back to you.

Mr. Weidenbaum, please proceed.

STATEMENT OF MURRAY L. WEIDENBAUM, DIRECTOR, CENTER FOR THE STUDY OF AMERICAN BUSINESS, WASHINGTON UNIVERSITY, ST. LOUIS, MO.

Mr. WEIDENBAUM. Thank you. It is a great pleasure to be here. I hope my full study will be helpful to you in your very important work in this area.

In my oral testimony I will give you the highlights. The largest and most rapid increase in government power over the private sector is not in the areas of taxation or government spending. Rather, it is the expansion of government regulation of private economic activity which is affecting the citizen in so many important and costly ways. The process of government regulation generates many of the hidden costs of big government. It is a special source of concern in the present circumstances because excessive government regulation is increasing inflation and unemployment simultaneously.

Fundamental reforms of government regulation, which are needed, will be difficult. They will be opposed by a host of special interest groups, including many that have the conceit of automatically identifying their views as the sole expression of the public or consumer interest. But sensible reforms of government regulation could yield great benefits to the consumer, the motorist, the homeowner, the worker, the investor, and the taxpayer. My statement tries to lay the groundwork for such reform by showing how much is at stake for each of those major sectors of our society. Several initial reforms are suggested, not as panaceas, but as practical means of accelerating the process of constructive change.

The impacts of government regulation of business are being felt in every part of the economy.

One: The taxpayer feels the effect. Government regulation literally has become a major growth industry, an industry supported by the taxpayer. The cost of operating Federal regulatory agencies is rising more rapidly than the budget as a whole, the population, or the GNP.¹ Outlays of 41 regulatory agencies are estimated to increase from \$2.2 billion in the fiscal year 1974 to \$4.8 billion in fiscal 1979, a growth of 115 percent.

Two: The motorist feels the effect. Federally mandated safety and environmental features increase the price of the average passenger car by \$666 in 1978.² When we consider that about 11 million cars are likely to be sold to Americans this year, that means that compliance with those regulations are costing American consumers \$7 billion a year in the form of higher priced cars.

¹ See fig. 1 in the attached study to Mr. Weidenbaum's statement.

² See fig. 2 in the attached study to Mr. Weidenbaum's statement.

In addition, the added weight of the cars is increasing fuel consumption perhaps by about \$3 billion annually. Thus, the American motorist is paying in the neighborhood of \$10 billion a year to meet Federal regulatory requirements in the two areas of environment and safety.

Three: The businessman and businesswoman feels the effect. There are over 4,400 different Federal forms that the private sector must fill out each year. That takes over 143 million man-hours, the economic equivalent of a small army. The Federal Paperwork Commission recently estimated that the total cost of Federal paperwork imposed on private industry ranges from \$25 billion to \$32 billion a year and that a substantial portion of this cost is unnecessary.

It is hard to believe that most of those reports are even read by anyone in the Government before they are filed in some Federal storage area. Our center has reported that a small company repeatedly sent in nonsense results, without receiving any criticism from the Federal agency requiring the information. It is widely known, of course, that the smaller business is hit disproportionately hard by paperwork, as well as by other types of Government regulation. I document that in my study.

Senator BENTSEN. It is not just Government. Business does the same thing, too, requiring too many reports.

I can recall one instance where a firm decided to find out which reports were really needed. The president of a company said he wanted all reports sent to and stacked in his office—all of them. He stacked them around the wall and after 6 months he looked at those which were never called for and never missed by the recipients who were just trying to satisfy their curiosity.

He said, "Those reports we don't need."

We ought to do something like that in the Federal Government. Many of the reports I believe collect dust and are serving no useful purpose.

Mr. WEIDENBAUM. Yes, that would be very helpful.

Four: The homeowner feels the effect. Regulatory requirements imposed by Federal, State, and local governments are adding between \$1,500 and \$2,500 to the cost of a typical new house. The Government-imposed costs range from permit and inspection fees to wider and thicker required streets to time-consuming and excessively detailed environmental impact studies. Using the midpoint of the range of cost estimates, \$2,000, and applying it to the 2 million new homes built in 1977 results in an added cost to the homeowner of \$4 billion a year.

Five: The consumer feels the effect. The costs of complying with Government regulations are inevitably passed on by business to the consumer in the form of higher prices, that hidden tax of regulation. On the basis of a conservative estimating procedure, the aggregate cost of complying with Federal regulation came to \$62.9 billion in 1976, or over \$300 for each man, woman, and child, in the United States. The estimated \$62.9 billion of costs imposed on the private sector is 20 times the \$3.1 billion spent to operate the regulatory agencies in the same year.¹ If we apply the same multiplier of 20 to

¹ See fig. 3 in the attached study to Mr. Weidenbaum's statement.

the amounts budgeted for regulatory activities for more recent years, we can come up with good approximations of the private sector's cost of compliance and thus with the total dollar impact of Government regulation.

On that basis, I estimated that the costs arising from Government regulation of business—both the expenses of the regulatory agencies themselves as well as the costs they induce in the private sector—totalled \$79.1 billion in the fiscal year 1977 and may reach \$96.7 billion in the current fiscal year ending September 30, 1978.

On the basis of the Federal budget estimate for the fiscal year 1979, the total cost of Government regulation may come to \$102.7 billion. As Secretary Kreps pointed out, there are figures even higher than that.

Six: The worker feels the effect. Government regulation, albeit unintentionally, can have strongly adverse effects on employment. The minimum wage law has priced hundreds of thousands of people out of labor markets. One increase alone has been shown, on the basis of careful research, to have reduced teenage employment by 225,000, with a disproportionately large impact on nonwhite youngsters, precisely the group reporting the highest unemployment rate. In addition, many industry facilities and entire factories have been closed down—with substantial but unmeasurable effects on employment—because of the high costs of meeting environmental, safety and other regulatory requirements.

Seven: The investor feels the effect. Approximately \$10 billion of new private capital spending is devoted each year to meeting governmentally mandated environmental, safety, and similar regulations rather than being invested in profitmaking projects. As you noted, Mr. Chairman, Edward Denison of the Brookings Institution has estimated that in recent years these deflections of private investment from productive uses have resulted in a loss of approximately \$20 billion in productivity. The result is to exacerbate the already strong inflationary pressures in the American economy.

Eight: The Nation as a whole feels the effect of Government regulation in a reduced rate of innovation and in many ways. The adverse consequences of Government intervention in business decisionmaking range from a slowdown in the availability of new pharmaceutical products to the cancellation of numerous small pension plans. In total, the aggregate response to the proliferation of Government regulation is a basic bureaucratization of American business.

These undramatic but fundamental effects occur because of the diversion of management attention from traditional product development, production, and marketing efforts designed to provide new and better products and services to meeting governmentally imposed social requirements. Defensive research and reverse marketing are common abuses. These deal with how a company stays out of trouble with the Government rather than to meet consumer needs. It is not inevitable that these various adverse effects flow from every regulatory activity, but it will take serious efforts to avoid or reduce these adverse side-effects.

There are no simple approaches to reforming Government regulation. It surely is not a question of being for or against Federal regu-

lation of business. A substantial degree of governmental intervention is to be expected in a complex, modern society. The need, rather, is to identify those sensible changes that can be made in the regulatory process so as to achieve the desired social goals—less pollution, fewer product hazards, et cetera—with minimum adverse impacts on other important goals—more jobs, less inflation, et cetera.

One: A new way of looking at the effects of regulation is needed for public policymaking. The pertinent question is not whether there are shortcomings in the private sector. Of course, the human beings involved in the operation of the American business system are fallible and the results of their activities do not always conform to the prevailing notions of what is in the public welfare. The serious question is whether, in view of the many goals of our society, Government regulation in a particular instance is doing more good than harm.

A parallel can be drawn to macroeconomic matters, where important and at times conflicting objectives and trade-offs are made. Similarly, a cleaner environment is a very important national objective, but surely many sensible trade-offs must be made here, too—for example, cleaner air versus cleaner water, ecological improvements versus energy conservation, et cetera. Thus, the all or nothing approach, zero discharge of pollutants, is not a feasible objective or even a sensible goal to aim at. The same sense of balance is needed in each of the other regulatory programs.

Two: An economic impact statement should be required prior to issuing each new regulation. The notion that policymakers should carefully consider the costs and other adverse effects of their actions as well as the benefits is neither new nor revolutionary. The Ford administration's institution of economic impact statements for new regulations was an important and useful innovation. President Carter has recently made some changes in the procedures, particularly in providing more attention to existing as well as proposed regulations. Unfortunately, the Ford and Carter approaches are not up to the task.

The modest requirements currently imposed on some regulatory agencies need to be given a firm legislative mandate, and to be extended to all regulatory agencies of the Federal Government. The mere performance of benefit-cost analyses by a reluctant agency is not adequate. The key action needed by the Congress is to pass a law limiting the regulations of all Federal agencies to those instances where the total benefits to society exceed the costs. Government regulation should be carried to the point where the added costs equal the added benefits, and no further. Overregulation, which is not an emotional term to me but a simple definition—which can be defined as regulation for which the costs exceed the benefits—should be avoided. The failure to take those costs into account has resulted in the problem of overregulation that faces the United States today.

The implementation of benefit-cost analyses needs a great deal of attention. An agency not directly involved in regulation—such as the General Accounting Office or the Office of Management and Budget—should set governmentwide standards, concepts, and methods of performing economic evaluations of regulations, including the estimation of benefits and costs. The determination of the interest

rates to be used in discounting future costs and benefits, for example, should not be a matter left to the judgment of the agency which is attempting to justify its own action.

Three: The Federal budget process should focus more directly on regulatory activities. Unfortunately, because the requested appropriations for the regulatory agencies are relatively small portions of the Government's budget, limited attention has been given to them in the budget preparation and review process. In view of the large costs that they impose on the American public, the appropriation requests of the regulatory agencies deserve far more attention than they are now getting. One possibility for making the regulatory agencies and their budget reviewers, which I have written about and which Secretary Kreps talked about, more sensitive to the costs being imposed on the public is for Congress to give the regulatory agencies budgets of private costs that they can cause to be incurred by their regulations.

Thus, not only would an agency be given a budget of x million dollars for operating costs, but also a ceiling of y billion dollars of social costs that they can impose during the fiscal period. As a start, it would be helpful to include in the special analysis volume accompanying the Federal budget, a section on the costs of Government regulation similar to the existing special analyses on other extra-budgetary activities, notably Federal credit programs and tax expenditures. Such a special analysis would be an initial step toward incorporating regulatory costs into the Federal Government's annual budgetary and program review mechanism.

Four: All Government regulatory activities should be subject to a sunset mechanism. Each regulatory agency should be reviewed by the Congress periodically to determine whether it is worth while to continue it in light of changing circumstances. Many Government programs, regulatory or otherwise, tend to prolong their existence far beyond their initial need and justification.

In a world of limited resources, the only sensible way to make room for new priorities is periodically to cut back or eliminate older, superseded priorities.

Very frankly, it may be relatively easy to get the Members of the Congress interested in correcting the shortcomings of the Federal bureaucracy. Those shortcomings are real and important. Nevertheless, many of the fundamental problems in the regulatory area can be traced back to the legislation enacted by the Congress—the maze of overlapping, conflicting, and excessive, regulation. Legislative changes are a key part of any serious regulatory reform effort.

Five: Alternatives to regulation should be carefully considered. Government has available various powers other than regulation. Through its taxing authority, Government can provide strong signals to the market; pollution control taxation may indeed provide a more effective and less costly mechanism than the existing standards approach in achieving desired ecological objectives.

In the case of the traditional one-industry type of regulation of business—as of airlines, trucking, railroads, and natural gas—a greater role should be given to competition and to market forces. The more widespread provision of information to consumers on po-

tential hazards in various products may, in many circumstances, be far more effective than banning specific products or setting standards requiring expensive alterations in existing products. The information approach takes account of the great variety of consumer desires and capabilities.

Surely, as we have found out, it just is not practicable for Government to attempt to regulate every facet of private behavior. This statement, however, is not a plea for anarchy. Indeed, it is important that Government do well the various important tasks that it undertakes. That makes it essential for the Congress to choose carefully those tasks that it does assign to Government.

Six: The role and importance of individual decisionmaking should not be ignored. We all need to be cognizant of the fact that the massive extent of Federal intervention in the economy—high levels of taxation, expenditures, and regulation—makes it difficult for the private sector to perform its basic functions. In important ways, the major contribution of the Congress could be in the form of reducing those burdens rather than adding to them, albeit with the best of intentions.

To turn an old phrase, sometimes my advice is, don't just stand there, undo something.

Thank you for this opportunity.

[The study attached to Mr. Weidenbaum's statement follows:]

95th Congress }
2d Session }

JOINT COMMITTEE PRINT

THE COSTS OF
GOVERNMENT REGULATION OF BUSINESS

A STUDY

PREPARED FOR THE USE OF THE
SUBCOMMITTEE ON ECONOMIC GROWTH
AND STABILIZATION
OF THE
JOINT ECONOMIC COMMITTEE
CONGRESS OF THE UNITED STATES



APRIL 10, 1978

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LETTERS OF TRANSMITTAL

APRIL 6, 1978.

To the Members of the Joint Economic Committee:

Transmitted herewith for the use of the members of the Joint Economic Committee and other Members of Congress is the study entitled "The Costs of Government Regulation of Business." This study will be a useful aid for evaluation of the impact of Federal rules and regulations on the American private sector.

I would like to express my thanks to the author of the study, Mr. Murray L. Weidenbaum. Mr. Weidenbaum is director, Center for the Study of American Business at Washington University, St. Louis, Mo. The views expressed in the study are those of the author and do not necessarily reflect the views of the Joint Economic Committee, individual members thereof, or members of the committee staff.

Sincerely,

RICHARD BOLLING,
Chairman, Joint Economic Committee.

APRIL 4, 1978.

HON. RICHARD BOLLING,
Chairman, Joint Economic Committee,
U.S. Congress, Washington, D.C.

DEAR MR. CHAIRMAN: Transmitted herewith is a study entitled "The Costs of Government Regulation of Business" by Mr. Murray L. Weidenbaum. The study draws on original analyses prepared by Mr. Weidenbaum and the staff of the Center for the Study of American Business at Washington University, St. Louis, Mo.

The analysis presented here estimates the Federal administrative cost and related private sector cost of Federal regulation. It reveals that taxpayers, consumers, homeowners, investors, and entrepreneurs bear sizable burdens as a consequence of these regulations. Mr. Weidenbaum has developed estimates of the burdens and found these to be significantly larger than heretofore projected. In 1976, for example, the aggregate impact on the private sector of government rules and regulations was some 20 times larger than Federal expenditures for such activities that year. Such information is essential to an informed judgment as to what is an appropriate level of government regulation.

Many current regulations have been enacted in a vacuum, with little or no credible information available on their ultimate economic impact. The study by Mr. Weidenbaum is an attempt to use a new and comprehensive technique to calculate this impact. I hope this study, which draws on earlier work by the author as well, will stimulate further exploration of this technique and of this important and timely subject.

I would like to thank Mr. Weidenbaum for preparing this study. Views expressed in it are those of the author and do not necessarily represent the views of the members of the Joint Economic Committee, the Subcommittee on Economic Growth and Stabilization, or the committee staff.

Sincerely,

LLOYD BENTSEN,
*Chairman, Subcommittee on Economic
Growth and Stabilization.*

IV

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THE COSTS OF GOVERNMENT REGULATION OF BUSINESS

*By Murray L. Weidenbaum**

The process of regulation of business activity via governmental rules and regulations generates a variety of impacts, direct and indirect, intended and unintended, desirable and undesirable. Proponents of governmental intervention stress the benefits that are expected to flow or the social problems to be solved. The costs which are involved tend to be discounted or even ignored ("If we can put a man on the moon, why can't we clean up the Mississippi?").

The purpose of this report is to examine the various costs that are incurred in the process of government regulation.¹ No judgments are expressed on the value of the many regulatory efforts. By raising the public information level, it is hoped that governmental decisionmaking in this important area can become a more balanced process, giving equal weight to the costs and other disadvantages as well as the benefits and other advantages of proposed actions. The result, hopefully, will be the attainment of important national objectives with greater effectiveness than characterizes the present situation.

SUMMARY

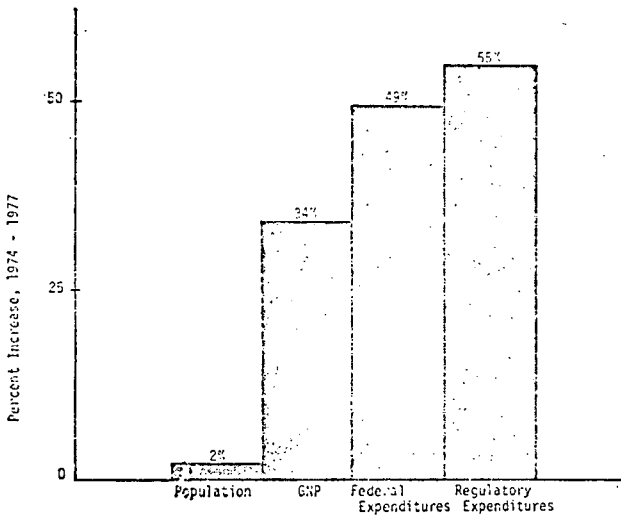
The impacts of government regulation of business are being felt in every part of the economy:

1. *The taxpayer feels the effect.*—Government regulation literally has become a major growth industry, an industry supported by the taxpayer. The cost of operating Federal regulatory agencies is rising more rapidly than the budget as a whole, the population, or the gross national product. (See fig. 1.) Outlays of 41 regulatory agencies are estimated to increase from \$2.2 billion in the fiscal year 1974 to \$4.8 billion in fiscal 1979, a growth of 115 percent over the 5-year period.

*Director, Center for the Study of American Business, Washington University, St. Louis, Mo.

¹ This paper draws on a variety of previous work by the author, including "Business, Government, and the Public," Englewood Cliffs, New Jersey, Prentice-Hall, 1977; "Government-Mandated Price Increases," Washington, American Enterprise Institute, 1975; "Business and Government: The Changing Relationship," in Frank J. Bonello and Thomas R. Swartz, editors, "Alternative Directions in Economic Policy," Notre Dame, University of Notre Dame Press, 1978; "Reducing Inflationary Pressures by Reforming Government Regulation," in William Fellner, editor, "Contemporary Economic Problems," Washington, American Enterprise Institute, 1975.

FIGURE 1.—Growth of Federal regulatory expenditures and other economic indicators, 1974-77.

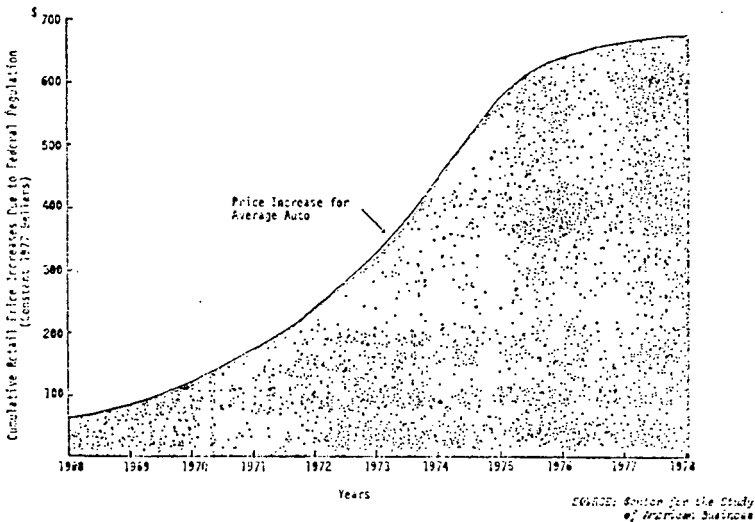


SOURCE: Center for the Study of American Business

2. *The motorist feels the effect.*—Federally mandated safety and environmental features increase the price of the average passenger car by \$666 in 1978. (See fig. 2.) Compliance with those regulations thus costs American consumers \$7 billion a year in the form of higher priced cars. In addition, the added weight of the cars is increasing fuel consumption perhaps by as much as \$3 billion annually. Thus, the American motorist may be paying in the neighborhood of \$10 billion a year to meet Federal regulatory requirements in the two areas of environment and safety.

FIGURE 2.—Automobile price increases due to Federal safety and emissions control regulation.

(Retail Prices, Per Auto)



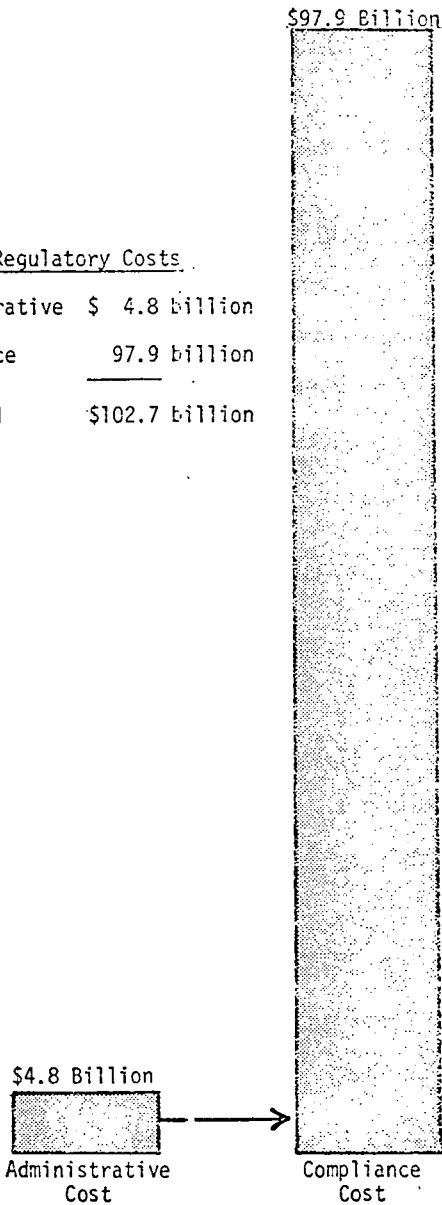
3. *The businessman feels the effect.*—There are over 4,400 different Federal forms that the private sector must fill out each year. That takes over 143 million man-hours, the economic equivalent of a small army. The Federal Paperwork Commission estimated that the total cost of Federal paperwork imposed on private industry ranges from \$25 billion to \$32 billion a year and that “a substantial portion of this cost is unnecessary.” The smaller business is hit disproportionately hard by paperwork, as well as other types of government regulation.

