Recommendation 88-7

Valuation of Human Life in Regulatory Decisionmaking

(Adopted September 16, 1988)

Regulations intended to lessen risks of accidents and illness ordinarily impose compliance costs on regulated entities and on rulemaking agencies. In return, society gains numerous benefits, most notably the avoidance of fatalities, injuries and disease, and in some instances a reduction in property damage. Promulgation of such regulations is a multi-faceted process, and this recommendation addresses one set of issues frequently encountered in agency decisionmaking—the valuation of human life.

Agencies often make reasoned estimates of the reduction in fatalities likely to follow implementation of a particular regulation, or of alternative regulations. It is rarely if ever possible to eliminate risk altogether, and it is nearly always the case that greater risk reduction raises compliance costs. Faced with such situations, agencies cannot avoid placing a value—either explicitly or implicitly—on the societal benefits of risk reduction. Although similar issues are obviously involved when agencies seek to evaluate the benefit of avoiding illnesses or injuries, this recommendation is limited to agency practices and constraints in benefits valuation when the benefit at issue is future lives saved.

Placement of a dollar value on human life is controversial and complex, and a wide array of approaches may be employed. A broad range of dollar values per life saved can be observed in regulatory outcomes across programs and departments. In part, this reflects differing views about what explicit value is suitable for a given type of hazard, and in part it reflects judgments that, for reasons of policy or legal constraints, decisions should take no account of the value of life implicit in those decisions. Some agencies reject all explicit efforts to place a monetary value on human life, while others routinely build such estimates into their regulatory proposals. This diversity can be sharp even within the same department. Those agencies willing to utilize explicit normative benchmarks for the value of life appear to be moving toward reliance on the same basic estimation technique, generally referred to as "willingness-to-pay." This technique is premised on the assumption that by examination of marketplace behavior, one can roughly ascertain how much individuals would be willing to pay in order to reduce the probability of death from a particular hazard or cause, or how much they would require in the form of salary increases or other payments to be willing to accept the increased probability. While willingness-to-pay provides the most inclusive analysis currently available for evaluating the benefits derived from regulatory reduction of fatalities, it falls far short of an ideal process and can produce results that are misleading because the analysis often fails to take into account all relevant variables.

The Conference recognizes the rudimentary state of knowledge on this issue, and realizes that both methodologies and results are likely to continue to vary among agencies. In this environment, however, it would be useful for agencies to take measures that would reveal publicly the processes through which they have determined the valuation of life incorporated in policy decisions.[1] Such a procedure would provide useful clarification and exposition of the unavoidable trade-offs in regulating hazards, and would also assist in drawing attention to those hazards where further protection may be feasible at acceptable cost.

In this way, agency practice may also be measured against developments in the valuation techniques and evaluated for consistency with other agencies as well as with other regulations in the same agency. The Office of Management and Budget (OMB), in its oversight of executive branch regulatory activities, could facilitate consistency by providing a central clearinghouse for research and information on life valuation issues. OMB should also assist agencies by updating its guidance concerning discount rates used by agencies in deriving present value equivalents of future effects. The current government-wide general guidance on discounting is contained in OMB Circular A-94 which has not been updated since 1972.

Recommendation

1. When an agency adopts a regulation that is intended to reduce the risk to human life, based on a judgment that the associated compliance costs are justified, the agency should disclose the dollar value per statistical life used for the purposes of that determination. Such statements and disclosures should also set forth the human life valuation implications of alternative levels of regulatory stringency considered by the agency. Exceptions to this principle may be appropriate where empirical information about either the costs or benefits of the regulation is highly conjectural, or where the benefits include values which cannot be

[1] In 1979, the Conference made a similar recommendation about cost-benefit analyses, Recommendation 79-4. *Public Disclosure Concerning the Use of Cost-Benefit and Similar Analyses in Regulation*, 1 CFR 305.79-4 (1988).

quantified in market terms, *e.g.,* aesthetic gains. In such cases, agencies should explain the nature and degree of imprecision in the valuation process so the public will not be misled. When an agency declines to adopt a regulation due to these considerations, it should provide similar information.

2. In implementing paragraph 1, agencies that develop and use methodologies for placing a monetary value on human life should recognize that there remain substantial limitations of current methodology to incorporate all the variables that affect societal valuations of human life. An agency should explain the factors included or considered in its valuation. The agency also should explain how it weighs such factors.

3. Whenever agencies choose to discount costs and benefits in implementing paragraph 1, they should clearly and fully disclose what rates they are using, the methodology that generated those rates and the sensitivity of outcomes to the particular rates applied. The Office of Management and Budget (OMB) should revise its guidance concerning the use of a discount rate in the valuation of costs and benefits to reflect recent learning on the subject, either through updating OMB Circular A-94 or by other means. Such guidance should articulate the various methods by which a discount rate can be derived and the scope of subjects to which it can be applied.

4. OMB should serve federal agencies as a central clearinghouse for research and information on life valuation issues. To this end, OMB should continue and expand its discussion of agency practices in the life valuation area, initiated in the 1987-88 edition of the annual Regulatory Program of the United States Government.

Citations:

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