

**NLWJC - Kagan**

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**Environment - Children's Executive  
Order [1]**

# Withdrawal/Redaction Sheet

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. list	List of agency contacts (1 page)	n.d.	P6/b(6)
002. list	List of agency contacts (1 page)	n.d.	P6/b(6)

**COLLECTION:**

Clinton Presidential Records  
 Domestic Policy Council  
 Elena Kagan  
 OA/Box Number: 14361

**FOLDER TITLE:**

Environment - Children's Executive Order [1]

2009-1006-F  
ke666

**RESTRICTION CODES**

**Presidential Records Act - [44 U.S.C. 2204(a)]**

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

**Freedom of Information Act - [5 U.S.C. 552(b)]**

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

### **Centers for Children's Environmental Health and Disease Prevention Research:**

In September, 1997, HHS and EPA began to accept applications for six Centers to be funded in the initial year at \$10 million. EPA's Office of Research and Development is contributing half of the funds and NIH's National Institute for Environmental Health Sciences is providing the other half. The Centers will be established by September, 1998 after an inter-agency peer review process. The Centers will conduct research that improves our knowledge regarding detection, treatment and prevention of environmentally related diseases in children. Research will focus on the possible environmental causes of children's illnesses and disorders, including understanding the mechanisms of respiratory disease, such as asthma. Applicants are also specifically invited to study the impact of common environmental contaminants, such as lead or mercury, on intellectual development. The successful applications for Centers grants will demonstrate how they will use part of their funds on a community-based prevention/intervention research project

### **US EPA Conference on Preventable Causes of Cancer in Children:**

On September 15 and 16, 1997, EPA hosted the first-ever national conference on "Preventable Causes of Childhood Cancer." Approximately 300 scientists, government officials, representatives of advocacy organizations and other members of the public participated. Health experts presented their perspectives on a broad range of issues including the special vulnerability of children to environmental toxins, studies on the role of parental occupational exposures, trends in childhood cancer, and methods used to study environmental factors in childhood cancer. Participants discussed specific recommendations and research strategies that will assist in assessing the current state of knowledge, and setting priorities for future research.

Recommendations included:

- better interdisciplinary and collaborative studies of suspected environmental causes and mechanisms of childhood cancer;
- the establishment of a National Childhood Cancer Registry, standardizing information such as exposure history and family health data;
- more joint prevention efforts between scientists and communities focused on high risk infants and children; and
- better techniques for screening chemicals suspected of causing health effects in children.

These efforts will contribute to a coordinated, comprehensive national research strategy to guide the nation in its efforts to protect children from cancer. The January issue of *Environmental Health Perspectives* will focus on the conference and prevention of children's cancer.

***Federal Register Notice (FRL-5890-3) - Establishment of the Children's Health Protection Advisory Committee:***

Notice of the establishment of this Children's Health Protection Advisory Committee (CHPAC) was published in the *Federal Register* on September 9, 1997 (62 FR 47494). OCHP is in the process of establishing this balanced, broad-based external Advisory Committee which will include participants from industry, pediatrics, science/academia, nursing, environmental organizations, citizens organizations, Federal government, state/local/tribal government, environmental justice, outreach organizations, users/processors, economists, and citizens-at-large. This committee is chartered under the Federal Advisory Committee Act, P.L. 92-463 to give advice to the Administrator on various issues of children's environmental health protection. CHPAC meetings will be announced in the *Federal Register* and open to the public. The first meeting is scheduled for December 2-3, 1997 at the Crystal City Hyatt Regency Hotel. Final selection of members should be accomplished by late October and invitation letters should be sent by November 1, 1997. There will be four work groups on science, communication/outreach, regulatory affairs, and cost benefit analysis.

***Federal Register Notice (FRL-5903-1) - Review and Evaluation of EPA Standards Regarding Children's Health Protection from Environmental Risks:***

This notice was published on October 3, 1997, to seek recommendations and comments on the selection of five existing human health and environmental protection standards for review and evaluation by the Agency. The comment period is sixty days. We asked for detailed explanations and/or reference to any relevant studies that support the recommendations. The standards EPA ultimately will select for review and evaluation will be those that could potentially have a major impact on children's health as a result of reevaluation and revision. These standards would generally be those where children's health was not considered in the original development of the standard; or, where children's health was considered but new data suggest the standard does not adequately protect children; and where, if changes were made in the standard, children's health protection would be strengthened. The term "standard" for purposes of this Notice means national standards established by EPA that identify discrete regulatory levels related to human health and environmental protection. Examples of such standards include pesticide tolerances that establish allowable levels of pesticide residues in food under the Federal Food, Drug, and Cosmetic Act, Maximum Contaminant Levels that establish allowable levels of contaminants in drinking water under the Safe Drinking Water Act; and, health-based regulations that establish acceptable levels for air pollutants under the Clean Air Act. EPA will consider comments and recommendations on such standards in all of the environmental media (air, water, soil, etc.). The term "standard" as used in this Notice does not include standards establishing analytical methods, technology-based standards, or site specific actions (such as facility permits under the National Pollution Discharge Elimination System, or Records of Decision for cleanup of Superfund sites). EPA intends to announce the five selected standards in a *Federal Register* notice in early Summer of 1998.

### **Benefits Analysis Work Group:**

The need to quantify the benefits of avoiding adverse health effects in children is important to the development of environmental standards. Therefore, OPPE is spearheading an effort with EPA program offices to develop a "Practical Guide to Benefits Analysis for Children's Health Effects." New guidance for benefits analysis is also timely in light of continuing revisions of economic guidance on other topics such as equity, discounting, and uncertainty. The cross-agency work group began meeting in late September, and will present a draft strategic approach to the Regulatory Policy Council at its October meeting. The work group acknowledges the need for a multi-disciplinary approach to developing guidance on benefits analysis for avoiding children's health effects, and will be expanding its membership to include public health experts as well as economists. This guide will ultimately be available to agency rulewriters as they develop rules in conformance with the Executive Order for Children's Health, the Agency's 1996 National Agenda for Children's Health, and the Administrator's and Deputy Administrator's Policy on Evaluating Health Risks to Children. It is envisioned as a "work-in-progress" with a final product available in the Summer of 1999.

### **EPA Inventory of Children's Environmental Health Protection:**

The EPA Children's Environmental Health Yearbook - 1997 is a compilation of Agency efforts to protect children from environmental hazards. This inventory will enable us to assess the level of children's environmental health activity within EPA so that a strategic plan can be developed to make the protection of children's health a priority. The Yearbook should also be a source of pride to the Agency. We are currently engaged in a most important part of the process as we are receiving comments from those people directly involved in the activities outlined in this inventory. All comments are due to John Benison by Tuesday, October 21. The document is due to be published in final form by Thanksgiving.

*91 Home  
Lead  
Pesticides*

### **Task Force on Environmental Health Risks and Safety Risks to Children:**

The first meeting of the Task Force on Environmental Health Risks and Safety Risks to Children was convened by Carol Browner and Donna Shalala on October 9, 1997. The Task Force agreed to establish three committees; each co-chaired by EPA and HHS staff. The committees are required to provide a work plan with time lines to Carol and Donna by December 1, 1997. The committees, charges, and co-chairs are:

- Senior Staff Planning Committee
  - Serves as the organizing and coordinating committee for the Task Force. Makes recommendations regarding budget and legislation.
  - Dick Jackson and Ramona Trovato

*• Research Agenda*

*• Program Implementation*

Healthy Homes  
Healthy Schools  
Healthy Kids

- Children spend most of their time at home and at school
- Many effective programs have been designed to protect particular aspects of children's health from environmental hazards but they lack a comprehensive approach
- The "Healthy Homes, Healthy Schools, Healthy Kids" Campaign can coordinate these programs and set national goals to improve children's health outcomes

- “Healthy Homes, Healthy Schools, Healthy Kids” allows for a multi-agency approach as well as a means for bringing the private and public sectors together
- “Healthy Homes, Healthy Schools, Healthy Kids” requires the government to develop a partnership with the community rather than working in isolation



# Objectives

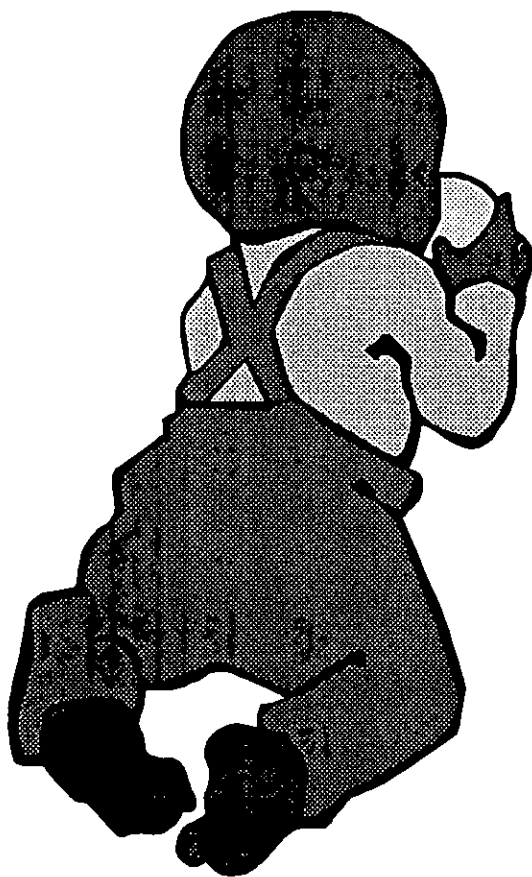
- “Healthy Homes, Healthy Schools, Healthy Kids” is designed to improve the quality of life for America’s children
- “Healthy Homes, Healthy Schools, Healthy Kids” will provide parents with basic information so they can take responsibility for protecting their children from environmental health threats in their homes, schools, and communities

# Potential Goals



- Children with blood lead levels above 25 micrograms per deciliter will be decreased to zero by the year 2000
- No child will be exposed to pesticides while at school by the year 2005
- 20% of U.S. schools will be members of the Sunwise School Program by the year 2005

# More Potential Goals



- By 2005, 3,000 or more school or commercial buildings will have indoor air quality management plans that are in keeping with EPA guidelines
- By 2005, children's exposure to environmental tobacco smoke will be reduced by 15% over the 1986 level of 39% in the home

# **Stage One: Development of “Healthy Homes, Healthy Schools, Healthy Kids” Campaign**

- Define areas of Campaign focus
- Recruitment of potential Campaign Partners
- Development of Training materials
- Targeting geographical areas of high risk to children

# **Stage Two: Communication with the Public**

## **A Communication Plan could include:**

- Articles to relevant journals, newspapers, and magazines
- PSA strategy to motivate people to action
- Web Site which would connect to other related Web Sites
- Video Development - “How to protect children from environmental health threats”
- Back to School press event featuring the Administration and White House Officials announcing “The Year of the Healthy Child”

# Stage Three: Training Summits

- One summit per EPA Region in May, June, July 1998
- Target high risk area for Summit location in each Region (for example: tribal, disadvantaged urban, agricultural, border community)
- Include Modules of Training for each of the categories of participants such as health care providers, teachers, parents, community groups, construction representatives, etc.
- Recruitment of participants for the Summits

# Stage Four: Healthy Communities

- Target at least one community per EPA Region to implement the Campaign
- Include pre and post testing of targeted communities to determine efficacy of Campaign
- Develop criteria for designation of “Healthy Communities”
- Designate “Healthy Communities” September 1999 and every year thereafter
- Make “Healthy Community” a criteria for “Most Livable Cities”
- Provide Campaign anecdotes for use in White House events

# Healthy Homes, Healthy Schools, Healthy Kids

## Potential Partners

### **Government**

- HHS
- HUD
- CPSC
- Americorp
- RSVP

### **Private**

- League of Women Voters
- National Association of City and County Health Officials
- American Academy of Pediatrics
- American Lung Association
- Children's Environmental Health Network
- Children's Health and Environment Coalition
- Environmental Health Coalition
- National Coalition Against the Misuse of Pesticides
- National Education Association
- American Federation of Teachers
- American Nurses Association
- National Association of School Nurses
- National Association of Builders
- National Religious Partnership for the Environment
- Environmental Organizations
- National Environmental Education and Training Foundation
- National Association of Physicians for the Environment
- Coalition for America's Children
- Community Organizations



**DRAFT**

4-11-97

10:00 a.m.

Executive Order

Protection of Children from Environmental  
Health Risks and Safety Risks

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

Section 1. Policy.

1-101. A growing body of scientific knowledge demonstrates that children may suffer disproportionately from environmental health risks and safety risks. These risks arise because: children's neurological, immunological, digestive and other bodily systems are still developing; children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults; children's size and weight may diminish their protection from standard safety features, and children's behavior patterns may make them more susceptible to accidents because they are less able to protect themselves. Therefore, to the extent permitted by law and appropriate and consistent with the agency's mission, each federal agency:

- (a) shall make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children; and
- (b) shall ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.

1-102. Each independent regulatory agency is encouraged to participate in the implementation of this Executive order and comply with its provisions.

Sec. 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 under 44 U.S.C.

3502(5). 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 action in a rulemaking initiated after the date of this Executive order, or for which a Notice of Proposed Rulemaking is published within one year of the date of this order, that is likely to result in a rule that may:

- (a) be "economically significant" under Executive Order 12866 (a rulemaking that has an annual effect on the economy of \$100 million or more or would 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 risk or safety risk that an agency has reason to believe may disproportionately affect children.

