Environmental Regulation and the ImMOBILization of Truth

Gus Speth
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Not only are we here at the Fifth National Conference of the Environmental Industry Council to mark five years of cooperation, we are also together at the conjunction of a series of important anniversaries and events: the tenth anniversary of both Earth Day and the signing of the National Environmental Policy Act, and, of course, the Second Environmental Decade ceremony tomorrow at the White House.

Historian and Congressional Librarian Daniel Boorstin makes a distinction between an event and what he calls a “pseudoevent.” An event, obviously, is an important or at least memorable occurrence that can range upward on the vertical scale from Neil Armstrong’s first footprint on the moon downward to the sinking of the Titanic.

A pseudoevent is subsequently celebrating an event.

To the extent that pseudoevents are nothing but public relations exercises promoting the forgettable, they are as superfluous as watching the Pittsburgh Steelers play the San Francisco Forty-Niners.

But by no means are all pseudoevents superfluous. Our national and religious holidays are not superfluous. Anniversaries of significant achievements, whether they involve a closer look at the moon or a better look at our earth, must be remembered, recalled,

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and reinforced, or we are in danger of losing our heritage, neglecting constructive pride in past achievement, and failing to exploit legitimate opportunities to gain a better perspective on where we are, how far we have come — or regressed — and what we must do.

Today, I want to explore where we are, how far we have come, and what we must do after ten years under NEPA. I want to do so with particular reference to Federal environmental regulation — its past and future.

From an environmental perspective, the past decade reflects the American people and their system of government at their very finest. Faced with the increasingly likely prospect of leaving their children a legacy of silent springs, the American people called for action, and their government responded with imagination and creativity.

In a single sustained burst of legislation, almost without precedent in our history, machinery to reverse a century of environmental degradation was devised, perfected, and set into motion. NEPA, signed on the first day of the last decade, was quickly followed by important amendments to the Clean Air Act, the Occupational Safety and Health Act, the Resources Recovery Act, and establishment of the EPA. Building on this foundation, Congress rapidly added the Federal Water Pollution Control Act, the Ocean Dumping Act, the Safe Drinking Water Act, a strengthened Federal Insecticide, Fungicide and Rodenticide Act, the Toxic Substances Control Act, the Resource Conservation and Recovery Act, the Noise Control Act, and the Quiet Communities Act.

I have no doubt whatsoever that future generations of Americans will look back upon this decade of environmental renaissance—the way we look back upon similar creative bursts of legislation during the 1930's for the New Deal, and the 1960's civil rights — as among democracy's finest hours.

It is very important that we have continued to make progress in the past few years, when energy and economic issues have competed mightily for public attention. Despite these pressures, we have maintained the commitment to a clean, healthy environment for all of our citizens, and the Administration's legislative program now before Congress — which includes such vital measures as the Alaska Lands Bill, the "superfund" bill to pay for the cleanup of abandoned hazardous waste sites, a new plan for nu-
clear waste management, proposals to increase funding for energy conservation and the development of solar and other renewable energy sources, and reform of federal water resource development — indicates a continuing environmental priority. It is important that Congress move forward with these measures.

Another positive dimension involves the actions of individuals and thousands of private groups and businesses which have contributed so greatly to protecting the environment. Much of the progress we have made so far would not have been possible without a strong pollution control industry.

But even as we rejoice in these positive dimensions, our celebration is shadowed to some degree by contrary evidence. One of the negative dimensions we face is psychological. It stems from the fact that too often some of us exhibit a truncated attention span. Causes, ideas, attitudes have, it appears, a short half-life, with today's compelling cause tarnished into tomorrow's discarded fashion.

Those who argue against continuing the environmental momentum of the 1970's have failed to grasp the full severity and dimensions of the environmental problems that continue to face us. The issues that persist today are not just questions of esthetics, or comfort, or an idealized notion of "the good life"; they are clear threats to the health and welfare of the American people. They simply cannot be put aside until a time when it is more convenient to focus on them.

We have gained success in combatting gross threats to our air and water only to discover whole new phalanxes of subtle menaces, whose danger and obstinacy often vary in inverse proportion to their ability to be quickly and easily understood. Thus, we look upon the clearing water and purified air with satisfaction while, stealthily, four square miles of our most productive farm land are each day consumed by concrete and asphalt and lost from agriculture. Fish are returning to waters they long ago fled, but we are finding their flesh often contains significant amounts of toxic chemicals. Sulfur dioxide pollution is now a major health problem in only a few areas, but partly because we are airmailing sulfur oxides to places far away where it falls as acid rain.

