



Regulating for a Better Tomorrow?

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Institutional and Organizational Economics Academy
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**PENN PROGRAM
ON REGULATION**
UNIVERSITY of PENNSYLVANIA

Regulation Matters



Nepal (2015)

- 9,000 deaths, 20,000 injuries
- “Major” earthquake (7.8)
- Buildings built prior to modern building codes



Mexico (2017)

- 361 deaths, 6,000 injuries
- “Major” earthquake (7.1)
- Modern building codes in place but inconsistent enforcement



Alaska (U.S.) (2018)

- 0 deaths, 0 injuries
- “Major” earthquake (7.1)
- Modern building codes with robust enforcement



*February 2023
53,537 deaths*

FINANCIAL TIMES

Erdoğan under fire as shoddy Turkish building standards exposed by earthquake

President faces backlash over 2018 amnesty for faults in millions of buildings despite history of natural disasters



Wreckage of buildings in Nurdagi in Turkey's southern Gaziantep region after the 7.8-magnitude earthquake hit © Chris McGrath/Getty Images

AP

U.S. News World News Politics Sport

Turkey's lax policing of building codes known before quake

ZEYNEP BILGINSOY and SUZAN FRASER February 10, 2023

FEATURE ARTICLE

DEMONSTRATING THE INTENSIVE BENEFIT TO THE LOCAL IMPLEMENTATION OF A STATEWIDE BUILDING CODE

Jeffrey Czajkowski
Kevin M. Simmons
James M. Done

ABSTRACT

Ultimately, risk reduction from the implementation of building codes is due to not only the extent of the code as it applies to new construction, but also to the intensity of local adoption and enforcement. It is normally an open question as to how well a code is maintained and enforced at the local level, even for a relatively strong adopted statewide code such as the Florida Building Code. We test the importance of the intensity of building code implementation at the local level for reducing Florida windstorm losses by utilizing Building Code Effectiveness Grading Schedule (BCEGS®) rating data. BCEGS ratings provide a joint assessment of local building code effectiveness in terms of the strength of the adopted codes in addition to how well these adopted codes are enforced. We find that both components provide value in reducing windstorm losses in Florida, with the extent of the statewide code being the dominant effect reducing losses on the order of 72 percent. Although not as substantial in terms of its loss reduction magnitude, intensively implementing building codes at the local level by ensuring codes are properly administered and enforced at this scale provides additional loss reduction value on the order of 15-25 percent. Understanding the relative value of these two implementation components is important to better inform building code policy and enforcement efforts given continuously updated codes.

INTRODUCTION

In a world of steadily increasing costs and frequency of natural disasters (United Nations Office for Disaster Risk Reduction [UNISDR], 2015), the implementation of effective risk reduction strategies is critical. Having strong building codes in place is frequently touted as a key risk reduction strategy in this regard, effective in reducing

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- Florida localities with up-to-date building codes experience a 72 percent reduction in windstorm losses
- Additional 15-25 percent loss reduction in communities that rate highly on their administration and enforcement of their codes

Czajkowski, Simmons & Done (2017)

Outline: Toward a Positive Study of Regulation?

1. Longstanding negative orientation to the study of regulation

- Emphasis on overregulation, excessive/adversarial enforcement, regulatory capture

2. Rebalancing with a "positive" study of regulation

- Challenges with identifying regulatory successes
- Possible new perspectives from a positive orientation to regulation.

3. In search of regulatory excellence

- Defining attributes of regulatory excellence
- Prescriptions toward regulatory excellence

4. Conclusion: Is regulatory excellence conceivable today?

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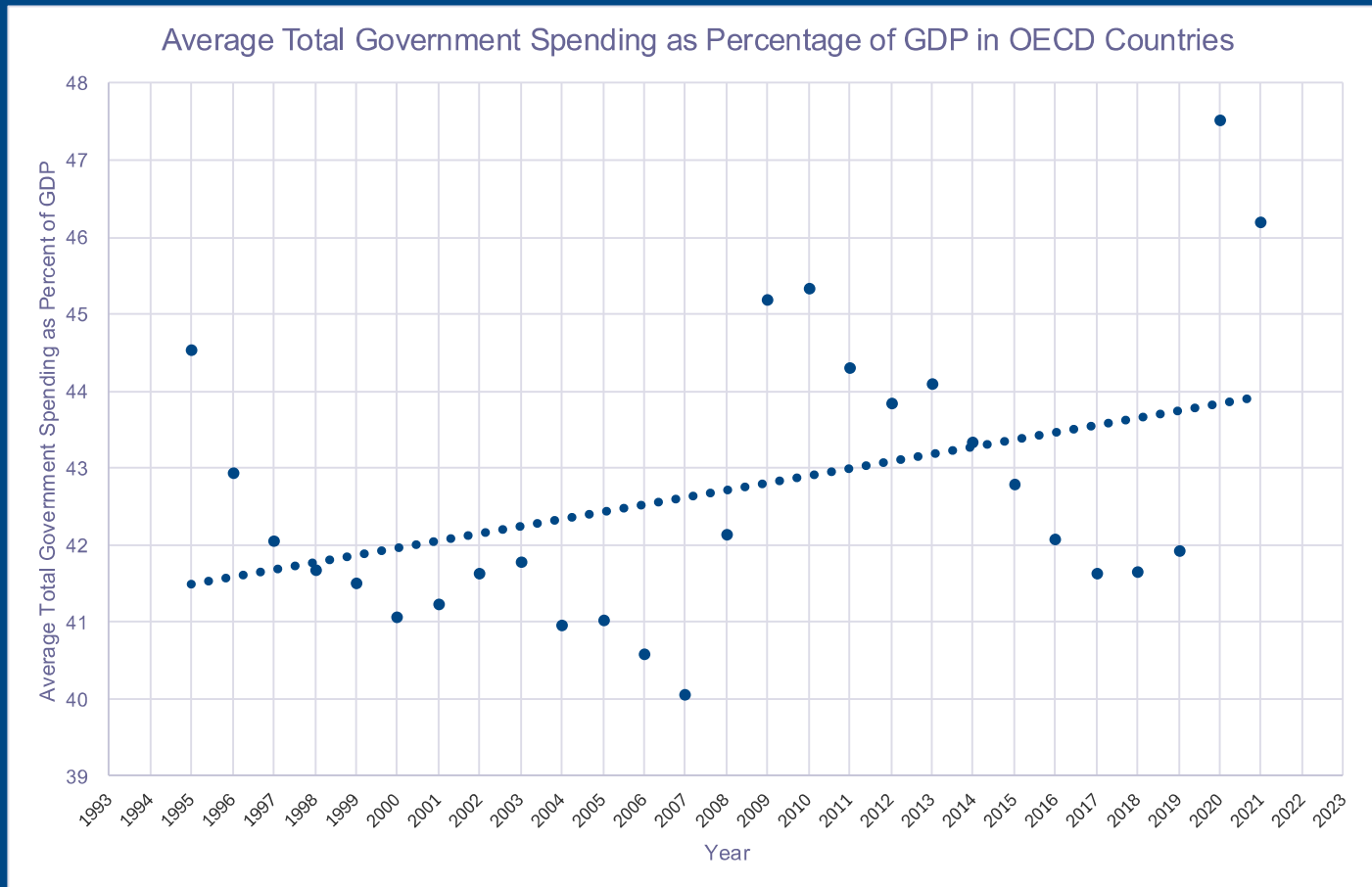
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Government Overall Has Increased



Source: OECD

Creation of Regulatory Agencies (OECD Countries & Latin America)

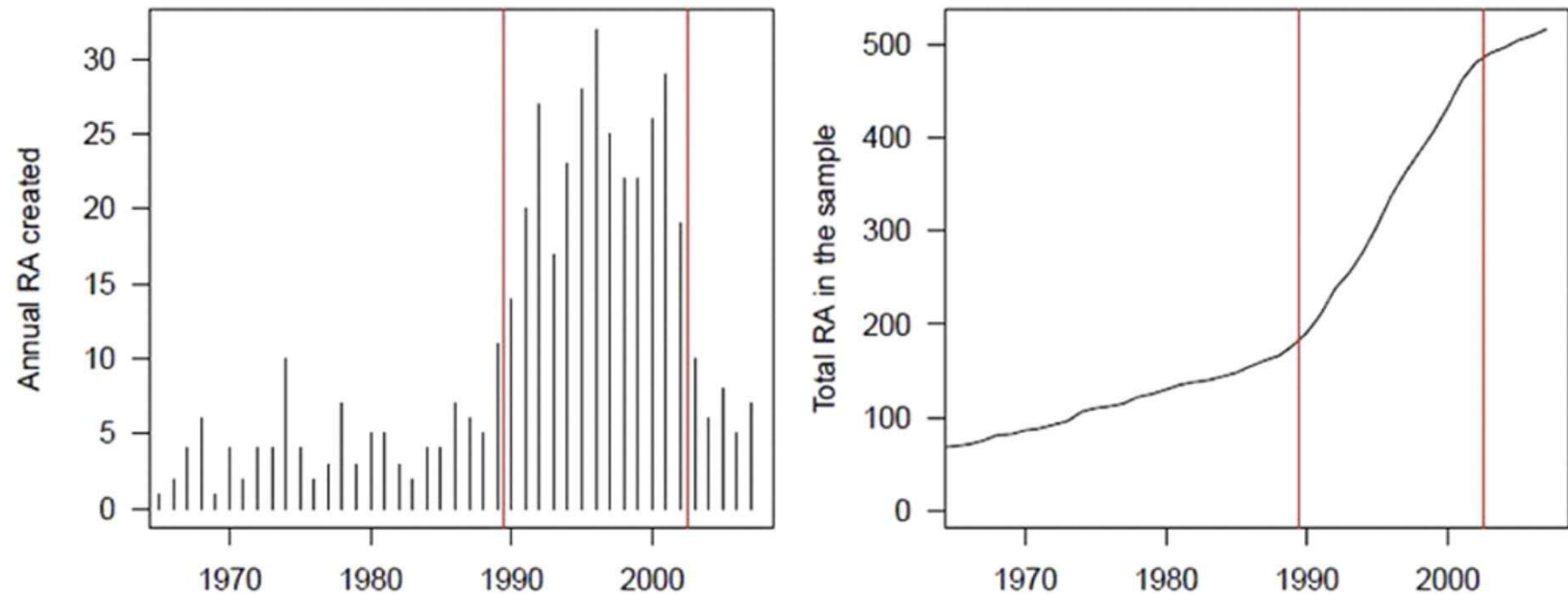
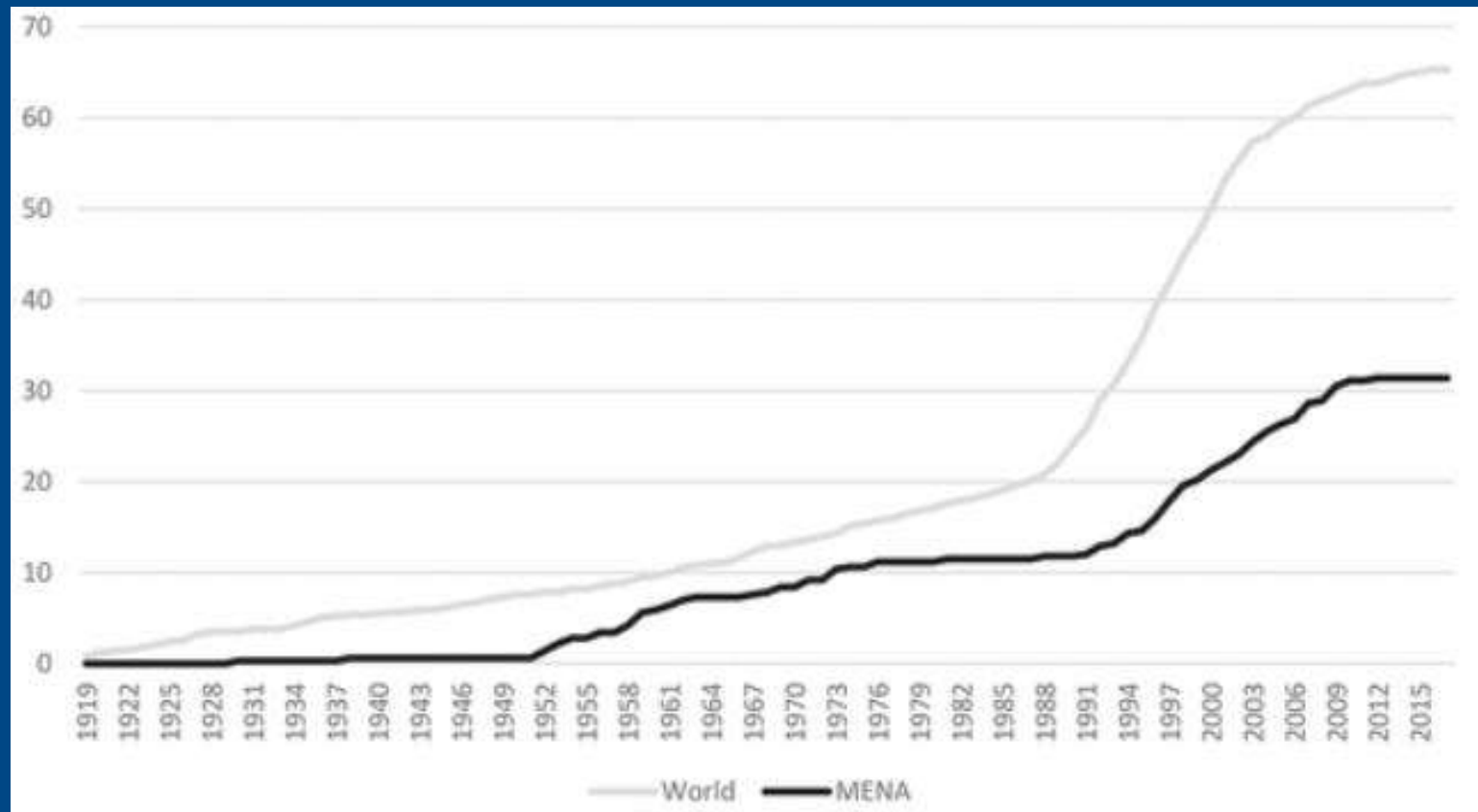


Figure 1. (a) Annual creation of regulatory agencies in the sample (b) Cumulative annual creation of regulatory agencies (1966-2007)