2-203. Environmental health risks and safety risks mean risks to health or to safety that are attributable to products or substances which the child is likely to come in contact with or ingest (such as the air we breath, the food we eat, the water we drink or use for recreation, the soil we live on, and the products we use or are exposed to).

Sec. 3. Task Force on Environmental Health Risks and Safety Risks to Children.

3-301. There is hereby established the Task Force on Environmental Health Risks and Safety Risks to Children ("Task Force").

3-302. The Task Force will report to the President in consultation with the Domestic Policy Council, the National Science and Technology Council, the Council on Environmental Quality, and the Office of Management and Budget ("OMB").

3-303. Membership. The Task Force shall be composed of the:

- (a) Secretary of Health and Human Services, who shall serve as a Chair of the Council;
- (b) Administrator of the Environmental Protection Agency, who shall serve as a Chair of the Council;
- (c) Secretary of Education;
- (d) Secretary of Labor;
- (e) Attorney General;
- (f) Secretary of Energy;
- (g) Secretary of Housing and Urban Development;
- (h) Secretary of Agriculture;
- (i) Secretary of Transportation;
- (j) Director of the Office of Management and Budget;
- (k) Chair of the Council on Environmental Quality;
- (l) Chair of the Consumer Product Safety Commission;
- (m) Assistant to the President for Economic Policy;
- (n) Assistant to the President for Domestic Policy;
- (o) Assistant to the President and Director of the Office of Science and Technology Policy;
- (p) Chair, Council of Economic Advisers; and
- (q) Such other officials of Executive departments and agencies as the President may, from time to time, designate. Members of the Task Force may delegate their responsibilities under this order to subordinates.

3-304. Functions. The Task Force shall recommend to the President Federal strategies for children's environmental health and safety, within the limits of the Administration's budget, to include the following elements:

- (a) statements of principles, general policy, and targeted annual priorities to 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 review of research databases described in section 4 of this order;

- (c) recommendations for appropriate partnerships among Federal, State, tribal 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 children and in making informed consumer choices;
- (e) an identification of high-priority initiatives that the Federal Government has undertaken or will undertake in advancing protection of children's environmental health and safety; and
- (f) a statement regarding the desirability of new legislation to fulfill or promote the purposes of this Executive order.

3-305. The Task Force shall prepare a biennial report on research, data, or other information that would enhance our ability to understand, analyze, and respond to environmental health risks and safety risks to children. For purposes of this report, cabinet agencies and other agencies identified by the Task Force shall identify and specifically describe for the Task Force key data needs related to environmental health risks and safety risks to children that have arisen in the course of the agency's programs and activities. The Task Force 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 Council shall ensure that this report is fully considered in establishing research priorities.

3-306. The Task Force shall exist for a period of four years from the first meeting. At least six months prior to the expiration of that period, the member agencies shall assess the need for continuation of the Task Force or its functions, and make appropriate recommendations to the President.

Sec. 4. Research Coordination and Integration.

4-401. Within six months of the date of this order, the Task Force shall develop or direct to be developed a review of

existing and planned data resources and a proposed plan for ensuring that researchers and federal research agencies have access to information on all research conducted or funded by the Federal Government that is related to adverse health risks in children resulting from exposure to environmental health risks or safety risks. The National Science and Technology Council shall review the plan.

4-402. The plan shall promote the sharing of information on academic and private research. It shall include recommendations to encourage that such data, to the extent permitted by law, is available to the public, the scientific and academic communities, and all federal agencies.

Sec. 5. Agency environmental health risk or safety risk regulations.

5-501. For each covered regulatory action submitted to OMB's Office of Information and Regulatory Affairs ("OIRA") for review pursuant to Executive Order 12866, the issuing 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 environmental health or safety effects of the planned regulation on children;
- (b) an assessment of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agency or the public, that provide different degrees of protection to children; and
- (c) an explanation of why the planned regulation 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 covered 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 may be included as part of any other required analysis, and shall be made part of the administrative record for the covered regulatory action or otherwise made available to the public, to the extent permitted by law.

Sec. 6. Interagency Forum on Child and Family Statistics.

6-601. The Director of the OMB ("Director") shall convene an Interagency Forum on Child and Family Statistics ("Forum"), which will include representatives from the appropriate Federal statistics and research agencies. The Forum is to produce an annual compendium ("Report") of the most important indicators of the health and well-being of children.

6-602. The Forum shall determine the indicators to be included in the Report and identify the sources of data to be used for the indicators. The Forum shall provide an ongoing review of Federal activity in the collection of data on children and families, and shall make recommendations to improve the coordination of data collection and to reduce duplication and overlap.

6-603. The Report shall be published by the Forum in consultation with the National Institute for Child Health and Human Development. The Forum shall issue the first annual report to the President, through the Director, by July 31, 1997. The report shall be submitted annually thereafter, using the most recently available data.

Sec. 7. General provisions.

7-701. 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.

7-702. Executive Order 12606 of September 2, 1987 is  
revoked.

THE WHITE HOUSE,

*Forwarded to Elena*

**DRAFT**

3-12-97

4:00

Protection of Children from Environmental Health Risks and Safety Risks

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

Section 1. Policy.

1-101. A growing body of scientific knowledge demonstrates that children may suffer disproportionately from environmental health risks and safety risks. These risks arise because: children's neurological, immunological, digestive and other bodily systems are still developing; children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults; children's size and weight may diminish their protection from standard safety features, and children's behavior patterns may make them more susceptible to accidents because they are less able to protect themselves. Therefore, to the extent permitted by law and to the fullest extent appropriate and consistent with the agencies mission, each federal agency:

- (a) shall make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children; and
- (b) shall ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.

1-102. Each independent regulatory agency is encouraged to participate in the implementation of this Executive order and comply with its provisions.

Sec. 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 under 44 U.S.C.



3502(5). 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~~ <sup>in a rule-making</sup> 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 risk or safety risk that may disproportionately affect children.

2-203. Environmental health risks and safety risks mean risks to health or safety that are attributable to: <sup>exposure to</sup> industrial, household or agricultural chemicals (including those added to food); physical agents (such as heat, radiation, fire, explosives, or electricity); machinery and equipment; transportation accidents; by-products of combustion or industrial processes; prescription drugs; consumer products; activity patterns; and substance abuse.

Sec. 3. Task Force on Environmental Health Risks and Safety Risks to Children.

3-301. There is hereby established the Task Force on Environmental Health Risks and Safety Risks to Children ("Task Force").

3-302. The Task Force will report to the President in consultation with the Domestic Policy Council, the National Science and Technology Council, and the Council on Environmental Quality and the Office of Management and Budget ("OMB").

3-303. Membership. The Task Force shall be composed of the:

- (a) Secretary of Health and Human Services, who shall serve as a Chair of the Council;

- (b) Administrator of the Environmental Protection Agency, who shall serve as a Chair of the Council;
- (c) Secretary of Education;
- (d) Secretary of Labor;
- (e) Attorney General;
- (f) Secretary of Energy;
- (g) Secretary of Housing and Urban Development;
- (h) Secretary of Agriculture;
- (i) Secretary of Transportation;
- (j) Chair of the Consumer Product Safety Commission;
- (k) Chair of the Council on Environmental Quality;
- (l) Director of the Office of Management and Budget;
- (m) Assistant to the President for Economic Policy;
- (n) Assistant to the President for Domestic Policy;
- (o) Assistant to the President and Director of the Office of Science and Technology Policy;
- (p) Chair, Council of Economic Advisers; and
- (q) Such other officials of Executive departments and agencies as the President may, from time to time, designate. Members of the Task Force may delegate their responsibilities under the order to subordinates.

3-304. Functions. The Task Force shall develop a recommended Federal strategy for children's environmental health and safety, within the limits of the Balanced Budget Plan, to the following elements:

- (a) Statements of principles, general policy, and targeted annual priorities to 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 budget proposals that reflect investments of Task Force members to accomplish this research.

*include (?)  
contain (?)  
explicit*

- (c) Recommendations for appropriate partnerships among federal, state, tribal 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 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 environmental health and safety. ? current as well as future
- (f) A statement regarding the desirability of new legislation to fulfill or promote the purposes of this Executive order.

3-305. The Task Force shall <sup>biennial</sup> biennially prepare a report on research, data, or other information that would enhance our ability to understand, analyze, and respond to environmental health risks and safety risks to children. For purposes of this report, cabinet agencies and other agencies identified by the Task Force shall identify and specifically describe for the Task Force key data needs related to environmental health risks and safety risks to children that have arisen in the course of the agency's programs and activities. The Task Force 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 Council shall ensure that this report is fully considered in establishing research priorities.

3-306. The Task Force shall exist for a period of four years from the first meeting. At least six months prior to the expiration of that period, the member agencies shall assess the need for continuation of the Task Force or its functions, and make appropriate recommendations to the President. POST NOV 2000  
H. O. L. K.

Sec. 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 Council shall present to the Task

Force 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 resulting from exposure to environmental health risks or safety risks. This plan shall include recommendations to ensure that the activities of the Task Force and other requirements of this 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 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, to the extent permitted by law, the consolidated research data base is available to the public, the scientific, and academic communities, and all Federal agencies.

Sec. 5. Agency environmental health or safety regulations.

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

- (a) An evaluation of the environmental health or safety 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 more effectively mitigate or reduce risks to children; and
- (c) An explanation of why the covered regulatory action is preferable to the identified potential alternative(s).

*May provide sufficient degree of protection*

*safe protection of children and*

*kick me*

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 covered 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 may be included as part of any other required analysis, and shall be made part of the administrative record for the covered regulatory action or otherwise made available to the public, to the extent permitted by law.

Sec. 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. Executive Order 12606 of September 2, 1987 is revoked.

STATS

THE WHITE HOUSE,

**DRAFT**

Executive Order

3-12-97  
4:00

Protection of Children from Environmental  
Health Risks and Safety Risks

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

Section 1. Policy.

1-101. A growing body of scientific knowledge demonstrates that children may suffer disproportionately from environmental health risks and safety risks. These risks arise because: children's neurological, immunological, digestive and other bodily systems are still developing; children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults; children's size and weight may diminish their protection from standard safety features, and children's behavior patterns may make them more susceptible to accidents because they are less able to protect themselves. Therefore, to the extent permitted by law and to the fullest extent appropriate and consistent with the agencies mission, each federal agency:

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1-102. Each independent regulatory agency is encouraged to participate in the implementation of this Executive order and comply with its provisions.

Sec. 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 under 44 U.S.C.

3502(5). 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 risk or safety risk that may disproportionately affect children.

2-203. Environmental health risks and safety risks mean risks to health or safety that are attributable to: industrial, household or agricultural chemicals (including those added to food); physical agents (such as heat, radiation, fire, explosives, or electricity); machinery and equipment; transportation accidents; by-products of combustion or industrial processes; prescription drugs; consumer products; activity patterns; and substance abuse.

Sec. 3. Task Force on Environmental Health Risks and Safety Risks to Children.

3-301. There is hereby established the Task Force on Environmental Health Risks and Safety Risks to Children ("Task Force").

3-302. The Task Force will report to the President in consultation with the Domestic Policy Council, the National Science and Technology Council, and the Council on Environmental Quality and the Office of Management and Budget ("OMB").

3-303. Membership. The Task Force shall be composed of the:

- (a) Secretary of Health and Human Services, who shall serve as a Chair of the Council;

- (b) Administrator of the Environmental Protection Agency, who shall serve as a Chair of the Council;
- (c) Secretary of Education;
- (d) Secretary of Labor;
- (e) Attorney General;
- (f) Secretary of Energy;
- (g) Secretary of Housing and Urban Development;
- (h) Secretary of Agriculture;
- (i) Secretary of Transportation;
- (j) Chair of the Consumer Product Safety Commission;
- (k) Chair of the Council on Environmental Quality;
- (l) Director of the Office of Management and Budget;
- (m) Assistant to the President for Economic Policy;
- (n) Assistant to the President for Domestic Policy;
- (o) Assistant to the President and Director of the Office of Science and Technology Policy;
- (p) Chair, Council of Economic Advisers; and
- (q) Such other officials of Executive departments and agencies as the President may, from time to time, designate. Members of the Task Force may delegate their responsibilities under the order to subordinates.

3-304. Functions. The Task Force shall develop a recommended Federal strategy for children's environmental health and safety, within the limits of the Balanced Budget Plan, to <sup>include</sup> the following elements:

- (a) Statements of principles, general policy, and targeted annual priorities to 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 budget proposals that reflect investments of Task Force members to accomplish this research.



- (c) Recommendations for appropriate partnerships among federal, state, tribal 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 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 environmental health and safety.
- (f) A statement regarding the desirability of new legislation to fulfill or promote the purposes of this Executive order.

3-305. The Task Force shall biennially prepare a report on research, data, or other information that would enhance our ability to understand, analyze, and respond to environmental health risks and safety risks to children. For purposes of this report, cabinet agencies and other agencies identified by the Task Force shall identify and specifically describe for the Task Force key data needs related to environmental health risks and safety risks to children that have arisen in the course of the agency's programs and activities. The Task Force 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 Council shall ensure that this report is fully considered in establishing research priorities.

3-306. The Task Force shall exist for a period of four years from the first meeting. At least six months prior to the expiration of that period, the member agencies shall assess the need for continuation of the Task Force or its functions, and make appropriate recommendations to the President.

Sec. 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 Council shall present to the Task

Force 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 resulting from exposure to environmental health risks or safety risks. This plan shall include recommendations to ensure that the activities of the Task Force and other requirements of this 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 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, to the extent permitted by law, the consolidated research data base is available to the public, the scientific, and academic communities, and all Federal agencies.

