

Regulatory Review Mtg

2:00 tomorrow
2nd floor

7530 - 00 - 286 - 6952

FEDERAL SUPPLY SERVICE

Regulatory Reform - DPC 12-14-84

Purpose

- Regs are statutorily driven
- Which laws make no sense

sweeping option - Moderate option - Tinkering option

Reduce:

① Regs

② Cost on State & local Govts, Private Sector

③ Pages

make burdens less, don't cost private sector too much

↳ what is the measure of success? benchmark

↳ impact on people (cost/benefit on people?)

Set benchmark first - what is measure of success

Biggest Reg-generators

- Environmental
- Transportation
- Health

* { Looking at legislation is only way to change much of this

- ↳ - duplication
- ↳ - cross-purposes

Both statutory requirements & agency offices/practices set up to implement

↳ linked to unfunded mandates, tinkering, risk

↳ NPR is blueprint for this

Getting Groups

- NPR provide contact person

What Congress has done to make you do regs - biggest problems
Blue - sky -- if you could do things differently, how
would you do it.

with parties

- WEC
- Councils etc.
- Leg Affairs
- OMB
- NPR
- CBA

By Mid next WK - Timeline, Group, Goals
to Carol

Reg Review Brainstorm 12-16

ERISA, OSHA get many complaints

ERISA too complicated

OSHA - too expensive
- statute defines "feasible" - OSHA uses "technically feasible"
- cost benefit needed

- everyone bring in 2 pages - Blue-sky proposals
- Definition of Employee
- Davis Bacon

Cross cuts

OSHA structure enforce

employee

Complexity of Rulemaking process

Rulemaking & enforcement

change inforg structure

What could be turned over to states?

regulated process

- list of problems

- list of ideas to reform reg
- crosscutting

- Have some crosscuts

Obstacles -

- What can be changed to work
Better

Jo

Optim's
Bold - minimalist

John
Kamarsky

Wri: Schnell

Block Grants

States - Rights

Jan 24 - approp.

BIA as 51st State for funding purpose,
rates change

NAC/E

Rept Ed

1-5-95 ^{dasco} Reg Review Mtg
Health & F&A

Performance Standards - is it?

Sally New Memo

~~et~~ workplan - 4 step approach for presentation

- ① Customer service approach, From
HS Principal & College Admin
- ② Case Studies of how reg work
CSEA Title I
Part H Higher Ed
- ③ Vision of how to do business differently

Presentation to UP

- Bold option, Moderate option in each area
- 2 hrs each
- Send materials ahead of time
- Part of presentation - short piece on background to set the stage -- case studies

① Customer Service approach? --

② How much reg are Federal, and how much
is State

education session

Environment
Disabilities
Labor Law

3

over 75% of ^{all} Regs

U

Wkplace Safety & Labor

- ↳ Continuation of NPR Process
- ↳ Political strategy

Mine Safety

- ↳ Broad array of workplaces

- ↳ Possibly

- ↳ How do we get the regulations to the miner

- ↳ Problems in writing the ~~mine~~ regs
 - how do we write regs in ways that people understand

- ↳ Here is the broad problem

- ↳ recordkeeping problems

- ↳ warnings

- ↳ Want scheme to target individual instances

Tying information & regulations
together - must work
with industry on this

consumer friendly

Dunlop Commission Report

SA

→ Dialogue w/ employers

→ employee incidents

→ union / Labor Law

OSHA

Recordkeeping Reg - - keystone center w/ industry

→ ease paperwork reqs - -

→ chromium

→ risk assessment

Permissible exposure
limit

Working on

1) Reinvention of OSHA

- redesign of Field offices
- inspector staff re-orientation

(2) Program - centered reform

- if you have plan/program, get exemptions / less inspections
- 2nd tier list if program for employees - involvement & self-identification
- Y Diff
- pilot programs

(3) Must-site issue

- legislative

Y

Blue-sky

major attack on OSHA = Paperwork
Right-to-know standards targeted
Propose that OSHA become repository
of MSDS - any

any employer that had user-friendly
on-line system - no paper work
needed for hazard-alertment info

