

## HSS Visiting Speaker Program – Governance and Regulation: U.S. to Lead or Lag in the 21st Century?

Co-Sponsored by the National Academy of Public Administration. July 24, 2009



We at NAPA share with HSS a commitment on the need to change how government works and a vision that innovation and collaboration can be the central tools for leaders to drive change. These speaker events draw together across agencies and industries the thought leaders who can make this change happen.

*Jennifer L. Dorn, President and  
CEO, National Academy of Public  
Administration*

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Today's event looks at an increasingly complex regulatory environment; one that is multi-sectoral with complex technical advancements taking place constantly.

It is critical that the U.S. needs an agile regulatory regime if we are to exceed the vision and achieve the promise of future innovation.

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HSS, as the independent regulatory body of DOE, is not just about compliance and not just about creating a “comply-or-die” attitude. While compliance with regulations has a role, we must look through the lens of mission reliability to help ensure that we succeed as a Department.

I think it’s very important that we have partnerships with NAPA and other agencies, that we have discussions to bring forth some of the great thinking in order to meet the great challenges we face as a Department and as a nation.

*Glenn S. Podonsky, Chief Health, Safety and Security Officer, U.S. Department of Energy*

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We need to be more reliable on performance and to view our organizations through the lens of sustainability of mission. This is the path to sustain our businesses, industries, and ensure our national security.

The 21st century world is much different than the last century; we are globally linked and the traditional line between the government/public sector and the private is increasingly blurred. Solving complex problems requires collaboration and innovation is the key to thriving. Such innovation requires leadership and further, leadership with a purpose.

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Some ask why this Visiting Speaker Program? Why these partnerships? I feel the question should be “Why not?”. There is great value to all of us in coming together, collaborating, and thinking differently from the way we have in the past. Partnerships, such as this program and our collaboration with NAPA and other agencies, bring forth the great thinking necessary in order for the U.S. to survive – not just thrive – in the future.

We must move forward – to be less risk averse – and to think outside the proverbial “box.”

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The Secretary is resetting our Agency's focus on a science-driven mission as a key component to revitalizing science and research in the United States. – looking at alternate fuel sources, the challenges of global climate change, and the stimulation of the energy sector.

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Regulations may have benefits but they also have costs – and we must understand the trade-offs and ways to reach the optimal outcome.

*Thomas H. Stanton, Fellow of the Center for the Study of American Government - Johns Hopkins University and Fellow of the National Academy of Public Administration*

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Until the current economic recession, the U.S. and the developed industrial world were on a path towards less reliance on traditional forms of regulation.

There were strong movement towards deregulation - significantly relaxing regulations - and the implementation of "smart" regulation or "market-assisted" regulation. Such regulation would have greater flexibility in design..

But with the financial crisis and economic downturn, we now have a new-found enthusiasm for regulations as a policy tool.

*Dr. Joseph J. Cordes, Professor of Economics, George Washington University*

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During the “golden age” of deregulation there were mixed results in some areas (e.g., electricity deregulation). Some look at the relaxed banking and financial regulations are perhaps going too far away from the stricter New Deal era regulation.

There is a generally reduced confidence in the markets’ self-regulatory mechanisms. We may be at the crossroads of moving from too much unprincipled relaxation into the other direction.

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Economists see regulations as a double-edged policy tool. On the one hand, it can improve market performance in response to failures of the private market; on the other hand, there are unintended consequences of regulations when the regulated bodies react in ways that are unanticipated and surprising and that are not desirable.

There are also costs of regulating in order to do things as prescribed by regulations.

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Broad principles of regulatory design require being cognizant of how regulations affect stakeholder incentives and stakeholder responses to the incentives.

Also balancing uncertain outcomes with regulatory flexibility – understanding that the information may be imperfect. Weighing the risks vs. benefits and analyzing the trade-off.

Learning lessons from past experiences and moving beyond. Understanding the benefits and limitations of market-assisted regulation and moving toward performance-based standards.

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Regulation is a way of reducing risks – all modern economies put a great deal of emphasis on risk reduction. If done well, regulation accomplishes that goal. But if done poorly, regulations can increase risks because the problem of unexpected government action is added to the ordinary market risks.

There are many examples of ways that regulations can reduce risks: we guarantee the availability and pricing of infrastructure goods (transportation, banking, electricity, water, and other services). These are things that go into the production of other activities.

*Dr. Gerald W. Brock, Professor of Telecommunication and of Public Policy and Public Administration, George Washington University*

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For producers of infrastructure goods, regulations often provide limits on competition and new entries which reduce the risks of long-term capital investments.

Safety and health regulations are designed to reduce the risks to the covered individuals and also provide some protection to the producers in defense of lawsuits in so far as they follow the regulations.

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Regulatory process (how we make and change regulations) issues create the same kind of trade-off between stability and change as the regulation content itself. In periods of emergency or crisis, we tend to exercise somewhat arbitrary power to enact regulations to solve the crisis. In ordinary times, we tend to have a negative attitude on power and stronger emphasis on oversight.

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In the U.S., regulations that are embedded in the legal and political framework create a reasonable expectation of stability in the rules. This also makes it difficult to change the rules to adjust to new circumstances. Thus, highly regulated industries have incentives to defend regulations that benefit them as well as the slow regulatory processes.

This also illustrates the fact that any regulation at a particular time was designed for an earlier period.

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