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

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

- (a) An evaluation of the environmental health or safety 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 more effectively mitigate or reduce risks to 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 covered 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 may be included as part of any other required analysis, and shall be made part of the administrative record for the covered regulatory action or otherwise made available to the public, to the extent permitted by law.

Sec. 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. Executive Order 12606 of September 2, 1987 is revoked.

THE WHITE HOUSE,

Env - Children's ED

**DRAFT DRAFT****Enhancing Protection of Children's Health****April 16, 1997**

Vice President Gore today announced an executive order to reduce environmental health and safety risks to children. For the first time, federal agencies will be required to assign high priority to addressing these risks, to coordinate their research priorities on children's health, and to ensure that their standards take into account special risks to children. The executive order, which President Clinton signed today, includes the following actions:

- **Strengthen Policies to Protect Children.** The executive order requires all agencies to make the protection of children a high priority in implementing their statutory responsibilities and fulfilling their overall missions.
- **Improve Research and other Initiatives to Protect Children.** The proposed executive order would create an interagency task force to establish a coordinated research agenda, to identify research and other initiatives the Administration will take to advance the protection of children's environmental health and safety, and to enlist public input for these efforts.
- **Ensure that New Safeguards Consider Special Risks to Children.** The executive order would, for the first time, require agencies to analyze and explain the effects of their rules on children. When a major regulation addresses special risks to children, agencies would have to 1) consider disproportionate impacts on children; and 2) explain why their proposed action is preferable to other alternatives. The primary goal of this provision is to link policy decisions to the emerging science regarding children's environmental health and safety. This provision ensures accountability to the public and helps agencies identify their research needs.

**BACKGROUND**

There is a growing body of evidence, highlighted by a 1993 study by the National Academy of Sciences (NAS) on the exposure of children to pesticides, demonstrating that children are at disproportionate risk from environmental health, and safety risks. The report also concludes that federal regulatory standards often fail to consider these risks fully.

These disproportionate risks stem from several fundamental differences between children and adults, in terms of physiology and activity. Children are still developing, and thus are neurologically and immunologically more susceptible to certain risks. Children eat, drink and breathe more for their weight, exposing them to greater amounts of contamination and pollution for their weight. Children are less able to protect themselves by use of judgment and skill (e.g. navigating traffic, reading and following warnings). Concurrent with their recognition of these factors, scientists have documented an alarming increase in the incidence of conditions in children that may be linked to environmental health and safety risks. These

include childhood cancer, leukemia, and asthma, as well as childhood deaths and injuries from accidents.

President Clinton has taken bold action to respond to the challenge posed by this new science. President Clinton's initiatives resulted in explicit protection for children in the Food Quality Protection Act and Safe Drinking Water Act; development of new standards for passive restraints in cars that are more protective of children; and administrative action to protect children from tobacco, lead, and other hazards. Each of these initiatives responds to major threats to children that are of major concerns to American families.

These successes highlight the need for an overall, coordinated approach to children's issues that highlights their priority, coordinates federal research, and ensures that federal standards consistently account for disproportionate risks to children. Today's executive order, developed through extensive consultation with affected agencies, would fill this gap with provisions to address each of these areas.

Env: Children EO



**Brian J. Johnson**

04/18/97 08:34:36 PM



Record Type: Record

To: Kathleen M. Wallman/WHO/EOP, Elena Kagan/OPD/EOP  
cc: Bradley M. Campbell/CEQ/EOP, Roger V. Salazar/OVP @ OVP  
Subject: last chance on children's health fact sheet



PR\_KIDS.4

Folks,

This draft is the same as the one on which you have had no comment, except that it includes a sentence from EPA about several threats to children's health in the second para, and a sentence from Brad about the OMB group compiling a compendium about threats to children's health in the bullet about improved research.

If you have no comments by 10:00 Monday, Roger and I will assume we can use it for the Vice President's announcement. Thanks for your help.

Brian

**DRAFT DRAFT**

***Enhancing Protection of Children's Health  
April 21, 1997***

Vice President Gore today announced an executive order to reduce environmental health and safety risks to children. For the first time, federal agencies will be required to assign high priority to addressing these risks, to coordinate their research priorities on children's health, and to ensure that their standards take into account special risks to children.

Because children are still developing and because of they take in more food, water, and air relative to their body weight than adults, they are more susceptible than adults to environmental threats. In the past 25 years we have made great progress in protecting public health from environmental hazards, but we still have far to go: Asthma is now the leading cause of hospital admissions for children, 10 million children under the age of four still live within four miles of a toxic dump, and despite a steady decline in childhood lead poisoning, there are still nearly one million children under the age of five who suffer from this condition.

The executive order, which President Clinton signed today, includes the following actions:

- ***Strengthen Policies to Protect Children.*** The executive order requires all agencies to make the protection of children a high priority in implementing their statutory responsibilities and fulfilling their overall missions.
- ***Improve Research and other Initiatives to Protect Children.*** The proposed executive order would create an interagency task force to establish a coordinated research agenda, to identify research and other initiatives the Administration will take to advance the protection of children's environmental health and safety, and to enlist public input for these efforts. The Office of Management and Budget is charged with convening an Interagency Forum on Child and Family Statistics, to produce an annual compendium of the most important indicators of the well being of the Nation's children.
- ***Ensure that New Safeguards Consider Special Risks to Children.*** The executive order would, for the first time, require agencies to analyze and explain the effects of their rules on children. When a major regulation addresses special risks to children, agencies would have to 1) consider disproportionate impacts on children; and 2) explain why their proposed action is preferable to other alternatives. The primary goal of this provision is to link policy decisions to the emerging science regarding children's environmental health and safety. This provision ensures accountability to the public and helps agencies identify their research needs.

## BACKGROUND

There is a growing body of evidence, highlighted by a 1993 study by the National Academy of Sciences (NAS) on the exposure of children to pesticides, demonstrating that children are at disproportionate risk from environmental health, and safety risks. The report also concludes that federal regulatory standards often fail to consider these risks fully.

These disproportionate risks stem from several fundamental differences between children and adults, in terms of physiology and activity. Children are still developing, and thus are neurologically and immunologically more susceptible to certain risks. Children eat, drink and breathe more for their weight, exposing them to greater amounts of contamination and pollution for their weight. Children are less able to protect themselves by use of judgment and skill (*e.g.* navigating traffic, reading and following warnings). Concurrent with their recognition of these factors, scientists have documented an alarming increase in the incidence of conditions in children that may be linked to environmental health and safety risks. These include childhood cancer, leukemia, and asthma, as well as childhood deaths and injuries from accidents.

President Clinton has taken bold action to respond to the challenge posed by this new science. President Clinton's initiatives resulted in explicit protection for children in the Food Quality Protection Act and Safe Drinking Water Act; development of new standards for passive restraints in cars that are more protective of children; and administrative action to protect children from tobacco, lead, and other hazards. Each of these initiatives responds to major threats to children that are of major concerns to American families.

These successes highlight the need for an overall, coordinated approach to children's issues that highlights their priority, coordinates federal research, and ensures that federal standards consistently account for disproportionate risks to children. Today's executive order, developed through extensive consultation with affected agencies, would fill this gap with provisions to address each of these areas.



Env - Children's EO

THE WHITE HOUSE  
WASHINGTON

April 10, 1997

'97 APR 10 PM6:53

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Gene Sperling  
Katie McGinty

SUBJECT: Executive Order to Protect Children  
From Environmental Health Risks and Safety Risks

You are tentatively scheduled to announce on April 16 an Executive Order, attached to this memo, directing agencies to enhance their efforts to protect children from environmental health and safety risks. Announcement of the Executive Order would immediately precede the White House Conference on Early Childhood Learning and Development.

There is broad consensus among agencies on the broad policy objectives of the proposed Executive Order, but three agencies -- Treasury, Commerce, and HHS -- have objected to the explicit requirement in the order that agencies identify risks to children in the analysis supporting their major regulations. DPC and CEQ strongly support issuing the Executive Order in its current form. In addition, all White House offices working on the Conference on Early Childhood Learning and Development would like you to issue the order in its current form, as part of a set of executive actions showing your commitment to protecting children. OMB's OIRA (Sally Katzen) also endorses the order because it advances the Administration's efforts to protect children, but believes that the decision to go forward must recognize that the order will impose additional burdens on agencies and inevitably lead to more stringent regulatory standards over time. NEC favors a compromise proposal discussed in the last section of this memo.

**BACKGROUND**

There is a growing body of evidence, highlighted by a 1993 study by the National Academy of Sciences (NAS) on the exposure of children to pesticides, demonstrating that children are at disproportionate risk from environmental health risks and safety risks. The report also concludes that federal regulatory standards often fail to consider these risks fully.

These disproportionate risks stem from several fundamental differences between children and adults, in terms of physiology and activity. Children are still developing, and thus are neurologically and immunologically more susceptible to certain risks. Children eat, drink and breathe more in proportion to their weight, exposing them to greater amounts of

contamination and pollution for their weight. Children are less able to protect themselves by use of judgment and skill (*e.g.* navigating traffic, reading and following warnings). Concurrent with their recognition of these factors, scientists have documented an alarming increase in the incidence of conditions in children that may be linked to environmental health risks and safety risks. These include childhood cancer, leukemia, and asthma, as well as childhood deaths and injuries from accidents.

In many areas, your Administration has taken bold action to respond to the challenge posed by this new science. Your initiatives resulted in explicit protection for children in the Food Quality Protection Act and Safe Drinking Water Act; development of new standards for passive restraints in cars that are more protective of children; and administrative action to protect children from tobacco, lead, and other hazards. Each of these initiatives has met with strong popular and congressional support.

Despite these successes, there is no overall, coordinated approach to children's issues that highlights their priority, coordinates federal research, and ensures that federal regulations consistently account for disproportionate risks to children. The proposed Executive Order, which has been the subject of extensive discussion with affected agencies, would fill this gap with provisions to address each of these areas.<sup>1</sup>

**Policy:** The proposed Executive Order requires all agencies to make the protection of children a high priority in implementing their statutory responsibilities and fulfilling their overall missions.

**Research Coordination:** The proposed Executive Order would create an interagency Task Force to establish a coordinated research agenda, to identify research and other initiatives the Administration will take to advance the protection of children's environmental health and safety, and to communicate with the public regarding these efforts.

**Federal Regulatory Analysis:** Most notably, the proposed Executive Order would, for the first time, require agencies to analyze and explain the effects of their rules on children. The primary goal of this provision is to link policy decisions to the emerging science regarding children's environmental health and safety. It is this part of the Order to which Treasury, Commerce, and HHS have objected -- perhaps not surprisingly, given that it imposes additional analytic requirements on agency rulemaking.

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<sup>1</sup> This Executive Order would supersede President Reagan's Executive Order on Families, replacing it with a policy that better reflects the priorities of your Administration.

## ISSUE FOR DECISION

**Whether the Executive Order should include provisions requiring agencies to explicitly consider risks to children when deciding on major regulations.**

Section 5 of the Executive Order would impose three requirements on agencies promulgating regulations, if the regulation is economically significant and the agency has reason to believe that it may have a disproportionate impact on children. Agencies would have to: 1) evaluate the effects of the planned regulation on children; 2) similarly assess the effects of reasonably feasible alternatives to the planned regulation; and 3) explain why the planned regulatory action is preferable to these other options.

### Arguments For Inclusion of Section 5

- Section 5 is the key policy component of the proposed Executive Order, and would be an enduring part of your legacy in protecting children's health. It makes concrete and gives effect to the overall policy of the Order to identify and assess risks to children.
- Both the National Academy of Sciences and the Administration's own report, *Investing in our Children*, have highlighted the need to link regulatory decisions to available data and, where there is a lack of data, to a research agenda. Section 5 is the provision of the order that best ensures that agencies will make this link.
- Section 5 provides the structure and enforcement mechanism (through OMB oversight) necessary to ensure that agencies adhere to the general policy of the Executive Order. Without Section 5, the Executive Order's terms are largely hortatory.
- There is substantial bipartisan support for requiring special regulatory analysis with respect to risks to children. The provisions in the proposed Executive Order closely track, and broaden application of, provisions in the unanimously-enacted Food Quality Protection Act and the Safe Drinking Water Act requiring heightened analysis to protect children. This provision will build on the public support for giving special consideration to children's health in developing standards.
- Health experts and outside groups, aware of the prior reports and legislation, may deride the Executive Order as merely symbolic if Section 5 is omitted.
- Your previous Executive Order on regulatory review already requires similar analysis addressing cost, small business impact, and other issues. Failure to include Section 5 may generate criticism that we effectively are subordinating children's health to these other concerns.

## **Arguments Against Inclusion of Section 5**

- Section 5 imposes a novel requirement on major rulemakings, with unpredictable consequences. The task force created by the proposed Executive Order should consider over time and with the benefits of experience the appropriateness of regulatory standards.
- Requiring agencies to acknowledge that a proposed regulation is not the most child-protective is likely to have a distorting effect on regulatory decisions. The result will be greater pressure on agencies to “ratchet up” their regulatory standards, with a corresponding (and potentially unjustified) increase in the costs and burden of regulation. This could undermine the Administration’s program of regulatory reform.
- There is only limited experience with analyzing regulations in terms of risks to children, and this approach is not always well-received. Critics may cite costly Superfund cleanups based on the potential exposure of children to toxic waste sites, and analytical flaws in the public health data supporting EPA’s recent Clean Air Act proposals on ozone and particulate matter.
- In cases where the Section 5 analysis does not prompt agencies to strengthen the relevant regulatory standards, it will provide a basis on which to criticize the agency’s decision. (Some agencies characterize this as a “kick-me” requirement.) Requiring this analysis also may strengthen legal challenges to agency regulations, as requiring any regulatory analysis does.
- The regulatory resources of many agencies are already stretched thin, and blanket application of a new regulatory requirement could divert already tight resources and delay ongoing programs.
- Regulatory agencies have made important strides in this area and should have the opportunity to demonstrate this progress to the interagency task force before any regulatory requirements go into effect.

