
The

CEO

SERIES

Business Leaders: Thought and Action

**The Regulatory Improvement Act:
“Deeds, Not Words”**

by John F. Smith, Jr.
Chairman, CEO, and President
General Motors Corporation

CEO Series Issue No. 25
August 1998



Center for the Study of American Business
Washington University in St. Louis

The Regulatory Improvement Act: “Deeds, Not Words”

by John F. Smith, Jr.



John F. Smith, Jr.

The Problem

“Deeds, not words” is one of my favorite aphorisms. In today’s global, competitive markets, it is results—deeds—that count. How can large entities—whether businesses, government agencies, academic institutions, or charitable foundations—ensure consistent, good results? While there are no guarantees or magic formulas for success in this complex, dynamic environment, objective fact-gathering, risk assessment, evaluation of alternatives, clear analytical thinking, and systematic decision-making processes are essential. This is especially so within large, complex organizations where the issues are never simple, and the stakes are always high.

I have a particular interest in proven decision-making tools. As a CEO, my job is not to gather the facts and data or to conduct the analysis, but to ensure that sound, systematic procedures have been followed by all of our business units and by all of the people who contribute to the ultimate decisions. We insist on adherence to such systematic approaches in our company (and I suspect most other businesses do so as well) because our survival depends upon performance, and because our performance depends upon sound business planning and decision-making. We will continue to be successful only if our decisions produce benefits—benefits for our customers, employees, stockholders, and the communities where we operate—that justify the costs: the costs of research and development, plant and equipment, operating expenditures, and marketing.

Unfortunately, regulatory decision-making is not consistently guided by sound analytical techniques and systematic decision-

John F. Smith, Jr., is chairman, CEO, and president of General Motors Corporation.

making processes that take into account risks, alternatives, costs, and benefits. As Senator Spencer Abraham (R-Michigan) points out, “The public is paying too much for what it is getting, and it is not getting enough of what it needs.”¹ The consequences of this inadequate performance are enormous. According to the Office of Management and Budget (OMB), environmental, health, and safety regulations impose \$200 billion in annual costs, affecting “virtually everyone in virtually every aspect of their lives.”² For example, the direct costs of hardware regulations add about \$2,000, or about 10 percent, to the cost of each new car and light truck. In the nation as a whole, another \$80 billion is spent each year on complying with economic regulations (e.g., regulations of price and entry into markets) and “paperwork,” and another \$140 billion is spent on the preparation of federal income tax returns. All these estimates exclude the hundreds of billions of dollars lost each year because of the indirect costs of reduced productivity, foregone innovation, and lower economic growth.

Make no mistake: no one wants to roll the clock back on environmental, health, or safety regulations. They are *essential* to a cleaner and safer environment. Considerable progress has been made under existing regulations in improving the environment and in making the nation’s factories and, yes, motor vehicles safer. At General Motors, continuous improvement in every one of these areas is a priority every day. We know that such progress is critical to our employees, to our customers, to our stockholders, and to the public at large.

What we want, and what everyone has a right to expect, is, going forward, for each new regulation to afford the greatest benefit for what the American consumer, worker, and businessperson will be required to pay. Professor Robert Repetto of the World Resources Institute says,

(T)he nub of the issue is that we’re not getting as much as we should for our expenditures on environmental protection. There’s clearly something wrong when one regulation buys a reduction in the same risk at a cost several orders of magnitude greater than another regulation does. This anomaly has been documented time and time again.

He asks, “Why not concentrate efforts more heavily on actions that reduce risks at lower cost and, in that way, achieve much greater overall improvement in health and safety for the same total expenditure?”³

Why not, indeed? Why not apply the same business planning and systematic decision-making tools to federal regulations that we apply in the private sector? Why not take costs and risks into account in the regulatory process, as we do everywhere else? Why not focus the \$200 billion we spend each year on regulations affecting health, safety and the environment where the money will do the most good?

Professors Tammy Tengs and John Graham of the Harvard Center for Risk Analysis estimate that through careful analysis and more effective regulatory decision-making it would be possible to save an additional 60,000 lives every year, with no increase in costs.⁴ These 60,000 lives could be saved if money spent on ineffective regulations were spent more wisely. This potential reduction in deaths exceeds the number of premature deaths caused by motor vehicle accidents and is comparable to the loss of life from diabetes. (See Figure 1.)

What I want to suggest here is that the same fundamental, analytical tools and systematic decision-making processes that guide businesses and consumers, educators and philanthropists, should also guide governmental standard-setters. Governmental regulators face many of the same complex issues, budget constraints and difficult trade-offs that are faced by business people and consumers. They therefore need to follow procedures that will ensure that their decisions produce benefits for the nation that justify the expenditure of resources required.

