
C O V E R

S H E E T

FAX

To: Addressees
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Phone: 202-260-7960
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Subject: Children's Environmental Health
Date: February 10, 1997
Pages: 2, including cover sheet

COMMENTS:**Addressees**

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Seth Harris/DOL
Fred Siskind/DOL
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Diane Regas/DPC ✓
Leslie Kux/FDA
Mary Agocs/HHS
Dalton Paxman/HHS
Camille Acevedo/HUD
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Elizabeth Drye/DPC ✓
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Elgie Holstein/NEC
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Carrie Jelsma/OMB
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 10 1997

OFFICE OF
THE ADMINISTRATOR

MEMORANDUM TO AGENCY CHILDREN'S EXECUTIVE ORDER CONTACTS

From:

Gary S. Guzy 
Counselor to the Administrator

Subject:

Proposed Revision to Draft Executive Order

As you know from our several discussions, EPA believes that one of the principles underlying the Executive Order should be our efforts to share with the public how much we do and do not know about the effects of regulatory actions upon children. The current draft (2.5.p.m.1) generalizes this objective through the annual report requirement in section 3-304. While useful, we do not believe that this goes far enough in addressing the draft Order's basic objective of either protecting children, affirmatively explaining why an agency may be making a different choice, or indicating that information is lacking to allow for a fully informed decision on child-specific concerns.

At the same time, we are very mindful of the concern expressed by a number of agencies that the Order not require agencies to set forth a "Kick Me" sign with findings that could have adverse litigation consequences.

We therefore propose including the following language, added as subsection (d) of 5-501:

"A description of the data or information, if any, which was employed to assess child-specific risks or hazards."

It is our view that this language would move towards providing more transparency in the context of particular rulemakings, but that it would remove any adverse judgments from such statements and the likelihood of any statements being used successfully against an agency in litigation. It is intended only to require neutral explanations of the information used to reach the judgments contained in a regulatory action.

Please contact me at (202) 260-7960, or Bob Dreher at (202) 260-8040 if you would like to discuss this approach further or if you have any particular concerns about it. Thank you for your continuing prompt attention to this matter.



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EXECUTIVE OFFICE OF THE PRESIDENT

Washington D.C. 20503

TELECOPIER COVER SHEET

Date: February 6, 1997

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From:

Bradley M. Campbell
Associate Director/CEQ

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Number of Pages (including cover): 10

Comment:

This is a revised draft of the Children's Environmental Health Executive Order in response to the meeting held Monday, February 3, 1997. Formal OMB circulation of the Executive Order is postponed until next Monday, February 10, 1997. Any additional comments should be received by COB Friday, February 7, 1997.

Children's Environmental Health Executive Order

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DISCUSSION DRAFT -- DO NOT CITE OR RELEASE**PROTECTION OF CHILDREN
IN FEDERAL ENVIRONMENTAL, HEALTH, AND SAFETY ACTIONS**

America's children are this country's future. Preparing our children for the 21st century is among our most important national priorities. To fulfill this task we must recognize that America's children face significant and unique threats from an array of hazards. A growing body of scientific knowledge demonstrates that children are particularly at risk from environmental hazards:

- Children's neurological, immunological, digestive and other bodily systems are still developing, making them more susceptible to toxic pollutants and other environmental hazards;
- Children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults, and spend more time outside in play, so they may be more exposed to toxic pollutants and other environmental hazards;
- Children are less able than adults to recognize and to protect themselves from exposure to toxic pollutants and other environmental hazards;
- Children face potential exposures to toxic pollutants over their entire lifetime, with the possibility of more significant health impacts; and
- Children may be at increased risk due to differences in exposure pathways (e.g., greater hand-to-mouth contact, more frequent ingestion of non-food items).

Our experience tells us that children have different needs when we act to protect health and

safety:

- Children's size and weight can affect how well they are protected by safety features;
- Children have activity patterns that are different from those of adults, which may increase their exposure to health and safety risks; and
- Children are less able to protect themselves from risk, and are less responsive to warning regimes.

While Federal agencies typically consider the effect of their work on children, existing standards were derived in many instances principally from data on adults. We need to enhance our understanding of how environmental, health, and safety risks to children differ from the risks to adults. The array and complexity of environmental, health, and safety threats facing children today, and potential inadequacy of existing standards established principally to protect adults, pose a significant challenge to our ability to protect our children's health and safety.

The Federal government is responding vigorously to this challenge, acting to address threats to children's environmental health in the new Food Quality Protection Act, accounting for children in the development of new standards for passive restraints in cars, and taking administrative action to protect children from tobacco use, lead, food-borne illness, and other hazards. But we should do more.

The Federal government must establish a national policy to protect the health of American children from environmental, health, and safety hazards, and apply its resources, including its scientific research capabilities, in a coordinated and efficient manner to address these threats to children. A coordinated approach is necessary to avoid duplication, to ensure efficient assignment of tasks among agencies, and to promote decisions based on full information about the costs and benefits of particular agency actions.

Only by tailoring governmental actions, including the setting of environmental, health, and safety standards, to recognize and address the often greater impact that environmental pollutants and other health and safety hazards have upon the health and well-being of our children, can we ensure both more effective governance and more healthy and productive futures for our children. The task before us is large -- developing the basic scientific knowledge of how toxic chemicals and other environmental, health, and safety hazards may differentially affect children may take years. But the need to act, and to act promptly, to protect the future of our nation cannot be disregarded.

NOW, THEREFORE, to establish a coordinated federal strategy for the protection of children from the risks environmental, health, and safety hazards, and by the authority vested in me as President by the Constitution and laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy.

1-101. Each Federal agency shall make it a high priority to identify and assess environmental, health, and safety risks that may disproportionately affect children.

1-102. Each Federal agency shall ensure that it considers, and that its policies, programs, activities, and standards appropriately address, disproportionate risks to children that result from environmental, health, or safety hazards, to the fullest extent consistent with the agency's mission and applicable law.

Section 2. Definitions. The following definitions shall apply to this order.

2-201. Federal agency means any authority of the United States that is an agency

under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies as defined in 44 U.S.C. 3502(10). Agencies not subject to this Executive order are encouraged to participate in its implementation and to conform their programs and activities to its provisions. For purposes of this order, military departments, as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

2-202. Covered regulatory action means any substantive regulatory action initiated after the date of this Executive order that is likely to result in a rule that may:

- (a) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; and
- (b) Concern an environmental, health, or safety hazard or risk that may disproportionately affect children.

Section 3. Children's Health IWG.

3-301. Within 60 days of the date of this order, there shall be established an interagency working group (IWG) on Children's Health, which shall implement and promote the purposes of this section.

3-302. The IWG shall be composed of representatives of Federal agencies and White House offices with responsibility for the regulation of risks from environmental, health, or safety hazards, or whose activities may substantially affect such hazards, or which conducts scientific or medical research related to such risks or hazards. Member agencies shall include, but are not limited to, the Consumer Product Safety Commission (CPSC); the Council on Environmental Quality (CEQ); the Department of Agriculture (USDA); the Department of Energy (DOE), Department of Health and Human Services (HHS), including, the Centers for

Disease Control and Prevention (CDC), the Food and Drug Administration (FDA), and the National Institutes of Health (NIH); the Department of Housing and Urban Development (HUD); the Department of Justice (DOJ); the Department of Transportation; the Domestic Policy Council (DPC); the Environmental Protection Agency (EPA); the Office of Management and Budget (OMB); and the Office of Science and Technology Policy (OSTP).

3-303. The IWG shall develop a coordinated Federal strategy for Children's Health and Safety, to include at least the following elements:

- (a) Statements of principles, general policy, and targeted annual priorities that will guide the Federal approach to achieving the goals of this order.
- (b) A coordinated research agenda for the Federal government, including steps to implement the plan for the consolidated research database developed pursuant to section 4 of this order, and for a cross-cutting budget to accomplish this research.
- (c) Recommendations for appropriate partnerships among Federal, State, and local governments and the private, academic, and non-profit sectors.
- (d) Proposals to enhance public outreach and communication to assist families in evaluating risks to infants and children and in making informed consumer choices;
- (e) An identification of high-priority initiatives for the Federal government to undertake in advancing protection of children's health and safety.
- (f) A statement regarding the desirability of new legislation to fulfill or promote the purposes of this Executive Order.

3-304. The IWG shall annually prepare a report on research, data, or other information that would enhance our ability to understand, analyze, and respond to environmental, health, and safety risks to children. For purposes of this report, every Federal agency shall identify and specifically describe for the IWG all data needs that have arisen in

the course of the agency's programs and activities, including regulatory and enforcement actions. The IWG shall incorporate agency submissions into its report and ensure that this report is publicly available and widely disseminated. The White House Office of Science and Technology Policy and the National Science and Technology Committee shall ensure that this report is fully considered in establishing research priorities.

3-305. The IWG shall be composed of the Secretary or head of each of the member agencies, or their designees at the Assistant Secretary level or its equivalent.

3-306. The Administrator of the Environmental Protection Agency shall serve as interim chair of the IWG, with responsibility for arranging the first meeting. At the first meeting, the IWG shall elect a permanent chair, who will serve for a period of one year. Subsequent chairs shall be elected by the IWG to serve for one-year terms, with no one member agency holding the chairmanship of the IWG for more than two consecutive one-year periods.

3-307. The IWG shall exist for a period of four years. At least six months prior to the expiration of that period, the member agencies shall assess the need for continuation of the IWG or its functions, and make appropriate recommendations to the President.

Section 4. Research Coordination and Integration

4-401. Within six months of the date of this order, the White House Office of Science and Technology Policy and the National Science and Technology Committee shall present to the IWG a proposed plan for establishing, maintaining, and keeping current a consolidated research data base that lists and describes all research conducted or funded by the Federal government that is related to adverse health effects in children and infants resulting from exposure to environmental, health, or safety hazards. This plan shall include recommendations to ensure that the activities of the IWG and other requirements of this

Executive order are fully integrated with, and not duplicative of, other current or planned initiatives with respect to children's health and safety.

4-402. The proposed plan shall promote the submission of information on academic and other private research for inclusion in the data base.

4-403. The plan shall include provisions to ensure that the consolidated research data base is available to the public, to the scientific and academic communities, and to all Federal agencies.

Section 5. Agency environmental, health, or safety regulations.

5-501. For each covered regulatory action submitted to the Office of Information and Regulatory Affairs (OIRA) for review, the agency shall provide to OIRA the following information developed as part of the agency's decisionmaking process (unless prohibited by law):

- (a) An evaluation of the effects of the covered regulatory action on children;
- (b) An assessment of potentially effective and reasonably feasible alternatives to the covered regulatory action that have been identified by the agency or the public and that may be more protective of children; and
- (c) An explanation of why the covered regulatory action is preferable to the identified potential alternative(s).