## **POSSIBLE ALTERNATIVE**

The only compromise available is to retain Section 5, but include only the general requirement that agencies analyze the effects of a proposed regulation on children. This proposal would delete the explicit requirements that agencies undertake a comparative analysis and provide a justification for their decision. This option would diminish both the advantages and disadvantages of proceeding with Section 5 as currently drafted.

**DECISION**

- \_\_\_\_\_ Approve the Executive Order as drafted
- \_\_\_\_\_ Modify Section 5 of the Executive Order
- \_\_\_\_\_ Omit Section 5 of the Executive Order

**ATTACHMENT**

Proposed Executive Order

Protection of Children from Environmental  
Health Risks and Safety Risks

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

Section 1. Policy.

1-101. A growing body of scientific knowledge demonstrates that children may suffer disproportionately from environmental health risks and safety risks. These risks arise because: children's neurological, immunological, digestive and other bodily systems are still developing; children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults; children's size and weight may diminish their protection from standard safety features, and children's behavior patterns may make them more susceptible to accidents because they are less able to protect themselves. Therefore, to the extent permitted by law and appropriate and consistent with the agency's mission, each federal agency:

- (a) shall make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children; and
- (b) shall ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.

1-102. Each independent regulatory agency is encouraged to participate in the implementation of this Executive order and comply with its provisions.

Sec. 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 under 44 U.S.C.

3502(5). 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 action in a rulemaking initiated after the date of this Executive order, or for which a Notice of Proposed Rulemaking is published within one year of the date of this order, that is likely to result in a rule that may:

(a) be "economically significant" under Executive Order 12866 (a rulemaking that has an annual effect on the economy of \$100 million or more or would 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 risk or safety risk <sup>the agency has reason to believe</sup> that may disproportionately affect children.

2-203. Environmental health risks and safety risks mean risks to health or to safety that are attributable to products or substances which the child is likely to come in contact with or ingest (such as the air we breath, the food we eat, the water we drink or use for recreation, the soil we live on, and the products we use or are exposed to).

Sec. 3. Task Force on Environmental Health Risks and Safety Risks to Children.

3-301. There is hereby established the Task Force on Environmental Health Risks and Safety Risks to Children ("Task Force").

3-302. The Task Force will report to the President in consultation with the Domestic Policy Council, the National Science and Technology Council, the Council on Environmental Quality, and the Office of Management and Budget ("OMB").

3-303. Membership. The Task Force shall be composed of the:

- (a) Secretary of Health and Human Services, who shall serve as a Chair of the Council;
- (b) Administrator of the Environmental Protection Agency, who shall serve as a Chair of the Council;
- (c) Secretary of Education;
- (d) Secretary of Labor;
- (e) Attorney General;
- (f) Secretary of Energy;
- (g) Secretary of Housing and Urban Development;
- (h) Secretary of Agriculture;
- (i) Secretary of Transportation;
- (j) Director of the Office of Management and Budget;
- (k) Chair of the Council on Environmental Quality;
- (l) Chair of the Consumer Product Safety Commission;
- (m) Assistant to the President for Economic Policy;
- (n) Assistant to the President for Domestic Policy;
- (o) Assistant to the President and Director of the Office of Science and Technology Policy;
- (p) Chair, Council of Economic Advisers; and
- (q) Such other officials of Executive departments and agencies as the President may, from time to time, designate. Members of the Task Force may delegate their responsibilities under this order to subordinates.

3-304. Functions. The Task Force shall recommend to the President Federal strategies for children's environmental health and safety, within the limits of the Administration's budget, to include the following elements:

- (a) statements of principles, general policy, and targeted annual priorities to 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 review of research databases described in section 4 of this order;



- (c) recommendations for appropriate partnerships among Federal, State, tribal 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 children and in making informed consumer choices;
- (e) an identification of high-priority initiatives that the Federal Government has undertaken or will undertake in advancing protection of children's environmental health and safety; and
- (f) a statement regarding the desirability of new legislation to fulfill or promote the purposes of this Executive order.

3-305. The Task Force shall prepare a biennial report on research, data, or other information that would enhance our ability to understand, analyze, and respond to environmental health risks and safety risks to children. For purposes of this report, cabinet agencies and other agencies identified by the Task Force shall identify and specifically describe for the Task Force key data needs related to environmental health risks and safety risks to children that have arisen in the course of the agency's programs and activities. The Task Force 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 Council shall ensure that this report is fully considered in establishing research priorities.

3-306. The Task Force shall exist for a period of four years from the first meeting. At least six months prior to the expiration of that period, the member agencies shall assess the need for continuation of the Task Force or its functions, and make appropriate recommendations to the President.

Sec. 4. Research Coordination and Integration.

4-401. Within six months of the date of this order, the Task Force shall develop or direct to be developed a review of

existing and planned data resources and a proposed plan for ensuring that researchers and federal research agencies have access to information on all research conducted or funded by the Federal Government that is related to adverse health risks in children resulting from exposure to environmental health risks or safety risks. The National Science and Technology Council shall review the plan.

4-402. The plan shall promote the sharing of information on academic and private research. It shall include recommendations to encourage that such data, to the extent permitted by law, is available to the public, the scientific and academic communities, and all federal agencies.

Sec. 5. Agency environmental health risk or safety risk regulations.

5-501. For each covered regulatory action submitted to OMB's Office of Information and Regulatory Affairs ("OIRA") for review pursuant to Executive Order 12866, the issuing 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 environmental health or safety effects of the planned regulation on children;
- (b) an assessment of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agency or the public, that provide different degrees of protection to children; and
- (c) an explanation of why the planned regulation 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 covered 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 may be included as part of any other required analysis, and shall be made part of the administrative record for the covered regulatory action or otherwise made available to the public, to the extent permitted by law.

Sec. 6. Interagency Forum on Child and Family Statistics.

6-601. The Director of the OMB ("Director") shall convene an Interagency Forum on Child and Family Statistics ("Forum"), which will include representatives from the appropriate Federal statistics and research agencies. The Forum is to produce an annual compendium ("Report") of the most important indicators of the health and well-being of children.

6-602. The Forum shall determine the indicators to be included in the Report and identify the sources of data to be used for the indicators. The Forum shall provide an ongoing review of Federal activity in the collection of data on children and families, and shall make recommendations to improve the coordination of data collection and to reduce duplication and overlap.

6-603. The Report shall be published by the Forum in consultation with the National Institute for Child Health and Human Development. The Forum shall issue the first annual report to the President, through the Director, by July 31, 1997. The report shall be submitted annually thereafter, using the most recently available data.

Sec. 7. General provisions.

7-701. 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.

7-702. Executive Order 12606 of September 2, 1987 is  
revoked.

THE WHITE HOUSE,

THE PRESIDENT HAS SEEN

4/15/97

What does VP/Pres group say? —

cc: Bruce

Yippee - a slightly revised order will be signed by the Pres

THE WHITE HOUSE

WASHINGTON

April 11, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: TODD STERN

SUBJECT: Executive Order to Protect Children from Health/Safety Risks

Env - F.k. Children's EO

Might want to see burden a bit by requiring analysis of impacts on kids & explanation of why preferred to reasonable alternative - list burden a bit out @ below

As a lead-in to the zero-three conference next week, you are tentatively scheduled to sign an Executive Order directing agencies to enhance their efforts to protect kids against environmental health and safety risks. There is broad agreement about most elements of the E.O., but disagreement as to the pivotal section, Section 5. The attached memo seeks your approval of one of three options concerning Section 5.

**Background.** The proposed E.O. is designed to ensure a more coordinated approach to children's issues by (1) requiring all agencies to make protection of children a high priority in carrying out their statutory responsibilities and overall missions; (2) creating an interagency Task Force to establish a coordinated research agenda and initiatives for the Administration; and (3) requiring agencies to analyze and explain the effects of their regulations on children. It is this last requirement that is the subject of disagreement.

**Section 5 - Federal Regulatory Analysis.** As drafted, Section 5 would require agencies to (1) assess the effects of proposed regulations on children if the proposed regs are economically significant and may have a disproportionate impact on kids; (2) assess the effects of reasonable alternatives to the planned reg that provide more or less protection for children than the planned reg; and (3) explain why the planned reg is preferable to the alternatives. Pros and cons are laid out in detail in the memo, but, in essence, the options and arguments are:

This is somewhat interesting

**Option 1 - approve proposed Order with Section 5 as drafted.** Proponents argue that Section 5 provides the teeth to ensure that agencies will adhere to the policy of the Order and that without it the Order would be regarded as largely hortatory. *Supported by DPC and CEO.*

**Option 2 - omit Section 5.** Opponents argue that this is a novel requirement with unpredictable consequences, that it would impose a significant new regulatory burden, and that the requirement to explain why a more protective alternative wasn't chosen will open agencies to undue criticism. They argue that rather than imposing a new requirement in the E.O., the Task Force should consider appropriateness of regulatory standards. *Supported by Treasury, Commerce and HHS.*

**Option 3 - modify Section 5.** The requirement that agencies analyze the effects of a proposed regulation on children would be retained, but the requirement for agencies to analyze more or less protective alternatives and to justify their decisions would be omitted. *Supported by NEC.*

Option 1  Option 2  Option 3  Discuss

Copied  
Reed  
Spurling  
McGinty  
cmc

THE PRESIDENT HAS SEEN

4/15/97

THE WHITE HOUSE  
WASHINGTON

April 10, 1997

'97 APR 10 PM6:53

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Gene Sperling  
Katie McGinty

SUBJECT: Executive Order to Protect Children  
From Environmental Health Risks and Safety Risks

You are tentatively scheduled to announce on April 16 an Executive Order, attached to this memo, directing agencies to enhance their efforts to protect children from environmental health and safety risks. Announcement of the Executive Order would immediately precede the White House Conference on Early Childhood Learning and Development.

There is broad consensus among agencies on the broad policy objectives of the proposed Executive Order, but three agencies -- Treasury, Commerce, and HHS -- have objected to the explicit requirement in the order that agencies identify risks to children in the analysis supporting their major regulations. DPC and CEQ strongly support issuing the Executive Order in its current form. In addition, all White House offices working on the Conference on Early Childhood Learning and Development would like you to issue the order in its current form, as part of a set of executive actions showing your commitment to protecting children. OMB's OIRA (Sally Katzen) also endorses the order because it advances the Administration's efforts to protect children, but believes that the decision to go forward must recognize that the order will impose additional burdens on agencies and inevitably lead to more stringent regulatory standards over time. NEC favors a compromise proposal discussed in the last section of this memo.

**BACKGROUND**

There is a growing body of evidence, highlighted by a 1993 study by the National Academy of Sciences (NAS) on the exposure of children to pesticides, demonstrating that children are at disproportionate risk from environmental health risks and safety risks. The report also concludes that federal regulatory standards often fail to consider these risks fully.

These disproportionate risks stem from several fundamental differences between children and adults, in terms of physiology and activity. Children are still developing, and thus are neurologically and immunologically more susceptible to certain risks. Children eat, drink and breathe more in proportion to their weight, exposing them to greater amounts of

THE PRESIDENT HAS SEEN

4/15/97

contamination and pollution for their weight. Children are less able to protect themselves by use of judgment and skill (e.g. navigating traffic, reading and following warnings). Concurrent with their recognition of these factors, scientists have documented an alarming increase in the incidence of conditions in children that may be linked to environmental health risks and safety risks. These include childhood cancer, leukemia, and asthma, as well as childhood deaths and injuries from accidents.

Major Part of Bush

In many areas, your Administration has taken bold action to respond to the challenge posed by this new science. Your initiatives resulted in explicit protection for children in the Food Quality Protection Act and Safe Drinking Water Act; development of new standards for passive restraints in cars that are more protective of children; and administrative action to protect children from tobacco, lead, and other hazards. Each of these initiatives has met with strong popular and congressional support.

Despite these successes, there is no overall, coordinated approach to children's issues that highlights their priority, coordinates federal research, and ensures that federal regulations consistently account for disproportionate risks to children. The proposed Executive Order, which has been the subject of extensive discussion with affected agencies, would fill this gap with provisions to address each of these areas.<sup>1</sup>

Policy: The proposed Executive Order requires all agencies to make the protection of children a high priority in implementing their statutory responsibilities and fulfilling their overall missions.

Research Coordination: The proposed Executive Order would create an interagency Task Force to establish a coordinated research agenda, to identify research and other initiatives the Administration will take to advance the protection of children's environmental health and safety, and to communicate with the public regarding these efforts.

Federal Regulatory Analysis: Most notably, the proposed Executive Order would, for the first time, require agencies to analyze and explain the effects of their rules on children. The primary goal of this provision is to link policy decisions to the emerging science regarding children's environmental health and safety. It is this part of the Order to which Treasury, Commerce, and HHS have objected -- perhaps not surprisingly, given that it imposes additional analytic requirements on agency rulemaking.

