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Presidential Personnel, White House Office of

Bullock, Katja - Appointee Files

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Folder Title:

Dudley, Susan E. -- Acting Administrator of the Office of Information / Regulatory Affairs, Office of Management and Budget

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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Form	[Form] - From: Matthew Teague	1	11/24/2008	P6/b6;
002	Form	[Form] - From: Matthew Teague	1	11/24/2008	P6/b6;
003	Form	The White House - To: Federal Bureau of Investigation - From: The Office of the Counsel to the President	1	11/19/2008	P6/b6;
004	Database Printout	Virginia Criminal History Records	1	11/19/2008	P6/b6;

COLLECTION TITLE:

Presidential Personnel, White House Office of

SERIES:

Bullock, Katja - Appointee Files

FOLDER TITLE:

Dudley, Susan E. -- Acting Administrator of the Office of Information / Regulatory Affairs, Office of Management and Budget

FRC ID:

13301

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
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- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
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DATE: 11/24/08 **PREPARED BY:** Matthew Teague

NAME: Susan Elaine Dudley

NAME & STATE: Susan E. Dudley of Virginia

POSITION: Acting Administrator of the Office of Information and Regulatory Affairs,
Office of Management and Budget

TYPE: PAS PA SES FT PT **TERM:** POP

VICE: Susan E. Dudley **GENDER:** F **DOB:** (b)(6)

BIRTHPLACE: Newton, MA **PARTY:** R **SSN:** (b)(6)

ETHNIC HERITAGE: English, Irish, Scottish **RACE:** White

CHILDREN: Gregory B. Mannix, Christopher J. Mannix **SPOUSE:** Brian F. Mannix

VOTING CITY, STATE (in 2000): Gainesville, VA **HOME STATE:** Virginia

CURRENT HOME ADDRESS: (b)(6)

HOME PHONE: (b)(6) **CELL PHONE:** (b)(6)

CURRENT POSITION AND WORK ADDRESS: Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

WORK PHONE: (202) 395-4852

EDUCATION: SM, Massachusetts Institute of Technology, 1981
BS, University of Massachusetts, 1977

AWARDS: None

PREVIOUS POSITION HELD: Director, Regulatory Studies Program, Mercatus Center, George Mason University

MILITARY SERVICE: None

PREVIOUS PRESIDENTIAL APPOINTMENTS: None

President approved: _____

Security package sent: _____

Counsel Clearance Sent: _____

Susan E. Dudley
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget

Susan Dudley was nominated by the President on July 31, 2006, and appointed on April 4, 2007, to serve as the Administrator of the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget.

Prior to her service at OIRA, from 1998 through January 2007, Ms. Dudley served at the non-profit Mercatus Center at George Mason University, where she directed the Regulatory Studies Program from 2003 to 2006. As an Adjunct professor at the George Mason University School of Law from 2002 to 2006, she designed and taught courses on regulations and led regulatory clinics.

Earlier in her career, Ms. Dudley served as a career civil servant, working as a policy analyst at the Environmental Protection Agency (1984-1985), an economist at OIRA (1985 - 1989), and an economist advisor to the Commodity Futures Trading Commission (1989 - 1991). From 1991 until 1998, she was a consultant to government and private clients at Economists Incorporated.

Ms. Dudley has authored more than 25 scholarly publications on regulatory matters ranging from e-rulemaking, to electricity, health care, the environment, and occupational safety. Before joining the Administration, she served on the boards of the Association of Private Enterprise Education and the International Foundation for Research in Experimental Economics, which was founded by Nobel Prize winning economist Vernon Smith. She has also served as a citizen member of several committees and boards in the Commonwealth of Virginia, including the Virginia Environmental Education Advisory Committee (2000-2002), the Administrative Law Advisory Committee (2000-2003), and the Virginia Waste Management Board (1996-2001).

Ms. Dudley holds a Master of Science degree from the Sloan School of Management at the Massachusetts Institute of Technology (1981) and a Bachelor of Science degree (summa cum laude) in Resource Economics from the University of Massachusetts, Amherst (1977). She lives in Virginia with her husband and two sons.

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THE WHITE HOUSE
Washington

Date _____ (For White House use only)

To: Federal Bureau of Investigation

Attn: National Name Check Program Unit (Room 6387)

Contractor and Other Government Agency Processing Unit (Room 10861)

From: The Office of the Counsel to the President

Subject's full name Susan Elaine Dudley

Other names used (including birth, prior married, and nicknames)

Social Security Number (b)(6) Date of birth (b)(6) Place of birth (b)(6)

Permanent address (also current residence, if different) (b)(6)

Current employer(s) ONB

SUBJECT'S CONSENT: I hereby authorize the FBI to provide the information specified below to the White House.

Susan Dudley 11/19/08
(Subject's Signature) (Date)

Request of FBI (Use of this form to request information developed by the FBI or contained in FBI files requires the subject's consent. Exceptions will only be permitted as authorized by the Attorney General/Deputy Attorney General.)

- Name check (NNCPU) Copy of previous report (NNCPU)
- Expanded name check (COGAPU)
- Full field investigation (COGAPU) Level 1 Level 2 Level 3 Level 4
- 5-year reinvestigation (COGAPU) Level 2 Level 3
- Limited update investigation (COGAPU)
- Other (specify) _____

The applicant is being considered for:

- Presidential appointment Position requiring Senate confirmation
- White House staff position
- Access: Detailee/other government employee Contractor Intern Volunteer
- Presidential recognition
- Other (specify) _____

Attachments: SF-86 SF-86 Supplement Fingerprint Card Other _____

Remarks/
Special instructions: _____

I certify, subject to 18 U.S.C. § 1001, that the above is sought for official purposes only and I understand that obtaining this information under false pretenses or any unauthorized disclosure may be a violation of the Privacy Act, 5 U.S.C. § 552a.

Requested by: _____
(Signature)

This request has been reviewed and approved by the White House Counsel's Office.

Approved by: _____
Signature (Counsel's Office)

Name, Last	First	Middle	Title	Occupation
DUDLEY	SUSAN	E.		Political Appointee

Position Sought	Position	Firm / Agency
Acting Administrator, Office of Information and Regulatory Affairs, OMB	Administrator 2007 – Present	OMB Office of Information and Regulatory Affairs

Notables

*****Update Includes Articles From The Washington Post, The New York Times, Federal Times, Los Angeles Times, Roll Call, USA Today, McClatchy-Tribune Business News, United Press International, And The Associated Press And Its Subsidiaries*****

Dudley Is Cited In Myriad Articles In Her Capacity As An Official At The Office Of Management And Budget.

Congressman Waxman Threatened To Hold A Vote On A Contempt Resolution For Dudley If She Didn't Submit Evidence That The White House Intervened In Regulatory Affairs At The Environmental Protection Agency.