5-502. In emergency situations or when an agency is obligated by law to act more quickly than normal review procedures allow, the agency shall comply with the provisions of this section to the extent practicable. For those regulatory actions that are governed by a

court-imposed or statutory deadline, the agency shall, to the extent practicable, schedule rulemaking proceedings so as to permit sufficient time for completing the analysis required by this section.

5-503. The analysis required by this section shall be made part of the administrative record for the covered regulatory action or otherwise made available to the public.

Section 6. General Provisions.

6-601. This order is intended only for internal management of the Executive Branch. This order is not intended, and should not be construed to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or its employees. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance with this order by the United States, its agencies, its officers, or any other person.

6-602. Federal agencies should implement this order consistent with, and to the extent permitted by, existing law.

6-603. This order shall be effective immediately and shall continue to be in effect until revoked.

The White House

_____, 1997

DISCUSSION DRAFT -- DO NOT CITE OR RELEASE

**PROTECTION OF CHILDREN
IN FEDERAL ENVIRONMENTAL, HEALTH, AND SAFETY ACTIONS**

America's children are this country's future. Preparing our children for the 21st century is among our most important national priorities. To fulfill this task we must recognize that America's children face significant and unique threats from an array of hazards. A growing body of scientific knowledge demonstrates that children are particularly at risk from environmental hazards:

- Children's immunological, digestive and other bodily systems are still developing, making them more susceptible to toxic pollutants and other environmental hazards;
- Children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults, and spend more time outside in play, so they may be more exposed to toxic pollutants and other environmental hazards;
- Children are less able than adults to recognize and to protect themselves from exposure to toxic pollutants and other environmental hazards, and
- Children face potential exposures to toxic pollutants over their entire lifetime, with the possibility of more significant health impacts.

Our experience tells us that children have different needs when we act to protect health and safety:

- Children's size and weight can affect how well they are protected by safety features;
- Children have activity patterns that are different from those of adults, which affects their exposure to health and safety risks;
- Children are less able to protect themselves from risk, and less responsive to warning regimes.

While responsible Federal agencies consider the effect of their work on children, existing standards were derived in many instances principally from data on adults. The array and complexity of environmental, health, and safety threats facing children today, and the uncertainties in the adequacy of existing protections derived principally to protect adults, pose a significant challenge to our ability to protect our children's health and safety.

The Federal government is responding vigorously to this challenge, acting to address threats to children's environmental health in the new Food Quality Protection Act, accounting for children in the development of new standards for passive restraints in cars, and taking administrative action to protect children from tobacco, lead, and other hazards. But we should do more. The Federal government must establish a national policy to protect the health of American children from environmental, health, and safety hazards, and apply its resources, including its scientific research capabilities, in a coordinated and efficient manner to address these threats to children.

Only by tailoring governmental actions, including the setting of health and safety standards, to recognize and address the oftentimes greater impact that environmental pollutants and other health and safety hazards have upon the health of our children, can we ensure our children's healthy and productive futures. The task before us is large -- developing the basic scientific knowledge of how toxic chemicals and other environmental, health, and safety hazards may differentially impact on children may take years. But the need to act, and to act promptly, to protect the future of our nation cannot be disregarded.

NOW, THEREFORE, to establish a coordinated federal strategy for the protection of children from the risks of exposure to toxic pollutants and other environmental, health, and safety hazards, and by the authority vested in me as President by the Constitution and laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy.

1-101. The head of each Federal agency shall, to the greatest extent practicable, permitted by law, and consistent with the agency's mission, establish the protection of children from environmental, health, and safety hazards as a priority for that agency.

1-102. The head of each Federal agency shall ensure that the potential impacts upon children of environmental, health, or safety hazards arising from or related to the activities of that agency are considered and addressed by that agency to the fullest extent permitted by that agency's statutory authority.

Section 2. Definitions. The following definitions shall apply to this order.

2-201. Federal agency means an Executive agency, as defined in 5 U.S.C. 105. For purposes of this order, military departments, as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

2-202. Significant regulatory action means any regulatory action that is likely to result in a rule that may:

- (a) Have an annual effect on the economy of \$100 million or more or adversely

affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

- (b) Create a serious inconsistency or otherwise interfere with an action planned or taken by another agency;
- (c) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (d) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

[NOTE: 2-202 is taken verbatim from EO 12866]

and Safety
Section 3. Children's Environmental Health IWG.

3-301. Within 60 days of the signing of this order, there shall be established an interagency working group (IWG) on Children's Health IWG, which shall have general oversight of the implementation of this order.

3-302. The IWG shall be comprised of representatives of Federal agencies and White House offices with responsibility for the regulation of risks from toxic pollutants or other environmental, health, or safety hazards, or whose activities may substantially affect such hazards, or which conducts scientific or medical research related to such risks or hazards. Member agencies shall include, but are not limited to, the Consumer Product Safety Commission (CPSC); the Council on Environmental Quality (CEQ); the Department of Agriculture (USDA); the Department of Health and Human Services (HHS), including, the Centers for Disease Control and Prevention (CDC), the Food and Drug Administration (FDA), and the National Institutes of Health (NIH); the Department of Justice (DOJ); the Domestic Policy Council (DPC); the Environmental Protection Agency (EPA); the Office of Management and Budget (OMB); and the Office of Science and Technology Policy (OSTP).

3-303. The IWG shall develop a coordinated Federal strategy for Children's Health and Safety, to include at least the following elements:

- (a) Statements of guiding principles, general policy, and targeted annual priorities that will govern the Federal approach to achieving the goals of this order.
- (b) A coordinated research agenda for the Federal government, including steps to implement the plan for the consolidated research database developed pursuant to section 4 of this order, and a preparation of a cross-cutting budget to accomplish this research. This agenda shall address future research needs, including addressing multiple exposures and cumulative health risks facing infants and children. It should explore appropriate partnerships between the Federal government and other branches of government and the private, academic, and non-profit sectors.

- (c) Recommendations for public outreach and information-sharing to assist families in evaluating risks to infants and children in making informal consumer choices, and to establish private-sector partnerships for cooperatively achieving the goals of this order. As part of this effort, the IWG shall publish a joint pamphlet for distribution to families assessing children's environmental, health, or safety threats, and providing practical tips for family protection and additional sources of governmental information.
- (d) An identification of ten high-priority initiatives for the Federal government to undertake in advancing protection of children's health and safety.
- (e) A statement regarding the desirability of new legislation to ensure that the purposes of this Executive Order are carried out.

3-304. The IWG shall be composed of the Secretary or head of each of the member agencies, or their designees at the Assistant Secretary level or its equivalent.

3-305. The IWG may establish subcommittees and working groups as appropriate to assist the IWG in carrying out its obligations and responsibilities under this order.

3-306. The Administrator of the Environmental Protection Agency shall serve as interim chair of the IWG with responsibility for arranging the first meeting. At the first meeting, the IWG shall elect a permanent chair, who will serve for a period of one year. Subsequent chairs shall be elected by the IWG to serve for one-year terms, with no one member agency holding the chairmanship of the IWG for more than two consecutive one-year periods.

3-307. The IWG shall exist for a period of four years. At least six months prior to the expiration of that period, the member agencies shall assess the need for continuation of the IWG or its functions, and make appropriate recommendations to the President.

Section 4. Research Coordination and Integration

4-401. Within six months of the date of signature of this order, the White House Office of Science and Technology Policy and the National Science and Technology Committee shall present to the IWG a proposed plan for establishing, maintaining, and keeping current a consolidated research data base that lists and describes all research conducted or funded by the Federal government that is related to adverse health effects in children and infants resulting from exposure to toxic pollutants or other environmental, health, or safety hazards. This plan shall include recommendations to ensure that the activities of the IWG and other requirements of this Executive order are fully integrated with, and not duplicative of, other current or planned initiatives with respect to children's health and safety.

4-402. The proposed plan shall promote the submission of information on academic and other private research for inclusion in the data base.

4-403. The plan shall include provisions to ensure that the consolidated research data base is available to the public, to the scientific and academic communities, and to all Federal agencies.

Section 5. Data Needs

5-501. Annual Report on Data Needs. The head of each agency subject to this Executive Order shall present an annual report to the IWG on research, data, or other information that should be developed to enhance the agency's ability to understand, analyze, and respond to environmental, health, and safety risks to children. This report shall include particular data needs that have been identified in the course of the agency's programs and activities, and shall be provided to the White House Office of Science and Technology Policy and the National Science and Technology Committee for consideration in establishing research priorities.

Section 6. Agency environmental, health, or safety regulations .

6-601. For each significant regulatory action addressing the environment, health, or safety, each agency shall provide the following information, developed as part of the agency's decisionmaking process (unless prohibited by law):

- (a) An evaluation of whether the proposed regulatory action addresses an area in which children may be at greater risk than the general population;
- (b) An assessment of potentially effective and reasonably feasible alternatives to the proposed regulatory action that have been identified by the agency or the public and that may be more protective of children; and
- (c) An explanation of why the proposed regulatory action is preferable to the identified potential alternative(s).

Section 7. General Provisions.

7-701. This order is not intended, and should not be construed to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or its employees. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance with this order by the United States, its agencies, its officers, or any other person.

7-702. Federal agencies should implement this order consistent with, and to the extent permitted by, existing law.

7-703. This order shall be effective immediately and shall continue to be in effect until revoked.

The White House

_____, 1997

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DISCUSSION DRAFT -- DO NOT CITE OR RELEASE

PROTECTION OF CHILDREN FROM ENVIRONMENTAL HEALTH THREATS

America's children today face significant and unique threats from an array of environmental hazards. A growing body of scientific knowledge demonstrates that children are particularly at risk from environmental hazards for several reasons:

- o Children's immunological, digestive and other bodily systems are still developing, making them more susceptible to toxic pollutants and other environmental hazards;
- o Children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults, and spend more time outside in play, so they may be more exposed to toxic pollutants and other environmental hazards;
- o Children are less able than adults to recognize and to protect themselves from exposure to toxic pollutants and other environmental hazards, and
- o Children face potential exposures to toxic pollutants over their entire lifetime, with the possibility of more significant health impacts.

While responsible Federal agencies are addressing many environmental hazards, existing environmental standards were derived in many instances principally from data on adults. The array and complexity of environmental health threats facing children today, and the uncertainties in the adequacy of existing protections derived principally to protect adults, pose a significant challenge to our ability to protect our children's health.