4. *The homeowner feels the effect.*—Regulatory requirements imposed by Federal, State, and local governments are adding between \$1,500 and \$2,500 to the cost of a typical new house. Using the midpoint of that range of cost estimates (\$2,000) and applying it to the 2 million new homes built in 1977 results in an added cost to the homeowner of \$4 billion last year.

5. *The consumer feels the effect.*—The costs of complying with government regulations are inevitably passed on by business to the consumer in the form of higher prices. The aggregate cost of complying with Federal regulation came to \$62.9 billion in 1976, or over \$300 for each man, woman, and child in the United States. The estimated \$62.9 billion of costs imposed on the private sector is 20 times the \$3.1 billion spent to operate the regulatory agencies in the same year. (See fig. 3.) If we apply the same multiplier of 20 to the amounts budgeted for regulatory activities for more recent years, we can come up with approximations of the private sector's cost of compliance and thus with the total dollar impact of government regulation. On that basis, it can be estimated that the costs arising from government regulation of business (both the expenses of the regulatory agencies themselves as well as the costs they induce in the private sector) totalled \$79.1 billion in the fiscal year 1977 and may reach \$967 billion in the current fiscal year. On the basis of the budget estimate for the fiscal year 1979 the aggregate cost of government regulation may come to \$102.7 billion, consisting of \$4.8 billion of direct expenses by the Federal regulatory agencies and \$97.9 billion of costs of compliance on the part of the private sector. Although there is no assurance that larger budgets for Federal regulatory agencies generate a constant multiplier effect on the private sector, the analysis in the body of this report tends to show that the data used here for private sector regulatory costs are substantially underestimated.

FIGURE 3.—The multiplier effect: The cost of compliance with Federal regulation in fiscal 1979.

<u>Regulatory Costs</u>	
Administrative	\$ 4.8 billion
Compliance	97.9 billion
Total	<u>\$102.7 billion</u>



SOURCE: *Center for the Study of American Business*

6. *The worker feels the effect.*—Government regulation, albeit unintentionally, can have strongly adverse effects on employment. The minimum wage law has priced hundreds of thousands of people out of labor markets. One increase alone has been shown, on the basis of careful research, to have reduced teenage employment by 225,000, with a disproportionately large impact on nonwhite youngsters. Many industry facilities and entire factories have been closed down—with substantial but unmeasurable effects on employment—because of the high costs of meeting environmental, safety and other regulatory requirements.

7. *The investor feels the effect.*—Approximately \$10 billion of new private capital spending is devoted each year to meeting governmentally mandated environmental, safety, and similar regulations rather than being invested in profitmaking projects. Edward Denison of the Brookings Institution has estimated that in recent years these deflections of private investment from productive uses have resulted in a loss of approximately one-fourth of the potential annual increase in productivity. Although not directly calculable, the result is to exacerbate the already strong inflationary pressures in the American economy.

8. *The Nation as a whole feels the effect of government regulation in many ways.*—The adverse consequences range from a slowdown in the availability of new pharmaceutical products to the cancellation of numerous small pension plans. In total, the aggregate response to the proliferation of government regulation is a basic bureaucratization of American business. These undramatic but fundamental effects occur because of the diversion of management attention from traditional product development, production and marketing efforts designed to provide new and better products and services, to meeting governmentally imposed social requirements.

THE NEW WAVE OF GOVERNMENT REGULATION

It is hard to overestimate the current rapid expansion of Government involvement in business in the United States. Certainly the majority of public policy changes affecting business-government relations in recent years has been in the direction of greater governmental intervention—environmental controls, job safety inspections, equal employment opportunity enforcement, consumer product safety regulations, energy restrictions, and recording and reporting of items ranging from illnesses to foreign currency transactions. Indeed, when we attempt to look at the emerging business-government relationship from the business executive's viewpoint, a very considerable public presence is evident in what ostensibly, or at least historically, have been private affairs.

No one who operates a business today, neither the head of a large company nor the corner grocer, can do so without considering a multitude of governmental restrictions and regulations. His or her costs and profits can be affected as much by a bill passed in Washington as by a management decision in the front office or a customer's decision at the checkout counter. Management decisions fundamental to the business enterprise are increasingly becoming subject to governmental influence, review, or control, decisions such as: What lines of business to go into? What products can be produced? Which investments can be financed? Under what conditions can products be produced? Where can they be made? How can they be marketed? What prices can be charged? What profit can be made?

Virtually every major department of the typical industrial corporation in the United States has one or more counterparts in a Federal agency that controls or strongly influences its internal decisionmaking. The scientists in corporate research laboratories now receive much of their guidance from lawyers in Federal, State, and local regulatory agencies. The engineers in manufacturing departments must abide by standards promulgated by Labor Department authorities. Marketing divisions must follow procedures established by government administrators in product safety agencies. The location of facilities must be in conformance with a variety of environmental statutes. The activities of personnel staffs are increasingly restricted by the various executive agencies concerned with employment conditions. Finance departments often bear the brunt of the rising paperwork burden being imposed on business by government agencies who seem to assume that information is a free good—or in any event that more is always better than less.

The newer types of governmental regulation of business are not limited to the traditional regulatory agencies, such as the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal

Communications Commission. Rather, the line operating departments and bureaus of government—the Departments of Agriculture; Commerce; Health, Education, and Welfare; Interior; Justice; Labor; Transportation; and Treasury—are now involved in actions that affect virtually every firm.

Impetus for this expanded government participation in economic activity is being provided by a variety of consumer groups, environmental organizations, civil rights advocates, labor unions, and other citizens' institutions. In many cases, the increasing regulation reflects public and congressional concern that traditional Federal and State-local programs have not been effective. The new wave of regulation is also reinforced by the belief that the private sector itself is responsible for many of the problems facing society—pollution, discrimination in employment, unsafe products, unhealthy working environments, misleading financial reporting, and so forth. The present trends in Federal Government regulation in the United States do not represent an abrupt departure from an idealized free market economy, but rather the rapid intensification of the long-term expansion of government influence over the private sector.

Government regulation at times can be justified as a logical response to imperfections in the private economy or what economists call "failures" in the normal market system. Examples of such situations are pollution of the environment, inadequate industrial safety practices, and long-term health hazards. Voluntary action to deal with such problems may place a firm under a competitive disadvantage. The specific company attempting to correct the situation would tend to bear the full costs, while the benefits of the improvement would be widely dispersed in the society. "Free riders" who do not make the expensive changes may nevertheless share in the benefits (those "externalities" that economists write about).

An example of this situation is provided by the regulation of pollution standards in the motor vehicle area. The basic justification for government setting standards for automobiles—particularly in the pollution area where so much of the benefit goes to society as a whole—was clearly stated by John J. Riccardo, president of Chrysler:

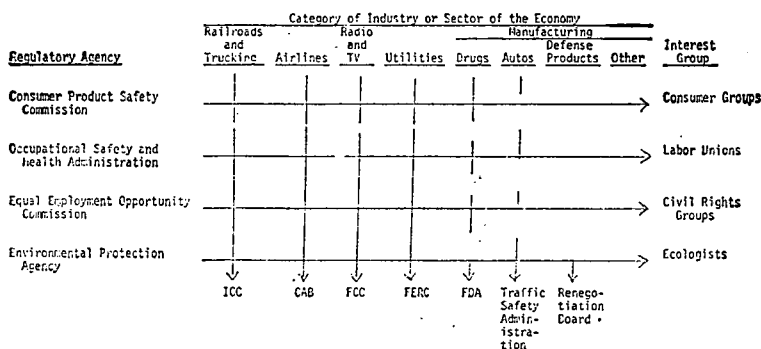
* * * a large part of the public will not voluntarily spend extra money to install emission control systems which will help clean the air. Any manufacturer who installs and charges for such equipment while his competition doesn't soon finds he is losing sales and customers. In cases like this, a government standard requiring everyone to have such equipment is the only way to protect both the public and the manufacturer.

The current wave of government regulation is not merely an intensification of traditional activities. In good measure, it is a new departure and requires a new way of thinking. The standard theory of government regulation of business, which is still in general use and has dominated professional and public thinking on the subject, is based on the model of the Interstate Commerce Commission. Under this approach, a Federal commission is established to regulate a specific industry, with the related concern of promoting the well-being of that industry. Often the public or consumer interest is viewed as subordinate, or even ignored, as the agency focuses on the needs and concerns of the industry that it is regulating.

In some cases—because of the unique expertise possessed by the members of the industry or its job enticements for regulators who leave government employment—the regulatory commission may become a captive of the industry which it is supposed to regulate. At least, this is a popularly held view of the development of the regulatory process. Actual practice of course varies by agency and jurisdiction and over time. In addition to the ICC, other examples of this development which have been cited from time to time include the Civil Aeronautics Board, the Federal Communications Commission, the Federal Power Commission (now the Federal Energy Regulatory Commission), and the Federal Maritime Commission.¹

Although the traditional type of Federal regulation of business surely continues, the new regulatory efforts established by the Congress in recent years follow, in the main, a fundamentally different pattern. Evaluating the activities of these newer regulatory efforts with the ICC type of model is inappropriate and can lead to undesirable public policy. The new Federal regulatory agencies are simultaneously broader in the scope of their jurisdiction than the ICC-CAB-FCC model, yet in important aspects are far more restricted. This anomaly lies at the heart of the problem of relating their efforts to national interests. (See fig. 4.)

FIGURE 4.—Variations in Federal regulation of business.



In the cases of the Environmental Protection Agency, the Equal Employment Opportunity Commission, the Consumer Product Safety Commission, the Occupational Safety and Health Administration, and the Federal Energy Administration, the regulatory agency is so limited to a single industry. For each of these relative newcomers to the Federal bureaucracy, its jurisdiction extends to the bulk of the private sector and at times to productive activities in the public sector itself. It is this far-ranging characteristic that makes it impractical

¹ See Marver Bernstein, "Regulating Business by Independent Commission," Princeton, Princeton University Press, 1953; George J. Stigler and Claire Friedland, "What Can Regulators Regulate? The Case of Electricity," "Journal of Law and Economics", 1962, No. 1; George J. Stigler, "The Theory of Economic Regulation," "Bell Journal of Economics and Management Science," Autumn, 1971; Richard A. Posner, "Theories of Economic Regulation," "Bell Journal of Economics and Management Science," Autumn 1974; James Q. Wilson, "The Dead Hand of Regulation," "Public Interest," Fall 1972.

for any single industry to dominate these regulatory activities in the manner of the traditional model. What specific industry is going to capture the EEOC or OSHA? Or would have the incentive to do so?

Yet in comparison to the older agencies oriented to specific industries, in many important ways the newer Federal regulators operate in a far narrower sphere. That is, they are not concerned with the totality of a company or industry, but only with the limited segment of operations which falls under their jurisdiction. The ICC, for example, must pay attention to the basic mission of the trucking industry, to provide transportation services to the public, as part of its supervision of rates and entry into the trucking business. The EPA's interest in the trucking industry, on the other hand, is almost exclusively in the effect of trucking operations on the environment. This restriction prevents the agency from developing too close a concern with the overall well-being of any company or industry. Rather, it can result in a total lack of concern over the effects of its specific actions on a company or industry.

If there is any special interest that may come to dominate such a functionally oriented agency, it is the one that is preoccupied with its specific task—ecologists, unions, civil rights groups, and consumerists. Thus, little if any attention may be given to the basic mission of the industry to provide goods and services to the public. Also ignored are crosscutting concerns or matters broader than the specific charter of the regulating agency, such as productivity, economic growth, employment, cost to the consumer, effects on overall living standards and inflationary impacts. While the traditional regulatory agencies may be said to be overly concerned at times with economic growth and productive efficiency, the newer programs move to a different beat. Their impetus comes from such social considerations as improving the quality of life, both on and off the job, and changing the distribution of income so as to achieve greater equity among the various groups in the society.

To be sure, there are important cases which combine a blend of the old and new forms of regulation. The Securities and Exchange Commission is a good example. In one aspect of its activities, it regulates a specific branch of the economy, the securities industry. Yet, many of its rules also influence the way in which a great many companies prepare their financial statements and reports to shareholders. Economywide regulatory agencies are not a recent creation. The Federal Trade Commission has existed for six decades. Moreover, a few one-industry agencies continue to be created, notably the Commodity Futures Trading Commission, which regulates the financial markets dealing with products of agriculture and other extractive industries.

Varying alliances arise in promoting a given type of regulatory activity—or in pushing for reform. The business firms and labor unions in a given regulated industry often become strong supporters of the traditional industry-oriented commission which they have learned to live with, if not to dominate. They may join ranks to oppose efforts by consumer groups and economists to cut back on the extent of the "protective" regulation. This has been most apparent in the railroad and trucking industries.

In contrast, consumer groups advocate expanding the newer types of crosscutting or functional regulation. In this effort, they often are

joined by labor groups, particularly in the occupational health area. Here, reform efforts may be led by coalitions of business groups and economists, who are concerned with the excessive costs and other consequences of the specialized regulatory activities. These alliances may shift from time to time. Specific safety regulations for automobiles may be opposed by unions and companies in the motor vehicle industry—although the two groups may differ strongly on job safety standards. Labor, management, and local governments may present a united opposition against specific environmental efforts which are viewed as hurting the economies of their community, although some of these groups may advocate general ecological advances. The older consumer organizations may become more concerned with the ultimate cost to the consumer of expanding governmental activities than the newer and more militant groups that emphasize public control over private sector activities.

Although the precise changes that will occur in the years ahead are basically a matter for conjecture, the overall trend seems to be fairly clear: On balance there is likely to be more and not less government intervention in internal business decisionmaking. Despite differences in philosophy and outlook changes both in control of the executive branch and in the composition of the Congress and the Judiciary seem to have little effect in altering that trend.

Government regulation, however, is a phenomenon still in the process of development, rather than having attained a "steady state." The basic factors causing the changes are diverse, ranging from the concern by some with the quality of life to the desire by others to increase the social responsiveness of business enterprise. Yet, proposals for changes in public policy affecting business are virtually all variations on a single predictable theme: To increase the scope and degree of governmental involvement while shifting costs from the Federal Treasury to the products and services that consumers buy.

No balanced evaluation of the overall practice of government regulation comfortably fits the notion of benign and wise officials always making sensible decisions in the society's greater interests. Numerous adverse side-effects and other costs are evident, as well as substantial benefits to society.

THE IMPACTS OF GOVERNMENT REGULATION

The initial and direct effects of government regulation can be measured by the budgets of the regulatory agencies themselves. These governmental outlays indicate the costs of regulation which are borne by the taxpayers. Preliminary figures for the fiscal year 1979 show a total of \$4.8 billion in Federal expenditures to operate 41 agencies which regulate business. That dollar figure is more than double the amount budgeted as recently as fiscal 1974. Clearly, the cost of operating Federal regulatory agencies is rising more rapidly than the Federal budget as a whole, the population of the country, the gross national product, or any other applicable basis for comparison.

As shown in table 1, the bulk of the regulatory budgets is devoted to the newer areas of social regulation, such as job safety, energy and the environment, and consumer safety and health. Examples of agencies involved in this newer type of regulation are the Environmental Protection Agency, the Occupational Safety and Health Administration, the Consumer Product Safety Commission, and the Department of Energy. Unlike the traditional regulating commissions which generally have jurisdiction over individual industries, these agencies cover virtually all companies, including many sectors of economic activity which are not generally thought of as being regulated by government.

TABLE 1.—EXPENDITURES ON FEDERAL REGULATORY ACTIVITIES
(Fiscal years; dollar amounts in millions)

Area of regulation	1974	1975	1976	1977	1978	1979	Increase 1974-79 (percent)
Consumer safety and health.....	\$1,302	\$1,463	\$1,613	\$1,985	\$2,582	\$2,671	105
Job safety and other working conditions.....	310	379	446	492	562	626	102
Environment and energy.....	347	527	682	870	989	1,116	222
Financial reporting, and other financial.....	36	45	53	58	70	69	92
Industry-specific regulation.....	245	269	270	309	340	341	39
Total.....	2,240	2,683	3,064	3,714	4,543	4,823	115
Note: Percent distribution of Federal regulatory expenditures, fiscal year 1979:							
Consumer safety and health.....							56
Job safety and other working conditions.....							13
Environment and energy.....							23
Financial reporting and other financial.....							1
Industry-specific regulation.....							7
Total.....							100

Source: Center for the Study of American Business. See appendix for supporting detail.

The figures displayed in table 1 reflect the fact that there has been, and continues to be, a steady growth in the pace of regulatory activities. From a total of \$2.2 billion in the fiscal year 1974, expenditures on Federal regulatory activities have risen in each subsequent year, with the largest increases occurring in the fiscal years 1977 and 1978. The costs to the taxpayer are obviously not trivial, but the key effects of government regulation are in terms of the compliance by the private sector.

REGULATION AND INFLATION

Of the many ways in which government can affect the rate of inflation, perhaps the least understood method is to require actions in the private sector which increase the cost of production and hence the prices of products and services sold to the public. Attention needs to be focused on these regulatory policy instruments because their use is becoming more widespread and neither the public nor government decisionmakers realize their full inflationary effects.

In theory, the Federal Reserve System could offset the inflationary effects of regulation by maintaining a lower rate of growth of the money supply than it otherwise would. In practice, however, public policymakers, insofar as they see the options clearly, tend to prefer the higher rate of inflation to the additional monetary restraint and the resulting decreases in employment and output. Also, to the extent that regulation results in real resources being devoted to low-payoff activities, economic welfare is reduced.

At first blush, government imposition of socially desirable requirements on business through the regulatory process appears to be an inexpensive way of achieving national objectives. This practice apparently costs the Government little and represents no significant direct burden on the taxpayer. But the public does not escape paying the cost. Every time, for example, the Environmental Protection Agency imposes a more costly (albeit less polluting) method of production on any firm the cost of the firm's product to the consumer will tend to rise. Similar effects flow from the other regulatory efforts, including those involving product safety, job health, and hiring and promotion policies.

These higher prices, however, represent the "hidden tax" of regulation which is shifted from the taxpayer to the consumer. The regulatory "tax" would not be shifted in this manner if the mandated effort—for example, environmental cleanup—were conducted or at least financed by the government itself. Moreover, to the extent that government-mandated requirements impose similar costs on all price categories of a given product (such as passenger automobiles), this hidden tax tends to be more regressive than the Federal income tax or State sales taxes. That is, the costs may be a relatively higher burden on lower income groups than on higher income groups. It is not inevitable that every regulatory activity increase inflationary pressures. In those instances where regulation generates social benefits (such as a healthier and thus more productive work force) in excess of the social costs it imposes, inflationary pressures should be reduced.

At times the impact of regulation on the prices that consumers pay is direct and visible. For example, in the case of the passenger automobile the Federal Government has required the producers to incorporate a wide array of specified safety and environmental features. The Bureau of Labor Statistics each year costs out the effect on the price of the average car. Through 1976, the cumulative cost increase per vehicle of these mandated features came to \$557, or \$3.7 billion for all the vehicles sold in that year.¹ (See table 2.)

¹ Robert DeFina, "Public and Private Expenditures for Federal Regulation of Business," St. Louis, Mo., Washington University Center for the Study of American Business, Working Paper No. 22, November 1977.

TABLE 2.—INCREASE IN RETAIL PRICE OF AUTOMOBILES DUE TO FEDERAL REQUIREMENTS, 1968-78

Model year and action	Initial retail price	Year total	Total adjusted for inflation ¹
1968:			
Seat and shoulder belt installations.....	\$11.51		
HEW standards for exhaust emissions systems.....	16.00	\$27.51	\$47.84
1968-69:			
Windshield defrosting and defogging systems.....	.70		
Windshield wiping and washing systems.....	1.25		
Door latches and hinge systems.....	.55		
Lamps, reflective devices and associated equipment.....	6.30	8.80	14.53
1969: Head restraints.....	16.65	16.65	27.48
1970:			
Lamps, reflective devices, and associated equipment.....	4.00		
Standards for exhaust emission systems.....	5.50	9.50	14.77
1968-70:			
Theft protection (steering, transmission and ignition locking and buzzing system).....	7.85		
Occupant protection in interior impact (glove box door remains closed on impact).....	.35	8.20	12.75
1971: Fuel evaporative systems.....	19.00	19.00	28.33
1972:			
Improved exhaust emissions standards required by Clean Air Act.....	6.00		
Warranty changes resulting from Federal requirement that all exhaust emissions systems be warranted for 5 yr or 50,000 mi.....	1.00		
Voluntarily added safety features in anticipation of future safety requirements.....	2.00		
Seat belt warning system and locking device on retractors.....	20.25	29.25	42.37
1972-73: Exterior protection (standard No. 215).....	69.90	69.90	95.29
1973:			
Location, identification, and illumination of controls improvements.....	.60		
Reduced flammability of interior materials.....	5.80	6.40	8.72
1969-73: Improved side door strength.....	15.30	15.30	20.85
1974:			
Interlock system and other changes to meet Federal safety requirements.....	107.60		
Improved exhaust emissions systems to comply with the Federal Clean Air Act.....	1.40	109.00	133.50
1975:			
Additional safety features associated with Federal motor vehicle safety standards Nos. 105, 208, and 216.....	10.70		
Installation of catalytic converter.....	119.20	129.90	146.66
1975-76: Removal of interlock system (quality decrease) and additional installation of catalytic converters net effects (October 1976).....	18.00		
1976:			
FMVSS No. 105 hydraulic brake system.....	6.50		
FMVSS No. 215 improved bumpers.....	4.80		
FMVSS No. 301 leak resistant fuel system.....	2.10		
Improved emissions control system.....	7.60	39.00	41.54
1977:			
FMVSS No. 215 improved bumpers.....	1.30		
FMVSS No. 219 structural changes.....	.95		
FMVSS No. 301 leak resistant fuel system.....	4.70		
Improved emissions control system.....	14.30	21.25	21.25
1978: Redesign of emissions control systems to meet HEW air quality standards.....	9.99	9.99	9.99
Total.....	519.65	519.65	665.87

¹ Yearly totals are expressed in 1977 dollars by use of the consumer price index.