“Democratic Rep. Henry Waxman of California, chairman of the House Government Reform and Oversight Committee, said he'd hold a vote in his committee next week on a contempt resolution, if he doesn't get the information he wants. He made the threat in letters to EPA Administrator Stephen Johnson and Susan Dudley, administrator for information and regulatory affairs at the White House Office of Management and Budget. Waxman and others have complained about evidence that the White House intervened with the Environmental Protection Agency to produce more industry-friendly outcomes on both the smog and greenhouse gas issues. Waxman has issued a series of subpoenas to learn more, but weeks have passed and neither EPA nor the Office of Management and Budget has fully complied. Waxman said Friday he'd waited long enough. ‘I regret that your failure to produce responsive documents has created this impasse, but Congress has a constitutional duty to conduct oversight of the executive branch,’ he wrote to both officials. ‘Therefore, unless the documents are provided to the committee or a valid assertion of executive privilege is made, the committee will meet on June 20 to consider a resolution holding you in contempt,’ Waxman wrote. EPA spokesman Jonathan Shradar said his agency has turned over tens of thousands of documents to Waxman ‘and there has been no wrongdoing uncovered.’ ‘The committee seems to be on a political hunt that will leave them

wanting yet again," Shradar said in a statement. OMB spokeswoman Jane K. Lee called Waxman's move 'unfortunate' and said the office that Dudley heads 'has gone to great lengths to cooperate with the committee, providing voluminous documents on an expedited basis (more than 7,500 pages).' Johnson has consistently maintained that he was the one who made the final decisions on the smog rule and the California greenhouse gas waiver. The EPA in March issued tougher health standards for ozone, commonly known as smog, but they weren't as tough as recommended by an EPA science advisory board and many health experts. The EPA also did not go as far as the science panel had recommended in setting a separate standard to protect the environment from smog. EPA and White House officials have acknowledged that a tougher standard had been opposed by the Office of Management and Budget and the issue was settled after President Bush intervened directly on behalf of the White House staff only hours before the rule was announced. On the California greenhouse gas issue, Waxman's committee staff produced a report last month concluding from interviews with high-level EPA officials that Johnson initially supported giving California full or partial permission to limit tailpipe emissions but reversed himself after hearing from the White House. More than a dozen other states were also blocked from implementing the tailpipe emission limits after Johnson rejected California's request for a required federal waiver in December." (*The Associated Press*, 6/13/2008)

President Bush Sided With Dudley In A Dispute Between Her Office And The EPA Over Specific Parameters Of Smog Regulation. "It isn't often in Washington that a paper trail on a controversial regulatory decision leads back to the White House quite so publicly. The conflict between Stephen L. Johnson, administrator of the Environmental Protection Agency, and Susan E. Dudley, head of regulatory review at the Office of Management and Budget, over how strong to make a standard on ozone, a component of smog, was unusual because President Bush was asked to break the impasse. He decided on a requirement weaker than what the EPA wanted. 'During my experience, the policy people in the administration are all part of the same administration and don't like to air a public policy dispute,' said Donald R. Arbuckle, a retired deputy of the OMB Office of Information and Regulatory Affairs who served there 25 years. Regulatory experts said this was the first time they recall a president stepping in, under a provision of an executive order allowing appeals between agencies and the OMB to be sent to him for a final decision. Typically, differences like these are worked out behind closed doors among top officials. When the Department of Transportation was sparring with the OMB in 2005 over the terms of a rule on how long truckers could drive before resting, a long conference call between

officials of the two agencies settled the differences. Democrats in Congress want to follow the paper trail further. Rep. Henry A. Waxman (D-Calif.), who is chairman of the House Committee on Oversight and Government Reform, has asked the OMB for 'unredacted copies of communications' about the ozone standard. In the Bush administration, the OMB has usually intervened at earlier, informal stages of rulemaking, where there is no public documentation. That makes it difficult to know where changes in an agency's final rule originated. Veterans of the process say the ozone dispute was extraordinary because three documents written between March 6 and March 12 spelled out in detail the policy positions and arguments that the OMB and EPA marshaled. The disagreement was over a so-called public welfare standard for ozone, which is designed to protect vegetation, parks and farm lands. When the EPA sent its final rule to the OMB on Feb. 22, it proposed lowering the permissible ozone 'public health' standard to 0.075 parts per million, the concentration in the air over an eight-hour period, from the current 0.084 parts per million. The agency proposed for the first time changing the secondary standard to one in which ozone would be measured over a seasonal period because of concerns over the cumulative effect the pollutant has on vegetation. Agricultural interests, including corn growers and others in the biofuels business, opposed the idea. They had a meeting with OMB officials, including Dudley, on Jan. 24. The administration reviewers also met with public health and environmental groups pushing to make the rule more stringent. In going ahead with the plan for a separate secondary standard, Johnson was following the advice of EPA staff members and scientific advisers. Dudley fired back in a March 6 memo to Johnson, signaling her opposition. 'The draft rule under review does not contain a reasoned basis for concluding that a secondary standard set separate from the primary standard is 'requisite to protect the public welfare,' she wrote. The EPA responded the next day that 'there is no presumption that the secondary standard should be the same as the primary standard.' The agency said it was relying on new research to propose seasonal monitoring. The letter was signed by Marcus Peacock, the deputy administrator who once worked at the OMB review office. The EPA also prepared a 'deliberative and confidential' memo on March 11 to support the new, separate standard. It was then that the feud escalated to the president. Another letter from Dudley on March 12 said Bush concluded the two standards should be the same. A senior administration official said the exchange of correspondence was included in the public record to demonstrate that no backroom deals had been made. 'We thought it would be in everyone's interest to show clearly what our concerns were and the rationale for those concerns,' said the official, who spoke on condition of anonymity because the negotiations were confidential. The goal in posting the documents on government Web sites 'was to minimize mischaracterizations of

these concerns,' the official said. Johnson said at a news conference that he made the final decision on the rule, though the published preamble to the rule reflects the influence of the OMB and the White House. Frank O'Donnell, president of Clean Air Watch, an environmental group in the District, said, 'EPA was carefully trying to keep records to show [that the OMB] was pushing them in a different direction. They were squashed at the last minute.' Waxman's attempt to learn more about the rulemaking has been stymied so far. He has received only documents already made public, according to a follow-up letter he sent to Dudley on April 1. He said the committee is entitled to the material unless the president 'intends to assert a valid claim of executive privilege.'" (*The Washington Post*, 4/8/2008)

- **Dudley Discussed Her Achievements And Goals Three Months Into Her Tenure At OMB.** (*Federal Times*, 7/30/2007) (See Attached)
- **Dudley Assumed Her Position Through A Recess Appointment By President Bush.** "Democrats also complained about the appointment of Susan E. Dudley as administrator of the Office of Information and Regulatory Affairs at the Office of Management and Budget, a powerful position that involves review of regulations from major federal agencies. Ms. Dudley has written that government regulation is not warranted 'in the absence of a significant market failure,' alarming consumer and environmental groups. Mr. Bush nominated her in August and again in January, with Democrats vowing to block confirmation." (*The New York Times*, 4/5/2007)
- **Dudley's Previous Nomination To The Same Position Was Halted By Senator Collins In December 2006.** "The nomination of President Bush's controversial pick to head the government's regulatory policy office is dead, according to a leading Republican senator. Sen. Susan Collins, R-Maine, who chairs the committee considering the nomination, said she decided not to bring the nomination of Susan Dudley to a vote this month by the Homeland Security and Governmental Affairs Committee. She said she did this because of the lack of time remaining in this Congress and opposition to Dudley's nomination from Democrats. 'It is pointless to proceed to a markup when the nomination isn't going anywhere,' Collins, who supported Dudley, told *Federal Times* on Dec. 6. 'The president could send the nomination up again next year, but it's clear that it would be not a good use of the committee's time.' White House officials said Dec. 6 they were disappointed time had run out to vote on Dudley's nomination to head the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget 'Ms. Dudley is committed to bipartisan outreach and ensuring regulatory decisions are based upon sound science,' said Christin Baker, OMB's associate director of communications. Because most of Dudley's

