

Making Regulatory Reform A Reality

ANGELA ANTONELLI: For supporters of regulatory reform, 1995 was both frustrating and disappointing. What began as promise in the Contract With America became a series of reform bills that called for, among other things, the use of sound science and cost-benefit analysis in regulatory decisionmaking. These bills moved rapidly through the House in early 1995 only to wither and die in the Senate late last year.

During the Senate debates, supporters of regulatory reform found themselves losing the public relations battle, unable to keep themselves from being portrayed as extremists with a goal of rolling back decades of environmental, health, and safety protections, and desirous of a renewed effort to pollute America and make it unsafe. Alarmists succeeded in convincing the public that a reformed regulatory system would offer less protection—for example, women would be denied life-saving mammograms and our food supply would not be safe from deadly *e. coli* bacteria. And legislators could not respond effectively. What we need to help the American public understand is that regulatory reform means more protection, not less. During 1996, the challenge for think tanks, like Heritage, and the academic and the business community will be to figure out how we can get this message out to the public and reclaim the moral high ground in this debate.

The American people have not stopped wanting regulatory reform, but we need to help them understand that the goals of reformers are not different—we want cleaner air and cleaner water—but we can do it with less money and less government intervention. Today, the federal bureaucracy supports elaborate programs aimed at reducing tiny risks at huge costs to the taxpayer, while more serious dangers go neglected. At the same time, this huge misallocation of resources means these resources are not available for other purposes—for example, the local community that must spend millions of dollars to eliminate one chemical from its water supply that poses a negligible or non-existent risk to the public cannot spend this money to put police on the streets or build a school.

Helping people put daily risks in perspective is one of the challenges we face in making regulatory reform a reality. As Dr. Graham points out, today people are suffering from what can be called a “syndrome of paranoia and neglect” about the potential dangers to their health, safety, and the environment. Risk regulation is responsible for the bulk of the nation’s \$600 billion in annual regulatory costs, particularly those rules affecting the environment. Dr. Graham’s work with Dr. Tammy Tengs recently has shown us that a reallocation of resources to more cost-effective programs could save an additional 60,000 lives per year at no increased cost to taxpayers or industry. 60,000 lives! And we can also save \$31 billion.

We need to help the public understand that the benefits of regulatory reform can be significant. Reformers need to point out that their reforms and solutions actually save more lives. The challenge now is to get reform back on track to accomplish this. And our distinguished panelists can help us understand how we can do this.

THE HONORABLE DAVID MCINTOSH: Thank you, Angela. I appreciate it, and I appreciate the hard work you have done in this area, both while you were in the Administration and now at Heritage.

I wanted to share with you my perspective on where we've been recently and where we should be going. Speaker Gingrich often uses military analogies to inspire us in the Republican Conference. If I can borrow one of his, I would say that we're somewhere between the Battle of Britain and getting ready to lay the groundwork for Normandy on the question of regulatory reform, which is to say we've come past the crisis stage and have every opportunity in front of us to lay plans for the major siege that will give us the final victory in eliminating unnecessary regulations.

I think last year solidified the change in the debate. The Republicans, in the Contract With America, made regulatory reform a key part of their agenda, and the President returned to some of his discussions of the work he had done with Vice President Gore on regulatory reform in their government review. The question is no longer whether we should have regulatory reform, use cost-benefit analysis, or use good science, but how to do that. And that's a major victory for us; we should take stock and be glad about what we have accomplished.

President Clinton has done one thing that I think is throwing us off guard, and that is raising the issue of the environment and doing it in a very emotional way. His Clean Water Act statement over the summer is probably the classic: He pointed to something everyone who understood the bill knew would not happen—that we would start having dirtier streams and waters in this country—and said, "I'm going to stop that." This made it appear as if there is more going on than what was really happening. Our job is to communicate with the American people and tell them where we want to take environmental protection in this country and our vision of how to do that. I'll talk more about that later, because I think it's a fundamental issue for us.

Politically, we have a very good coalition. We have the Republican majority, with even many of the moderates agreeing with us on the fundamentals of regulatory reform, and we have the conservative Democrats; the "blue-dog" Democrats are very much on our side on these issues and want to participate actively, to help write the bills and help carry them in the Congress. In the Senate, we're still evolving in that majority. I think we have a numerical majority of 50 plus, but they have different rules, and we do not yet have that supermajority of 60 votes to pass a substantial bill.