Source: Compiled from data supplied by the U.S. Department of Labor, Bureau of Labor Statistics.

Government regulation increases the overhead cost of producing goods and services by imposing a rising burden of paperwork. As of November 30, 1976, there were 4,418 different types of approved Federal forms, excluding tax and banking forms. Individuals and business firms spend over 143 million man-hours a year filling them out, according to the U.S. Office of Management and Budget. As shown in table 3, regulatory reports have been the fastest growing portion of the paperwork burden which the Federal Government imposes on the private sector.

TABLE 3.—REPETITIVE PUBLIC-USE REPORTS APPROVED FOR USE BY OFFICE OF MANAGEMENT AND BUDGET, DECEMBER 1966 TO JUNE 1973—NUMBER OF FORMS AND MAN-HOURS REQUIRED TO COMPLETE, BY TYPE OF FORM

[Man-hours in millions]

As of Date	Applications		Administrative reports		Statistical reports		Regulation reports		Total	
	Number	Man-hours	Number	Man-hours	Number	Man-hours	Number	Man-hours	Number	Man-hours
December 1966.....	1,065	38.3	2,213	49.9	1,243	11.8	259	3.3	4,780	103.3
June 1967.....	1,091	37.4	2,320	49.6	1,278	12.2	245	3.1	4,934	102.4
December 1976.....	1,110	43.8	2,369	51.1	1,273	12.5	239	3.0	4,991	113.3
June 1968.....	1,107	45.6	2,448	51.7	1,278	12.2	247	3.1	5,080	112.6
December 1968.....	1,123	41.3	2,480	52.0	1,267	14.0	249	2.8	5,119	110.1
June 1969.....	1,145	41.5	2,520	52.5	1,265	14.2	246	3.2	5,176	111.4
December 1969.....	1,138	41.0	2,544	52.1	1,268	14.2	252	3.3	5,202	110.6
June 1971.....	1,187	44.6	2,705	57.1	1,339	14.7	268	6.0	5,499	122.5
December 1971.....	1,152	46.8	2,570	57.5	1,318	11.4	258	14.8	5,298	133.5
June 1972.....	1,207	41.6	2,613	66.0	1,314	13.3	271	15.1	5,405	136.0
December 1972.....	1,258	41.0	2,623	75.4	1,332	16.1	328	8.0	5,541	140.4
June 1973.....	1,308	48.4	2,616	72.0	1,306	16.1	337	8.7	5,567	145.3
Percent change.....	22.8	26.4	18.2	44.3	5.1	36.4	30.1	63.6	16.5	40.7

Source: U.S. Senate, Committee on Government Operations, "Improving the Coordination of Federal Reporting Services," hearings on S. 200 and S. 1812, Washington, Government Printing Office, 1973.

The paperwork and ancillary requirements of Federal agencies inevitably produce a "regulatory lag," a delay that can run into years and can be a costly drain on the time and budgets of private managers as well as public officials. The Federal Trade Commission averages nearly 5 years to complete a restraint-of-trade case. It took the Federal Power Commission 11 years to determine how to regulate the price of natural gas all the way back to the wellhead. The regulatory lag appears to be lengthening. Ten years ago, the director of planning of the Irvine Co. obtained in 90 days what was then called zoning for a typical residential development. In 1975, a decade later, the company received what is now called entitlement to build for one of its developments, following 2 years of intensive work by a specialized group within the company's planning department aided by the public affairs staff. The preparation of environmental impact statements has become a major source of paperwork. The report for one offshore oil field in the Santa Barbara Channel, for example, required nearly 1,300 pages and took 2 years to prepare.²

Other aspects of government regulatory activities also can be costly. Several research efforts examining building regulations have documented repeated instances of increases in the price of housing as a result of local building codes. Rutgers University reported that overly stringent or outdated codes increase housing costs by somewhere between 5 and 10 percent of total unit costs.³

A study in Colorado found that changing regulatory requirements and practices had added \$1,500 to \$2,000 to the cost of the typical new house built between 1970 and 1975. The added cost consisted of higher water and sewer tap fees, increased permit fees, greater school and park

² Richard M. Geiler, "Development Regulations Must Be Reasonable," *Urban Land*, October 1976; Don Dedera, "What on Earth Is an EEE-EYE-ESS?," *Exxon USA*, 1st Quarter 1976.

³ George Sternlieb and David Listokin, "Building Codes, State of the Art, Strategies for the Future," Report submitted to the HUD Housing Review Task Force, June 1973.

land dedication requirements, and new mandates for wider and thicker streets, fences, underground storm sewers, and environmental impact studies.

In St. Louis County, Mo., the increase in lot development and homebuilding costs due to meeting government requirements during 1970-75 came to \$1,600 to \$2,500 for a typical 1,600 square foot house on a 10,000 square foot lot. The new governmentally imposed requirements included street lighting, greater collector street widths, higher permit and inspection fees, added features to electrical systems, and smoke detectors.

A study covering 21 residential development projects in the New Jersey Coastal Zone estimated the direct regulatory expenses for a single family house at \$1,600 during the period 1972-75. The costs covered some 38 separately required permits, including preliminary plat, performance improvement bond, sewer plan, tree removal permit, final plans review, road drainage permit, and coastal area facilities permit.⁴

Government inspectors are increasingly frequent, albeit unwelcomed, visitors to business premises. Milk plants also experience an extraordinary variety of inspections. More than 20,000 State, county, local, and municipal milk jurisdictions exist in the United States. A USDA study reveals that milk plants are inspected about 24 times annually, even though the Public Health Service recommends only two a year. In one State, each milk plant averaged 95 inspections during a year. One milk plant, licensed by 250 local governments, 3 States and 20 other agencies reported that it was inspected 47 times in 1 month in 1964.

In the more traditional areas, many regulations deal with natural monopolies, such as in the case of utilities. In some of these one-industry regulatory efforts, however, the government actions may be anticompetitive and thus ultimately costly to the consumer. Interstate trucking furnishes a cogent example, where Federal regulation is in large degree a barrier to entry protecting existing firms against possible new entrants.

A recent report prepared at the Center for the Study of American Business at Washington University estimates that the aggregate cost of complying with Federal regulation came to \$62.3 billion in 1976 or 20 times the direct cost to the taxpayer of supporting the major regulatory agencies.⁵ (See Table 4.)

TABLE 4.—ANNUAL COST OF FEDERAL REGULATION, BY AREA, 1976

[In millions of dollars]

Area	Administrative cost	Compliance cost	Total
Consumer safety and health.....	1,516	5,094	6,610
Job safety and working conditions.....	483	4,015	4,498
Energy and the environment.....	612	7,760	8,372
Financial regulation.....	104	1,118	1,222
Industry specific.....	474	26,322	26,796
Paperwork.....	(¹)	18,000	18,000
Total.....	3,189	62,309	65,498

¹ Included in other categories.

Source: Center for the Study of American Business.

⁴ Cited in Murray L. Weidenbaum, "Government Regulation and the Cost of Housing," *Urban Land*, February 1978.

⁵ DeFina, op. cit.

The basic approach followed in the study was to cull from the available literature the more reliable estimates of the costs of specific regulatory programs, to put those estimates on a consistent and reliable basis, and to aggregate the results for 1976. Where a range of costs was available for a given regulatory program, the lower end of the range was generally used. In many other cases no cost estimates were available. Thus, the numbers in the study are low and underestimate the actual costs of Federal regulation in the United States.

The estimates of regulatory costs include costs incurred by the Federal Government and costs incurred by economic units in response to regulation. In the first category, administrative costs are the expenditures arising from the operation of a regulatory activity by the Federal Government. These include salaries of government workers, office supplies, etc. They are the outlays for regulatory purposes which are reported in the Federal budget. The second category, compliance costs, are those costs incurred mainly by the private sector (and also by State and local governments) in the process of complying with the Federal regulatory mandates. These expenditures do not show up in the Federal budget and were estimated.

REGULATION AND INNOVATION

As William D. Carey of the American Association for the Advancement of Science has stated, "Government may imagine that it is neutral toward the rate and quality of technological risk-taking, but it is not * * * regulatory policies aimed at the public interest rarely consider impacts on innovation."⁶ The adverse effect of regulation on innovation is likely to be felt more strongly by smaller firms and thus have an anticompetitive impact. According to Dr. Mitchell Zavon, president of the American Association of Poison Control Centers—

"We've got to the point in regulatory action where it's become so costly and risky to bring out products that only the very largest firms can afford to engage in these risky ventures. To bring out a new pesticide you have to figure a cost of \$7 million and 7 years of time."⁷

One hidden cost of government regulation is a reduced rate of introduction of new products. The longer it takes for a new product to be approved by a government agency—or the more costly the approval process—the less likely that the new product will be created. In any event, innovation will be delayed.

Professor Sam Peltzman of the University of Chicago has estimated, for example, that the 1962 amendments to the Food and Drug Act are delaying the introduction of effective drugs by about 4 years, as well as leading to higher prices for pharmaceutical products.⁸ As a result in large part of the more stringent drug regulations, the United States was the 30th country to approve the antiasthma drug metapropitenol, the 32d country to approve the anticancer drug adriamycin, the 51st to approve the antituberculosis drug rifampin, the 64th to

⁶ William D. Carey, "Muddling Through: Government and Technology," *Science*, April 4, 1975.

⁷ Quoted in Sheila Rule, "Pesticide Regulations Called Too Stringent," *St. Louis Post-Dispatch*, September 13, 1974.

⁸ Sam Peltzman, "An Evaluation of Consumer Protection Legislation: The 1972 Drug Amendments," *Journal of Political Economy*, September-October 1973.

approve the antiallergenic drug cromolyn, and the 106th to approve the antibacterial drug co-trimoxazole.⁹

According to Thomas G. Moore of the Hoover Institution at Stanford University, regulation by the Interstate Commerce Commission delayed the introduction of unit trains by at least 5 years and delayed full use by the Southern Railroad of the "Big John" cars used to carry grain.¹⁰ Ann Friedlander has estimated the loss in the railroad industry due to retarded innovation at between \$12 million and \$41 million a year.¹¹

REGULATION AND CAPITAL FORMATION

Federal regulation also affects the prospects for economic growth and productivity by levying a claim on a rising share of new capital formation. This effect of regulation is most evident in the environmental and safety areas. According to the U.S. Council on Environmental Quality, private capital outlays for pollution control in 1975 were \$3.8 billion higher than would have been the case in the absence of Federal environmental requirements.¹² Similarly, the McGraw-Hill Department of Economics estimates the cost to American industry of meeting the occupational health and safety regulations at about \$3 billion a year. Thus these two programs alone account for 6 percent of total capital spending in the private sector of the American economy, which came to \$113 billion in 1975.

Edward Denison of the Brookings Institution has estimated the loss of productivity experienced in the United States in recent years in meeting government pollution and job safety standards. The loss in productivity results both from diversion of capital investment as well as from current expenses in meeting these regulatory requirements. By 1975, output per unit of input in the nonresidential business sector of the economy was 1.4 percent smaller than it would have been if business had operated under the regulatory conditions of 1967. Of this amount, Denison ascribes 1 percent to pollution abatement and 0.4 percent to employee safety and health programs.¹³

The reductions had been small in 1968-1970, but were rising rapidly in the 1970's. The increase in the amount of such lost productivity cut the annual change in output per unit of input by 0.2 percent in 1973, 0.4 percent in 1974, and 0.5 percent in 1975. The recent reduction in growth rates is equivalent to a large portion of the recent rises in economic growth.¹⁴

Capital formation and productivity may also be adversely affected by the uncertainty about the future of regulations governing the introduction of new processes and products. An example is furnished in the report of a task force of the U.S. Energy Resources Council

⁹ Testimony by Dr. William Wardell, University of Rochester School of Medicine and Dentistry, before the Senate Committee on Labor and Public Welfare, Subcommittee on Health, Washington, D.C., Sept. 27, 1974.

¹⁰ Thomas G. Moore, statement before the Senate Subcommittee on Transportation and Aeronautics, 92d Congress, Serial No. 92-79.

¹¹ Ann Friedlander, "The Social Costs of Regulating the Railroads," *American Economic Review*, May 1971.

¹² U.S. Council on Environmental Quality, *Fifth Annual Report*, Washington, Government Printing Office, 1975.

¹³ Edward F. Denison, "Effects of Selected Changes in the Institutional and Human Environment Upon Output Per Unit of Input," *Survey of Current Business*, January 1978.

¹⁴ *Ibid.*

dealing with the possibility of developing a new synthetic fuel industry. In evaluating the impact of the Federal Water Pollution Control Act Amendments of 1972, the task force reported, "It would be next to impossible at this time to predict the impact of these requirements on synthetic fuels production."¹⁵

In considering the National Environmental Policy Act of 1969, the task force stated that the major uncertainty was not whether a project would be allowed to proceed, but rather the length of time that it would be delayed pending the issuance of an environmental impact statement that would stand up in court. In assessing the overall impact of government regulatory activity on the establishment of a new energy industry, the task force concluded: "In summary, some of these requirements could easily hold up or permanently postpone any attempt to build and operate a synthetic fuels plant."¹⁶

REGULATION AND EMPLOYMENT

Government regulations, albeit unintentionally, can have strongly adverse effects on employment. The minimum wage law, for example, has priced many teenagers out of labor markets. One recent study has shown that the 1966 increase in the statutory minimum wage reduced teenage employment in the United States by 225,000 below what it otherwise would have been in 1972. Thus, as a result of that one change in government regulation, the youth unemployment rate in 1972 was 3.8 percentage points higher than it would otherwise have been.¹⁷

In construction labor—where unemployment rates are substantially above the national average—government regulation also acts to price some segments of the work force out of competitive labor markets. Under the Davis-Bacon legislation, the Secretary of Labor promulgates "prevailing" wages to be paid on Federal and federally supported construction projects. A variety of studies has shown that these federally mandated wage rates are often above those that actually prevail in the labor market where the work is to be done.¹⁸

REGULATION AND SMALL BUSINESS

Government regulation, often unwittingly, tends to hit small business disproportionately hard.¹⁹ Most of this impact is unintentional, in that the regulations typically do not distinguish among companies of different sizes. But in practice, forcing a very small firm to fill out the same specialized forms as a large company with highly trained technical staffs at its disposal places a significantly greater burden on that smaller enterprise. This general point is supported by data and examples for such different governmental regulatory activities as the Environmental Protection Agency, the Employee Retirement

¹⁵ Synfuels Interagency Task Force, "Recommendations for a Synthetic Fuels Commercialization Program," report submitted to the President's Energy Resources Council, Vol. 1, Washington, D.C., Government Printing Office, 1975.

¹⁶ *Ibid.*

¹⁷ James F. Ragan, Jr., "Minimum Wages and the Youth Labor Market," Publication No. 14, St. Louis, Center for the Study of American Business, Washington University, August 1977.

¹⁸ John P. Gould, Davis-Bacon Act, Washington, D.C., American Enterprise Institute, 1971; Armand J. Thieblot, Jr., The Davis-Bacon Act, Philadelphia, University of Pennsylvania, The Wharton School, 1975.

¹⁹ This section draws heavily from Kenneth W. Chilton, "The Impact of Federal Regulation on American Small Business," St. Louis, Washington University Center for the Study of American Business, March 1978.

Income Security Act, National Labor Relations Board, Occupational Safety and Health Administration, and the Securities and Exchange Commission.

A current example of government regulation affecting small business disproportionately is the proposed standards for air-lead exposure levels promulgated by the Occupational Safety and Health Administration. The impact of these standards has been examined in a recent study by Charles River Associates. In the battery industry, which is made up of 143 firms, OSHA lead regulations are estimated to result in much larger per unit production costs for smaller plants than for larger plants. Because of large differential costs and the fact that battery prices would only rise to cover the unit costs of the larger firms, smaller plant operators would be forced to absorb the differential in costs. In many cases the amount absorbed would eliminate entirely the plant's profitability. According to the Charles River Associates study, about 113 single plant battery firms would be forced to close, eliminating half of the productive capacity not operated by the five major battery companies.

It is much more difficult to assess the impact of regulations that are merely burdensome to small business, such as filling out government forms and responding to information requests by regulatory agencies. The Commission on Federal Paperwork reports that 5 million small businesses spend \$15-\$20 billion, or an average of over \$3,000 each on Federal paperwork. Not all examples of the heavier burden of regulation on small business have to do with the newer regulatory agencies. A National Labor Relations Board election is a good example. Table 5 shows the total estimated cost per employee of an NLRB election by size of the company work force. Clearly the unit cost of meeting this regulatory requirement is smaller for the large firm (\$101.60 for companies with over 1,000 employees) and larger for the small firm (\$134.60 for firms with fewer than 100 workers).²⁰

TABLE 5.—NLRB ELECTION COSTS PER EMPLOYEE

Cost category	Number of employees eligible to vote					
	50 to 99	100 to 149	150 to 299	300 to 599	600 to 1,000	1,000 plus
Legal.....	\$26.00	\$19.00	\$15.50	\$12.00	\$8.00	\$8.00
Employee time.....	27.00	27.00	27.00	27.00	27.00	27.00
Loss in productivity.....	57.60	57.60	57.60	57.60	57.60	57.60
Executive time.....	24.00	20.00	18.00	12.00	9.60	9.00
Total cost per employee.....	134.60	123.60	118.10	108.60	102.20	101.60

Source: Michigan State University Business Topics.

REGULATION AND ENTREPRENEURIAL FUNCTIONS

One of the unmeasurable effects of government regulation is what it does to the basic entrepreneurial nature of the private enterprise system. To the extent that management's attention is diverted from traditional product development, production, and marketing concerns to meeting governmentally imposed social requirements, a significant bureaucratization of corporate activity results.

²⁰ Woodruff Imberman, "How Expensive Is an NLRB Election?", Michigan State University Business Topics, Summer 1975.

In employee pension fund management, for example, the recently enacted pension regulation has shifted much of the concern of fund managers from maximizing the return on the contributions to a more cautious approach of minimizing the likelihood that the managers will be criticized for their investment decisions. It thus becomes safer—although not necessarily more desirable for the employees covered—for the pension managers to keep more detailed records of their deliberations, to hire more outside experts (so that the responsibility can be diluted), and to avoid innovative investments.²¹

In the occupational safety and health area, professional safety staffs are often diverted from their basic function of training workers in safer operating procedures to filling out forms, posting notices, and meeting other essentially bureaucratic requirements. OSHA directives, for example, contain very specific requirements for virtually every piece of equipment used in the production of steel. These requirements range from such major items as coke ovens all the way down to such minutiae as the ladders used in plants and the mandatory 42-inch height from the floor for portable fire extinguishers.

The results measured by any improvement in safety are almost invariably disappointing. Two major studies of the occupational safety and health (OSHA) program to date have yielded negative findings. Nicholas A. Ashford concluded that "The OSHA Act has failed thus far to live up to its potential for reducing job injury and disease * * * OSHA has had little measurable impact in reducing injuries and deaths."²²

In a more detailed statistical analysis, Robert S. Smith reported similar findings, "* * * the estimated effects [of OSHA] on injuries are so small that they cannot be distinguished from zero."²³ Apparently, the original concern of the public and the Congress to reduce accidents has been converted to obeying rules and regulations. The disappointing results lead to a predictable reaction: Redouble the existing effort—more rules, more forms, more inspection, and thus higher costs to the taxpayer and higher prices to the consumer.

More recent statistics on occupational injuries and illnesses are hardly reassuring. The reported overall accident and illness rate have been declining, from 10.4 per 100 workers in 1974 to 9.1 in 1975. However, the number of workdays lost to injuries and illnesses per 100 workers actually rose, to 54.4 in 1975 from 53.1 in 1974. On the average the affected workers took more time off than in the previous year. This could indicate that the injuries and illnesses that did occur in 1975 were typically more severe. Apparently the impact of OSHA occurred primarily in reducing the number of minor accidents and illnesses.

²¹ Shoya Zichy, "How Small Funds Are Coping With the New Pension Law," Institutional Investor, September 1975.

²² Nicholas A. Ashford, "Crisis in the Workplace: Occupational Disease and Injury," Cambridge, MIT Press, 1976.

²³ Robert S. Smith, "The Occupational Safety and Health Act," Washington, American Enterprise Institute, 1976.

APPROACHES TO REGULATORY REFORM

A new way of looking at the microeconomic effects of regulatory programs may be helpful to public policymaking. A parallel can be drawn to macroeconomic matters, where important and at times conflicting objectives are recognized and attempts at reconciliation or trade-off are made (for example, as among economic growth, employment, income distribution, and price stability). At the microeconomic level, it may likewise be appropriate to reconcile the goals of specific government programs with national objectives.

Healthy working conditions, for example, are an important national objective, but not the only important national objective. Society supposedly should avoid selecting the most costly and disruptive methods of achieving a higher degree of job safety. Similarly, environmental protection, product safety, and other regulatory efforts should be related to costs to the consumer, availability of new products, and the employment of the work force. In part, this reconciliation can be made at the initial stages of the governmental process, when the President proposes and the Congress enacts a new regulatory program.