opposition is from Democratic senators, it is expected she would face an even tougher confirmation challenge in the next Congress if Bush renominated her. Dudley drew intense scorn from environmental and public safety groups who say she is an anti-regulatory extremist. Dudley's critics have lambasted her over comments she made against increased energy standards for consumer appliances, more stringent fuel economy regulations, and limiting the sale of genetically modified foods. Previously, Dudley has served in regulatory policy positions at the Commodity Futures Trading Commission and Environmental Protection Agency and as an economist at OIRA. Until her nomination, she was director of the regulatory studies program at George Mason University's Mercatus Center.” (*Federal Times*, 12/11/2006)

- **Dudley Coauthored “The Regulators’ Growing Budget.”** (See Attached Below)
- **Dudley Participated In White House Economic Forum.** “When administration officials asked conference participants for ideas and suggestions, they recited White House proposals: more tax cuts, limits on lawsuits, fewer federal regulations. ‘From the moment you get out of bed in the morning, you’re regulated,’ said George Mason University professor Susan Dudley, who said she would like to see the government do better cost-benefit analyses of regulatory initiatives.” (*Los Angeles Times*, 12/16/04)
- **Although Dudley Noted That President George W. Bush’s Administration Has A Good Record On Regulation, She Urged The President To Clean Out “Sunsetting” Rules In His Second Term.** “This isn’t the first time an administration has tried to clean its regulatory closet. What usually happens is a well-intentioned first weeding and then the effort goes to seed. Presidents Jimmy Carter, Bill Clinton and George H.W. Bush also had initiatives to streamline the regulatory process. Susan Dudley of George Mason University’s Mercatus Center, which was the most prolific nominator in 2001 (44 of the 71 recommendations), said the current administration has done a better job than its predecessors of holding the line on new rules. But reviewing existing regulations has taken a back seat. ‘The administration has an opportunity in its second term to establish procedures for ‘sunsetting’ rules that have outlived their purpose and reforming regulations that have had unintended consequences,’ said Dudley, who directs the center’s regulatory studies program.” (*The Washington Post*, 12/7/04)
- **Dudley On President Bush And Regulation:** “Susan Dudley, director of the Mercatus Center’s Regulatory Studies Program at George Mason University, rates Bush as a proponent of smarter regulation. She said Bush was ‘more careful’ about regulating than Clinton, but she did not consider Bush to be deregulatory or

anti-regulatory.” (*The Washington Post*, 11/2/04)

Profile Of Dudley And Mercatus Which Notes That “Partly Because Of Mercatus’s Reputation For Ideological Fervor, White House Regulators Have Recently Distanced Themselves From The Think Tank”:

“Mercatus’s 29-person staff works from a warren of small offices decorated with Mexican folk-art paintings in George Mason’s law school in Arlington, Va. The center spends about 9% of its \$6.8 million budget on its in-house regulatory program. Much of the rest of the budget is devoted to seminars and outside research on economic issues including regulation. Ms. Gramm stepped down as director of Mercatus’s regulatory unit last year, although she remains a Mercatus fund-raiser. She was succeeded by a protege, Susan Dudley, who had worked for Ms. Gramm at the Reagan White House. Ms. Dudley, a 49-year-old graduate of Massachusetts Institute of Technology’s Sloan School of Management, specializes in environmental regulation and drives a 2001 Toyota Prius hybrid to work with her husband, another alumnus of the White House regulatory office who ended up at Mercatus. She calls herself a ‘free-market environmentalist,’ explaining she wants to protect the environment through ‘market-based incentives.’ One example of how Mercatus works the system was its 2003 effort to blunt an EPA rule on how many fish a power plant could kill when it sucked in river water for cooling. The rule would cost utilities money while benefiting commercial fisherman by giving them more fish to catch. The EPA argued that there was an additional benefit: the ‘sense of altruism [and] stewardship’ consumers would feel by protecting river ecosystems. It contended this was worth hundreds of millions of dollars -- more than the benefit to fishermen. Ms. Dudley and another Mercatus researcher poked at the calculation. They found it rested in part on a study of consumers in affluent eastern Long Island who were asked whether they would be willing to pay to protect the wetlands. By the EPA’s logic, Ms. Dudley argued in formal comments and an opinion piece in the Washington Times last year, Americans ‘place a much higher value on a fish swimming free than one on your plate.’ The article was passed around EPA headquarters, and agency officials say it added to the pressure on the EPA from the White House and the Energy Department to drop the altruism calculation. Mary Smith, an EPA official who worked on the rule, says some of Mercatus’s criticisms were overstated but the EPA didn’t have the time to do a fresh study. The EPA issued the final fish-kill rule earlier this year, but acknowledged that the economic costs of the regulation far outweigh the benefits. Mercatus sees that as a victory because it helps the think tank make the broader case that many environmental rules are more expensive than they are worth. Mercatus analysts sometimes contort themselves to build a case against regulation. Ms. Dudley and Ms. Gramm criticized one EPA rule to reduce surface ozone

because the EPA didn't take into account that clearer skies would increase the rate of skin cancer. Later, two other Mercatus scholars blasted a different EPA rule on diesel engines, arguing that it was bad because it would increase surface ozone in some cities. This time they didn't say anything about the cancer- prevention benefits of more smog. 'We didn't go to the next step,' Ms. Dudley acknowledges. Lisa Heinzerling, a Georgetown University law professor, says Mercatus 'cites the most outlandish costs of regulation.' She helped organize a liberal think tank called the Center for Progressive Regulation to counter Mercatus's influence. Partly because of Mercatus's reputation for ideological fervor, White House regulators have recently distanced themselves from the think tank. The White House regulatory office has approved a number of regulations that Mercatus criticized, including the diesel-engine rule. Over the past year or so, Mercatus has tried to broaden its reach, hiring former Democratic Rep. Tim Roemer of Indiana. He has made an effort to invite Democratic staffers to Mercatus seminars. Another new hire is former Rep. J.C. Watts of Oklahoma, a Republican. In May Mercatus staged a session, funded by Gillette, for staffers of the Congressional Black Caucus and the National Association for the Advancement of Colored People. Mercatus researchers argued that if lawmakers want to limit pollution, they should try market-based solutions, such as trading emission permits. Although the Bush administration has drawn criticism from liberals for easing environmental regulations, Ms. Dudley argues that even under Republican rule overall regulatory costs continue to rise. The answer, she says: more Mercatus studies to show the real burden of red tape. 'Clean air sounds so good,' she says. 'But what are the costs? They're hidden.'" (*The Wall Street Journal*, 12/12/00)