- OSHA/DOC does

- private company does

GAO study recommended
✓ some costing out
✓ some major
takes \$

here's employer

- many laws - too many

How do we get compliance

- flip -- reduction of deaths
injuries rather than
of inspections

GAD Study - workplace rules

- ① What's the rule
- ② How do I comply

→ U

- How OSHA develops standards

- Third-party evaluations - NPK
↳ worker participation

Health & Safety

FLSA

~~ERISA~~

FLSA^{to include}

leg review Mtg 1-10-95

OSHA

- working hard at reinventing OSHA

Enforcement

(Key)

what does compliance officer do in the workplace

↳ Customer service

Moving from ^{focus on} process, to ~~process~~ focus on result

What about ~~your~~ past focus -- what have you learned?

Right-to-Know Standard (Hazard Control)

↳ Most frequently cited violation

- classic

ON-line repository of info

↳

↳ if you create ^{Program Standard} Safety & Health program w/ worker involvement - put on secondary enforcement list

✓ in Maine - 95,000

conditional choice - (new vs. old OSHA)

150 14000 - TIC-IN?

- What is the benchmark -
results measure

Wage - Hour

- FLSA is major part

- Family's Medical Leave Act - just published

- unlike OSHA, which ~~has~~ has definite outcome measure, FLSA has no obvious measures

- Move away from complaint-based organization to a compliance-based org

→ get away from a numbers game

need to → investigators are not cops on the beat -- targeting

→ Focus on process, targeting overtime, child labor, minimum wage

always on the edge of silly enforcement --

~~inconsistent enforcement~~

2 Key Areas of Improvement (also can use opinion letters)

1) Published Advanced Notice of Rulemaking

- ↳ How's Regs -- prohibit 14-15 from working beyond 7 pm during school year
- ↳ Volatile area politically

↳ How much can we convince our allies to update this

2) Section 541

- ↳ How do you decide who is exempt from overtime -- hasn't been updated since 1970's
- ↳ update

Admin Improvements

- ① in some regions -- write to employers, ask them to do self-audit -- if they are forth coming, FLSEA will waive penalties, help them fix problems

- ② in all district office -- ALJ process is woefully slow -- brought together Farm Bureau, DOL, Folks -- got resolution quickly -- plead case -- got
- ↳ small pilot

Demands

- ↳ negotiated rulemaking approaching
- ↳ Records Keeping Requirement

whole sale omnibus approach to rulemaking

↳ parts of regs that don't make sense
from different regs

* NPRM

↳

Opinion Letters

OSHA Event

501 5944

- Stramberg Metalworks
 - union shop
 - safety inspection
 - part off focused inspectors

- Trying to invite Labor - Management Teams
 - Ford - Mobil
 - ~~Boya Pacific~~ ?
 - ~~Unifab~~
 - Need a Maine Team

↓ Teams come to WH For Briefing
available for press - motorcade back

17 - 1 event

Reich
Joe Allen

invite Can Delegation from
Team area

- sheet metal union invited
- 150 capacity for event
- AFL-CIO

workers & inspectors behind POTUS

- Speakers
UP, POTUS, Company Pres, Company-Worker story

all move in unit?

Monday Morning
10:00 am

Reg Re Firm - with Staff 1-17-89

- wage & hour - problems, ?

- Agreement on Goals - how do we get there in OSHA, FLSA

✓ Political decision up front -- Guidance on how sharply to turn? (now)

- official statement - we are not trying to change/delete standards goals

✓ (Alan Kruger) (Bill Proten)

(List of Approaches) - ?

✓ piloting a new

who are the people who think broadly

(Boulder
Dues
Kruger/Donahee)

VP-VPR Reg Renew Update 1-17-15

- Process may not be moving quickly enough as it is now outlined
- Pre-Meeting for Agenda setting for VP presentation are vital
 - ↳ must have papers out before this mtg
 - ↳ 2 days before each scheduled presentation, agenda-setting pre meeting will be set - 24 hours before this pre meeting, must have paper out
- Ask from each team leader
 - ↳ Secretary will be there, must let COS for agency know

How do we get bold ideas?

