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The enclosed comments are submitted on behalf of Daniel Swartz, Executive Director of the Children's Environmental Health Network.

Please confirm the receipt of this document and its placement in the docket.

Thank you.

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The Network is grateful for the opportunity to comment on the Office of Management and Budget (OMB)'s Draft Guidelines for the Conduct of Regulatory Analysis and the Format of Accounting Statements (Appendix C).

The Children's Environmental Health Network is a non-partisan and multi-disciplinary national organization whose mission is to protect the fetus and the child from environmental hazards and to promote a healthy environment. The Network's Board of Directors and committee members include numerous experts in children's environmental health who serve on key Federal advisory panels and scientific boards.

The Network is deeply interested in how OMB directs agencies to conduct cost-benefit analyses. These analyses, as currently conducted, undervalue children and thus may lead to policy decisions that do not sufficiently protect children.

To understand the source of these discrepancies, our comments will first summarize some of children's "unique characteristics" that should be borne in mind by those conducting or utilizing such analyses.

Children Are Unique

Children, relative to adults, tend to eat, breathe and drink more. As a result of this increased intake, children absorb a disproportionate amount of the burden of environmental toxicants. Because children exist in a state of constant biological and social change, the development of key organs and organ systems can be substantially harmed by what might seem to be relatively minor perturbations. Thus, exposures to environmental toxicants can have truly detrimental impacts on children for the rest of their lives. That is why an exposure that for an adult may have no effect

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or a mild effect may, for a child, cause lifelong harm, as the impact of lead on the developing child attests.

And, of course, children, compared to adults, are likely to have more years of life before them. Actions we take (or don't take) today will influence how many, and how healthy, those years will be. Because children have more prospective years, each environmental exposure creates far more opportunities for diseases with long latency periods to develop. In summary, since they disproportionately bear the costs of these toxicants, it is with reference to children's health and well being that we as a society should seek to regulate and prevent harmful exposures.

Many Analyses Fail To Sufficiently Value Children

Any efforts to measure costs and benefits of Federal regulations should not only proceed from an understanding of children's health differences, but should also include consideration of how costs and benefits to children might be different. These differences need to be identified and appropriately measured in order to prevent our children from being shortchanged by cost-benefit analyses. This has not routinely been done by most Federal agencies, including OMB.

Current estimates of the value of reducing adverse impacts on children, both monetized and not monetized, are neither comprehensive nor accurate. The following examples outline some of the general design flaws that cause these shortcomings.

- Children's unique vulnerabilities, behavior and exposures are rarely specifically considered in the course of regulations. Only recently has the scientific basis for identifying the separate and sometimes more pronounced effects for children begun to be addressed in the regulatory process. Yet, even today, regulatory impact analyses generally do not identify children separately from adults, and thus potential health benefits are not accurately portrayed.
- The literature used in monetized benefit estimation often pertains specifically to adults. Relatively few valuation studies on environmental risks to children are presently available. In many cases, benefits estimates for children are based on indirect measures of parents' "willingness-to-pay," leading to flawed results (which is discussed further below).
- Very limited information exists about the monetary value of reducing many of the adverse effects that are specific to children, or occur more frequently in children (ranging from saved medical expenses to long-term impacts of asthma-related restrictions on childhood activities). Thus, it is likely that estimates of children's health benefits are incorrect.¹

¹ November 22, 1999 Children's Health Protection Advisory Committee letter to EPA Administrator Browner

- The benefits derived from a regulation are based at times on lost wages or impact on productivity. Such approaches ignore benefits to those who are not earning regular wages or considered to be contributing to the economy's productivity, such as children.
- Data that cannot be reliably quantified or monetized are not typically assigned a value in economic analyses. Quite often, effects on children would fall into this category and thus are not valued. The absence of these effects is not highlighted in the assessments and thus these effects usually become invisible to the public and decision-makers.
- Cost-benefit analyses typically ignore the constraints children operate under: they are frequently not independent actors making their own choices, they are not informed or aware of the consequences of the choices they do make, and they often have fewer resources available, leading, for example, to child poverty rates that exceed those of adults. These problems are compounded because children of color or children living in lower income communities often face disproportionate environmental health risks.
- Health effects to children from environmental health hazards often occur over a number of years, sometimes even across generations. Traditional discounting methods systemically reduce the value of long-term benefits such as preventing a health effect in the future.