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<sup>1</sup> This Executive Order would supersede President Reagan's Executive Order on Families, replacing it with a policy that better reflects the priorities of your Administration.

## ISSUE FOR DECISION

**Whether the Executive Order should include provisions requiring agencies to explicitly consider risks to children when deciding on major regulations.**

Section 5 of the Executive Order would impose three requirements on agencies promulgating regulations, if the regulation is economically significant and the agency has reason to believe that it may have a disproportionate impact on children. Agencies would have to: 1) evaluate the effects of the planned regulation on children; 2) similarly assess the effects of reasonably feasible alternatives to the planned regulation; and 3) explain why the planned regulatory action is preferable to these other options.

### Arguments For Inclusion of Section 5

- Section 5 is the key policy component of the proposed Executive Order, and would be an enduring part of your legacy in protecting children's health. It makes concrete and gives effect to the overall policy of the Order to identify and assess risks to children.
- Both the National Academy of Sciences and the Administration's own report, *Investing in our Children*, have highlighted the need to link regulatory decisions to available data and, where there is a lack of data, to a research agenda. Section 5 is the provision of the order that best ensures that agencies will make this link.
- Section 5 provides the structure and enforcement-mechanism (through OMB oversight) necessary to ensure that agencies adhere to the general policy of the Executive Order. Without Section 5, the Executive Order's terms are largely hortatory.
- There is substantial bipartisan support for requiring special regulatory analysis with respect to risks to children. The provisions in the proposed Executive Order closely track, and broaden application of, provisions in the unanimously-enacted Food Quality Protection Act and the Safe Drinking Water Act requiring heightened analysis to protect children. This provision will build on the public support for giving special consideration to children's health in developing standards.
- Health experts and outside groups, aware of the prior reports and legislation, may deride the Executive Order as merely symbolic if Section 5 is omitted.
- Your previous Executive Order on regulatory review already requires similar analysis addressing cost, small business impact, and other issues. Failure to include Section 5 may generate criticism that we effectively are subordinating children's health to these other concerns.



## Arguments Against Inclusion of Section 5

- Section 5 imposes a novel requirement on major rulemakings, with unpredictable consequences. The task force created by the proposed Executive Order should consider over time and with the benefits of experience the appropriateness of regulatory standards.
- Requiring agencies to acknowledge that a proposed regulation is not the most child-protective is likely to have a distorting effect on regulatory decisions. The result will be greater pressure on agencies to “ratchet up” their regulatory standards, with a corresponding (and potentially unjustified) increase in the costs and burden of regulation. This could undermine the Administration’s program of regulatory reform.
- There is only limited experience with analyzing regulations in terms of risks to children, and this approach is not always well-received. Critics may cite costly Superfund cleanups based on the potential exposure of children to toxic waste sites, and analytical flaws in the public health data supporting EPA’s recent Clean Air Act proposals on ozone and particulate matter.
- In cases where the Section 5 analysis does not prompt agencies to strengthen the relevant regulatory standards, it will provide a basis on which to criticize the agency’s decision. (Some agencies characterize this as a “kick-me” requirement.) Requiring this analysis also may strengthen legal challenges to agency regulations, as requiring any regulatory analysis does.
- The regulatory resources of many agencies are already stretched thin, and blanket application of a new regulatory requirement could divert already tight resources and delay ongoing programs.
- Regulatory agencies have made important strides in this area and should have the opportunity to demonstrate this progress to the interagency task force before any regulatory requirements go into effect.

## POSSIBLE ALTERNATIVE

The only compromise available is to retain Section 5, but include only the general requirement that agencies analyze the effects of a proposed regulation on children. This proposal would delete the explicit requirements that agencies undertake a comparative analysis and provide a justification for their decision. This option would diminish both the advantages and disadvantages of proceeding with Section 5 as currently drafted.

**DECISION**

- \_\_\_\_\_ Approve the Executive Order as drafted
- \_\_\_\_\_ Modify Section 5 of the Executive Order
- \_\_\_\_\_ Omit Section 5 of the Executive Order

**ATTACHMENT**

Proposed Executive Order

Protection of Children from Environmental  
Health Risks and Safety Risks

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

Section 1. Policy.

1-101. A growing body of scientific knowledge demonstrates that children may suffer disproportionately from environmental health risks and safety risks. These risks arise because: children's neurological, immunological, digestive and other bodily systems are still developing; children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults; children's size and weight may diminish their protection from standard safety features, and children's behavior patterns may make them more susceptible to accidents because they are less able to protect themselves. Therefore, to the extent permitted by law and appropriate and consistent with the agency's mission, each federal agency:

- (a) shall make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children; and
- (b) shall ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.

1-102. Each independent regulatory agency is encouraged to participate in the implementation of this Executive order and comply with its provisions.

Sec. 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 under 44 U.S.C.

3502(5). 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 action in a rulemaking initiated after the date of this Executive order, or for which a Notice of Proposed Rulemaking is published within one year of the date of this order, that is likely to result in a rule that may:

(a) be "economically significant" under Executive Order 12866 (a rulemaking that has an annual effect on the economy of \$100 million or more or would 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 risk or safety risk <sup>the agency has reason to believe</sup> that may disproportionately affect children.

2-203. Environmental health risks and safety risks mean risks to health or to safety that are attributable to products or substances which the child is likely to come in contact with or ingest (such as the air we breath, the food we eat, the water we drink or use for recreation, the soil we live on, and the products we use or are exposed to).

Sec. 3. Task Force on Environmental Health Risks and Safety Risks to Children.

3-301. There is hereby established the Task Force on Environmental Health Risks and Safety Risks to Children ("Task Force").

3-302. The Task Force will report to the President in consultation with the Domestic Policy Council, the National Science and Technology Council, the Council on Environmental Quality, and the Office of Management and Budget ("OMB").

3-303. Membership. The Task Force shall be composed of the:

- (a) Secretary of Health and Human Services, who shall serve as a Chair of the Council;
- (b) Administrator of the Environmental Protection Agency, who shall serve as a Chair of the Council;
- (c) Secretary of Education;
- (d) Secretary of Labor;
- (e) Attorney General;
- (f) Secretary of Energy;
- (g) Secretary of Housing and Urban Development;
- (h) Secretary of Agriculture;
- (i) Secretary of Transportation;
- (j) Director of the Office of Management and Budget;
- (k) Chair of the Council on Environmental Quality;
- (l) Chair of the Consumer Product Safety Commission;
- (m) Assistant to the President for Economic Policy;
- (n) Assistant to the President for Domestic Policy;
- (o) Assistant to the President and Director of the Office of Science and Technology Policy;
- (p) Chair, Council of Economic Advisers; and
- (q) Such other officials of Executive departments and agencies as the President may, from time to time, designate. Members of the Task Force may delegate their responsibilities under this order to subordinates.

3-304. Functions. The Task Force shall recommend to the President Federal strategies for children's environmental health and safety, within the limits of the Administration's budget, to include the following elements:

- (a) statements of principles, general policy, and targeted annual priorities to 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 review of research databases described in section 4 of this order;

- (c) recommendations for appropriate partnerships among Federal, State, tribal 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 children and in making informed consumer choices;
- (e) an identification of high-priority initiatives that the Federal Government has undertaken or will undertake in advancing protection of children's environmental health and safety; and
- (f) a statement regarding the desirability of new legislation to fulfill or promote the purposes of this Executive order.

3-305. The Task Force shall prepare a biennial report on research, data, or other information that would enhance our ability to understand, analyze, and respond to environmental health risks and safety risks to children. For purposes of this report, cabinet agencies and other agencies identified by the Task Force shall identify and specifically describe for the Task Force key data needs related to environmental health risks and safety risks to children that have arisen in the course of the agency's programs and activities. The Task Force 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 Council shall ensure that this report is fully considered in establishing research priorities.

3-306. The Task Force shall exist for a period of four years from the first meeting. At least six months prior to the expiration of that period, the member agencies shall assess the need for continuation of the Task Force or its functions, and make appropriate recommendations to the President.

Sec. 4. Research Coordination and Integration.

4-401. Within six months of the date of this order, the Task Force shall develop or direct to be developed a review of

existing and planned data resources and a proposed plan for ensuring that researchers and federal research agencies have access to information on all research conducted or funded by the Federal Government that is related to adverse health risks in children resulting from exposure to environmental health risks or safety risks. The National Science and Technology Council shall review the plan.

4-402. The plan shall promote the sharing of information on academic and private research. It shall include recommendations to encourage that such data, to the extent permitted by law, is available to the public, the scientific and academic communities, and all federal agencies.

Sec. 5. Agency environmental health risk or safety risk regulations.

5-501. For each covered regulatory action submitted to OMB's Office of Information and Regulatory Affairs ("OIRA") for review pursuant to Executive Order 12866, the issuing 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 environmental health or safety effects of the planned regulation on children;
- (b) an assessment of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agency or the public, that provide different degrees of protection to children; and
- (c) an explanation of why the planned regulation is preferable to the <sup>more potentially effective & more feasible</sup> 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 covered 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 may be included as part of any other required analysis, and shall be made part of the administrative record for the covered regulatory action or otherwise made available to the public, to the extent permitted by law.

Sec. 6. Interagency Forum on Child and Family Statistics.

6-601. The Director of the OMB ("Director") shall convene an Interagency Forum on Child and Family Statistics ("Forum"), which will include representatives from the appropriate Federal statistics and research agencies. The Forum is to produce an annual compendium ("Report") of the most important indicators of the health and well-being of children.

6-602. The Forum shall determine the indicators to be included in the Report and identify the sources of data to be used for the indicators. The Forum shall provide an ongoing review of Federal activity in the collection of data on children and families, and shall make recommendations to improve the coordination of data collection and to reduce duplication and overlap.

6-603. The Report shall be published by the Forum in consultation with the National Institute for Child Health and Human Development. The Forum shall issue the first annual report to the President, through the Director, by July 31, 1997. The report shall be submitted annually thereafter, using the most recently available data.

Sec. 7. General provisions.

7-701. 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.



7-702. Executive Order 12606 of September 2, 1987 is  
revoked.

THE WHITE HOUSE,

4-11-97

Elona,

attached are T.J. Hawthorn's  
suggestions for the order.  
Shirley.  
Mae

existing and planned data resources and a proposed plan for ensuring that researchers and federal research agencies have access to information on all research conducted or funded by the Federal Government that is related to adverse health risks in children resulting from exposure to environmental health risks or safety risks. The National Science and Technology Council shall review the plan.

4-402. The plan shall promote the sharing of information on academic and private research. It shall include recommendations to encourage that such data, to the extent permitted by law, is available to the public, the scientific and academic communities, and all federal agencies.

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4-11-97  
4:00  
T. J. GLAUBIER'S  
SUGGESTION FOR  
SECTION 5.

(a) an evaluation of the environmental health or safety effects of the planned regulation on children;

(b) an assessment of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agency or the public, that provide different degrees of protection to children; and

(c) an explanation of why the planned regulation is preferable to <sup>other</sup> ~~the identified potential~~ alternative(s). <sup>consider</sup>

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 covered 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.

*[Handwritten initials]*

Wellman's comment

April 10, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
 Gene Sperling  
 Katie McGinty

SUBJECT: Executive Order to Protect Children  
 From Environmental Health Risks and Safety Risks

*but others objected too?*  
*Why not reflected here?*  
*If your point is that they had broader problems, we should say that.*

You are tentatively scheduled to announce on April 16 an Executive Order directing agencies to enhance their efforts to protect children from environmental health and safety risks. Announcement of the Executive Order would immediately precede the White House Conference on Early Childhood Learning and Development.

There is broad consensus among agencies on the policy in the proposed Executive Order, but three agencies -- Treasury, Commerce, and HHS -- have objected to the explicit requirement in the order that agencies identify risks to children in the analysis supporting their major regulations. DPC and CEQ strongly support issuing the Executive Order in its current form. In addition, all White House offices working on the Conference on Early Childhood Learning and Development would like you to issue the order, as part of a set of executive actions showing your commitment to protecting children. OMB's OIRA (Sally Katzen) weakly endorses the Order, noting that it will support the Administration's efforts to protect children, but that it also will impose additional burdens on agencies and result in more stringent regulatory standards over time. [Words to effect that Sperling favors compromise written up at end of memo.]

BACKGROUND

There is a growing body of evidence, highlighted by a 1993 study by the National Academy of Sciences (NAS) on the exposure of children to pesticides, demonstrating that children are at disproportionate risk from environmental health risks and safety risks. The report also concludes that federal regulatory standards often fail to consider these risks fully.

These disproportionate risks stem from several fundamental differences between children and adults, in terms of physiology and activity. Children are still developing, and thus are neurologically and immunologically more susceptible to certain risks. Children eat, drink and breathe more in proportion to their weight, exposing them to greater amounts of contamination and pollution for their weight. Children are less able to protect themselves by use of judgment and skill (e.g. navigating traffic, reading and following warnings).

Concurrent with their recognition of these factors, scientists have documented an alarming increase in the incidence of conditions in children that may be linked to environmental health risks and safety risks. These include childhood cancer, leukemia, and asthma, as well as childhood deaths and injuries from accidents.

In many areas, your Administration has taken bold action to respond to the challenge posed by this new science. Your initiatives resulted in explicit protection for children in the Food Quality Protection Act and Safe Drinking Water Act; development of new standards for passive restraints in cars that are more protective of children; and administrative action to protect children from tobacco, lead, and other hazards. Each of these initiatives has met with strong popular and congressional support.