There are few who directly attack our environmental commitment, but a growing number have adopted the strategy of undermining that commitment indirectly. At first the strategy took the form of a refreshing concern for the working man and woman. In
a kind of perversion of the Phillips curve once vainly used to explain inflation, the argument seemed to run that unemployment went up as smog and oil slicks went down. But that argument was permitted to die a quiet death when the National Academy of Sciences estimated that the nation’s effort to clean up the environment actually accounted for about 680,000 jobs, 30 new jobs for every one eliminated due to decisions by manufacturing firms and others that resulted from environmental requirements. A subsequent study by Data Resources, Inc. showed that air and water pollution controls will stimulate employment during the entire sixteen year period from 1970 to 1986.

The negative strategy then moved to the issue of inflation. This has now been looked into as well, and it has been found that between 1979 and 1986, federal environmental regulations will add between one- and two-tenths of one percentage point to the annual inflation rate. For 1980, existing federal environmental regulation is predicted to add only one tenth of a percentage point to the rate at which prices increase — a rate that should continue in the period 1984 to 1986.

The first point to note is that, even by standard economic measures, the inflationary impact of environmental programs is quite minor. Moreover, any realistic modification of federal environmental regulations would produce no significant reduction in the overall Consumer Price Index. If the inflationary impact of these requirements could be reduced by a fourth — a substantial relaxation — the CPI’s increase would be restrained by less than 0.05 percent: the net effect of even draconian measures could be the difference between a 7 percent and a 7.05 percent increase in the CPI. So we must look elsewhere than environmental regulations for the sources of inflation, and for the proper targets of our anti-inflation efforts.

Following the bankruptcy of these contentions, we have been told and told, and then told again, that environmental regulation is merely one aspect of an already over-regulated society, a society forced to divert increasingly scarce resources and managerial talent from productive and innovative ends. Indeed, some major corporations have undertaken rather large campaigns to convince the American people that government regulation is out of control.

In response, I would simply point out that, in light of the continuing revelations of corporate neglect or worse, much of the current protestation against government regulation rings awfully
1980] ENVIRONMENTAL REGULATION 417

hollow. Virtually every environmental regulation, for example, has its genesis in some problem, such as Love Canal or Kepone or PCB's, that threatened the public and finally brought a legitimate public demand for government action. Regulation is not going to go away until the problems do. The way we regulate can and must be improved, but let us face the fact that a continued high level of government regulatory activity is essential to national goals of paramount importance — to controlling cancer and protecting health, to preventing consumer fraud and deception, to cleaning up air and water pollution, to reducing oil imports and conserving energy, to protecting us from improperly sited or mismanaged nuclear power facilities — the list, obviously, is very long.

Some critics of government regulation do rely on factual presentations, rather than rhetorical overkill, to make their case. For example, Clifford P. Hardin, former Agriculture Secretary and now Vice Chairman of the Board of Ralston Purina Company, put it this way:

... my concern, and that of most people who share my concern, is not with the idea of regulation, or even with the central purpose of most regulatory legislation. Some regulation is a must and most of us support it. Our concern is rather with such things as overlapping and duplication in requests for information often in different formats; directly conflicting rules from separate agencies; rules that are out of date, but which are not removed; and, finally and perhaps most importantly, the growing obsession with minutia — items that have little, if anything to do with protecting the consumer, environment, the safety and welfare of employees, or the growth of competitors.

I could not agree more, and this Administration could not agree more, with Mr. Hardin's sentiments. No function of government, and that definitely includes the regulatory function, should be transformed into a kind of sacred cow, immune from critical examination.

And that is precisely why President Carter is determined, as one of the central initiatives of his Administration, to eliminate the kinds of problems referred to by Mr. Hardin.

Thus, among other steps, President Carter has ordered regulatory agencies:

... to analyze the costs and benefits of major proposed regulations, to assure that alternative approaches are articulated, consequences compared and the rationale for decisions elaborated, and good rea-
sons provided if the least expensive option is not chosen;  
... to make sure that top officials supervise the regulation-writing  
process;  
... to review existing regulations regularly in order to weed out those  
that are obsolete;  
... to work with all parts of the federal government to ensure that  
actions are consistent and coordinated;  
... to make sure the public has a chance to participate in the process  
of devising new regulations by early notification of proposed  
regulations and by direct assistance to assure a wide spectrum of participation  
by consumer and small business groups; and finally;  
... to write regulations in language that people can understand.

The President has also set up practical mechanisms to put  
teeth into these requirements, including the Regulatory Analysis  
Review Group, the Regulatory Council, and the Interagency Reg-  
ulatory Liaison Group.

