Letters

We welcome letters from readers, particularly commentaries that reflect upon or take issue with material we have published. The writer's name, affiliation, address, and telephone number should be included. Because of space limitations, letters are subject to abridgment.

Reviewing Maritime Performance

TO THE EDITOR:

I read with interest Mr. Rob Quartel's article, "America's Welfare Queen Fleet," which appears in your 1991 Summer issue. The article includes both Mr. Quartel's personal opinions about U.S. maritime policy and his factually incorrect recounting of the sealift effort of Operations Desert Shield and Desert Storm. While Mr. Quartel is not the administration spokesman, he certainly is entitled to his personal opinions on maritime policy. However, he should not be entitled to grossly misrepresent the recent sealift operations.

Desert Shield/Desert Storm Strategic Sealift Dry Cargo (As of March 10, 1991)

Fleet Source	Percent
U.S. Government Shipping	
Maritime Prepositioning Ships	4.7
Afloat Prepositioning Ships	3.4
Fast Sealift Ships	9.3
Ready Reserve Force	20.2
Subtotal	37.6
U.S. Commercial Fleet	
U.S.-Flag Charters	14.3
Special Middle East Sealift Agreement	28.8
Subtotal	43.1
Foreign Flag	
Charters	19.3
Total	100.0

Mr. Quartel argues that the national defense underpinning of maritime policy is a myth. In this, he disagrees with the president, who, on October 5, 1989, issued the National Security Sealift Policy, which states in part, "The U.S. national sealift objective is to ensure that sufficient military and civil maritime resources will be available to meet defense deployment, and essential economic requirements in support of our national security strategy." The president further states: "We must be prepared to respond unilaterally to security threats in geographic areas not covered by alliance commitments. Sufficient U.S.-owned sealift resources must be available to meet requirements for such unilateral response."

Let us turn to the lessons of Operations Desert Shield and Desert Storm to find out whether sealift was provided in accord with the president's directive. The accompanying table is based on data compiled by the Military Sealift Command through March 10, 1991, the day the military considers that the reinforcement sealift effort was completed. It provides the shares of sealift borne by various components of the fleet.

This table shows several important facts. The U.S.-owned sealift capability lifted 80.7 percent of the 3,464,904 short tons of the sealift dry cargo. The U.S. commercial fleet, the fleet that exists as the result of the maritime subsidy programs of the past, carried 43.1 percent of the sealift dry cargo. Foreign charters carried only 19.3 percent of that cargo.

Mr. Quartel argues that many of the U.S. shipping companies that participated in the sealift effort used foreign-flag feeders to move cargoes to final Persian Gulf destinations. The U.S. companies served the Persian Gulf in the way they always do, to quote Mr. Quartel, "using a fully integrated system of transportation." This integrated system involves the use of foreign-flag feeders on some trades. If Mr. Quartel has any problem with that approach, then his problem is with how American business does business.

Mr. Quartel states that the use of the foreign-flag feeder ships to carry cargoes into the Persian Gulf exposes "the bankruptcy of the man-American argument that underpins much of U.S. maritime policy." Mr. Quartel needs to be reminded that U.S. civilian merchant mariners crewed every one of the prepositioned ships, the fast sealift ships, the ships from the ready reserve force, and the U.S.-flag charters that sailed into the Persian Gulf.

Mr. Quartel states that the container ships that "dominate" world shipping (they really do not—container ships are outnumbered by tankers four to one) and the U.S. merchant fleet are "virtually useless for the short notice transport of tanks and other military equipment that must be rolled aboard." True, but rolling stock is only part of the vast array of materiel required to support our forces in wartime. Mr. Quartel should note that these "virtually useless" ships, operating under the terms of the Special Middle East Sealift Agreement, carried nearly 30 percent of the cargoes through March 10. Had the conflict lasted longer, their share would have been much larger, as they are the prime mover of resupply cargoes and, as such, are a fundamental part of a balanced sealift capability.

Mr. Quartel also states that the subsidized liner fleet "contributed only six aging ships" to the fleet that transported military materiel into Saudi ports. That is totally incorrect—approximately fifty of the ninety liner ships receiving operating-differential subsidy participated in the sealift effort. He said no ships from the Jones Act fleet participated, but he is inaccurate again: four Jones Act tankers and one Ro-Ro were chartered. He says the Jones Act "had to be partially suspended to ensure for the nation's defense." Again, he is incorrect—the Jones Act waivers to which he refers were a part of a prearranged Department of Energy process associated with the test drawdown of the Strategic Petroleum Reserve. However, later analysis has shown that the blanket waivers were not necessary and that there was substantial U.S.-flag tanker capacity available to meet

the reserve's drawdown requirement.

