

So, if Dudley is

10 times worse
than Graham

...how bad
is that?

If confirmed, Susan Dudley would be 10 times worse than John Graham as OIRA administrator. How bad can that be? Take a look back at some highlights from the destructive legacy of John Graham.

1 All-out war on science.

Graham is no scientist, but he waded into scientific territory nonetheless, with a particular emphasis on risk assessments — the process in which agency experts and scientists make educated judgments that bridge the gap between the known and the unknown in order to help agency regulators make sound decisions.

Graham implemented unnecessary “peer review” guidelines, adding extra layers of review and impossible standards of reproducibility that risk assessments cannot easily meet.

And he followed suit with a direct attack on risk assessments, issuing a one-size-fits-all policy for all risk assessments, whether they are NASA risk assessments about getting shuttles up to space and back again or FDA risk assessments about tolerance levels of pesticide residues on the foods we eat.

2 Paralysis by analysis.

Bury them in paper: that has long been the mantra of regulated industry, which has sought to spare itself new regulations by burdening the regulatory process itself.

Graham issued a dizzying array of new analytical burdens on agencies. Among them:

- new processes for guidance documents and interpretive rules (which Congress explicitly excluded from such processes in the APA);

- elaborate additional guidelines for conducting cost-benefit analysis, along with a new requirement for conducting cost-per-benefit ratio analyses;
- impossible requirements for risk assessments and a large universe of risk-related assessment activities; and
- burdensome “peer review” guidelines.

3 Just taste that air!

Graham proudly touted his work pushing EPA to regulate off-road diesel... but he worked on other fronts to thwart safeguards for cleaner air.

Examples: He let industry write its own rules for controlling some hazardous air pollutants. He weakened EPA’s proposal to reduce emissions from snowmobiles. And he weakened EPA plans to reduce diesel emissions from large ships and tankers.

4 A world of waste.

Graham weakened rules that agencies drafted to protect us from all sorts of waste.

Waste from factory farms: raw sewage, bacteria-laden and hazardous in too many ways, dumped on land and then allowed to become runoff after a storm. After EPA submitted a proposed rule on factory farm runoff to Graham’s OIRA, the final product was weakened – stripping out safeguards against excessive

application of manure, creating a new loophole for runoff from the Clean Water Act, and encouraging the construction of vast waste “lagoons.”

Hazardous waste in soil and water: Manganese can cause a disorder much like Parkinson’s disease, along with sexual dysfunction and respiratory damage. Graham blocked EPA from listing manganese as a hazardous waste prohibited from being disposed on land or injected underground.

Pollution from construction sites: Runoff from construction and development sites is the largest source of pollution in our coastal waters. Graham eviscerated an EPA proposal to control this runoff.

5 Putting our protections on a hit list.

Graham gave industry not one, not two, but three chances to nominate regulations to be weakened or eliminated on a hit list.

Graham then selected items from the hit list to push agencies to roll back safeguards. Among them:

- protections against Listeria in ready-to-eat meats;
- rules for safe disposal of PCBs;
- the Toxic Release Inventory, which secures our right to know about toxics released in our backyards; and
- workers’ rights to family and medical leave.

6 So much for safety.

After the Ford-Firestone tragedies, Congress ordered NHTSA to require manufacturers to install systems that alert drivers when a tire is dangerously under-inflated.

Graham forced NHTSA to produce a rule requiring a cheap “indirect system,” which would actually fail to alert drivers if all four tires were low.

7 Want fries with that?

Listeria is deadly: it has the highest hospitalization rate, and the second-highest fatality rate, of all foodborne pathogens. It is particularly hazardous to pregnant women, who almost always miscarry when they contract Listeriosis.

After OIRA held a meeting with food industry representatives, it ordered USDA to make changes to its proposed performance standards for controlling Listeria in ready-to-eat meats such as the sandwich meats that go into children’s lunch boxes.

8 I said what?

Graham’s anti-regulatory zeal sometimes got the better of him, leading to contradictory messages.

Example: the Listeria rule. Just three months after praising it as a “regulatory reform accomplishment,” Graham added it to a list of items hand-picked from the hit list for further rollbacks.

Same with the rule for labeling trans fats: Graham sent a “prompt letter” pushing the agency to produce the rule, then declared it a high priority item hand-picked from another hit list for being rolled back.

9 Looking back for propaganda.

We have long known that industry cost estimates, which are used in agency cost-benefit analyses when they are making important policy decisions, are routinely overestimated.

Graham suggested we might learn something if we find after-the-fact “look-back” studies, which compare the pre-rule cost estimates with estimates of the actual compliance costs. Lo and behold, Graham concluded that costs are not routinely overestimated after all.

Except... that his research was another rigged game. A new study by a Resources for the Future economist following up on Graham’s mini-study questions some of Graham’s methodology and reaches quite different conclusions.

10 Discounting our future.

Discounting in cost-benefit analysis is like compound interest in reverse. Step 1: estimate the number of lives saved by a proposed rule. Step 2: convert those lives into dollar values. Step 3: treat lives saved in the future the same as money earned in the future, then apply a discount rate to find the “present value.”

When Graham revised the OMB circular that dictates how cost-benefit analysis is performed, he did not take this opportunity to abandon such a morally questionable practice. Instead, Graham required agencies to do two side-by-side analyses using a 3% and a 7% discount rate.

By the way — at a 7% discount rate, a regulation to prevent a cancer that manifests itself 30 years after exposure to a substance will result in a life saved 30 years from now counting for 1/6 the value of a life saved today.



For more information, visit www.citizen.org/dudley