The Federal government is responding vigorously to this challenge, acting to address threats to children's environmental health in the new Food Quality Protection Act, and taking administrative action to protect children from tobacco, lead, and other hazards. But we should do more. The Federal government must establish a national policy to protect the health of American children from environmental hazards, and apply its resources, including its scientific research capabilities, in a coordinated and efficient manner to address this threat to children.

Only by tailoring governmental actions, including the setting of

health and safety standards, to recognize and address the oftentimes greater impact that environmental pollutants have upon the health of our children, can we ensure our children's healthy and productive futures. The task before us is large -- developing the basic scientific knowledge of how toxic chemicals and other environmental hazards may differentially impact on children may take years. But the need to act, and to act promptly, to protect the future of our nation cannot be disregarded.

NOW, THEREFORE, to establish a coordinated federal strategy for the protection of children from the risks of exposure to toxic pollutants and other environmental hazards, and by the authority vested in me as President by the Constitution and laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy.

1-101. The head of each Federal agency shall, to the greatest extent practicable, permitted by law, and consistent with the agency's mission, establish the protection of children from environmental hazards as a priority for that agency.

1-102. The head of each Federal agency shall ensure that the potential impacts upon children of environmental hazards arising from or related to the activities of that agency are considered and addressed by that agency to the fullest extent permitted by that agency's statutory authority.

[NOTE: Throughout this draft, EPA has not attempted to address comprehensively the protection of children from all hazards, only from environmental hazards. Other agencies, upon review, may desire to be included in this effort and seek to broaden the applicability of this draft Executive Order beyond health and safety regulations implicating environmental health issues.]

Section 2. Definitions. The following definitions shall apply to this order.

2-201. Federal agency means an Executive agency, as defined in 5 U.S.C. 105. For purposes of this order, military departments, as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

Section 3. Children's Environmental Health Council.

3-301. Within 60 days of the signing of this order, there shall be established the Children's Environmental Health Council, which shall have general oversight of the implementation of this order.

3-302. The Children's Environmental Health Council ("Council") shall be comprised of representatives of Federal agencies and White House offices with responsibility for the regulation of risks from toxic pollutants or other environmental hazards, or whose activities may substantially affect such hazards, or which conducts scientific or medical research related to such risks or environmental hazards. Member agencies shall include, but are not limited to, the Consumer Product Safety Commission (CPSC), the Environmental Protection Agency (EPA), the United States Department of Agriculture (USDA), the Department of Justice (DOJ), the Department of Health and Human Services (HHS) including, the Centers for Disease Control and Prevention (CDC), the Food and Drug Administration (FDA), and the National Institutes of Health (NIH), the Council on Environmental Quality (CEQ), the office of Science and Technology Policy (OSTP), and the Office of Management and Budget (OMB).

add
DOJ
DPC

3-303. The Council's functions shall include:

- (a) Preparation and dissemination of guidance for compliance with this order.
- (b) Coordination of the development of the Coordinated Federal Strategy established pursuant to Section 6 of this Order, including the coordinated research agenda for the Federal government established by that section to ensure the best deployment of federal assets to address the policies of this order and to foster linkages between emerging research and policy development.
- (c) Encouraging and facilitating the coordination of Federal regulatory initiatives among member agencies, including recommendations to member agencies for joint development of regulations.
- (d) Establishment and maintenance of the Research Data Base established pursuant to section 5 of this order.
- (e) Preparation and submission to the President of an annual report beginning on October 1, 1997, on the progress made on the Coordinated Federal Strategy described in section 6 of this order.
- (f) Consultation with the Office of Management and Budget to provide expertise for Executive Branch review of regulations affecting children's environmental health.
- (g) Other actions determined to be appropriate to advance the objectives of this order.

why?

3-304. The Council shall be composed of the Secretary or head of each of the member agencies, or their designees at the Assistant Secretary level or its equivalent.

3-305. The Council shall be consulted by and shall provide advice to the Administrator of the Office of Information and Regulatory Affairs during the review of regulatory actions under

Executive Order 12866 that may affect children's environmental health.

3-306. The Council may establish subcommittees and working groups as appropriate to assist the Council in carrying out its obligations and responsibilities under this order.

3-307. The Administrator of the Environmental Protection Agency shall serve as interim chair of the Council with responsibility for arranging the first meeting. At the first meeting, the Council shall elect a permanent chair, who will serve for a period of one year. Subsequent chairs shall be elected by the Council to serve for one-year terms, with no one member agency holding the chairmanship of the Council for more than two consecutive one-year periods.

3-308. The Council shall exist for a period of five years. At least six months prior to the expiration of that period, the member agencies shall assess the need for continuation of the Council or its functions, and make appropriate recommendations to the President.

Section 4. Research Data Base.

4-401. Within nine months of the date of signature of this order, the member agencies, under the auspices of the Council, shall establish, maintain, and keep current a consolidated research data base that lists and describes all research conducted or funded by the Federal government that is related to adverse health effects in children and infants resulting from exposure to toxic pollutants or other environmental hazards.

4-402. The Council shall encourage the submission of information on academic and other private research for inclusion in the data base.

4-403. The research data base established pursuant to this section shall be available to the public, to the scientific and academic communities, and to all Federal agencies.

Section 5. Coordinated Federal Strategy.

5-501. Within eight months of the signature of this order, the member agencies, coordinated through the Council, shall prepare and publish in the FEDERAL REGISTER a coordinated Federal strategy for the identification and management of risks to children related to exposure to toxic pollutants and other environmental hazards.

5-502. The coordinated Federal strategy required by this section shall include at least the following elements:

- (a) Statements of guiding principles, general policy, and targeted annual priorities that will govern the Federal approach to achieving the goals of this order.
- (b) A coordinated research agenda for the Federal government, which takes into account the availability of the research listed in the Research Data Base established pursuant to section 4 of this order and a preparation of a cross-cutting budget to accomplish this research. This agenda shall address future research needs, including addressing multiple exposures and cumulative health risks facing infants and children. It should explore appropriate partnerships between the Federal government and other branches of government and the private, academic, and non-profit sectors.
- © Specific Federal plans for public outreach and information-sharing to assist families in evaluating risks to infants and children in making informal consumer choices, and to establish private-sector partnerships for cooperatively achieving the goals of this order. As part of this effort, the Council shall publish a joint pamphlet for distribution to families assessing children's environmental health threats, and providing practical tips for family protection and additional sources of governmental information.
- (d) A statement regarding the desirability of new legislation to ensure that the purposes of this Executive Order are carried out.
- (e) The head of each member agency shall prepare for inclusion in the Coordinated Federal Strategy a specific regulatory plan that describes how the agency intends to address the issue of risks to children resulting from exposure to pollutants and other environmental hazards. These plans shall discuss past, current, and future activities and regulatory actions, and shall specifically address utilization of existing authority, regulatory and voluntary initiatives, outreach and information-sharing, and stakeholder involvement, as well as any particular steps to address environmental justice considerations. The Strategy shall also address coordination with governmental social welfare programs, including housing and anti-poverty efforts, profoundly affecting children's health. Member agencies shall involve the public in developing the plans required by this section to the extent consistent with their statutory authority. The Council shall foster coordination of the activities identified in these plans.

Section 6. Agency environmental or health regulations.

6-601. In developing any regulation, rule or standard that

is related to toxic pollutants, environmental hazards, or other environmental health threats, and that is determined to be a significant rule for purposes of Executive Branch review under Executive Order 12866, each Federal agency shall, to the fullest extent consistent with its mission and statutory authority, consider any environmental health risk to children in connection with the proposed regulation, rule or standard. To avoid needless duplication and to promote governmental efficiency, agencies shall incorporate such consideration into their existing procedures.

6-602. If a Federal agency lacks information necessary to make a reasoned evaluation of the health risk to infants and children related to such proposed regulation, rule or standard, the agency shall obtain or work with or direct others to obtain such information if it can reasonably do so, considering the cost of obtaining such information, the time required to obtain it, the availability of scientific means to obtain it, and other relevant factors.

6-603. In promulgating such regulation, rule or standard related to environmental hazards, or other environmental health threats, each agency shall ensure that such final regulation, rule or standard adequately protects the health of children. An agency, may determine, in the exercise of its rulemaking authority and judgment, not to meet this requirement if: (1) the regulation, rule or standard does not potentially implicate any risk to children's health; (2) the agency is precluded by law from considering children's health in reaching its decision; (3) the responsible agency lacks information necessary to make a reasoned evaluation of the effect of the regulation, rule or standard upon the health of children and the cost or time period to acquire such information is unreasonable, or the means of acquiring such information is unknown; or (4) the agency has determined, after full consideration of the potential impacts of the regulation, rule or standard upon children's health, that other considerations within the agency's statutory mandate justify taking an action in this instance that does not fully protect children's health. Each agency shall provide to the public, upon promulgation of such rule, a statement fully setting forth the manner in which it has complied with the requirements of this section.

Section 7. General Provisions.

7-701. This order is not intended, and should not be construed to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or its employees. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance with this order by the United States, its agencies,

its officers, or any other person.

7-702. Federal agencies should implement this order consistent with, and to the extent permitted by, existing law.

7-703. This order shall be effective immediately and shall continue to be in effect until revoked.

The White House
_____, 1997

C O V E R**FAX****S H E E T**

To: Addressees
From: Gary Guzy, Counselor to the Administrator, EPA
Phone: 202-260-7960
Fax: 202-260-3684
Subject: Children's Environmental Health
Date:
Pages: 7, including cover sheet

COMMENTS:

Attached please find EPA's draft of the Children's Environmental Health Executive Order. Please direct comments to me or to Bob Dreher (260-8040, phone/260-8046, fax) in our Office of General Counsel. Sorry for the brief delay in distributing this.

Thanks for your prompt review.

Addressees

Jason Shogren/CEA
Pamela Beth Gilbert/CPSC
Jim Simon/DOJ
Janno Lieber/DOT
Diane Regas/DPC
Lynn Goldman/EPA
Catherine Lorraine/FDA
Elgie Holstein/NEC
Mike Fitzpatrick/OIRA
Carrie Jelsma/OMB
Cheryl Bates-Macias/USDA
David Shark/USTR

Bradley Campbell/CEQ
Ron Lee Medford/CPSC
Robert Clark/DOT
Bill Dinkelacker/DOT
James Aidala/EPA
Robert Hickmott/EPA
Dalton Paxman/HHS
Jon Kaplan/NEC
Sally Katzen/OIRA
Barbara Walton/OSTP
Doris Freedman/SBA

DISCUSSION DRAFT -- DO NOT CITE OR RELEASE

PROTECTION OF CHILDREN FROM ENVIRONMENTAL HEALTH THREATS

America's children today face significant and unique threats from an array of environmental hazards. A growing body of scientific knowledge demonstrates that children are particularly at risk from environmental hazards for several reasons:

- o Children's immunological, digestive and other bodily systems are still developing, making them more susceptible to toxic pollutants and other environmental hazards;
- o Children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults, and spend more time outside in play, so they may be more exposed to toxic pollutants and other environmental hazards; and
- o Children are less able than adults to recognize and to protect themselves from exposure to toxic pollutants and other environmental hazards.