Bring in ideas from outside of govt?

- ↳ Low hanging fruit should be stated, but not dwelled on

Question of what is considered bold by who? Bold is in eye of beholder.

- ① Performance Standards always wins out over command & control. Achieve Regulatory objectives in more efficient, effective, customer friendly way.
- ②

OSHA Review 1-18-95

- Low hanging fruit

- Old options

- Big

→ How OSHA was/is focused on Compliance/Enforcement in fact

→ For Old, How Business/Worker

→ Relevance / why is it old/important

→ How would these recommendations affect small business

• Negotiated Rulemaking - ^{safety & health} program standard on table as starting point

Reg Reform -- WtH Folks 1-26-15
Self Regulation

↳ EPA --

- overtime

HP workplace

- Personal Reg

↳ in return for less OSHA scrutiny
you must have safety plan

↳ You want streamlining of
overtime etc. but you must
have flex - change

↳ On or site -- info available on-line
one-stop info available

↳ Streamlining

Sunset a wide range of laws

Prioritizing enforcement

↳ Trade-off - repeal others & fix

write one

smused

H f

Wt Reg Group 1-27-94

- Technology - on line residency
 - Paperwork Reduction - biggest unhappiness
 - no punishment for not enforcement mentality
 - ↳ criteria for success can't be
 - ↳ must - sight mentality must be removed
-

100 point ^{plan} idea -- go really high on some things, not so high on others, as long as you are at 100 pts.

- = high on safety, less on hrs/wages
 - = high on paperwork redx, less on safety
-

(Get Regs off book - take advantage of this)

layer 1 - Database
layer 2 - Generalist
layer 3 - Specialist level

Prioritization
(consistent enforcement)

Reg Mtg - Pol - 2-2-99

- Sec Reich

4:30-5:30

Political Sec

Mon 13

16

- elim regs - 120 elim
- elim Funct
- targeting toward worst
- ~~carry~~ enforce / cast serv
- insist on results

- Nationalize Main 200 Program

expand use of self audits

wage / HR

① - States w/ equal & strong laws - remove federal

②

- enforcement must be there
- Do you staff, Transfer Rple to states
- state-by-state analysis

(2) (common sense reqs)

① self-audits

expand we so that it is commonly used without taking away Federal right to audit anyone

③ Alternative dispute Res

- ALJ system alternative
- already did pilot
- expand

④ can throw out 120 reqs -- 274 reqs

⑤ sect 541 - exempt vs non exempt
overtime

simplify

→ move to salary/duty based test
not based on salary level

→ child labor - hours - already
simplifying reqs

mtis OSTHA

(1) - Safety & Health Program Standard

Keystone Process

- Choose your OSTHA

Weld out silly regs - ^{immediate} cease enforcement

- ~~Compliance~~

- shift from specific enforcement to comply

Name 208 expand

- Focused inspect - construct. ($\frac{1}{2}$ of all inspections)

Exchange culture

Flex time/ overtime

month / 2 week

- f

Arnida Mtg 2-6-18

U

Joe New conversation

~~Statutory~~ FLSA 541 Brief 2-10-85
broadside exec, Admin positions or exempt
from overtime & min wage

(1192)

541 Tests all regulatory

• Salary Basis

Salaryed
Fixed amount of compensation
not affected by quantity or
quality of work

"Pay Docking" doesn't meet this test

Public Sector - docking for absence doesn't
matter

• Salary Level → Long form 3rd
upset level

- at lower levels of salary, must meet
Stricter Duties Test

Long form → \$170/wk (min wage)
upset level → \$250/wk

• Duties Test

- executive → supervise at least 2 people at
least 50% time if so in
make \$170/wk