Turning from the sealift effort, Mr. Quartel also manages to make errors when he tries to recap U.S. maritime history. He states that at the end of World War II America had a merchant fleet of more than 2,000 ships when in fact, on September 30, 1946, the fleet consisted of 4,422 ships: 644 privately owned and 3,778 government owned. By June 30, 1950, the privately owned fleet had grown to 1,170 ships.

Many of the reforms that Mr. Quartel advocates as his "new paradigm" are not new at all. These reforms are ideas that many of us have advocated for years. Unfortunately, however, despite many efforts and due to many reasons, it has not been possible to promulgate these reforms. One reason is a profound lack of understanding of the role and nature of the maritime industry by many self-proclaimed players. Regrettably, the types of misconceptions that Mr. Quartel advances can only serve to further delay any meaningful maritime reform.

Captain Warren G. Leback
Maritime Administrator
Washington, D.C.

Lies, Damn Lies, and Statistics

QUARTEL replies:

I am reminded, in reading my friend (Captain) Warren Leback's response, of the title of the famous book, *Lies, Damn Lies, and Statistics.* The numbers he cites are not erroneous, but they are certainly misleading. That should be no surprise to anyone familiar with the Washington budget process: the fate of the Maritime Administration, which he heads, is dependent on the way the numbers get presented and read. However, before dealing with Captain Leback's numbers and his quibbles over my own use of statistics, let us first take a look at the issues that give the numbers their real meaning in the larger public policy debate.

In the section of my article that was subtitled "The Lessons of Desert Shield and Desert Storm," I observed that "Desert Shield/Desert Storm established beyond the shadow of a doubt that the military can efficiently execute its mission even without an American-built, American-crewed commercial fleet. Ninety-one percent of dry cargoes were moved on military prepositioned fast sealift vessels, U.S. and effectively U.S.-controlled ships, and foreign (largely NATO countries) charter vessels."

I went on to point out that the sealift underscores the growing gap between what is militarily necessary and what is commercially viable in the liner trades, especially in the rapid response "surge" phase of a crisis sealift.

One policy implication I pointed out was the need to eliminate the operating differential subsidy in a way that maximizes the chance that the U.S.-flag fleet will expand and grow, that is, by simultaneously ending, or at least reducing, building and manning restrictions. Another was the advisability of consolidating defense-related maritime programs in the Department of Defense, where they would have to compete objectively for resources, against other national security programs.

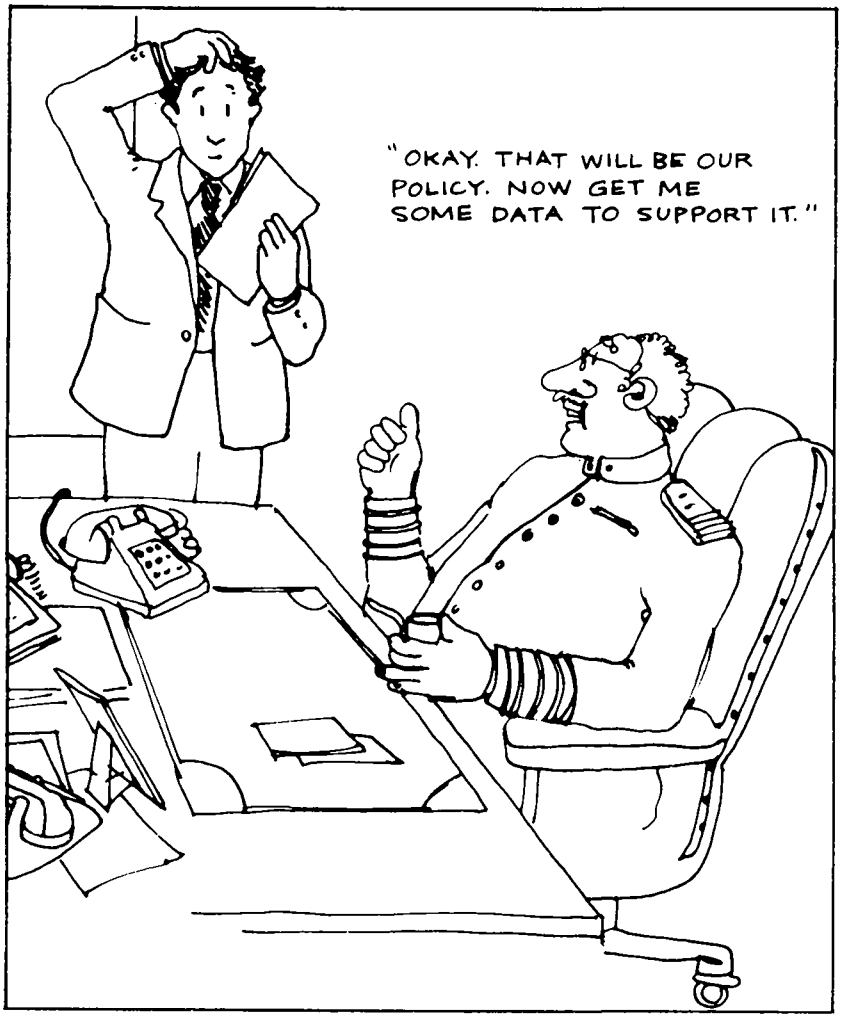
Since I drafted my article last summer, the administration has indicated a recognition of the need for precisely those steps. And while Captain Leback is correct in saying that I am not "the administration spokesman" on maritime policy (a title I never claimed), his citation of a piece of Maritime Administration boilerplate that was "issued" under President Bush's name well over two years ago seems desperately defensive. I would note for his own edification the president's campaign statement confirming the need for a "comprehensive review of U.S. government policy regarding maritime promotional programs, productivity enhancement and procurement procedures." My own view is that something more than a vote of confidence in existing failed programs is necessary to provide vitality to this industry and enhanced trade to the nation's consumers and producers.