While responsible Federal agencies are addressing many environmental hazards, existing environmental standards were derived in many instances principally to protect adults. The array and complexity of environmental health threats facing children today, and the uncertainties in the adequacy of existing protections derived principally to protect adults, pose a significant challenge to our ability to protect our children's health.

The Federal government can and should respond to this challenge by establishing a national policy to protect the health of every American child from environmental hazards. Only by tailoring governmental actions, including the setting of health and safety standards, to recognize and address the oftentimes greater impact that environmental pollutants have upon the health of our children, can we ensure our children's healthy and productive futures.

NOW, THEREFORE, to establish a coordinated federal strategy for the protection of children from the risks of exposure to toxic pollutants and other environmental hazards, and by the authority vested in me as President by the Constitution and laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy.

1-101. The head of each Federal agency shall, to the greatest extent practicable and permitted by law, establish the protection of children from environmental hazards as a priority for that agency as consistent with each agency's mission.

1-102. The head of each Federal agency shall ensure that the potential impacts upon children of environmental hazards arising from or related to the activities of that agency are considered and addressed by that agency to the fullest extent permitted by that agency's statutory authority.

Resource ?
allocation?

[NOTE: Throughout this draft, EPA has not attempted to address comprehensively the protection of children from all hazards, only from environmental hazards. Other agencies, upon review, may desire to be included in this effort and seek to broaden the applicability of this draft Executive Order beyond health and safety regulations implicating environmental health issues.]

Section 2. Definitions. The following definitions shall apply to this order.

2-201. Federal agency means an Executive agency, as defined in 5 U.S.C. 105. For purposes of this order, military departments, as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

Section 3. Agency environmental or health regulations.

3-301. In developing and promulgating any regulation, rule or standard related to toxic pollutants, environmental hazards, or other environmental health threats, each responsible agency shall, to the fullest extent consistent with statutory authority, consider any health risk to infants and children in connection with the proposed regulation, rule or standard.

3-302. If the responsible agency lacks information necessary to make a reasoned evaluation of the health risk to infants and children related to the proposed regulation, rule or standard, the agency shall obtain or direct others to obtain such information unless the overall costs or time to obtain such information are judged by the agency head to be unreasonable, or the means to obtain such information are not known.

3-303. In finally adopting any regulation, rule or standard related to environmental hazards, or other environmental health threats, each responsible agency shall, unless precluded by law, consider the special health risks to infants and children during the development of the regulation, rule or standard and ensure that the regulation adequately protects the health of infants and children. Each regulation, rule, or standards shall contain a

~~statement indicating compliance with this requirement, or a statement indicating that it does not in any manner potentially implicate any special risk to children's environmental health, or that there is a statutory prohibition on such consideration.~~ If the responsible agency lacks information necessary to make a reasoned evaluation of the effect of the regulation, rule or standard upon the health of infants and children, as found in section 3-302, the agency shall so state.

Section 4. Children's Environmental Health Council.

4-401. Within 60 days of the signing of this order, there shall be established the Children's Environmental Health Council, which shall have general oversight of the implementation of this order.

4-402. The Children's Environmental Health Council ("Council") shall be comprised of representatives of Federal agencies and White House offices with responsibility for the regulation of risks from toxic pollutants or other environmental hazards, or whose activities may substantially affect such hazards, or which conducts scientific or medical research related to such risks or environmental hazards. Member agencies shall include, but are not limited to, the Consumer Product Safety Commission (CPSC), the Environmental Protection Agency (EPA), the United States Department of Agriculture (USDA), the Department of Justice (DOJ), the Department of Health and Human Services (HHS) including, the Centers for Disease Control and Prevention (CDC), the Food and Drug Administration (FDA), and the National Institutes of Health (NIH), the Council on Environmental Quality (CEQ), the office of Science and Technology Policy (OSTP), and the Office of Management and Budget (OMB).

DPC

4-403. The Council's functions shall include:

- (a) Preparation and dissemination of guidance for compliance with this order.
- (b) Coordination of the development of the Coordinated Federal Strategy established pursuant to Section 6 of this Order, including the coordinated research agenda for the Federal government established by that section to ensure the best deployment of federal assets to address the policies of this order and to foster linkages between emerging research and policy development.
- (c) Coordination of Federal regulatory initiatives, including recommendations for joint development of regulations.
- (d) Establishment and maintenance of the Research Data Base established pursuant to section 5 of this order.
- (e) Preparation and submission to the President of an annual report beginning on October 1, 1997, on the

progress made on the Coordinated Federal Strategy described in section 6 of this order.

- (f) Consultation with the Office of Management and Budget to provide expertise for Executive Branch review of regulations affecting children's environmental health.
- (g) Other actions determined to be appropriate to advance the objectives of this order.

4-404. The Council shall be composed of the Secretary or head of each of the responsible agencies, or their designees at the Assistant Secretary level or its equivalent or higher.

4-405. The Council shall be consulted by and shall provide advice to the Administrator of the Office of Information and Regulatory Affairs during the review of regulatory actions under Executive Order 12866 that may affect children's environmental health.

4-406. The Council may establish subcommittees and working groups as appropriate to assist the Council in carrying out its obligations and responsibilities under this order.

4-407. The Administrator of the Environmental Protection Agency shall serve as interim chair of the Council with responsibility for arranging the first meeting. At the first meeting, the Council shall elect a permanent chair, who will serve for a period of one year. Subsequent chairs shall be elected by the Council to serve for one-year terms, with no one responsible agency holding the chairmanship of the Council for more than two consecutive one-year periods.

4-408. The Council shall exist for a period of five years. At least six months prior to the expiration of that period, the responsible agencies shall assess the need for continuation of the Council or its functions, and make appropriate recommendations to the President.

Section 5. Research Data Base.

5-501. Within nine months of the date of signature of this order, the member agencies, under the auspices of the Council, shall establish, maintain, and keep current a consolidated research data base that lists and describes all research conducted or funded by the Federal government that is related to adverse health effects in children and infants resulting from exposure to toxic pollutants or other environmental hazards.

5-502. The Council shall encourage the submission of information on academic and other private research for inclusion in the data base.

5-503. The research data base established pursuant to this section shall be available to the public, to the scientific and academic communities, and to all Federal agencies.

Section 6. Coordinated Federal Strategy.

6-601. Within eight months of the signature of this order, the responsible agencies, under the direction of the Council, shall prepare and publish in the FEDERAL REGISTER a coordinated Federal strategy for the identification and management of risks to children related to exposure to toxic pollutants and other environmental hazards.

6-602. The coordinated Federal strategy required by this section shall include at least the following elements:

- (a) Statements of guiding principles, general policy, and targeted annual priorities that will govern the Federal approach to achieving the goals of this order.
- (b) A coordinated research agenda for the Federal government, which takes into account the availability of the research listed in the Research Data Base established pursuant to section 4 of this order and a preparation of a cross-cutting budget to accomplish this research. This agenda shall address future research needs, including addressing multiple exposures and cumulative health risks facing infants and children. It should explore appropriate partnerships between the Federal government and other branches of government and the private, academic, and non-profit sectors.
- (c) Specific Federal plans for public outreach and information-sharing to assist families in evaluating risks to infants and children in making (informal) consumer choices. As part of this effort, the Council shall publish a joint pamphlet for distribution to families assessing children's environmental health threats, and providing practical tips for family protection and additional sources of governmental information. 20
- (d) A statement regarding the desirability of new legislation to ensure that the purposes of this Executive Order are carried out.
- (e) The head of each member agency shall prepare for inclusion in the Coordinated Federal Strategy a specific regulatory plan that describes how the agency intends to address the issue of risks to children resulting from exposure to pollutants and other environmental hazards. These plans shall discuss past, current, and future activities and regulatory actions, and shall specifically address utilization of existing authority, regulatory and voluntary initiatives,

outreach and information-sharing, and stakeholder involvement, as well as any particular steps to address environmental justice considerations. Member agencies shall involve the public in developing the plans required by this section to the extent consistent with their statutory authority. The Council shall foster coordination of the activities identified in these plans.

Section 7. General Provisions.

7-701. This order is not intended, and should not be construed to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or its employees. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance with this order by the United States, its agencies, its officers, or any other person.

7-702. Federal agencies should implement this order consistent with, and to the extent permitted by, existing law.

7-703. This order shall be effective immediately and shall continue to be in effect until revoked.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
Rockville MD 20857

JAN 27 1997

To: Gary Guzy, Counselor to the Administrator, EPA

From: William B. Schultz, Deputy Commissioner for Policy
Food and Drug Administration

Subject: FDA Comments on EPA's Children's Environmental Health
Proposal

In response to EPA's request for comments on its proposed Executive Order on Children's Environmental Health, the following points summarize FDA's most significant concerns about the proposed action.

Re: Application to FDA

- FDA should be explicitly exempt from the proposed Executive Order.

FDA recognizes the need to consider and protect children, along with other potentially sensitive or special subpopulations, and has taken a number of actions within its organic statutory authority, especially in the last six years, directly protective of children. However, the vast majority of products that FDA regulates cannot be conceived of as "toxic pollutants, environmental hazards, or other environmental health threats". Thus, FDA does not believe that the process established by the proposed Executive Order (see below) adds value to FDA current activities. Indeed, if applied to FDA, the proposed executive order would not produce any benefit for children's health, and would place unreasonable and unnecessary burdens on the agency and the regulated industry.

We note that, after 20 years of experience in applying the analogous requirements of the National Environmental Policy Act of 1969 (NEPA) to FDA-regulated products, FDA, in consultation with the Council on Environmental Quality, has concluded that the compliance of its regulated manufacturers with NEPA has rarely produced any benefit to the environment, and has placed unnecessary and unreasonable regulatory burdens on the regulated industry and the agency. Consequently, as part of the President's reinventing government initiatives, FDA is drastically reducing the number of situations to which NEPA requirements will apply.

Having just determined that the requirements of NEPA produce so little benefit for one of its most important product areas, FDA is extremely concerned that the requirements of the proposed Executive Order, while potentially useful in other settings, will

likewise result in no benefits to children's health, but will increase costs and impose new burdens on the agency and its regulated industry unnecessarily.