→ at \$250/wk, only supervise
20% time

- Admin - perform staff functions, not line functions
- Professional - licensed, self-regulating "classical" profession (lawyer, doctor, etc)

must meet all 3 prongs of test to be exempt

- salary level test is 20 yrs old
- litigated to death
- professional def too narrow

Basic ~~idea~~ purpose of 591 - to give incentives to employers to add jobs, not work longer

In 1942, realization that small class of professionals have different circumstances

Proposals

- ① Get rid of Salary Basis Test
 - large pop of litigation
 - doesn't take flex time into account
- ②

② Salary test

- update
 - index
 - consolidate
 - ④ - add super-upset test.
- same tests for all

Long Form
upset
super-upset Test

paid more than super-upset level,
get all-minimum duties test
(if exec, only have to supervise)

what about

- Super-upset level -- mid SUs
- employers -- too high
- employees -- not high enough

Tie Long Form - super upset test
to CPS data for
supervisory

- ① No separate set of salary tests for
Retail/Service industry
- ② No geographical distinction

① Can we do this justice in 10 min?
② What is on the hill?

Goodling - Talk about HCSA Reform,
but no details (family friendly)

(- 23rd)

- Does Glynne want to do Kendra's speech?
- Handouts -- "charts" and 1 pager on these 5

- Concern

→ charts are not on specific points

Pre-brief Re Ann Thomas

↓

- Harriet Cann

↓

what's new?

✗ not a progress report

→ Carol - Definitive Ofc.

PEL

✗ Legislative Changes

Statutory constraints

FLSA

↓ stop defending

✗ NO NPRT

Not a
progress
report

- Need chart for su/

↘ salary test

↘ ratios

7 Too long

not 8 minutes

↘ Not defense of 40 hr wk

↘

Low hanging fruit

- Less Defense / talk about what you doing

Harriet
Automation

- talk about savings

FLSA

24 legs -- how many \$ or
legs

↓ 541 who are you helping?

↓ Another Labor Mgt

new ideas & old ideas

① schedule 2 prebros

- one w/ Maria
one with Joe

Mon

Friday 3

look back → Renew existing legs
zero-based review

APR II - Interior 2-23-95

- Indian programs seem as functional equivalent of states
- Block grant programs to tribes - performance partnerships

-
- cannot give you R.I.
 - can give you U.S.I.
-

OSHA Katzen Session 2-23

2 hr late

Safety & Health

For those who don't opt into conditional
regs, still must consolidate

PEL - can you do grouped ~~standard~~ standards
for Health area without changing
OSHA

Paradigm shift
Rule Development

→ Haz com by reg
→ slow hanging fruit

→ Tooth Fairy

→ (Reg - neg - ergonomics
- Haz - com)

Per shift
Rule compl

→ mast - site
→ household
→ Paradigm shift (culture)

① SEC this is
what we need to do

② OSHA -- what is Hill
doing

**WHITE HOUSE PROPOSAL FOR HEALTH-SAFETY PROGRAM
"QUID PRO QUO" PARAGRAPH**

If an employer has an effective health and safety program, and the same employer has made a diligent, good faith effort to find and fix hazardous conditions prior to an inspection or other intervention, then OSHA will take steps that:

- abate 100% of the punitive penalties (but not abatements);

will waive penalties in these circumstances

Note: This is what EPA did in their report.

- provide increased compliance assistance to those employers;

Note: It would be better if this were concretized, since compliance assistance should in theory be provided to any one who asks, resources permitting.

and

- Will no longer be subject to program inspections (but will still be subject to random audits).

Note: We recognize that currently, program inspections include random audits. This would break the two into separate categories -- in effect, subcategories --

* * *

An effective health and safety program includes, at a minimum:

- demonstrative management commitment
- worker and supervisor training
- safety and health audits of the workplace, and
- employee involvement in the development and implementation of the programs.

Note: We agree that this needs tweaking -- in particular, how do we show that management has not provided a "paper program."