BENEFIT-COST ANALYSIS

One device for broadening the horizons of government policymakers and administrators is the economic impact statement. Policymakers could be required to consider the costs (and other adverse effects) of their actions as well as the benefits.

This is not a novel idea. In November 1974, then President Gerald Ford instructed the Federal agencies under his jurisdiction to examine the effects of the major regulatory actions on costs, productivity, employment, and other economic factors. This first step was subject to several shortcomings. Many of the key regulatory agencies—ranging from the Consumer Product Safety Commission to the Federal Trade Commission—are so-called independent agencies, which are beyond the President's jurisdiction in these matters.

Second, even in the case of the regulatory activities that come within presidential jurisdiction, the existing policy is limited to the regulations that, in the issuing agency's own estimation, are "major." Third, the agencies covered by the Executive order are only required to examine the economic aspects of their actions; the weight they give to economic factors remains in their discretion—to the extent that congressional statutes permit them to give any consideration to economic influences at all.

Within these constraints, the Council on Wage and Price Stability has intervened in many cases of proposed regulation to offer its analyses of the benefits and the costs of the proposed action. The agencies have rarely welcomed this advice, but the publicity given some of the Council's analyses may have at times provided a deterrent to the more traditionally minded personnel of regulatory agencies, as well as serving a larger public educational purpose.

A broader approach may be warranted, one with a strong legislative mandate. In the fashion of the environmental impact statements (but hopefully without as much of the trivia), Congress could require each regulatory agency to assess the impact of its proposed actions on the society as a whole, and particularly on the economy. Much would depend on the "teeth" put into any required economic impact statement. Merely legislating the performance of some economic analysis by an unsympathetic regulator would serve little purpose beyond delaying the regulatory process and making it more costly. But limiting government regulation to those instances where the total benefits to society exceed the costs would be a major departure from current practice.

To an eclectic economist, government regulation should be carried to the point where the incremental costs equal the incremental benefits, and no further. Indeed, this is the basic criterion that is generally used to screen government investments in physical resources. Over-regulation—which can be defined as regulation for which the costs exceed the benefits—would be avoided under this approach.

Many of the proposals to reform government regulation involve the "sunset" mechanism—the compulsory periodic review of each major regulatory program to determine whether it is worthwhile to continue it in the light of changing circumstances. A benefit-cost analysis would provide a quantitative mechanism to aid in making those value judgments.

BUDGETING AS A MANAGEMENT TOOL

Attention should be given to the role of the budget process in managing regulation. In those cases where an agency's regulations generate more costs than benefits, the agency's budget for the coming year might be reduced. Budget reviewers, be they examiners in the executive branch or committee staffs in the legislature, face the perennial question of how to measure the effectiveness of an agency that does not provide marketable outputs. The traditional response is to concentrate on the inputs utilized (as, for example, workload statistics). Benefit-cost analysis, cost-effectiveness analysis (which is in effect the search for least-cost solutions) or other quantitative forms of program evaluation may provide useful alternatives in such cases.

Because the requested appropriations for the regulatory agencies are relatively small portions of the government's budget, limited attention has been given to these activities in the budget process. In view of the large costs that they often impose on the society as a whole (those "hidden taxes" shifted to the private sector), greater attention than now given is warranted to the reviews of the appropriation requests for regulatory programs.

The wide dissemination of data on the economic impacts of government regulation also may serve to alter the balance of forces now exerted by interest groups on the decisionmaking process. At present, interest groups are most often well aware of the benefits they would receive from a proposed regulation, and thus they mobilize their forces to promote that regulation. But information on the adverse consequences of the regulation, if widely distributed, might generate countervailing pressures from other groups.¹

¹ Roland McKean, "Property Rights Within Government, and Devices To Increase Efficiency in Government," *Southern Economic Journal*, October 1972.

CHANGING ATTITUDES TOWARD REGULATION

Basically, however, it is attitudes that may need to be changed. Experience with the job safety program provides a cogent example. Although the government's safety rules have resulted in billions of dollars in public and private outlays, the basic goal of a safer work environment has not been achieved.

A more satisfying answer to improving the effectiveness of government regulation of private activities requires a basic change in the approach to regulation, and one not limited to the job safety program. Indeed, that program is used here merely as an illustration. If the objective of public policy is to reduce accidents, then public policy should focus directly on the reduction of accidents. Excessively detailed regulations are often merely a substitute—the normal bureaucratic substitute—for hard policy decisions.

Rather than emphasis being placed on issuing citations to employers who fail to fill forms out correctly or who do not post the required notices, it should be placed on the regulation of those employers with high and rising accident rates. Perhaps fines should be levied on those establishments with the worst safety records. As the accident rates decline toward some sensible average standard, the fines could be reduced or eliminated.

But the Government should not be much concerned with the way a specific organization achieves a safer working environment. Some companies may find it more efficient to change work rules, others to buy new equipment, and still others to retrain workers. The making of this choice is precisely the kind of operational business decisionmaking that government should avoid, but that now dominates many regulatory programs. Without diminishing the responsibility of the employers, the sanctions under the Federal occupational safety and health law should be extended to employees, especially those whose negligence endangers other employees. The purpose here is not to be harsh, but to set up effective incentives to achieve society's objectives. This can be a preferred alternative to government specifying the details of what it considers to be "acceptable" private action.

A recent case in point is provided by the proposed job safety standards for exposure to lead in the workplace. OSHA would require smelters, battery manufacturers and other firms to install engineering controls that reduce the maximum exposure level from its present 200 micrograms of lead per cubic meter of air to 100 micrograms.

The U.S. Council on Wage and Price Stability has estimated that meeting the proposed standards could cost the industries affected and ultimately consumers over \$300 million a year. The Council urges that OSHA allow each company to use the most efficient way of achieving the new standard, whether that requires costly engineering controls or some other method.² Intensive employee training might be one of those alternate methods, if a study in the United Kingdom can serve as a guide. According to a report in the "British Journal of Industrial Medicine," the lead exposures of employees doing almost identical jobs differed by ratios of up to four to one. This was totally attributed to personal differences in working habits.³

² U.S. Council on Wage and Price Stability, "Council Comments on OSHA's Proposed Standard on Lead," Washington, The Council, March 15, 1977.

³ M. K. Williams, E. King, and John Walford, "An Investigation of Lead Absorption in an Electric Accumulator Factory With the Use of Personal Samples," "British Journal of Industrial Medicine," 1969, No. 26.

With reference to consumer protection regulation, an information strategy may often provide a sensible alternative. For the many visible hazards that consumers voluntarily subject themselves to, perhaps the most important consideration of public policy is to improve the individual's knowledge of the risks involved rather than limit personal discretion. In their daily lives, citizens rarely opt for zero risk alternatives. For example, many pedestrians voluntarily race across a busy intersection rather than wait for the traffic light to change.

ALTERNATIVES TO REGULATION

The promulgation by government of rules and regulations restricting or prescribing private activity of course is not the only means of accomplishing public objectives. Codes of behavior adhered to on a voluntary basis may often be effective.⁴ Trade associates on occasion have served such a socially useful function in upgrading the level of business performance.

Government itself has available to it various powers other than the regulatory mechanism. Through its taxing authority, the Government can provide strong signals to the market. Rather than promulgating detailed regulations governing allowable discharges into the Nation's waterways, the Government could levy substantial taxes on those discharges. Such sumptuary taxation could be "progressive," to the extent that the tax rates would rise faster than the amount of pollution emitted by an individual polluter. Thus, there would be an incentive for firms to concentrate on removing or at least reducing the more serious instances of pollution.

The use of taxation would neither be meant to punish polluters nor to give them a "license" to pollute. Rather it would be using the price system to encourage producers and consumers to shift to less polluting ways of producing and consuming goods and services. The cost of removal of pollution for each organization, compared to the size of the tax, would determine the level of environmental cleanup that it pursues. Those that can control pollution more cheaply will clean up more (and thus pay less tax). Those with higher control costs will clean up less (and pay more pollution taxes). This approach attempts to achieve a given level of environmental quality with minimum resource use by equalizing the marginal cost of pollution control.⁵

In the case of the traditional one-industry type of government regulation (as of airlines, trucking, and railroads) a greater role should be given to the competitive process and to market forces. Unlike the newer forms of regulation on which this paper concentrates, the older forms of regulation are often mainly barriers to entry into a given industry, protecting existing firms from competition by potential new entrants. It is in this limited sense that deregulation is a viable option. The elimination of regulation in the safety, ecology, and related areas does not appear to be a realistic alternative in view of the Nation's long-term social concerns.

Indeed, any realistic appraisal of government regulation must acknowledge that important and positive benefits have resulted from many of these activities—less pollution, fewer product hazards,

⁴ See Roland McKean, "Economics of Ethical and Behavioral Codes", Working Paper No. 11, St. Louis, Center for the Study of American Business, Washington University, 1976.

⁵ Marc J. Roberts and Richard B. Stewart, "Energy and the Environment," in Henry Owen and Charles L. Schultze, editors, "Setting National Priorities: The Next Ten Years," Washington, the Brookings Institution, 1976.

reducing job discrimination, and other socially desirable goals of our society. But the "externalities" generated by Federal regulation cannot justify government attempting to regulate every facet of private behavior. As Henry Owen and Charles Schultze have pointed out, a reasonable approach to this problem requires great discrimination in sorting out the hazards that it is important to regulate from the kinds of lesser hazards that can best be dealt with by "the normal prudence of consumers, workers, and business firms."⁶

⁶ Henry Owen and Charles L. Schultze, "Introduction," in *ibid.*

Appendix. FEDERAL EXPENDITURES FOR REGULATION OF BUSINESS

APPENDIX TABLE 1.—EXPENDITURES ON FEDERAL REGULATORY ACTIVITIES, CONSUMER SAFETY AND HEALTH
[Fiscal years; in millions of dollars]

Agency	1974	1975	1976	1977	1978	1979
Department of Agriculture:						
Animal and Plant Health Inspection Service.....	314	345	377	337	220	219
Federal Grain Inspection Service.....				9	23	23
Food Safety and Quality Service.....				138	619	588
Subtotal.....	314	345	377	484	862	830
Department of Health, Education, and Welfare: Food and Drug Administration.....						
	165	201	218	245	283	298
Department of Housing and Urban Development: Interstate land sales and other regulatory functions.....						
	1	2	(¹)	2	1	(¹)
Department of Justice:						
Antitrust Division.....	14	18	21	26	35	45
Drug Enforcement Administration ²	98	132	146	167	190	194
Subtotal.....	112	150	167	193	225	239
Department of Transportation:						
National Highway Traffic Safety Administration.....	157	150	151	169	206	246
Federal Railroad Administration ³	7	9	15	17	21	25
Coast Guard.....	210	162	192	261	281	294
Federal Aviation Administration.....	2	1	(¹)	1	1	(¹)
Federal Highway Administration.....		6	7	7	8	13
Subtotal.....	376	328	365	455	517	578
Department of the Treasury:						
Bureau of Alcohol, Tobacco, and Firearms.....	79	95	103	117	127	134
Customs Service.....	228	299	334	436	510	534
Subtotal.....	307	394	437	553	637	668
Consumer Product Safety Commission.....	19	34	38	40	42	40
National Transportation Safety Board.....	8	9	11	13	15	15
Consumer protection activities.....						43
Total.....	1,302	1,463	1,613	1,985	2,582	2,671

¹ Less than \$1,000,000.

² Activities extend beyond business regulation (breakdown not available).

³ Railroad safety only.

⁴ Costs of proposed consumer representation less saving from consolidating consumer protection activities.

Source: Computed from details in the "Budget of the United States Government, Fiscal Year 1979," Washington, Government Printing Office, 1978.

APPENDIX TABLE 2.—EXPENDITURES ON FEDERAL REGULATORY ACTIVITIES, JOB SAFETY AND OTHER WORKING CONDITIONS

[Fiscal years; in millions of dollars]

Agency	1974	1975	1976	1977	1978	1979
Department of the Interior:						
Office of Surface Mining, Reclamation and Enforcement ¹					16	1
Mining Enforcement and Safety Administration.....	59	68	84	98	53	(²)
Subtotal.....	59	68	84	98	69	1

See footnotes at end of table.

APPENDIX TABLE 2.—EXPENDITURES ON FEDERAL REGULATORY ACTIVITIES, JOB SAFETY AND OTHER WORKING CONDITIONS—Continued

[Fiscal years; in millions of dollars]

	1974	1975	1976	1977	1978	1979
Department of Labor:						
Employment Standards Administration.....	56	72	84	60	67	77
Labor-Management Services Administration.....	24	27	37	47	55	58
Occupational Safety and Health Administration.....	69	90	109	127	129	150
Mine Safety and Health Administration.....	(*)	(*)	(*)	(*)	55	124
Subtotal.....	149	189	230	234	306	409
Equal Employment Opportunity Commission.....	42	56	59	72	88	108
National Labor Relations Board.....	55	61	67	81	92	100
Occupational Safety and Health Review Commission.....	5	5	6	7	7	8
Total.....	310	379	446	492	562	626

* Regulation and technology only.

* During fiscal year 1978, MESA functions were transferred to the Mine Safety and Health Administration under the Department of Labor.

Source: Computed from details in the "Budget of the United States Government, Fiscal Year 1979," Washington, Government Printing Office, 1978.

APPENDIX TABLE 3.—EXPENDITURES ON FEDERAL REGULATORY ACTIVITIES, ENVIRONMENT AND ENERGY

[Fiscal years; in millions of dollars]

Agency	1974	1975	1976	1977	1978	1979
Department of Energy ¹	33	121	136	199	238	284
Council on Environmental Quality.....	2	3	3	4	3	3
Environmental Protection Agency.....	232	317	363	436	473	522
Nuclear Regulatory Commission.....	80	86	180	231	275	307
Total.....	347	527	682	870	989	1,116

¹ Energy information, policy, and regulation.

Source: Computed from details in the "Budget of the United States Government, Fiscal Year 1979," Washington, Government Printing Office, 1978.

APPENDIX TABLE 4.—EXPENDITURES ON FEDERAL REGULATORY ACTIVITIES, FINANCIAL REPORTING, AND OTHER FINANCIAL

[Fiscal years; in millions of dollars]

Agency	1974	1975	1976	1977	1978	1979
Cost Accounting Standards Board.....	1	1	1	2	2	2
Council on Wage and Price Stability.....		(1)	1	2	2	2
Securities and Exchange Commission.....	35	44	51	54	66	65
Total.....	36	45	53	58	70	69

¹ Less than \$1,000,000.

Source: Computed from details in the "Budget of the United States Government, Fiscal Year 1979," Washington, Government Printing Office, 1978.

APPENDIX TABLE 5.—EXPENDITURES ON FEDERAL REGULATORY ACTIVITIES, INDUSTRY-SPECIFIC REGULATION
 [Fiscal years; in millions of dollars]

Agency	1974	1975	1976	1977	1978	1979
Civil Aeronautics Board.....	89	81	91	103	101	96
Commodity Futures Trading Commission.....	13	13	11	14	15	16
Federal Communications Commission.....	38	48	53	56	70	66
Federal Maritime Commission.....	6	7	8	8	10	10
Federal Power Commission.....	27	34	(²)	(²)	(²)	(²)
Federal Trade Commission.....	32	39	44	52	62	64
International Trade Commission.....	7	8	10	11	12	13
Interstate Commerce Commission.....	38	44	47	59	64	69
Renegotiation Board.....	5	5	6	6	6	7
Total.....	245	269	270	309	340	341

¹ Expenditures for Commodity Exchange Authority.

² Federal Power Commission functions have been transferred to the Department of Energy.

Source: Computed from details in the "Budget of the United States Government, Fiscal Year 1979," Washington, Government Printing Office, 1978.

Senator BENTSEN. I am delighted you haven't just griped about the problems. You have come up with specific ideas to try to resolve them.

I want to pursue some of them. I want to deal with some of those in more specifics in a moment.

Mr. Haysbert, please proceed.

**STATEMENT OF RAYMOND V. HAYSBERT, SR., PRESIDENT,
PARKS SAUSAGE CO.**

Mr. HAYSBERT. I am Ray Haysbert, president of Parks Sausage, a small firm with \$14 million in sales, primarily known through our advertising slogan.

Senator BENTSEN. What is your advertising slogan?

Mr. HAYSBERT. "More Parks sausages, Mom."

Senator BENTSEN. No extra charge for that.

Mr. HAYSBERT. I am sure that the many witnesses appearing before you have impressed you with the regulatory effect on big business, but the other side of the coin is what I know about the effect of regulation on microbusiness. I can speak from personal experience as to the impact of Government agencies on the smaller businesses of our country.

The Code of Federal Regulations fills 65,000 pages, in 38 volumes—a shelf 15 feet long. What business or individual could possibly understand or live up to them all? New regulations are being added by the thousands each year. Often we find one agency isn't handling the job properly, but instead of evaluating what that group is doing, there is a tendency to get a new agency to do what the first group should be doing.

It is difficult for small business to understand standards as well. When an act as well intended as OSHA comes out, the regulators, in trying to reach big business, do not give proper deliberation to its effects on small operations that provide 50 percent of the employment in this country.

As a case in point, the early prohibition of ice in drinking water knocked the devil out of the neighborhood diner, the small cafeteria operator. There are almost 5 million business establishments over which these Federal regulations apply.

I know when Bethlehem Steel lays off 18,000 people it hits the newspapers. But actually in the communities in which the larger businesses operate, the smaller businesses are supplying a good deal of employment.

It is counterproductive to smother, to constrict, to strangle business in America with regulations, with paperwork; while wondering why trade deficits grow, and jobs diminish.

One example of this smothering effect is in the attempt by a small business to gain capital to grow. The classic story in America is that of the small entrepreneur who wants to go public with his stock to add to his capital not just add to his debt.

My company's experience is a typical tale for small business.

We found out that our accountants, our CPA's, could not, and would not, attempt to provide the kind of highly specialized knowledge that the myriad complexities of SEC regulations call for. So we had to go to the highly priced experts of the big accounting

firms. Our black lawyers who headed the Baltimore Bar Association, a former supreme bench judge, a city solicitor, and a renowned and learned lawyer, had to be replaced with an expensive Wall Street firm who knew their way through the maze of convoluted rules. Rules that were not designed for businesses our size but for big business. We had to employ specialized printing firms, a financial public relations firm, banking firms, and many other specialists.

The cost was an astronomical \$96,000, which for our small operation was practically a year's earnings. If we had known what it would have cost, we would not have attempted it. The structure, the paperwork, the regulations, require the same for a \$300,000 issue as for a \$300 million stock issue.

Senator BENTSEN. How much money did you raise?

Mr. HAYSBERT. We raised \$420,000.

Senator BENTSEN. \$420,000 and you paid \$96,000?

Mr. HAYSBERT. \$96,000.

Senator BENTSEN. I agree with you. I would not have done it either.

Mr. HAYSBERT. We didn't know what we were getting into.

Another example, we have a linkage with a small minority trucking firm, that we sponsored through the maze of the ICC to haul our sausage products. He had a lot of trouble penetrating the regulations that larger operators, with their advisers and counselors, find easy to do. The Small Business Administration may provide him with a loan but he is smothered in his performance as our carrier by overrestrictive regulation.

Men delivering our sausage to Philadelphia or Boston must account for their time every 15 minutes on a log to the ICC. Thousands of entries and pieces of paper that neither identify possible violators nor help in their prosecution. We are not saying that they have to stop every 15 minutes and write down the last 15 minutes. But they are obliged to do so, say, when they go to lunch. And these thousands of entries that take place and these pieces of paper that neither identify possible violators nor help in the prosecution is just a drag on the operation. Who else in America accounts for every quarter hour?

And the ICC regulations for Mr. Gaines, our contract carrier, prevent him from getting too far away from the New Jersey Turnpike in picking up our raw pork materials lest he violates someone's rights. He can't afford to support an ICC lawyer and an ICC accountant; thus he is effectively stopped from growing.

I am dealing with small quantities, 1,000 pounds, 2,000 pounds that he cannot pick up in an area or town 10 miles from the New Jersey Turnpike, because his ICC rights say that he has to go to Philadelphia, Newark, or New York City. He cannot afford to violate those rights.

You mentioned exports for small businesses. We attempted to introduce the people of the Caribbean to our products. We felt they deserved it, too. We ran into such a mass of conflicting rules from the Department of Agriculture and any 1 of the 11 agencies that regulate our business so that we were effectively stopped from expanding.

I will admit that the trade deficit would not have been materially affected but I can assure you that we were.

I would like to bring you some background from a bank where I sit on the board of directors. In the bank that I am connected with, new heights of absurdity are being reached. In the wake of the Bert Lance resignation, the agencies regulating banking panicked. The SEC jumped into the act. In addition to "certain persons," directors and officers and large stockholders, they now seek to examine all employees and their associates; not just persons who can exercise some control or influence over policy. The tellers can't create company policy—and to extend this to family members of employees, et cetera, makes compliance even more absurd.

True insiders are another thing. They should have to give up some of their right to privacy as a price for their role in a public company.

As late as March 16, and FDIC survey was asked to see if any additional regulatory legislation was needed. The cost was \$850,000 for FDIC and \$3.5 million for the reporting banks. No legislation was needed.

As far as small business is concerned, we think that 1984 is here. If you will remember, Senator, the book says that privacy would be invaded in 1984, that the Government would be in every home. As far as we are concerned, that is already here.

We are not allowed, for example, on some occasions, to open our doors unless there is a Federal representative on the premises. Just Saturday, as part of our regular contract for spraying pesticides, we had to use a Government-approved pesticide from Dow Chemical. It had already been approved. They came in Saturday to spray it around the walls. We had to employ a Government inspector at \$12.50 an hour to stay there while the pesticide was sprayed.

