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GUEST COMMENTARY: Regulation against lead under attack

MAXINE LIPELES AND RENA STEINZOR *5 hrs ago*

To hear some Washington politicians tell the story, the only problem with rules to protect public health and the environment is that rogue agencies write too many of them. Their view is that “job killing” regulation needs to be eliminated. Congressional leaders say “regulatory reform” is a top legislative priority. Yet the bills they are producing seem so obscure and boring that only special interest lobbyists understand their implications.

The consequences of these efforts to free industry of protective rules are anything but obscure. If their campaign to deregulate succeeds, few, if any, rules will be adopted.

In particular, House legislation dubbed the “Regulatory Accountability Act” would require agencies to conduct endless studies before picking the solution most favorable to industry. Then, judges would be charged with second-guessing agency experts. Other House bills would limit the ability of agencies to base their decisions on sound science and would require Congress to approve new rules.

In combination, these bills are designed to create an obstacle course our federal agencies will never be able to navigate. Now, the Senate is preparing to introduce its version of these proposals.

A great deal is at stake in states like Missouri and Maryland. If these bills become law, some 4 million rural Americans and hundreds of thousands of urban children will continue to drink water containing unsafe levels of lead. Wrapping the Environmental Protection Agency in red tape and cutting its budget will prevent it from addressing such urgent threats.

Rural families are in trouble because, as USA Today documented in a mammoth investigation involving the review of millions of records, their water is provided by small utilities that are exempt from EPA regulation. The reporters discovered 100,000 people who drank water with dangerous lead levels. Incredibly, utility operators discovered the problem but made no effort to fix it. Who knows how widespread the problem is in other districts? Federal and state regulators rarely check.

Urban families served by large drinking water systems are threatened because the old and corroded pipes delivering water to schools and homes contain high levels of lead and need to be replaced. Just this past summer, testing revealed that 16 St. Louis schools had lead levels in the drinking water four to five times higher than the national standard and significantly higher than contamination found in Flint, Michigan homes.

In Baltimore, the discovery of lead in the schools’ drinking water a decade before Flint caused a citywide switch to bottled water. Replacing the pipes was beyond the capacity of the city.

Lead is such a toxic substance that when children under six, including babies in utero, are exposed to very small amounts of the heavy metal, the irreversible poisoning process begins. Poisoned children may be hyperactive, experience brain damage and have acute learning disabilities. Freddie Gray, the young African American man whose neck was broken as Baltimore police drove him around in a van without a seatbelt, was lead-poisoned and had a difficult time earning a living.

EPA took lead out of gasoline in the late 1970’s, and this decision, which was opposed ferociously by industry, is widely regarded as one of its most important accomplishments. In the 1990s, we discovered that flaking lead paint in inner city schools was poisoning babies, who picked up tiny particles of flaking or peeling paint whenever they crawled and then put their little fists in their mouths. Federal and state governments grappled with the problem and the frequency and severity of lead paint cases gradually went down, though major challenges remain.

Today, we confront the latest consequences of our use of lead decades ago. The law does not require oversight of small drinking water systems nor does it adequately address dangerous lead piping in urban areas. Ordinarily, we’d expect the EPA to get a grip on this hazard and help state and local governments clean it up. Sadly, that kind of intervention, provided by the agency regulated industries love to hate, could become impossible if the Regulatory Accountability Act becomes law.

Deregulators are developing legislation that they say is needed to make regulatory agencies “accountable.” Unfortunately, this has nothing to do with taking innovative and aggressive action to protect public health. Instead, these bills would cause paralysis by analysis. The legislation would compel agencies to prepare so many reports and make so many calculations that it could take a decade or more to produce a new lead standard. Existing law already requires extensive analyses of new regulations. The sponsors of the legislation reveal their true purpose — freezing rules in their tracks — by requiring that if an agency does not finish a rule within two years after proposing it, the process must start all over again.

We agree that it is time to “drain the swamp” in Washington if that means diminishing the influence of special interests and their excessive campaign contributions. But we’ll be disappointed if it means hamstringing EPA and other agencies that make our food and drugs safe and protect such necessities as air and water.

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