I think we must return to the basic principles that have been successful for us. We need to explain regulatory reform in terms of what it does for the average American. Reform will help us create more jobs; it will help us get more products; it will lead to a healthier health system; it will help small businesses be more productive and be able to be competitive. I think we need to search out examples of how the current regulatory system works against us.

I talk with people back home in Indiana about working in a foundry. I put myself through college, and I point out that that foundry is now closed down because they could not afford all costs of compliance of the Clean Air Act Amendments. Two hundred people are out of a job, and their families are affected. It has had a terrible effect on the community. I talk about some of the

people I have met in hearings, for example, when we looked at FDA's review process. We heard from a wonderful little 8-year-old girl who is a hydrocephalic child, and she is alive because of a miracle of science. They have a shunt that drains the fluid from the back of her head; it's made out of silicone, and the manufacturers are saying they're no longer going to make that shunt because FDA has still not said that silicone is safe for use in the human body.

These are real regulations having real effects on real people, and we need to continue to paint a picture for the American people about why regulation and regulatory reform are so important. We also need to articulate our principles about using free markets, return to private property rights, use flexible rather than the command-and-control approaches, and explain how our vision of those processes will lead to a better result, including better safety, better health, and a better record on the environment.

This leads me to the key area—the environment—where I think we need to more effectively articulate our position. Republicans must lay out their vision of environmental protection. We should start by explaining that in the 1960s, 1970s, and 1980s, as we turned towards the goal of protecting the environment in this country, we did what the Soviet Union did. It used a command-and-control approach, made tremendous strides forward, changed from a peasant economy into a manufacturing economy, but at great cost in individual liberty. And what we now see is that if we continue down that route of a command-and-control approach we run the risk of going the way of the Soviet Union, where the structure collapses in on itself.

So if we want to have a truly good record of protecting the environment, we need to follow the same principles we follow in the economic world, where you use free markets, you use property rights as the foundation of your policies. I think we can prove empirically that this will deliver a better result on the environment.

Superfund is an example of how a command-and-control approach with significant litigation has failed. I often describe to people an example in Indianapolis of a company called the Heritage Group that has set up a manufacturing process that uses the waste product from Thompson Electronics' etching process. They etch copper and turn it into a computer board that they put in the back of their television sets. The waste product is a fluid highly enriched in copper. The Heritage Group takes that fluid, extracts the copper, and turns it into a food supplement that the pork producers in Indiana use. It's actually better than the existing food supplement for copper.

Now, EPA and the local EPA officials say they love this. They want to see more of it happening. Nationally, they say, "Well this looks like recycling, and our rule is if it's recycling you have to meet all of the federal requirements." At that point, it's uneconomical, and the company says, "Sorry, we're not going to set up a plan." Locally, officials say, "Well, maybe we'll take 10 percent of the waste stream, dilute it, and throw it down the drain, and then we don't have to meet the requirements because it's not really recycling." Now that's nuts. It's nuts from a financial basis; it's nuts from an environmental basis; and I think we need to explain to people that our system is failing on its own terms to protect the environment.

Let me mention what I think will happen in some areas in Congress this year. We have the Contract bills, which are essentially cost-benefit analysis and risk assessments. We've finished those in the House; we have a very good product, one we can be proud of. We had good support and sponsors from the Senate; Don Nickles worked hard, and Senator Dole took the lead on that bill. But getting to that elusive 60th vote has been nearly impossible, and I suppose it won't happen in this Congress because the opposing forces each time will find some reason to pull back on that 60th vote.

Now, what do we do? Do we simply take that issue to the voters in the next election, or do we try to get some parts of our regulatory reform agenda through? The leaning now in the House and the Senate is to get a consensus bill through and see what we can do. I'd like some of your input on this. The notions that they're talking about are the codification of judicial intervention in the small business protection bill and regulatory review, some form of a sunset bill, and some form of Senator Nickles's bill, which changes the Senate process for reviewing regulations.

