What Are We Paying These Guys For?

By Alex Avery and Richard Halpern

Would you go to a doctor who prescribed major surgery before taking your medical history or even examining you? Of course not. You would be subjecting yourself to unnecessary pain, risking your life, and probably wasting your money on needless treatment. Unfortunately, though, that is just what our government has done and is doing with many of our environmental regulations.

TAKE THE CLEAN WATER ACT, PLEASE

For example, the Clean Water Act (CWA), enacted in 1972 to clean up our nation's lakes, rivers and streams was adopted even though there was no assessment of the condition of U.S. waters. *Some* of the nation's rivers were in trouble—about 10 percent according to contemporary estimates. And, of course, the Cuyahoga in Ohio caught fire once, hardly a positive indicator of aquatic health. But other than that, we knew next to nothing about the health of our rivers and streams.

Without examining the patient, CWA prescribed nearly $1 trillion dollars worth of major surgery—massive implementation of sewage and wastewater treatment technologies. However, knowing that it was operating in the dark, Congress wisely mandated water-quality monitoring efforts to inform policymaking—a mandate that has been virtually ignored. After 27 years, we still know next to nothing.

Celebrating the twenty-fifth anniversary of CWA, the Environmental Protection Agency (EPA) claimed, "Today, two-thirds of the nation's surveyed waters are safe for fishing and swimming." In nearly the same bureaucratic breath, EPA announced that "57 percent of our waters are unacceptably polluted." Classic Dilbert-style doublespeak. The truth is that EPA does not have a clue about the quality of the nation's waters.

In a report published earlier this year by Public Employees for Environmental Responsibility (PEER), "Murky Waters—Official Water Quality Reports Are All Wet," EPA and state agency staffers conclude that "the nation's water quality monitoring and assessment system is badly broken.... The data simply does [sic] not exist to indicate whether, in fact, the nation's rivers and streams are getting cleaner or more polluted, and why."

The disclaimer on EPA's own National Water Quality Inventory (NWQI) says it all: "The data cannot be used to estimate national water-quality trends over time, and they cannot be used to compare the status of waters among States." In other words, NWQI is worthless.

In the Clean Water Act, Congress required each state to gather data about the quality of the water in its rivers and streams. But the states have not complied—it costs money. It costs even more if they find a problem. On the other hand, EPA itself has done nothing to develop or even encourage meaningful monitoring. In fact, the agency sabotaged attempts by the U.S. Geological Survey to create a national water quality database. What if no problem was found? Water quality could no longer be used as a pretext for attacking modern agriculture, manufacturing, the automobile, and modern society in general. EPA's budget would be slashed.

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Instead, taxpayers get a shell game. EPA admits that only 19 percent of the nation's rivers and streams have even been evaluated. Amazingly, the rivers and streams that are reported to have been "evaluated" have not necessarily had their water sampled—even once. According to PEER and other independent sources, EPA accepts—even encourages—"presumed," "estimated," and "extrapolated" assessments of water quality. In other words, bureaucrats are making it up! Even when streams are physically monitored, sampling is likely to be erratic, infrequent, superficial, and otherwise so limited as to be worthless for setting

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policy and making regulatory decisions.

THERE IS MORE WHERE THAT CAME FROM

EPA IS NOT THE ONLY REGULATORY AGENCY TO FAIL IN ITS basic mission. Following the dust bowl of the 1930s, the U.S. government created the Soil Conservation Service, now the Natural Resources Conservation Service (NRCS), to monitor soil erosion and encourage efforts to reduce soil erosion from farmers' fields. The agency was quick to create an army of "conservationists" to advise farmers, but it failed miserably at the basic task of measuring and monitoring soil erosion.

It turns out that soil erosion has been nearly eliminated as a major problem according to an exhaustive, 30-year research effort by Stanley Trimble at the University of California, Los Angeles. Trimble's research, which includes data from the 1930s he found in the National Archives, indicates that soil erosion rates in the Coon Creek Basin of Wisconsin are only about five percent of what they were during the dust bowl. Recent U.S. government erosion estimates for the basin, originally chosen for study because of tremendous erosion problems, are about three times higher. If the erosion rates are that low in a highly erodible basin, as Trimble puts it, "the burden of proof is on those who have been making pronouncements about big erosion numbers."

The continued widespread perception that soil erosion remains a major agricultural and environmental problem is a direct result of the government's lack of effective monitoring.

The crux of the problem is that there are no incentives for a government bureaucracy to track the problems it is tasked with solving. Discovering the truth could put the agency out of business. Until Congress demands that EPA and NRCS—and who knows how many other bureaucracies—actually find problems before we fix them, expect more Dilbert doublespeak. ■

Is There Light at the End of the Regulatory Tunnel? Not in Pennsylvania

By Randolph J. May

THE PROMISE OF UNFETTERED COMPETITION AND meaningful deregulation, so widely heralded when President Clinton signed the Telecommunications Act of 1996, has turned into what some have called a "regulatory Vietnam," a quagmire in which every step toward deregulation is matched by a step backwards.

The Federal Communications Commission (FCC) acknowledged in its draft strategic plan, "A New FCC for the 21st Century," that within five years it expects "vigorous competition that will greatly reduce the need for direct regulation." FCC nevertheless continues to pursue policies more suited to a bygone monopolistic era. Consider the following examples:

FCC continues to issue lengthy and intricate orders setting forth in minute detail the requirements that the incumbent local exchange carriers (ILECs) must follow in unbundling their networks and sharing their facilities. Most recently, the agency went so far as to require ILECs to unbundle the bandwidth capacity of individual loops and sell it to all comers at government regulated prices.

FCC engages in time-consuming reviews of telecommunications company mergers under the indeterminate "public interest" standard, duplicating the competitive analysis performed by the Department of Justice. In order to gain approval to merge, the parties typically propose "voluntary" conditions that go far beyond regulatory requirements. For example, approval of the SBC-Ameritech merger was conditioned on compliance with thirty (not counting the subparts!) extremely detailed new requirements.

Even after the fourth anniversary of the 1996 Act, the agency has approved only one request to allow a Bell operating company to provide long distance service, despite the fact that several state regulatory bodies have recommended approval of such requests.

These examples are at the federal level. Unfortunately, there are examples of actions at the state level that are even more regulatory and inconsistent with the development of competition. A recent action of the Pennsylvania Public Utility Commission (PUC) is a case in point.

WHAT PENNSYLVANIA HAS DONE

ON SEPTEMBER 30, 1999, THE PENNSYLVANIA PUC ISSUED an order that sets a new standard for regulatory intervention in today's competitive telecommunications markets. Simply put, the order goes beyond regulation to demand the breakup of the local telephone company, Bell Atlantic-Pennsylvania, Inc., into two companies for purposes of

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