Is Monetizing Children's Health Appropriate?

Perhaps most importantly, any discussion of cost-benefit analyses must ask whether or not putting a dollar value on a concept, a value or a person, particularly a child, is either useful or, more fundamentally, in consonance with basic American values.

This is not an argument against quantification per se, though this too has its limits, as noted below. Rigorous quantification is possible, however, without resorting to the often artificial and nearly always assumption-ridden process of translating health or quality of life to dollar figures.

When the President was recently asked his estimate of the dollar cost of the possible war on Iraq, he responded: "How do you measure the benefit of freedom" or the "immeasurable cost" of lost lives? How to measure the value to society for assuring that all of its children grow up healthy in a healthy environment? How to assign a dollar amount not only to a parent's love, but also to more "indirect benefits" of children, such as their value to society as a whole, or the religious value that we place on having healthy children? Even if a monetary value is assigned, this value may not consider the full range of inherent benefits of such a goal.

Furthermore, some of the approaches typically used in attempts to monetize costs and benefits are especially inappropriate for evaluating costs and benefits in relation to children. For example, is it possible to accurately judge a child's "willingness to pay," or "value of statistical life" or similar measures? Without explicit, transparent acknowledgements of such profound limitations, monetization can make analyses more obscure rather than more transparent or useful

to policy makers. Some have attempted to use parental "willingness to pay" as a substitute for direct valuation and a surrogate for any possible social benefits. The current method of this approach, however, is rarely to directly ask parents their "willingness," but to extrapolate or infer from other activities, such as how much time a woman spends buckling her child correctly into a car seat and then assigning a dollar value to that time.

These problems are further exacerbated by OMB's insistence on discounting. Discounting may make sense when making decisions about one's retirement accounts; it does not make sense when considering people or the core principle of public health, primary prevention. For example, the usual practice of discounting of health benefits over time minimizes positive results from regulation, such as preventing damage to a child's health. What parent would say that their child is worth less in ten years than today? Yet under this guidance, our children decrease in value 7 percent per year, effectively becoming worth half as much every decade.

OMB's 2001 Request for Comments

In 2001, OMB "invite[d] commenters to suggest any other reforms to the regulatory development and oversight processes that would improve regulatory outcomes."

The Network welcomed the opportunity to highlight for the Agency the limitations of cost-benefit analyses as described above. In our 2001 comments, the Network urged the OMB to keep in mind the failings of such analyses. We hoped that recognition would be forthcoming from OMB of the limitations of these tools. OMB should support policy-makers who recognize that such analyses but one tool and should be placed in an appropriate context: as an aid to those making policy decisions, rather than as purely objective means to have policy decisions made for them.

Additionally, the Network also used the comment period to offer suggestions on how to better conduct cost-benefit analyses. As long as cost-benefit analyses are used, they should be improved as much as possible.

At the time of its request for comments, the agency stated that it was "not aware of new information that would provide the basis for a major revision to these estimates." In fact, a variety of exciting recent work had been published, a whole emerging category of economic and valuation research that is providing evidence that children are improperly valued -- and often grossly undervalued -- in present Federal regulatory accounting efforts.

In our comments, we urged OMB to actively pursue and/or sponsor research on how to better reflect the economic value of protecting children's health in economic assessments of proposed regulations and policies. We believe that the findings of such research should be incorporated into standard regulatory and economic analyses across the Federal government. Furthermore, we said that the key reform OMB needed to adopt was to take account of the special needs, values, and vulnerabilities of children in a more systematic and transparent fashion.