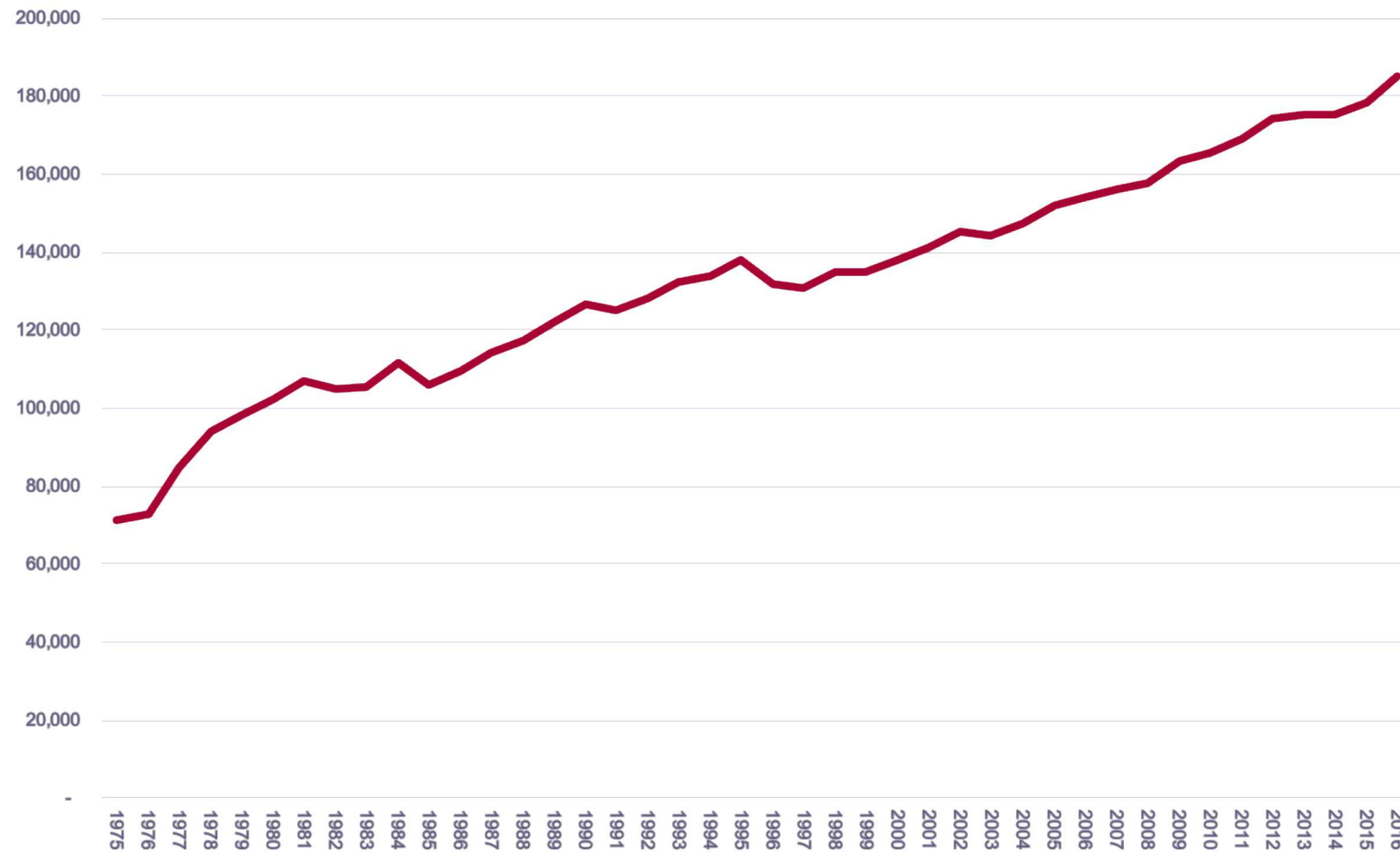
Source: Jacint Jordana et al. (2011)

Creation of Regulatory Agencies (World & Middle East/North Africa)



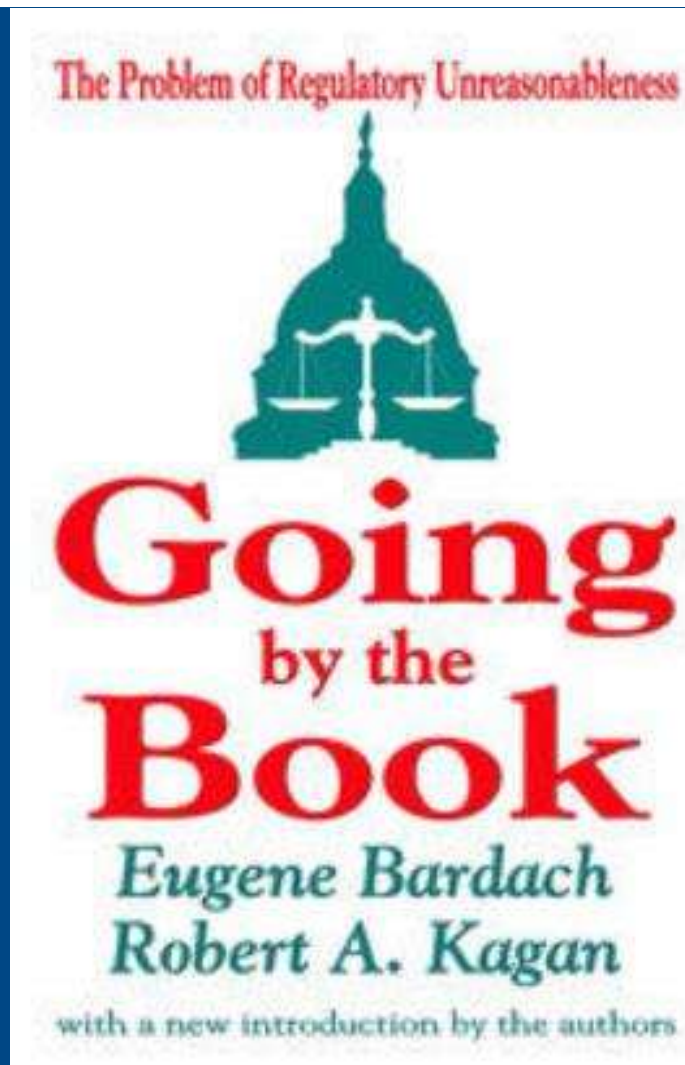
Source: Mathieu & Jordana & (2022)

Cumulative Pages in the U.S. Code of Federal Regulations

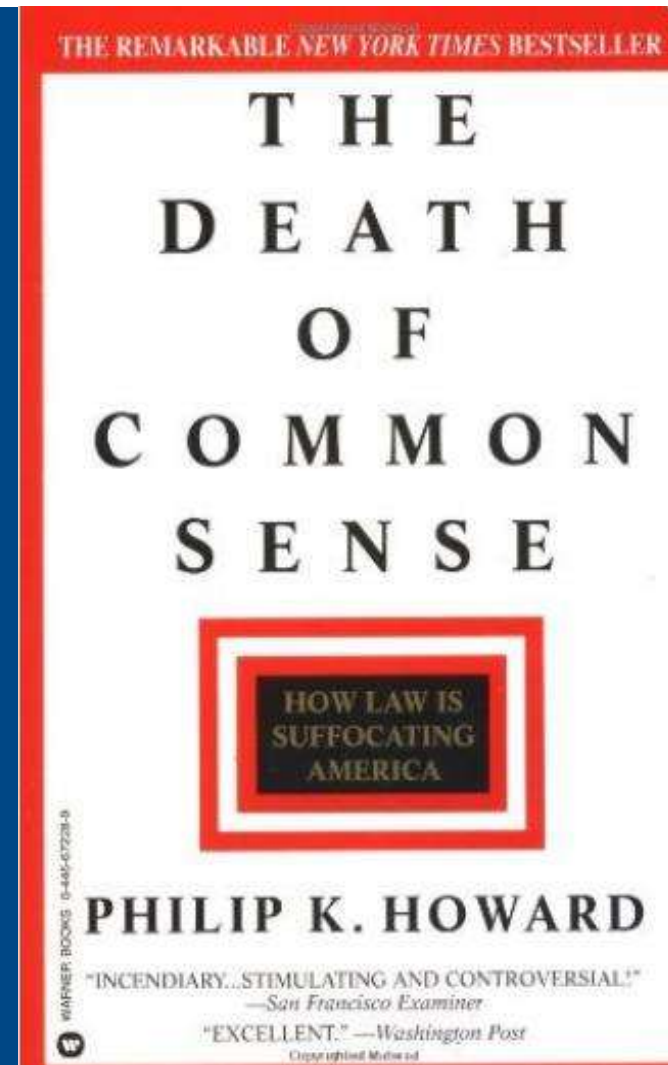


Source: Office of Federal Register

“Hyperlexis is America's national disease--the pathological condition caused by an overactive law-making gland. Measured by any and every index, our law is exploding. New statutes, regulations, and ordinances are increasing at geometric rates at all levels of government”
(Manning 1977)



(1983)



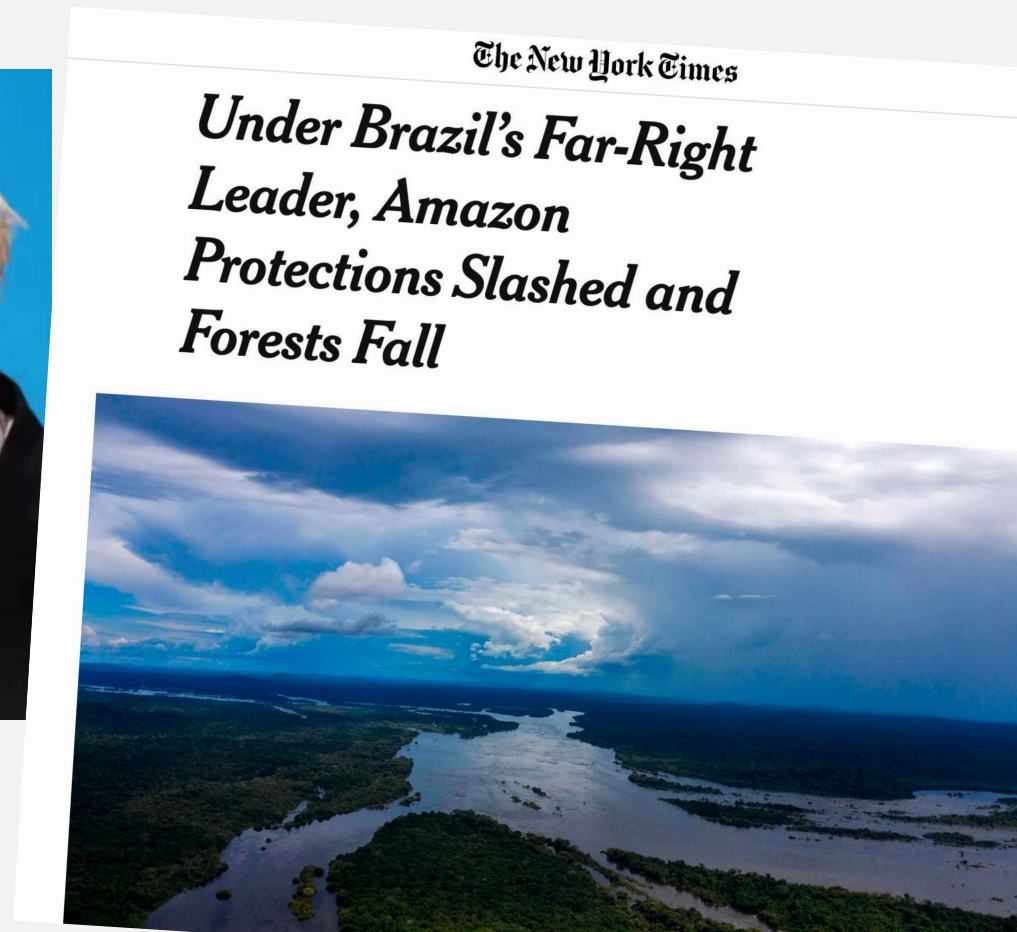
(1994)

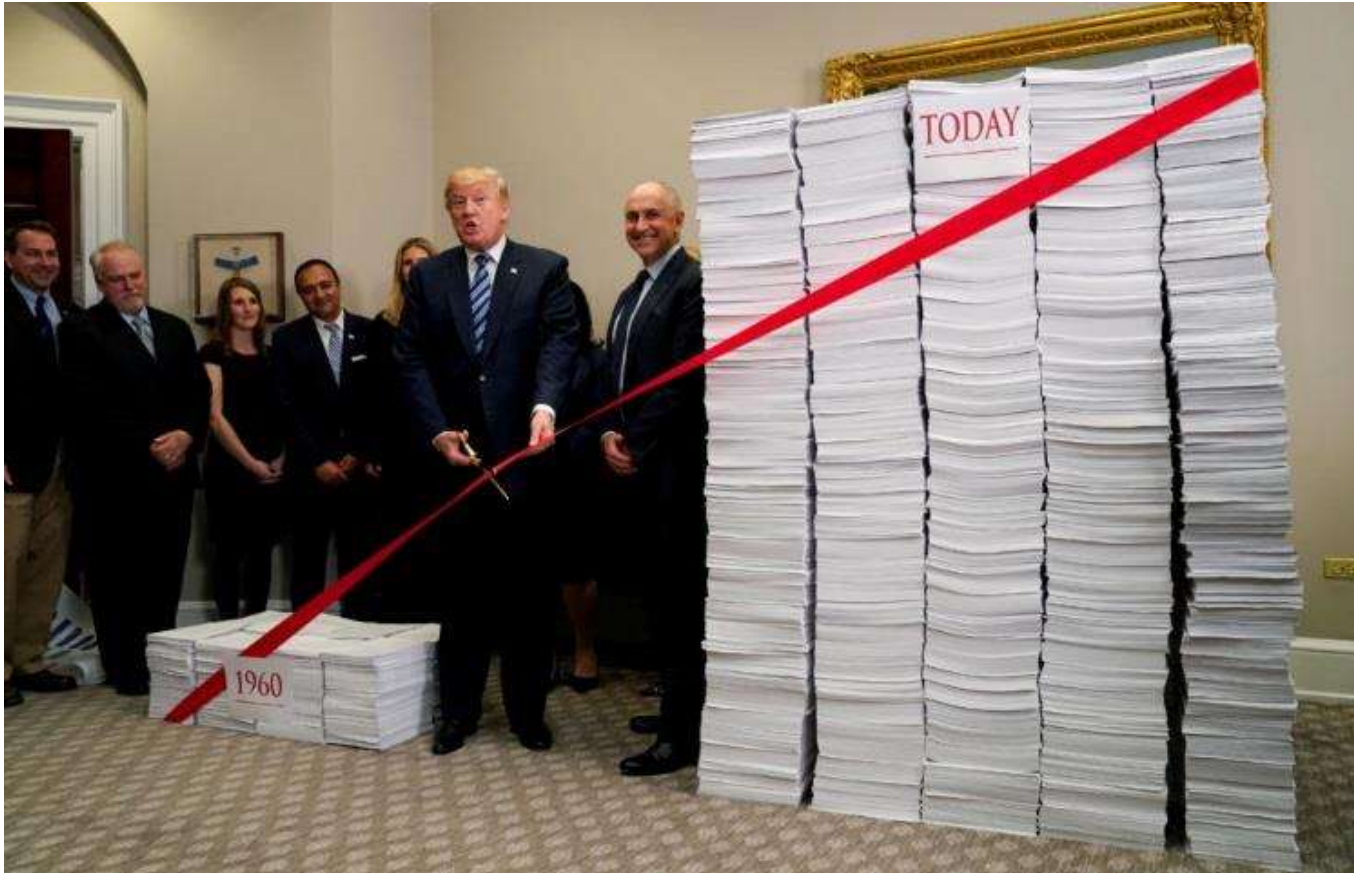
11

Political scapegoating of regulation



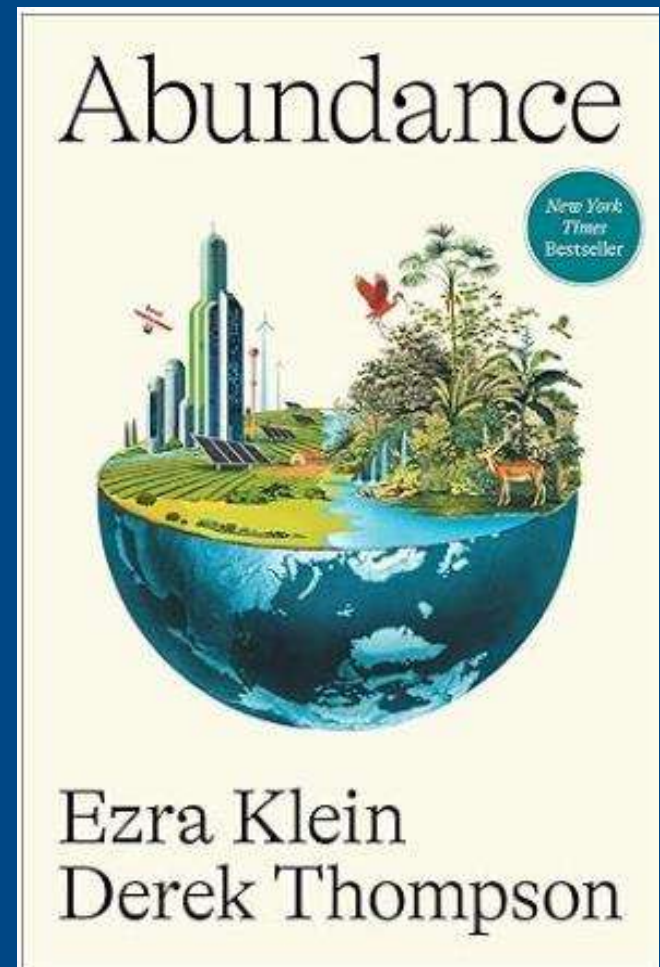
<https://www.theguardian.com/politics/2019/jul/18/boris-johnson-claims-about-kippers-fishy-brussels-says>





Source: Joan Lowy and Christopher S. Rugaber, *AP Fact Check: Do Trump's Number on Regulation Add Up?*, PBS NEWSHOUR (Dec. 15, 2017), <https://www.pbs.org/newshour/politics/ap-fact-check-do-trumps-numbers-on-regulation-add-up>.