As for the captain's complaints, well, let us start with his discussion of the wartime sealift which, by the way, ended with the midnight, Wednesday, February 27, 1991, ceasefire—not March 10, as is the date of the table he cites. He is quite correct in noting that U.S.-owned sealift capability lifted roughly 80 percent of the dry cargo. The bulk of that lift, however, as he knows quite well, was not out of the active commercial container fleet but was instead out of something entirely different: the ready reserve fleet, military prepositioned ships, fast sealift, and U.S. charter (breakbulk and Ro-Ro, maybe one tanker, no container ships, subsidized or unsubsidized, whatsoever)—all of which constitute a prudent military preparedness response to a virtually nonexistent or unavailable U.S. commercial liner fleet. The 43 percent he cites is simply misleading, as it includes in it not only Special Middle East Shipping Agreement ships from the active commercial container fleet, but U.S. (nonliner) charters.

As for the use of foreign-flag feeder vessels in the Persian Gulf operation, I am quite well aware, as he knows, that that is part of an efficient, fully integrated system of transportation. I have no problem whatsoever (how could I?) with the practice itself—only with the policy myopia that prevents forthright recognition of the true facts and their conflict with the stated goals of U.S. government policy—which are that we can only trust American crews on American-built, American-owned ships to get us to the war.

My article is not an indictment of the people, the ships, or the companies—all of whom carried out their jobs quite well. Its point is this: the ostensible, theoretical purpose of subsidies to American ships and sailors is at odds with what plays out in practice. Despite the subsidies and expensive preferences and all of the other programs Warren administers for the former purpose, the fact was that the goods carried on the commercial merchant marine for the most part actually arrived in foreign-crewed, built, and owned vessels. So it is time to stop pretending that only U.S.-built, U.S.-crewed, U.S.-financed vessels can be counted on when commercial vessels are needed to assist a military sealift. Desert Shield/Desert Storm proved otherwise.

Captain Leback also appears to misunderstand another aspect of my point about the use of foreign-flag vessels. Contrary to his assumption, I am also well aware that American crews served on the fast sealift ships, the ready reserve force vessels, and prepositioned ships—some of the latter of which are operated under contract to American subsidiaries of foreign corporations. I assume that Captain Leback must know that none of those vessels, however, is used for *commercial* operations. They are strictly for military use. Nor are they subsidized under the extensive system of commercial operating subsidies, cargo preferences, and market barriers that go to support "American" sailors at a taxpayer cost estimated at as high as $500,000 per billet



(inclusive of all direct and indirect subsidies)—and at a consumer cost in the tens of billions of dollars annually. That distinction is the heart of my argument that excluding mixed-nationality crews on commercial U.S.-flag vessels on the tenuous grounds of national security is a bankrupt policy, particularly in light of its impact on the consumer and taxpayer.