In our response to OMB, we urged the agency to modify its guidance to reflect this new research. Our July 2001 comments include more specific information on these concepts.

Unfortunately, none of these improvements were incorporated into this draft guidance.

The 2003 OMB Cost-Benefit Analysis Guidance

Unfortunately, OMB's recently-issued draft guidance does not do a better job of considering children. In fact, this new guidance values children even less, as well as making the cost-benefit process more cumbersome, less efficient and less transparent.

A. Minimizes intangible values and that which cannot be quantified

Though the OMB guidance includes a few statements acknowledging that "intangibles" are of importance and should be somehow incorporated into a cost-benefit analysis,² most such statements lie buried in the document. No real guidance of how to value such intangibles is offered. The closest statement is: "you should exercise professional judgment in determining how important the non-quantifiable benefits or costs may be . . ."³ without further describing this professional judgment. Most of the discussion focuses on narrowing the valuation of such measures, rather than assuring they are fully and appropriately considered.

When listing "*What Should Go Into a Regulatory Analysis?*,"⁴ no mention is made of how to handle intangibles and that which cannot be quantified. Instead, the summation is:

"With this information, you should be able to assess quantitatively the benefits and costs of the proposed rule and its alternatives."

The clear message to regulators is that intangibles are essentially invisible. This message is also reflected elsewhere in the draft report. The various tables of the estimated costs and benefits of rules highlight first and foremost the dollar estimates. In only a few cases are other impacts noted at all. Several tables total the dollar amounts of "benefits" and "costs" and thus any other benefit that has not been assigned a dollar value is assumed to be zero. For example, in Table 4, "Summary Of Agency Estimates For Final Rules 10/01/2001 –9/30/02," it is noted about EPA's

² For example, "Many goods that are affected by regulation —such as preserving environmental or cultural amenities —are not traded directly in markets. These "non-market" values arise both from use and non-use. Estimation of these values is difficult because of the absence of an organized market. However, overlooking or ignoring these values in your regulatory analysis may significantly understate the benefits of regulatory actions," February 3, 2003 *Federal Register*, p. 5519. Also February 3, 2003 *Federal Register*, p. 5514.

³ February 3, 2003 *Federal Register*, p. 5514

⁴ February 3, 2003 *Federal Register*, p. 5514

nonroad⁵ rule: "EPA also lists a variety of other benefit categories which it was not able to quantify or monetize, ranging from infant mortality to damage to urban ornamental plants."⁶ I would say that preventing infant deaths is quite important. But since EPA didn't quantify or monetize that benefit, it doesn't count and can't be taken into account by decision-makers.⁷

Early in the guidance, OMB states:

"Where all significant benefits and costs can be quantified and expressed in monetary units, benefit-cost analysis provides decisionmakers with a clear indication of the most efficient alternative . . ."⁸

When talking about children's health or safety, is it **ever** possible for "all significant benefits and costs [to] be quantified and expressed in monetary units"? Even the Agency admits, "quantifying some effects may not be feasible."

B. Increases Emphasis on Quantification and Monetization

OMB directs agencies to quantify measures whenever possible, and to monetize quantitative estimates whenever possible,⁹ stating:

"Sound quantitative estimates of benefits and costs are preferable to qualitative descriptions of benefits and costs to help decision-makers understand the full effects of alternative actions."

We disagree that quantitative estimates are always better than qualitative descriptions "to help decision-makers understand" the full effects of alternative actions. At best, quantitative estimates may be able to assist in measuring – but such measuring is not always the only or best means for understanding decisions that have health, safety or environmental impacts. Even when information can reasonably be quantified, the further step of attempting to translate such figures into dollar amounts obscures as much as it clarifies.

