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Perspectives on environmental regulations and environmental protection

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The laws and regulations that govern the use of environmental resources have complicated effects on our society and our economy. Efforts to regulate environmental impacts are frequently controversial precisely because they have such complicated effects. No single perspective can adequately encompass all of the issues that arise in environmental regulation and environmental protection. Even the terms themselves suggest the fundamentally opposed philosophies that approach the assessment of environmental laws: While proponents of greater environmental activism emphasize the need to "protect" the environment, critics of more stringent controls emphasize that these laws "regulate" and limit the actions of individuals. At the PURE '92 conference, we invited four speakers with very different perspectives to share their views of the important issues in environmental protection and environmental regulation. Three of them are represented here: A. Myrick Freeman, III, an economist at Bowdoin College; John Graham of the Harvard School of Public Health; and Dean Marriott, commissioner of the Maine Department of Environmental Protection.

A state regulator's view of environmental regulation

by Dean Marriott, Commissioner, Maine Department of Environmental Protection

How do we set environmental priorities in Maine? You may think that there is some secret committee, like the Quayle Commission. Really, it is quite simple. Every time the legislature is in session, they pass bills to tell some agency of the government to do something or to tell some private sector entity not to do something. The governor sets priorities and issues executive orders to provide direction to the executive branch of government. I think many of us who have observed the system over the years have probably concluded that, although we are very thankful that it is a representative democracy, the priorities are not necessarily set in the most effective ways. For instance, I recently spent an hour of my time in front of a legislative committee talking in great detail about whether or not someone who was dumping wood ash in the woods had a sheet of plastic under the pile before they dumped the wood ash. It was a great consternation to the committee. I had staff people promise to look at the site and to take photographs. That is how we set priorities today. It is not surprising. Elected officials respond to public pressures. The media responds to public interests and often has a role in setting the public interest

That is why the EPA started down the road of risk-based management and setting priorities. That is why Vermont, Washington, Colorado, and Louisiana have already launched their own risk-based strategic planning efforts and that is why the State of Maine, I hope, will in the next year begin a risk-based strategic planning effort. It will not cut out the public; in fact, the only way such a process will work is if the public is fully included in the process. I think the process will point out some of the anomalies, as when the public is most concerned about hazardous waste and yet all the experts indicate that these wastes generally present minor risks.

Consider some examples of how we currently factor costs into the decision process. I will be the first to admit that we are not very good at it. The legislature is considering a piece of legislation, which the DEP proposed, that would require all vehicles in the southern and central part of the state to be inspected annually to test their emission systems. Studies in 100 other locations in the country have shown that vehicle inspection maintenance programs can achieve a thirty percent reduction in the volatile organics coming out of passenger vehicles and light trucks for a cost of \$10 per year per vehicle. That compares extremely favorably to the costs to remove a comparable amount of volatile organics from industrial sources, which costs about \$5,000 per ton. For the vehicle inspection maintenance program, it costs about \$500 per ton.

There has been some talk about using financial incentives to control pollution. Maine now has an air emission fee, and those who emit waste into the air pay an annual fee based on the tonnage of material emitted. It does have a \$100,000 cap, so some would argue that it is not as effective as it could be, but we are starting in that direction. It is very easy for regulators to assess the costs of a proposed regulation or some agency action when it involves the installation of equipment, because you can get costs from equipment manufacturers. It becomes increasingly more difficult as you move from regulations that require the installation of equipment towards changes in processes or even preventing someone from doing something.

Attitudes towards regulations seem to be increasingly hostile. The Maine Legislature is considering legislation to require all agencies to do more studies on the costs of their actions. There were bills introduced this session to require formal cost-benefit analyses. As a side note, I think it is quite interesting that people tend to focus on the actions of public agencies; private decisions that affect the public are not subject to the same scrutiny. For example, consider Ford Motor's decision years ago not to put an \$8 part in their Pinto, until car after car exploded from rear-end collisions. Only after Ford was made to pay hundreds of millions of dollars in lawsuits was that decision reversed. The silicone breast implant dispute involves the submission of false data and false test results to the Food and Drug Administration. These private decision-makers are passing those costs to the public.

As a closing comment, let me say that I think that we are spending too much money and too much effort on controlling pollution. We need to spend more effort and money on preventing pollution, and I hope that during the decade of the 1990s we will head in that direction.

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