Despite these successes, there is no overall, coordinated approach to children's issues that highlights their priority, coordinates federal research, and ensures that federal regulations consistently account for disproportionate risks to children. The proposed Executive Order, which has been the subject of extensive discussion with affected agencies, would fill this gap with provisions to address each of these areas.<sup>1</sup>

**Policy:** The proposed Executive Order requires all agencies to make the protection of children a high priority in implementing their statutory responsibilities and fulfilling their overall missions.

**Research Coordination:** The proposed Executive Order would create an interagency Task Force to establish a coordinated research agenda, to identify research and other initiatives the Administration will take to advance the protection of children's environmental health and safety, and to communicate with the public regarding these efforts.

**Federal Regulatory Analysis:** Most notably, the proposed Executive Order would, for the first time, require agencies to analyze and explain the effects of their rules on children. The primary goal of this provision is to link policy decisions to the emerging science regarding children's environmental health and safety. This provision also ensures accountability to the public and helps agencies to identify their research needs. Not surprisingly, given that it imposes regulatory requirements, this is the part of the Order to which several agencies have objected.

## **ISSUE FOR DECISION**

**Whether the Executive Order should include provisions requiring agencies to**

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<sup>1</sup> This Executive Order would supercede President Reagan's Executive Order on Families, replacing it with a policy that better reflects the priorities of your Administration.

Elena - too abbreviated. Can't we include  
use of Treasury's work?

explicitly consider risks to children when deciding on major regulations.

Section 5 of the Executive Order would impose three requirements on agencies promulgating regulations, if the regulation is economically significant and the agency has reason to believe that it may have a disproportionate impact on children. Agencies would have to: 1) evaluate the effects of the planned regulation on children; 2) similarly assess the effects of reasonably feasible alternatives to the planned regulation; and 3) explain why the planned regulatory action is preferable to these other options.

#### Arguments For Inclusion of Section 5

- The White House office supporting this instruction believes that
- Section 5 is the key policy component of the proposed Executive Order, and would be an enduring part of your legacy in protecting children's health. It makes concrete and gives effect to the overall policy of the Order to identify and assess risks to children.
  - Both the National Academy of Sciences and the Administration's own report, *Investing in our Children*, have highlighted the need to link regulatory decisions to available data and, where there is a lack of data, to a research agenda. Section 5 is the provision of the order that best ensures that agencies will make this link.
  - Section 5 provides the structure and enforcement mechanism (through OMB oversight) necessary to ensure that agencies adhere to the general policy of the Executive Order. Without Section 5, the Executive Order's terms are largely hortatory.
  - There is substantial bipartisan support for requiring special regulatory analysis with respect to risks to children. The provisions in the proposed Executive Order closely track, and broaden application of, provisions in the unanimously-enacted Food Quality Protection Act and the Safe Drinking Water Act requiring heightened analysis to protect children. This provision will build on the public support for giving special consideration to children's health in developing standards.
  - Health experts and outside groups, aware of the prior reports and legislation, may deride the Executive Order as merely symbolic if Section 5 is omitted.
  - Your previous Executive Order on regulatory review already requires similar analysis addressing cost, small business impact, and other issues. Failure to include Section 5 may generate criticism that we effectively are subordinating children's health to these other concerns.

#### Arguments Against Inclusion of Section 5

- Does not identify which agencies have concern. Can we do that?
- Section 5 imposes a novel requirement on major rulemakings, with unpredictable consequences. The task force created by the proposed Executive Order should consider
- ↓

over time and with the benefits of experience the appropriateness of regulatory standards.

*Please include Hamble's comments*

- Requiring agencies to acknowledge that a proposed regulation is not the most child-protective is likely to have a distorting effect on regulatory decisions. The result will be greater pressure on agencies to “ratchet up” their regulatory standards, with a corresponding (and potentially unjustified) increase in the costs and burden of regulation. This could undermine the Administration’s program of regulatory reform.
- There is only limited experience with analyzing regulations in terms of risks to children, and this approach is not always well-received. Critics may cite costly Superfund cleanups based on the potential exposure of children to toxic waste sites, and analytical flaws in the public health data supporting EPA’s recent Clean Air Act proposals on ozone and particulate matter.
- In cases where the Section 5 analysis does not prompt agencies to strengthen the relevant regulatory standards, it will provide a basis on which to criticize the agency’s decision. (Some agencies characterize this as a “kick-me” requirement.) Requiring this analysis also may strengthen legal challenges to agency regulations, as requiring any regulatory analysis does.
- The regulatory resources of many agencies are already stretched thin, and blanket application of a new regulatory requirement could divert already tight resources and delay ongoing programs.
- Regulatory agencies have made important strides in this area and should have the opportunity to demonstrate this progress to the interagency task force before any regulatory requirements go into effect.

**POSSIBLE ALTERNATIVE**

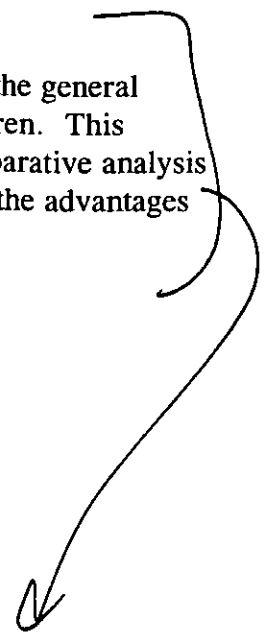
The only compromise available is to retain Section 5, but include only the general requirement that agencies analyze the effects of a proposed regulation on children. This proposal would delete the explicit requirements that agencies undertake a comparative analysis and provide a justification for their decision. This option would diminish both the advantages and disadvantages of proceeding with Section 5 as currently drafted.

**DECISION**

- \_\_\_\_\_ Approve the Executive Order as drafted
- \_\_\_\_\_ Modify Section 5 of the Executive Order
- \_\_\_\_\_ Omit Section 5 of the Executive Order

**ATTACHMENT**

Proposed Executive Order



Can we please see language?  
Need time to finalize what Gene thinks.  
Plus agencies really should see



3502(5). 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 action in a rulemaking initiated after the date of this Executive order, or for which a Notice of Proposed Rulemaking is published within one year of the date of this order, that is likely to result in a rule that may:

- (a) be "economically significant" under Executive Order 12866 (a rulemaking that has an annual effect on the economy of \$100 million or more or would 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 risk or safety risk that may disproportionately affect children.

*The af has  
no action to  
be taken*

2-203. Environmental health risks and safety risks mean risks to health or to safety that are attributable to products or substances which the child is likely to come in contact with or ingest (such as the air we breath, the food we eat, the water we drink or use for recreation, the soil we live on, and the products we use or are exposed to).

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3-302. The Task Force will report to the President in consultation with the Domestic Policy Council, the National Science and Technology Council, the Council on Environmental Quality, and the Office of Management and Budget ("OMB").

3-303. Membership. The Task Force shall be composed of the:

## **MEMORANDUM FOR THE**

**FROM: Elena Kagan, Katie McGinty, and Kathleen Wallman**

**SUBJECT: Executive Order to Protect Children  
from Environmental Health Risks and Safety Risks**

### **ACTION-FORCING EVENT**

You are currently scheduled to announce, on April 16, an Executive Order directing agencies to enhance their efforts to protect children from environmental health and safety risks. The Executive Order may be coupled with your initiative to expand health care coverage for children, and will immediately precede the First Lady's conference on early childhood development and the brain.

There is broad consensus among agencies on the policy and approach in the proposed Executive Order, but three agencies have objected to the explicit requirement in the order that agencies identify risks to children in the analysis supporting their major regulations. We would like you to decide the issue.

### **BACKGROUND**

There is a growing body of evidence, highlighted by a 1993 study by the National Academy of Sciences (NAS) on the exposure of children to pesticides, demonstrating that children are at disproportionate risk from environmental health, and safety risks. The report also concludes that federal regulatory standards often fail to consider these risks fully.

These disproportionate risks stem from several fundamental differences between children and adults, in terms of physiology and activity. Children are still developing, and thus are neurologically and immunologically more susceptible to certain risks. Children eat, drink and breathe more for their weight, exposing them to greater amounts of contamination and pollution for their weight. Children are less able to protect themselves by use of judgment and skill (*e.g.* navigating traffic, reading and following warnings). Concurrent with their recognition of these factors, scientists have documented an alarming increase in the incidence of conditions in children that may be linked to environmental health and safety risks. These include childhood cancer, leukemia, and asthma, as well as childhood deaths and injuries from accidents.

In many areas, this Administration has taken bold action to respond to the challenge posed by this new science. Your initiatives resulted in explicit protection for children in the Food Quality Protection Act and Safe Drinking Water Act; development of new standards for passive restraints in cars that are more protective of children; and administrative action to protect children from tobacco, lead, and other hazards. Each of these initiatives has met with

strong popular and congressional support.

Despite these successes, there is no overall, coordinated approach to children's issues that highlights their priority, coordinates federal research, and ensures that federal regulations consistently account for disproportionate risks to children. The proposed Executive Order, developed through extensive consultation with affected agencies, would fill this gap with provisions to address each of these areas.<sup>1</sup>

**Policy:** The proposed Executive Order requires all agencies to make the protection of children a high priority in implementing their statutory responsibilities and fulfilling their overall missions.

**Research Coordination:** The proposed Executive Order would create an interagency Task Force to establish a coordinated research agenda, to identify research and other initiatives the Administration will take to advance the protection of children's environmental health and safety, and to enlist public input for these efforts.

**Federal Regulatory Analysis:** Although this section is the subject of disagreement, the proposed Executive Order would, for the first time, require agencies to analyze and explain the effects of their rules on children. The primary goal of this provision is to link policy decisions to the emerging science regarding children's environmental health and safety. This provision also ensures accountability to the public and helps agencies to identify their research needs.

There is uniform support among agencies concerning the policy and research coordination required by the order, but the Departments of Treasury, Commerce, and Health and Human Services have objected to Section 5 -- the provision on regulatory analysis. All other agencies and White House offices either support or have no objection to issuance of the order in its complete form.

## ISSUE FOR DECISION

**Whether the Executive Order should include provisions requiring agencies to explicitly consider risks to children in their major regulations.**

Section 5 of the Executive Order would impose three requirements on agencies promulgating regulations, limited to major rules that may have a disproportionate impact on children. Agencies would have to: 1) consider disproportionate impacts of the rule on children; 2) undertake a comparable analysis for other options identified by the agency or the

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<sup>1</sup> This Executive Order would supersede President Reagan's Executive Order on Families, which has been disregarded from the outset of your Administration.

public that provide a different degree of protection; and 3) explain why the planned regulatory action is preferable to the other options.

### **Arguments For Inclusion of Section 5**

- Section 5 is the key policy component of the proposed Executive Order, and would be an enduring part of your legacy in protecting children's health.
- Both the National Academy of Sciences and the Administration's own report, *Investing in our Children*, have highlighted the need to link policy and regulatory decisions both to available data and, where there is a lack of data, to the research agenda. Section 5 is the only provision of the order that satisfies this need.
- Section 5 provides the discipline, and oversight by OMB, that will ensure that agencies adhere to the policy in the Executive Order. Without Section 5, the Executive Order's terms will be largely hortatory.
- There is substantial bipartisan support for requiring special regulatory analysis with respect to risks to children. The provisions in the proposed Executive Order closely track, and broaden application of, provisions in the unanimously-enacted Food Quality Protection Act and the Safe Drinking Water Act requiring heightened require heightened analysis to protect children. This provision will build on the public support for giving special consideration to children's health in developing standards.
- Health experts and outside groups, aware of the prior reports and legislation, may deride the Executive Order as merely symbolic if Section 5 is omitted.
- Your previous Executive Order on regulatory review already requires similar analysis addressing cost, small business impact, and other issues. Failure to include Section 5 may generate criticism that we effectively are subordinating children's health to these other concerns.
- While agencies have complained of the burden imposed by this section, the scope of Section 5 is limited to a subset of major rules that the agency identifies as having a potentially disproportionate impact on children. EPA has had a similar policy in place for nearly a year, with no untoward results. Notably, revisions to section 5 have caused OIRA, the OMB office primarily charged with regulatory review, to withdraw its earlier objections to the proposal. OIRA considers the requirements of Section 5 reasonable and consistent with its current process of regulatory review.
- The explicit obligations in Section 5 provide no greater burden than is implicit in the overall policy of the Executive Order. Omission of Section 5, therefore, may open you to criticism for a weak order, without in fact eliminating the source of the

objection agencies have had concerning implementation.

### **Arguments Against Inclusion of Section 5**

- The consideration of disproportionate impacts that regulations may have on children is a new area of endeavor for Federal agencies. We should allow the task force created by the proposed Executive Order to fashion regulatory review standards in a more considered and deliberate manner, rather than impose such requirements now by Executive Order.
- If agencies must expressly acknowledge that a proposed regulation is less than the most protective for children, Section 5 is likely to have a highly coercive effect on regulatory decisions. The result will be greater pressure on agencies to “ratchet up” their regulatory standards, with a corresponding (and potentially unjustified) increase in the costs and burden of regulation. This could undermine the Administration’s program of regulatory reform.
- The coercive pressure to raise standards across the board may generate criticism from industry and other groups. These groups are likely to assert that EPA’s analysis of impacts on children often leads to absurd decisions. They may cite excessively costly Superfund cleanups based on exposure of children to toxics, and analytical flaws in the public health data supporting EPA’s recent Clean Air Act proposals on ozone and particulate matter.
- Alternatively, if the Section 5 analysis does not prompt agencies to strengthen the relevant regulatory standards, it will provide a ready basis on which to criticize the agency’s decision. The analysis also may increase incentives to mount judicial challenges to agency regulations.
- The additional burden of conducting the analysis required by Section 5 may add delay to the regulatory process, while adding resource demands to agencies already confronted with budgetary constraints.