"Laws meant to ensure that government considers the consequences of its actions have made it too difficult for government to act consequentially."



(2025)

Regulatory capture

- Longstanding concern that regulation advances business interests, such as by serving as a barrier to entry (Stigler 1971)
- Much research shows that businesses are the dominant interest groups involved in federal rulemaking (Coglianese 1996, Yackee 2006, Coglianese 2006; Croley 2007)
- Existing research is mixed—even “inconclusive”—on the extent of influence business has over regulatory policy (Croley 2007)
 - Typical research strategy: compare content of proposed rule with final rule to see if changes reflect business comments
 - Some studies find business comments associated with a reduction in the stringency of rules (Yackee 2006; Yackee & Yackee 2006)
 - Other studies have failed to find changes systematically associated with business comments (West 2004; Golden 1998)

Business Influence: A "Second Face" of Power?

- Example: Minerals Management Service (MMS) published a proposed rule that would make casing pressure standards mandatory on offshore drilling rigs
- Comments on proposal were due in 2002
 - 97 percent of the comments came from oil and gas companies (e.g., Exxon Mobil, BP, Shell, Chevron)
 - Comments called for MMS to withdraw its proposed rule
- In 2003, MMS formally withdrew its proposed rule



<https://www.flickr.com/photos/skytruth/454268455>

Acs & Coglianese (2023)

Game theoretic model with confirming empirical evidence of two deeper effects of business influence on regulatory agencies' agendas:

- **Chilling:** Early business lobbying at an agency is associated with fewer subsequent regulatory proposals by that agency, especially those proposals that require the agency to make a large upfront investment (e.g., major rules).
- **Retreating:** An agency is more likely to retreat—i.e., withdraw a proposal—when confronted by business opposition signaled by the combination of lobbying and the filing of an oppositional comment.



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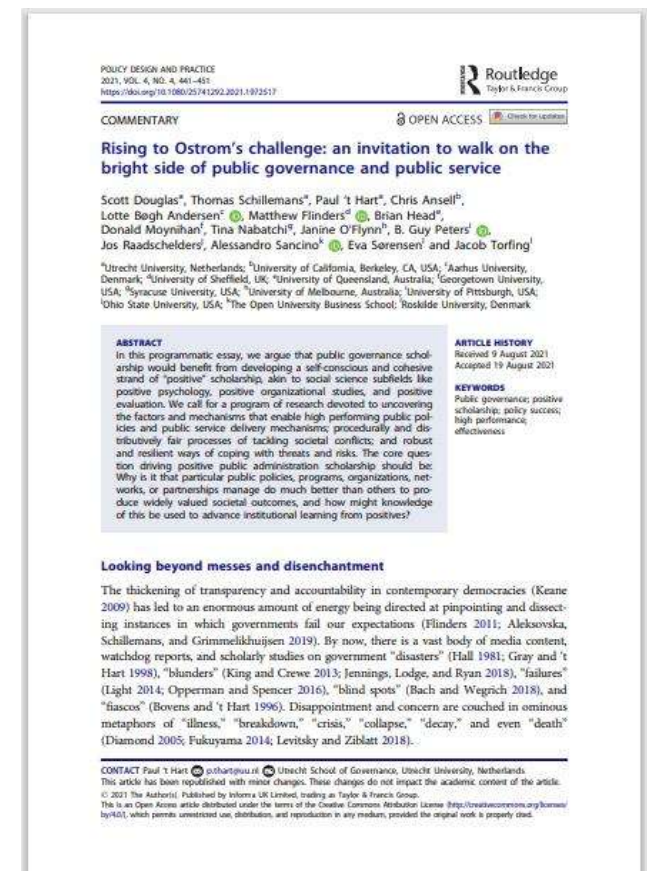
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Positive Public Administration: A Reorientation Toward Understanding *Success*

"Positive public administration requires a dedicated effort to learning how to learn from 'what works' in public policy. ... Research should not only focus on the (antecedents of) positive outcomes but also aim to detect the nonoccurrence of negative events."

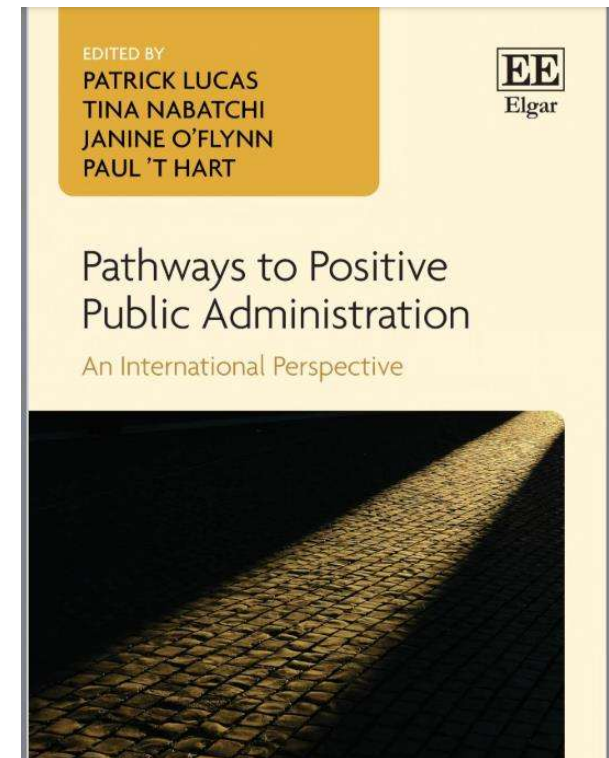
Douglas et al. (2021)



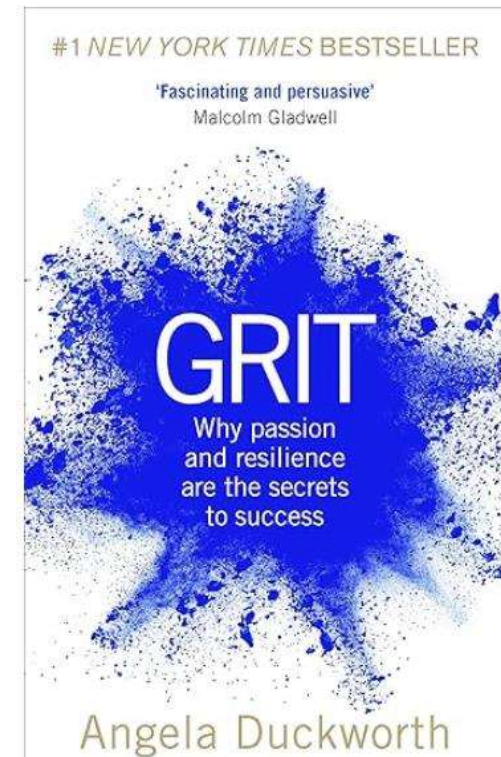
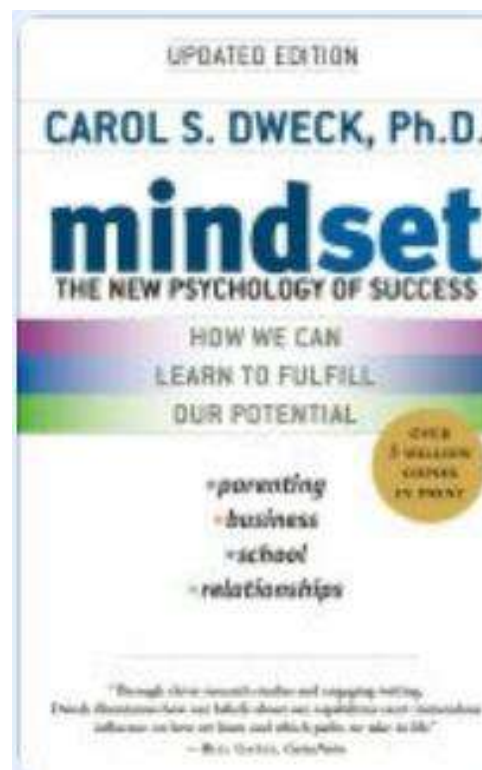
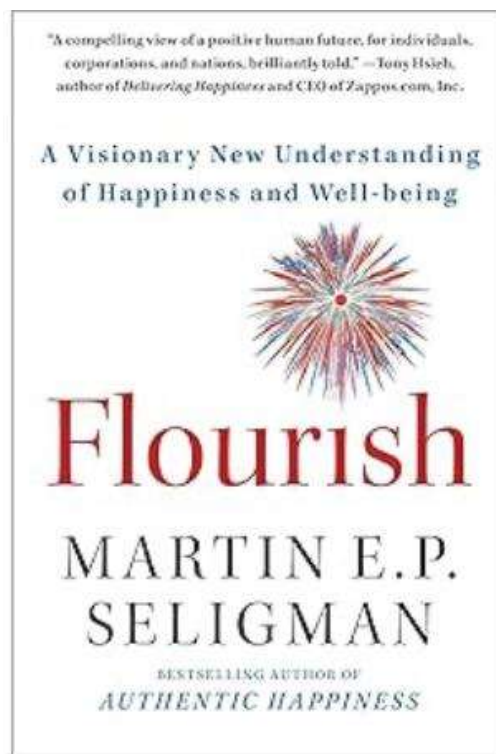
Positive Public Administration: Key Question

"Why is it that particular public policies, programs, organizations, networks, or partnerships manage to do much better than others to produce widely valued societal outcomes, and how might knowledge of this be used to advance institutional learning?"

Lucas, Nabatchi, O'Flynn & 'T Hart (2024)

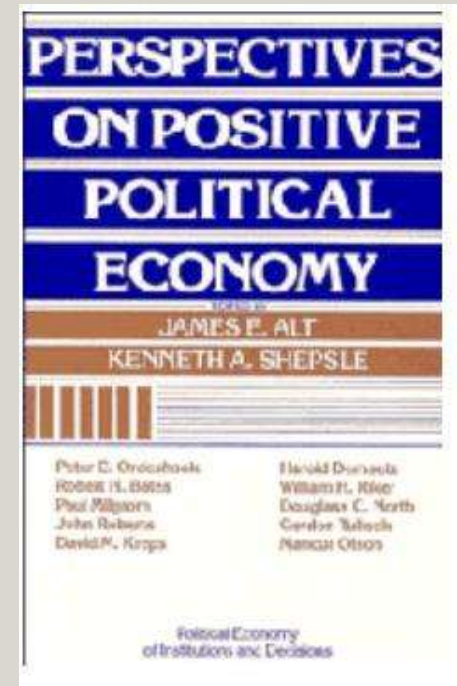


Similar in Directionality to "Positive Psychology"

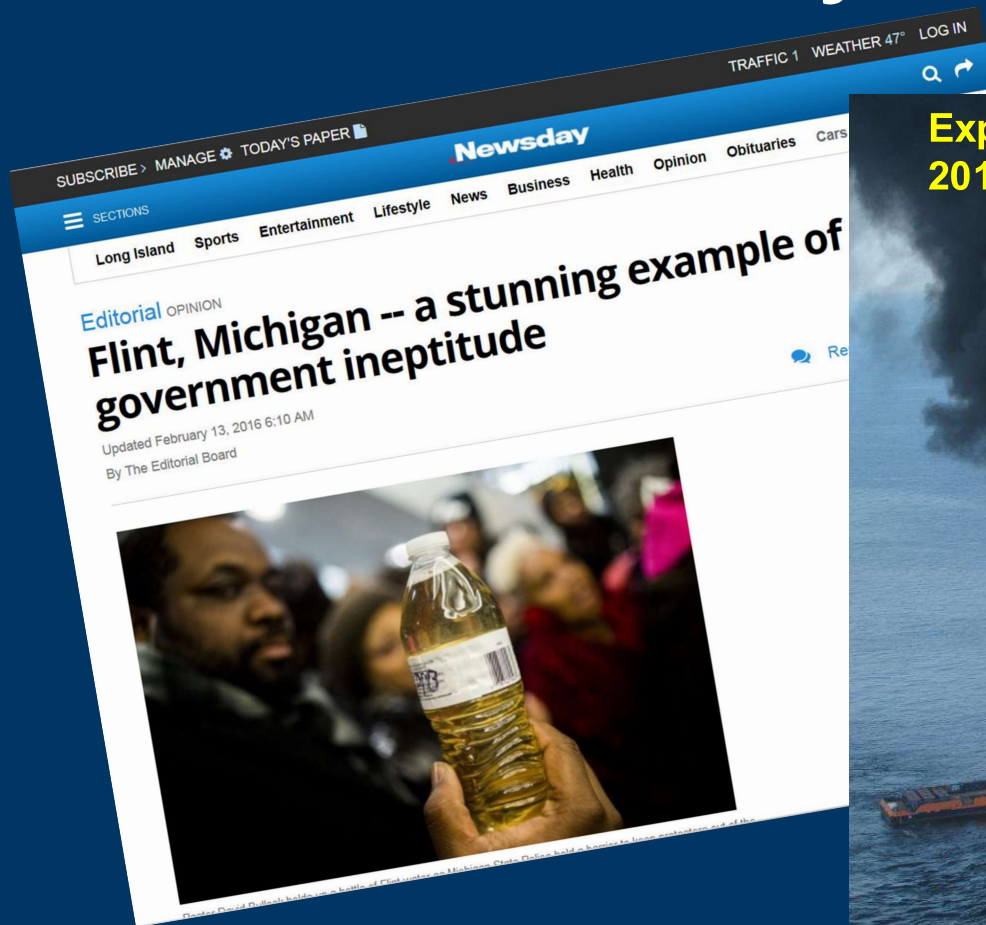


Distinct from Positive Political Economy

- Rational choice / public choice approach to political behavior
- "Positive" here means explanatory/empirical/descriptive
- Opposite of "normative"



The Visibility of Regulatory Failure



Explosion of Deepwater Horizon, April 2010



Photo source: US Coast Guard

What Does Regulatory Success Look Like?