All of those are good things. They put on the table cost-benefit analysis and risk assessment, and I think we need to make an evaluation: Do we take these now and put them into law? The President would likely sign them. The cost is a political one in that we allow our opponents to have a pro-regulatory relief vote. Are we able to do that and nonetheless articulate to the voters next year in the election that this is only part of the agenda, and there are many more fundamental things we need to do?

What about the agency-by-agency and program-by-program regulatory reform bills? I think you're going to see more pressure for this Congress to deliver on an OSHA reform bill. Labor unions are fighting that very strongly, obviously, but that is the one area where I hear, particularly from small businesses, that they still have an increasing sense of frustration. In addition, I'm getting reports that FDA, in its administrative decisionmaking, has done an about-face, that they've been much more cooperative with medical device and drug manufacturers. I still believe there are fundamental flaws in the system that we have now, and it is because FDA has to have a checkoff at every step of the way in manufacturing in granting the approval of products. We need to keep the pressure up on that, but I think we also need to acknowledge that things are getting better than they were when there was no pressure from Congress.

On Superfund, I think there's a good chance for a bill that will make substantial reforms. I think this must be a key element of our Republican agenda on the environment. There are a couple of other important parts of this agenda. We have debated within the House Republicans on whether we should go forward with reform of the Endangered Species Act. I prefer Rep. John Shadegg's market-oriented approach, and it is one of the most principled approaches that has been supported by work that Heritage has done over the years. I can't tell you that it's going to be the majority view, however; at this point, it's very much up for debate. Also, Corrections Day will give us a pre-procedure to pull out some of these individual items, and I would like to have help identifying areas for Corrections Day, helping move them through the Senate, and publicizing the results. We have a record number of bills that were passed last year. We need to use the process and continue to show action on a case-by-case basis.

Finally, I wanted to preview with you where I think we're going to be active in our subcommittee. We've had strategic planning meetings in the last few weeks. I want our subcommittee to be the driving engine for regulatory reform and making the public case for it. The key mechanism we have for that is oversight to show how the agencies fail in their mission and create problems. We will strive to develop a report card on how the Clinton Administration agencies have performed on regulatory reform. I would like to incorporate in that a survey of the outside regulated community. We don't have the resources to do it, so it would have to be conducted by people on the outside. I think we need to be fair—to acknowledge where progress has been made and commend people. You can get some things by rewarding people for good changes, but I think we also need to be fair in our assessment when we feel the agencies have not gone far enough.

We should adapt the concept Senator Proxmire made very successful for exposing government waste and spending—the Golden Fleece Award—for regulatory excesses. We should highlight agency enforcement or regulatory decisions that, when exposed to the light of day, the American public says is nuts. We've been trying to gather those in my subcommittee. Our most recent fax told us how, in New Mexico, a 14-year-old boy was lost with his scout troop when he was hiking and had been in the woods for two or three days. They sent out a search helicopter. The local police found him and radioed a request to land in the forest and pick up the boy and rescue him. Astonishingly enough, the answer came back negative: This is an area where we can't have any mechanized vehicles; you can't land to do this. What they did do is drop a note that said stay there, and we'll send somebody. When the search teams on land couldn't find him and did more environmental damage than the helicopter would have done, they finally sent back the helicopter and pulled the kid out of there.

This is a ridiculous policy, and it's what the American public is fed up with in government regulations and in the administration of these programs. These are the types of policies we need to identify and expose to ridicule.

Let me just close on a note of optimism. I do think we are at the point of being able to have the fundamental change in the regulatory process that we've been searching for over the years, and I'm very optimistic that public support will be there if we do the right thing in terms of framing the issue in a way that is relevant for the average person. We are also going to need a forceful response to the environmental attack, and I think we can present one that says we can protect the environment better with our principles than the Administration can with its command-and-control approach.

Thank you all for letting me come. I really appreciate your work.

FRED SMITH: When David was talking about the military analogies most appropriate to the debate that just took place on the Hill, he mentioned the battle of Britain and the Normandy invasion. Between those two events, as some of you know, there was the abortive incident in which several Canadian divisions were wiped out as we prematurely assaulted a position we were not in place to take. I think we learned from that, also.

A question we need to ask is why a modest bipartisan House bill bogged down in the Senate and then was filibustered to death. At best, the bill required only that government regulators state whether their regulations do more good than harm—sort of a Hippocratic oath for regulators. More important: Why did such a modest reform get such bad press? Anyone who watches television or monitors the media knows the way this issue was characterized: Mad-dog Republican ideologists join with robber-baron capitalists to regain the right to add poison to baby food bottles.