To big business, \$50 doesn't count too much. But to us, we have to pile it on our sausages as we send it up and down the east coast.

It just occurred to me that I may be better able to illustrate this by saying how many of our sausages go to overregulation, but I have failed to do so.

With conflicting regulations between Federal and State agencies, the average reader is overwhelmed and confused by the quantity of information, significant points of information are smothered and the amount discourages reading because it appears so technical.

SENATOR BENTSEN. I noticed you were talking about linkages. [Laughter.]

MR. HAYSBERT. Well said. Our bank spends well in excess of \$225,000 for outside legal/professional fees in addition to almost \$275,000 in staff time for reporting to the Government. A major cause for the redtape and endless paperwork is the failure of Government officials to understand how their decisions and actions affect others and place an undue burden on those outside government.

In our bank we actually had to set aside a room, a permanent space assigned to nothing but regulators. It is not a question of when they happen to come by, and Joe is in New York, so use his office. We have to have a permanent space assigned to regulators.

At the very minimum a two-tier system for the burdens of paperwork and regulations is needed urgently—one tier for bigger businesses, and one for smaller businesses.

Many reports are burdensome because they ask for details on the process being followed. This burden can be lifted by shifting to

performance standards, so that the results rather than the process becomes the subject of the Government's inquiry—and then reduce the frequency of reporting for those who consistently meet standards.

Part of the burden is the details that they ask on the Government forms as to how they arrive at numbers. Line 1 going to line 2 is divided by line 3, while in reality all they want to know is whether over 15 percent of your business is in a certain line. Why do the arithmetic on the form?

If your business operated like that, they could look at the bottom line. Certainly IRS has computed that when they do my contribution. They don't investigate my contributions until it exceeds a threshold. All they do is look at the bottom line.

If all they would do would be to look at the bottom line, then some of the damn details would be cut out and the amount of paperwork would go down at least 90 percent. That is my small contribution.

Information has values and costs—the people who plan many programs need to weigh the cost-benefit of information they acquire, store, use, and discard, and not just the cost to the agency but to the respondents.

This cost pervades all segments of our lives. The South Baltimore General Hospital, on whose board I sit, is besieged by triple layers of regulators, who succeed most of all in driving up the cost of operation. Thus working under the flag of reducing hospital costs, they actually succeed in raising the cost of administering health care. Government paperwork hurts those least able to fend for themselves: The poor and disabled, the small business and small educational institutions.

In many instances, Government efforts have been counterproductive. Medicare and medicaid, words that roll off your tongue, are of unquestioned benefit to the old and the poor; but have been set up in ways that aggravate health care cost escalation. And Government cost-control attempts within these programs have tended either to squeeze the old and poor, or to push the cost of caring for public beneficiaries onto the private patient.

Expansion of regulations to control costs is pushing the health care system in the direction of a public utility which will require further control. And it is not working.

The day-to-day operation of the hospital is subject to Federal requirements which are from time to time in conflict and difficult to interpret. Regulations and the intermediary activity involve review of each patient's medical record even after a review and approval by the Professional Service Review Organization whose principle purpose is to review each medicare and medicaid activity. Conflicts occur between the accreditation commissions, the city of Baltimore, and the State of Maryland, which all use different portions of Federal Hill-Burton regulations, and every one calls for collecting every piece of information imaginable. This is really expensive.

For example, regulations now forbid employment discrimination against alcoholics and drug addicts as "handicapped" individuals. Yet the Controlled Substances Act discourages employment of drug addicts or alcoholics near drugs or alcohol. Where do we go from here? How does anyone come up with that type of absurdity?

In our own plant, USDA requires that our sausage kitchens' floors be washed repeatedly for sanitary purposes, yet OSHA rules that floors must be dry. What is a man to do?

The costs of regulation take many forms. You are familiar with the budgetary cost of administering the agencies, the added paperwork burden on private business associated with regulations and reporting, but there are other costs of complying with regulations, and a variety of economic effects that follow from the increased uncertainty and expense of the product notably, lower productivity, higher prices, and fewer consumer goods.

The hidden costs imposed on the small business, the manpower and material devoted to filling out Federal forms, are \$500 per every man, woman, and child in the country, and we have to deal with OSHA, ERISA, USDA, SEC, EEOC, FDA, the EPA, DOL, DOT, the FTC, the IRS, to say nothing of State and local agencies.

The effect on a smaller business is disastrous. The labor time, management time, and other resources that must be devoted to interpreting and meeting regulations almost necessarily mean that more productive inputs are needed to produce any given amount of output. Less output implies less real income per hour. Therefore, it is contraproductive to the consumerism that caused regulation in the first place. There is a tradeoff between quantity and quality of goods. Increased costs are no way to increase production, employment, and real incomes.

Regulatory risk is the possibility that today's business investment may be rendered obsolete or uneconomical by a change in regulations. This paralyzes long-term planning, and weakens long-term investment.

I am sure these gentlemen recognize the fact that before you make a decision you have to figure out if 2 years from now there will be a government regulation that will throw your entire investment out. So you stay home—you do not expand. You do not try to get another gasoline station because the zoning regulations or this act or that act make it unwise to try to go through with it.

Productivity is further weakened by the nature of the regulations themselves—roundabout truck routing, empty trucks—or foster non-price rivalry by banning price competition.

These costs contribute to higher taxes, higher prices, and a reduced supply of consumer goods and services. That is, business regulation makes people poorer.

And when it comes to benefits some receive more than others, so we pay more for regulations than others. And some businesses get more benefits than others.

One consequence is the competitive survival of businesses that are best able to pay the price. Those best able to hire the new class of form-filling consultants, the lawyers that specialize, the accountants that specialize are not the small businesses. So they sink, or they are absorbed by larger fish that are better equipped to handle the paperwork monster.

Gentlemen, I was not elected to represent them, but I speak for the smaller business, the group who supply 55 percent of the employment, and almost 50 percent of the gross national product. This

group cannot afford to support staffs of form fillers, specialized attorneys and statisticians. They are already putting in 16 hours a day. Their limited resources in detailed information and productivity is being squeezed and smothered by overregulation. The issue is the bottom line results, not the detail, not if the regulators are doing things right but if they are doing the right thing.

Thank you.

Senator BENTSEN. Thank you. You stated it very eloquently and succinctly. We appreciate your statement.

You were talking about conflicts between the agencies. One of our experiences involves a farm 40 miles from town, raising grain. You drive a truck in and a vacuum picks up the grain. Dust occurs. EPA came in and told us that the dust had to be enclosed. Therefore, the truck had to be enclosed so that with all this vacuuming the grain would not blow out.

There is just one problem with all of that dust from the grain being enclosed: The first truck driver that drove in there smoking a cigarette would have been blown to kingdom come. So we then had a problem with OSHA and had to tear it down.

I know of one instance in a factory where they had to put bells on all vehicles moving backward in the factory to protect the people and then they had to put ear muffs on the people to protect them from the noise.

Mr. HAYSBERT. I can understand that. A small college was told by one agency that the windows should be unbreakable glass in order to protect the people from flying glass in case the windows were shattered. Then the fire department told them there had to be regular plate glass because the people could get out or get air into it; they had to be able to break the windows to get out.

Senator BENTSEN. Mr. Orefice, you have had business experience in other countries. With that kind of a background, can you give me some comment on what effect you think regulations are having on our balance of trade?

Mr. OREFICE. Yes. I think there are two impacts. One is a direct-cost impact, making us uncompetitive. We don't have as accurate a study for our foreign plants as we do for our domestic plants. In 1976, in our domestic plants, those direct costs amounted to 6 percent of our sales. My guess is that abroad it is more like 2 or 3 percent, something of that range.

So there is an indirect cost of regulation. But I think even more serious is what I was talking about, innovation; about new products, about our ability to compete being directly related to bringing our new products, new formulations onboard. This is being hindered in a manner that is absolutely incredible. Here is a small example.

Cholesterol was mentioned before. In April of last year we came out with a cholesterol-lowering drug that has no side effects, and this is one of the great things. Of course, it had to go through the whole FDA procedure, and I understand why we need that. But 3 years ago before it was finally launched it had gone through the whole FDA procedure. It was one day away from being approved, but then someone came along and said you haven't tested it enough on people who have lowered their cholesterol by diet. So we had to do 2½ more years of testing on that.

So here was a safe proven drug that was held out of the market for two and a half years strictly by bureaucratic procedures.

Senator BENTSEN. You talk about cost-benefits. I am on the Environment and Public Works Committee which is very much involved with clean water and clean air. Cost-benefit ratios are a very emotional subject. I want to clean up water and clean up the air. I think everyone of sound thinking wants that.

Mr. OREFFICE. May I make a comment? I think the Clean Air and Clean Water Acts' latest amendments will have deleterious effects on the industry. I agree 100 percent: we must clean up the air and the water. I think a lot has been done, more voluntarily by industry than by regulation. I would like to see people in EPA read what they wrote and see if they understand it. When the amendments to the Clean Air Act, recently adopted, go into effect in July 1979, we will see productive investment diminish even more, because even if they want to be friendly to industry, the States will be unable to give environmental permits to build new plants.

Senator BENTSEN. I would like to defer to Congressman Brown.

Representative BROWN of Michigan. Thank you. Let me apologize for not being here earlier. Mr. Orefice, I certainly was interested in your comparison of comparable plants here and abroad on this whole issue. We hear from farmers, dairy farmers, and others, about products imported from foreign countries where they don't have to have the clean water waste containment system, for example, that is imposed on dairy farmers and livestock raisers in the United States.

I suppose if we are going to put our products on a par, what we should do is to the extent that we impose regulatory burdens that are not imposed elsewhere that maybe the Government ought to subsidize domestic producers for the cost of those regulations insofar as exports are concerned to put them on a competitive plateau with foreigners.

Mr. OREFFICE. I hate to ever ask for a subsidy. But it might even things out.

Let me add something to what I said before. We at Dow have had for 15 years a standard which says when we build a plant abroad it will be built to the tightest environmental standards of Dow or to the host country. As a result, we build these plants with much more advanced technology and environmental controls than what others build in many of those countries.

But here we have gotten to this concept of the latest available technology which means you constantly have to put in and have tremendous expenses regardless of whether you need it or not.

Representative BROWN of Michigan. There has been increasing evidence it seems to me, and I understand, Mr. Haysbert, you hit upon this, that the growing regulatory spiral has hit the small business community the hardest. The massive paperwork, the inability to understand new standards, and the compliance costs which can be met by larger firms hit the small businesses the hardest.

Mr. Weidenbaum, in your study did you see this to be true? And is there any way to make this regulatory burden more equitable with respect to small businesses?

Mr. WEIDENBAUM. First of all, Congressman Brown, in our detailed study for the committee we show that in every case, for which we were able to find data, that small business are hit disproportionately hard by Government regulation. I know of no exception to that.

The problem and the situation is clear.

Representative BROWN of Michigan. The problem is as stated.

Mr. WEIDENBAUM. Mr. Haysbert's eloquent testimony of his personal experience is not, unfortunately, unusual. That is par for the course. The real problem is, as I see it, what do we do about it? The simple approach is, of course, to exempt small businesses from government regulation. Very frankly, I am reluctant to go that route for two reasons.

First of all, if the Government regulation is really important and effective, I think the employees and the customers of the small firm should be just as protected as those of the large firms. But, conversely, if the Government regulation isn't so vital that you can exempt the small business, then as a consumer I am concerned that you are going ahead and applying this costly apparatus to big businesses who will pass this cost on to the consumers.

Maybe, instead of addressing the symptoms, we need to deal with the fundamental cause. The fundamental cause is an excess amount of regulations coming out of this town which is hitting small business disproportionately hard, but it is also hitting the consumer. After all, big businesses, medium businesses, and small businesses share a common characteristic. That is, they are the middle man who is passing the costs imposed by Government regulations on to me as a consumer. Therefore, I hope that Congress does not get distracted from what needs to be done and that is to cut back that whole morass of Government regulation.

Representative BROWN of Michigan. I am sorry I wasn't here when Secretary Kreps was here. But in a published interview she stated: "The Department of Commerce is working to improve the economic analysis of current and proposed regulations." It seems to me that for some time we have needed such an analysis of cost so that we can review those programs, weighing the cost-benefit aspect of them every time something is enacted.

In fact, I have introduced legislation for the last 2 or 3 years which would require that the proposed regulations include the estimated cost to the agency and to those who are regulated. And that those cost figures would be subject to comment such as the substance of the regulations is subject to comment. In that way it seems to me you would get that cost estimate of the benefit. You put those things in perspective.

What about your comments with respect to such legislation?

Mr. WEIDENBAUM. First of all, I am pleased to report that Secretary Kreps indicated continued effort on the part of the Department of Commerce along these lines. Meanwhile—

Representative BROWN of Michigan. Have we seen it occur?

Mr. WEIDENBAUM. No, very frankly. Meanwhile at the request of Chairman Bentsen our center prepared and supplied to the committee our private study estimating the total costs imposed by regu-

lation on the American economy, which is the guts of my statement. To me the most surprising and dramatic figure was for this 1979 year. On the basis of the most conservative estimating procedures, we came up with a cost for the Federal Government's regulations on the American economy in excess of \$100 billion.

This leads me, Congressman Brown, to urge you not just to require the regulatory agencies to measure the cost. Very frankly, I don't think that is enough. The real teeth in any economic analysis is to require the regulatory agency to demonstrate that the benefits to be achieved exceeds the costs before they can proceed with a regulation.

Representative BROWN of Michigan. It is fascinating. We don't do that in this area of regulation. The whole theory of FDA with respect to a drug certification, for instance, is that you have to weigh efficacy against hazard, and to the extent that there is hazard, the efficacy has to be much greater than that for a drug that has no hazard or very slight hazard. If we do that with respect to those kinds of things, if we require that kind of equation to be satisfied, why don't we do it with respect to regulation by requiring a cost-benefit analysis?

Mr. WEIDENBAUM. My understanding is that voluntarily the regulators are not going to do that. It will literally take an act of Congress. The ball is in your court.

Representative BROWN of Michigan. In your statement you indicated you used a multiplier of 20. How did you reach this multiplier number and how reliable is that?

Mr. WEIDENBAUM. What we did do is a detailed study for 1976. We costed out each of the regulatory agencies. Where we don't have a number we put in zero. Where there is a range of estimates we took the low end of the range.

In 1976, the administrative cost of operating the regulatory agencies came to \$3.2 billion. The compliance cost in the private sector came to \$62.9 billion, a ratio of 20-to-1. That is the multiplier of 20 that we applied to the budget figures that we got out of the new 1979 fiscal year budget. The 20 is a carefully developed number, and given our estimating procedures I am convinced that it is on the low side. But I would rather err on the low side.

Representative BROWN of Michigan. I don't mean to pick you out totally, but I have had a chance to learn something about your study. In your study you mentioned that it is the newer agencies, not the old-line agencies, that are responsible for this dramatic increase in expenditures. Is this solely a matter of budgeting? Because budget increases logically occur in a new agency as it begins to operate. Or, are you suggesting that there is a new trend for these agencies to assume more expansive roles than they were intended to have or can neither of these be suggested by your report?

Mr. WEIDENBAUM. As an alumnus of the Budget Bureau, what I infer from these budget numbers is the normal bureaucratic procedure with a broad mandate from the Congress and support from the special interest groups. Each of the agencies is trying to do more rather than less.

Unless they are restrained by the Congress, I would expect each of these agencies to come in with large budget requests, and this is one of the key points I tried to make in the statement. Unfortunately, with the Federal budget approaching \$500 billion, an agency that comes in for "only" \$30 million or "only" \$120 million a year for its administrative expenditures is not going to get the kind of attention in the budget process that it deserves, because the real cost of that agency is in the private sector, the many billions of dollars of costs imposed on the consumer.

Mr. OREFFICE. May I add something? The answer may be that Congress ought to set a limit on the percentage increase in budget that these agencies can have. It ought to be set at below the inflation rate if it is not to be highly inflationary. That would spread through the local economy, because if you lower the budgets of the agencies, you would lower the expenses that the constituents have.

Representative BROWN of Michigan. Getting back, am I to assume from what you said that when we examine appropriation requests or appropriations, proposed appropriations, for agencies that we can apply the 20 multiplier to them and determine in kind of a broad brush rule of thumb that that is what is going to be the cost to the private sector?

Mr. WEIDENBAUM. No, frankly, I would not. In our detailed study the private costs imposed by each of the regulatory agencies varies. But these are very large numbers and each do have a large multiplier effect.

But there is no need to guess. We have tried to supply in our detailed study the basis for comparisons between the budget costs of operating a regulatory agency and the total cost that agency is imposing on the American economy.

Representative BROWN of Michigan. You have done it by agency?

Mr. WEIDENBAUM. We have done it for the major agencies. It is my understanding that the Commerce Department is moving ahead and will try to provide even more detail.

Representative BROWN of Michigan. I have not read the full study. Are you saying, in your study, you break down and apply a multiplier to each of the agencies as to what we can expect the private sector compliance to cost—or had I better wait and see your study?

Mr. WEIDENBAUM. We did it in two steps. The first step is agency-by-agency adding up, one, the cost to the taxpayer for operating the agency, and two, the cost that the agency is imposing on the private sector. For the calendar year 1976 we got figures of about \$3 billion and \$63 billion, respectively. That is the multiplier of 20-to-1. We applied that multiplier to the budget figures for the most recent period—but the multiplier came after the detailed study; it was a study of our center that ran 56 pages—

Representative BROWN of Michigan. I presume you have had a chance to read and analyze Paul Weaver's article on regulation, "Social Policy and Class Conflict."

Mr. WEIDENBAUM. Yes, I have. I am always pleased to read studies that quote and draw upon the work of our center.

Representative BROWN of Michigan. I suppose you concur?

Mr. WEIDENBAUM. I thought it was a fine article, although I must say I can't recall any of the specifics. But one of the key points that Mr. Weaver makes, as I recall, is the distinction we have been making in our center's work between the traditional, old-line regulatory agencies and this whole new type of regulatory agency—the EPA, OSHA, and EEOC. They move to a very different drummer.

The so-called "capture" theory that applies, perhaps, to an ICC or CAB, which is still the way textbooks write about Government regulation, just isn't appropriate to the newer agencies. There is a whole array of different interest groups behind each of these new regulatory agencies. If they will be captured by anyone, they will not be captured by an industry they regulate. They will be captured by a host and variety of so-called public interest groups, whose views of the public interest is, in turn, limited.

Representative BROWN of Michigan. I quite concur with you. If I have said it once, I have said it lots of times that I am about at the point where I would much prefer to have every piece of legislation passed submitted to a referendum of the people rather than a referendum of the particular interest groups that inhabit the Hill, because in this special interest referendum—the people I am sure would not be praising that which some special interest groups are praising if they had an opportunity to see and understand the cost versus benefit equation. I think it is a thing that has been occurring. I don't know how you stop it.

I, for instance, in the course of campaigning, talked to a group of about 450 people. In campaign ads I had been criticized for having a bad consumer federation rating. So I asked the 450 people that were there, all those who were members of the consumer federation to raise a hand. Not a hand was raised. Then I asked all those who were members of an organization that belonged to the federation to raise a hand. Not a hand was raised.

I suggest that even if someone belongs, or belongs to an organization that belongs, they don't even know it.

Mr. WEIDENBAUM. The most compelling point I find is that every time a poll of the American public is taken the two leading concerns on the minds of American people are inflation and unemployment. I think it is fascinating. The self-appointed, so-called public interest groups are universally, totally unaware of the adverse impacts of their actions on inflation and unemployment which are precisely the two areas of greatest concern to the American consumer.

Representative BROWN of Michigan. I totally agree. One final question. I noticed in Newsweek this week that chemicals are listed as one of those industries that is falling to foreign competition. Getting back to your cost figure for regulation of 6 percent gross sales here, compared to 2 percent elsewhere, is this a substantial factor? I wouldn't say your demise, obviously, but is this a substantial factor in the falling off of the chemical industry compared with foreign industries?

Is regulation the only factor affecting exports?

Mr. OREFFICE. I didn't read the article in question. The chemical industry still, as of now, has the best balance of trade of any indus-

try. Last year it was a positive \$5 billion. So we are certainly still fully competitive.

There are two main factors. One is the regulatory cost, and another is that our energy sources have increased in cost. We used to have a lot of cheap gas in Senator Bentsen's State which is not so cheap anymore. So there are other factors which are not attributed to regulatory costs, but I think regulatory costs are a contributing cost.

The worst thing is the rate of growth of the cost of this regulation, not just the absolute numbers but the speed with which they are coming upon us. I repeat what I said before. Let's not forget innovation. Overregulation is one of the worst effects on new products. I concur. I don't see how any entrepreneur can start a new business and really get going. The amount of money they need to develop a product, they will have to go to a company like ours and certainly either be absorbed or receive some kind of help.

Another result of overregulation is to create more monopolistic companies.

Representative BROWN of Michigan. I think the latter point is significant.

Senator BENTSEN. I want to thank you gentlemen for appearing.

These hearings will reconvene on Thursday. We stand recessed.

[Whereupon, at 12:25 p.m., the subcommittee recessed, to reconvene at 10 a.m., Thursday, April 13, 1978.]

THE COST OF GOVERNMENT REGULATION

THURSDAY, APRIL 13, 1978

CONGRESS OF THE UNITED STATES,
SUBCOMMITTEE ON ECONOMIC GROWTH AND STABILIZATION
OF THE JOINT ECONOMIC COMMITTEE,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:05 a.m., in room 6226, Dirksen Senate Office Building, Hon. Lloyd Bentsen (chairman of the subcommittee) presiding.

Present: Senator Bentsen.