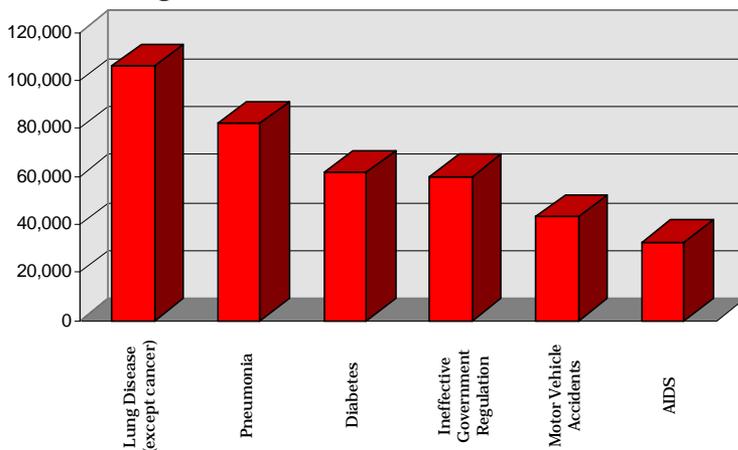
Agency administrators have an even greater need to be guided by sound decision-making principles. This is because the beneficiaries of government regulation often do not bear the costs, and because, unlike business planners and consumers, government regulators do not face the harsh and immediate consequences of faulty or inadequate decision-making. Indeed, in the regulatory arena, systematic decision-making is more important than ever because most of the low-cost improvements in health, safety, and the environment have already been obtained. New regulations must go after additional areas that typically yield smaller and smaller improvements, while imposing larger and larger incremental costs.

The Solution: S. 981, The Regulatory Improvement Act

There is much to be gained from applying sound analytical methods and systematic decision-making procedures to government regulation. That is why The Business Roundtable supports

Figure 1.

Ineffective Regulation and Other Causes of Premature Deaths



S. 981, The Regulatory Improvement Act, a bipartisan bill introduced by Senators Carl Levin (D-Michigan) and Fred Thompson (R-Tennessee) and co-sponsored by Senator Spencer Abraham (R-Michigan), John Glenn (D-Ohio) and many other Republicans and Democrats. The proposed bill would do just this by requiring that before any regulation costing \$100 million per year or more is implemented, the agencies must explain what they are doing and how they plan to do it, assess the benefits and any unintended risks, estimate the costs, and identify alternatives that could achieve the regulatory objective at lower cost or less risk. To quote Senator Abraham, “S. 981 is a modest but critically important step forward that will bring some much needed common sense to the regulatory process.”⁵ In short, S. 981 is about *smarter* regulation that will yield *better* performance. It is about deeds, not words.

What the Opponents Say

Some who oppose The Regulatory Improvement Act are concerned that it will require that all new major rules pass a formal “dollars and cents” benefit-cost test. Others worry that the requirement to estimate benefits and costs will delay needed regulations. Still others say we should give President Clinton’s Executive Order 12866, which requires benefit-cost analysis prior to the implementation of major regulations, a chance to work before passing new legislation.

The Regulatory Improvement Act does not require government

regulations to pass a benefit-cost test. It requires the regulatory agencies to undertake a systematic analysis of the prospective benefits, risks, and costs prior to implementing the regulations. It requires regulatory agencies to follow the same fundamental decision-making procedures that businesses, consumers, high schools, colleges, state and local governments, and other organizations follow in order to make sound decisions and to achieve solid performance. It does *not* require any agency to choose any particular regulatory option. As Senator Levin points out, it “does not mandate the outcome of the [analytical] process, only the process itself. . . . [It] requires only that the agency be up front with the public as to just how cost-beneficial and cost-effective its regulatory proposal is.”⁶

As the Senator also points out,

S. 981 does not alter, modify or supersede any of the requirements in law to protect food safety, or any other public health, safety, or environmental standard. On the contrary, S. 981 is designed to make the implementation of those laws more effective by getting a bigger bang for our buck. . . . We want to regulate in the most effective way and to use our resources in the way that achieves the most protections for our money. That’s what S. 981 is all about.⁷

The bill allows for emergency promulgation of regulation to immediately protect human health and the environment. However, the typical environmental, health or safety regulation is many years in the making. There is thus ample time to incorporate reasoned, systematic analysis into the decision-making process. Implementation of one recent Occupational Safety and Health Act (OSHA) rule was twelve years from start to finish, while another took 15 years. As a businessman, I can tell you it doesn’t take us a decade to complete an analysis and make a decision. We wouldn’t be in existence long if it did. One thing my experience as a CEO has taught me is that when it takes that long to make a decision, the problem is not the required analysis and the decision-making process. Quite to the contrary, the problem in these cases is the lack of a sound, systematic process for making decisions!

