

10 times worse than Graham

If confirmed as OIRA administrator, Susan Dudley would be 10 times worse than Graham. Let us count the ways....

1 Dudleynomics

Graham may have played funny games with the methodology and applied concepts that rigged the rules of the game against regulation... but at least what he was doing looked *something* like economics.

Not so with Dudley. She has her very own worldview, Dudleynomics, that shares some words in common with economics (like “market failure”) but redefines them in ways that bear no relation whatsoever to economics, or any intellectual discipline of any sort.¹

The “science,” for Graham, sometimes meant limits even he couldn’t cross in his anti-regulatory zeal. If Dudley is making up the rules as she goes, what limits are there?

2 Only When Markets Collapse

Unlike Dudley, Graham recognized that there might be many reasons to regulate, not just to correct market failure.

His guidelines for cost-benefit analysis, for example, instructed agencies to “try to explain whether the action is intended to address a significant market failure *or to meet some other compelling public need* such as improving governmental processes or promoting distributional fairness, privacy, or personal freedom.”

The very idea drives Dudley crazy. “[T]he ‘other justifications’ for regulation are unclear,” she wrote in her comments on these guidelines. “OMB should clarify, in particular, what it means by ‘promoting privacy and personal freedom,’ since regulation is more commonly viewed as restricting personal freedoms.”²

3 The Cult of Costs

Dudley repeatedly insists that the benefits of regulations are better understood, qualitatively if not quantitatively, than the costs. Accordingly, she has proposed to consume vast amounts of taxpayer dollars on navel-gazing analyses that would increase the reported estimates of regulatory costs while doing little to inform the public about the life-saving benefits. Among the ideas:

- *Analysis of the analysis of the analysis.* Dudley has proposed that OIRA start producing an annual report card for agencies on the quality of their cost-benefit analysis.
- *Convert the annual report on regulatory costs and benefits into a detailed report on regulatory ... costs.* Dudley has taken issue with OIRA’s annual “regulatory accounting report,” arguing that OIRA has not done *enough* to present the costs of regulations. Accordingly, Dudley has counseled that OIRA should present as robust a picture of costs as possible, even presenting a picture of the costs for rules for which benefits have not been similarly quantified.³

4 Science? What Science?

Graham was no friend to science, but he occasionally had to admit defeat when the science was overwhelming.

Take, for example, arsenic in the drinking water. There was no longer any scientific dispute that the 40-year-old standard of 50 ppb was insufficiently protective. The only legitimate dispute was over what new, lower number should replace it. After a brief struggle over possibly withdrawing the new standard published in the

final hours of the Clinton administration, even Graham had to admit that the new standard was justified and withstood the toughest scientific scrutiny.⁴

The overwhelming scientific consensus was lost on Dudley, who insisted we should not even be reviewing the old standard at all, calling the new and improved standard for arsenic in the drinking water “an unwelcome distraction.”⁵

5 Senior Death Discount

How much is Granny worth? According to Dudley: less than Junior.

Dudley has advocated a return to the senior death discount, approaches in cost-benefit analysis that count the lives of seniors as worth less than the lives of the young.

In comments submitted to the EPA criticizing stricter standards for arsenic in the drinking water (standards Dudley dismissed as “an unwelcome distraction”), Dudley argued that “EPA’s value [per statistical life] likely overstates the benefits of the rule. . . . This can be addressed with sensitivity that estimates benefits based on a value per life-year saved, or an age-adjusted value per life.”⁶

Meaning what? Either (1) counting up only the number of remaining life years saved by a rule, rather than the number of *whole lives*, or (2) using a cash value for the lives of seniors that is *lower than the value for the lives of the young*. Take your pick.

6 No Values but Value\$

Measuring benefits of a rule in cost-benefit analysis is a dicey game as it is. Graham cheated that game from time to time, but at least he didn’t just throw out the rules. Dudley wants to play her own game, which the public will never win.

Consider her comments on the “fish kill rule” — standards to protect the trillions of fish and other aquatic life destroyed annually by industrial plants that suck in water from natural bodies of water to cool their systems.

Dudley essentially argued that it is not enough that EPA can show that the population of fish are significantly depleted by cooling water intake systems; rather, she believes we have to wait until the fish population is depleted enough to cause a rise in the price of fish.⁷

In Dudley’s sophistic view, the only value that a fish has is monetary and the government has no justification for protecting fish until they are practically extinct.

7 The Costs Are Endless...

Graham was definitely riding the industry-funded bandwagon to persuade the public that our protections are breaking the bank... but Dudley is driving her own cart.

Here’s an example: commenting on Graham’s 2005 estimates of the costs and benefits of regulations, Dudley

relied on a single, discredited study to declare that “OMB’s cost range of \$35 to \$39 billion may be low *by a factor of 20*.”⁸

Not even Graham could say that with a straight face.

8 Her Hit List Runneth Over

Every time that Graham opened up our public protections for industry hit lists, Dudley was there... with more suggestions for rules to eliminate or weaken than even Graham felt comfortable with.

9 Can We Keep Ignoring What Congress Wants This Position to Do?

Like Graham before her, Dudley has no experience or expertise in the only parts of the job that Congress actually required by law. The Paperwork Reduction Act charges the OIRA administrator with taking the lead for federal work on information resources management, including IT, information security, and privacy.

With government data security failures left and right, the most infamous being the breakdowns that left personal information about veterans and active duty military personnel at risk, isn’t it long past time we had an OIRA administrator qualified to do the job Congress wants it to do?

10 She’s Got Her Running Shoes On

The White House is looking ahead to its last two years and is already planning an all-out assault. “[The president] told all of us, ‘Put on your track shoes. We’re going to run to the finish,’” Tony Snow told *Time*. “He’s going to be aggressive on a lot of fronts. He’s been calling all his Cabinet secretaries and telling them, ‘You tell me administratively everything you can do between now and the end of the presidency. I want to see your to-do list and how you expect to do it.’ We’re going to try to be as ambitious and bold as we can possibly be.”

We have already seen the damage Graham wrought. Dudley promises to be 10 times worse. And that’s just the way the White House wants it.

¹ Public Citizen & OMB Watch, *The Cost Is Too High: How Susan Dudley Threatens Public Protections*, pp. 16-19.

² Dudley & Mannix comments, p. 2, available at http://www.mercatus.org/repository/docLib/MC_RSP_PIC2003-14OMBRIAGuidelines_030505.pdf.

³ For more, see *The Cost Is Too High*, pp. 37-39.

⁴ John Graham, speech to National Economists Club, available at <http://www.whitehouse.gov/omb/legislative/testimony/graham030702.html>

⁵ Susan E. Dudley, *How Not to Improve Public Health*, Jan. 11, 2001, available at http://mercatus.org/publications/pubID.2630/pub_detail.asp.

⁶ Susan E. Dudley, Comments on Arsenic Standard, at 4 (Oct. 31, 2001), available at http://mercatus.org/repository/docLib/MC_RSP_PIC2001-14EPA-Arsenic_011031.pdf.

⁷ For more, see *The Cost Is Too High*, pp.21-22.

⁸ Susan E. Dudley, Comments on OIRA 2005 Draft Regulatory Accounting Report, at 7.