In the category of quibbles, Warren correctly notes that tankers outnumber container vessels by four to one. But, that ignores the fact that the article was about the liner trade—not about tankers. Had I written about the tanker market, I could have talked about how much better this unregulated market operates than the liner trade. My observation that the subsidized liner fleet contributed only six aging ships to the fleet that transported goods into Saudi harbors is still correct—the others he cited, as he knows, stopped short of the war zone, and transferred their cargos to foreign feeder vessels for transport to Saudi Arabia. At the time I wrote the article, I said no Jones Act liners were contributed at all. I now find there may have been one, but no one seems to be able to verify that.

Warren also suggests an error in my recap of U.S. maritime history. Again, he is out of context. While it may have been somewhat unclear, the paragraph in which I noted that the U.S. fleet, at the end of World War II, had "over 2,000 vessels" referred to active vessels—of which we had 2,332, not the 4,422 to which he refers.

His quibbles show that he has missed the point of the article entirely. And, just for the record, the numbers came from sources at the Maritime Administration and the Military Sealift Command.

Regrettably, Captain Leback closes with a potshot at "self-proclaimed players." The fact of the matter is that all Americans are players, every minute and every day of their lives. We pay higher—I say unnecessary—taxes, suffer higher consumer prices, in fact, lose American jobs because of the follies and foolishness of "experts" who have known no system other than that which exists today. The "experts" should listen to people who operate inside the *American* capitalistic business system, who would tell them that this is an industry that could compete if given half the opportunity. They would also tell the "experts" that if they want to be competitive, they might try competing, for a change. And that it would help if the government—MarAd and the FMC, in particular—got out of the way.

Rob Quartel
Commissioner
Federal Maritime Commission
Washington, D.C.

Stop Waiting for Godot!

TO THE EDITOR:

In a letter in the Fall 1991 issue of *Regulation,* Professor William Sjostrom notes that the quality of economic work on shipping cartels is "not very good." Let me begin by seconding his observation. Not only is there a paucity of empirical data, but what data do exist are often too limited and too unreliable to be of much use. Professor Sjostrom's own recent *Journal of Political Economy* article, "Collusion in Ocean Shipping: A Test of Monopoly and Empty Core Models," is a case in point. The limitations he admits to in the paper itself are enough to guarantee that. In addition, several of the key assumptions he makes about carrier tariff rates and pricing behavior after the Shipping Act of 1984 were wrong—even for the severely limited three-month period in *1982* from which the data supporting his *1989* analysis are drawn. From a policy perspective, his analysis does not deal at all with the new cartel regimes that have been established under the 1984 act. As a guide to a discussion of potential policy reform, Professor Sjostrom's evaluation of shipping cartels is not merely wrong, it is irrelevant.

Which brings us to the issue of the extensive and detailed data that the Federal Maritime Commission collected and analyzed as part of the five-year study it published in 1989. Those data are available to academic scholars and, short of direct access to

carrier and cartel records, represent the best data base available for empirical work of which I am aware. The remarkable thing is that academia has shown no interest in obtaining them.

I will contact Professor Sjostrom directly about how to obtain the FMC rate and service data, but readers of *Regulation* may be interested to know that the staff of the presidentially appointed Advisory Commission on Conferences in Ocean Shipping conducted an econometric analysis based on the FMC data and concluded that rates charged for transporting cargo are positively related to the market share of the conference and the value of the cargo.

That finding, as Professor Sjostrom says of the evidence from earlier work, is not definitive—but then economic studies almost never are. That is one reason policymakers do not wait patiently for the Godot of social science certainty before recommending reform.

As to how American maritime policy should deal with today's shipping cartels, Professor Sjostrom's preference for the status quo appears to follow from his views that (a) shipping conferences have been around for a century, and (b) we do not know enough about them, but since (c) they are "privately run operations," (d) we need more "real" research before we can advocate significant policy reforms.

My response is: Shipping cartels have changed dramatically over the years, as cartel executives are the first to point out. Containerization of cargo, the rise of large independent lines, and revisions in shipping legislation have created a whole new shipping environment.

Nor is our knowledge so limited as Professor Sjostrom implies. The post-1984 shipping environment has been extensively studied. In particular, the FMC's five-year study, which enjoyed considerable assistance and input from all sectors of the maritime industry, and the year-long review conducted by the Advisory Commission on Ocean Conferences, which is now approaching its conclusion, have created a record that provides extensive information on the liner shipping industry.

That shipping cartels are "private operations" is only a half-truth. Contrary to the professor's assertion, the U.S. government not only publishes but enforces the joint prices set by the cartels and thereby protects them from the "cheating" that so often renders unassisted cartels ineffective.