- **Dudley Coauthored Report On Federal Regulation During President George W. Bush's Tenure.** (See Attached Below)
- **Dudley Commented On Best And Worst Rules of 2003.** "Best rule of 2003: The FDA requirement that manufacturers of conventional foods and some dietary supplements list trans fatty acid content on the Nutrition Facts Panel of their products by Jan. 1, 2006. This final rule was a significant improvement over FDA's 1999 proposal, which would have required manufacturers to include the amount of trans fat on the 'saturated fat' category of the label, even though trans fats are not saturated fats chemically, nor are they the same in their biological effects. In the final rule, FDA wisely decided to allow manufacturers to tell the truth about trans fats in their products. Worst rule of 2003: The National Highway Traffic Safety Administration corporate average fuel economy (CAFE) standards for light trucks. NHTSA continues to force vehicle manufacturers to achieve higher miles per gallon than the market would offer, or consumers would choose, in the absence of the regulation. Absurdly, its economic model shows large net

benefits to consumers even if markets are assumed to operate perfectly, i.e., without counting any externalities. We know this must be false, because any regulatory constraint that forces consumers away from their preferred choices must have negative net benefits (i.e., make Americans worse off). State of regulatory apparatus: The Bush administration has reenergized the regulatory oversight function that has been in the Executive Office of the President for more than three decades. The policies and guidelines issued by the Office of Information and Regulatory Affairs have increased the transparency, scientific basis, and analytical rigor of the regulatory process. Unfortunately, OIRA and the agencies (with the possible exception of Labor and Interior) have focused on improving technical and analytical methods, without recognizing the importance of such fundamental American values as market solutions, property rights, individual choice and responsibility, or federalism.” (*The Washington Post*, 12/30/03)

Dudley Letter To The Editor On EPA Regulation Is Attached Below.

In 2001, *Cox News Service* Reported Dudley’s Rather Neutral Assessment Of President George W. Bush’s Delay In The Implementation And Promulgation Of Clinton Regulations. According to the report: “Back in January, many Democrats were alarmed when Bush announced the 60-day delay on new rules. Those regulations, most of which had been years in the making, had been approved by President Clinton during his final days in office, but had not yet taken effect. But with the 60-day period now over, the new administration’s positions are better known and ‘the record is mixed,’ said Susan E. Dudley, senior researcher at the Regulatory Studies Program at George Mason University in Northern Virginia. Bush is revealing that he is ‘more of a pragmatic businessman, somewhere in the middle,’ she said” (see attached article.) In 2002, *CFO* further reported: “We saw a flurry of ‘midnight regulations’ by Clinton, and Bush put a hold on them on day one,’ says Susan Dudley, a senior research fellow at the Mercatus Center at George Mason University. Many were eventually allowed to go through, she notes, but by reversing some and amending others, the Bush Administration sent a clear message that regulatory reform was a major agenda item (see box, below).”

In 1997, *The Lancaster New Era* Reported Dudley’s Remarks On Ozone: “Since ozone haze acts to screen humans from direct sunlight, significant reductions in ozone could cause thousands of new cases of skin cancer and eye cataracts each year, according to Susan Dudley, a former federal government economist and private consultant.” Dudley also co-authored “EPA’s Proposed Ozone Standard May Harm Public Health and Welfare.”

- **In 1997, *The New York Times* Published Critical EPA Commentary Co-Authored By Dudley:** “As appealing as it may seem, we’ll stick in the real world, where E.P.A. regulations can do more harm than good when they’re based on poor science and bad economics.”
- **In 1997, *Regulation* Published An Article Co-Authored By Dudley Titled, “Congress And The Clinton OMB: Unwilling Partners In Regulatory Oversight?”**
- **In 1997, Dudley Testified Before The U.S. Senate Subcommittee On Clean Air, Wetlands, Private Property And Nuclear Safety To Discuss The Risk Assessment Underlying The Environmental Protection Agency’s Proposed National Ambient Air Quality Standard (NAAQS) For Ozone.**
- **In 1998, *Regulation* Reported:** “Even the EPA’s cap-and-trade proposal could be improved if the EPA defined the cap, not in terms of tons of NOx removed at the source, but in terms of the health benefits from reducing ozone. It would require the development of nonuniform caps tailored to the impacts attributable to individual jurisdictions. The EPA could also better target the risks of concern by adopting a trading approach that limits trades between subregions.”
- **In 2000, *The Star Tribune* (Minneapolis) Reported:** “Susan Dudley, a deputy OMB branch chief from 1984 through Reagan’s second term, said Bush’s appointees are ‘likely to be more skeptical of whether regulations will solve environmental and public health and safety problems and look at the effects of incentives and other approaches.’”
- **In 2000, *Chemical Week* Reported:** “Others say the EPA proposal does not protect against the threat of terrorist attack nor provide the public with useful information. ‘After we reviewed EPA’s rule we realized it did not meet the needs that they were trying to balance -- the public’s right-to-know and preventing terrorist attack,’ says Susan Dudley, senior research fellow at the Mercatus Center (Arlington, VA), a public policy research center at George Mason University. The revised proposal limits what information is placed on the government Web site but does not prevent other groups from posting all of the data on their independent Web sites, says Dudley.”
- **Dudley, On Washing Machine Regulation (*Government Executive*, 2001):** “Washed Up Which brings us back to the washing machine regulation. The Energy Department drew up the rule as part of what it says is an effort to save energy as well as save consumers money over the life of their machines. The department estimates that the front-loading machines required by the rule will cost 57 percent more than top-loading machines, but will ultimately save

consumers money if they wash more than six loads a week. If they wash less than that, they will lose money. Of course, people may do more loads because front loaders wash less clothing at a time. Mercatus' Susan Dudley says the rule was crafted under what might be called a 'bootleggers and Baptists' theory, a reference to the unlikely alliance that backed federal Prohibition of alcoholic beverages. The washing machine rule was backed by appliance manufacturers, who will be able to sell more expensive machines, and environmental activists with little input from consumers, she says. The average front-loading machine costs between \$700 and \$1,000, while top-loaders start at \$400. Front-loaders are available now, but 95 percent of Americans buy top-loading machines, she says."

In 2003, PR Newswire Cited A Report Co-Authored By Dudley Which Stated Significant Increases In Regulatory Enforcement In President George W. Bush's Budget: "In Regulatory Spending Soars: An Analysis of the U.S. Budget for Fiscal Years 2003 and 2004", the Weidenbaum Center's Melinda Warren and Mercatus Center's Susan Dudley analyze projected spending and staffing for the 60 regulatory agencies as proposed in President Bush's 2004 Budget of the United States Government. The \$30.1 billion price tag is a 14.9 percent increase over actual spending for 2002. A 4 percent decline is scheduled for 2004."

Dudley Co-Authored A 2003 Report Critical Of The EPA Entitled "EPA Dodges A Rule." An excerpt: "Apparently, EPA thinks we place a much higher value on a fish swimming free than on one on our plate. EPA's estimates suggest that we are willing to pay between \$61 and \$113 per pound for fish that we don't eat (just to know they are swimming safely) compared to the \$1.12 a pound that we have revealed we are willing to pay for fish at our neighborhood grocery store" (*Scripps Howard News Service*, 2003).

Dudley Contributed To U.S. Senator George Allen (R-VA).