EPA phase out of lead as a gasoline additive

- Aggressive regulatory phase out under the Reagan Administration
- Between 1983 and 2002, airborne levels of lead dropped 94%
- Widely “considered one of the great public and environmental health successes” (EPA, 2006:E-5)



Source: Getty Images, under license.

FDA review of drug Thalidomide

- FDA official Dr. Frances Oldham Kelsey held up approval of drug used as sedative and to treat morning sickness
- Thalidomide linked to more than 20,000 birth defects and likely many more miscarriages outside the U.S.



Source: Getty images, under license.

FCC Part 68 standards for phone equipment

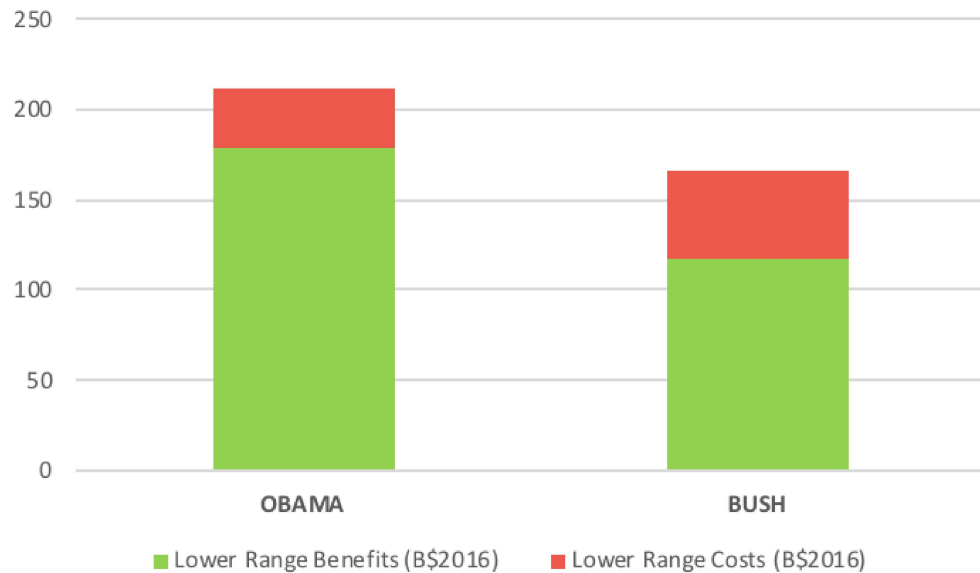
- FCC's 1976 standard for the RJ-11 phone jack ensured that consumers could choose from a variety of phones compatible with network
- Facilitated expansion in phone choices and use of fax machines and modems



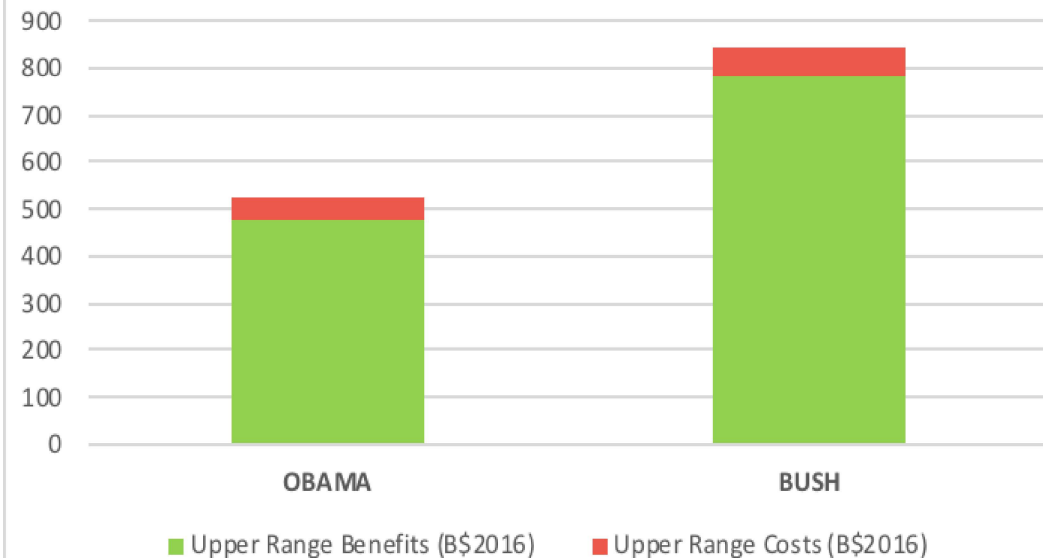
Source: Getty images, under license.

Estimated Costs and Benefits of Regulations: Bush and Obama Administrations

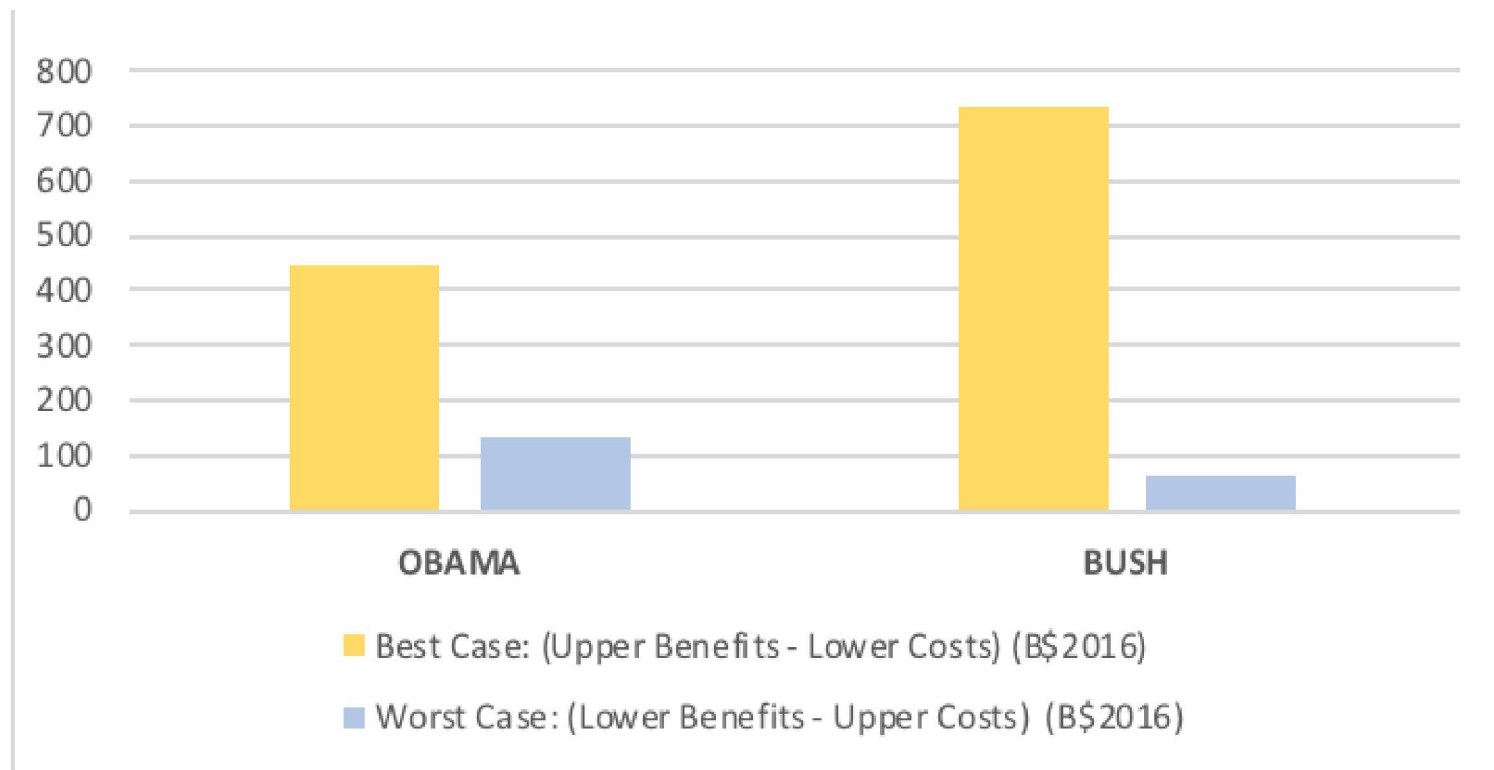
Lower Range Benefits and Costs



Upper Range Benefits and Costs



Best v. Worst Cases of Regulatory Net Benefits: Bush and Obama Administrations



“Lookbacks:” Increasingly Common But Focused Less on Learning than on Burden Reduction

“In January 2011, ...President [Obama] issued a historic Executive Order, setting forth new **cost-saving, burden-reducing** requirements for federal regulations, and requiring an ambitious government-wide ‘lookback’ at existing regulations.”
Sunstein (2012)



- Lookback
- Stocktaking
- Benchmarking
- Process audits
- Performance management
- Strategic budgeting

Most OECD countries report having mandatory “review” of regulations for cost-savings.

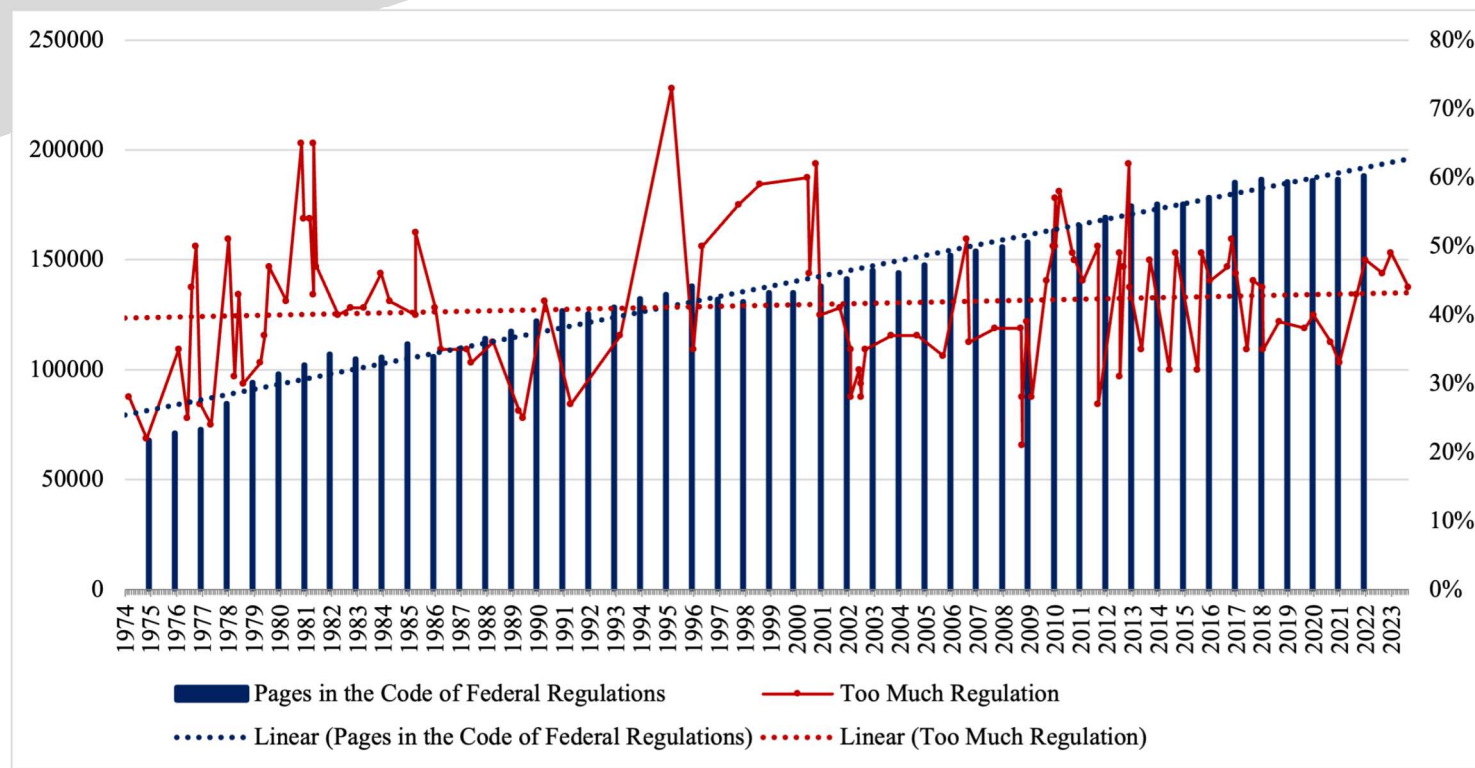
OECD (2009)



THE GOOD THE BAD AND THE UGLY

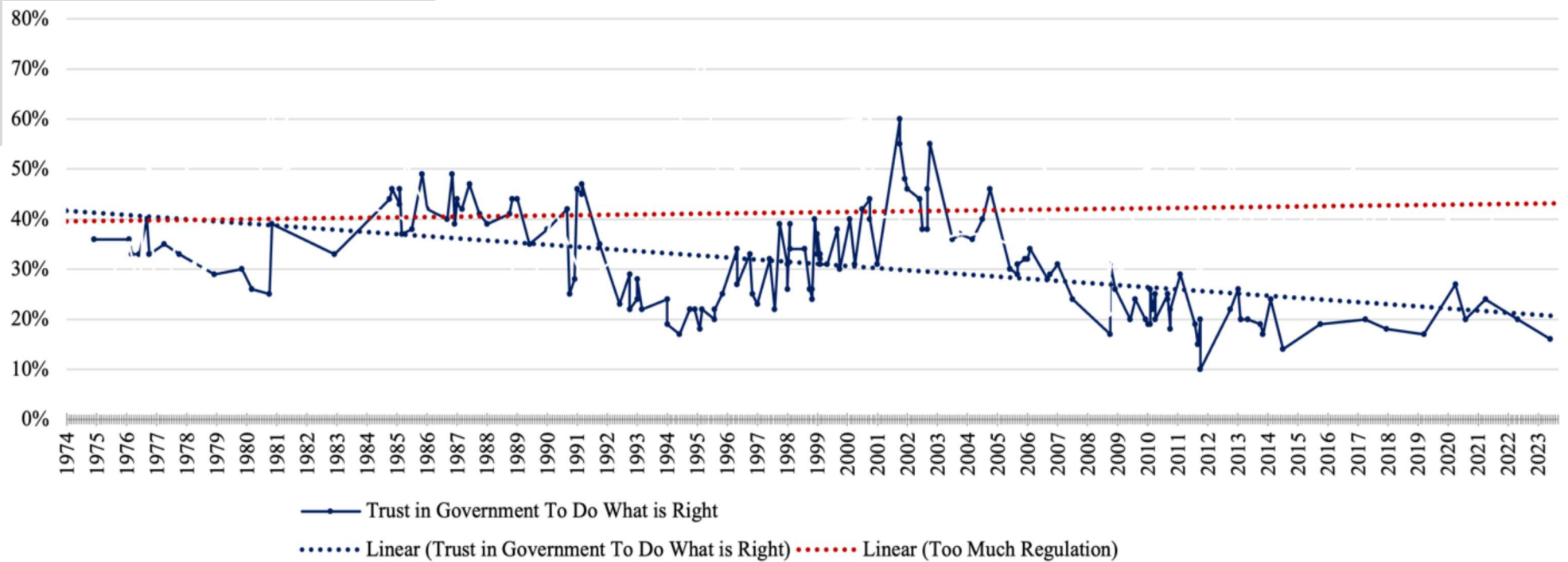
1966 motion picture starring Clint Eastwood