Sally - Wage & Hour Mtg 3-2-95
Reps

- 25% of Pages - 24 parts of Wage & Hour Rules
- This meeting is not end all
 - here's our first cut
 - well do X more

9th - Maria

BXA Made at Commence

Record Keeping

- Min 450

performance standard

emphasis responsible for

Keep records you need to defend yourself in court

Try to combine, simplify

Do pilot, demonstration, ?
proposal

* Prevailing Wage report

- Walsh Healy
- Davis Bacon
- Prevailing Wage

as part of
Save Davis Bacon Strategy - Payroll Reform Effort.
- Stop weekly reporting requirements
"Surgical Strike"

Immigration - Part of NLR II
- Bring up law

Paradigm Shifts

Revolution

(591)

→ Rich has not decided
where we go on this -- how
far yet

Revolution

- Lose-Lose situation

- ✓ Concept is agreeable,
 - ✓ raise these questions
 - ✓ Put States, Senators in position of asking for Federal Help
 - ✓ will the Floor
 - ✓ focus help on weaker states
 - ✓ about equivalent resources and proper enforcement
-

Self-audit

- ✓ caveat about right to self-audit
- ✓ what incentives can we give them?
- ✓ clarification + reqs.
- ✶ Fires only if repeat or willful

Revising joint-employment in ~~the~~ ^{regs}

increasing self-audit → Form 6-12-1.

✓ contain employers who are more likely to do self-audit

① S91

②

target industries that are good actors as pilot industries

- S91

- child labor

3

reg reform is moving towards standards

S91

- ① Recordkeeping on duties test ^{with salary}
- ② states & locals want retroactivity changes -- in FLSA

child labor

~ NPRM published

presentation

- 1 - Paper work / record keeping
- 2 - Policy
- 3 - Paradigm shifts
 - SA /
 - child labor

and

Performance incentives

Reg Review Events - Doc - ^{Quarterly} 3-13-25

✓ April Event - - Doc (?)

✓ EPA Report - useful guide

✓ ^{POTUS} announcing EPA, small business reforms,
FDA

✓ April OSHA (?)
Focused event

✓ Report - OSHA & FLSA?
or just OSHA

~ Action Item For Doc to
recommend to US

Initiatives & list of Accomplishments
For Event

walk thru handout on EPT Report

list 25 initiatives in short H.
at least 1 page per in appendix

with Report must come
management plan on implementing
initiatives.

Tues mty

OSTH side — not many
changes

W & H — lots of changes

low hanging fruit

Reg Reform
NPR Steering Committee 3-23-95

Status Report

↳ Makes sense to do OSHA Reform with
DOL general reform?

↳

implementation issues?

↳ coming out of UP Mtg -- Team lead
should have list of action items
coming out of mtg (yes, no, maybe)

↳ event on April 18 - OSHA is the
story. ~~in~~ ~~General~~ ~~may~~ ~~NPR~~ ~~it~~ Fold in wage & hour

⊗ Public hearing, communications tie-ins must
be coordinated by NPR

OSHA NPR Comments - 3-24-95

✓ Maine 200 - need headlines

✓ No Grand Theme

✓

29th Jacksonville visit

✓ Does not get in 3 page
Gaming Title

✓ Primetime Live - - Doing show on OSHA on
Evening of April 19?

Problems

- ① Tone - lots of Anti-Business rhetoric
✓ in cover memo, in one-pagers

Substance

• Maine 200

under this program abating hazards at
14 times rate of normal
Partnership

Safety & Health

Partnership w states (?)

