

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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Opening Statement

Ranking Member Jamie Raskin

Hearing on “Regulatory Divergence: Failure of the Administrative State”

July 18, 2018

Thank you, Mr. Chairman.

I’m planning to surprise you by becoming perhaps the first American politician in history to defend regulation in its entirety—the notice-and-comment period, the hearing process, regulatory enforcement, the whole kit-and-caboodle.

Let’s start with terminology. Regulation is just a fancy name for rule – and we all live according to rules.

Every household has rules. Every family. Every sport. Every school. Every road and highway. Every institution. Every economy. Every corporation. Every state, county, city and town. Congress and indeed this Committee has rules. I get five minutes, not six, to make an opening statement because of a rule. The rule gives us a fair allotment of time and makes us each free to use it. We will probably invoke dozens of rules as we go about our business in the House today.

The rules targeted for criticism at this hearing are the rules that federal agencies adopt to enforce the laws that we pass in Congress. The laws and the rules reflect the values of the people and implement our priorities.

Look at what agency rules do.

The Department of Labor’s overtime rule says that hourly wage workers must be paid time-and-a-half when their bosses make them work overtime. That’s a rule which gives dignity and fairness to workers.

The Federal Aviation Administration (FAA)’s 24-hour rule says passengers forced to cancel airline ticket reservations within 24 hours of purchase must get a full refund. Another FAA rule says that passengers who miss their flight must be given standby access if they arrive within two hours of the missed flight.

A lot of federal rules save human lives and protect the public health.

The National Highway Transportation Safety Administration (NHTSA)'s Gulbransen Rule, requires dramatically improved rear visibility in new cars which is why so many of us have backup cameras on our dashboards. Although President George W. Bush signed it into law in 2008, the rule was unnecessarily delayed and went into effect in 2018. Named for two-year-old Cameron Gulbransen who was killed when a car accidentally backed up over him, this rule has already begun to significantly lower the number of deaths and injuries (roughly 250 deaths and more than 12,000 injuries) that occurred each year from accidents caused by vehicles in reverse. The rule compels use of a technology that had been available for a decade but was long opposed by the auto industry which tried to keep the technology as an optional luxury add-on item.

Everyone knows that the seatbelt rule has saved tens or hundreds of thousands of lives since it was adopted in 1983.

Most federal rules are, like these, common-sense protections of vital freedoms that we cherish as Americans— freedom from air pollution and water pollution, freedom from dangerous consumer appliances, freedom from workplace discrimination and exploitation, freedom from predatory business practices and monopolies. Moreover, rules have made our people freer and our country safer, healthier, cleaner, more just and equitable, more secure.

Yet President Trump and my GOP colleagues in the House have made destroying government rules one of their top priorities and they have made of deregulation a mindless political fetish.

But they target only certain kinds of rules.

The administration hates rules that get in the way of corporate power. They want to get rid of rules that restrict Wall Street and the financial industry. They want to scrap rules that enforce the Clean Water Act and the Clean Air Act and rules that restrict the freedom of polluters.

They love other kinds of rules. They want rules that interfere with women's rights to make their own healthcare decisions and decisions about birth control and reproduction.

Just this past May, the Administration issued a gag rule that blocks organizational recipients of federal family planning funds from counseling or advising women about abortions and also compelling expensive physical, financial and programmatic segregation between units that provide such counseling and those that do not.

They pile rule upon rule in the SNAP program to impose a kind of bureaucratic extremism which makes it impossible for people to access nutritional benefits.

So regulations, like statutes or ordinances or Constitutions, are just forms of law that can be good or bad, efficient or inefficient, fair or unfair.

But my colleagues invite us to believe that federal regulation is in general burdensome and costly. That is false and we have a way to show it.

The Office of Management and Budget annually issues a Congressionally-mandated report that identifies the costs of government rules on the private sector and the estimated financial benefits produced for the American people. Every year, this report shows objectively that the economic benefits of federal rules far outweigh the costs.

Quite shockingly, the Administration tried to bury this year's report, releasing it two months late, almost certainly because its findings undercut everything President Trump has stated about government rules. The report found that last year, federal rules imposed \$4.9 billion in costs on businesses. At the same time, they resulted in up to \$27.3 billion in benefits to the American public.

The regulatory benefits to taxpayers are more than five times the regulatory cost of these rules.

The costs of an America without any federal rules are not hard to imagine and they are impossible to accept. Cars without backup cameras or seat belts. Peanut butter made in unsanitary conditions. Banks and hedge funds freed from rules of prudential lending. Coal mines that poison coal miners and collapse on human beings with corporate impunity. Predatory payday lenders operating without a Consumer Financial Protection Bureau checking them. Out-of-control data breaches and no way to stop them.

The 2010 BP oil spill reminds us of the perils of rule weakening. This was a catastrophe that remains one of the worst environmental accidents in American history, resulting in 11 deaths, an estimated 1 million coastal and seabird deaths, and 5 million barrels of oil spilled directly into our oceans. Yet, the Trump Administration, with the help of Congressional Republicans, wants to bury the memory of the BP oil spill and accelerate offshore drilling along the coastlines of our country.

This deregulatory project in our economy and environment is profoundly risky and dangerous. We cannot risk American lives and our environment because President Trump wants to reward large Republican campaign donors while using the regulatory boogey-man to try to destroy democratically chosen rules.

Let's think pragmatically and not ideologically. Let's remember that federal regulations are just America's rules and, when it comes to building a strong democracy, laissez isn't fair.

I thank our witnesses for sharing their testimony today, and I look forward to continuing this important discussion.

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