That was the bad news. The good news was that we got 58 votes in the U.S. Senate, which suggests two things. One is that the pressures to reform regulations are real and they are growing. We are on the right side of history in this area. The second is that we better become considerably more skillful at marketing and explaining what it is we're about.

I would argue that the environmental debate today is roughly where the welfare policy debate was, say, ten years ago. Then, most felt that the welfare state was cumbersome, costly, bureaucratic, even unsuccessful, yet still necessary. Private alternatives were regarded as largely inadequate to the critical task of helping the nation's poor. If you wanted to help the poor ten years ago, you had to accept and somehow improve the welfare state. The result was reform proposals largely limited to "good government," tinkering at the edges, trying to make the system work a little bit better. The conservative response to the welfare state was to make it more efficient, more effective.

Things have changed. Time and analysis by such scholars as Charles Murray and Marvin Olasky have made more evident the perversities of the welfare state and the value of private charity. Today, the rhetoric of the welfare reform debate focuses on moving beyond, not saving, the welfare state and revitalizing, not ridiculing, the voluntary sector. Our goal should be to accelerate the same shift in the environmental area, to begin to go through the same "re-paradigm" of the situation to make it possible to subject environmental policy to the same scrutinizing debate we're finally achieving in the welfare area. To that end, we must meet three challenges. First, we must move beyond good government reform measures; second, we must develop in much more detail the analytic basis for reform; and third—and most important—we must learn how to communicate in a political world.

The first challenge, to repeat, is simply to recognize that tinkering is not enough, as you heard to some extent in the remarks of Congressman McIntosh. If federal regulation is not to destroy all our freedoms, we must find some way to discipline our regulatory leviathan. The bills that are pending in the Senate today, S. 343 and so forth, do not achieve that result. None of them really subjects regulation to the same level of scrutiny that we routinely subject spending bills to in the Congress—and I don't think many of us are happy about the level of discipline we have on spending yet.

An agency is created—Interior, Agriculture—and it goes forth and comes up with creative ideas on how to spend our money better. But that does not become public policy until those spending bills are sent to Congress and the Congress and the President positively affirm those decisions. Spending bills are subject to accountability; Congressmen have to decide whether to vote for or against these spending bills. Regulations are subject to none of that discipline.

We create a new regulatory agency, we send it forth to think of good ideas about how to spend our money, and that's it. There is no formal vote by the Congress, and none really by the President himself.

The problem is that there's a pro-regulation bias in our system that has never been addressed. It's a loophole in the system. No one, I think, among the Founding Fathers believed federal regulation would ever become the massive leviathan it has become today, and unless we require regulatory accountability, all the procedural reforms in the world are likely to do very little good. We're working on that, Heritage is working on that, and a number of organizations are trying to come up with substantive reform measures. We have a lot more work to do.

The second challenge is advancing the analytic basis for reform. I'd like to call your attention to the deregulation battles in transportation in the 1970s. Those victories we did achieve were made possible by earlier analytic work that fell into roughly three areas. First, there were the traditional economic studies of the cost of regulation. Brookings and then AEI and a whole series of groups after that began to examine the cost of regulation, and their conclusion was essentially that government didn't work or was an extremely costly way to achieve sometimes important objectives.

The second kind of study was public choice, rent-seeking analysis which, in effect, undermined the moral legitimacy of transportation regulation. A series of studies found that the ICC was too easily captured by special interests. Building on this approach, CEI, along with Michael Greve of the Center for Individual Rights, produced a book called *Environmental Politics*, which looked at the way rent-seeking explains much of environmental behavior (although anyone who lives in a city with Archer Daniels Midland and Dwayne Andreas, I think, probably understands that pretty well already).

There also were case studies demonstrating the feasibility of a private alternative to the regulated transportation sector. California and Texas, as many of you know, had relatively deregulated air travel systems, and that provided some evidence as to what might happen if we moved to a deregulated environment. Private alternatives, the studies found, had been neglected and actually offered creative alternatives to the regulatory state.