Public Attitudes About Excessive Regulation and Cumulative Pages in the Code of Federal Regulations



Coglianese & Marar (2024)

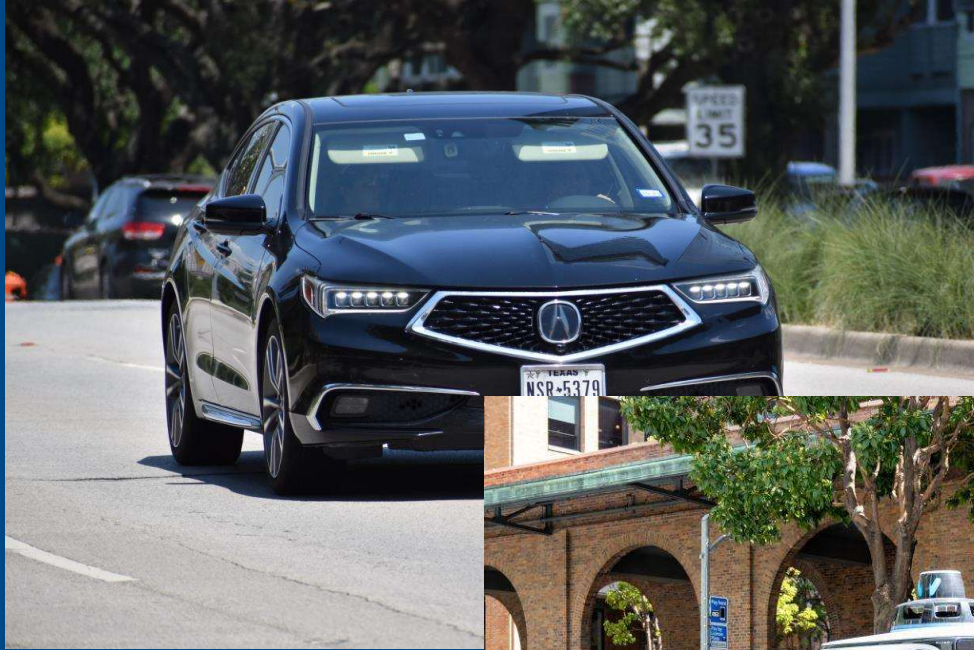
Declining Public Trust in Government Contrasted with Trend in Public Attitudes About Regulation



Coglianese & Marar (2024)



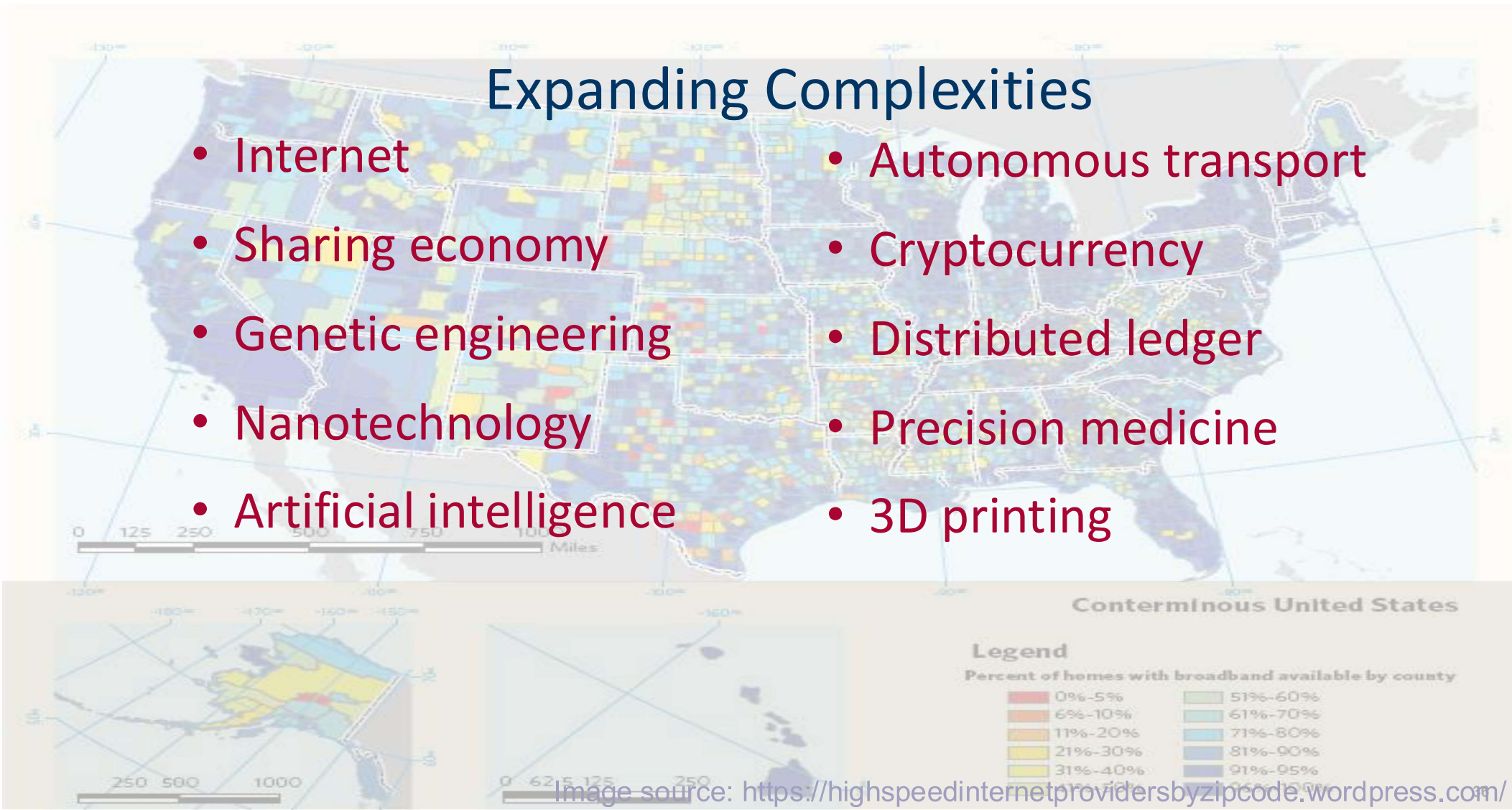
Source: Getty images, under license.



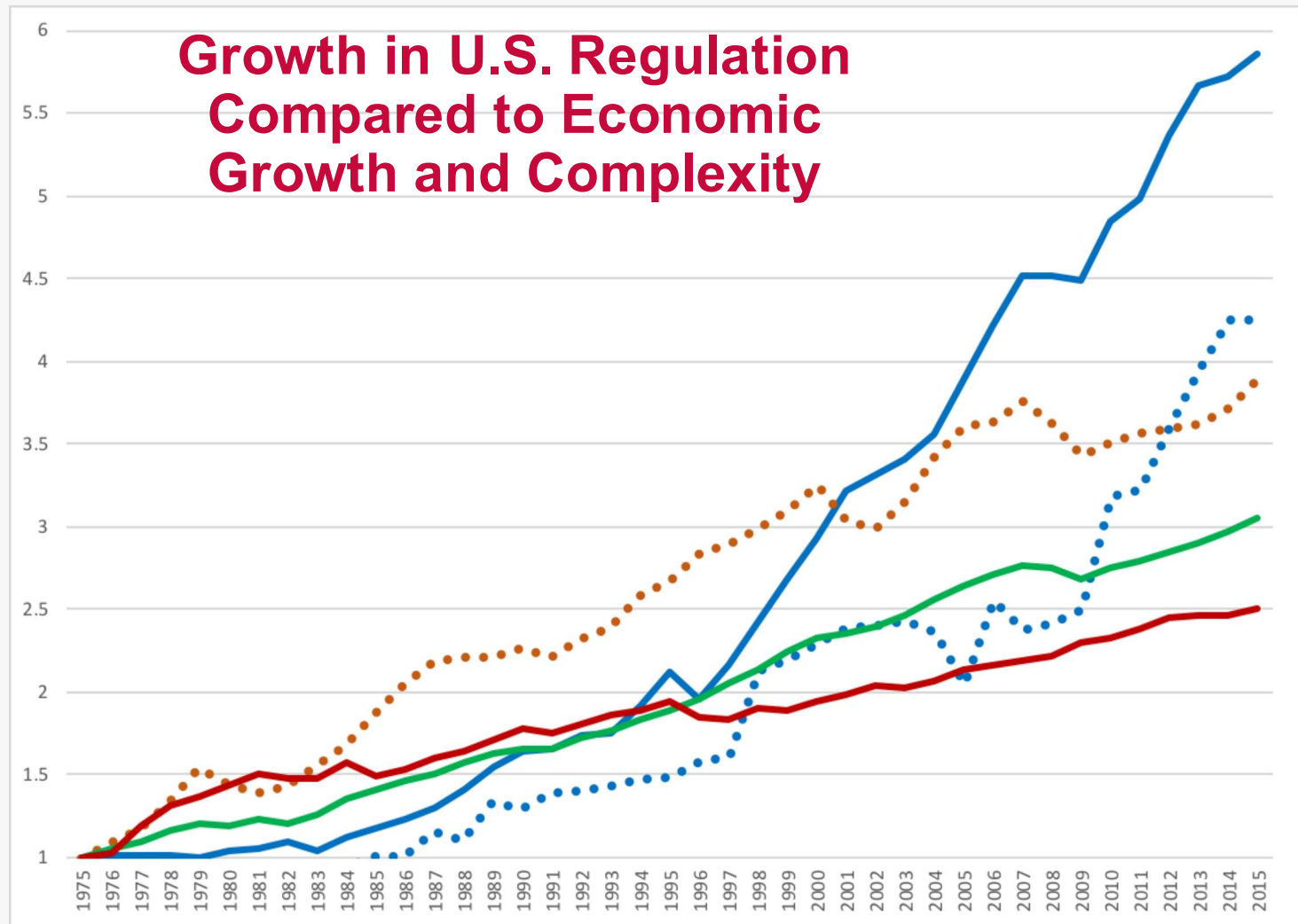
Sources: Getty images, under license.

Expanding Complexities

- Internet
- Sharing economy
- Genetic engineering
- Nanotechnology
- Artificial intelligence
- Autonomous transport
- Cryptocurrency
- Distributed ledger
- Precision medicine
- 3D printing



Growth in U.S. Regulation Compared to Economic Growth and Complexity



Patent Applications

Patents

Air Passengers

Real GDP

Cumulative CFR Pages

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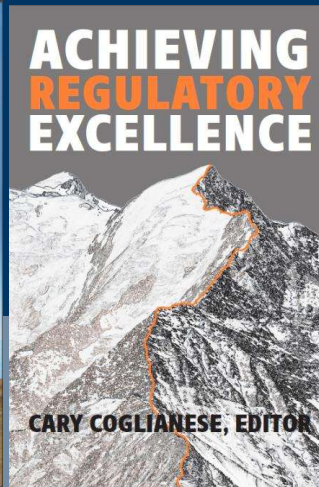
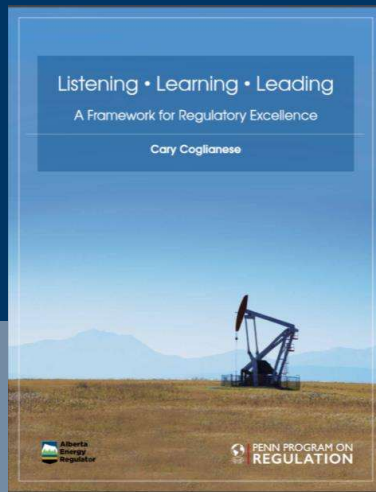
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Best-in-Class Regulator Initiative



BEST-IN-CLASS REGULATOR INITIATIVE

HOME

- The Initiative
- Dialogues
- Research
- Papers and Reports
- Leadership Team
- Experts and Affiliates
- News and Updates
- Reading Room
- About PPR
- About AER

Around the world, regulators confront immense challenges in balancing and achieving multiple objectives that hold major consequences for societies and their economies. What distinguishes the truly excellent regulators? How should these "Best-in-Class" regulators define, measure and improve their performance?

The Penn Program on Regulation's Best-in-Class Regulator Initiative is tackling these vital questions. Drawing on research and engagement with experts and the public, we will develop a framework for defining regulatory excellence and measuring its attainment.

The Best-in-Class Regulator Initiative is supported by the Alberta Energy Regulator (AER). The outputs of this project will help the AER and other regulators measure and track their performance against best-in-class attributes.

**** Click here to download the final report from the Best-in-Class Regulator Initiative****

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PENN PROGRAM ON REGULATION

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The Role of Stakeholder Relationships in Regulatory Excellence

Dame Deirdre Hutton | Jul 27, 2015 | Opinion

I find it extraordinarily interesting and thought provoking to be at this gathering of illustrious academic thinkers here at the University of Pennsylvania as we collectively consider what constitutes regulatory excellence and how it can be measured. As a practicing regulator, it is also fairly challenging and not a little daunting when I consider the extent to which we at the UK Civil Aviation Authority (CAA), measure up against the standards you are espousing. But I want to start by saying that regulating day by day, identifying the right risks and taking the right actions, is tough. I am grateful for the general recognition among the experts gathered here, and in the various discussion papers prepared for this dialogue, that it is a hard business.

Over the fifteen years or so that I have been involved in regulation, I have developed a few rules of thumb as to what makes a good regulator. First, it is helpful to have a clear objective in law. Second, to deliver your task effectively, you need to have staff members who are real experts, with deep knowledge of the industry which you are regulating. Third, you must be engaged with all the varied stakeholders and genuinely listen to them. Finally, you should be transparent in everything you do because that is the way in which you can be judged by your stakeholders as to whether you are fulfilling your mission.

When I was chairing the UK Food Standards Agency (FSA), one of my Board members had, in a previous life, been Global Marketing Director of Unilever. He used to recount that his previous colleagues often commented to him that life on the FSA Board must be very mundane compared to the excitement of working



What makes an *excellent* regulator?

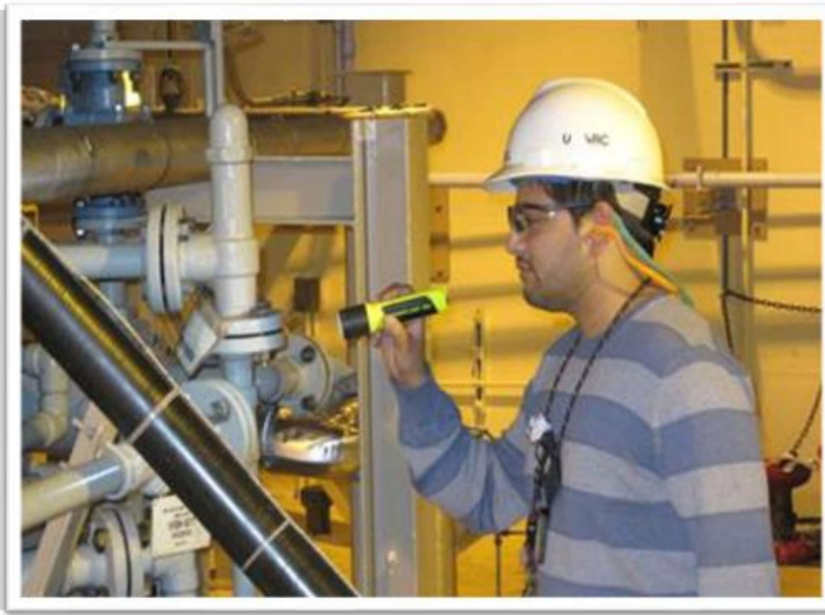


Photo sources: U.S. Nuclear Regulatory Commission

“In searching after one virtue we
have found many.”