Flags

Dudley Was A Contributor To The Property And Environment Research Center's Report Card On President George W. Bush's Administration; Report Gave The President A "C+" Overall, And The Section On Regulation (Authored By Dudley) Gave The President A "B-". "President Bush's environmental policy has received a C+ grade from PERC, the Property and Environment Research Center. The grade is based on the administration's adherence to respect for property rights, market trading, and decentralization. These principles are summed up by the term 'free market environmentalism.' PERC Senior Fellow Bruce Yandle announced the grade at the National Press Club in Washington, D.C. 'When reviewing public policy actions, the FME perspective looks for ways to change public managers' incentives and to open up

opportunities for voluntary actions while never relaxing the pursuit of environmental goals,' said Yandle. PERC is a nonprofit institute based in Bozeman, Montana, dedicated to improving environmental quality through markets. It issued a mid-term report card on the Bush administration in January 2003. The administration's grade for the full four years, Yandle noted, is better than the C? the administration received at mid-term, 'but not the kind of grade that deserves a certificate from the dean.' The C+ grade suggests that the Bush administration has improved slightly on the Clinton administration in bringing market approaches into environmental policy. The grades for the 15 subjects studied range from Ds to one B+, except for an F for air quality. The best grades came in the areas of regulatory review, agricultural chemicals, security of chemical plants, water quality, water allocation, and global climate change. Yandle's team includes policy analysts from think tanks and universities, including: Terry L. Anderson (PERC's executive director), Andy H. Barnett, Susan Dudley, Holly L. Fretwell, B. Delworth Gardner, Dana Joel Gattuso, Donald R. Leal, Angela Logomasini, Joel Schwartz, and Daniel Simmons. PERC Senior Fellow Jane S. Shaw coedited the 115-page report with Yandle." (Accessed At; <http://www.perc.org/perc.php?id=477>)

- **Dudley's Scoring Of President Bush's Regulatory Policy Was Lukewarm.** "Despite some bright spots, we do not see much evidence that OIRA is an advocate for market solutions, property rights, individual choice and responsibility, or federalism. We give the Bush administration a B- for its final regulatory review grade." (See Attached PDF File, Accessed At; http://www.perc.org/pdf/reportcard_2004/12regulationrev.pdf)
- **According To FEC Records, A Susan E. Dudley Of Washington DC, Affiliated With Putnam, Hayes And Bartlett Inc., Contributed \$500 To Walter Mondale's 1984 Presidential Campaign.**
- **Dudley Has Three Virginia Traffic Citations.** (See Attached Below)

DUDLEY, SUSAN

5/28/1999 \$1,000.00

GAINESVILLE, VA 20155

GEORGE MASON UNIVERSITY -[Contribution]

FRIENDS OF GEORGE ALLEN

DUDLEY, SUSAN

5/28/1999 \$1,000.00

GAINESVILLE, VA 20155

GEORGE MASON UNIVERSITY -[Contribution]

FRIENDS OF GEORGE ALLEN

VIRGINIA CRIMINAL HISTORY RECORDS
FAIRFAX COUNTY DISTRICT COURT

Name: DUDLEY,SUSAN E

Date of Birth: (b)(6)

SSN: (b)(6)

*****OFFENSE RECORD*****

Offense: VIOL HOV RESTRICTIONS
Offense Date: 11/22/1994
County or Jurisdiction: Fairfax County
Case Disposition: PRE-PAID
Case Number: T1994-166507-A1
Disposition Date: 1/27/1995

VIRGINIA CRIMINAL HISTORY RECORDS
TRAFFIC COURTS

Name: DUDLEY, SUSAN ELAINE

*******OFFENSE RECORD*******

Offense: FAIL TO OBEY RED LIG
Offense Severity: Infraction
Offense Date: 6/5/1998
Filing Date: 6/10/1998
Court Jurisdiction: FAUQUIER GENERAL DISTRICT
Case Disposition: Prepaid
Case Number: 061GT9800764600
Disposition Date: 7/17/1998
Sentence Type: Fine

Offender information

Name: DUDLEY, SUSAN ELAINE

Address: VA

Case Number: 061GT9800764600

Sex: Unknown

Offenses

Case Number: 061GT9800764600

Offense Date: 6/5/1998

Arrest

Level/Degree: INFRACTION

Court Case

Number: 061GT9800764600

Court Offense: FAIL TO OBEY RED LIG

Court

Disposition: PREPAID

Court

Disposition

Date: 7/17/1998

Court

Level/Degree: INFRACTION

Court Activity

[NONE FOUND]

Her focus is regulations -- and their consequences

SECTION: Pg. 22

LENGTH: 1388 words

One position in government that tends to provoke **controversy** is that of director of the Office of Information and Regulatory Affairs.

When **Susan Dudley** was nominated to the Office of Management and Budget post last summer, **liberal** groups were outraged. In academic writings, **Dudley** had argued that consumers should have more say in the products they purchase rather than rely on government to limit options through regulation. With such opinions, Dudley would be a threat to public health and safety, said Joan Claybrook, president of Public Citizen. She would be "ten times worse" than her predecessor, John Graham, said Robert Shull of OMB Watch.

OIRA and its small staff of around 50 regulatory analysts packs a huge punch overseeing federal regulatory policy. The office is ground zero in the battles between groups that advocate increased regulations on corporations and consumers, and groups that advocate government restraint in the marketplace. **Dudley**, never confirmed by the Senate, was appointed to the job by **President Bush** during a Senate recess in April. The brutal confirmation hearing process was beneficial, she says.

"I was a little bit taken aback by the passionate opposition to my nomination, but I realized that it's the office that there's passionate debate about. Anybody who believes in the office and the function it does is bound to have a reaction," she said. "I've learned not to take things personally. My skin is thicker than it was a year ago."

Dudley moved to Washington 25 years ago with ideals to make the world a better place. She calls herself a free-market environmentalist and has driven a hybrid car for years. She served as a career civil servant at the Environmental Protection Agency and OMB before working as a private-sector consultant on regulatory policy. She also ran the Regulatory Studies Project at George Mason University's Mercatus Center.

Her academic papers and research advocating less regulation and more consumer options caused her the most grief with **liberal** critics.

"I don't have horns," she joked in her quiet and unassuming manner.

Following are edited excerpts of an interview in which **Dudley** talked about her first few months on the job:

Q: How do you envision OIRA's role and your role as administrator?

Internal Presidential Personnel Office Document

Do Not Disseminate

Dudley: The role of the office has been reinforced throughout the last 25 years to look out for the broader public interest and both intended and unintended consequences of regulatory activity. My role will be to make sure that we continue to do that well.

Q: What's high on your agenda?

Dudley: I'm going to look at midnight regulations. Looking back at the end of administrations, we see that, regardless of who is president and which party controls Congress, there is a statistically significant increase in regulations.

I'm not going to promise that you're not going to see an increase in regulatory activity but that it will not be slapdash. To accomplish that, we're talking to agencies now and saying "We understand you have some priorities -- let's make sure you don't try to rush them at the end, make sure there's an opportunity for interagency review, public comment and analysis so you know what the effect of the regulations are as well."

Q: What do you see as your biggest management challenges?