There's been very little work of this sort on environmental issues, although the record of government failure is beginning to emerge. The wonderful book *EPA: Asking the Wrong Questions* is an example of what can be done, and we're doing a number of smaller studies. Superfund is a poster child of regulatory failure, but there has been far too little work demonstrating just how difficult it is to run an eco-socialist state as opposed to just a socialist state.

The research on rent-seeking as an explanation for much of our environmental policy is important because it affects the moral foundation of the regulatory state. In many ways, it is more important than the cost analysis done by think tanks and economist groups. But most important, and least adequately filled today, is the need for research on private alternatives to environmental regulation. Along these lines, CEI's Center for Private Conservation is developing case studies of how private people outside government—although sometimes

encumbered by government rules—are playing extremely creative roles in expanding and advancing environmental goals.

The third challenge, and certainly the most important, is to develop a communication strategy which is relevant to the political marketplace. If we are to succeed, we must understand how people form opinions about political issues. I don't think this is well enough understood. As consumers in the private sector, when we buy a car, get married, purchase a house, or take a new job, we have every reason to gain some information about that decision, because the decision we make will directly affect our welfare. We are rationally informed in the private marketplace. We spend our energy to the point where the information we derive no longer makes our decision process more reasonable.

In the political marketplace, we use that same calculus, but it leads to a quite different result. I can become informed about the Endangered Species Act; I can become informed about risk reform issues; I can spend a lot of time every night taking the *Federal Register* to bed with me to read laboriously. But whatever views I come to as an informed citizen have very little to do with what actually happens. The linkage between information and the opinions I form and what actually happens is very, very weak. I am one out of millions of Americans.

America is not a democracy; it is an interest group democracy. It's important to realize the distinction. Some of you have seen the series in the *Washington Post* where they're very confused about people's lack of enthusiasm for big government and are trying to sort it out. One of the articles that appeared earlier this week was subtitled "Don't Know, Don't Care." In it was a quote by Jay McCracken, 34, a technical advisor and part-time college student in Clinton, New Jersey: "It's time-consuming becoming informed. Nobody has the time to sit down and read *Time* every week to find out what the government's doing." And this is an informed consumer. People don't have the time to deal with the details of government everyday.

Well, guess what: Jay isn't alone in that. Virtually all Americans form their opinions about policies in ways that are very low on the fact component and very high on the other component, and it's perfectly rational for them to do that. In a world of rational ignorance, we do not need an information-rich campaign; we need another kind of campaign. Facts don't form opinion, yet people certainly have them. What does form opinions? Aaron Wildavsky and others have argued that values dictate most people's views about most political issues, and therefore we need a value-based communications strategy. Reagan understood that very, very well, and Clinton is a genius at this. Why can't conservatives get it?

What values are we going to use in communicating? Wildavsky, noting that very few cultures are homogeneous, suggested one useful framework. He had a category that some of you know: fatalist, hierarchalist, egalitarian, individualist. To understand, within this framework, what a values-based communication strategy might look like, let's look again at transportation regulation.

Initially, most Americans probably viewed transportation regulation, the creation of the ICC, as a good thing. Regulation appealed to individualists, to free-market types; it would expand choice by keeping the big boys from hogging all the traffic. Regulation appealed to hierarchalist conservatives, the good

science types; it would make possible scientific management of our transportation system, eliminating wasteful competition. And, of course, regulation appealed also to egalitarians, progressives, liberals; it would be fairer to the poor and to rural citizens.

Well, experience and time and analysis eroded those beliefs. Deregulation is now possible and popular among liberals as well as conservatives. It's very important to recall that the transportation deregulation fight was led by Ralph Nader and Ted Kennedy, along with a lot of our types. The changes that happened in the transportation area were vital to economic deregulation as well as to the current rethinking of the welfare state. Our challenge is to conduct the research, education, and advocacy work that will make similar change possible in the environmental field.

Let me briefly analyze how we did not follow this strategy in the recent risk debate in the Senate. We reform types talk largely to ourselves; we made very little effort to reach out to anyone who thought regulation was a good idea. Indeed, the reform message may actually have made it easier for the liberals to mobilize themselves and to become an effective stymier of reform. In contrast, the pro-regulation side targeted clever messages that undermined much of the initial support for regulatory reform. What are the arguments about? Judicial review? That will mean more lawsuits, more bureaucracy, as Clinton told us. We don't want big government. They use our language, our rhetoric, our arguments to weaken our support base for regulatory reform and reform in a number of other areas. They were extremely clever at taking our vocabulary and using value-based arguments to weaken our belief that regulatory reform was a good thing.