**POSSIBLE ALTERNATIVE**

The only compromise alternative would be to retain Section 5, but include only the general requirement that agencies analyze effects on children with respect to their proposed regulation. The explicit requirement of a comparative analysis and justification would be omitted. This option would diminish both the advantages and disadvantages of proceeding with Section 5 as currently drafted.

**DECISION**

- \_\_\_\_\_ Approve the Executive Order as drafted
- \_\_\_\_\_ Approve the Executive Order, but omitting Section 5.
- \_\_\_\_\_ Approve the Executive Order, but modify Section 5.
- \_\_\_\_\_ No Action

**ATTACHMENT**

Proposed Executive Order

# Withdrawal/Redaction Marker Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. list	List of agency contacts (1 page)	n.d.	P6/b(6)

## COLLECTION:

Clinton Presidential Records  
Domestic Policy Council  
Elena Kagan  
OA/Box Number: 14361

## FOLDER TITLE:

Environment - Children's Executive Order [1]

2009-1006-F  
ke666

## RESTRICTION CODES

### Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

### Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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MEMORANDUM FOR THE

We have been preparing for you the option of announcing on April 16...

FROM: Elena Kagan, Katie McGinty, and Kathleen Wallman

SUBJECT: Executive Order to Protect Children from Environmental Health Risks and Safety Risks

ACTION-FORCING EVENT

You are currently scheduled to announce on April 16, an Executive Order directing agencies to enhance their efforts to protect children from environmental health and safety risks. The Executive Order may be coupled with your initiative to expand health care coverage for children, and will immediately precede the First Lady's conference on early childhood development and the brain.

he has the option of announcing. If you say it this way, it sounds like a take-back on previous decision.

There is broad consensus among agencies on the policy and approach in the proposed Executive Order, but three agencies have objected to the explicit requirement in the order that agencies identify risks to children in the analysis supporting their major regulations. We would like you to decide the issue.

could would understand disagreement among agencies.

BACKGROUND

There is a growing body of evidence, highlighted by a 1993 study by the National Academy of Sciences (NAS) on the exposure of children to pesticides, demonstrating that children are at disproportionate risk from environmental health, and safety risks. The report also concludes that federal regulatory standards often fail to consider these risks fully.

and act upon differentially upon Treas Comm. USDA DOT HHS = 5? CPSC?

These disproportionate risks stem from several fundamental differences between children and adults, in terms of physiology and activity. Children are still developing, and thus are neurologically and immunologically more susceptible to certain risks. Children eat, drink and breathe more for their weight, exposing them to greater amounts of contamination and pollution for their weight. Children are less able to protect themselves by use of judgment and skill (e.g. navigating traffic, reading and following warnings). Concurrent with their recognition of these factors, scientists have documented an alarming increase in the incidence of conditions in children that may be linked to environmental health and safety risks. These include childhood cancer, leukemia, and asthma, as well as childhood deaths and injuries from accidents.

proportionally to

In many areas, this Administration has taken bold action to respond to the challenge posed by this new science. Your initiatives resulted in explicit protection for children in the Food Quality Protection Act and Safe Drinking Water Act; development of new standards for passive restraints in cars that are more protective of children; and administrative action to protect children from tobacco, lead, and other hazards. Each of these initiatives has met with

(you) CDF BCCU CIT BAA on

strong popular and congressional support.

Despite these successes, there is no overall, coordinated approach to children's issues that highlights their priority, coordinates federal research, and ensures that federal regulations consistently account for disproportionate risks to children. The proposed Executive Order, ~~developed through extensive consultation with affected agencies~~, would fill this gap with provisions to address each of these areas.<sup>1</sup>

USDA, NNS, FDA, CPSC seem to have reservations. Not fair to imply it's OK with affected agencies

**Policy:** The proposed Executive Order requires all agencies to make the protection of children a high priority in implementing their statutory responsibilities and fulfilling their overall missions.

**Research Coordination:** The proposed Executive Order would create an interagency Task Force to establish a coordinated research agenda, to identify research and other initiatives the Administration will take to advance the protection of children's environmental health and safety, and to enlist public input for these efforts.

**Federal Regulatory Analysis:** Although this section is the subject of disagreement, the proposed Executive Order would, for the first time, require agencies to analyze and explain the effects of their rules on children. The primary goal of this provision is to link policy decisions to the emerging science regarding children's environmental health and safety. This provision also ensures accountability to the public and helps agencies to identify their research needs.

There is uniform support among agencies concerning the policy and research coordination required by the order, but the Departments of Treasury, Commerce, and Health and Human Services have objected to Section 5 -- the provision on regulatory analysis. ~~All other agencies and White House offices either support or have no objection to issuance of the order in its complete form.~~

I thought others had too? See list on p.1.

**ISSUE FOR DECISION**

Whether the Executive Order should include provisions requiring agencies to explicitly consider risks to children in their major regulations.

NEC, at least I, believe that the no-section-5 approach is right. You can say that, or delete sentence. If you want to say where we are,

I need time to get Bee's view.

Section 5 of the Executive Order would impose three requirements on agencies promulgating regulations, limited to major rules that may have a disproportionate impact on children. Agencies would have to: 1) consider disproportionate impacts of the rule on children; 2) undertake a comparable analysis for other options identified by the agency or the

<sup>1</sup> This Executive Order would supersede President Reagan's Executive Order on Families, which has been ~~disregarded~~ from the outset of your Administration.

~~in desuetude~~ in desuetude  
sounds like we flouted "the law."

Wallman on Gotbaum:

Arguments Against Inclusion of Section 5

not really an argument, but should be in memo somewhere

Many of the regulatory agencies charged with health and safety regulation – HHS, Agriculture and DOT – oppose including this requirement in this form.

They believe it would impose a largely untried requirement on a wide range of regulatory processes, with unpredictable consequences. (E.g., HHS believes that they would be forced publically to explain why they do not simply ban cigarettes.) ~~The consideration of disproportionate impacts that regulations may have on children is a new area of endeavor for Federal agencies. We should allow the task force created by the proposed Executive Order to fashion regulatory review standards in a more considered and deliberate manner, rather than impose such requirements now by Executive Order.~~

The requirement to state publicly why an agency has declined to follow any "reasonably feasible" alternative that is more protective of children poses a hobson's choice: either agencies must choose the most protective approach, regardless of the merits, or invite public criticism. (Some agencies characterize this as a "kick me" requirement.) This, in turn, ~~e-analysis also may increase the severity and leverage of incentives to mount judicial challenges to agency regulations.~~

These agencies point out that there is thus only limited experience with framing regulations expressly for children, and that not all that experience was well-received. EPA's decisions in Superfund cleanups, for example, are frequently cited by critics as involving billions in costs in order to protect against the theoretical possibility that children might someday play on industrial sites. EPA's basing its recent Clean Air Act proposals for tightening ozone standards on potential (transitory) effects on sensitive children have also been controversial. Even if the EPA applications make sense for general environmental regulation, Agriculture and HHS believe their application in the food and drug area is an entirely different situation.

The regulatory agencies believe they are already making important strides in this area, and would like the opportunity to show in the interagency task force how much progress has been made.

The regulatory agencies also note that their regulatory resources have in many cases been cut back by Congress, and that blanket application of a new regulatory requirement would divert already tight resources and delay their ongoing programs. ~~If agencies must expressly acknowledge that a proposed regulation is less than the most protective for children, Section 5 is likely to have a highly coercive effect on regulatory decisions. The result will be greater pressure on agencies to "ratchet up" their regulatory standards, with a corresponding (and potentially unjustified) increase in the costs and burden of regulation. This could undermine the Administration's program of regulatory reform.~~

~~The coercive pressure to raise standards across the board may generate criticism from industry and other groups. These groups are likely to assert that EPA's analysis of impacts on children often leads to absurd decisions. They may cite excessively costly Superfund cleanups based on~~

agree but tone down

agree

agree

would not delete

delete

Here are Kathy's edits. I have a copy of this at the other side too. -Kama

## Arguments For & Against Changing Regulatory Procedures Now

### Arguments For Inclusion of Section 5

EPA, DPC and CEQ believe the regulatory enforcement mechanism of Section 5 is the key policy component of the proposed Executive Order, and would be an enduring part of your legacy in protecting children's health.

Both the National Academy of Sciences and the Administration's own report *Investing in our Children*, have highlighted the need to link policy and regulatory decisions both to available data and, where there is a lack of data, to the research agenda. ~~Section 5 is the only provision of the order that satisfies this need.~~<sup>1</sup> Section 5 would provide the clearest enforcement for this link. Section 5 ~~is~~ provides the discipline, and oversight by OMB, that will ensure that agencies adhere to the policy in the Executive Order. Without Section 5, the Executive Order's direction would be only reviewed by the task force ~~terms will be largely hortatory.~~  
*can be included*

There is substantial bipartisan support for requiring special regulatory analysis with respect to risks to children. The provisions in the proposed Executive Order closely track, and broaden application of, provisions in the unanimously-enacted Food Quality Protection Act and the Safe Drinking Water Act requiring heightened require heightened analysis to protect children. This provision will build on the public support for giving special consideration to children's health in developing standards.

Health experts and outside groups, aware of the prior reports and legislation, may deride the Executive Order as merely symbolic if Section 5 is omitted.

Your previous Executive Order on regulatory review already requires similar analysis addressing cost, small business impact, and other issues. Failure to include Section 5 may generate criticism that we effectively are subordinating children's health to these other concerns.

While agencies have complained of the burden imposed by this section, the scope of Section 5 is limited to a subset of major rules that the agency identifies as having a potentially disproportionate impact on children. EPA has had a similar policy in place for nearly a year, with no untoward results. Notably, revisions to section 5 have caused OIRA, the OMB office primarily charged with regulatory review, to withdraw its earlier objections to the proposal. OIRA considers the requirements of Section 5 reasonable and consistent with its current process of regulatory review.

DPC and CEQ believe that Section 5 merely makes ~~The explicit obligations in Section 5 provide no greater burden than is implicit in the overall policy of the Executive Order.~~ Omission of Section 5, therefore, may open you to criticism for a weak order, without in fact eliminating the source of the objection agencies have had concerning implementation.

<sup>1</sup> This is simply untrue. The task force could accomplish this as well.

Arguments For & Against Changing Regulatory Procedures Now

*delete*  
~~exposure of children to toxics, and analytical flaws in the public health data supporting EPA's recent Clean Air Act proposals on ozone and particulate matter.~~

~~Alternatively, if the Section 5 analysis does not prompt agencies to strengthen the relevant regulatory standards, it will provide a ready basis on which to criticize the agency's decision.~~

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See Treasury + Commerce  
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### **Arguments Against Inclusion of Section 5**

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## **POSSIBLE ALTERNATIVE**

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## **DECISION**

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Proposed Executive Order



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*can be bridged*

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No problem with first sentence parenthetical is wrong.

agree not one down

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although inaccurate

agree

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interest

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No from example doesn't create water

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may

add not delete

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delete

Arguments For & Against Changing Regulatory Procedures Now

*delete*  
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Your previous Executive Order on regulatory review already requires similar analysis addressing cost, small business impact, and other issues. Failure to include Section 5 may generate criticism that we effectively are subordinating children's health to these other concerns.

While agencies have complained of the burden imposed by this section, the scope of Section 5 is limited to a subset of major rules that the agency identifies as having a potentially disproportionate impact on children. EPA has had a similar policy in place for nearly a year, with no untoward results. Notably, revisions to section 5 have caused OIRA, the OMB office primarily charged with regulatory review, to withdraw its earlier objections to the proposal. OIRA considers the requirements of Section 5 reasonable and consistent with its current process of regulatory review.

DPC and CEQ believe that Section 5 merely makes ~~The explicit obligations in Section 5 provide no greater burden than is implicit in the~~ overall policy of the Executive Order. Omission of Section 5, therefore, may open you to criticism for a weak order, without in fact eliminating the source of the objection agencies have had concerning implementation.

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<sup>1</sup> *This is simply untrue. The task force could accomplish this as well.*

### Arguments Against Inclusion of Section 5

Many of the regulatory agencies charged with health and safety regulation – HHS, Agriculture and DOT – oppose including this requirement in this form.

They believe it would impose a largely untried requirement on a wide range of regulatory processes, with unpredictable consequences. (E.g., HHS believes that they would be forced publically to explain why they do not simply ban cigarettes.) ~~The consideration of disproportionate impacts that regulations may have on children is a new area of endeavor for Federal agencies. We should allow the task force created by the proposed Executive Order to fashion regulatory review standards in a more considered and deliberate manner, rather than impose such requirements now by Executive Order.~~

The requirement to state publicly why an agency has declined to follow any "reasonably feasible" alternative that is more protective of children poses a hobson's choice: either agencies must choose the most protective approach, regardless of the merits, or invite public criticism. (Some agencies characterize this as a "kick me" requirement.) This, in turn, ~~e-analysis also may increase the severity and leverage of incentives to mount judicial challenges to agency regulations.~~

These agencies point out that there is thus only limited experience with framing regulations expressly for children, and that not all that experience was well-received. EPA's decisions in Superfund cleanups, for example, are frequently cited by critics as involving billions in costs in order to protect against the theoretical possibility that children might someday play on industrial sites. EPA's basing its recent Clean Air Act proposals for tightening ozone standards on potential (transitory) effects on sensitive children have also been controversial. Even if the EPA applications make sense for general environmental regulation, Agriculture and HHS believe their application in the food and drug area is an entirely different situation.