The theory behind these analyses is to help regulators make the best decision possible. Yet, according to this guidance, even if one is dealing with issues that cannot be quantified or assigned a dollar value, monetizing is always best. The Network disagrees, and contends that the methods that convey the most important information are best, and so a variety of tools, each appropriate in different contexts, should be used to aid decision-makers. Artificially attempting

⁵ Control of Emissions From Nonroad Large Spark-Ignition Engines, and Recreational Engines

⁶ February 3, 2003 *Federal Register*, p. 5496

⁷ e.g., Table 7, p. 5500-1, Table 8, p. 5501, Appendix B, February 3, 2003 *Federal Register*, p. 5503

⁸ February 3, 2003 *Federal Register*, p. 5514

⁹ February 3, 2003 *Federal Register*, p. 5520

to translate everything into dollars actually reduces the quantity and quality of information available to policy-makers.

C. Increases Reliance on Discounting

In this guidance, the OMB acknowledges that its practice of discounting benefits in the future, especially benefits affecting children, has been questioned. As mentioned earlier, traditional discounting methods systemically reduce the value of long-term benefits such as preventing health effects to children from environmental health hazards.

One example of OMB's current approach to discounting is illustrative of the impact of this method. In last year's budget documents,¹⁰ OMB provides a summary of its calculations for several regulations. Under OMB's discounting, preventing the death of a 40-year-old who has a remaining life expectancy of 39 years results in "approximately 13.3 discounted life years" saved, not 39 years saved. Preventing the death of a 3-year-old who has a life expectancy of 78 years results not in 75 "saved" years but only "approximately 14.3 discounted life years" saved.

The Network joins other commenters in urging OMB to value children more appropriately.

The Agency's guidance includes arguments justifying its decisions, such as stating: "people do prefer health gains that occur immediately to identical health gains that occur only in the future, which would justify discounting the future gains" (although existing research does not unequivocally support this assertion). But the Agency does not address how to value "health gains" in children, how to determine the value to a child that he or she will not develop cancer or that his or her children can even have children.

As mentioned earlier, parents show significantly higher "willingness to pay" to avoid illness in children than in themselves. But discounting at 7% means that essentially zero value is given, for example, to decreasing the likelihood of one's grandchildren having a learning disability, or being infertile, or living in an environment that is not healthy.

The Network agrees with OMB's statement in the comments which reads:

"Special ethical considerations arise when comparing benefits and costs across generations. Although most people demonstrate in their own consumption behavior a preference for consumption now rather than in the future, it may not be appropriate for society to demonstrate a similar preference when deciding between the well-being of current and future generations. Future citizens who are affected by such choices cannot take part in making them, and today's society must act in their interest."¹¹

¹⁰ <http://www.whitehouse.gov/omb/inforeg/spec24.pdf>

¹¹ February 3, 2003 *Federal Register*, p. 5522

But how this guidance recommends dealing with these “special ethical considerations” is gravely deficient. The OMB states that in such cases, an agency would simply continue to use the same discounting techniques as per usual, and “supplement the analysis with an explicit discussion of the intergenerational concerns and how they will be affected by the regulatory decision.”¹² In other words, the same type of deeply-buried discussion that, as described above, is all but invisible beneath the dollar amounts toted up by the Agency. The reliance on discounting is maintained, a hortatory sentence or two is to be added to its report – and then everything besides discounted monetization is downplayed or relegated to footnotes.

This approach to protecting “future citizens” is wholly inadequate.

In its efforts to argue away calls for change, the OMB contends:

“Some have argued, however, that it is ethically impermissible to discount the utility of future generations... Even under this approach, it would still be correct to discount future costs and consumption benefits . . . [The first reason is that] future generations are likely to be wealthier than those currently living, so a marginal dollar of benefits or costs will be worth less to them than it would be to those alive today, at least on average . . .”¹³

The fact that OMB offers the unprovable -- and, at least in retrospect, occasionally disproved -- assertion that someday we will all be wealthier as the foundation for its policy indicates that it is more interested in maintaining the status quo than in truly improving its guidance.