Re: Burdens on Product Approvals

- Complying with the proposed Executive Order will slow product development and will slow the agency's product approval times.

In the last 5 years, FDA has worked extremely hard, in cooperation with regulated industry, to bring product approval times down. These efforts have paid off, and FDA's drug approval times are among the best in the world. If a product is not intended for use in children, there will be no value to manufacturers generating, or FDA reviewing, data on children. The need to generate new data will delay the submission of new product applications to FDA and will result in longer review times by the agency. In addition, the agency is concerned that the proposed order could be read to require statements in regulations and product labeling that might discourage manufacturers from seeking product approvals in the first place.

Re: Scope/definition of Terms

- The scope of the proposed executive is not clear because a number of key terms are not defined.

A. The terms, "environmental hazard", "environmental health threats", and "toxic pollutants" are not defined. As noted above, the vast majority of products that FDA regulates do not fall into a straightforward reading of these terms. The exclusion of FDA-regulated products should be made explicit in the proposed order.

In addition, until the meaning of these triggering terms is defined, it is not clear if the proposed Executive Order applies to predictable exposures to products used as intended, or rather to any possible exposure to any possibly harmful substance that is in a child's environment. If the latter is the case, the burdens that would be imposed on government and industry alike would be staggering.

B. The term "standard" is not defined. Normally, these kinds of Executive Orders do not apply to specific product approval actions. Yet, EPA has stated that the term "standards" is intended to cover product approvals and standard-setting for drugs, biologics, medical devices, and food. As discussed above, we believe that FDA product approvals and product standards should be explicitly exempt from the executive order.

C. The proposed order would also apply to regulations and rules. It is not clear whether "rule" is meant to have the very broad definition it has in the Administrative Procedure Act. If it is, then not only would substantive regulations be covered, but all interpretive rules and general statements of policy would be subject to the requirements as well. The amount of work this would create for FDA (and other covered agencies) is significant and might discourage agencies from taking otherwise beneficial regulatory actions. We note that Executive Order 12866, for example, only applies to "significant" regulations. FDA has previously recommended that the proposed order be limited to significant regulatory actions as defined in Executive Order 12866. The agency reiterates this recommendation.

D. Infants and children are not defined as separate terms. It is thus unclear whether the proposed order would require separate evaluations of these two groups.

Re: Impact on Judicial Review of Covered Actions

- The statements required by the proposed Executive Order could make agency actions more vulnerable to challenge under the Administrative Procedure Act.

Section 7 of the proposed Executive Order provides that it is not intended, and should not be construed, to be judicially enforceable. Section 3-303, however, requires an agency to state that it "lacks information necessary to make a reasoned evaluation of the effect of the regulation, rule or standard upon the health of infants and children, as found in section 3-302" where that is the case for any individual covered action. Putting such statements in administrative records could create a significant legal vulnerability in these actions. FDA thinks that administrative records containing this statement would be open to challenge as arbitrary and capricious or not based on an adequate factual record under the Administrative Procedure Act. This concern is exacerbated by the extremely broad wording of section 3-303: "[the action] does not in any manner potentially implicate any special risk to children's environmental health." This language requires every agency to achieve an impossibly high standard of proof that can never be met because science cannot prove with absolute certainty that no harm will ever result from a product or substance under all potential circumstances.

FDA has an additional substantive concern about the wording of the finding that must be made under section 3 of the proposed executive order. It is possible that it could be construed by a reviewing court as supplementing, and thus changing, the legal standards in the Food, Drug, and Cosmetic Act for the approval of regulated products. This would be highly undesirable.

Re: Policy and Political Considerations

- The increased burdens imposed on government and industry alike and the "one-size-fits all" approach of the proposed order will be used against the Administration by advocates for regulatory reform legislation.

While FDA supports the goals of providing greater public health protection for children, as well as for other sensitive or special subpopulations, we are concerned that aspects of the proposed executive order, in particular the data-gathering, will not be well-received by regulated communities and may generate considerable hostility on the Hill, prompting renewed cries for "regulatory reform". First, to the extent that regulated industry must generate or gather the data, the proposed executive order will impose additional private-sector costs. Second, to the extent that agencies have to gather or generate the data, it will slow down the regulatory and approval processes and may keep beneficial products off the market. Third, to the extent that agencies are responsible for conducting the required research, it imposes significant costs at a time when all resources are shrinking and are therefore at a premium. FDA also notes that the costs associated with the establishment and maintenance of the research data base will be high, and it is not clear which agency would bear these costs. No additional burdens should be placed on federal agencies without proof that significant and important benefits will result.

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P. 02



United States
CONSUMER PRODUCT SAFETY COMMISSION
 Washington, D.C. 20207

Office of the Executive Director

MEMORANDUM**DATE: January 27, 1997**

TO : Gary Guzy
 Counselor to the Administrator
 Environmental Protection Agency

FROM : Pamela Gilbert
 Executive Director

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

of pages ► 4

To E. DRYE	From
Dept./Agency	Phone #
Fax #	Fax #

NSN 7540-01-317-7368

5099-101

GENERAL SERVICES ADMINISTRATION

SUBJECT: CPSC Staff Comments on EPA's Draft Children's Environmental Health Executive Order¹

The Consumer Product Safety Commission is responsible for protecting the public from numerous hazards associated with over 15,000 types of consumer products which place both children and adults at risk. For example, in addition to our concern about the acute and chronic effects of chemicals contained in consumer products, the CPSC has jurisdiction over hazards associated with electrical and mechanical products, product-related fires, and unsafe children's products, among many others. One of the greatest challenges CPSC faces is determining how to focus our very limited resources so that they will do the most good. In meeting this challenge, the agency already places great emphasis on, and devotes many resources to, the protection of children from all sorts of product hazards. In addition, where the information is available, we consider special risks that products pose to children, whether the hazard involves an environmental threat or some other type of risk.

As the CPSC has no greater priority than protecting the health and safety of children, we strongly support the stated intent of the draft Executive Order -- to establish a "national policy to protect the health of every American child from environmental hazards." However, we are very concerned that the Executive Order, as drafted, could have the unintended consequence of undermining CPSC's efforts to direct our resources toward the goal of product safety in the most effective manner. We have a number of concerns with both the overall approach of the draft Order and with specific details of the language. In this memo, we will address our most critical concerns with the approach taken in the draft Order and provide specific recommendations for changes.

¹This memorandum does not necessarily reflect the views of the Commissioners.

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Burden on the agency

By redirecting agency priorities and requiring our staff to conduct additional and complex research, the draft Executive Order could undermine CPSC's ability to protect the public -- including children -- from an ever-expanding universe of product hazards within very serious budget constraints.

The draft Executive Order states that each "agency shall, to the greatest extent practicable and permitted by law, establish the protection of children from environmental hazards as a priority for that agency as consistent with each agency's mission." (Section 1-101.) We are very concerned that this language could have the effect of requiring the CPSC to shift priorities and limited resources to addressing environmental health risks to children, even when we believe there are greater risks to children or adults that demand the agency's attention. This could, in turn, undermine our efforts to protect the health and safety of children, contrary to the intent of the draft Executive Order.

Furthermore, where the agency chooses to proceed with a rule, regulation or standard involving an environmental hazard, the draft Order states that agencies "shall obtain or direct others to obtain...information necessary to make a reasoned evaluation of the health risk [related to toxic pollutants, environmental hazards, or other environmental health threats] to infants and children...unless the overall costs or time to obtain such information are judged by the agency head to be unreasonable, or the means to obtain such information are not known." (Section 3-302.)

Unlike some other health and safety agencies, the CPSC may lack authority to direct companies or others to conduct the type of research at issue here. Therefore, any additional burden to conduct research imposed by the Executive Order would likely fall directly on the agency. We are very concerned that the requirement to obtain this information could force CPSC to redirect substantial resources away from critical product safety work, undermining the agency's ability to protect both children and adults.

Recommendation: We believe that, rather than mandating a particular approach, the Executive Order should encourage agencies, where appropriate and consistent with reasonably available data, competing priorities, and budgetary constraints, to consider environmental hazards to children.

Models for obtaining information about environmental threats to children do not exist.

The draft Executive Order implies that agencies are not currently taking into account the effect of chemicals on children when they issue regulations. CPSC believes this simply is not true and sends a negative and misleading message to the public. Whenever CPSC develops regulations, we consider the effects on children *if there are data available to support a separate health effects assessment.* CPSC's recent

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actions on both lead in miniblinds and lead in paint on playground equipment are good examples of how we account for the unique exposure and the increased susceptibility of children when the information is available. The problem, of course, is that there is frequently not sufficient scientific data to allow for a separate health effects assessment.

The focus of the Executive Order should be on conducting the studies and research necessary to obtain better data to allow for these separate assessments in the future. While epidemiological studies are very useful in defining hazards to humans, they typically identify only hazards to which there is a high exposure or which result in a very unique endpoint. In general, animal studies have been relied upon to identify toxic chemicals where these conditions do not exist and appropriate extrapolation is done to define the risk to humans. However, there are no good animal models for many of the toxic endpoints that allow us to predict the increased risk to children.

Recommendation: We believe that a high priority should be placed on developing needed animal models. This is an ideal project upon which agencies could be directed to work collaboratively. There are currently structures in place, such as the National Toxicology Program, that could facilitate this work.

Required agency findings may harm safety efforts.

The draft Order requires that, if an agency "lacks information necessary to make a reasoned evaluation of the effect of the regulation, rule or standard upon the health of infants and children," the agency must state that fact as part of the rule. (Section 3-303.) This requirement would put an agency like ours, which places the protection of children as one of its highest priorities, in the untenable position of making a public statement that we do not have enough information to adequately protect children. Our only alternative to this would be to devote substantial resources to obtaining such information, diverting resources from other critical agency work.

We are also concerned that this requirement could have the unintended effect of providing ammunition for lawsuits by special interests opposed to health and safety regulations. In drafting a regulation, if an agency is unable to "make a reasoned evaluation of the health risk to infants and children," the agency head would have to affirmatively state that the agency lacks "the means to obtain such information." (Section 3-303.) Although the draft Order appropriately states that it does not create any right to judicial review (Section 7-701), litigants might well claim that the agency's admission that it is unable to assess the risk to children or infants demonstrates that the rule is arbitrary and capricious or is not supported by substantial evidence. This, again, could undermine the very health and safety rules that the Executive Order is intended to strengthen.

Recommendation: The affirmative statement required by Section 3-303 should be deleted.