The government also requires publication of the tariffs of independent lines and freight consolidators and forbids rebating. Thus, it partially protects the cartels from outside competition.

And finally, the government requires that the essential terms of all service contracts between carriers and shippers be published. That prevents freedom and confidentiality of contract and reduces the competitive force of contract carriage.

In short, current policy does not simply *allow* cartels, it *actively supports* them. It is no wonder, then, that one carrier representative at a recent advisory commission meeting observed, "If we have confidential service contracts, it's the end of the conference system." The "private operations" of shipping cartels could not be maintained without government support in the form of price enforcement and limitations on the private sector's freedom of contract.

Finally, studying policy proposals to death is a time-honored way of preserving the status quo in Washington. I would argue that the burden of proof should be borne by those who believe that it is the job of government to preserve and perpetuate shipping cartels, which—by their own admission (acknowledgement of higher prices on the nonvessel-operator segment representing small shippers)—act to the continued detriment of the American shipper. But even if the burden is placed on those who favor procompetitive reforms, it is a burden that has been amply met.

The problem with maritime policy reform is not an absence of "real" research, but of real desire among politicians connected by the umbilical cord of special interest money. It is a problem well documented in the literature of public choice economics and the economics of regulation: perverse political incentives.

Rob Quartel
Commissioner
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Go for the Market—Warts and All

TO THE EDITOR:

Jim Johnston's critical piece on sulfur dioxide emission trading (Vol. 14, No. 4) provides a useful counterpoint to the proponents of market-based mechanisms for environmental control. Johnston raises two basic concerns about the acid rain provisions in the Clean Air Act. The first is that the government did not take adequate account of the science in selecting a target level of emission reductions. The second point is that the market-based approach for reducing sulfur dioxide (SO_2) emissions is seriously flawed. Johnston asserts, without proof, that the "command-and-control part of the Clean Air Act amendments produces better results than the 'market-based' system."

The first point about the selection of goals is basically correct. As I argued in an earlier essay in *Regulation*, the goal of a 10 million ton SO_2 reduction was selected primarily for political reasons. Neither science nor economics played an integral role in the decisionmaking process.

The second point is overstated. The fundamental problem with Johnston's argument is that it fails to provide a benchmark against which to judge the performance of a market-based system. In my opinion, a reasonable benchmark for comparison is an earlier proposal supported by Sen. George Mitchell, which would have required between one-quarter to one-half of all coal-fixed power plants to install costly scrubbers. Compared with that proposal, the current market-based approach has the potential to save more than $1 billion annually in control costs.

Johnston correctly questions whether such savings will, indeed, be achieved. He raises several concerns, including the clouded status of property rights in emissions, the skewed risk-reward structure faced by utilities, and the special incentives the bill provides for installing hardware. These are all legitimate concerns. The question that needs to be addressed is whether such concerns would lead one to prefer the relevant alternative, which I believe would have required scrubbing. The answer depends, among other things, on how the Environmental Protection Agency and the state regulatory agencies actually implement the market for reducing SO_2 emissions.

I prefer the market-based alternative, warts and all, for three reasons. First, the environmental market is likely to result in greater cost savings than the most likely alternative while still achieving the emission-reduction targets. Second, the market-based reform will enable us to assess whether the government can effectively manage

"And forgive even those who prevented us from selling our air rights."

an environmental market on a large scale. Third, the market has the potential to promote environmental innovation, while the alternative of forced scrubbing locks utilities into using a technology that may be obsolete in the near future.

Robert W. Hahn
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Markets: Let's Get Real

JOHNSTON replies:

Bob Hahn still does not get it, even though I have explained it to him several times. The issue is not the Mitchell bill that was not enacted versus the acid rain legislation that was enacted. That is history. The issue is whether the SO_2 emissions trading scheme in the 1990 amendments to the Clean Air Act is a viable market-based system.

I presented a long list of deadly flaws, the most important of which is that an "allowance" is not, I repeat not, a property right. The establishment of well-defined property rights is a crucial precondition for any functioning market. Most economists understand that, even if officials inside the Beltway do not.

This is not to say that there will be no trading to accommodate limits on SO_2. Consider a power pool where one of the plants is close to the emission ceiling. To keep from violating the limit, the endangered utility will simply buy electricity from other plants in the pool. Electricity is a well-defined property right, covered by long-standing contractual arrangements and upheld by the courts. Who will trade "allowances" when real property rights are readily available?

