

Book World  
Dirty Business  
Reviewed by Dennis Drabelle  
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RISK AND REASON  
Safety, Law and the Environment  
By Cass R. Sunstein  
Cambridge Univ. 342 pp. \$30

WHEN SMOKE RAN LIKE WATER  
Tales of Environmental Deception And the Battle Against  
Pollution  
By Devra Davis  
Basic. 316 pp. \$26

In *Risk and Reason*, his book-length brief for environmental cost-benefit analysis, law professor Cass Sunstein exposes a dirty little secret. It may seem callous for government to place numerical values on human life and health, but we the people do it all the time. "We choose how much to spend on cars, knowing that safety is expensive," Sunstein writes; "we decide how much to spend on security systems in the home; we choose where to live, knowing that some areas are safer than others; we go out at night, even though we know that by doing so, we increase our risks; when the cost of risk reduction is too high, we will not incur that cost even to protect our own children. What seems forbidden is not behavior that embodies tradeoffs, but rather unduly explicit talk to the effect."

Sunstein proceeds to break that taboo, talking explicitly about how federal agencies make decisions affecting the environment, and how they might do a better job of it. Too often, he argues, the feds are hastily responding to pressure brought by a gut-reacting public swayed by scare stories on the nightly news -- Love Canal being a case in point. After all the ruckus and expenditures to clean up that abandoned waterway along the Niagara River in New York, Sunstein notes, "it remains unproven that the contamination of Love Canal ever posed significant risks to anyone." He also criticizes as uninformed the recent uproar over the current administration's attempt to relax standards for the amount of arsenic allowed in drinking water (although here he admits that "subsequent evidence appears to have strengthened the case for stringent regulation").

To counter the obvious argument that we might as well err on the side of overprotection, Sunstein points out that useless or excessive rule-making wastes money, diverts resources from legitimate problems and sometimes unduly burdens those who can least afford to pay. He circles back to the widespread distrust of numbers when he addresses the complaint that certain intangible aspects of the pursuit of happiness cannot be quantified. His version of cost-benefit analysis would include "qualitative as well as quantitative descriptions of the consequences of regulation." If, for example, cutting back on the noise heard in the Grand Canyon serves spiritual values, Sunstein's kind of regulators would presumably say so and find a non-numerical way to take this into account. What he is arguing for is the gathering of as much information as possible in advance, a full and frank discussion of the options and their consequences, and a reasoned explanation of the decision ultimately made. "In my view," he writes, "we need far less in the way of intuitions and interest groups, and not a great deal of pure populism, but far more in the way of science, peer review, and informed public deliberation."

If you suspect that Sunstein might be playing into the hands of those who would delay or scotch regulations affecting their selfish interests, he's got an answer for that, too. In two notable success stories -- the removal of lead from gasoline and the banning of chlorofluorocarbons (which attack the ozone layer) from various products -- cost-benefit analysts led the way. "For those who have enthusiasm for cost-benefit analysis," he writes, "there is a continuing obligation [to see] that this is a tool for better outcomes and more sensible priority-setting, rather than a recipe for inaction."

All of which looks good on paper, although Sunstein's presentation is a bit bloodless. Politics may not be strictly within his purview, but it wouldn't have hurt him to mention a certain underlying problem in the arsenic case. Perhaps no amount of cost-benefit analysis could have put across the administration's position because it had already forfeited the public's trust by filling its environmental posts with figures known for thwarting regulation as the hired guns of private industry (ironically, Christie Todd Whitman, head of EPA, the agency with jurisdiction over the arsenic rule, was one of the few exceptions to this influx). When the executive branch enters the debate with its biases already blatant, who's going to heed its numbers?

In *When Smoke Ran Like Water*, which was nominated for a National Book Award, Devra Davis approaches environmental issues from a different perspective: that of a scientist, specifically a research epidemiologist, who looks for patterns in the incidence and causation of disease. It's a profession to which she was virtually born, in Donora, Pa., a steel town where the mills spewed out so much pollution that a pernicious fog settled over it in 1948, killing at least 20 people and inflicting health problems on her relatives for the rest of their shortened lives. The book opens with a wrenching account of that incident (also the subject of a

memorable article by the late Berton Roueche, which can be found in his book *Eleven Blue Men*).

Davis writes with the authority of a battle-scarred veteran -- in her career she has done work on breast cancer and air pollution in large cities and the increasing problem of sterility in men. Her book is somewhat rambling but impassioned and rich in anecdotes about campaigns she has fought and scoundrels she has encountered. *When Smoke Ran Like Water* is, in short, a far cry from Sunstein's icily beautiful construction. Davis's theme is that the system has long lent itself to the obstructing and delaying tactics favored by industrial polluters, and as a case in point she cites the lapse of more than two decades between the Donora horror and the first serious federal attempts to clean up the nation's air in the 1970s.

Arguing that environmental science is plagued by "a stream of disinformation fueled by the short-term economic interests of those who stand to profit from keeping matters unresolved," Davis comes down particularly hard on what she sees as a new impediment, a 2001 law that requires federal agencies to follow guidelines issued by the Office of Management and Budget on the quality, integrity and objectivity of information they give out to the public. "With this new law," she writes, "there is no longer any pretense that environmental policy will rely on the mere findings of research published in a scientific journal. The new laws place public health researchers on notice. If you publish something of direct relevance to the regulatory system, be prepared for the sort of review that can take years of your life, keep you from doing other work, and may never be fully resolved. If you can stomach that, be prepared for another hurdle: Even if your work is published in the best journals in the United States, is widely acclaimed as ground-breaking and important, and is replicated by others, if a government agency wants to use it to set policy, then the accountants in the OMB can still declare it junk science. And if they do, you

can be sure that some industry-financed body with an Orwellian name like Center for Regulatory Effectiveness will be cheering them on."

As far as I know, Sunstein and Davis wrote wholly without reference to each other, but their vantage points make for a fascinating contrast: the scholar versus the activist. The two authors would be performing a distinct public service if they merged their book tours and conducted a series of debates on where we should strike the balance between making more informed decisions and taking timely action in the interest of saving human lives.

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