**A FRAMEWORK FOR DESIGNING FEDERAL AGENCY REGULATORY MODELS**

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Federal agencies use different types of regulatory models \* to manage complex issues they are mandated to address. The models are designed to incorporate sufficient complexity and variety to match the complexity and variety of the problems/issues they face. The models are designed differently because of the different characteristics that define their particular milieu; and hence shape the regulatory model itself.

\*Regulatory is used in the broad sense of management approaches.

In designing regulatory models four framing questions can be addressed in order to determine the basic design of the model:

* **Who is the regulator?** – The continuum ranges from one centralized regulator to dispersed regulators. This is often not a settled question. Depending upon one’s perspective on the problem, it may be perceived as international, national, regional or local. The question of who regulates or manages the problem, is a function of how power to address the problem is dispersed. To illustrate: In the case of determining who decides on educational standards for U.S. students, the regulatory model is negotiated through collaboration between national, state and local governance; and the pendulum tends to swing in one direction or another based on the sentiment of the populace.
* **What are the decision rules?** What are the criteria that determine how the regulator designs strategies to solve the problem at hand? These alternatives include, but are not confined to:
* Risk-based – Resources and strategies are designed to address the highest priority risks first – Illustration: The U.S. Border Patrol focuses their border protection assets at the Southwest Border where incidents of illegal activity are the highest
* Equity based – Resources are allocated proportionately based on a total population metric: Illustration: Many categorical grants sent to states are prorated on a per capita basis
* Stabilization based – Strategies are based on long-term sustainability of outcomes. Illustration: Federal Reserve monetary policies on interest rates and ‘quantitative easing’ are based on intended long term sustainability of the U.S. economy
* Return on investment based – Strategies targeted toward maximizing return on a Federal investment. Illustration: NOAA’s Marine Resources Programs designs fishery management strategies to balance short term return on investment by the domestic fishing industry with long term optimum sustainable yield of each fishery.
* **At what level is the problem perceived and being addressed?**
* Technical
* Managerial
* Political
* Cultural

One of the key challenges in designing an appropriate Federal regulatory model to manage a public issue is that the model must incorporate a technical, managerial, political and cultural component. To illustrate, technical solutions to managing air quality have been stipulated by emission standards recommended by EPA scientists. The standards must be mediated, however, by: managerial considerations in terms of industry’s ability to gear up for such standards; the political will of the current administration and Congress to pursue such standards; and the cultural context in which standards are accepted or rejected.

* **What are the characteristics of the operating environment?** – Is the environment stable and predictable; discontinuous, circular and complex, but in which deep patterns can be defined; or entropic with the possibility of discerning trends toward a disaggregated end state? Each cell in the table below requires a different regulatory approach. The LRV model design should consider the complexity of the management challenge, and the level at which the model is being applied



**Access to increasingly sophisticated information access, analysis and prediction increases the capacity of the regulatory model to absorb complexity.** Regardless of the combination of characteristics that are appropriate for the regulatory model to address a specific problem, the level of sophistication of information access, analysis and prediction will determine the degree of variety absorption in the regulatory model.

**Summary**

Asking the appropriate questions about the regulating entity’s operating environment is a prerequisite to establishing meaningful requisite variety in the regulatory model.

**Morris Bosin** is a seasoned executive with over 40 years of experience in successfully leading strategic and performance planning initiatives at several Federal agencies. He is also an experienced management consultant with the Federal sector; a published expert in planning and decision-making; and serves as Adjunct Professor of Management at the University of Maryland’s Graduate School of Management and Technology. At the University of Maryland, Dr. Bosin has taught the capstone course on strategic management for over twenty years. He has also been an adjunct instructor in planning, personnel management, policy and marketing courses at The American University, George Mason University and University of Southern California’s Washington Public Affairs Center. Significant accomplishments include: developing a performance management and measurement system for U..S. Customs and Border Protection Mobile Assets Program Management Office; recommending an improved approach to the Department of the Interior for managing trust assets covering over 60 million acres; designing and implementing a performance management improvement process at the Department of Interior – Indian Affairs; co-designing a performance management maturity model for use in Federal agencies; coordinating strategic and performance management for the U.S. Food and Drug Administration; designing and conducting performance measurement training workshops; orchestrating the PART assessment process at FDA; preparing performance plans and reports to satisfy requirements of the Government Performance and Results Act; and conducting environmental assessments on such topics as emerging developments in biotechnology and their impact on Federal regulatory agencies.