The lesson is clear: We must develop and target messages that, while strengthening our troops, also challenge the support base for regulation. We must dramatize the creative strengths of private conservation, private stewardship, private risk management. We must challenge egalitarians by focusing not on cost, but rather on the unfairness and absurdity of the regulatory state, as David has started doing. The rhetoric for that kind of value-based campaign was advanced by the late Aaron Wildavsky. He was the one who told us to talk in terms of risk versus risk as opposed to cost versus benefits, and wealthier is healthier rather than the cost of regulation to business, and to define our goal as a safer, not safe, society. How poor we are because of his loss.

Let me conclude. My suggestions really come down to three points. We must adopt a strategic reform agenda. We're going to get hammered anyway; we lose little by being bold. Our focus must be on regulatory accountability, not on regulatory assessment. Good ideas are important, and we should put forth the best ideas we have, not some watered down version that can persuade the current thinkers to accept them. We must develop a coherent and coordinated plan to dramatize the failure of the regulatory state to rectify its inherent corruption and to publicize the advocacy and creativity of private-sector alternatives. Finally, we must mount an extensive educational effort, including image-based documentaries, to clarify how regulations harm the poor, minorities, women, and the Third World. Some of you know CEI has recently produced FDA television and radio ads, a Science Under Siege documentary, and a risk communication film.

These are a very small part of what we need to do in this area, and we even have an objective test of whether we'll be successful or not: When Senator Chafee, Congressman Boehlert, and Greenpeace join Heritage and CEI in calling for the abolition of EPA, we will know we've won. But we have a ways to go. Thank you.

DR. JOHN GRAHAM: Thank you very much. I don't think there's any more passionate advocate of regulatory reform than myself, but I'm very worried about where we are right now in the debate on regulatory reform. I want to share some of my concerns and really focus my remarks on the next year—what we have to do to get this issue back on track—and leave discussion of longer-term ideas, such as some of the ones Fred has on the table, until after 1996.

I will start with my experience last weekend. I spent two days at a National Wildlife Federation conference in New Hampshire, a so-called presidential candidates' forum sponsored by the National Wildlife Federation, where all the candidates were invited to come and discuss their approach to the problem of environmental health and regulatory reform. There were only two Republican candidates who showed up—Congressman Bob Dornan and Alan Keyes—and Vice President Al Gore and EPA Administrator Carol Browner came and gave passionate speeches.

I make it a point to go and listen carefully to people who feel very differently from me about issues. From the Vice President, we got the message that these people who say they want regulatory reform don't really want reform; they want relief for polluters and special interests. They say they want a smarter regulatory regime, more science, and more analysis, but want to cut back the budgets of these agencies by anywhere from 10 to 30 percent. What they really want to do is roll back 25 years of progress and protection.

At the heart of what the speakers were arguing is that there's a value difference: The President cares about public health and the environment, but people who believe in regulatory reform don't. I think we have to address ourselves to the question of whether they will be successful in the next year in reinforcing this imprint they've tried to put in people's minds, and there is some rhetoric that people are using in the regulatory reform community that I think is very unfortunate and contributes to this problem.

First is "regulatory relief." I think that's a very unfortunate phrase. I think the public feels that we've had public health and environmental agencies at the federal level for 25 years, and we certainly want to have a very strong case before saying that they don't have a strong role to play. I think our message should be that we want smarter, more efficient regulation in order to get more protection at less cost; therefore, the word "relief" is entirely inappropriate.

Second, "free-market environmentalism" is an intellectually interesting and exciting concept, but in the next year I think it also will be too risky a concept, because I think it plays too much to the notion in people's minds that some of these reformers actually want to abolish EPA. I don't know whether it's true or not, but both of these speakers I referred to (Gore and Browner) named Congressmen in this town who had said they wanted to abolish the Environmental Protection Agency. Maybe we're going to get to that some day, but I don't think that's a helpful way to talk about these issues.

