



For Immediate Release
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**CPR's Steinzor on John Graham's Departure from OIRA:
'Graham Legacy is Weaker Safeguards, Cozier Relationship with Industry'**

Washington, DC ---- Center for Progressive Reform board member Rena Steinzor today described the tenure of "Regulatory Czar" John Graham, who leaves the OMB Office of Information and Regulatory Affairs on February 1, as "a series of setbacks for health, safety and the environment." Steinzor called on President Bush to fill Graham's job with a "candidate committed to protecting the public, and to true transparency in the regulatory process."

"John Graham came to Washington under a cloud of suspicion," Steinzor said. "Five years later, it's clear that those suspicions were amply justified. Taken as a whole, his tenure has produced weaker safeguards for public health, safety, and the environment. His relationship with industry was overly cozy, and he presided over the implementation of a number of 'reforms' that have the effect of significantly delaying sensible safeguards, while downplaying the role of science."

Steinzor, a tenured professor of law at the University of Maryland School of Law in Baltimore, cited four examples of Graham's ill effect:

Regulatory Hit List. Soon after his arrival, Dr. Graham used the public comment periods on its annual cost-benefit reports to Congress as a vehicle to solicit "nominations" of existing regulations that deserve review for potential regulatory reform; this process and its results have been dubbed the "hit list." Forty-one commenters, including the Center for Progressive Reform, submitted 189 reform nominations. These were reduced by OMB to 76, all but two of which were submitted by industry groups or right-wing think tanks. Thirty-eight (one-half) of the total involved EPA, and all of these were nominated by industry groups. The result was that an Agency that does not have the resources to get the vast majority of statutorily mandated regulations out on time must now expend resources on exhaustive re-analysis of existing rules.

Circular A-4. Graham's OIRA has instructed all federal agencies to conduct cost-benefit analyses of every major rule they propose, under unusually detailed and complicated requirements set forth in Circular A-4, issued on September 17, 2003. The Circular applies even where the statute – most notably the Clean Air Act – instructs EPA to set health-based standards *without regard to costs*, considering costs only during the rulemaking phase that develops solutions to such problems. (This statutory "no costs" mandate was upheld 9-0 by the Supreme Court, in an opinion authored by Justice Antonin Scalia in 2001.) In addition to imposing this legally unsupportable requirement on the EPA, OIRA further instructs agencies to discount the

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value of future human lives, directing that all future lives saved should be discounted at a seven percent rate. Under this practice, 100 lives saved in 50 years would be worth 3.39 lives today. The result is a cost-benefit process where human life is badly devalued because the “benefits” of reducing persistent toxics so that our children and their children are safe are low-balled to the point that no action is ever approved.

Bunk Science. One of Graham’s fiercest initiatives has been to claim jurisdiction over scientific matters for OIRA. OMB’s staff is overwhelmingly dominated by economists, with a smattering of lawyers and other public policy experts. Graham has added a handful of scientists to his staff. One of them, an adjunct professor at Johns Hopkins with little regulatory experience, drafted guidelines requiring that the vast majority of the scientific work done by the government be “peer reviewed,” preferably by private sector scientists. This “guidance” was opposed by most major scientific groups and several nationally prominent scientists, including the American Association for the Advancement of Science and Donald Kennedy, editor of *Science* magazine and former president of Stanford. Under the weight of such pressure, OIRA revised the proposal significantly.

Paralysis by Analysis. On the eve of his departure, Graham has issued yet another proposed “guidance,” this time demanding that every “influential” risk assessment performed by *any agency in the government* meet a series of burdensome, expensive, and absolutely unnecessary requirements that will make it very difficult to produce the analyses that have become the *quid pro quo* for regulation. The only exceptions to these overly broad and demanding requirements are risk assessments prepared by private industry in the context of pesticide registrations and drug approvals, as well as inspections of such “hazardous” facilities as nuclear plants. Notably, OMB did not subject its proposal to a cost-benefit analysis, nor does it have any plans to do so.

“When you pull the camera back,” Steinzor said, “a clear pattern emerges. Dr. Graham has developed so-called reforms that make it easier for industry to gum up the works and harder for the public to know what’s going on, and he’s used a mortally flawed method of cost-benefit analysis as cover for a pro-polluter, and anti-consumer agenda. In choosing his successor, President Bush needs to find a candidate committed to protecting the public, and to true transparency in the regulatory process.”

Rena Steinzor is a board member of the Center for Progressive Reform and a professor at the University of Maryland School of Law. The Center for Progressive Reform is a nonprofit research and educational organization dedicated to protecting health, safety, and the environment through analysis and commentary. For more information, contact Matthew Freeman at 301-762-8980 or at mfreeman@progressivereform.org. Visit CPR on the web at www.progressivereform.org.