Dudley: One thing that is not a management challenge is managing this staff. We have a terrific career staff. They're principled, with a wide variety of education and are well respected in the field of regulatory policy, statistical policy and information policy.

Homeland security regulations are a challenge. It's a newer field, it's harder to understand the effects of these regulations. How do we design them to make them as effective as possible? What is the likelihood of something happening? Those are very difficult things to understand before the fact. All of the things that OIRA does -- relying on statistical information, making sure we have quality information -- will be needed because it's such a new area of regulatory activity.

Q: Under a January executive order, each agency is required to have a presidentially appointed regulatory officer. Why?

Dudley: We haven't placed any new regulatory officers in the agencies. These are existing positions. President **Clinton's** executive order had regulatory policy officers in each agency. This change makes them be a presidential appointee who can go in front of Congress. Now we have a list of who the regulatory policy officers are in each agency. It tends to be general counsel, deputy secretary or the head of the policy office. The position helps with interagency coordination on regulatory issues but also to help coordinate things through OMB. We had gotten to the point that OMB didn't know -- and, in fact, some agencies didn't know -- who their regulatory officers were.

Q: Which of Graham's reforms do you consider the most important?

Dudley: Several of his reforms went to improving our understanding of the consequences of regulations before we issued them. He also improved information quality guidelines and peer review requirements. He built on **Clinton's** guidelines for regulatory analysis, issuing the guidelines for public comment and publishing them as a circular.

Q: Graham issued hardly any return letters -- requiring agencies to reconsider a regulation or their analysis of it. Will you continue in that vein?

Dudley: He did at beginning -- his view was after he sent the initial return letters, agencies took more seriously their responsibility for doing the analysis and justifying their regulatory actions. So there was less need for return letters.

Q: Any plans for prompt letters -- telling agencies to begin work on a regulation?

Dudley: I think they're a valuable tool, and I wouldn't reject out of hand that I would use them, but I do respect agencies' expertise on where they should be focused and setting priorities. My style tends to be collaborative.

Q: Where do you come down on the cost-benefit approach to determining whether a regulation's benefits balance its costs?

Dudley: I've never been a proponent of strict cost-benefit analysis. It's important to inform decisions, but it's hard to put prices on both the cost and benefit side. When determining the need for a regulation, it's good to look at how people are interacting in the marketplace. Is the federal government the appropriate place to handle something, or are state and local governments better able to handle the issue? And then we need to look at different alternatives.

If the core problem is that people don't have information, then banning something or mandating something might not address that problem as well as providing information. It's about understanding the best available evidence.

Cost-benefit analysis comes into play by looking at the distributional impacts. Who is affected? Who receives benefits? Questions of choice and responsibility come in there, too. What kind of incentives are you providing?

Q: What do you mean that some regulations are best handled at levels other than the federal government?

Dudley: Autos are in a national market and cars cross state boundaries -- that's something where it makes sense for federal government to have the lead role in regulating. And local or state governments might be better able to address water-quality needs -- those may depend on whether or not something crosses state borders or affects interstate commerce. And local communities have different preferences or needs they can address better.

Q: What progress is being made in reducing the government's regulatory paperwork burden as required by the Paperwork Reduction Act?

Dudley: The most recent report showed that there's an 8 percent increase in burden on citizens from 8.24 billion hours to 8.92 billion hours. There are a variety of different factors that went into that, but the principal driver of new burden was adjustments in the factors that agencies used to estimate burden in order to make them as accurate as possible.

Q: How are the staff here adjusting to working with someone "ten times worse" than her predecessor?

Dudley: I worked with many people who were here when I worked here before. The staff is enthusiastic about the office, and so am I. I have the best staff in the government and the best job in the government. Certainly the one I've always thought was most interesting.

Federal Times

January 12, 2004 Monday

HEADLINE: Administration Tightens Rules for Regulators

BYLINE: By MOLLIE ZIEGLER

BODY:

Federal regulators are heading into 2004 with a lot on their plate after logging a banner year in terms of regulatory output.

This year, they will develop new guidelines for food products and hybrid-electric cars if they follow the suggestion of the Office of Management and Budget. They also will begin working under new OMB rules designed to make their regulations better able to withstand outside challenges.

Last year began with the release of the annual report detailing regulations' costs and benefits to the nation. The White House's Office of Information and Regulatory Affairs (OIRA) reported as much as \$230 billion in benefits from regulations, at a cost of \$42 billion.

Included in that January 2003 report, however, was new guidance that requires agencies to perform more analysis of the regulations they create. Now, agency managers must compare alternative regulatory plans and calculate more precisely the costs and benefits of regulations.

Public interest groups said the changes were intended to give the administration more control over the regulatory process. "OIRA has shifted gears over the last several years and taken the report in directions Congress never considered," said Reece Rushing, a policy analyst at the Washington public interest group OMB Watch, in his comments on the report.

President Bush railed against regulatory zeal during his campaign for the White House. But reports released in 2003 showed record regulatory activity and staffing under the Bush administration. The Federal Register reached a record 75,606 pages of federal regulations in 2002, up from 74,528 pages in

2000, according to a report from the Cato Institute, a libertarian think tank in Washington. However, the number of regulations promulgated during 2002 went down by 322 over the previous year, according to the study. EPA and the Transportation, Treasury, Agriculture and Interior departments accounted for half of the regulations.

The government budgeted more than \$30 billion on administrative and staffing costs for regulatory activity in 2003, according to a July report by the Mercatus Center at George Mason University, an Arlington, Va., economic research institution that promotes limits on regulatory activity. That represents an increase of nearly 15 percent over 2002.

Susan Dudley, who co-authored the report, said increased regulatory spending was in response to terrorist attacks and corporate accounting scandals, with most of the increase due to staffing increases at the Homeland Security Department, Transportation Department and Securities and Exchange Commission.

Also last year, OIRA worked with the Environmental Protection Agency to speed up the creation of a regulation that limits emissions from off-road, diesel-powered farm and construction vehicles. It was the first time that OIRA - created to rein in regulations - worked with a regulatory agency to speed a regulation.

8 Billion Hours of Paperwork

The paperwork burden that agencies place on the public has also grown under Bush. The General Accounting Office announced in April that agencies failed to rein in paperwork in the eight years since Congress passed the Paperwork Reduction Act. Citizens and companies spent a record 8 billion hours and \$230 billion in 2002 complying with federal paperwork requirements.

Treasury, Health and Human Services, Transportation, Labor, the Environmental Protection Agency and the Securities and Exchange Commission were deemed the worst offenders. IRS' record was "dismal" according to Doug Ose, R-Calif., chair of the Government Reform Committee's subcommittee on energy policy, natural resources and regulatory affairs. With 774 forms used to collect data, the IRS imposes 6.5

billion hours of paperwork on the public. The agency made only three changes to reduce paperwork in 2002 and 2003.

The increases led Ose to call for the creation of a regulatory budget, limiting the amount of regulations that agencies could pass each year.

On the other hand, regulatory activity remained flat in one area where observers expected an increase. Critics of the 2002 Data Quality Act predicted that agency managers would be flooded with public challenges to the quality of data used in making regulations. While the number of challenges did not spike, the substantive nature of the challenges was surprising to some.