The agency says that another reason for discounting the benefits and costs accruing to future generations at a lower rate “is increased uncertainty about the appropriate value of the discount rate, the longer the horizon for the analysis.”¹⁴ The Network agrees with OMB that it is difficult to predict the future. We believe the appropriate response to this reality is to limit, not emphasize, discounting. Uncertainty about the future is not a logical reason to minimize the estimated value of future generations.

The bottom line is that OMB has not improved its approach to discounting. Agencies now have to provide two analyses, based on two discount rates (3% and 7%), and, “If benefits and costs are expected to last beyond the current generation, the proposal permits (emphasis added) additional sensitivity analysis with discount rates as low as 1 percent.”¹⁵

D. Changes Methodology to Value Children Less

¹² February 3, 2003 *Federal Register*, p. 5522

¹³ February 3, 2003 *Federal Register*, p. 5522

¹⁴ February 3, 2003 *Federal Register*, p. 5523

¹⁵ February 3, 2003 *Federal Register*, p. 5498

The Agency has changed how it calculates the dollar value assigned to these years saved. With little discussion or fanfare, the OMB is using new interpretations that indicate that the “value of a statistical life year” for those under age 65 is less than the “value of a statistical life year” for those age 65 and over. These changes are buried in some recent rules, such as the EPA’s non-road engine rule.¹⁶ The Network believes that this illustrates the arbitrary and irrational nature of these types of calculations.

E. Ignores Congressional Direction

The guidance written by OMB includes a section titled “Why Regulatory Action is Needed.”¹⁷

If asked, most individuals would give “protecting public health” or “ensuring safety” as primary reasons justifying government action. Yet, according to the Agency, the reason for action is “There Is a Market Failure or Other Social Purpose To Address,” placing the market above all other considerations.

As we know, the reason why agencies undertake regulation is to fulfill their responsibilities under the authority delegated to them by Congress. Statutes direct agencies to promote the common good, including protection of public health and the environment. The OMB appears to be attempting those Congressional prerogatives. For example, the guidance says:

“Your analysis should not reflect any unstated or unsupported preferences, even for such worthy objectives as protecting public health or the environment.”¹⁸

However, “worthy objectives as protecting public health or the environment” are not a “preference,” they are a charge and a responsibility placed on agencies by the Congress.

OMB states that “when there are other competing public policy objectives, as there often are, they must be balanced with efficiency objectives.”¹⁹ But there are statutes directing that decisions must be made for the public good, such as protecting health, and that agencies are **not permitted** to balance these objectives with “efficiency.”

OMB offers the example: “when the uncertainty is due to a lack of data, you might consider deferring the decision, as an explicit regulatory alternative, pending further study to obtain sufficient data.”²⁰ However, this conflicts with existing statutory and policy guidance. In some cases, Congress has directed agencies to act in the face of uncertainty. Rather than “deferring the

¹⁶ EPA “Control of Emissions from Nonroad Large Spark-ignition Engines, and Recreational Engines (Marine and Land-based)” Final Rule, Chapter 10, p. 25-26.

¹⁷ February 3, 2003 *Federal Register*, p. 5514

¹⁸ February 3, 2003 *Federal Register*, p. 5523

¹⁹ February 3, 2003 *Federal Register*, p. 5514

²⁰ February 3, 2003 *Federal Register*, p. 5523

decision,” the agency is required to take protective action. Thus, this guidance directs agencies to flout or to work at cross-purposes of their statutory requirements.

Even in cases where there are not specific legal requirements to act in the face of uncertainty (which, in matters of the environment and health, will always be present to some extent), a blanket preference for taking no action at all undermines our ability to protect children's health and prevent disease. As the President recently noted, “The price of doing nothing exceeds the price of taking action if we have to.”

Most importantly, the common thread in this guidance reveals a striking bias at OMB for not recognizing the main purposes for Federal involvement: to protect and improve the common good, including intangibles such as health, safety and the environment.