— SOCRATES, IN PLATO'S *MENO*

Attributes of Regulatory Quality

APPENDIX B: ATTRIBUTES OF REGULATORY EXCELLENCE

Alberta Energy Regulator (2014)

1. Protective
2. Effective
3. Efficient
4. Credible

Australian Communications and Media Authority (2013)

1. Bridging to the Future
2. Transforming the Agency
3. Major program delivery
4. Effective regulation

Brown, et al (2006)

1. Independence
2. Accountability
3. Transparency and Public Participation
4. Predictability
5. Clarity of Roles
6. Completeness and Clarity in Rules
7. Proportionality
8. Regulate Powers
9. Appropriate Institutional Characteristics
10. Integrity

Environment Canada (2012)

1. Evidence based decision making
2. Effectiveness
3. Efficiency
4. Transparency
5. Adaptability

Farrell & Goodman (2013)

1. Use of better evidence for decision-making
2. Greater engagement and empowerment of citizens
3. Thoughtful investments in expertise and skill building
4. Closer collaboration with the private and social sectors

Gardner, et al (2013)

1. Accelerating ... strategic goals
2. Using efficient and transparent processes
3. Strengthening capabilities
4. Building expertise
5. Providing customers with cross-functional support
6. Working as a coordinated and cohesive internal team

Government of Alberta (2010)

1. Effective
2. Efficient
3. Adaptable
4. Predictable
5. Fair
6. Transparent

Hempling, Scott (2013)

1. Purposeful
2. Educated
3. Decisive
4. Independent
5. Disciplined
6. Synthesizing
7. Creative
8. Respectful
9. Ethical

Mumford, Peter (2011)

1. Growth supporting
2. Proportional
3. Flexible and Durable
4. Certain and predictable
5. Transparent and accountable
6. Capable Regulators

New Zealand Ministry of Business, Innovation & Employment (2011)

1. Efficiency
2. Effectiveness
3. Transparency
4. Clarity
5. Equity

New Zealand Treasury (2012)

1. Growth supporting
2. Proportional
3. Flexible
4. Durable
5. Certain and predictable
6. Transparent and accountable
7. Capable Regulators

OECD (2005)

1. Adopt at the political level broad programmes of regulatory reform that establish clear objectives and frameworks for implementation
2. Assess impacts and review regulations systematically to ensure that they meet their intended objectives efficiently and effectively in a changing and complex economic and social environment
3. Ensure that regulations, regulatory institutions charged with implementation, and regulatory processes are transparent and non-discriminatory
4. Review and strengthen where necessary the scope, effectiveness and enforcement of competition policy
5. Design economic regulations in all sectors to stimulate competition and efficiency, and eliminate them except where clear evidence demonstrates that they are the best way to serve broad public interests
6. Eliminate unnecessary regulatory barriers to trade and investment through continued liberalization and enhance the consideration and better integration of market openness throughout the regulatory process, thus strengthening economic efficiency and competitiveness
7. Identify important linkages with other policy objectives and develop policies to achieve those objectives in ways that support reform

OECD (2012)

1. Commit at the highest political level to an explicitly whole-of-government policy for regulatory quality
2. Adhere to principles of open government, including transparency and participation in the regulatory process to ensure that regulation serves the public interest and is informed by the legitimate needs of those interested in and affected by regulation
3. Establish mechanisms and institutions to actively provide oversight of regulatory policy procedures and goals, support and implement regulatory policy, and thereby foster regulatory quality

4. Integrate Regulatory Impact Assessment (RIA) into the early stages of the policy process for the formulation of new regulatory proposals

5. Conduct systematic programme reviews of the stock of significant regulation against clearly defined policy goals, including consideration of costs and benefits, to ensure that regulations remain up to date, cost justified, cost effective and consistent, and deliver the intended policy objectives
6. Regularly publish reports on the performance of regulatory policy and reform programmes and the public authorities applying the regulations

7. Develop a consistent policy covering the role and functions of regulatory agencies in order to provide greater confidence that regulatory decisions are made on an objective, impartial and consistent basis, without conflict of interest, bias or improper influence
8. Ensure the effectiveness of systems for the review of the legality and procedural fairness of regulations and of decisions made by bodies empowered to issue regulatory sanctions. Ensure that citizens and businesses have access to these systems of review at reasonable cost and receive decisions in a timely manner

9. As appropriate apply risk assessment, risk management, and risk communication strategies to the design and implementation of regulations to ensure that regulation is targeted and effective

10. Where appropriate promote regulatory coherence through co-ordination mechanisms between the supranational, the national and sub-national levels of government
11. Foster the development of regulatory management capacity and performance at sub-national levels of government

12. In developing regulatory measures, give consideration to all relevant international standards and frameworks for co-operation in the same field and, where appropriate, their likely effects on parties outside the jurisdiction

13. Adopt at the political level broad programmes of regulatory reform that establish clear objectives and frameworks for implementation

14. Assess impacts and review regulations systematically to ensure that they meet their intended objectives efficiently and effectively in a changing and complex economic and social environment

15. Ensure that regulations, regulatory institutions charged with implementation, and regulatory processes are transparent and non-discriminatory

16. Review and strengthen where necessary the scope, effectiveness and enforcement of competition policy

17. Design economic regulations in all sectors to stimulate competition and efficiency, and eliminate them except where clear evidence demonstrates that they are the best way to serve broad public interests

18. Eliminate unnecessary regulatory barriers to trade and investment through continued liberalisation and enhance the consideration and better integration of market openness throughout the regulatory process, thus strengthening economic efficiency and competitiveness

19. Identify important linkages with other policy objectives and develop policies to achieve those objectives in ways that support reform

Rieflberg, et al (2013)

1. Clear articulation of strategy and overall agency direction
2. Well defined operating model based on efficient and effective processes and systems

3. Organizational culture that harnesses the unique talents of employees and steers those talents towards achieving the agency's mission

Texas Department of Insurance (2011)

1. Timely
2. Prompt
3. High-quality
4. Efficient
5. Accurate
6. Limited Disputes/Prompt Resolution
7. Cost-Effective

Treasury Board of Canada Secretariat (2012)

1. Protect and advance the public interest
2. Advance efficiency and effectiveness
3. Make decisions based on evidence
4. Promote a fair and competitive market economy
5. Monitor and control the administrative burden
6. Create accessible, understandable & responsive regulation
7. Require timeliness, policy coherence and minimal duplication

UK Civil Service (2009)

1. Set direction (Leadership)
2. Ignite passion, pace and drive (Leadership)
3. Develop People (Leadership)
4. Set strategy and focus on outcomes (Strategy)
5. Base choices on evidence and customer insight (Strategy)
6. Collaborate and build common purpose (Strategy)
7. Innovate and improve delivery (Delivery)
8. Plan, resource and prioritize (Delivery)
9. Develop clear roles, responsibilities & delivery model(s) (Delivery)
10. Manage performance and value for money (Delivery)

UK Department of Energy and Climate Change (2009)

1. Set direction (Leadership)
2. Ignite passion, pace and drive (Leadership)
3. Take responsibility for leading delivery and change (Leadership)
4. Build Capacity (Leadership)
5. Focus on Outcomes (Strategy)
6. Base choices on evidence (Strategy)
7. Build common purpose (Strategy)
8. Plan, resource and prioritize (Delivery)
9. Develop clear roles, responsibilities & delivery model(s) (Delivery)
10. Manage performance (Delivery)

UK Environment Agency (2013)

1. Proportionate
2. Targeted
3. Customer-focused
4. Consistent
5. Accountable

UK Food Standards Agency (2005)

1. Delivering outcomes
2. Practical and timely interventions
3. Consistent, risk-based, proportionate and transparent decision-making
4. Using the market & applying effective incentives & sanctions
5. Continuous learning
6. Delivering value for money
7. Changing the landscape

Source: Appendix B to Cary Coglianese, *Listening and Learning: Toward a Framework of Regulatory Leadership* (2015)

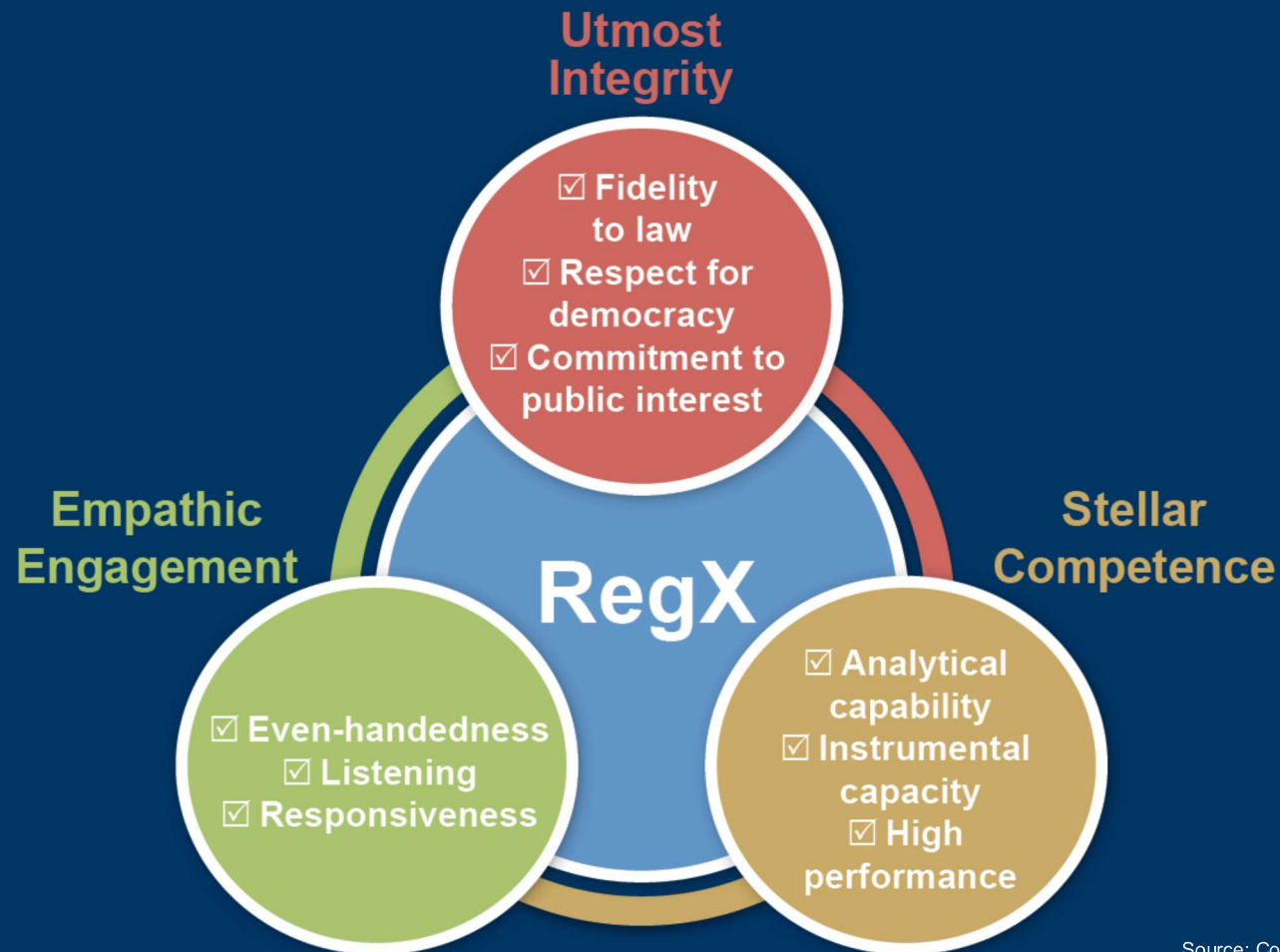
RegX: Atoms of Excellence



Source: Coglianese (2015)

43

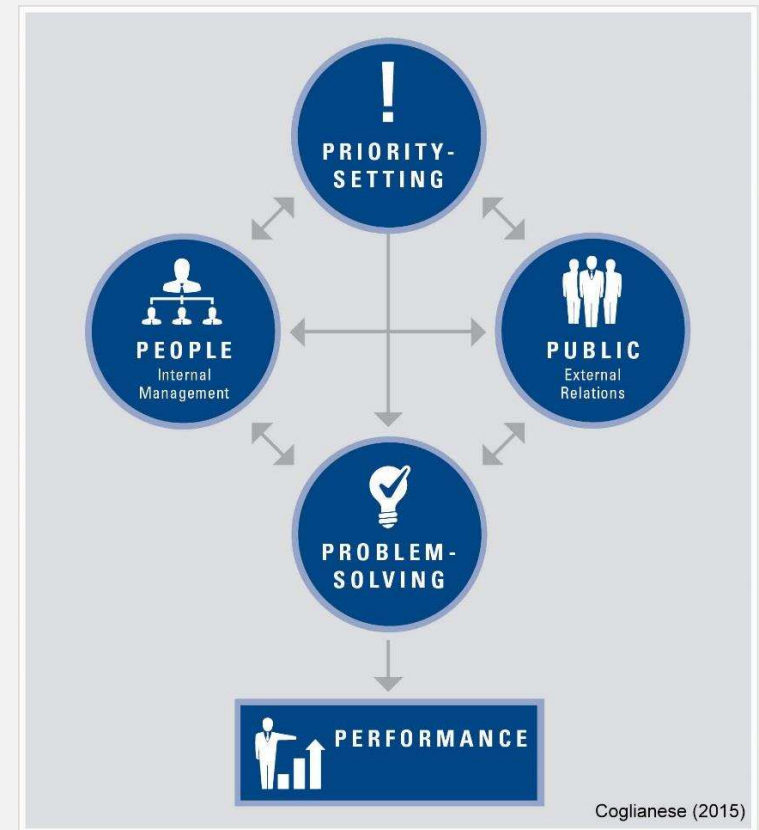
Nine Tenets of Regulatory Excellence



Source: Coglianese (2015)

Pathways Toward Regulatory Excellence

- **People (Internal Management)**
 - Mission, resources, human capital, autonomy, culture
- **Priority-setting**
 - Decision-making (risk- & evidence-based)
- **Problem-solving**
 - Rule-making, rule application, incident response, evaluation
- **Public (External Engagement)**
 - Empathy, outreach, responsiveness





Source: Coglianesi & Scheffler (2016)

"We find that firms asked for comments held state regulators in higher esteem were more likely to provide access to their factories, to engage with government-affiliated auditors offering to help them better understand how to comply, and to exhibit greater actual compliance on the factory floor."