The complaints filed this year were "sophisticated and took a long time to develop," said Wendy Wagner, an environmental law professor at the University of Texas Law School.

Only two dozen challenges were received by agencies last year, not counting challenges received by the Transportation Department questioning information on individuals' driving records. However, some public interest groups and industry advocates complained about the accuracy of specific studies used as the basis for major regulations.

Even more surprising was the use of the data quality challenge by liberal senators and environmental groups. The Army Corps of Engineers and EPA were the targets of data quality challenges intended to strengthen regulations that were filed by Public Employees for Environmental Responsibility, as well as Sens. Jim Jeffords, I-Vt.; Paul Sarbanes, D-Md.; Barbara Boxer, D-Calif.; and Frank Lautenberg, D-N.J.

Peer Review

Agencies soon will begin operating under guidelines OMB issued in August to help make regulations more resistant to challenge. Due to go into effect early this year, peer-review guidelines require agencies to have their regulatory studies, methods and models reviewed by independent scholars.

While many government watchdogs support the move, which puts government scientists under the same system as their colleagues in

academia, some worry the move was an attempt by the administration to gain more control over regulatory activity.

"It's difficult to argue against peer review, but these new guidelines are a wolf in sheep's clothing," said Sean Moulton, senior policy analyst at OMB Watch. He said the administration would stack peer review panels with scientists opposed to health and environmental regulations.

Regulation

September 22, 2005

LENGTH: 1577 words

HEADLINE: The regulators' growing budget.

BYLINE: Dudley, Susan E.; Warren, Melinda

BODY:

IN 1978, MURRAY WEIDENBAUM OBSERVED IN this magazine that "government regulation of business is one of the growth areas of the U.S. economy" ("On Estimating Regulatory Costs," May/June 1978). He attempted to measure that growth by examining the costs incurred by the federal government to operate regulatory agencies.

The Center for the Study of American Business, which he started at Washington University (later renamed the Murray Weidenbaum Center on the Economy, Government, and Public Policy) has continued over the years to track the growth in the administrative costs of regulation. Today, the Weidenbaum Center has teamed up with the Mercatus Center at George Mason University to continue Weidenbaum's path-breaking analysis. Their annual reports examine the Budget of the U.S. Government presented by the president to Congress to track the expenditures of federal regulatory agencies and the staff needed to run them. Last June, the centers released the 27th annual "regulators' budget" report, entitled Upward Trend in Regulation Continues: An Analysis of the U.S. Budget for Fiscal Years 2005 and 2006.

It is interesting to compare today's regulators' budget with the data that led Weidenbaum to remark on the growth in regulation in 1978. He examined the budgets of 41 regulatory agencies; today, we track 68 regulatory departments and agencies. He estimated that the federal regulatory apparatus employed 215,024 full-time people in fiscal year 1979; today we estimate that it employs 242,376. Most dramatic, though, is the almost 10-fold increase in the total regulators' budget: Weidenbaum pegged it at \$ 4.8 billion in 1979, and in fiscal 2006 it will reach \$ 41.4 billion.

TYPES OF REGULATION When Weidenbaum began the process of putting together an analysis of the costs and staffing of federal regulatory agencies, he explicitly made some distinctions between regulation and other powers of government. Activities that are not considered regulatory in the annual report include tax power, credit power, procurement power, and transfer payments. Although the agencies involved in those activities issue regulations that affect the private sector, their end purpose is not to regulate but to aid in such activities as collecting taxes and distributing revenue.

Weidenbaum separated the data into two major categories: economic regulation (e.g., regulation typically carried out by such agencies as the Securities and Exchange Commission and the Federal Trade Commission) and social regulation (e.g., regulation typically carried out by the Environmental Protection Agency and the Occupational Safety and Health Administration). Regulations were then broken down into such subcategories as consumer safety and health, energy and environment, etc. As regulatory priorities have changed, subsequent reports have identified additional regulatory subcategories and have expanded coverage. We now divide the social regulation category into six subcategories:

- * Consumer safety and health
- * Homeland security
- * Transportation
- * Workplace
- * Environment
- * Energy

The economic regulation category is divided into three subcategories:

- * Finance and banking
- * Industry-specific regulation
- * General business regulation

CONTINUING GROWTH The latest report tracks both staffing and spending from 1960 to the present. Figure 1 graphs the changes in inflation-adjusted regulatory expenditures since 1960 (using 2000 dollars). While spending has generally increased over time, the rate of growth has varied depending on the philosophies of elected officials in the executive and legislative branches of the federal government. In the early years of the Reagan administration, for example, regulatory expenditures declined.

[FIGURE 1 OMITTED]

The 1960s witnessed a growth in regulatory expenditures. Total spending at federal regulatory agencies increased by \$ 3.2 billion between 1960 and 1970. This represents a real annual growth rate of 8.6 percent and a total increase of 127.1 percent over the decade. Most of that growth--more than \$ 2 billion--occurred in social regulatory agencies (which experienced a real increase of 136.9 percent in annual budget over the decade). Economic regulatory programs expanded more slowly, by \$ 0.9 billion or 107.8 percent over the period.

The 1970s brought increased expenditures on federal regulation. Over that decade, real spending at regulatory agencies grew by \$ 7.7 billion, or 134.5 percent (8.9 percent per year on average). Social regulatory expenditures continued to grow rapidly and increased by \$ 7.2 billion (181.2 percent) while economic agencies showed a much smaller increase of \$ 0.5 billion (29.2 percent). Most of the growth occurred in the early part of the decade, when several of the significant social regulatory agencies (particularly the EPA and OSHA) were formed. During the 1970s, social regulations grew from under 70 percent of the total regulators' budget to over 80 percent. Double-digit increases in the first three years preceded much slower growth in the budgets of both social and economic regulatory agencies during the latter part of the decade.

This slower rate of growth continued into the early 1980s. Total annual expenditures on regulatory programs declined by 5.2 percent between 1980 and 1985, but rebounded in the second half of the decade, increasing by 31.1 percent overall between 1985 and 1990. Annual spending on regulatory activities at the end of the decade was \$ 3.3 billion more (in 2000 dollars) than at the beginning. Throughout the decade, spending on economic regulation increased at a faster rate--36.5 percent between 1980 and 1990--

than spending on social regulation, which grew by 21.8 percent over the same period. On an annual basis, inflation-adjusted spending increased by an average of 2.2 percent per year over the decade.

Regulatory spending continued to increase in the 1990s, for a total increase of 50.9 percent over the decade, or \$ 8.5 billion. The budgets of agencies administering social regulation increased by 53.3 percent over the decade, and those related to economic regulations increased by 40.6 percent. The first few years of the decade witnessed greater percentage increases than the later years--an average of 8.1 percent per year between 1990 and 1992, compared to an average of 3.2 percent per year between 1992 and 2000. Regulators' budgets actually declined in real terms in 1994 and 1996. On an annual basis, the real rate of increase averaged 4.2 percent over the decade.