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P. 05

Unnecessary Bureaucracy

Section 4 of the draft Executive Order establishes the Children's Environmental Health Council. We agree that there needs to be coordination between federal agencies on children's environmental health issues, particularly in the area of research. But we strongly oppose setting up another bureaucratic body to accomplish this. The draft Order proposes a cumbersome new bureaucratic entity and seems counter to the Administration's reinvention efforts to create a smaller, more effective government. Federal agencies are already coordinating effectively on many important public health issues through ongoing scientific coordinating bodies. There is no need for a separate council.

The creation of the Health Council in the draft Order presents additional problems for independent agencies, particularly those that Congress created as collegial bodies. For example, the Executive Order states that "under the direction of the [Children's Environmental Health] Council," agencies shall have a "coordinated research agenda" and a "cross-cutting budget to accomplish this research." (Sections 6-601 and 6-602.) However, Congress created CPSC as an independent agency consisting of five (now three) Commissioners. (15 U.S.C. 2053(a).) Policy decisions -- such as allocation of the Commission's overall budget and its broad research priorities -- are by statute made by the Commission as a whole. (See 15 U.S.C. 2053.) It would be inappropriate and unworkable to require that these policy decisions be overseen by or "under the direction of" an outside council.

Furthermore, the functions of the Council, as drafted, sound more like a directing body than a coordinating body, adding more burdens and more mandates to an already overburdened regulatory regime. For example, as drafted, the Council would provide "guidance" on how to comply with the order, make recommendations for "joint development of regulations," prepare "annual reports," etc. All of this comes at a time when agencies are faced with more demands and diminishing resources.

Recommendation: The Executive Order should not create any new bureaucracy, and no authority should be granted over agency activities.

In conclusion, we have many concerns with the approach taken by the draft Executive Order, although we support its goals. We suggest an alternative approach that would direct agencies to collaborate, within existing structures, on research methodologies to obtain information that is currently lacking about special threats to children from environmental hazards. Such an approach could include a direction to agencies to use these research tools to consider the special risks to children in the course of their regulatory activities.

File

ERA

Right to know

Date: September 19, 1996

For: Brad Campbell
Elizabeth Drye
TJ Glauthier
Elgie Holstein
Mark Mazur
Dan Tate

From: Diane Regas

Re: Today's meeting

Debbie Fine

DISCUSSION DRAFT

EXECUTIVE ORDER TO PROTECT CHILDREN FROM ENVIRONMENTAL HEALTH THREATS

As a follow-up to the President's Kalamazoo announcement, and in view of the concerns expressed about the status of children's environmental health in EPA's recently released *National Agenda to Protect Children from Environmental Health Threats*, we believe that there are significant opportunities for continued Presidential leadership on protecting families from the threats posed by environmental toxics. We recommend consideration of an Executive Order that would have four parts:

- **Require that all agency activities consider potential disparate health impacts upon children from environmental threats.** This requirement would help to ensure that children's environmental health issues are placed squarely on each agency's agenda. It would be analogous to the President's Environmental Justice Executive Order in requiring consideration of children's environmental health as part of everything an agency does.
- **Require that all agency health and safety regulations and standards are adequately protective of children's health.** This requirement would extend the approach of the new Food Safety legislation -- signed by the President and passed by a unanimous Congress -- to all areas of regulation, thereby ensuring the protection of children from environmental health threats. It would require an affirmative finding for each new regulation or standard that it is adequately protective of differential health risks faced by infants and children. It would be similar to other requirements imposed through the regulatory review executive order or legislation, such as a favorable cost-benefit ratio or appropriate small business impacts, but instead would be tailored toward ensuring appropriate consideration of issues affecting children's health.
- **Enhance right to know by providing families with comprehensive information on children's environmental health risks from toxics.** First, the Executive Order would instruct all agencies to provide information for rapid preparation of a pamphlet for distribution to families. The pamphlet would provide an assessment of children's environmental health threats, practical tips for family protection, and governmental sources of additional information. Second, the Executive Order would instruct agencies to carry out the Family Right to Know Initiative to the maximum extent possible under existing authorities -- providing labeling information on unique environmental health risks to children from consumer products.
- **Enhance our understanding of threats to children from environmental toxics by coordinating the scientific research programs of agencies related to these issues.** Numerous agencies across the government are addressing different aspects of the threats facing children from environmental health risks, but there has yet to be fully successful coordination of these efforts, nor an assessment of future needs in this area. The Executive Order would initiate and coordinate such a process.

DISCUSSION DRAFT ON PRINCIPLES FOR FAMILY RIGHT TO KNOW INITIATIVE INFORMATION LABELS

As a complement to issuance of an Executive Order, EPA recommends that the Administration support principles for legislation providing clear authority to fully implement the Family Right to Know Initiative. We recommend agreement to the following principles:

-Children can be more vulnerable to toxic chemicals than the adult population in general, because of their size, metabolism, diet and behavior.

-The goal of the Family Right to Know Initiative is to assist parents in assessing and avoiding unique environmental health risks to children from products or chemicals designed for child or home use. Our primary tool will be **information labels for hazardous chemicals in children's food and consumer products.**

-The President will call upon Congress to work with the Administration to develop legislation that will require information labels on consumer products that can expose children to hazardous chemicals. The key features of the information label requirement of this legislation will be:

-**Identifying hazardous chemicals:** Based on the best currently available information, the legislation will establish a process to identify the lists of hazardous chemicals that will be the subject of labels.

-**Health risks:** The lists should encompass the whole range of environmental health risks from toxic chemicals, including cancer, developmental, endocrine and reproductive risks. The risk standards are the same as those accepted in the recently enacted Food Safety law.

-**Petition process:** The responsible government agencies are authorized to modify these lists in light of new information, and to respond to petitions from citizens and industry.

-**Content of labels:** The information labels will assure that no person in the course of doing business shall expose any infant or young child to a hazardous chemical in any consumer product, without first providing a clear and reasonable warning that infants and children who consume or use the food or product will be exposed to a hazardous chemical.

-**Exposure to children:** The requirement is limited to consumer products where children would be disproportionately at risk from hazardous chemicals, as compared to adults, whether from greater exposure or susceptibility. The requirement would extend to instances where it is known, or reasonably should be known, that such a differential risk will occur. This will occur in instances where it is known or should be known that children will face exposures to hazardous chemicals and where it is known or should be known that the effects upon children may be more significant.

- For Coordination -

-Placement of label: The label will be placed on or immediately adjacent to the product at its point of sale. The requirement will extend to manufacturers and reformulators.

-Timing: The requirement for information labels will take effect within a practicable period after enactment.

-Enforcement: A private citizen may enforce the requirements in Federal court, after giving 60 day notice to the government and the violator. The government will also have appropriate enforcement authorities to ensure compliance with the Act. While plaintiffs can recover their litigation costs, the legislation does not create a private cause of action for personal injury.

- No preemption of State Laws: The legislation will explicitly provide that laws enacted by States in this area are not preempted.

The benefits of this approach:

-An alternative to traditional regulation: Information labels provide an alternative to the traditional regulatory approach --- a time consuming and litigious process where the government identifies acceptable levels of risk, and imposes command-and-control requirements on industry through regulatory development. This program is largely self-implementing and not dependent on the creation of a bureaucracy. It allows for improved consumer choices, and public reporting provides a powerful incentive for safe products. Identification of releases of hazardous materials from chemical manufacturing facilities to the environment through EPA's Toxic Release Inventory, for example, has lead to reductions of 61% since 1987.

Flexibility: Businesses have considerable flexibility in responding. They can label products. They can take prevention approaches --- reformulating and redesigning products ---to reduce the use of hazardous chemicals. They can undertake further testing.

Risk: The labeling requirement starts with existing information. The warning requirement is not dependent on government listing or rulemaking. When the government is reconsidering a chemical, or considering additional substances, the standards would be set pursuant to the standards for children's health established under the Food Quality Protection Act.

Exposure: The legislation takes a common-sense approach to exposure, relying on the experience of business and parents to determine the likelihood of exposure to children.

Enforcement: Enforcement would require a showing that children were exposed to the hazardous chemical through a consumer product and faced greater risk. Competition and the marketplace can help to assure compliance with the warning requirements, limiting the need for a substantial enforcement presence. Although market incentives will promote compliance, those incentives will be backed-up by federal enforcement authorities and a citizen suit provision.

New York Times

Children's Health Is to Guide E.P.A.

Redrawing of Standards Will Be Based on Risks to the Vulnerable

By JOHN H. CUSHMAN Jr.

WASHINGTON, Sept. 11 — The Clinton Administration said today that it would start focusing all environmental protection standards on the risks that pollution poses to the health of children.

The change could lead to tougher rules on pollutants as diverse as soot fouling the air and microbes contaminating tap water.

The Environmental Protection Agency said it would adopt this approach not only when writing new rules but by reviewing and revising several of the most important regulations that are already on the books.

Increasingly, children are viewed as facing special risks from toxic chemicals and other contaminants because their organs are still developing, because their immune systems are less robust and because they eat more food, drink more water and breathe more air in relation to their size than adults do.

In recent weeks, President Clinton has made the well-being of children the central theme of his re-election campaign. And to some extent, announcing the policy today while releasing a detailed report on what had already been done was the regulatory equivalent of baby-kissing.

But Carol M. Browner, administrator of the Environmental Protection Agency, and outside experts said it would be unfair to call the changes a political gimmick, because they grew out of a long series of measures taken by the environmental agency over the years to target its regulations more directly toward the health of children.

It is far too early to say exactly how the new policy would affect the specific pollution controls required at a given factory or the clean-up work demanded at a local toxic waste dump. That kind of specific decision, the ultimate result of the regulatory process, must await the long process of conducting risk assessments and other scientific research and could be delayed further by litigation.

"The overall trend will be toward tighter standards," Ms. Browner said at a news conference today. She said that among the first pending regulations to reflect the changes would be a pair of national air quality standards that are scheduled to be

Those rules, which seek to limit the soot and smog-causing ozone that spew vehicles, power plants and other sources, are expected to be tightened considerably to more fully protect children with asthma, which is exacerbated by air pollution.

The proposed revisions are expected to be issued a few weeks after the election and have already been vigorously debated by industrial companies and public health and environmental groups from the standpoint of the effect on children and other vulnerable groups.

Administration officials said that while asthma had many causes, controlling air pollution was a central weapon in the fight to minimize the disease's impact on children. In the past, the air pollution rules written under the Clean Air Act set limits on soot and on ozone with little regard to the specific consequences for children's developing lungs.

The Centers for Disease Control and Prevention has reported that deaths from asthma among children and young people had increased by 118 percent from 1980 to 1993, when there were 198,000 hospitalizations and 342 deaths from asthma among people less than 25 years old.

The policy change does not require new legislation, although provisions in the recently enacted law to govern pesticide residues in food strengthens the E.P.A.'s hand in toughening that set of Federal rules to protect children.