F. Places Additional Burdens on Agencies

This guidance adds substantial new requirements on agencies conducting rulemakings. OMB now requires “formal probabilistic analysis” for certain rulemakings.²¹ Agencies are required to calculate benefits using at least two discount rates. If the agency is proposing to use an even lower discount rate, they must then conduct three calculations.²² Agencies must provide not only their analysis, but “the underlying data, including mortality and morbidity data, the age distribution of the affected population, and the severity and duration of disease conditions or trauma . . .”²³

Has OMB calculated the cost to the nation of the many layers of analysis required by this document? What important activities will not be done by agencies because they have to use their limited resources to conduct step after step of multiple alternative scenarios and reports? Has OMB conducted a cost-benefit analysis to show that these added hoops are worth the important agency work that will remain undone because of them?

The *Draft 2003 Report to Congress on the Costs and Benefits of Federal Regulation* reflects that the agencies have labored mightily to produce their cost-benefit analyses; furthermore, this examination of benefits and costs, even before one considers of the nonquantifiable benefits, clearly illustrates the important public benefits of Federal regulations. The OMB has asked the question “Are Federal regulations effective?” The answer is a resounding yes.

The Network argues it is a more efficient use of scarce government resources to continue to provide public benefits, such as health and safety, to the nation through programs and regulations, than it is to use those same resources in continual efforts to count the uncountable and place dollar values on the immeasurable.

²¹ February 3, 2003 *Federal Register*, p. 5498

²² February 3, 2003 *Federal Register*, p. 5523

²³ February 3, 2003 *Federal Register*, p. 5517

G. Decreases Transparency and Clarity

In seeking comments for improving this process, OMB states:

“We expect the guidelines to increase the transparency of the analysis of prospective regulations to both technical and nontechnical readers.”²⁴

Unfortunately, this guidance would decrease the transparency and clarity of the analysis.

For example, the average reader would get little helpful information from the “formal probabilistic analysis” now required.²⁵ Readers will also have to wade through a variety of discount rate calculations and understand which one was used and why and why the others were not. And even as such obfuscations come to the foreground, key issues that will have profound impacts on children’s lives are hidden.

The *Draft 2003 Report to Congress on the Costs and Benefits of Federal Regulation* illustrates how little information in the end is available to the reader, other than the gross dollar estimates of costs and benefits.

It is difficult to understand what assumptions were used in each analysis or what methodology was used to monetize the lives saved or diseases prevented. The document states that OMB has imposed its own format and monetization of estimates.

“While OIRA has attempted to be faithful to the respective agency approaches, the reader should be cautioned that agencies have used different methodologies and valuations in quantifying and monetizing effects. Thus, this aggregation involves the assemblage of benefit and cost estimates that are not comparable.”²⁶

In other words, this is a report of tables comparing things that are not comparable. Monetization is not an objective process that produces consistent, common units. Rather, it obscures differences by pretending that a wide variety of different variables, methods, and contexts are all the same. The report gives the inaccurate illusion of clarity and precision, but the true substance of the rules is obscured.

H. Ignores Research

²⁴ February 3, 2003 *Federal Register*, p. 5498

²⁵ February 3, 2003 *Federal Register*, p. 5498

²⁶ February 3, 2003 *Federal Register*, p. 5499

Although the Agency asks for input and promises to “incorporate new insights and recent innovations in what constitutes a good analysis,”²⁷ this guidance dismisses the concepts that the Network and others have already raised.

The OMB is apparently unwilling to improve the methodology of its benefit/cost guidance by incorporating the emerging economic research and discussions illustrating the need to more appropriately consider children.

The guidance encourages the use of “willingness to pay” methodologies^{28, 29} and promotes, with some caveats, the use of occupational-risk premiums.³⁰ But the caveats do not mention the inappropriateness of using such measures for other populations who are not working -- e.g., children. And there is no discussion at all of the inadequacies of using “willingness to pay” measures that are not designed to take children into account.

