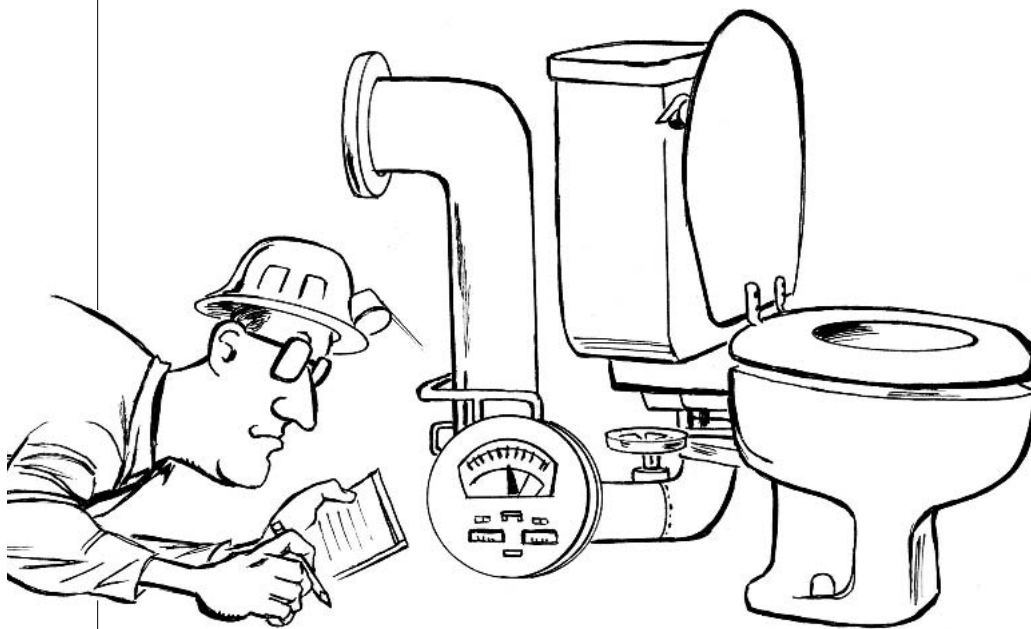


The **Mercatus Center** at George Mason University is an education, research, and outreach organization that works with scholars, policy experts, and government officials to bridge academic theory and real-world practice. The center's Regulatory Studies Program works within the university setting to improve the state of knowledge and debate about regulations and their impact on society. More information about the center can be found on the Web at [www.mercatus.org](http://www.mercatus.org). For the latest federal regulatory developments, visit [www.regradar.org](http://www.regradar.org).



## Conserving Water

**STATUS: EPA policy under revision.**

Convincing people to conserve water can be a challenge for government planners. The Department of Energy's mandate for water-efficient, low-flow toilets has not proven very popular with users, who obstinately insist on flushing multiple times — defeating the planners' purpose.

The Environmental Protection Agency's assistant administrator for the Office of Water, Tracy Mehan, wants to try a new approach: He has called for "full-cost and conservation pricing to achieve water conservation." There's an idea: Have people pay the actual cost of the water they use and maybe the interaction of supply and demand will solve the scarcity problem.

In new draft policy guidance, Mehan observes that "the use of water meters by which to measure consumption is a necessary prerequisite to

using these price mechanisms [to encourage conservation]. For those 15 percent of Americans who live in apartments, submeters are needed if their water consumption is to be linked to prices."

Despite the advantage of submeters for tracking (and charging consumers for) water use, the EPA notes that apartment buildings rarely use them. Instead, most landlords include water usage in the price of rent, with tenants sharing equally in the cost, regardless of usage.

One reason for this may be the cost of installing submetering equipment in apartments, but owners of multifamily housing units suggest that the more compelling reason is government regulation. Under existing EPA policy, if an apartment or office building with more than 15 tenants bills those tenants separately for water, it is deemed to be "selling" water and becomes subject to the full regulatory requirements of the Safe Drinking Water Act.

One owner of 11 apartment buildings in North Carolina noted that the regulations require him to obtain annual permits and retain the services of certified distribution operators at a combined cost of over \$8,000 per year.

In a new memorandum out for public comment, Mehan recognizes that "EPA's approach in previous memoranda — simply applying the concept of "sell" to every billing transaction — may have created a disincentive to water conservation, which can undermine water quality over the long term." Under the revised policy, a property owner "who installs submeters to accurately track usage of water by tenants on his or her property, will not then be subject to SDWA regulations solely as a result of taking the action to submeter and bill."

