

SENATOR JOSEPH LIEBERMAN

REGULATORY REFORM

Hearing Statement

April 21, 1999

Thank you, Mr. Chairman. Let me say at the outset how much I appreciate the efforts you and Senator Levin have made on this proposal over a long period of time. I recognize this measure, S. 746, includes a number of changes made in response to some of the concerns expressed about this bill in the last Congress, and I thank you for that.

Nevertheless, I remain skeptical about the approach of this legislation for many of the same reasons I have expressed at earlier hearings. I continue to worry about unintended consequences and unforeseen results. Trying to reform every type of regulation with a single law poses, it seems to me, too high a risk to the public's health and safety.

As democratically elected representatives, our foremost responsibility to the people we serve is to protect them from harm. This means, among other things, maintaining a strong defense and adequately staffing local police departments. It's our equal responsibility to protect people from breathing polluted air, drinking dirty water, eating contaminated food, working under hazardous conditions and falling prey, in myriad other ways, to consumer fraud.

There's a very broad consensus in this country, and in this Congress, that transcends party lines for an appropriately active regulatory role for government. I think there is also a consensus on the value of enacting protections in an equitable, efficient and factual way, that's open to as much public understanding and participation as possible. We all support, in a broad sense, regulatory reform. The question is how to achieve it. To me the best way is statute by statute and not across-the-board.

Allow me to cite a couple of examples of what I believe is the right way to enact regulatory reform. The Safe Drinking Water Act Amendments enacted a few years ago included highly targeted reforms that dealt with features unique to the problem of drinking water quality. Similarly, the Food Quality Protection Act, which focused on reforming the pesticide regulatory program, was narrowly tailored. In both instances, negotiations led to agreements intended to increase future cost-effectiveness while giving EPA the flexibility to address the higher-priority risks to the public. Both bills passed the House and Senate by wide, bipartisan margins.

Now, by comparison, let me offer an example of how I fear omnibus reform might affect regulation under individual statutes. I'm going to use the program regulating toxic air pollution under the Clean Air Act. In 1990, when we were amending the Act, we recognized that toxic air pollution was not being adequately controlled. Literally thousands of pollution sources were releasing chemicals into the air that were known or suspected causes of cancer birth defects or other serious health problems. Many of these pollution sources were without controls, partly because it took too long for the agency to research and analyze the risks, as was required by the law. Instead, Congress decided there was already sufficient evidence of risk to justify regulating

a list of particularly harmful chemicals, to narrow the field of regulation, and we instructed EPA to set basic standards based on existing technologies, without revisiting the questions of risk that Congress had already settled.

So, if this bill, S. 746, applied to the air toxics program, I worry that EPA could be required to delay issuing standards for these toxic chemicals until the agency conducted extensive risk assessment for each standard, which was not the intention when we adopted the law.

Today's witnesses will discuss a number of other examples where S. 746 would affect regulation in ways we may not have intended or anticipated.

And as troubled as I am about the examples this Committee will hear today, I am equally concerned about the examples we won't hear about - until it's too late. I think it might be interesting to see a law-by-law survey showing how the law would affect individual programs -- whether at EPA, the Nuclear Regulatory Commission, the Food and Drug Administration, the National Highway Traffic Safety Administration, the Federal Aviation Administration, or any other agency.

We've already enacted a number of across-the-board regulatory reforms in recent years. I'd prefer to give these reforms more time so we can evaluate their effectiveness before we go further.

Again, I know your intentions are worthy. However, my preference is the step-by-step approach that minimizes risks and unforeseen consequences. I look forward to the testimony today and to working with you, Mr. Chairman and Senator Levin, in pursuing the goal that I know we all share, which is more effective regulation in the public interest. Thank you, Mr. Chairman.