Also present: George R. Tyler, Jack Albertine, and Deborah Norelli Matz, professional staff members; Charles H. Bradford, minority professional staff member; and Mark Borchelt, administrative assistant.

OPENING STATEMENT OF SENATOR BENTSEN, CHAIRMAN

Senator BENTSEN. The meeting will come to order.

Last Tuesday we heard some information that was really alarming for every American. Mr. Murray Weidenbaum presented the results of his pathbreaking study on regulatory costs. His analysis revealed that Federal regulations alone—excluding State and local regulations—cost consumers and businesses over \$100 billion annually.

Mr. Raymond Haysbert, who is president of Parks Sausage, made a particularly effective presentation of the unique regulation burden facing small businesses. He testified that it cost his firm \$96,000 to comply with legal regulations in order to raise just \$420,000 in new equity capital.

His problems are symptomatic of the most serious aspect of government regulation. Small independent business people in America can hardly keep track of the agencies empowered to issue regulations, much less what is in the regulations themselves.

Juanita Kreps of the U.S. Department of Commerce was also here; she testified that she wasn't able to read in detail all of the regulations coming from her agency—and Commerce doesn't put out many regulations in comparison with many of the other agencies.

So it depends on where you stand. As the National Federation of Independent Business noted last fall, the average small entrepreneur works 58 hours a week and he has little time to leaf through the 70,000 pages that are published annually in the Federal Register in order to keep abreast of new and changing regulations.

No wonder they sometimes find themselves charged with regulatory violations. Their natural environment, the free market sys-

tem, is constantly being constricted by the barbed wire of Federal interference and regulation. They are stalked by bureaucratic bounty hunters out for their hide.

I think they are an endangered species, going the way perhaps of the snail darter.

We have before us representatives of two organizations which are vitally concerned with the burdens facing the small business men and women, smothered by complex, unreasonable, and burdensome regulations.

Their testimony will reveal that as many as 400,000 firms are fined each year for violating Federal rules and regulations too complex or technical for them to understand, most of which are for minor infractions. In fact, over 80 percent were fined for less than \$2,500.

This strongly suggests that most of these violations are due in part or entirely to confusion and/or ignorance of Federal regulations, and not to premeditated and willful attempts to break the law.

Some premeditated violations do occur, however, simply because small business cannot afford the cost of complying with nitpicking Federal paperwork requirements. In one case, a firm paid a \$500 fine in order to avoid paying \$750 to an attorney or accountant to complete some complicated Federal form.

Most small businesses and most Americans support the Government's efforts to clean up our air, to keep our water pure, and to improve the quality of life for all citizens. I support these goals. I have fought for them.

But I think you have to look at the cost of the benefits associated with achieving these objectives. The rising tide of indignation of the American people is not directed at the legitimate efforts of the Government to clean up the water and air; rather, it is correctly directed at unwarranted, confusing, and unreasonable regulations, which strangle individual freedom and individual initiative.

Today, excessive government intrusion is making the individual entrepreneur an endangered species. Let us not forget one thing: For 200 years the key to our success as a Nation has been freedom, not just for the traditional freedoms of worship and expression, but the freedom to succeed.

The small business person—the person with the idea, someone who comes out with a new product, who improves the quality of life, making us more competitive in the world—has to be given a chance.

With us today is Mr. Mike McKeivitt, counsel of the National Federation of Independent Business, a nationwide organization made up of one-half million small business men and women.

Appearing with him on the panel is Ms. Dona O'Bannon, president of the National Association of Women Business Owners. I am really not being chauvinistic when I let you, Ms. O'Bannon, go first.

STATEMENT OF DONA O'BANNON, PRESIDENT, NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS, WASHINGTON, D.C.

Ms. O'BANNON. First of all, I am very pleased to be here today. I think these hearings address a significant problem that small businesses do indeed have.

As president of the National Association of Women Business Owners, I serve in a voluntary capacity. Therefore, I have my own business, and my own business problems, and my own business regulations and complications, as all small businesses do.

Our organization is only a few years old; not like Mike McKevitt's, which has a long history and a wide membership. We formed mainly because women business owners felt they needed to communicate with each other.

Your committee invited me to solicit comments regarding regulatory problems from my organization. This was the first polling of our membership to determine problems and issues. I can tell you, it was a touchy subject. To start with, most of the responses I got back were, "you expect me to say what trouble I've had?" "What am I going to do about the inspector," or "how will I be able to cover my tracks if I tell you this or that?"

Well, I said, "give me general ideas then." We really had to jog our membership, because what we have learned is, that their lack of knowledge is primarily the cause of their violations.

The best example was ERISA. When we sought to inform our membership of the new ERISA law. We found that very few had really heard about ERISA's requirements for retirement plans. Few knew what they were.

We sent out the Federal guidelines. They were unintelligible, to say the least. We issued the names of consulting firms that were able to assist in forming the retirement plans. But, as you have commented in your opening statement, Mr. Chairman, the fees for retaining either of those accounting firms or law firms, were not worth putting in the ERISA plan.

Then comes along the new administration proposals already changing the ERISA program, when people don't know how it exists now.

So with the ERISA program, we found our members simply didn't know about it. They didn't know whether it was applicable to them, and they didn't know what to do or whether to file to establish a plan.

The second area of violations is the business census. It is both confusing and easy to overlook. My company is a public affairs and government consulting firm, and I received the business census. We had been working with the Secretary of Commerce and the Department of Commerce in trying to better catalog and identify women business owners.

I picked up this form, and I simply could not find applicable places to fill it in. It was the business form for service industries and under it were subcategories of architectural engineering and land surveying services.

So we simply filled in all the blanks, figuring that some must apply to us. Some of our members who received the forms just put them aside, not realizing the February 15 deadline, and the \$500 fine, and thought, "we will get it after the tax time."

Manufacturing companies identified OSHA requirements as the most burdensome.

Some of the firms, and one in particular, had visits from OSHA inspectors that would almost constitute harassment. She didn't realize visits three times a week or six times a month from OSHA inspectors

was a little bit in excess, and therefore she just figured, well, they give me the things; I will do them and get them done, go ahead and file the papers; et cetera.

She didn't realize it could be constituted as harrassment, and she didn't want to get in trouble as OSHA. So she doesn't want to be identified, and she is going to keep on complying just like everyone else does.

Since so many of our companies are also retail, and many of them are in the restaurant business, we have the unique problem of immigration problems. A lot of the help and a lot of the service people were found to be either in unusual status, or in illegal status. When their employers finally learned this from them, they usually wanted to help. But that means they had to take time out to go with them down to the Bureau of Immigration.

Officials were not necessarily amenable and certainly not necessarily helpful with language barriers. Not too many of our companies are large enough to have EEO plans. We are usually on EEO plans for someone else, in fact, so we have not really faced this problem too much to date.

One of the things that I must bring up, because it is happening now, at our Association's request. We are trying to find and locate women business owners. There has never been an effort before of any extent.

There is a need for the identification process not only to identify who they are, where they are, and types of businesses, but also their needs and interest. This Association in a pilot program, has established a directory of women-owned businesses in the Washington-Baltimore area.

Many times I hear that there is little interest in regulatory problems. My frequent comment on this is to point to mid-1975 when we were just starting to get rolling. We had a one line in a nine-column article in the Sunday morning Times, and we received 1,218 letters in acknowledgement from persons who commented on their regulatory problems with State, local, and national government.

Their major complaint was Federal. I really do believe that the women business owners cannot afford in the first place the Federal Register; would not know what to do with it if they had it; certainly wouldn't have the time to go through it. Their regulatory problems should grow worse as women business owners grow and go into more nontraditional areas. They will face more and more problems with EPA and OSHA, et cetera.

In sum then, women business owners face many varied regulatory problems. Yet they are generally associated with smaller businesses, and lack the resources to deal with these problems as well as larger firms do.

We will be completing our comprehensive regulation survey soon and I would like to report back to you then.

Senator BENTSEN. Thank you very much. On the completion of your survey, would you transmit that information to us.

[The prepared statement of Ms. O'Bannon follows:]

PREPARED STATEMENT OF DONA O'BANNON

Mr. Chairman, on behalf of the National Association of Women Business Owners, I am pleased to be here today to testify before your Subcommittee on "The Cost of Government Regulation" and its effect on the small business sector. Needless to say, I will concentrate the majority of my remarks on the effects that government regulation may have on women business owners.

First, I would like to give you a little background on the National Association of Women Business Owners. The Association was formed in the mid-1970's by enlightened women entrepreneurs to communicate and share experiences and talents with others in ownership and to use our collective influence to broaden opportunities for women in business. We are the only professional organization in the country representing the needs and interests of the woman entrepreneur. During the past 5 months, we have begun to put in place chapters throughout the country in an effort to establish a network of woman entrepreneurs who can assist one another. I'm proud to say that one of our first chapters was Houston. We have eight other chapters, with approximately 18 more planned by the end of this year. As you can see, we are in our prime growth period.

At the present time, much national focus is on the woman business owner. A Presidential Task Force on Women Business Owners is finalizing its report and recommendations to be submitted to the President on May 9th. We are sure the basic problem to be dealt with is the identification of women business owners.

In your letter to the Association of March 16th, you asked that we try and identify Federal rules or regulations which are ignored or violated with greatest frequency. Needless to say, this is an extremely delicate situation in which to place our members and other women-owned firms. The polling of our members is not yet complete; however, several trends are emerging.

Basically, we are discovering that our members are, many times, not even aware of the Federal laws and regulations which may be applicable to them.

For example, many women business owners are not aware of the ERISA program. The regulations and explanation of the regulations are so complex that, oftentimes, members must go to the extra expense of hiring lawyers or accountants to determine whether they must file a retirement plan or not. Women business owners who are now becoming aware of ERISA are not in a position to comment on the changes in the program now being proposed by the Administration.

At the same time all of us are preparing our tax forms, the business census forms arrive. The forms are large and easy to read; however, I had difficulty deciphering which parts of mine to complete. To be more specific, my firm is a government and public affairs consulting firm—a service firm. My 1977 Census of Service Industries had the sub-categories of architectural, engineering, and land-surveying services. In several places, I did find an "other" category, and filled in those spaces I thought applicable to my firm. Furthermore, the census forms were due on February 15th, just about the time we are working with our accountant in preparing the corporate tax return. It would seem that the Federal Government could be more cognizant of the dates that forms should be submitted. For a large organization, with thousands of employees, perhaps filling out a census form at the same time as the completion of the corporate tax return is done by separate offices. In a small business, it is usually done by the same person—at the same time.

Among our manufacturing firms, OSHA regulations, inspections, and paperwork can be extremely burdensome. In addition, in particular cases, visits by OSHA inspectors to manufacturing companies owned by women seems to be far more frequent than what is usually expected. Needless to say, companies dealing with OSHA inspections are anxious to comply with Federal standards, but some women-owned firms are visited so frequently by OSHA inspectors as to border on harassment. The owners of these firms are reluctant to complain, fearing even worse consequences than frequent inspections.

Since many women own retail firms and restaurant or catering businesses, many find that some of their employees have immigration problems. Because of the language barrier that many employees face, the owners of the particular

business must go with the alien to the Immigration Office to be of any assistance possible. We have been informed by some of our members that the attitudes of immigration officers is less than helpful, and the frequent visits and paperwork involved is time consuming and economically burdensome.

At the present time, women business owners are being bombarded by questionnaires. The National Association of Women Business Owners has identified the problem of locating and classifying firms owned by women. Several questionnaires are now circulating in an effort to gather this information. Regrettably, these forms are arriving at about the same time as the census forms and the tax forms.

As firms owned and operated by women continue to grow and prosper, I am sure we will discover more and more instances of paperwork and Federal regulations that are not cost-effective. When the final results of our polling is completed, we will provide the Committee with the results. In addition, we will seek to poll our members annually in an effort to seek more definitive answers to the questions you are asking.

Senator BENTSEN. Please proceed, Mr. McKEVITT.

STATEMENT OF JAMES D. "MIKE" McKEVITT, WASHINGTON COUNSEL, NATIONAL FEDERATION OF INDEPENDENT BUSINESS, WASHINGTON, D.C., ACCOMPANIED BY WILLIAM DENNIS, DIRECTOR, LEGISLATIVE RESEARCH AND PLANNING

Mr. McKEVITT. Good morning, Mr. Chairman. My name is Mike McKEVITT of the National Federation of Independent Business. Accompanying me is Bill Dennis, our director of legislative research and planning.

I would like first of all to compliment Ms. O'Bannon for a very articulate presentation. I would also like to point out, Mr. Chairman, that at meetings with groups across the country to consider members of the House and Senate who are the most articulate and concerned with the small business problem, I never fail to mention the chairman's name. I think you are extremely concerned, and I want to compliment you for your opening statement this morning.

It's interesting, just as a prelude, that when I was on "Not for Women Only" on NBC—for women business owners—when asked the opening question, "What can government do to help all of you?" I answered, "Get off our back." The whole panel agreed, and it turned into quite an interesting session.

Before I proceed, I would like to explain a little bit about NFIB's 530,000 member firms. We not only poll them eight times a year on economic issues, but we also do surveys throughout the year, but in addition during our renewal period with each firm.

At that time, they fill out a series of questions that bring some interesting results. Some of these results I will bring out in the testimony today.

I would like to point out that in our prepared statement as stated, there is no doubt that government regulations and redtape is a significant small business problem. As of January 1978, 12 percent of the Nation's small firms cited regulation and redtape as the single greatest business problem. Only inflation and taxes were cited with greater frequency.

This was the result of our January 1978 survey, in contrast to four years ago when the same survey revealed that inflation, short-

ages of fuel and materials, energy crisis, the volume of labor competition from large business, and interest financing, were also cited with similar or greater frequency than government regulation and redtape as small businesses' single greatest problem.

Those figures only represent the tip of the iceberg. Forty percent consider government regulations to be a major business problem. If you are talking about the one, two, three, as far as our membership from our survey results are concerned, the biggest fear is inflation; the biggest gripe is paperwork and regulatory abuse; and the biggest need is tax relief.

I won't take the committee's time to submit all the testimony. There are a number of figures set forth in it that reflects the problems we're facing so far as paperwork and regulatory abuse is concerned.

One of the things I would like to stress is that these problems are having a tremendous impact on the economics of small business. It is a big factor in competition.

In cutting this impact, we point out in our testimony that the Center for Study of the American Business of Washington University, St. Louis, brought out the cost of the paperwork alone, and regulations in compliance, of \$65.5 billion. That is just for the business sector.

We had testimony that it was expanded to \$100 billion. Remember that small businesses make up approximately one-half of the gross national product.

We have a figure of \$130 billion a year, looking at paperwork costs along. We see, for example, that IRS stands way at the top. IRS generates 37½ percent of the paperwork within the Federal agencies; we have recently had good dialog with Secretary Blumenthal as to how that can be reduced.

We made suggestions through the Small Business Advisory Council of the Department of the Treasury. We feel that IRS should reduce their reporting requirements to two forms a year—one fiscal, and one nonfiscal.

Senator BENTSEN. As compared to what?

Mr. McKEVITT. It is a much greater number of forms they have now for reporting requirements.

Senator BENTSEN. I understand that. Do you have any number for the forms now?

Mr. McKEVITT. The number of forms—no. It is hard to get data on that. One thing that the Small Business Administrator, Mr. Weaver, has asked of IRS, is to have access to the IRS computer. This would be a tremendous source for the amount of paperwork involved, and the amount of business failures.

The next thing is on table 2 in my prepared statement. One of your big concerns has been the impact of ERISA on pension plans, existing plans, and the prospect of future plans. As we point out in table 2, just look at the cost of amending a one-employee pension plan under ERISA.

First-year cost average was \$1,360. The cost in future years is \$710.

The next thing I would like to touch upon, as you pointed out—

Senator BENTSEN. Do you remember one of your members testifying that just starting up a plan would cost a lot more than the first year's contribution?

Mr. McKEVITT. That is right; that was Mr. Bruce Fielding. That cost is another problem as well.

We hope to have figures within the next year by asking just how many are dropping their plans as a result of ERISA. I am sure there has been an impact there as well.

Senator BENTSEN. Well, it has been a frustrating experience. We got legislation through the Finance Committee to divide up the turf between Labor and Treasury, but we haven't been able to get any action out of the Human Resources Committee to get the bill moving. My concern is that not enough attention is being paid to small business—more than anyone else—because of the costs involved for them. By the time we finally get the thing through, it is going to be after the fact for a lot of them.

They will never reestablish pension plans.

Mr. McKEVITT. You say the horse will be out of the barn by then.

The next change I hear over and over again, as far as compliance is concerned—as you mentioned, the average of 58 hours a week—is how do you have time to check 70,000 pages of Federal Register per year?

One of the things we are trying to do now is to give our members an alert to new regulations that are coming out, for which they are extremely appreciative to us. We see, for example, a member of the local civic club or within a region will be an expert on OSHA as much as he can be, and another on EPA.

But you are really narrowing the approach to the complexities of these regulations.

Another example is on cash accounting. We came up with surprising figures of how many businesses are using cash accounting rather than accruals. They are doing it unknowingly. Nevertheless, they are doing it.

Another thing is the breakdown with a number of firms that are hit by fines, and the minimal penalties and the large penalties, and the impact it is having on them.

The thing of it is that the unknowing violations are not infrequent, and as the regulations become more technical, we see more violations, because of the difficulty in complying with them as set forth.

I think you can probably rank in order the first two without any difficulty—OSHA and IRS. But somewhat surprisingly, EPA is placed third.

EPA was followed by Labor's wage and hour division, and then the Department of Transportation.

I touched upon the unintentional violations, but Mr. Chairman, I think there is one thing we see: A growing number of intentional violations. For example, in Denver last week, I was on an all-night talk show on KOA that reaches to 39 States and has an audience of 5 million talking to small business people from each of the 39 States from 12 midnight until 4:30 in the morning. We hear more talk recently about the taxpayer revolt; more antagonism of the paperwork burden as to regulations as well.

This concerns us deeply. It should concern the country because of the complexity, and because of the fact that Parkinson's law is no longer a humorous book to read. This problem is growing. You see this in Federal State, and local forms.

If I heard one thing over and over again, it was this growing antagonism during that 4½ hours on KOA toward government regulation. It was a fascinating learning period.

I stayed until 4:30, just talking to these members. Overall, there was this growing resentment along the lines of the taxpayer revolt concept, and also antagonism about paperwork—a tremendous aggravation.

I remember one of our women members in Albuquerque at our small business seminar got up in the front row and held up these census forms, and she was angered by it. She said, "I have inventory problems right now; I have tax problems; and I have two census forms in duplication, which I have to have done by February the 15th." She asked me, "Mike, what is the penalty?" I told her, over \$600. She said, "I would rather pay that \$600 than the \$750 or \$1,000 to a CPA."

In Dallas, Tex., one of the gentlemen in the audience said, "I paid the \$500 and I still have to fill the 'blank blank' thing out."

Over 60 percent of them were stuck with this form in Dallas, Tex. Once again, 60 to 70 percent of them. There is anger there.

Senator BENTSEN. I am totally convinced that President Carter was elected because he was from the outside. He was not part of Washington, and there is indignation against Washington out there; it's a blanket thing. It's hard to do something about it when you are one of that group.

Now we have got to find a way to help him fulfill some campaign commitments. I am not talking about President Carter, I am talking about the Office of the Presidency. It is terribly important that we restore some credibility in the people regarding that office.

There is a great cynicism about our being able to do anything about trends and regulations, and their explosion since 1970. I understand that cynicism. But we have to find a way to do it—not just one by one regulations—but find a way to put a discipline on it, to reorient the system.

That is what I am seeking so we can form proper legislation and try to bring it about.

Mr. McKEVITT. I want to touch on that in just 1 minute. I want to give you a couple of more examples.

Senator BENTSEN. I am not through either, Mike; so go ahead.

Mr. McKEVITT. On 23-channel CB sets, the members wrote in that they were stuck with a large number on the shelf as of the end of the year. One example after another.

Let us talk about some possible alternatives. One gentleman, for example, last week in Cedar Rapids, at a small business conference, asked questions of panelists Jim McIntyre and Stan Morris from the Office of Management and Budget. We talked about it. I talked to him about this problem. Stan told me it is abominable, but I asked what are we going to do about it?

Well, he said, "One thing I am sure of; the first thing we want to hit is paperwork." I think it is a good idea if business people start asking the different department heads, how much are you going to reduce the paperwork load?

Senator BENTSEN. This indignation is widespread and real. Let me give you an example. They talk about the advantage of incumbency. I don't believe that. That is for the birds nowadays.

In 1976, you had the biggest turnover in Congress since 1932. Part of the people are not running for reelection. I think you will see the same thing in 1978.

Mr. McKEVITT. I agree with you. The incumbents are in trouble.

I would like to say in closing that we have no solution. Certainly it is imperative that Congress and the regulators give greater consideration to the consequences of their actions. If there exists a bill, however, to which we would point as a vehicle for the improvement of the regulatory environment, NFIB would point to S.1974, the Regulatory Flexibility Act.

This bill, introduced by Senators Nelson and Culver—H.R.10632 by Congressman Ireland in the House—is the most reasonable, responsible, and imaginative approach to the problem we have yet seen.

S. 1974 requires two steps before implementation of a regulation having a major impact on small business. The first is a small business impact statement. Nothing particularly new. But it is followed by a requirement that where there exists a large impact on small business or a sector of small business and there exists no overwhelming public interest to the contrary, an agency must "tier" its regulations. Tiering, per se, is also nothing new, for it exists in current law and regulation. But what is new is that S. 1974 would require agencies to consider small business as a distinct entity and to systematically create tiering systems.