The regulatory agencies believe they are already making important strides in this area, and would like the opportunity to show in the interagency task force how much progress has been made.

The regulatory agencies also note that their regulatory resources have in many cases been cut back by Congress, and that blanket application of a new regulatory requirement would divert already tight resources and delay their ongoing programs. ~~If agencies must expressly acknowledge that a proposed regulation is less than the most protective for children, Section 5 is likely to have a highly coercive effect on regulatory decisions. The result will be greater pressure on agencies to "ratchet up" their regulatory standards, with a corresponding (and potentially unjustified) increase in the costs and burden of regulation. This could undermine the Administration's program of regulatory reform.~~

~~The coercive pressure to raise standards across the board may generate criticism from industry and other groups. These groups are likely to assert that EPA's analysis of impacts on children often leads to absurd decisions. They may cite excessively costly Superfund cleanups based on~~

## Arguments For & Against Changing Regulatory Procedures Now

~~exposure of children to toxics, and analytical flaws in the public health data supporting EPA's recent Clean Air Act proposals on ozone and particulate matter.~~

~~Alternatively, if the Section 5 analysis does not prompt agencies to strengthen the relevant regulatory standards, it will provide a ready basis on which to criticize the agency's decision.~~

~~The additional burden of conducting the analysis required by Section 5 may add delay to the regulatory process, while adding resource demands to agencies already confronted with budgetary constraints.~~

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public that provide a different degree of protection; and 3) explain why the planned regulatory action is preferable to the other options.

#### Arguments For Inclusion of Section 5

- Section 5 is the key policy component of the proposed Executive Order, and would be an enduring part of your legacy in protecting children's health.
- Both the National Academy of Sciences and the Administration's own report, *Investing in our Children*, have highlighted the need to link policy and regulatory decisions both to available data and, where there is a lack of data, to the research agenda. Section 5 is the only provision of the order that satisfies this need.
- Section 5 provides the discipline, and oversight by OMB, that will ensure that agencies adhere to the policy in the Executive Order. Without Section 5, the Executive Order's terms will be largely hortatory.
- There is substantial bipartisan support for requiring special regulatory analysis with respect to risks to children. The provisions in the proposed Executive Order closely track, and broaden application of, provisions in the unanimously-enacted Food Quality Protection Act and the Safe Drinking Water Act requiring heightened require heightened analysis to protect children. This provision will build on the public support for giving special consideration to children's health in developing standards.
- Health experts and outside groups, aware of the prior reports and legislation, may deride the Executive Order as merely symbolic if Section 5 is omitted.
- Your previous Executive Order on regulatory review already requires similar analysis addressing cost, small business impact, and other issues. Failure to include Section 5 may generate criticism that we effectively are subordinating children's health to these other concerns.
- While agencies have complained of the burden imposed by this section, the scope of Section 5 is limited to a subset of major rules that the agency identifies as having a potentially disproportionate impact on children. EPA has had a similar policy in place for nearly a year, with no untoward results. Notably, revisions to section 5 have caused OIRA, the OMB office primarily charged with regulatory review, to withdraw its earlier objections to the proposal. OIRA considers the requirements of Section 5 reasonable and consistent with its current process of regulatory review.
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objection agencies have had concerning implementation.

*and one where agencies had expressed widely disparate views as to their responsibilities.*

### Arguments Against Inclusion of Section 5

- The consideration of disproportionate impacts that regulations may have on children is a new area of endeavor for Federal agencies. We should allow the task force created by the proposed Executive Order to fashion regulatory review standards in a more considered and deliberate manner, rather than impose such requirements now by Executive Order. *Such a staged approach could be part of the proposed EO, and would allow business and other groups to provide input.*
- If agencies must expressly acknowledge that a proposed regulation is less than the most protective for children, Section 5 is likely to have a highly coercive effect on regulatory decisions. The result will be greater pressure on agencies to "ratchet up" their regulatory standards, with a corresponding (and potentially unjustified) increase in the costs and burden of regulation. This could undermine the Administration's program of regulatory reform.
- The coercive pressure to raise standards across the board may generate criticism from industry and other groups. These groups are likely to assert that EPA's analysis of impacts on children often leads to absurd decisions. They may cite excessively costly Superfund cleanups based on exposure of children to toxics, and analytical flaws in the public health data supporting EPA's recent Clean Air Act proposals on ozone and particulate matter.
- Alternatively, if the Section 5 analysis does not prompt agencies to strengthen the relevant regulatory standards, it will provide a ready basis on which to criticize the agency's decision. The analysis also may increase incentives to mount judicial challenges to agency regulations.
- The additional burden of conducting the analysis required by Section 5 may add delay to the regulatory process, while adding resource demands to agencies already confronted with budgetary constraints.



Agencies are generally ~~not~~ prepared to support

We have been preparing for you the option of announcing, on April 16...

MEMORANDUM FOR THE

FROM: Elena Kagan, Katie McGinty, and Kathleen Wallman

SUBJECT: Executive Order to Protect Children from Environmental Health Risks and Safety Risks

ACTION-FORCING EVENT

You are currently scheduled to announce, on April 16, an Executive Order directing agencies to enhance their efforts to protect children from environmental health and safety risks. The Executive Order may be coupled with your initiative to expand health care coverage for children, and will immediately precede the First Lady's conference on early childhood development and the brain.

he has the option of announcing. If you say it this way, it sounds like a take-back on previous decision.

There is broad consensus among agencies on the policy and approach in the proposed Executive Order, but some agencies have objected to the explicit requirement in the order that agencies identify risks to children in the analysis supporting their major regulations. We would like you to decide the issue.

could would

understate disagreement among agencies.

BACKGROUND

There is a growing body of evidence, highlighted by a 1993 study by the National Academy of Sciences (NAS) on the exposure of children to pesticides, demonstrating that children are at disproportionate risk from environmental health, and safety risks. The report also concludes that federal regulatory standards often fail to consider these risks fully.

and act upon differently upon NOC TML

Several Texas Conn. USA DOJ HHS F5? CPSC?

These disproportionate risks stem from several fundamental differences between children and adults, in terms of physiology and activity. Children are still developing, and thus are neurologically and immunologically more susceptible to certain risks. Children eat, drink and breathe more for their weight, exposing them to greater amounts of contamination and pollution for their weight. Children are less able to protect themselves by use of judgment and skill (e.g. navigating traffic, reading and following warnings). Concurrent with their recognition of these factors, scientists have documented an alarming increase in the incidence of conditions in children that may be linked to environmental health and safety risks. These include childhood cancer, leukemia, and asthma, as well as childhood deaths and injuries from accidents.

(proportionally to)

In many areas, this Administration has taken bold action to respond to the challenge posed by this new science. Your initiatives resulted in explicit protection for children in the Food Quality Protection Act and Safe Drinking Water Act; development of new standards for passive restraints in cars that are more protective of children; and administrative action to protect children from tobacco, lead, and other hazards. Each of these initiatives has met with

(you)

Plan we think we think

strong popular and congressional support.

~~Substantially revised in response to criticisms from affected agencies~~

USDA, NNS, FDA,

CASC seem to have reservations.

Not fair to imply it's OK with affected agencies

Despite these successes, there is no overall, coordinated approach to children's issues that highlights their priority, coordinates federal research, and ensures that federal regulations consistently account for disproportionate risks to children. The proposed Executive Order, developed through extensive consultation with affected agencies, would fill this gap with provisions to address each of these areas.<sup>1</sup>

stat.

**Policy:** The proposed Executive Order requires all agencies to make the protection of children a high priority in implementing their statutory responsibilities and fulfilling their overall missions.

**Research Coordination:** The proposed Executive Order would create an interagency Task Force to establish a coordinated research agenda, to identify research and other initiatives the Administration will take to advance the protection of children's environmental health and safety, and to enlist public input for these efforts.

**Federal Regulatory Analysis:** Although this section is the subject of disagreement, the proposed Executive Order would, for the first time, require agencies to analyze and explain the effects of their rules on children. The primary goal of this provision is to link policy decisions to the emerging science regarding children's environmental health and safety. This provision also ensures accountability to the public and helps agencies to identify their research needs.

There is uniform support among agencies concerning the policy and research coordination required by the order, but the Departments of Treasury, Commerce, and Health and Human Services have objected to Section 5 -- the provision on regulatory analysis. All other agencies and White House offices either support or have no objection to issuance of the order in its complete form.

~~Agreement~~

I thought often heard, too? See list on p. 1.

**ISSUE FOR DECISION**

Whether the Executive Order should include provisions requiring agencies to explicitly consider risks to children in their major regulations.

NEC, at least I, believe that the no-section-5 approach is right. You can say that, or delete sentence. If you want to say where we are, I need time to get better view.

Section 5 of the Executive Order would impose three requirements on agencies promulgating regulations, limited to major rules that may have a disproportionate impact on children. Agencies would have to: 1) consider disproportionate impacts of the rule on children; 2) undertake a comparable analysis for other options identified by the agency or the

~~in desuetude~~ in desuetude

<sup>1</sup> This Executive Order would supersede President Reagan's Executive Order on Families, which has been disregarded from the outset of your Administration.

same like we flouted the law.

public that provide a different degree of protection; and 3) explain why the planned regulatory action is preferable to the other options.

#### Arguments For Inclusion of Section 5

See Treasury + Commerce  
Comments.

- Section 5 is the key policy component of the proposed Executive Order, and would be an enduring part of your legacy in protecting children's health.
- Both the National Academy of Sciences and the Administration's own report, *Investing in our Children*, have highlighted the need to link policy and regulatory decisions both to available data and, where there is a lack of data, to the research agenda. Section 5 is the only provision of the order that satisfies this need.
- Section 5 provides the discipline, and oversight by OMB, that will ensure that agencies adhere to the policy in the Executive Order. Without Section 5, the Executive Order's terms will be largely hortatory.
- There is substantial bipartisan support for requiring special regulatory analysis with respect to risks to children. The provisions in the proposed Executive Order closely track, and broaden application of, provisions in the unanimously-enacted Food Quality Protection Act and the Safe Drinking Water Act requiring heightened require heightened analysis to protect children. This provision will build on the public support for giving special consideration to children's health in developing standards.
- Health experts and outside groups, aware of the prior reports and legislation, may deride the Executive Order as merely symbolic if Section 5 is omitted.
- Your previous Executive Order on regulatory review already requires similar analysis addressing cost, small business impact, and other issues. Failure to include Section 5 may generate criticism that we effectively are subordinating children's health to these other concerns.
- While agencies have complained of the burden imposed by this section, the scope of Section 5 is limited to a subset of major rules that the agency identifies as having a potentially disproportionate impact on children. EPA has had a similar policy in place for nearly a year, with no untoward results. Notably, revisions to section 5 have caused OIRA, the OMB office primarily charged with regulatory review, to withdraw its earlier objections to the proposal. OIRA considers the requirements of Section 5 reasonable and consistent with its current process of regulatory review.
- The explicit obligations in Section 5 provide no greater burden than is implicit in the overall policy of the Executive Order. Omission of Section 5, therefore, may open you to criticism for a weak order, without in fact eliminating the source of the

objection agencies have had concerning implementation.

### **Arguments Against Inclusion of Section 5**

- The consideration of disproportionate impacts that regulations may have on children is a new area of endeavor for Federal agencies. We should allow the task force created by the proposed Executive Order to fashion regulatory review standards in a more considered and deliberate manner, rather than impose such requirements now by Executive Order.
- If agencies must expressly acknowledge that a proposed regulation is less than the most protective for children, Section 5 is likely to have a highly coercive effect on regulatory decisions. The result will be greater pressure on agencies to “ratchet up” their regulatory standards, with a corresponding (and potentially unjustified) increase in the costs and burden of regulation. This could undermine the Administration’s program of regulatory reform.
- The coercive pressure to raise standards across the board may generate criticism from industry and other groups. These groups are likely to assert that EPA’s analysis of impacts on children often leads to absurd decisions. They may cite excessively costly Superfund cleanups based on exposure of children to toxics, and analytical flaws in the public health data supporting EPA’s recent Clean Air Act proposals on ozone and particulate matter.
- Alternatively, if the Section 5 analysis does not prompt agencies to strengthen the relevant regulatory standards, it will provide a ready basis on which to criticize the agency’s decision. The analysis also may increase incentives to mount judicial challenges to agency regulations.
- The additional burden of conducting the analysis required by Section 5 may add delay to the regulatory process, while adding resource demands to agencies already confronted with budgetary constraints.

**POSSIBLE ALTERNATIVE**

The only compromise alternative would be to retain Section 5, but include only the general requirement that agencies analyze effects on children with respect to their proposed regulation. The explicit requirement of a comparative analysis and justification would be omitted. This option would diminish both the advantages and disadvantages of proceeding with Section 5 as currently drafted.

**DECISION**

- \_\_\_\_\_ Approve the Executive Order as drafted
- \_\_\_\_\_ Approve the Executive Order, but omitting Section 5.
- \_\_\_\_\_ Approve the Executive Order, but modify Section 5.
- \_\_\_\_\_ No Action

**ATTACHMENT**

Proposed Executive Order