The Network strongly urges the Agency to incorporate the concepts mentioned throughout our comments to assure that children are more appropriately considered in cost/benefit analysis.

The Agency has announced that these draft guidelines will be subject to an independent peer review by leading academic experts in the field of regulatory analysis.³¹ The Network also strongly urges the Agency to include in this peer review those with expertise in this emerging research

I. Based on faulty assumptions

Cost-benefit analyses rest on assumptions. That means that analyses are only as good as their underlying assumptions. And, more importantly, no matter how good, that is all they are -- assumptions that should not be used to replace ethics, morals, responsibility or common sense.

As quoted earlier, OMB had stated:

“Where all significant benefits and costs can be quantified and expressed in monetary units, benefit-cost analysis provides decisionmakers with a clear indication of the most efficient alternative.”³²

This guidance assumes that that which is quantifiable is of greater weight than that which is not; and that which is monetizable is better still – and that the most “efficient” alternative is always

²⁷ February 3, 2003 *Federal Register*, p. 5498

²⁸ February 3, 2003 *Federal Register*, p. 5518

²⁹ February 3, 2003 *Federal Register*, p. 5520

³⁰ February 3, 2003 *Federal Register*, p. 5519

³¹ February 3, 2003 *Federal Register*, p. 5498

³² February 3, 2003 *Federal Register*, p. 5514

best, even if such an alternative might, for example, fail to protect children most at risk while focusing resources on wealthier communities.

The guidance assumes that over-estimated benefits are a greater concern than over-estimated costs, discussing how to avoid over-counting benefits³³ but not costs. Yet this assumption is not supported by experience. Experience shows that the real-world costs of a regulation are frequently far below the pre-regulation estimate, while such regulatory decisions as removing lead from gasoline have yield benefits more than an order of magnitude higher than predicted.³⁴

The OMB asks "how the U.S. balances precautionary approaches to health, safety and environmental risks with other interests such as economic growth and technological innovation."³⁵ The OMB assumes that these two categories conflict with each other, which is far from universally true. But even when there are tradeoffs, protecting health, safety and the environment should be our primary goal. Other factors should serve them, not compromise them.

The Network finds this particular assumption, mentioned earlier, as perhaps both the funniest and the most chilling:

"Future generations are likely to be wealthier than those currently living"³⁶

The Network urges the Agency to reveal the location of its crystal ball. Does the agency posit a radical increase in the number of lotteries? Does the agency also assume that future generations are smarter, more attractive, and wittier? Will all children be above average?

In the next guidance, OMB may argue that agencies have no need to take into account environmental benefits because they are now assuming that future generations will be living in Paradise. The Network believes it to be more productive to assume future generations need to be protected and the difficulties of predicting the future, as OMB has mentioned, be recognized.

Conclusion

The Network agrees with the Agency when it says "When important benefits and costs cannot be expressed in monetary units, [benefit-cost analysis] is less useful, and it can even be misleading . . ."³⁷ We strongly urge the OMB to amend its guidance to put this important observation into effect.

³³ February 3, 2003 *Federal Register*, p. 5518

³⁴ Eban Goodstein, "Polluted Data," *The American Prospect* vol. 8 no. 35, November 1, 1997 - December 1, 1997.

³⁵ February 3, 2003 *Federal Register*, p. 5499

³⁶ February 3, 2003 *Federal Register*, p. 5522

³⁷ February 3, 2003 *Federal Register*, p. 5516

If we are to truly value our children, we must do a better job of considering them in our policy making. If we turn to tools such as cost-benefit analyses, we should do so only when they give us better information, they increase understanding, or they make transparent the decision process.

This guidance fails on all of these counts.

But even if these analyses were conducted in the most child-protective fashion possible, it is still critical to remember: these analyses should never become a substitute for the hearts, minds, and souls of our public officials, under oath to protect the public and promote the general welfare.

Thank you.

Sincerely,

Daniel Swartz
Executive Director