Between 2000 and 2005, budgets devoted to regulatory agencies increased 41.6 percent in real terms. The FY 2006 budget requests that Congress allocate \$ 41.4 billion for regulatory activities, up from \$ 39.5 billion in 2005. This reflects a 4.8 percent increase in outlays directed at writing, administering, and enforcing federal regulations. The regulators' budget is growing at a faster rate than other nondiscretionary spending, which will increase only 2.1 percent in 2006. Since 2000, we have witnessed an increase in real spending on regulatory activities of \$ 11.6 billion. Though lower over the past two years, the annual average increase of 6.5 percent for the 2000--2006 period is the highest since the 1970s, when Weidenbaum first began tracking on-budget regulatory costs.

Regulatory activities related to homeland security get the largest increases in the FY 2006 budget; the Department of Homeland Security is budgeted to receive an additional \$ 1.1 billion in regulatory funding compared to last year. The regulators' budget also includes large increases in outlays at the EPA (\$ 250 million), the Food and Drug Administration (\$ 191 million), and the Patent and Trademark Office (\$ 351 million). Staffing at the federal regulatory agencies is expected to reach an all-time high of 242,376 in 2006.

OTHER COSTS Of course, as Weidenbaum observed in his 1978 Regulation article, regulations impose social costs on individuals and businesses beyond the direct tax dollars expended to write and enforce them; the on-budget costs merely provide insights into the trends in magnitude of the hidden tax. At that time, he estimated that, for every dollar of on-budget regulatory cost, the private sector spends \$ 20. In contrast, current

comparisons suggest that for every dollar of direct budget expenditure devoted to regulatory activity, the private sector (individuals as consumers, investors, workers, etc.) spends \$ 33 in compliance. (This is based on a comparison of the regulators' budget in 2000 with the Small Business Administration's estimate that the cost of federal regulation on American businesses, workers, and consumers in 2000 was \$ 843 billion per year.)

Weidenbaum's 1978 observation that "government regulation of business is one of the growth areas of the U.S. economy" continues to hold true today. The dramatic increase in agency staffing and spending over the last few years suggests that we are not likely to see a decline in the regulatory state, or the hidden tax regulations impose, in the near future.

The human costs of EPA standards

Gramm, Wendy L, Dudley, Susan E. Wall Street Journal. (Eastern edition).
New York, N.Y.: Jun 9, 1997. pg. A.18

Though a quarter of the nation is unable to achieve the U.S. Environmental Protection Agency's current standards limiting ground-level ozone, the agency is busily trying to make its standard even more demanding. The proposed regulation under the Clean Air Act has sparked heated debate -- and well it should. The EPA itself predicts that the new regulation's costs will far exceed its benefits. What's more, the agency's science advisers found that the proposed level would not be significantly more protective of public health than the current level.

Anyone familiar with federal regulation should not be surprised to find that the EPA is proceeding with a rule that will impose huge costs on society while providing little in the way of health or environmental benefits. What is surprising, however, is that the EPA's proposal would actually harm public health.

Some background: Ozone is a gas that occurs naturally in the earth's troposphere and stratosphere. It is also created when sunlight reacts with nitrogen oxides and volatile organic compounds. Tropospheric (ground-level) ozone is the primary constituent of urban smog and is associated with respiratory problems. But ozone, whether in the troposphere or stratosphere, also screens harmful ultraviolet rays.

In November, the EPA proposed to reduce the allowed level of ground-level ozone by about 10%. The agency plans to issue a final rule in July. In its regulatory impact analysis, the EPA acknowledges that the costs of partially attaining the new standard (between \$600 million and \$6.3 billion per year) exceed the health and welfare benefits (between zero and \$2.1 billion per year).

It's astonishing enough that the government is proposing to impose burdens on the American people that, by its own acknowledgment, aren't justified by the benefits. But in our view the EPA's estimates are far too optimistic. We estimate that the full costs of implementation could exceed \$80 billion per year and cause public health and welfare to decline.

The EPA defends its proposal, citing the benefits it is expected to provide to children and adults suffering from asthma and other respiratory diseases. Asthma is a disturbing health problem, particularly since reported cases have been increasing in recent years (by 45% in the past decade), one-third of its victims are children, and it is most severe among the urban poor. But is air pollution to blame? It seems unlikely, given that air quality has been steadily improving for decades. Ozone levels declined 6% on average between 1986 and 1995.

Moreover, even by the EPA's estimates, the proposal's expected benefits to those afflicted with asthma and other respiratory diseases are small, compared with the huge costs. The EPA's estimates of the partial costs of attaining the proposed standard exceed what the federal government spends on programs aimed directly at protecting children's health. For example, the combined 1998 budgets of the National Heart, Lung and Blood Institute, the National Institute of Child Health and Human Development, and the National Institute of Environmental Health Science total \$2.4 billion.

Even worse, though, the proposal ignores the health benefits of ozone. Due to ozone's screening effect on harmful ultraviolet-B radiation, the proposed reduction in ozone levels would increase malignant and nonmelanoma skin cancers and cataracts, as well as other UV-B-related health risks. This doesn't mean more ozone is always better. It does mean that if the EPA really cares about public health, it should take these trade-offs into account. Instead, it explicitly ignores information on the offsetting health benefits caused by the effect of ozone on ultraviolet radiation. Based on studies the EPA conducted to support its stratospheric ozone rules, it appears that these benefits could dwarf the benefits the EPA attributes to the proposed ground-level ozone standard.

A Department of Energy analysis indicates that the proposed change in the ozone standard could result in 25 to 50 new melanoma-caused fatalities annually. That suggests the proposal will wind up killing people (since the EPA's best estimate of the health benefits of the proposal does not include any reduction in fatalities).

The Energy Department study also estimated that the new standard would cause 130 to 260 incidences of cutaneous melanoma, 2,000 to 11,000 new cases of nonmelanoma skin cancer and 13,000 to 28,000 new incidences of cataracts each year. To compare these nonfatal health effects, we used the

EPA's approach to convert them to dollars. We estimate that the negative health consequences of this proposal will exceed the EPA's most optimistic estimate of the health benefits by more than \$300 million per year.

The EPA believes that only public health concerns -- not the financial costs of implementation -- may be considered when setting these standards. But regulatory costs themselves affect public health. The rule would make goods and services more expensive, causing disposable family income to decline. It is widely recognized that health improves as family incomes rise. A study by economists at the Office of Management and Budget found that every \$9 million to \$12 million decline in aggregate personal income is associated with one statistical death. Using this income-health relationship, the EPA's partial cost estimate implies an increase in mortality in the range of 50 to 700 deaths each year. If our estimate of the full costs is accurate, the financial costs of this rule could result in more than 7,000 deaths per year.

Of course, premature mortality is just one negative consequence of lower incomes. Recent studies suggest that poverty may be a more important risk factor for asthma than air quality, so the huge costs of this rule may well increase the very disease it is targeted at reducing. Thus, even if asthma were the only public-health concern, the proposal would not stand up to scrutiny. The potential benefit for those afflicted with the disease is very small, and the costs of the rule will put more families in poverty and drain society's resources from more effective remedies.

Even the EPA's own rosy estimates suggest that the proposal will result in only small improvements in health for a small population of sensitive individuals. For everyone else, the proposal will mean onerous financial costs, a greater risk of skin cancer and perhaps even an increase in the prevalence of asthma. The EPA has a responsibility under the Clean Air Act to protect public health and welfare. If the agency goes ahead with this ill-advised rule, it will fail to protect either.