Workplace Partnerships

↓ Focus Groups

Reg Reform - OSHA 3-2995

Strategic • safety & health, maine 200, focused inspection
Fair - common sense compliance, no nitpick, - consequences for bad guys
Effective - Regs not red tape
Common sense - obsolete standards
- partnerships

about 80% abatement in Maine
- takes time to abate

-
- bring handouts of overheads
 - Report to us by Monday noon
 - Charts instead of overheads

we used to charge them \$400 for a poster,
now we give em' away

3 Regs are safety & health
Maine 200
Focused inspection

memo to you

Safety & Health - What's list of
incentives for
doing safety & health

Field

for

ONE

④ VP Brief

OSHA

VP - My antenna is picking up problems with
tone - partner or adversary

From point of view of business that has
problem with OSHA, premise of cooperation
from OSHA rings hollow

"Make you an offer you can't refuse"

word Adversary is problem

Joe - Good Faith Category is new to OSHA

✓ Hard to distinguish the Health & Safety
program you have here & the OSHA Reforms
of last year

✓ Culture Change

Gally
Haz com

- provided by lawyers

- streamline & make simple (automate)
- focus on hazardous chemicals

get it done in time for the
April 26. E.O. 12812

make ^{separate} training standards into
Batterplate

FLSA

boil - Take 800 pages of FLSA & expand
them into standard employee handbook

- Pilot Program - Hotel/Motel industry
- work w/ industry to develop

OSHA

What

When & How (resources)

=> deadlines
=> guide PD - PHO
=> resources

- Philly regmt - own Ergo guidelines

- Home - Rights

- fire codes

> major

Beverly Enterprises - Labor struggle
- TK Firm

- only study in long-term care

- not one simple

- Threshold of cost - run thru
UNB

- Look at

OSHA/WH Mtg 4-14-95

① Safety & Health

② Process

AFL-CIO

✓ Best practices languages

✓ one of these plans

✓ insurance ~~complies with~~ makes sure companies
comply w safety & health

✓ self-identification

→ Voluntary vs Non-Voluntary

→ mtg next week

✓ self-identification

shift into req waivers

there is a disconnect between satisfying needs of safe
workplace → satisfying OSHA Regs

Met with Jean 4-18-95

Workplace Safety

- Maine Job
- Focused aspect
- Quite fair

Disconnect between ^{true} worker health & safety & OSHA

Health & Safety

- powerful
- builds on success of

218 - 

• Safety & Health Program 5-17-88

Differences From OSHA Reform

- no committees
- less precise guidelines & rules
- ↳ Cost \$7 billion

Safety & Health - 5-20-88

Safety & Health

- ↳ Top priority of State leaders
- ↳ Keystone - Finance by industry & labor
- ↳ Who will have to do?
- ↳ very generic?

① FLIP

- ↳ Make bad industries subject to mandatory - -
- all else - - voluntary

(I dictated this before you came in...)

What's frustrating is that
this exact outline was
proposed a month ago.

Mike

OSHA 4-25
(safety & health rule)
skirt the issue

Sally S-1

① incentives - Building Block regs

① Paradigm shift
② Bringing common sense to reg - main 200 incentives
③ Bringing common sense to enforcement - reg reform Building Blocks
④ synergies
⑤ focus on crucial areas

- Many employers want to do the right thing
- optimizing it - safety & health is
↳ in the meantime

OSHA S-1

- 16th 17th 24th are possible

3 Phases of OSHA

① A Paradigm Shift

- safety of workers key
- get there by offering workers choice
- emphasizes choice
- we know this works because we tried it in Mains & it works

② Common Sense Regulations

A. rid of useless regs (list out)

B. Building Blocks - take Training, mod surveillance

C. Plain English

D. HAZCOM

(3) Common sense implemented

④

- service sector
- ergonomics
- results not red tape
- compliance assist
- induct. tech

⑧

General Tone : This admin is committed
to safe workplace

② Reward Good Guys - entice in Bad guys

missing ① - Must mention Economics, but
not up front. - a growing source
of workplace injuries

⬅ ② Health & Safety Plans - must be in
- put it in terms of Princeton st. et
- wage in rulemaking - who knows
- what will come out
- keystone part of all this

③ Building Blocks

④ Silly Regs

Info - POTUS statement
- OSHA makes difference
- 3 big ones

Not Able to Do

① worker participation
② discern bet good & bad
③ mention safety & health
④ New & Emerging threats

① ∪ until May 10

6-7-51