But, unlike Mr. Hardin, all critics are not responsible. Some are  
merely using regulatory reform as a kind of shibboleth masking  
their real motivation, which is to pull the teeth from health and  
environmental programs. These critics hide their intentions under  
a flourish of slick public relations sophistries which, for lack of a  
better word, I might call the imMOBILization of truth.

Mobil, of course, is the company that has spent hundreds of  
thousands, if not millions, of dollars over the past few years on a  
rather strident advertising campaign on the Op-Ed pages of major  
national newspapers and magazines. Some of the ads give away  
their true nature by taking the form of fables; others are just as  
mythical and remote from reality. One such ad attacked govern-  
ment regulators as "new reactionaries," and accused government  
of trying to "turn back the clock to the detriment of today's standard of living." If I had been writing a headline for that particular ad, my first thought would have been: "Bring Back the Robber Barons."

Since the imMOBILizers are so misleading, I would like to look  
for a moment at a few of their favorite debating points.

The first is what I call Zen analysis. We all know what is purported to be the way Zen Buddhists sharpen their powers of concentration. First you think of the sound of two hands clapping and then you think of the sound of one hand clapping. It is, I imagine, a very soft sound, somewhat like the quality of reasoning employed by those who subject health, safety, and environmental
regulation to a form of one-handed analysis that discovers that, lo
and behold, these activities entail a cost.

Of course environmental quality costs money. The imMOBILizers want us to overlook the fact that the cost of environmental quality is invariably exceeded by the cost of environmental degradation, and that it is the general public who pays the latter, while the former involves some participation by those who would prefer to continue using America the beautiful as a kind of limitless septic field.

For those of us who would rather hear the sound of both hands clapping, I refer you to the Tenth Annual Report of the Council on Environmental Quality, and particularly to Chapter 12, which deals with economics. The data in this chapter, are objective and look at every aspect of both cost and benefit, including the relevance of dollar yardsticks in assessing quality. "According to a study done for CEQ," the report says, "The annual benefits realized in 1978 from measured improvements in air quality since 1970 could be reasonably valued at $21.4 billion." The Report also points out that, "the total annual benefits to be enjoyed by 1985 as a result of the nation's water pollution control legislation . . . will amount to about $12 billion per year . . .".

In my estimation, those figures are worth two hands clapping any day.

The second form of sophistry employed by the factual imMOBILizers involves careful selection of targets of opportunity. This involves telling us in great detail about some regulatory excess, and there is some, or about a particular form of regulation that is made to appear unnecessarily burdensome. What never gets mentioned by this form of imMOBILization is that a great deal of regulation, particularly economic regulation, has come into being because business interests of various kinds wanted it or found that it advanced their own goals.

Let me just quote from some remarks by Carol Foreman, Assistant Secretary of Agriculture for Food and Consumer Services. When asked about regulation, she said,

Economic regulation, as practiced by the ICC, and the CAB until recently, and certainly the Securities and Exchange Commission, tends to be heavily supported by industry. Certainly the Packer and Stockyard Administration is heavily supported by industry. Some of that economic regulation tends to raise prices and limit markets, which is exactly what it was intended to do, and the businesses that are regu-
lated love it.

And then she added,

Businessmen generally say health and safety regulations are terrible. They've opposed them. And yet my experience in meat inspection is if somebody were to propose to eliminate meat and poultry inspection, the regulated industries would be the first ones to try to prevent that because we protect them from their competitors who might cheat.

Another favorite way to imMOBILize the truth involves Scapegoatery. Thus, when U.S. Steel decides to close sixteen plants in eight states, this action is not portrayed as what is bound to happen from time to time in a truly competitive system, or that economic history is largely the pageant of firms that decline and firms that advance, or that disinvestment in the uneconomic is just as important to healthy growth as investment in the economic. Instead, the experience of U.S. Steel is perverted into becoming a horrible example of what happens when government regulation requires environmental protection, or permits foreign competition. What is not stated is that Japanese steel, the major competitor, is produced under environmental protection restrictions that are more stringent than our own, or that trade barriers, high or low, are forms of government regulation.

If the critics really want to reduce the burden of government regulation, they must take steps to eliminate the situations that create the need for regulation. That, it seems to me, is the enlightened response to a changing society. And those companies that are increasingly taking this approach deserve our praise, support and thanks. With this approach, we will be well on our way to an age when, in the words of one editorial writer, we will fit our desires to the environment, and no longer ruin the environment to suit our desires.