

March 16, 2009



Attn: Mabel Echols  
Office of Information and Regulatory Affairs  
Records Management Center  
Office of Management and Budget  
Room 10102  
NEOB  
725 17<sup>th</sup> Street, N.W., Washington, DC 20503

via email to: [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov)

Re: New Executive Order on Federal Regulatory Review

To the Director of The Office of Management and Budget:

We are pleased to submit comments about the role of cost-benefit analysis as a tool for regulatory decision-making and key components of a new Executive Order to replace Executive Order 12,866, and appreciate your Office's engagement of public opinion in this discussion.

The cost to our society of toxic pollution and clean up, poisoned and diseased bodies, unavailable ecosystem resources and contributions to climate change is too high to continue bearing. We wait far too long after initial indication of the presence of harm to evaluate and consider action. The current regulatory decision-making process constrains American ingenuity, and slows progress toward developing the safest, most effective solutions to the increasingly urgent challenges we must meet as a nation – growing nutritious food, providing renewable energy, and ensuring clean water is available, among so many others.

We are concerned that the Office of Management and Budget/Office of Information and Regulatory Affairs (OIRA) review of new regulations has been used primarily as a tool to delay regulations that might be financially damaging to certain industries. A new Executive Order should rectify these problems, and ensure that regulations designed to safeguard natural resources and the health of all Americans are adopted and never unnecessarily delayed.

Pesticide Action Network North America has four primary recommendations for your consideration as you develop a new Executive Order:

1. **End reliance on cost-benefit analysis as a basis for regulatory review**, as it is an inappropriate tool by which to make regulatory decisions that have significant impact on the health of people and future generations, or on the regenerative capacities of our natural resources;
2. **Shift toward a precautionary approach** as the basis of regulation, prioritizing avoidance of harm and placing the burden of proof on those who might pollute and endanger us to demonstrate that they will first do no harm;
3. **Structure U.S. regulation to encourage ingenuity and promote investment**

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**in the adoption of the safest solutions available.** A regulatory approach that incorporates **alternatives analysis would compare, identify and promote those approaches that are most healthy, safe and sustainable**, rather than simply responding reactively to proposals for retaining and introducing new products and technologies by determining what mitigations of harm might be imposed; and

4. Ensure that our **regulatory system supports rapid elimination of dangerous, antiquated technologies** as concerns emerge about harm to public health or the environment.

The recent UN-led International Assessment of Agriculture, approved in 2008 by 58 governments, concluded that “business as usual is not an option.”<sup>1</sup> The report, authored by over 400 scientists and experts from around the world and coordinated by five UN agencies, the World Bank and the Global Environment Facility, warns of the collapse of the planet’s critical ecosystem functions. The scientists note that this collapse will be due largely to human activities and an overemphasis on short-term gains at the expense of meeting longer-term environmental and societal goals. The report emphasizes the urgent need to establish and enforce better and stronger public sector regulations to protect the public good and restore crucial ecosystem functions.

Cost-benefit analysis, as currently employed, fails to provide regulators and decision-makers with an adequate understanding of the typically unmonitized items of value in our society: a child’s life; the reproductive capacity of a young woman; the health of workers; clean and abundant water, and so much more.

One alternative analytical tool is “true-cost” or “full-cost” accounting, which is increasingly recognized as good economic practice that enables well-informed policy decisions. Full-cost accounting provides a comprehensive assessment of the social, economic and environmental costs of our policies, investments and actions.<sup>2</sup> The challenge here—as with all economic analyses—lies in determining how best to measure the true costs of action (or inaction), and in ensuring that the assessment process is streamlined as well as transparent and participatory, engaging diverse sectors of society.

The U.S. urgently needs a systems-based approach to regulation, one that grapples with the cumulative and synergistic effects of global environmental change that we are now witnessing on a scale never before seen. This is fundamentally different than the approach of E.O. 12,866, which focuses merely on preventing or mitigating isolated environmental impacts (with a presumption of doing as little as possible, to minimize the very narrow definition of “costs.”).

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<sup>1</sup> International Assessment of Agricultural Knowledge, Science and Technology for Development (IAASTD). 2009. IAASTD Global Report: Summary for Decision Makers. Island Press, Washington DC. See [www.agassessment.org](http://www.agassessment.org).

<sup>2</sup> Sweden, for example, has based its national food and agricultural policy in part on the findings of a full-cost analysis of the energy, environmental and other ecosystem service costs embedded in Sweden’s food system. As a result, Sweden aims to increase the proportion of its productive land devoted to organic farming and organic food procurement by public agencies to 20 and 25% respectively by 2010. This type of cost analysis continues to inform Sweden’s policy decisions, as it strives to transition towards a carbon-neutral economy. See also the True-Cost Clearinghouse ([www.sehn.org](http://www.sehn.org))

We applaud efforts to create decision-making tools that effectively take into account distributional considerations, fairness and a concern for future generations. We believe that these are some of the key areas where cost-benefit analysis fails to satisfy the intent of U.S. regulation to safeguard health and the environment for all Americans.

Thank you for taking on this important task.

With best regards,



Kathryn Gilje  
Executive Director  
Pesticide Action Network North America