S. 1974 recognizes the disproportionate impact of regulation on small business and further recognizes that the regulatory objective may not be realized by a uniform set of regulations. Possibly, the best example illustrating the need for S. 1974 was the failure of IRS and DOL to utilize Section 3004 of ERISA which permitted a differing set of standards for small pension plans. The result was a uniform set of standards that drove out many small plans much to the chagrin of everyone involved.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. McKeVitt follows:]

PREPARED STATEMENT OF JAMES D. "MIKE" McKEVITT

Mr. Chairman, NFIB, on behalf of its 530,000 small and independent member firms, appreciates the opportunity to discuss the impact of government regulation on small business with particular emphasis on regulation avoidance as a method of measuring impact. Regrettably, most of the information we have on this topic is impressionistic and anecdotal, rather than the hard data we prefer and customarily present. We do have some very rough numbers, however, which we hope will be helpful.

There is no doubt that government regulations and red tape is a significant small business problem. As of January, 1978, 12% of the nation's small firms cited regulation and red tape as their *single* greatest business problem; only inflation and taxes were cited with greater frequency.¹ In contrast, four years ago, the same survey revealed inflation, shortage of fuels and materials (remember the energy crisis), taxes, quality of labor, competition from large business, and interest rates—financing, were all cited with similar or greater frequency than government regulation—red tape, as small businesses' single greatest problem.² But those figures only represent the tip of the iceberg, for 40% consider government regulation to be a "major" business problem.³ And

¹ "NFIB Quarterly Economic Report for Small Business," (eds.) Bailey, Richard M., and Dunkelberg, William C., (National Federation of Independent Business: San Mateo, Calif.), January 1978.

² *Ibid.*, January 1974.

³ "Survey 1978," National Federation of Independent Business, February 1978, unpublished tabulation.

while identifiable groups within the small business sector find regulation more imposing than do others, e.g. financial services, no subsector or size classification appears exempt from serious impact.⁴

But aside from the direct, immediate impact of regulation which the foregoing data reflect, there is a serious indirect impact. There exist economies of scale in regulation compliance just as there exist economies of scale in the production and distribution of goods and services. Thus, the greater the regulatory burden, the less competitive becomes small business. And the less competitive small business, the greater concentration of economic decision-making. Therefore, please remember that while the immediate regulatory burden rests on the small entrepreneur, the final burden in terms of increased prices and concentration rests on the public.

Though we know the direct and indirect costs of government regulation on small business are enormous, we cannot quantify them. The Center for the Study of American Business at Washington University in St. Louis has estimated total costs at \$65½ billion.⁵ If we assume small business absorbs just half that cost (not an unreasonable assumption considering small business provides almost half the Gross Business Product and employes over half the private non-farm workforce), then the cost would amount to over \$30 billion.

The Commission on Federal Paperwork recently estimated the cost of just one aspect of the regulatory problem—paperwork. Table 1 breaks down the almost \$15 billion paperwork impact by agencies providing the greatest paperwork burden.

TABLE 1.—Small business paperwork costs by agency

Agency:	Costs
Internal Revenue Service.....	\$11, 310, 436, 964
Department of Labor.....	1, 603, 148, 404
Small Business Administration.....	626, 364, 165
Census Bureau.....	369, 748, 700
Other.....	1, 055, 181, 273
Total.....	14, 864, 879, 506

Source: Study of Federal Paperwork Impact on Small & Large Businesses Paperwork Commission draft dated July 20, 1977, p. 22.

Table 2 provides a specific paperwork cost estimate that a small firm might encounter. This estimate, prepared by Mr. Bruce Fielding, a CPA, member of the Commission on Federal Paperwork, and NFIB's Secretary, illustrates the mandatory costs of amending a pension plan with one employee under the provisions of the Employee Retirement Income Security Act (ERISA). These are minimum costs. If the plan was individually designed, instead of a prototype or pattern plan, the cost of amendment would increase from \$650 to the \$2,000–\$5,000 range. The cost of annual reports assumes the trust is involved in a minimum number of transactions and that the trustee maintains good records although he receives no fee.

TABLE 2.—Estimated cost of amending a one employee pension plan under ERISA

Amendment:	
Pension consultant.....	\$350
Legal and accounting advisers.....	300
Cost of amendment.....	650
Annual reports:	
Pension consultant.....	610
Accounting adviser.....	100
Cost of annual reports.....	710
Total cost in first year.....	1, 360
Total cost in future years.....	710

⁴ "NFIB Quarterly Economic Report for Small Business," *op. cit.*, series.

⁵ DeFina, Robert, "Public and Private Expenditures for Federal Regulation of Business," Center for the Studies of American Business, Washington University, St. Louis, Mo., November 1977.

In approaching the question of regulation avoidance as a measure of regulatory impact, we believe it important you bear certain points in mind. Most important, not all violation of regulations is intentional; in fact, we would argue that most occurs unknowingly. Many small firms simply either do not discover the existence of a regulation or do not understand what they are expected to do. That should not be surprising. The average small entrepreneur works 58 hours per week in his business,⁶ and has little time to leaf through the 70,000 annual pages of the *Federal Register* searching for the latest regulatory change,⁷ let alone decipher the "legalese" that constitutes the final arbiter of required action.

A good example of frequent unknowing violation, we believe, occurs among small retailers and wholesalers who utilize the cash method of accounting. The Internal Revenue Service (IRS), requires that the accrual method of accounting for tax purposes for any firm where inventory is an income producing factor. For the small firm, particularly the very smallest, cash accounting is the easiest and most comprehensible method of maintaining its records. So, the small firm innocently employs the simple method, not knowing IRS requires the more complex one.

We have some statistical evidence suggestive that the unknowing violation is the most common type of violation. Last year, NFIB attempted to determine how many small firms received a fine from some agency of the Federal government as a basis for supporting the need for some method of more readily challenging unjust penalties. Over 70,000 members responded to the question, "During the past 24 months has any agency of the federal government fined your business?"⁸ Member responses indicated that one in twenty-five small firms receive a fine in a given year, although that figure is slightly high because a very small number of firms (less than 1%) receive a fine from more than one agency.⁹ But of the firm fined in that two year period, well over 80% faced accumulated fines of less than \$2,500. Not surprisingly, the construction and manufacturing sectors, both of which are target populations of OSHA, were the sectors most frequently seeing the unfriendly side of the government.

These data are suggestive of two points. First, violations of government regulations are not infrequent. While one of twenty-five sounds like a small number, it must be remembered that fines are contingent on the enforcement capacity of agencies to locate errors. Second, the relatively small amounts involved in the fines seem to indicate the violations are minor and/or unknowing.

It is our belief that unknowing violation occurs most frequently when a regulation requires a singular rather than a repeated act by a small entrepreneur, and when the regulation is particularly technical. In other words, as compliance with a particular regulation becomes part of the routine operation, there is a greater possibility that the individual will be able to draw on his experience and/or that of competitors and colleagues. As the regulation becomes more complex or technical, it becomes increasingly difficult to comply with the letter rather than the spirit of law.

One of the reasons OSHA has such an unenviable reputation among the small business community, is precisely because small firms do not know what to do. And they recognize that compliance with the spirit of law is far from technical compliance. NFIB is pleased that the new leadership at OSHA is beginning to recognize this difference as evidenced by the elimination of 1,100 "nit-picking" regulations.

Again, the figures in our possession are at best suggestive. During the month of February, NFIB asked those members which found regulation a problem

⁶ "NFIB Employment Report for Small Business," (eds.) Bailey, Richard M., and Dunkeberg, William C., (National Federation of Independent Business: San Mateo, Calif.), November 1977.

⁷ "The Federal Register: What It is and How to Use It," recently published by the Government Printing Office, estimates the Federal Register will reach 100,000 pages by 1980.

⁸ "Survey 1977," National Federation of Independent Business, 1977, unpublished tabulation.

⁹ Testimony by the Justice and Treasury Departments before the Improvements in Judicial Machinery Subcommittee of the Senate Judiciary Committee on the bill S2354 (March 13, 1978) leads NFIB to conclude many of these fines should never have been levied in the first place. Justice-Treasury testimony indicated that if the government were to pay legal expenses for any small business, small organization, or individual successfully challenging government action in court, the total cost would amount to an estimated half billion dollars a year.

to identify those agencies whose regulations cause them particular difficulty.¹⁰ I think you can probably rank order the first two without any difficulty—OSHA and IRS. But somewhat surprisingly the Environmental Protection Agency (EPA) placed third. EPA was followed by Labor's Wage and Hour Division and then another surprise—the Department of Transportation (DOT).

Note the listed three agencies which affect all small employers—OSHA, IRS, and Wage and Hour. Of those three, the one which tends to require singular and complex acts (OSHA) is considered the most difficult. Further, EPA, which for all practical purposes does not directly affect the majority of small businesses, ranks ahead of Wage and Hour and just behind IRS both of which do affect them all.

Next we attempt to control for the pervasive effect or the size of a constituency an agency has. In other words, we should expect an agency that affects all small firms to be more difficult for the population as a whole than one affecting only part of that population. What if there exists no difference in population size? To analyze this, we reviewed specific sectors that probably would be heavily impacted by agencies that have little effect on the small business community as a whole, e.g. the Transportation sector and the Interstate Commerce Commission (ICC), and contrasted them to the pervasive agencies, i.e., OSHA and IRS.

TABLE 3.—Comparison of regulatory impact by agency for specific sectors

Transportation:	Percent
ICC.....	35
OSHA.....	¹ 45
IRS.....	32
DOT.....	34
OSHA.....	45
IRS.....	32
Agriculture:	
USDA.....	25
OSHA.....	50
IRS.....	31
EPA.....	65
OSHA.....	50
IRS.....	31

¹ Respondents who considered the agencies regulations particularly difficult as a percentage of respondents who found regulation a problem.

Table 3 attempts to draw a comparison of regulatory impact of OSHA and IRS, and specific agencies suspected to have a significant impact on a particular sector. Of the sector breakdown utilized by NFIB, the clearest comparisons can be drawn in Transportation and Agriculture. While the Transportation sector is slightly skewed because of our inclusion of Communications in it, and these sectors have a relatively small number of cases, the table is suggestive.

Note that in the Transportation sector OSHA regulations present more difficulty than either the transportation oriented ICC or DOT. In contrast, the transportation oriented ICC and DOT present greater difficulty than IRS. In Agriculture, EPA gives greater difficulty than either OSHA or IRS. But the Department of Agriculture (USDA) gives less than any of the other three.

These data suggest two points. First, the number of firms impacted by OSHA and IRS makes those agencies the greatest problem for small business in total. When controlling for constituency size, however, the picture changes and identification of the most troublesome agency becomes less clear. Second, those agencies which require singular and more complex acts, i.e. EPA, OSHA, and DOT, tend to be those proving most difficult.

Finally, it should be noted that there exists a rough correlation between agencies which fine small business most frequently, and small business' designation of agencies that have particularly difficult regulations. This, too, adds credence to the view that many violations are unintentional.

There is also a level of conscious violation. Not many small entrepreneurs have been willing to talk about such things, but that appears to be changing.

¹⁰ "Survey 1978," *op. cit.*

More and more small businessmen, whose propensity to challenge a stable order is about as low as any conceivable group, are beginning to tell us they simply aren't going to do things.

While not exactly weighing down our mail bag, we now do receive correspondence asking NFIB to lead a taxpayers revolt. We increasingly hear small firms tell us they won't and don't fill out many government forms, and nobody misses them. A good case in point is the Manufacturing Census. NFIB has had considerable communication from its members on the form. Aside from their rather pointed comments only two questions are asked, "Do I have to do it?" and "What is the fine if I don't?" Typical was the response of one businesswoman in the Southwest, who upon learning the fine was \$500, said, "Let 'em come and get me. My accountant said it would cost \$750 to fill the #?-!# thing out."

Others adopt a different approach. You many not be aware that the Federal Communications Commission (FCC) published a notice in the *Federal Register* in August, 1976, banning the sale of 23 Channel CB's after December 31, 1977. Many small retailers didn't get the word, but the FCC refused any appeal for extensions to allow these small firms to get rid of inventory. One of our members in the Midwest with an inventory of 23 Channel CB's told us he wasn't going to violate the rule. He would give away his illegal CB's, "but you better believe the antenna that goes with it is going to be expensive."

Neither of these examples meant life or death for the firms involved, but the next example did. A small firm in the Northeast got caught in a jurisdictional dispute between FDA and USDA. One agency wanted the man's principal product labeled in one fashion and the other in another. To halt production of the item for any prolonged period would put the man out of business and he doesn't have the power to force the agencies to resolve their differences. So, he continues to produce and sell the item under the regulations of one agency, presumably violating the regulations of the other.

NFIB has absolutely no means of quantifying conscious regulation avoidance. The cited examples are merely illustrative. However, note the type of regulation avoided. None involved the health or safety of the public. All were perceived to involve government harassment, government confusion, or unjust and/or unnecessary government requirements—none of which make any sense for conduct of the business or for public objectives. And while some may argue that only regulatory authorities in Washington can see the "big picture" making an individual entrepreneur's perception of government actions injudicious, it has been Washington's failure to see the "big picture" that has brought on the increasing restiveness throughout the country.

But between unknowing and conscious avoidance, there is a gray area. Here small employers have a general idea of the permissible and non-permissible, but the lack of clear rules and regulations make certainty an impossibility. And small employers aren't about to hire an attorney for a non-definitive interpretation which may make them less competitive. Perhaps, no better example is the IRS regulations pertaining to contract employees. IRS Commissioner, Jerome Kurtz, in a speech before the American Bar Association, enunciated the situation quite well.¹¹ He pointed out the rules were complex and 20 common law factors were used to determine "control" of an employer over an individual. He noted further,

"Factors contributing to this noncompliance problem are high employment taxes, high interest rates which place a premium on the retention of funds, and the marginal economic characteristics of many service-type industries."

Commissioner Kurtz then proceeded to outline various possible enforcement approaches. That is not surprising; enforcement is his job. However, his analysis of the situation might prove a better place to begin finding a prescription.

Mr. Chairman, NIFB has no magic solution. Certainly, it is imperative the Congress and the regulators must give greater consideration to the consequences of their actions. If there exists a bill, however, to which we would point as a vehicle to improvement of the regulatory environment, NFIB would point to S.1974, the Regulatory Flexibility Act.

This bill, introduced by Senators Nelson and Culver (H.R. 10632 by Congressman Ireland in the House) is the most reasonable, responsible, and imagi-

¹¹ Jerome Kurtz, Commissioner of the Internal Revenue Service, speech before the American Bar Association, August 6, 1977.

native approach to the problem we have yet seen. In brief, S.1974 requires two steps before implementation of a regulation having a major impact on small business. The first is a small business impact statement—nothing particularly new. But it is followed by a requirement that where there exists no overwhelming public interest to the contrary, an agency must “tier” its regulations. Tiering per se is also nothing new, for it exists in current law and regulation. But what is new is that S.1974 would require agencies to consider small business as a distinct entity and to systematically create tiering systems.

S.1974 recognizes the disproportionate impact of regulation on small business and further recognizes that the regulatory objective may not be realized by a uniform set of regulations. Possibly, the best example illustrating the need for S.1974 was the failure of IRS and DOL to utilize Sec. 3004 of ERISA which permitted a differing set of standards for small pension plans. The result was a uniform set of standards that drove out many small plans much to the chagrin of everyone involved.

Mr. Chairman, NFIB appreciates your interest in this very important subject, and we will try to be responsive to your questions.

Senator BENTSEN. When the Director of OSHA announced that they were going to eliminate 1,100 of their regulations, I wrote to congratulate him, and told him that that was just a start. But I also urged that that information get out into the field, and get out to inspectors, and that they understand the spirit of trying to cut back on overregulation.

Ms. O'BANNON. That is another thing that I think is very important. I have seen some changes here in Washington, but I do think that some consolidations of all the EPA problems are being resolved. But when you get out to the district offices, and to the regional offices, and down to the individual inspector, the word has not gotten through. That is where the direct impact comes on to the small business.

I think whether it is Washingtonitis, or whatever you want to call it, not so much here in the Congress, where you are trying to ameliorate the situation, but in the Federal agencies, where there is sort of a self-perpetuation, you can change regulations all you want, and publicize them in the Federal Register, but unless the word gets out, the Small Business Administration, OSHA, or whatever, you are not going to have the direct one-on-one impact on small business.

Mr. McKEVITT. I worked closely with Ms. Bingham, and I think she has brought a fresh attitude to this problem. You have 1,100 regulations taken care of anyway.

But in talking to Ms. Bingham, her frustration is trying to get through the bureaucracy, talking to the heads of State inspections, who still want to play the numbers game. After the exercise of the fire extinguisher, and other nitpicking rules, they are not attacking the concern which is the concern of the health and safety of our employees.

Senator BENTSEN. Last Tuesday, when we heard from Mr. Weidenbaum, we also heard from Mr. Orefice and Mr. Haysbert, and they made some suggestions as to how we might be able to reduce some of the Federal regulatory burden. One was the requirement that alternative techniques to achieve the objectives of a proposed regulation be examined at length before the regulations are promulgated. That is the concept embodied in the President's executive order.

I endorse this provision. I would like to hear your reactions to several other suggestions. One of them was to establish a Cabinet-

level official who would coordinate and monitor Federal rules and regulations to avoid duplicative or contradictory regulations. It would serve as an evaluation mechanism to assess whether the benefits of prospective regulations actually exceeded the costs of those regulations. What do you think of that?

Mr. McKEVITT. I hate regulations, but here we come with another agency. I think the chagrin of Mr. Fielding, who served on the Paperwork Commission, was the fact that what they suggested as a solution was just more bureaucracy.

It starts first of all with the President of the United States. He should have another sign, in addition to the one that says, "The Buck Stops Here." It should say, "The Attitude Starts Here."

The next thing is the attitude of the Department heads themselves to go after paperwork. Perhaps they don't have the time if another agency promulgates paperwork requirements, but they should at least get reduced attitudes.

I think we should work within the departments themselves, through attitudes like Mr. McIntyre's, like Stan Morris', to say "I want some dramatic reduction to come through OMB."

OMB is the responsible agency to invoke the attitude through the President of the United States. The Department heads will then follow through.

Ms. O'BANNON. I also would have reservations, because another Cabinet-level office sounds like just another agency. I think a better idea would be to have a senior official within each agency review the new rules and regulations, as a slow down, in order to determine cost-effectiveness before they are actually promulgated.

Now, they have to pay for the pages in the record, which has reduced the Federal Register, I have noticed, in recent months. But another Cabinet-level office, I would have serious reservations about it. More paperwork probably.

Mr. McKEVITT. I think you have got to attack the regulatory problem right in OMB. We see too many of them rush to judgment and rush to writing regulations. Yet our OMB is a powerful agency, one of the most powerful, if not the most powerful Cabinet post in the U.S. Government, and they can make a big impact on regulatory abuse.

Senator BENTSEN. Well, one of the recommendations was that each of the regulations be weighed to see what its benefits would be; try to find a way to encompass that.

Ms. O'BANNON. The Congress has to do that in each of its bills. It should have a section determining the cost of any particular piece of legislation. If the Congress has to do the cost-impact, I certainly don't see why Government agencies cannot do that by themselves, on congressional mandates.

Mr. DENNIS. An impact statement, in the sense that you are trying to elicit and ascertain costs, is excellent. But to try and come up with a balance, a quantified balance, which is frequently the implication of a cost-benefit ratio, is most difficult, and I am not sure that you are going to be able to do it.

Senator BENTSEN. I was worried about the numbers, about who puts out those numbers. I recall one President who told the Cabinet officers, "If you go up and tell the people on the Hill what this program is going to cost, you are fired."

Mr. DENNIS. It is not only that, too, Senator, but there are some implications as well. There are certain assumptions that are going to have to be made in anything of that nature, and once you have made your assumptions, the numbers come rather easily. I don't mean to say that we think that an assessment of the cost is a bad thing; not at all. On the contrary, we think assessment of the cost is a very good thing.

However, it is not a panacea, and I think that is the point.

Senator BENTSEN. What do you think of the Sunset approach to regulations?

Mr. DENNIS. I think it is fundamentally a good idea. Again, I don't think Sunset is a panacea, and if I may use the example of Sunset on certain regulatory agencies, and things of that nature, supposedly the Congress has oversight authority over these agencies, and Appropriations Committees, and authorizing committees of various natures have authority, and in effect, the Congress is supposed to be reviewing this right now.

Sunset will only formalize that with respect to the regulations, per se, being and having a Sunset provision. I would agree that, yes, it is a good idea again. It is not a panacea, because it is something that Congress have the authority and power to do right now, if they would only do so.

Ms. O'BANNON. I would like to comment on that, Senator. I don't think it is a panacea.

Yes, the Congress has oversight and 10,000 other things to consider every year. But if in the law the Sunset were a total review, comes to pass 3 or 4 years, whatever the determinable figure is, I think that would be a great leap in the right direction.

Senator BENTSEN. You run into a lot of contradictions between agencies on what they are trying to get you to do in your business. One agency tells you to do one thing, and another agency tells you to do another thing.

What do you do when you get that type of feedback? Introduce two agencies to each other and stand aside?

Mr. DENNIS. One of the problems with that, particularly from the small business aspect, is that he simply cannot get the two agencies by the scruff of the neck and bang their heads together and tell them to make up their minds, saying, "I will behave as you agree I should."

We cited one example in our testimony of an individual in the Northeast who is caught between the USDA and the FDA on a labor requirement. FDA wants him to do it one way and USDA another way. It happens to be his principal product. Now, if he withdraws his principal product until those two agencies get together, then he is out of business. So what this individual is doing is abiding by the regulations of one agency, hoping that the presumable violation of the regulation of the other agency will subside. He hired an attorney here in Washington to try and solve the problem, but he sees nothing on the horizon for at least a year or two.

We also have seen some examples earlier on in the people in the meat cutting business and OSHA, particularly with regard to flooring. OSHA wanted a very rough surface for safety purposes, and wanted to make sure no one slipped and fell.