The Clean Air Act is a complicated piece of legislation, and utilities will be looking for help in avoiding pitfalls. My advice is to avoid hiring consultants who do not know the difference between a wart and a fatal affliction.

James L. Johnston
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Chicago, Ill.

Focusing on Accountability

TO THE EDITOR:

I read with interest in the Fall 1991 issue of *Regulation* concerning the reform of medical malpractice and insurance by authors Joseph P. Newhouse and Paul C. Weiler.

Newhouse and Weiler have definitely proposed a different methodology—one that purports administrative efficiencies over physician accountability. Yet, the authors fail to recognize the efficiencies that could be maximized under the current medical malpractice system.

The current system provides for group purchasing through medical specialty societies, as well as medical malpractice insurers' actions that target problem physicians. These actions do not require the physician to be insulated from the consequences of his actions.

In their article Newhouse and Weiler fail to recognize that shifting legal liability away from the practitioner merely shields the practitioner from being held accountable for the health care services the practitioner orders and provides. Any administrative economies are secondary to the primary problem of shifting this responsibility.

Also, I take exception to the authors' assumption that this shift in liability to the single organization rather than the multiple defendants would produce fewer nonmeritorious claims. We believe that the contrary is true because of the consolidated deep pocket that is now one step removed from the delivery of health care.

Managed care organizations are deeply concerned about medical liability costs. Many managed care organizations have arranged for provider access to medical liability insurance that brings to fruition the administrative efficiencies the authors have described.

In focusing on the appropriate delivery of health care services, managed care attempts to reduce the incentives for practicing wasteful defensive medicine while also focusing on provider education. However, by shifting liability from the provider to the managed care organization and losing physician accountability, a difficult environment is created for the managed care organization to effectively manage the delivery of quality care.

I suggest that the authors reexamine this aspect of their proposal. Managed care focuses on accountability at all levels—accountability of the patient, accountability of the provider, and accountability of the health care delivery system. To remove the accountability from any one player in this picture erodes the effective checks and balances that exist in our private health care system.

Charles W. Stellar
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American Managed Care and Review Association
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Conservative or Restrictive?

TO THE EDITOR:

We were disturbed to discover unapproved changes in the text of our article, "Reforming FDA Policy: Lessons from the AIDS Experience," published in the Fall 1991 issue of *Regulation*. It was particularly troublesome that while our original submission describes the FDA drug approval process as *conservative (syn. cautious)*, the published version substitutes the term *excessively restrictive*. Your wording does not convey our intention and in fact expresses an opinion we do not share.

The changes in our material were inappropriate. Any changes made in the review of a manuscript submitted to a scholarly publication should be formally approved by the authors.

Joanna E. Siegel
Assistant Professor of Health Policy and Management

Marc J. Roberts
Professor of Health Policy and Management
Harvard School of Public Health
Boston, Mass.

Calling a Spade a Spade

TRIPOLI replies:

In editing our issue on safety regulation, we encountered widespread use of *conservative* to describe various regulatory agencies' policies, most frequently with respect to the EPA, which itself describes the maximum levels of exposure to harmful substances that it allows as "conservative." Since the primary meaning of *conservative* (from the Latin *con* "thoroughly" and *servare* "keep or save") is adhering to and tending to preserve the existing order of things, we considered it misleading to our readers to describe both policies that range from protective to overly restrictive and estimates that are biased as "conservative." *Conservative* in the sense of moderate or cautious—as Professors Siegel and Roberts would define it—is traditionally used to describe (unbiased) estimates or statements.

In the Siegel and Roberts article, there were repeated references to the restrictive nature of the FDA's drug approval process: the "restrictive stance" of the FDA, its "strict approval process," "the appropriateness of its restrictions on access to drugs," and "the existing approval process . . . too inflexible to recognize a range of intermediate situations where approval decisions should reflect risk tradeoffs." The authors did not, however, intend that the FDA's drug approval policies are overly restrictive in all cases. Indeed, they asserted, "Standards of proof should be stringent where risks of disease are low, where treatments are currently available, or where the possible side effects are more severe." The authors called for "a more flexible drug approval process" to "improve equity and efficiency for a broader spectrum of patients."

Siegel and Roberts' article addressed the costs and benefits of the FDA's restrictive drug approval process. In the context in which they object to the substitution of *excessively restrictive* for *conservative*, they were describing the drug approval process as it relates to AIDS treatment—precisely the example they give of a case in which the drug approval process should be liberalized.

Where's the beef?

L.T.