



Regulations-What Are We Thinking?

By Scott R. Smith

I recently read an article by Jay Timmons, President and CEO of the National Association of Manufacturers. He pointed out that the Manufacturers Alliance for Productivity and Innovation determined that since about 1984, at least 2,300 new regulations have been placed on manufacturers. Since 1982, almost 2 million pages of presidential documents, rules, proposed rules and notices have been published in the Federal Register.

Regulations are brought to us by many federal agencies like the Securities and Exchange Commission, Health and Human Services, the Occupational Safety and Health Administration, the National Labor Relations Board and others. They are the means by which the executive branch implements Congress' intent expressed through legislation.

Regulations were initially encouraged by a group that called themselves Business Progressives in the late 19th and early 20th century. Teddy Roosevelt counted himself as a member of this group. They saw regulation as a method to enhance the growth and development of the U.S. economy. The Business Progressives thought such things as tainted food, an

uneducated workforce and fraudulent capital investment were detrimental to business. These Progressives saw regulations as a way to solve some of those problems and advance the US economy. The United States had substantial economic growth during the 19th and 20th century in part because of the vision of the original progressives and the regulations that they brought forward.

During the 1980's, we began to see massive regulatory programs as the result of adoption of the suite of environmental laws including the new Clean Air, Clean Water, Surface Mining and other broad-based environmentally focused statutes. These regulations were used to implement those new statutes.

In recent years it appears that regulators have gone far beyond implementing federal laws. Today's regulations often appear to be implementing political policy rather than implementing Congressional actions or intent. In addition to regulations, EPA and other agencies have been using guidance documents and memorandums to further their agenda.

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Mr. Timmons points out that the National Association of Manufacturers commissioned a study of six major EPA regulations that included the NESHAP for Coal & Oil Fired Electric Steam Generating Utilities, the Utility MACT, the Boiler MACT and others. The study concluded the rules could cost manufacturers more than \$100 billion annually and lead to the loss of up to 2 million jobs. Is this what regulations are intended to do? Significant improvements have been made in the environmental health of our air and water since the 1980's. Are we really facing such dire circumstances that these costs to our communities are justified?

Today's regulatory environment and government control goes beyond the original intent of the underlying statutes and the purpose expressed in the formation of the various federal agencies. For example, EPA seems to have shifted from safeguarding our air and water to an agency that is setting the energy policy of the United States.

The regulatory mindset of today must change. Our government was created with checks and balances in place to avoid one branch of government having too much

power. The legislative branch of government must take back the control they have ceded to the executive branch over the years through inaction. The Judicial Branch has perhaps the most important role to fill. They must insure that regulations that are adopted truly serve to implement the federal laws they support, not create new law. Guidance documents, memorandums, regulations that have no foundation in our statutes and have not stood the test of regulatory development must not be allowed choke our economy and impose requirements with questionable benefits.

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