USDA wanted a slicker floor, because it was cleaner. That problem ultimately was resolved. But still you found a lot of people that were caught in between for a long time. One of the reasons it was resolved is that it had so much publicity with regard to it.

Senator BENTSEN. I remember talking to the publisher of a paper in my State who said he was in violation at his plant because he had a cross between a ladder and stair. The angle was between 69 and 70 degrees. He was one degree off, and so an OSHA charge was filed against him.

Mr. DENNIS. May I give another example between State and Federal. Again, this had to do with OSHA. We had a lady in the State of Florida, who happened to have a rather disturbing individual for a neighbor, and reported her to the police, and everyone else that he could think of, and OSHA was among the agencies.

So one day a Federal OSHA inspector walked in and said, "Well, your place looks fine, except you have to have this machine inside your building, and what you have to do is to move that machine outside."

Well, everybody was fine. She moved the machine outside. And the next day in walked the Florida State OSHA inspector, and he looked around, and everything was just fine except for that machine. It was outside, and he said, "It should be inside."

The Federal inspector came around 2 or 3 days later to insure that the woman had complied with what he had demanded in the first place, and there was her machine inside again. Essentially, the problem was soon resolved.

But here's an example of a State and Federal agency doing fundamentally the same thing, whose regulations, or whose interpretations of regulations, are totally at odds with one another.

Ms. O'BANNON. That is also true in construction firms that are members of our association. There are certain Federal regulations coming out of public works area that qualify women-owned firms for service set-aside. It is not a Federal standard, but it is in some State standards, for example, in California. We have women coming to us and saying: "I could do it for the State, but I can't work on this highway project, because the Federal regulations are in conflict, and they won't give it to me competitively because I am a woman. I cannot get the set-aside, because it is not in the Federal law."

We have the same type of problems. It has to happen as these States move forward and legislate over and over again.

Senator BENTSEN. The figures we have been given show a very substantial amount of loss in productivity in the last 4 years. We have had a decline in productivity in this country, the greater part of it coming from this explosion of new regulations that are taking place. Let me give you an example.

There was a statement by Paul Oreffice, the president of Dow Chemical, who testified on Tuesday. These are numbers he used from NEPA on new product registrations in this country. In his industry, new product registration declined dramatically. In fiscal 1975, NEPA issued 2,800 new product registrations under this act. In 1977, that is two years later, 103 were issued. Twenty eight hundred to 103; that is new product registration. One out of 70

applied for issues, as compared to one out of three just two years before.

Now, what does that mean for our country? I will tell you what it means. It means we are cutting back on technological innovation in this country. It means that research is going to be done in the other countries. Further, part of our balance of trade in those things where we have a plus comes about because we are technically out in front. But you are sure not going to stay there with that kind of thing.

Now, if companies like Dow have a problem, imagine what a small business would have to do to stay in business long enough to get anything new registered so they can start selling it.

Mr. DENNIS. One of the points we hear frequently at the NFIB but that is frequently not recognized in the entire regulatory problem is that there are economies of scale involved in the regulatory compliance as there are with production and distribution of goods and services. It simply costs a small firm more per unit output to comply than it does a large firm. You use the example of Dow. Well, those are indeed shocking figures, but for a small firm, again, you can imagine what it would be like. Small firms really have three areas where this regulation, once something is in place, is disproportionate.

First of all, finding out about it. Generally, the larger firm will have a representative, perhaps here in town, certainly legal counsel. Yet many of our members never do find out about relevant regulations, or if they do, they find out too late.

Their time frame to comply is much shorter. That is the first problem.

The second problem is understanding it, once they do find out about it. Here is where you are running into these unintentional violations, as well as their costs of trying to find out how to comply.

The last one is paying for it. Now, if you just look at the terms of money in this country, the difference between that charge to small firms and that charge to a large firm is an incredible difference.

You can talk about economics of scale and the equipment you must buy. You can talk about relatively low-profit margins, too. The upthrust of this is that regulation leads to less competition and toward greater economic concentration, and leaves economic decisionmaking in fewer and fewer hands.

Senator BENTSEN. Well, I don't just want to give you words of comfort; I want to see if we can find a way where we are not wringing our hands together—so we can find some solutions that don't result in becoming a part of the problem.

Mr. McKEVITT. At that point I would like to mention Senate bill 49, introduced by Senator Mathias, the Small Business Administration Review Practices Act, which will allow small business people to bring tax court in up or down one-shot hearing; filing fee of \$10; one-page complaint. They won't have to hire an expensive counsel for appeals of the rulings of OSHA or other agencies.

I think this would be a step in the right direction to give them easier access; sometimes that one hearing allows a shedding of light on the problem, and that magistrate can point out that he

has seen a number of abuses here, and it gets back to the Department head.

Also, the court cost bill might have a money figure involved there, first of all, to protect that small business person who brings that suit in a successful way—but he also might have agencies taking a second look before putting something out on the regulations that they are enforcing.

Senator BENTSEN. Well, I have no further questions. I think this has been helpful. I am very appreciative of your comments. If you have anything further, I would be glad to hear it now, or if you have something to submit for the record, I will take that, too. The subcommittee stands adjourned.

Mr. McKEVITT. Thank you, Mr. Chairman.

[Whereupon, at 11:30 a.m., the subcommittee adjourned, to reconvene at the call of the Chair.]

[The following statement was subsequently supplied for the record:]

STATEMENT OF THE CHAMBER OF COMMERCE OF THE UNITED STATES

(By Mark Schultz¹)

The Cost of Government Regulation

The Chamber of Commerce of the United States is the world's largest business federation, composed of more than 69,000 business firms, 2,500 chambers of commerce in the United States and abroad, and 1,200 trade and professional associations.

Small business is heavily represented in our membership. Of our more than 69,000 business members, over 56,000 (or 83% of our business members) have fewer than 100 employees; over 47,000 (or 70%) employ fewer than 50 employees; and, over 31,000 or (46%) have fewer than 20 employees.

In view of these figures, it is fair to say that the National Chamber represents the interests of American business, large and small. Accordingly, the National Chamber clearly has a vital stake in seeking to improve the regulatory process to reduce the high cost of regulation with which the business community currently is confronted.

The National Chamber recently invited its members to submit their suggestions and comments on the impact of federal regulation on business. Many responded by sending us specific examples of burdensome regulatory requirements with which they must comply.

Because of their great volume, it is impossible to include all of these responses in the body of this statement. We have, however, included in the Appendix a sampling of the more interesting "horror stories" and suggestions we received. These comments disclose growing discontent, frustration, and rage with the increasing regulatory burden.

When one considers the statistics, it is little wonder that there is a growing revolt against government intervention and regulation, especially by small business which views this problem as its number one concern. According to a recent article by Jack Anderson, legislative bodies at all levels of government enact an estimated 150,000 laws each year; on the average, each new law requires the issuance of 10 regulations.² This article noted that, "every private enterprise of any consequence is now ensnared in red tape. For the federal government alone, businesses had to prepare 14 million forms last year." But that figure is an understatement. According to the Commission on Federal Paperwork, the Federal government handles over 300 billion pieces of paper annually, with American citizens filling out more than 500 million forms per year!³

¹Regulatory Affairs Attorney, Chamber of Commerce of the United States.

²"Rules, Rules, Rules." *Syracuse Post-Standard*, Oct. 22, 1977, p. 5.

³Discussion between Warren Buhler, Director of the Commission on Federal Paperwork, and Pat Mitchell, hostess of the Metromedia Television program "Panorama," Oct. 18, 1977.

A recent report by the Center for the Study of American Business,⁴ revealed that federal regulation of business in 1976 cost more than \$65 billion, or \$300 per person living in the United States. Broken down into specifics, the study estimates the administrative and compliance cost of consumer safety and health regulations to be \$6.6 billion. The Department of Transportation is responsible for the largest chunk of that; cost of compliance with DOT auto safety and damage regulations, the study notes, amounted to \$3.7 billion. The study estimates the increase in the retail price of automobiles, between 1968 and 1975, due to federal requirements, to be \$449 per car.

Federal milk regulation by the Department of Agriculture, representing only one regulatory activity by that agency, is estimated to cost \$986 million.

Other areas of federal regulation cited in the study and their total cost are: (1) Job Safety and Working Conditions—\$4.5 billion; (2) Energy and the Environment—\$8.4 billion; (3) Financial Regulation—\$1.2 billion; (4) Industry Specific—\$26.8 billion; and (5) Paperwork—\$18 billion.

Although the study estimates the cost of paperwork at \$18 billion, the findings of the Commission on Federal Paperwork⁵ indicate a much higher figure. According to the Commission, the best current estimate of the annual cost of the federal paperwork burden is approximately \$100 billion a year or about \$500 for each person in the United States. Annual cost estimates for the major segments of society are as follows: \$43 billion for the federal government, \$24 to 32 billion for private industry, \$5 to 9 billion for state and local government, \$8.7 billion for individuals, \$350 million for farmers, and \$75 million for labor organizations.

Significantly, the Commission notes that federal paperwork hurts most those least able to fend for themselves, citing small business as an example. According to the Commission's findings, 5,500,000 small businesses spend \$15 to \$20 billion per year, or an average of around \$3,000 each, to do the paperwork required by federal regulations.

However, the figures cited above seriously understate the actual cost involved for business and the public-at-large. Almost certainly, they do not reflect some of the 'hidden costs' of regulation resulting from owners'/managers' time, money, and manpower being diverted to preparing reports and complying with regulations, rather than being spent on hiring and training new personnel and improving the firm's productivity. This use of time leads to higher overhead for business and, in turn, leads to higher prices for the consumer which adds to the inflationary spiral.

Often, the net effect of regulation is a diversion of manpower and capital away from the firm's business activities to work which adds little or nothing to the perceived utility of the ultimate product or service offered to the consumer. As a result, consumers do not understand the reason for certain cost and price increases.

This diversion of resources is most felt by small businesses, especially those located in the central cities. Unlike larger companies with structured organizational systems, smaller concerns cannot achieve any economy of scale with respect to the regulatory and paperwork burden. For example, small businesses have little or no access to computers and data processing.

This "cost of compliance" consists of the following diversions of money, time and manpower:

(a) To monitor newly issued regulations and the changes made in existing regulations;

(b) To provide the information necessary to comply with regulatory and reporting requirements;

(c) To file reports with the federal government;

(d) To maintain files so to be able to comply with regulatory and reporting requirements;

(e) To meet with federal inspectors and officials;

(f) And to hire professional help to comply with regulatory and reporting requirements.

In addition to these compliance costs, there are still other costs which impact adversely on the firm's productivity, i.e., capital expenditures which companies are forced to make in order to be in compliance with federal regulations.

⁴"Public and Private Expenditures for Federal Regulation of Business." Center for the Study of American Business, Washington University, St. Louis, Mo., 1977.

⁵"A Report of the Commission on Federal Paperwork," Final Summary Report, Oct. 3, 1977, p. 5.

The *Wall Street Journal*⁶ recently reported that the Environmental Protection Agency is on record as calculating industry's total capital investment requirements for all sorts of pollution control equipment to be, in the decade 1972-81, approximately \$112 billion. In fact, the steel industry alone will spend, conservatively speaking, over \$1 billion annually on pollution controls (this expenditure amounts to over one-quarter of the industry's total annual capital investment). The *Wall Street Journal* also reported that it will cost American industry over the next 7 years about \$60 billion for capital improvements and another \$12 billion annually in operating and maintenance costs in order to meet EPA's 1983 water pollution standards. Meeting noise pollution standards will involve expenditures of over \$15 billion in capital costs and \$2 to \$3 billion in operating costs in the years immediately ahead.

The above figures give some indication of the hidden costs of regulation. This diversion of money and manpower—expenditures for capital improvements and for various costs of compliance with regulations—can constitute a government impediment to economic growth. Often times, these costs do not add to the perceived utility of the product, and cut into the individual firm's productivity, thereby inhibiting employers from hiring new personnel. It should also be added that other important hidden costs of regulation were omitted, e.g. costs that involve product or work place redesign to meet regulatory standards.

In sum, the federal government's regulatory activity increasingly is being viewed by American business as a significant impediment to economic growth.

Moreover, compliance with regulatory and reporting requirements impose inequitable demands and burdens on small business as well as burdensome legal, accounting and consulting costs. As Senator Tower noted in a recent statement,⁷ it is difficult if not impossible for small businesses to be aware of and to comprehend the large number of regulations promulgated every year by the federal government. Moreover, should small businesses be cognizant of the existence of the regulations, in most instances they lack the resources to comply adequately, since many cannot afford the attorneys and accountants necessary to interpret the regulations and to complete the required forms. They are thus forced to attempt these tasks themselves.

In addition to the inherent costs involved for the business community, there are other compelling reasons why we support regulatory reform.

One reason is the need to ease the burden of compliance on the individual citizen, especially the small businessman. Obligations of citizenship too complex to understand, too demanding to fulfill, and too numerous to enforce inevitably must damage the citizen's respect for government and the law. In time, a government which promulgates these regulations and reporting requirements will be seen as both fatuous and oppressive.

An additional reason, which has received generally less attention, is that, as regulation grows in extent and complexity, government finds itself increasingly entangled in its own red tape. Already, examples abound of inter-agency conflicts. Given the nature of government, such conflicts will proliferate, with a correspondingly deleterious effect on the delivery of many services, both public and private. The private enterprise system cannot fairly be criticized for failure to provide necessary jobs and resources if that failure is traceable to government interference with the system.

The National Chamber is not suggesting the elimination of all regulations *per se*. Rather, we are simply concerned with keeping regulatory activity from becoming excessive. For example, we are concerned by the following regulatory abuses and excesses which affect adversely business and the public-at-large:

- (1) duplication of regulatory and reporting requirements;
- (2) contradictory requirements;
- (3) regulations that ask for more information than is needed;
- (4) regulations asking for more frequent reporting than is useful;
- (5) regulations asking for reports from small firms that are so small that they have little or no impact on the area being regulated; and
- (6) regulations that do not fit the scale of those being regulated.

Consequently, the National Chamber has adopted a specific series of recommendations to reform the regulatory system and regulatory agencies. In addition to supporting efforts at government reorganization, sunset legislation, and

⁶ *Wall Street Journal*, "The Hidden Costs of Regulation," Jan. 12, 1977.

⁷ Senator John Tower, "Relief to Small Businesses Through the Regulatory Flexibility Act," *Congressional Record*, Oct. 27, 1977, pp. S. 17958-59.

zero-base budgeting which certainly will help to reduce the regulatory and paperwork burden, the Chamber supports regulatory reform based on the following guidelines:

A competitive free market system should be retained and encouraged to provide an incentive for innovation and productive economic activities;

Regulations should be only those essential to the protection of the health, safety and the general welfare, and should be revised and administered so as to * * *

(1) Provide that degree of regulation essential to the proper functioning of a competitive free market system;

(2) Eliminate uneven and inequitable enforcement;

(3) Eliminate regulatory duplication and conflict;

(4) Provide for prompt regulatory decisions consistent with due process;

(5) Assure adequate consideration of costs and benefits;

(6) Minimize compliance costs;

(7) Provide federal preemption only in essential instances;

(8) Assure a more orderly development of regulation with the Congress establishing basic policy, agencies regulating in accord with intent of Congress, and Congress reviewing regulatory actions within its oversight function.

With the effective implementation of these recommendations, new employment opportunities should be created as more job-creating capital is made available, and the diversion of businesses' time, money, and manpower to efforts that do not improve the individual firm's productivity will be greatly reduced.

In summary, we hope that the above recommendations will be received in the spirit in which they are intended. They are offered as part of the National Chamber's continuing effort to achieve regulatory reform, and our continued commitment to remove government impediments to growth in the regulatory system—a commitment clearly shared by President Carter, as evidenced by his remarks last March to Congress, when he said:

"One of my administration's major goals is to free the American people from the burden of overregulation. We must look, industry by industry, at what effect regulation has—whether it simply blunts the healthy forces of competition, inflates the prices and discourages business innovation. Whenever it seems likely that the free market would better serve the public, we will eliminate government regulation."

APPENDIX

The Federal Paperwork Burden

WHAT PEOPLE ARE SAYING

What follows are representative comments from the Chamber's survey. More could be provided.

Service company, Midwest

"Forms which we have had experience with include the MA-100, MA-175 and an INGOT report—all from the Bureau of the Census. We have found that most of the information requested is a duplicate effort.

"The mountain of paperwork required by the government from all of the people soon may take on the proportions substantiating a revolt. We are some of those who have had enough!"

Manufacturing company, Midwest

"We need relief before we 'litterly' drown in paperwork."

Accountant, Southeast

"The client either must pay an accountant to prepare all of these reports, or spend many hours a month of non-productive time doing this himself. For this reason, I have seen many situations where the businessman decides it is not worth the trouble and expense to hire employees. The economic consequences of this decision are that there are fewer jobs created and fewer small businesses succeed and grow.

"Another really sad example is the excess paperwork caused by the Pension Reform Act of 1974 (ERISA). The confusion caused by ERISA is resulting in termination of retirement plans on a wholesale basis, especially by small companies."

Pharmaceutical firm, Southwest

"My firm employs fifteen people in the home office. It is our estimate that if these regulations as proposed are made final, we would be required to add at least three additional employees whose primary jobs will be paperwork.

"Our industry, as I am sure of many other industries, is already 'up to our eyes' in paperwork. This additional regulation will be expensive to the entire industry and very well may deal a death blow to the small businessman in our industry."

Plastics company, Midwest

"* * * In our small \$7,000,000 annual sales company, we were handling over 300 reports each year."

Construction company, Midwest

"Each agency, i.e., EPA, HUD, etc., requires the submission of a written Affirmative Action Program from the Contractor for approval, prior to award of each contract. This requirement must be met even though the Contractor has a current approved Affirmative Action Program for a project which is in process for the same agency.

"There is no standardization of the requirements for these Affirmative Action Programs between the agencies or even within the same agency between regional offices."

Small steel company, Southeast

"As operator of a small business, less than sixty employees, the most unnecessary paperwork burden to us is that of OSHA. In order to correct a situation where employees were subjected to unsafe conditions in a very small percentage of companies, it is totally wasteful to cause millions of persons to be subjected to the enactment of this regulation."

Construction firm, Southwest

"* * * The Environmental Protection Agency is the biggest abuser of excessive paperwork. There are so many forms and applications to complete before qualifying for a grant, that many municipalities just give up. As a result, the EPA complains that they have monies available and not being used, yet they make it so difficult to obtain the funds through their excessive paperwork and applications."

Engineering firm, West Coast

"* * * 40% of my time is being utilized for record keeping for governmental agencies.

"Small businesses faced with the burden of this paperwork are eliminating programs within their operation so that the reporting requirements are no longer necessary."

Canning company, South

"Especially burdensome is the Census report which requires long hours of research and is requested at a time when income taxes, payroll taxes, W-2's, etc. must be completed.

"Also our traffic department is overburdened with reports, plus being confused by the conflicting interpretations between ICC, DOT, and OSHA."

Manufacturing company, Midwest

"We are a small manufacturing company with 72 employees. Our general office staff totals five people, including myself.

"As Office Manager, I find myself devoting more than 50% of my time in filing reports pertaining to OSHA, ERISA, Census Bureau (MA-100, Pollution Abatement, etc.), BLS (BLS 790C, BLS 790, DL 1219, etc.), State and Federal EPA reports, State and Federal EEO reports, etc., etc. The value of informational reports is questionable at best."

Steel company, Northwest

"In 1973, our presentation consisted of 74 pages and was accepted by the Equal Employment Opportunity Specialist who conducted an 'on-site' review.

"In 1974, a different Specialist refused to accept our program until we developed two volumes containing a total of 395 pages. We are required to file two copies plus retaining one in our files.

"This is a ridiculous waste of expensive man hours and, as far as we can see, serves no useful purpose."

Bank, Northeast

"* * * they require us to provide an original and six copies of this report. Now, if some bureaucrat wants six copies of mostly blank forms, then I feel he should provide them for his own use. We are always required to make adjustments in our report and this, again, means an original and six copies. One year we had answered some questions with 'none.' These were questions asking for dollar amounts. The pages were returned with a request to insert '-0-' instead of 'none.' Again, same originals and six copies."

Engineering company, West Coast

"* * * Our small business was required to complete 1,342 federal and state forms for the year ended 1975."

Savings and loan, Midwest

"* * * Our business has been saddled with RESPA, Fair Credit Law, Fair Housing Law, Home Mortgage Disclosure Act, Truth-in-Lending Law, Equal Credit Opportunity Law, Consumer Protection Act, and so on.

"The amount of change in internal procedures, new forms, and reporting to the various Federal Agencies has become monumental."

Hospital, South

"As a result of the more recent requirements of M.C.E., this 509 bed hospital, with approximately 40% Medicare and Medicaid patients, added four full time equivalent employees. Now, with P.S.R.O. regulations, we are forced to add one and a half e.f.t. employees. The 5.5 e.f.t. employees, 1½ of whom are nurses, will barely be sufficient to keep us in compliance with the rules and regulations of the mandated additional activity and associated paperwork.

"This additional paperwork does not and will not give better care or any care to the patient."

Engineering company, West Coast

"We are a small engineering, surveying and planning company with a total staff under 30 persons. Yet, under the ERISA manifesto, we are obliged to spend great amounts of time and considerable sums of money trying to: (a) understand, (b) implement, and (c) afford our profit sharing plan, now that the government has decided to punish everybody because some of the large pension plans have been raided by dishonesty and mismanagement.

"How serious is it really? We are presently considering the termination of our profit sharing plan rather than try to comply with the utter madness of this Orwellian nightmare!"

Manufacturing company, Midwest

"We recently were requested to supply material to a prime contractor, the total value of which material approximated \$120.

"To ship this order, we were requested to give the prime contractor assurance that we had read and were aware of the contents of 39 government laws, regulations, or similar, and would comply with them."