Malesky & Taussig (2019)

Participation, Government Legitimacy, and Regulatory Compliance in Emerging Economies: A Firm-Level Field Experiment in Vietnam

EDMUND MALESKY *Duke University*
MARKUS TAUSSIG *Rutgers Business School*

This paper employs a field experiment in single-party-ruled Vietnam to test whether providing a broad-based representative sample of firms the opportunity to comment on draft regulations increases their subsequent compliance. We find three main outcomes of this treatment. First, treated firms exhibited greater improvement in their views of government's regulatory authority. Second, these firms were more likely to allow government-affiliated auditors to examine their factories. Third, treated firms demonstrated greater compliance on the factory floor. Access and compliance were not explained by the receipt of advance information about the regulation's requirements, and none of the three outcomes required that firms offer substantive comments.

"The question should not be why compliance by firms is low. The question we need to be asking is what government can do to increase the degree to which firms believe the government is a legitimate regulator and that it is producing laws that should be followed."

—Nguyen Dinh Cung, Director, Central Institute of Economic Management (CIEM) during "Regulatory Participation and Compliance" workshop at CIEM in Hanoi, Vietnam on November 1, 2016.

An explosion in a Sinochem subsidiary's warehouse in Tianjin, China, on August 12, 2015, killed 173 people and injured 795 (Merchant 2017). Subsequent investigations revealed that the state-owned firm's storage procedures were illegal. Two nearby Sinochem warehouses were found to be guilty of similar violations, including close proximity to nursery and

primary schools (Phillips 2015). The regulatory state failed in even more extreme and deadly fashion with the April 24, 2013, collapse of Rana Plaza in Dhaka, Bangladesh. A day earlier, after meeting with the building's owner about clear and dangerous violations to structural safety standards exposed during onsite inspections, government officials had chosen to allow business as usual (BBC 2013). Tragic industrial accidents such as these, involving self-interested firms and poorly equipped or even unethical regulators, are more likely when state institutions are of low quality (Takala et al. 2014).

Under such conditions of weak states, what can realistically be done to increase incentives for firms to act in the public interest and abide by government regulations. Greater focus on punishment of violations is one answer (Andreoni, Harbaugh, and Vesterlund 2003; Becker and Stigler 1974; Fehr, Fischbacher, and Gächter 2002). However, empirical evidence on the effectiveness of punishment is mixed (Braithwaite and Makkai 1991), and the anecdotes above show how resource constraints and bureaucratic corruption are obstacles to effective enforcement. The same government weakness and malpractice also increase the odds that firms will question government's regulatory legitimacy and defy its laws (Webb et al. 2009) and also hide their transgressions from authorities (Glaeser and Shleifer 2003). Under these conditions, major international organizations, such as the World Bank, have begun to promote political participation as an alternative to punishment to change beliefs and induce voluntary compliance in emerging economies (World Bank 2017b).

This alternative is inspired by extensive theoretical work on the behavior of citizens in political science's deliberative democracy tradition (Fishkin 1991; Fung and Wright 2001) and the behavior of employees and other group and community members in psychology's procedural justice literature (Tyler 2006, 1990). Both streams argue that personal involvement in the rule-making process makes people more likely to view rulemaking bodies, enforcement authorities, and the rules themselves as legitimate. This greater legitimacy should, in turn, lead individuals to be more likely to accept the constraints and costs of the resulting rules. Recent work has extended this logic to show that

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Transparency: All experimental material including videos, scripts, and surveys as well as all datasets, replication code, and online appendix can be found on the APSR's Dataverse: <https://doi.org/10.7910/DVN/LAN1HOG>. The pre-analysis plan for this experiment can be found at <http://egap.eg.org/registration/704>. This experiment received IRB approval from National University of Singapore and Duke University on June 25, 2015 (CO469).

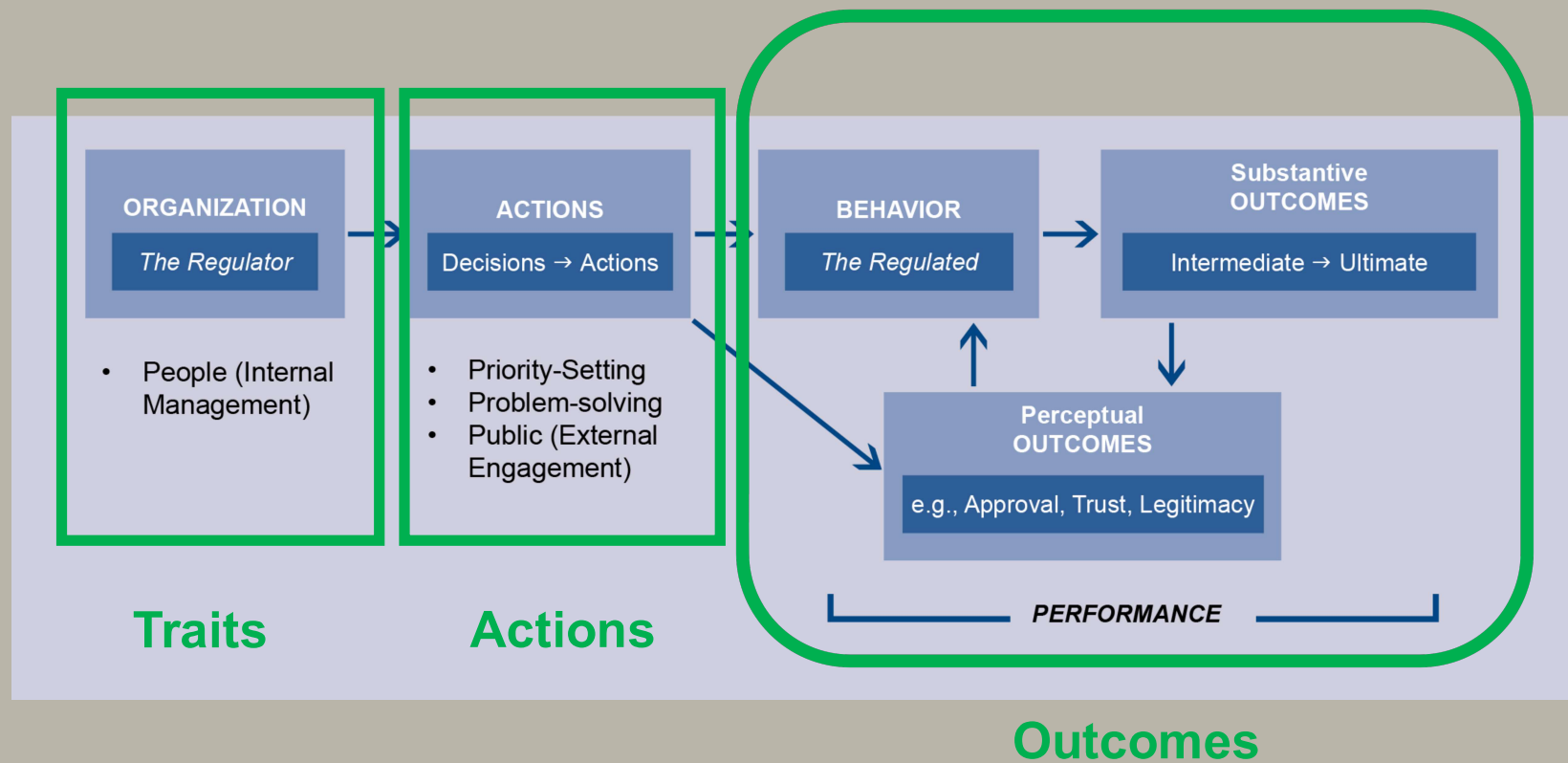
Received: November 11, 2017; revised: October 31, 2018; accepted: November 9, 2018. First published online: December 21, 2018.



Regulatory excellence applies to a regulator's

- **Traits** (as organization)
- **Actions**
- **Outcomes**

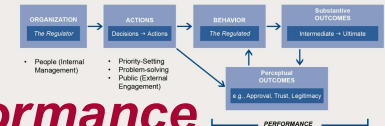
Becoming an Excellent Regulator



Source: Coglianese (2015)

Excellence Scoping

Model of Regulatory Performance

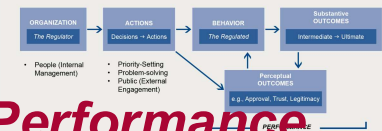


Attributes & Tenets of Regulatory Excellence



	Traits					Actions					Outcomes		
	Mission	Resources	Human capital	Autonomy	Culture	Decision-making	Public Engagement	Rule-making	Rule-application	Incident response	Evaluation	Industry Behavior	Substantive Outcomes
Utmost Integrity													
Fidelity to law													
Respect for democracy													
Commitment to Public Interest													
Empathetic Engagement													
Even-handedness													
Listening													
Responsiveness													
Stellar Competence													
Analytical capability													
Instrumental capacity													
High performance													

Attributes & Tenets of Regulatory Excellence



Model of Regulatory Performance

	Organization					Actions						Performance		
	Mission	Resources	Human capital	Autonomy	Culture	Decision-making	Public Engagement	Rule-making	Rule-application	Incident response	Evaluation	Industry Behavior	Perpetual Outcomes	Substantive Outcomes
Utmost Integrity														
Fidelity to law														
Respect for democracy														
Commitment to Public Interest														
Empathetic Engagement														
Even-handedness														
Listening														
Responsiveness														
Stellar Competence														
Analytical capability														
Instrumental capacity														
High performance														

How to be an excellent regulator

Traits

- **Utmost integrity:** Does your organization possess the autonomy from narrow, short-term political pressures and industry interests needed to act on a fair assessment of evidence and to deliver overall public value?
- **Empathic engagement:** Does your organizational culture embrace and promote public awareness of and input into all aspects of its policies and practices?
- **Stellar competence:** Are your human, financial, and information resources up to the task of making sound, evidence-based decisions that consistently deliver stellar overall performance?

Actions

- **Utmost integrity:** Are your actions properly motivated to be fair and designed to deliver public value?
- **Empathic engagement:** Are your actions ones that treat others with respect and dignity and that start with the assumption of the good faith of all with whom you interact?
- **Stellar competence:** Are your actions innovative, protective, and effective? Are you constantly seeking to learn about best practices and to refine your tools and tactics?

Outcomes

- **Utmost integrity:** Do your actions lead to outcomes that adhere to the law and advance the public interest?
- **Empathic engagement:** Are you perceived by members of the public to be transparent, fair, and trustworthy?
- **Stellar competence:** Are your actions in fact making a significant difference in advancing your mission?

How not to be an excellent regulator

MINERALS MANAGEMENT SERVICE

Organization (traits)

- Allegations of favors, socializing, and even sexual relations between MMS staff and industry
- Inspector conducted inspections on facility owned by a company with which he was seeking employment
- Dual mandate to regulate industry but also collect oil revenues

Actions

- Unannounced inspections had dropped off
- Laxity in scrutinizing emergency response plans
- Rules not updated to reflect new industry practices

Performance (outcomes)

- See image to the right....



Outline: Toward a Positive Study of Regulation?

1. Longstanding negative orientation to the study of regulation

- Emphasis on overregulation, excessive/adversarial enforcement, regulatory capture

2. Rebalancing with a "positive" study of regulation

- Challenges with identifying regulatory successes
- Possible new perspectives from a positive orientation to regulation.

3. In search of regulatory excellence

- Defining attributes of regulatory excellence
- Prescriptions toward regulatory excellence

4. Conclusion: Is regulatory excellence conceivable today?

Recall Trump 1.0: A Similar Public Emphasis on Deregulation



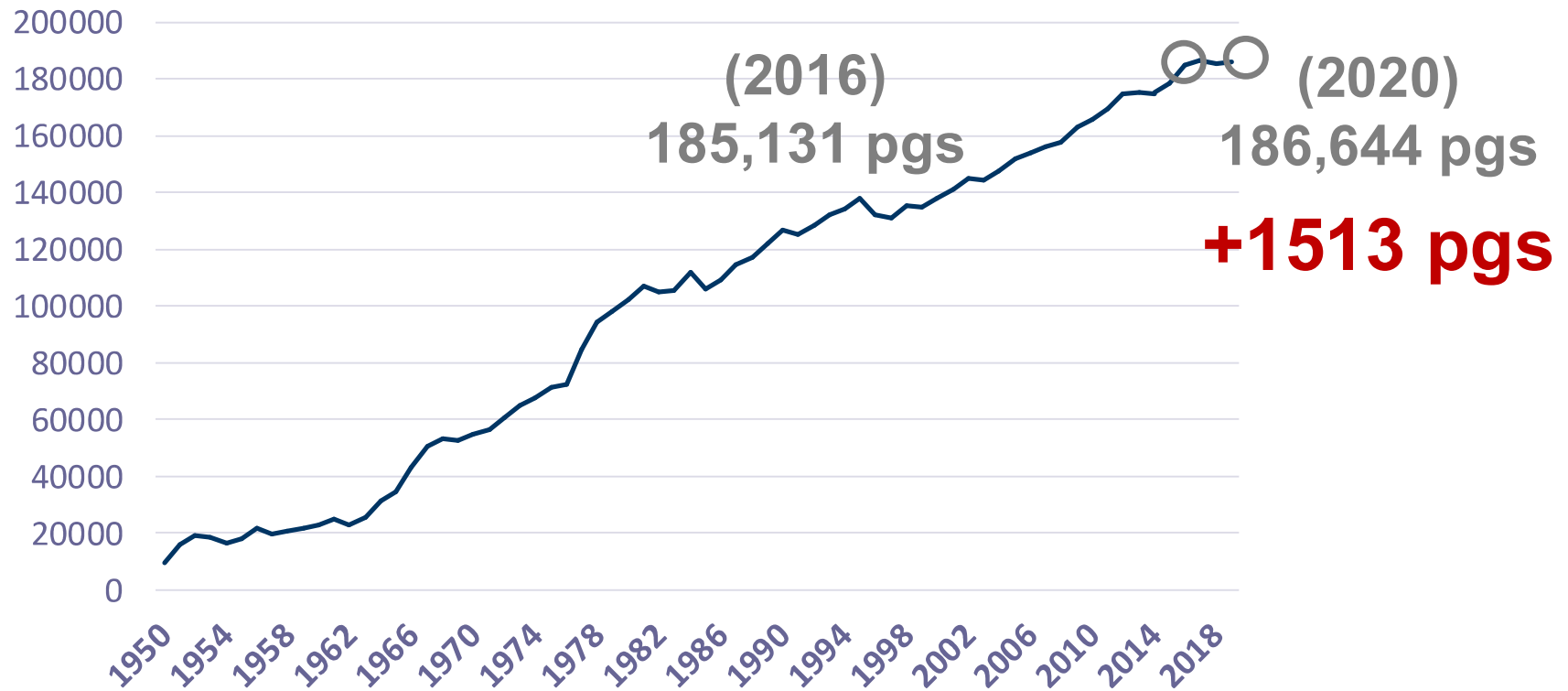
Photo source: NYT (2017)

“[W]e’re going to cut a ribbon because we’re getting back below the 1960-level, and we’ll be there fairly quickly.”

“We’ve begun the most far-reaching regulatory reform in American history.”

- Trump (2017)

But Look Back on Trump 1.0: Cumulative Pages in the CFR



Source: Office of the Federal Register

Claimed Ratios of Deregulatory-to-Regulatory Actions in Trump 1.0

“The Administration actually **eliminated 22 regulations for every new regulatory action.**”

– *Trump 2020 Reelection Campaign Website*

“For every one new regulation added, **nearly eight federal regulations have been terminated.**”

– *President Trump, Press Conference (Trump 2020)*

“Under President Trump, **seven deregulatory actions** have been taken for every one new regulation.”