But Jerry Jasnowski, the presi-

dent of the National Association of Manufacturers and the leader of a broad industry movement to rein in environmental regulations, said the kind of change that the Administration was contemplating could prove so costly that Congress ought to explicitly approve it first.

"This could be a rather big step, and it raises enough questions that it ought to be reviewed and debated by Congress," he said.

Congressional Republicans, in legislation they proposed last year to roll back major environmental regulations, drafted provisions that were criticized by environmental groups as undermining rules aimed specifically at protecting the vulnerable. The bill passed the House as part of the Republican leadership's Contract with America, but a version sponsored by Bob Dole, who was then the majority leader, died in the Senate under a Democratic filibuster.

This year, however, with their environmental record being challenged, Republicans joined with Democrats as both houses unanimously approved the new pesticide bill, which specifically calls for protecting children.

E.P.A. officials said any tougher regulations they propose will have to be fully justified by peer-reviewed scientific findings. Indeed, a scientific review and public comment period will precede even the agency's selection of five existing rules, beyond the air-pollution standards, that will be formally reviewed and reissued.

Report Links PCB Exposure With Children's Development

By JANE E. BRODY

Exposure before birth to relatively small amounts of PCB's, a kind of industrial pollutant, can result in long-lasting deficits in a child's intellectual development, a new study has shown.

The researchers found higher than expected rates of "low normal" I.Q. scores, poor reading comprehension, memory problems and difficulty paying attention in 11-year-old children who had been prenatally exposed to polychlorinated biphenyls,

said in an interview.

PCB's were once widely used in the manufacture of electrical equipment and in paper recycling. Although their production and their use in newly manufactured equipment have been banned in the United States and most other Western nations since the 1970's, and although environmental levels have since declined, they still contaminate the sediments of many lakes and rivers, including the Hudson, and remain pollutants in some freshwater fish.



CHEMICAL MANUFACTURERS ASSOCIATION

FREDERICK L. WEBBER
PRESIDENT AND CEO

June 27, 1996

The Honorable Carol M. Browner
Administrator
Environmental Protection Agency
401 M Street, S.W. (Mail Code 1101)
Washington, D.C. 20460

Dear Carol:

Today, CMA will file an appeal of the U.S. District Court's decision in our lawsuit involving the Toxic Release Inventory. Because this issue has drawn so much attention, I want to be clear about our objectives as well as our fundamental support for the Community Right-to-Know law.

We regret having to take this step. We had always hoped we would be able to resolve our difference of opinion about the Toxic Release Inventory, as we have with so many other issues, without having to involve the courts. Unfortunately, that was not possible in this case. While regrettable, we both know that the courts often provide the forum for resolving strongly held and honest differences of opinion.

Our action is not a challenge to the fundamentals of the Community Right-to-Know law. CMA and its members are strong supporters of the right-to-know law. Everyday, we work with local communities through Responsible Care® to enhance community right to know and safely manage the risks associated with chemical use. Through this effort, CMA members have reduced emissions to the environment by 61 percent since 1987.

When you announced the expansion of the TRI in 1994, you said the goal was to "provide citizens with more comprehensive information to better assess potential risks to health and the environment in their communities." CMA supports this goal.

The TRI data must give the public a meaningful and accurate picture of pollution entering the environment. Meaningful and accurate data will allow people to make good decisions about what is – and what isn't – a serious risk and about where to focus pollution prevention efforts.

The Honorable Carol M. Browner

June 27, 1996

Page 2

Some of the chemicals added to the TRI in 1994 do not belong on it. Inaccurate listings dilute the value of the program. Through our appeal, CMA is seeking to ensure that TRI data is meaningful, accurate and that it is focused on effectively communicating information about risk to the public.

Sincerely,

A handwritten signature in cursive script, appearing to read "Fred", written in dark ink.

Frederick L. Webber
President and CEO

cc: Mr. Jonathan Z. Cannon, General Counsel
Dr. Lynn R. Goldman, Asst. Administrator, OPPTS
Dr. William Sanders, Director, OPPT

**DISCUSSION DRAFT ON
PRINCIPLES FOR FAMILY RIGHT TO KNOW INITIATIVE
INFORMATION LABELS**

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DISCUSSION DRAFT**EXECUTIVE ORDER TO PROTECT CHILDREN
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As a follow-up to the President's Kalamazoo announcement, and in view of the concerns expressed about the status of children's environmental health in EPA's soon to-be-released *National Agenda*, we believe that there are significant opportunities for continued Presidential leadership on protecting families from the threats posed by environmental toxics. We recommend consideration of an Executive Order that would have three parts:

- **Require that all agency activities consider potential disparate health impacts upon children from environmental threats.** This requirement would help to ensure that children's environmental health issues are placed squarely on each agency's agenda. It would be analogous to the President's Environmental Justice Executive Order in requiring consideration of children's environmental health as part of everything an agency does.
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Express-line cheaters

One in four shoppers tries to use the express line despite having more than the maximum items allowed.



DID YOU KNOW_{nan}

Working parts

The average human body contains enough iron to make a three-inch nail.

Bed battle

Seventy-five percent of men and women accuse their partners of hogging the covers.



NEWS & IDEAS TO CLIP AND USE

The Better Way

OCTOBER 1996

Special Report

Keeping Our Children Safe

What you can do to protect them from hazards in the air they breathe, the foods they eat, and more

Spencer Mitchell's favorite place to play is his own backyard. But for Spencer, 2, an outdoor romp is potentially deadly. He has asthma, and he lives in Atlanta, where air-quality has declined as the city has grown.

"On those days that they give air-quality warnings, I don't let him out," says Spencer's mother, Davetta Johnson Mitchell. In the last year and a half, Spencer has been hospitalized twice because of asthma attacks. "He has to work so hard to breathe," says his mother. "It's just awful."

It's been awful for a lot of American children in recent years. Asthma deaths have increased 40 percent since 1982. Childhood cancers are up 15 percent since 1973, and they continue to climb. A growing number of researchers are certain that both of those statistics—as well as a variety of maladies ranging from skin irritations to fatigue and behavioral problems—can be directly linked to the toxic soup of bad chemicals, air, and water that youngsters eat, breathe, and play in.

More than 70,000 new chemical compounds have been dispersed into our environment since 1950. "We are conducting a massive toxicological trial, and our children and their children



are the experimental animals," warns Philip J. Landrigan, M.D., a professor of pediatrics at Mount Sinai School of Medicine in New York City and the director of a 1993 National Academy of Sciences study that demonstrated the risks pesticides pose to children.

That's the bad news. The good news is that the weight of evidence has led the public health community to sound a

wake-up call. Parents who want to reduce the risks to their own children now have wider access to organic foods, nonchemical alternatives to pesticides, and information about pollutants.

And this month the federal government is issuing its own report, which spells out the ways in which a child's health is threatened by the endless combinations of environmental hazards. "We have failed to account for the most vulnerable—our children," says Carol M. Browner, administrator of the U.S. Environmental Protection Agency (EPA).

The agency's National Agenda to Protect Children's Health from Environmental Threats, detailed here in an exclusive release to *Good Housekeeping*, calls for reversing this deadly trend through fundamental changes in our thinking,

starting with the scientific community. For decades, safety levels for pesticides and other toxic substances were determined on the basis of what was safe for an adult male. But researchers have learned that children are much more susceptible to environmental health threats. Because they're still growing, children literally breathe more air, eat more food, and drink more fluids per

THE BETTER WAY

pound of body weight than adults. They generally have weaker immune systems and immature organs and tissues, all of which makes them particularly vulnerable to chemical exposures at certain stages of their development. Plus infants and toddlers routinely crawl on floors or the ground, and ingest dust, dirt, and other foreign objects—which exposes them to more hazards than those faced by adults.

About three years ago, the EPA began requiring manufacturers of pesticides to meet standards that use *children's* safety as a measure rather than the safety of adult males. Now the agency also proposes to reevaluate some of the thousands of chemicals already on the market under that tougher standard. However, the process could take at least a decade.

Given the extent of the problem, the task of protecting children may seem overwhelming. But environmentalists say parents can limit exposure to toxic substances. "There are some simple things you can do that are fairly significant," says Browner, who has an 8-year-old son. "I try to give my son fresh fruits and vegetables that are in season, and I buy organic or pesticide-free produce when I can. We don't use any pesticide sprays or things like that in our home or on our lawn or in our vegetable garden. My son is young and those chemicals affect him differently than they would affect an adult, and I take that seriously."

Here are the top three areas where Browner and other environmentalists see risks, and their suggestions for protecting your child:

PESTICIDES

Children are exposed to pesticides in their food, homes, schools, and on their playgrounds. These chemicals—used to control unwanted plants, molds, insects, and rodents—can cause cancer and are believed to damage children's lungs and immune and nervous systems. To limit your child's exposure:

- Avoid chemical lawn services and products, says Dr. Landrigan. "The toxic stuff you dump on it is not the stuff you want your children to play in." With a little extra work, you can keep your lawn green without toxins. For starters, the National Coalition Against the Misuse of Pesticides (NCAMP) suggests people water less frequently, but for longer stretches, which will result in stronger, healthier grass that will crowd out weeds. Let the lawn become nearly dry between waterings. If you must use something to kill weeds, NCAMP suggests you use an herbicidal soap. For a

list of natural lawn-care resources and other details on the least-toxic ways to control lawn problems, send five dollars to NCAMP at 701 E Street SE, Suite 200, Washington, DC 20003.

- Look for certified organic fruit and vegetables—which means synthetic chemicals have not been used in their production or processing. Twenty states (including California, where 25 percent of the nation's produce originates) already regulate organic certification, as do a number of independent organizations. And, the U.S. Department of Agriculture is implementing a national standard that could take effect as early as 1998. If you don't have an organic grocery in your community, talk to your local supermarket about carrying organic produce or investigate forming an organic buying club with your neighbors. There are organic co-ops in virtually every region of the country; NCAMP can provide a list of such organizations for one dollar.

- If you can't buy organic, choose produce that is locally grown (supermarkets often label it as such) and thus less likely to be treated with the chemicals necessary for shipping perishable foods over long distances. All produce (even organic) should be washed, but if a piece of fruit has a waxy film on the outside, wash it with water and a drop of mild dish-washing soap, or peel off the skin.

- Frozen, canned, and packaged organic products also are increasingly available, but be wary of a label that calls the contents "natural"; it is probably *not* organic and may have been treated or grown with synthetic chemicals.