Third, we heard today about whether we should have the environment above people or people above the environment. I think this plays on the notion that somehow there's a big value difference between where they are and where reformers are: They really care about children's health more than reformers do, or they really care about the environment, about wilderness, about wildlife more than reformers do. I think that's a big mistake; reformers have to stay away from these kinds of generalizations.

Now, what does this mean that we should do? I think that if we're careful about our steps in the next year, we can make some very substantial progress in advancing the debate on this issue. On H.R. 9, we came through the House debate in very good shape, arguing on principle for sound science, comparative risk, cost versus benefit, and regulatory accountability, not only with Republican votes, but with 60 Democratic votes as well. In the Senate, we stalled, but look at what happened: We ended up with 54 out of 54 Republicans, but the Administration called up the troops and said, "Don't let it happen." Then Senator Dole made a judgment, which seems to me a reasonable one, that we ought to let Democrats pay the price for that. How big the price is, frankly, depends on how this issue is managed in the next year.

What are the modest steps that we should take? I think, first, that we need to design a couple of streamlined bills, not big regulatory reform bills, on a couple of key issues and get some more explicit votes on these issues. The first one is the basic concept of comparative risk: Do you believe that government agencies should put their resources on the biggest risks before the little ones and speculative ones? We ought to make the case that if these agencies were smarter and more scientific, we could reallocate resources, save more lives, and do more for the environment at no increased cost to the taxpayer. As shown by the work of my colleague Tammy Tengs, we can save 60,000 additional lives per year at no increased cost. This basic principle of comparative risk, using our resources better, is one that I think we should force some votes on—not linked to congressional review of regulations, not linked to costs and benefits, just that specific issue of comparing risks.

The second thing I think we ought to do is take President Clinton's executive order as it exists now—it has some flaws, and I'd like it to be stronger, but it also has some basic principles that are sound—and have an up-or-down vote on this executive order as a piece of legislation, as a forerunner of a broader and more ambitious program of regulatory reform.

I think we should ask ourselves, What will Vice President Gore do when confronted with these two prospects? There are two options: Either vote in favor of these, and have basically a bipartisan consensus behind comparative risk and cost-benefit analysis, or vote no and then recast the debate. I think this is the more likely outcome, and I think it's a good outcome for the people who believe in regulatory reform because it will be clear that reformers share the values of public health and environmental protection but want to use science and economics to achieve them in a more efficient fashion. Reformers have the same values as they do, but can be smarter and more efficient in the way they accomplish these goals.

There are some things I think we should avoid and not do over the next year because they undermine our ability to focus a discussion around these two basic principles. First, I do not think we should cut back the budgets of agencies which are the targets of regulatory reform. I think a flat budget is the right way to deal with this in the next year or two, because we're going to be asking these agencies to do more with what they currently have in terms of budgets. In fact, I heard a rumor at this National Wildlife Federation meeting that President Clinton is hoping he can give in on a big cutback in the EPA's budget. Then someone in the campaign can claim, "Look, they want to have more responsibility for EPA, but then they want to cut them. Isn't that an indication that they really want relief, that they don't really want reform?" I think some people are cynically hoping that these budget cuts will occur so they can claim that reformers caused a lot of blood-letting out there.

Second, on issues like OSHA reform and Clean Air Act reform, I think the basic message is that if we're smarter or more efficient, we can save more lives and protect the environment better. But the kinds of reforms that radical reformers have in mind require too much discussion in an election year to really get the point across. I don't think they're appropriate at this time.

Third, I think we should make concerted efforts on both the Safe Drinking Water Act and the Superfund law to get good, solid, incremental reform of these laws and, if possible, get them to the President's desk and get them signed. That gives the Republicans a clear record of passing pieces of environmental legislation that embody their principles of sound science, cost-benefit analysis, and risk assessment. By taking this incremental approach over the next year, I think reformers reinforce their commitment to fundamental public health and environmental values. We demonstrate the confidence of our leadership on issues that historically are not Republican issues, and at the same time we build momentum. We build our own morale as a movement to work for larger and more ambitious regulatory reforms at a later time.

In conclusion, I think that we are at a very important point in the movement for regulatory reform. The course we take at this point, and how we represent ourselves as a movement, will be very important in determining how we are portrayed in what we know will be a very vicious election-year campaign on these issues.