Our experience has demonstrated that presidential executive orders have not achieved the systematic improvements needed in the regulatory decision-making process. We have had presidential benefit-cost directives for nearly three decades. There have been some sterling examples of excellent economic

and scientific analyses followed by regulatory decisions that have delivered substantial environmental, health and safety improvements in a highly cost-effective manner. The lead-trading rule for the removal of leaded anti-knock compounds from gasoline is one example. Yet, robust, systematic analysis has been the exception rather than the rule.

Last fall, the General Accounting Office reported that approximately one-half the analyses performed by the Environmental Protection Agency from 1991 to 1995 under the Clean Air Act made no attempt to estimate the dollar values of the proposed environmental benefits, one-third failed to specify key economic assumptions such as a discount rate, and one-fourth did not consider any alternatives that might achieve the objectives of the regulations at lower cost, or with greater performance for the money.⁸ More recently, a Committee for Economic Development report on modernizing regulations concluded:

[G]overnment officials are proficient at offering lip service to circulars issued by OMB to implement presidential policies. The ritual presentation of some perfunctory economic analysis enables agencies to ignore the spirit of the effort while still meeting formal requirements.⁹

Raising the importance of benefit-cost analysis from executive order to “Law of the Land” would make sound analysis and reasoned decision-making the rule rather than the exception. The Regulatory Improvement Act is the next logical step to follow the nearly thirty years of experimentation with executive orders. We *must have a statutory requirement* like The Regulatory Improvement Act to ensure the high quality performance we need in the regulatory arena.

What You Can Do

As a recent editorial in *The Washington Post* observed, America needs a law like The Regulatory Improvement Act to force federal regulators to “pay more systematic attention to the cost of the rules they impose” and to institute a process that will “achieve the goal of reasonable regulation.”¹⁰ The Regulatory Improvement Act will achieve that goal by requiring that each major decision costing more than \$100 million per year be guided by sound decision-making criteria, analyses, and procedures. It does not lower existing standards, afford less protection, or supersede existing regulatory statutes.

There is broad support for S. 981 from state and local governments, from elementary and high school boards of education, from the administrators of the nation's colleges and universities, and from the academic community at large, including economists, scientists, and the president of the National Academy of Sciences. However, S. 981 faces strident opposition from those who wish to pursue their own agendas, unconstrained by the objective data, the risks, the costs, the alternatives, and the consequences of their decisions for the larger community. We therefore cannot win the fight for rational regulation without the help of all those who care about improving health, safety, and environmental policies. Write or call your senators and representatives. Remember: it's deeds, not words!☺

Notes

1. Senator Spencer Abraham, statement from his office, 21 May 1998.
2. Office of Information and Regulatory Affairs of the Office of Management and Budget, *Report to Congress on Cost Benefits of Federal Regulation*, 105th Congress, 1st Session.
3. Robert Repetto, *Jobs, Competitiveness, and Environmental Regulation: What are the Real Issues?* (Washington, D.C.: World Resources Institute, 1995), pp. 25-26.
4. Tammy Tengs and John Graham, "The Opportunity Costs of Haphazard Social Investments in Lifesaving," in *Risks, Costs, and Lives Saved: Getting Better Results from Regulation*, Robert W. Hahn, ed. (Washington, D.C.: The American Enterprise Institute, 1996), p. 176.
5. Senator Abraham, 21 May 1998.
6. Senator Carl Levin, statement before the U.S. Senate on Regulatory Improvement Act, 105th Congress, 1st Session.
7. Senator Carl Levin, statement from his office, 3 June 1998.
8. L. Nye Stevens of the General Accounting Office, testimony before the U.S. Senate Committee on Governmental Affairs, 105th Congress, 1st Session.
9. Research and Policy Committee of the Committee for Economic Development, *Modernizing Government Regulations: The Need for Action* (Washington, D.C.: Committee for Economic Development, 1998), p. 18.
10. Editorial, *The Washington Post*, 27 February 1998, p. A24.

The Center for the Study of American Business is a nonprofit, nonpartisan organization, funded entirely by grants from foundations, business firms, and private citizens. It is an integral unit of Washington University. The opinions expressed herein are those of the author and do not necessarily reflect the position of the Center or Washington University. Address inquiries to: Center for the Study of American Business, Washington University, Campus Box 1027, One Brookings Dr., St. Louis, MO 63130-4899, (314) 935-5630.