## An Ocean Czar?

**STATUS: Ocean policy recommendations to be released in late 2003.**

In advance of the U.S. Commission on Ocean Policy's release late this year of recommendations for ocean policy reform, the Pew Charitable Trusts established its own ocean commission to consider possible policy changes. Unfortunately, the Pew commission's report, which was released earlier this year, took an unfortunate tack. While lamenting the decline of many ocean fisheries and the widespread evidence of overexploitation, the report fails to recognize the underlying problem: the familiar Tragedy of the Commons. Instead, it stresses the importance of managing ocean resources as "the common heritage of mankind," which is akin to using leeches to treat hemophilia.

We can only hope that the official ocean commission makes the right diagnosis. If it does, effective treatment options are not hard to find. Aquaculture, for example, can eliminate overfishing. Wild salmon stocks will likely be saved from extinction because farmed salmon is driving down the



price and thus removing the incentive to catch the last wild stocks even as it makes salmon abundant for consumers and profitable for producers. And local management of fisheries, with tradable quotas and exemptions from antitrust laws, can be far more effective than any imposed fishery management plan.

Admiral James D. Watkins, the chair of the U.S. Commission, has been an energy czar (secretary of energy during the George H. W. Bush administration) and may be tempted to call for the appointment of an ocean policy czar. We hope he recognizes instead that intelligent management of this vast domain must necessarily be decentralized and driven by incentives, not regulators.

## Peering at Regulatory Science

**STATUS: OMB has issued draft guidelines for comment.**

The Office of Management and Budget and the Office of Science and Technology Policy have proposed a set of peer-review guidelines for the science that federal agencies use to make regulatory decisions. In the past, the OMB has confined itself to giving guidance on the use of benefit-cost analysis, but the Bush administration OMB has increasingly made efforts to engage the agencies in a discussion of scientific controversies. Under John Graham, the OMB's Office of Information and Reg-

ulatory Affairs has gradually added scientists to the economists and policy analysts on its staff. But Graham appears to recognize that the OMB can do little more than quality control, and peer-review is the traditional method of quality control in the scientific community. Under the proposed guidelines, agencies issuing rules that rely on specific scientific findings will have to subject those findings to review by experts whose ties to the agency, as well as to regulated industries, are limited or at least disclosed.

What works for journals and grant-making institutions, however, may not be robust enough to survive the rough-and-tumble world of federal rulemaking. Where it has been tried, peer review has not been able to cure the problem of self-serving science. The Environmental Protection Agency's procedures for peer review, for example, already are stricter than what the OMB would require; yet serious controversies over the agency's use of science persist. One danger is that, by creating an official peer-review process, the OMB will effectively shield regulatory agencies from legitimate and needed scrutiny — not only by its own staff, but by judges reviewing a rulemaking record. Critics of an agency's official findings will not often be able to afford the cost of the prescribed peer review, and consequently may be dismissed by the agency out-

of-hand. While the intent of the draft guidelines is to subject regulatory science to more careful scrutiny, in practice they may have quite the opposite effect.

## Regulation and Free Enterprise around the Globe

**STATUS: World Bank releases new report.**

The World Bank released a new report in October entitled "Doing Business in 2004: Understanding Regulation." The report examines in a systematic fashion how regulation and legal systems affect companies' ability to start up, obtain credit, hire and fire workers, enforce contracts, and work through bankruptcy courts. Not surprisingly, the Bank finds that "more regulation is associated with higher costs and delays," and that "cumbersome regulation is associated with lower productivity." Countries with well-established common-law traditions tend to be the least regulated and have the most efficient economies.

The results derive from a database that uses objective measures to track business regulations across economies. The project's main goal is to show the cost of doing business in different economies by highlighting specific regulations that enhance or constrain business activity. The database is organized by topic and the current data set includes 133 economies. The Bank plans to expand this to 140 economies in 2004, covering all economies with populations greater than 1.5 million (with a few exceptions).

The 2004 report is part of an annual series that will supplement the database. The reports aim to identify the best regulatory models, the main obstacles to regulatory reform, and the reasons behind regulation. More information about this project is available on the Bank's website, [www.worldbank.org](http://www.worldbank.org). **R**