– *Press Secretary Kayleigh McEnany, Press Briefing (McEnany 2020)*

Completed Actions in Semiannual Regulatory Agenda

13,771 Designation	Significance of Action					
	Routine & Frequent	Info/Admin/ Other	Substantive Nonsignif.	Econ. Signif.	Other Signif.	Total
Regulatory	0	2	17	61	60	140
Deregulatory	10	12	385	64	24%	635
Exempt	70	84	1105	37	193	1489
Other	Three <u>regulatory</u> actions per one “deregulatory” action (2030:635)					401
Total						2665

Source: Unified Agenda of Regulatory and Deregulatory Actions

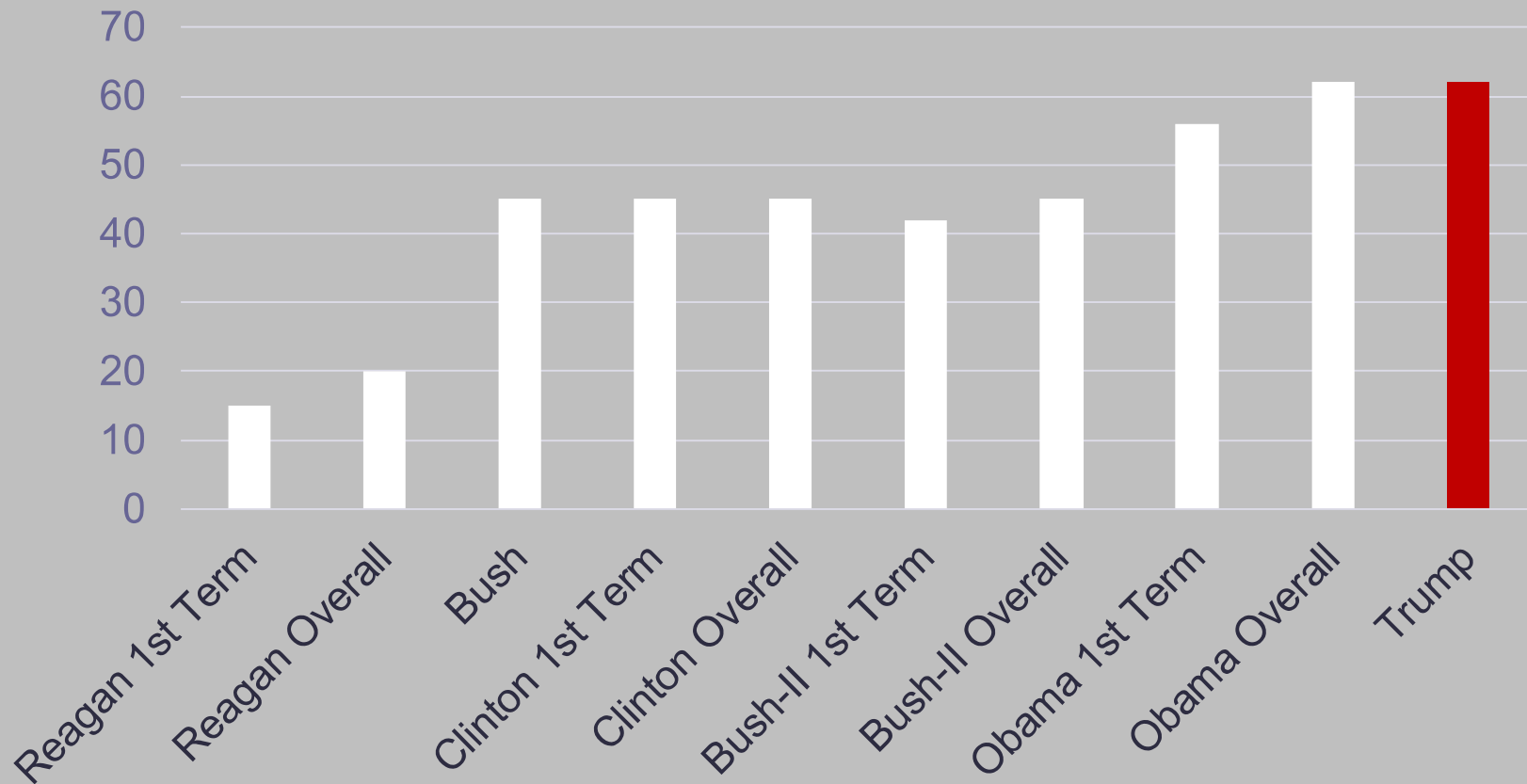
Completed Actions in Semiannual Regulatory Agenda

13,771 Designation	Significance of Action					
	Routine & Frequent	Info/Admin/ Other	Substantive Nonsignif.	Econ. Signif.	Other Signif.	Total
Regulatory	0	2	17	61	60	140
Deregulatory	10	12	385	64	164	635
Exempt	50	21	1425	37	193	1489
Other	0	0	0	55	113	401
Total	60	35	1442	>2:1	>2:1	2665

Similar results for significant rules: More regulatory than deregulatory

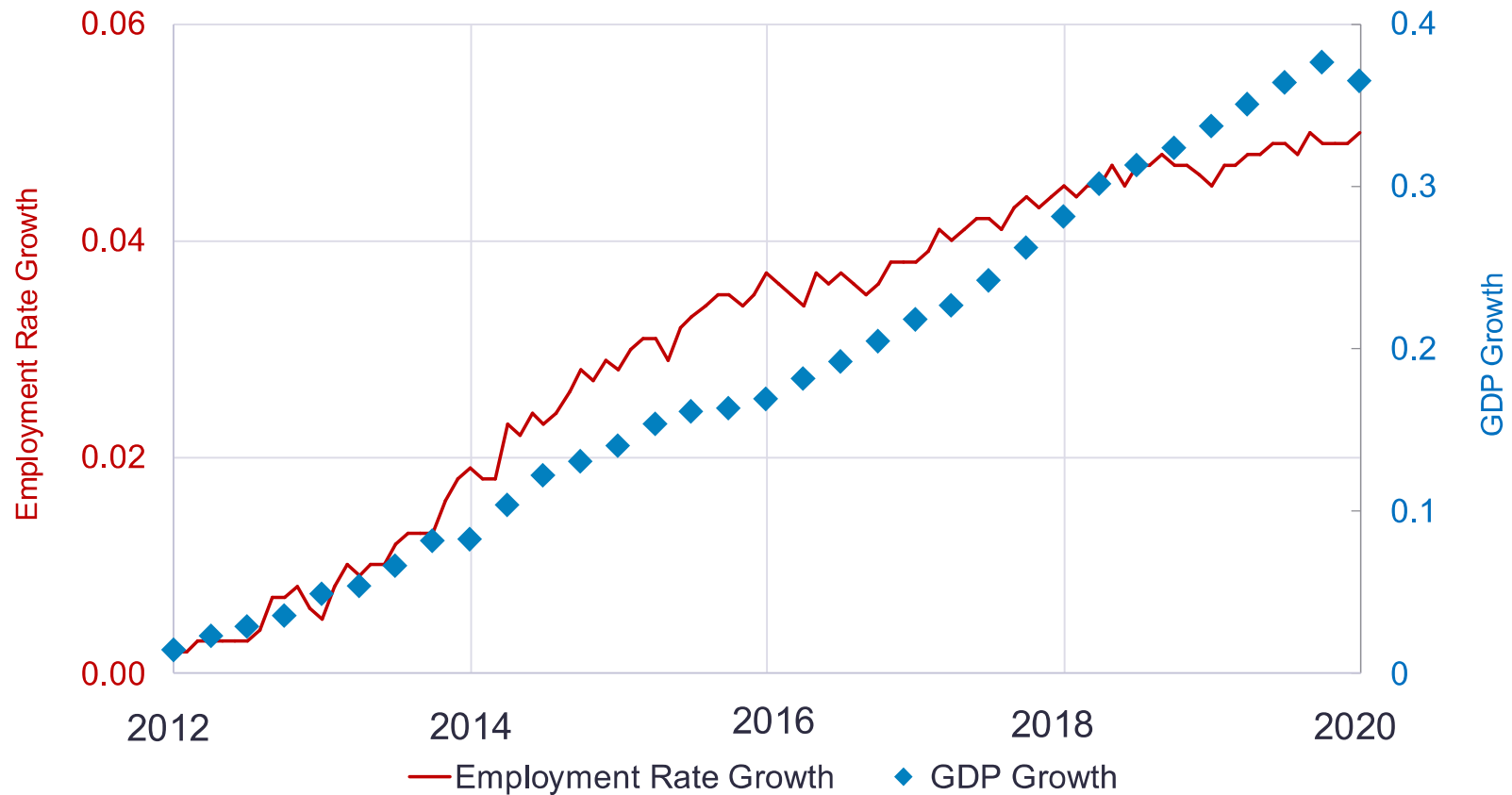
Source: Unified Agenda of Regulatory and Deregulatory Actions

Annual Average *Economically Significant* Rules



Source: GWU Regulatory Studies Center

Trump 1.0 Inherited a Growing Economy



Source: Coglianesi, Shapiro & Sarin (2020)

Pre-COVID Economic Trends

	Obama (last 3 yrs)		Trump (first 3 yrs)
Overall GDP Growth	12.5%	-0.4%	12.1%
Overall Employment Growth	2.0%	-0.7%	1.3%

“[A]lmost exactly 1.5 million fewer jobs were created on Mr. Trump’s watch than during Mr. Obama’s final three years” – Rattner (2020)

Macroeconomic Effects: A Synthetic Controls Study

“[W]e use the **synthetic control method** to construct a doppelganger economy that serves as a counterfactual for what would have happened in the US in the absence of Trump.”

“[W]e find **no evidence for a Trump effect**: during the first three years of his tenure, economic performance in the US was not systematically different from what we observe for the doppelganger. For the last year, dominated by the COVID-19 pandemic, we observe some differences in the relative economic performance. But across indicators there is no clear-cut picture—so again: there is no compelling evidence for a Trump effect.”

Born, Müller, Schularick & Sedláček (2021)

POLICY STUDIES
2021, VOL. 42, NOS. 5–6, 580–591
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The macroeconomic impact of Trump

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ABSTRACT

Donald Trump was the President of the United States from January 2017 to January 2021. During that time, except for the period since spring 2020 when the COVID-19 pandemic took its toll on economic activity, the US economy has been doing very well according to key indicators like the unemployment rate and GDP growth. Does Trump deserve credit for the booming economy? To address this question, we develop a counterfactual scenario for how the US economy would have evolved without Trump – we let a matching algorithm determine which combination of other economies best resembles the pre-election path of the US economy. We then compare the performance of the US economy during Trump's Presidency to this synthetic “doppelganger”. There is little evidence for a Trump effect.

ARTICLE HISTORY

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macroeconomic
performance; economic
growth; counterfactual;
synthetic control method;
doppelganger

JEL


Codes: E30; E60

Introduction

Donald Trump was elected President of the United States on 8 November 2016. His term as the 45th President ran from 20 January 2017 to 20 January 2021. Before the COVID-19 pandemic hit in March 2020, the US economy was doing very well along with many metrics. To pick one indicator, the unemployment rate reached a 50-year low of 3.5% in September 2019 and remained very low up until February 2020. Trump did not hesitate to claim credit.¹ In what follows, we ask whether he really deserves credit for the booming economy during his time in office or not.

To answer this question, we must not simply look at the actual performance of the US economy. Instead, we need to develop a counterfactual scenario against which we can benchmark actual developments. In order to do so, we employ the synthetic control method (Abadie and Gardeazabal 2003; Abadie, Diamond, and Hainmueller 2010, 2015). We construct a synthetic control unit as a weighted average from a “donor pool” of OECD economies. We determine the weights so that the behaviour of the control unit resembles the US economy as closely as possible *prior to the presidential election in 2016*. The economies and their weights are picked by an algorithm in an entirely

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Will Trump 2.0 Be Different?

- **Executive orders on regulatory review**
 - E.O. 14,192 : 1-in-10 out & regulatory cost budgeting
 - E.O. 14,219 : Revisiting statutory bases for existing rules
- **Challenges to agencies' independent status**
 - Firing protected heads of some independent agencies
 - Exec. Order 14,215: Applies White House review of regulations (and other matters) to independent agencies
- **Hobbling certain regulatory agencies or key parts of agencies through the firing of staff**
- **Cancellation of contracts and appropriated spending**
- **Skirting with the rule of law**



Source: Getty images, under license.

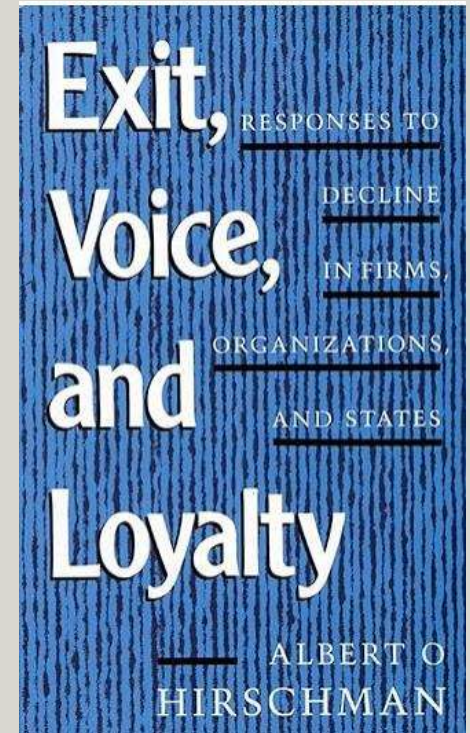
The political economy of decline

- Hirschman E-V-L choices abound for citizens, lawyers in government (and even in private law firms), other career staff in regulatory agencies
- For independent regulators, there's a twist on the payoffs for staying, as a firing will embroil an agency in risky litigation

Michael Barr, the top Fed banking regulator resigned rather than risk being fired.

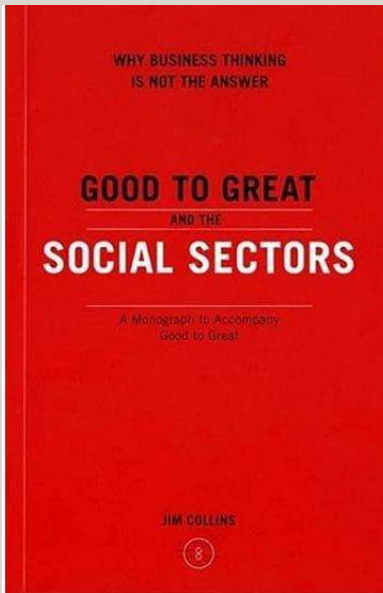


Source: Getty images, under license.



(1970)

Is regulatory excellence now a pipedream? Not necessarily.



"It might take decades to change the entire systemic context, and you [the leader] might be retired or dead by the time those changes come."

The relevant question is, "What can you do today to create a pocket of greatness despite the brutal facts of your environment?"

Collins (2005)

Conclusion and Future Questions

- Regulating matters, for good and for ill.
- Problems with regulation are real, but so are successes. Can we find more ways to learn from both?
- What might be the barriers (conceptual or in implementation) for researchers or regulators to making a move toward "positive regulation" akin to "positive psychology"?
- What role can regulating play in a better tomorrow, even under challenging circumstances?

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