- Avoid using pesticides in and around your home. Choose pheromone traps (which contain a substance produced by the insect to attract other insects) and glue boards. If you must use a pesticide, NCAMP Executive Director Jay Feldman suggests low-toxicity choices such as boric acid, silica aerogel, or diatomaceous earth, which are effective against insects such as roaches, ants, silverfish, and termites. Outdoors, various strains of a naturally occurring bacterium called *Bacillus thuringiensis* (B.T.) work against gypsy moths, mosquitoes, blackflies, and wax moths. Ask for these products



at your local gardening center or hardware store.

If you must use higher-toxicity pesticides, make sure you have good ventilation. And if a product suggests you keep children out of a treated area for a specified period of time, Dr. Landrigan suggests staying away for at least double that time to be safe.

- Ask about the pesticides used in or near your child's school. If they're using toxic products, offer administrators a copy of the EPA's booklet on methods for reducing the use of potentially harmful chemicals in schools. Write the Public Information Center, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC

Where to Go for More Help

The following books and organizations can help you create a healthy environment for your child:

Raising Children Toxic Free: How to Keep Your Child Safe from Lead, Asbestos, Pesticides, and Other Environmental Hazards. By Herbert L. Needleman, M.D., and Philip J. Landrigan, M.D. Realistic suggestions for controlling the risk factors in your child's environment.

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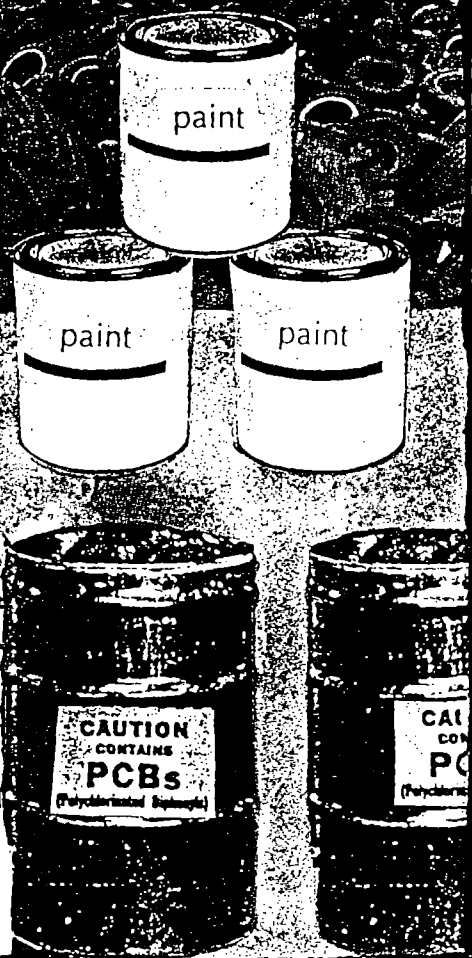
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vention. More than 80 percent of American houses built before 1978—about 64 million—still have lead in interior paint. Children are exposed to lead primarily through old paint and the chips and dust produced as it deteriorates, and through tap water that sits in pipes made of or soldered with lead. To reduce your child's risk:

- Ask your pediatrician to do a blood-lead test (which requires a finger prick) when your child is 9 months old, and another at 2 years, says Dr. Landrigan. If the levels are normal, the youngster is probably not at risk from current surroundings.

- Lead-based paint in good condition is usually not a hazard, particularly if you do not have young children. But if you live in a house built before 1978 and your paint is peeling, you may have a problem.

- Besides getting your children tested, clean up paint chips immediately with a wet sponge or mop, and clean floors, window frames, windowsills, and other surfaces weekly. Do not vacuum lead-paint dust or chips; that will disperse more lead dust into the air.

- Permanent removal of lead-based paint should be handled by a

professional abatement contractor who has training in correcting lead problems. Such removal is costly (deleading a two-bedroom house may cost around eight thousand dollars); however, improper removal of lead paint may cause more health problems than simply leaving the paint in place. Your state EPA office can provide help in locating a qualified contractor.

- New "encapsulating" products (which may be spackled, sprayed, or painted on) can be applied over lead paint. They cost between 20 and 80 cents a square foot and some are warrantied to last for 20 years, according to Lee Wasserman, president of Lew Corporation, a New Jersey lead-inspection firm. The products are

fairly simple to use, says Wasserman, but warranties may be voided if they are not applied by professional contractors.

- Because most lead in drinking water is introduced while water stands in the pipes overnight, reduce the concentration by letting tap water run each morning until the temperature changes—about 90 seconds. Never

use hot water from the tap for cooking; heat can cause lead in pipes to leach into water.

- Last summer, the U.S. Consumer Product Safety Commission reported that some of the millions of imported vinyl mini blinds contain lead. The agency recommends that old mini blinds be taken out of homes. Manufacturers have agreed to remove the lead from new mini blinds; new packaging labels indicate that the product does not contain lead.

- If you need more information, call the National Lead Information Center, 800-424-LEAD.

AIR POLLUTION

Outdoor air pollution is caused primarily by exhaust fumes from automobiles and industrial emissions; the most significant source of indoor air pollution is cigarette smoke. Both sources produce thousands of chemical compounds, some of which are known to cause cancer, as well as a variety of respiratory problems—particularly in children, whose small airways are more susceptible to irritations. To limit your child's exposure:

- Don't smoke. If you must, don't smoke indoors. Even if you smoke only when your children are out of the house, the chemicals and particulates contained in cigarette smoke can remain in your home for at least a day.

- If news reports indicate your community is experiencing elevated levels of air pollution, limit your child's strenuous outdoor activity.

- Inadequately ventilated buildings may trap pollutants released into the indoor environment from sources including cigarettes, gas appliances, and cleaning products.

If you live in a private home and your child is experiencing problems you think may be related to indoor air pollution, the solution may be as simple as opening a window and switching to nontoxic cleaning products. However, if you think the air in your child's school may be a problem, or if you live in an apartment building where air is filtered through other apartments or businesses, you'll need to learn about the efficiency of the building's ventilation system.

"The quality of indoor air can be a very serious problem," says Browner. "If you have reason for concern, you need to work with your building manager or school administrator." The EPA's Indoor Air Quality Clearinghouse (800-438-4318) can provide more information on how to recognize and clean up indoor air problems.

—Jim Gould

20460, and ask for "Pest Control in the School Environment: Adopting Integrated Pest Management."

LEAD EXPOSURE

It has been almost 20 years since scientists began to suspect what has since been proven—that lead exposure can cause IQ deficiencies, hearing impairment, learning disabilities, and hyperactivity. Although the risk has been reduced since the 1970's (thanks to laws that removed lead from gasoline and paint), lead exposure remains one of the top environmental health hazards for young children, affecting as many as 1.7 million under the age of 6, according to the Centers for Disease Control and Pre-

Is This Your Child's World?: How Schools and Homes Are Making Our Children Sick. By Doris J. Rapp, M.D. Explanations on how to identify environmentally caused illness in your child.

Children's Environmental Health Network: 510-450-3818. Offers publications on environmental hazards.

U.S. Environmental Protection Agency: 202-260-7751. The EPA offers a wide variety of publications on environmental issues. Visit its Internet site at <http://www.epa.gov>

1/28/97. —

EO on kids research

Treasurer — may raise objections re. CBA/ECM analysis. —

- Dick Jackson lead for HHS — former pop. b5 guy — at CDC ^{pediatrician}
- Don / Mike Fitzpatrick — OMB / OIRA, —

Gary — some have suggested we ^{strengthen} ~~broaden~~ — pub. HHS, rationale.
(easy.)

- Burdens of analyses we require. —
 - bureaucracy —
 - reg. reform arguments. —
 - scope of applicability —

CPSC — problem w/ stating current risks are inadequate
- not clear what defines "environmental" exposure.
- let's have agencies pool resources. — generate data

EPA — it's more of a right to know issue — let's say where we don't have the data. —

CPSC — we'd be opening ourselves up to judicial challenge. —
- ↑ demand for data is in itself a concern — we don't have resources to do it.

EPA - goal was to leave discretion with each agency
- when data is adequate
- what is covered
-

Fitzpatrick - OIRA -

Sec. 3 → mandate to ensure reg adequately
protects health of infants and children
⇒ uniform patching up.

Sec. 4 → Health Council - new bureaucracy
+ Sec. 405 could slow 90 day review.

OMB / Don - EO - adds to new EO, yet again,
+ T in administrative traps - as we've
criticized reg review legislation that
will do the same thing.

SBA - perception patching up reg. not helpful

Gray - FQPA / SDWA - what we're doing is
extremely explicit approach here to other
areas. - reg review
EO has not created litigation risk -
- statutory came out -

Cathy Wallman - threshold funding up front or.

Ways out

1. No environmental threats
2. Have basis to say it is protective
3. Don't have info
4. have info but depart from protective std (like ac-bags)

Regulatory Principles

- Right to know
- Protecting children
- why narrow scope?

lead in

- '93 NAS report. -

leadership by HHS, ATSDR, EPA. -

- expand it to EPA. -

- major research and -

Mike F.

data gaps

ensuring agencies consider children

currently required to send up all analyses ^{to HHS} done E.O.

COE - major environmental hazards for kids is being poor.

- wants -

CBE - ^{Support} asking when we're regulators to consider risks. -

- info dissemination

- right to know

- force corp on research across agencies. -

What threatens agency is requirement to do research to find data. -

ERA
Comm

- Frame as research ~~commitment~~ (coordination)
Strategy - first
(broaden?)

- Situates regulatory commitments in that
Context

Brad
where are
we

① Restructure - 4 part escape rt. -

Score of Review 400-500 1 yr. -

Follow up

- Gary
Mtg. 11:00 a.m. -

Council - something
else in place

EPA Turn it on its head
Leads
Congress credit
FOIA
SDWA

Air bags

Pediatric labeling
Research Initiative

FDA

CBC?
1700?

Right to know

Legislative Principles

EPA'S IRIS

- 1000 chemicals ~~in~~ ^{not in} database has ~500

Examples?
 100,000 - 300,000 for testing - battery/screen
 = like OECD battery of tests =
 - ~~cost~~ ^{cost} ~~range~~ ^{Range} 100 million to 300 million $\Rightarrow$ in all cases
 people will choose to test instead of labeling, and
 that they don't have data already.

- private citizens' enforcement -

- industry saying - chemicals putting on
 market are already doing that kind of testing

? - offsetting reg. relief ~~provisions~~ actions that
 can be put on the table.

EPA $\rightarrow$ trying to get info from permitting
 side to Right to know side.

$\rightarrow$ could propose reg. relief offset
 approaches. tagged in ANPRM
 on chemical use info. R+T expansion.

(memo to EPA 2 yrs. ago). -

$\rightarrow$ Required to label if your product contains listed chemical
 above a certain level.