

"Warren, Wesley" <wwarren@nrdc.org>  
05/05/2003 07:56:46 PM

Record Type:Record

To: "Warren, Wesley" <wwarren@nrdc.org>, Lorraine D. Hunt OIRA BC RPT/OMB/EOP@EOP, Lorraine D. Hunt OIRA ECON GUIDE/OMB/EOP@EOP

cc:  
Subject: RE: OMB draft report and draft guidelines

I will also send you supplemental comments later today from NRDC only on the OMB draft report and guidelines.

> -----Original Message-----

> From: Warren, Wesley  
> Sent: Monday, May 05, 2003 7:53 PM  
> To: 'OIRA\_BC\_RPT@omb.eop.gov'; 'OIRA\_ECON\_GUIDE@omb.eop.gov'  
> Subject: OMB draft report and draft guidelines

>  
>

> I am submitting to you electronic comments on OMB draft report and draft guidelines on behalf of the following organizations. I am sending these comments to both e-mail addresses listed in the Federal Register Notice, since the comments may apply to both dockets. Thank you for your attention to this matter.

>  
> << File: omb draft guidelines and report.doc >>

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> Wesley P. Warren  
> Senior Fellow for Environmental Economics  
> Natural Resources Defense Council  
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"Warren, Wesley" <wwarren@nrdc.org>  
05/05/2003 11:18:13 PM

Record Type:Record

To: Lorraine D. Hunt OIRA BC RPT/OMB/EOP@EOP, Lorraine D. Hunt OIRA ECON GUIDE/OMB/EOP@EOP  
cc:  
Subject: comments on OMB draft report and guidelines

Earlier to day I sent you a version of this document omitting one of the organizations that wished to signon. Please accept in place of the earlier transmission, this version of this document as comments on the OMB draft report and draft guidelines. Thank you for your attention to this matter.

<<omb draft guidelines and report.doc>>

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Wesley P. Warren  
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May 5, 2003

Ms. Lorraine Hunt  
Office of Information and Regulatory Affairs  
Office of Management and Budget  
NEOB, Room 10202  
725 17<sup>th</sup> Street, NW  
Washington, D.C. 20503

Comments on Draft Guidelines and Draft Report

Dear Ms. Hunt:

The undersigned organizations and individuals write to offer comments on the Office of Management and Budget (OMB) draft report to Congress on the Costs and Benefits of Federal Regulations (hereafter the draft report). We would like to comment especially on OMB's proposed revisions to the guidance it provides agencies on how to conduct cost-benefit analysis, known as the best practices document. We strongly object to the overall effect of these revisions, which would be to weaken environmental protections.

Recently OMB has made the Environmental Protection Agency (EPA) start performing a calculation of the benefit of preventing premature mortality from air pollution, significantly lowering the value of human life generally and that of the elderly in particular. In some cases, one offensive technique lowered the value of saving a 65-year old person to only 63 percent of that of a younger person. Throughout the draft report, OMB has used the results of this "alternative analysis" to lower estimates of the benefits of reducing air pollution. OMB should direct agencies in reviewing rules to stop using the techniques in the alternative analysis that lower the value of life and to remove it from their analysis where they have used it.

Cost-benefit analysis as generally practiced has certain inherent biases. Specifically, it tends to underestimate environmental benefits, as many are difficult or impossible to translate into dollars, and to overstate costs, as it does not fully take technological progress into account. When conducting cost-benefit analyses, care needs to be taken to

correct for these biases or else the information that is produced will be misleading. Unfortunately, the changes proposed by OMB will generally make these biases worse instead of better.

It is deeply troubling that OMB would propose tilting the playing field against public health protections the way that it has. According to OMB's own summary in the draft report, the environmental rules of the EPA yield an amazing ratio of benefits to costs of about 5:1. Far from being a case of overregulation, these safeguards seem to be a great investment on behalf of society.

The OMB proposed revisions that distort calculations related to the value of human life are especially objectionable. We would like to state three areas of particular concern.

#### Shift from Life to Life-Years

First, OMB's proposal would push agencies to shift from calculating the benefit of saving lives from the standard technique, called the Value of a Statistical Life (VSL), to the Value of Statistical Life-Years (VSLY). This shift is no mere change in technical jargon. Whereas VSL treats the value of all lives the same, VSLY permits agencies to begin to base the value of someone's life on how many years he or she has remaining to live.

Thus, a change in valuing life in terms of life-years could seriously devalue the life of the elderly and slant decisions against rules that would protect them. OMB should make no changes to the current best practices document, which allows agencies leeway in selecting the appropriate valuation technique based on up-to-date research. OMB should also cease from making agencies perform calculations that assign to any group, such as the elderly, a value of life that is less than that assigned to the population as a whole.

#### Discount rate

Second, OMB still insists on depreciating the value of lives that are saved in the future by reducing them by a discount rate. Using an unjustifiably high discount rate or applying discount rates to generations many years in the future can on paper totally obliterate the worth of taking actions in the present that have benefits later. This practice is especially biased against fighting diseases with long latency periods such as cancer or with long time horizons such as climate change.

Although OMB proposes to improve its current practice of requiring agencies to use a seven percent discount rate by allowing them also to use a more reasonable three percent rate, this change is of little help. It is completely unreasonable to continue to require agencies to discount at a seven percent rate when interest rates continue to be so low. It would be far more realistic for OMB to direct agencies to use a rate that is no more than three percent and to permit them to calculate benefits without any discounting, especially in the case of intergenerational analysis.

## New Threshold Requirements

Third, OMB proposes to impose a brand new requirement for agencies to conduct a formal probability analysis if the annual cost of the rule is \$1 billion a year or more. OMB has provided no justification for this new requirement, which seems designed simply to force delays in rulemakings through excessive data demands. Before proposing such a requirement, OMB should first show specifically what rules would be affected by this new requirement, the ways in which the previous analysis under existing procedures is deficient, and why a threshold set at that particular level would solve that deficiency.

Formal probability requirements based on costs should not be imposed in cases where an agency determines that their initial assessment is adequate, taking such issues as data availability into account. Moreover, it does not make sense to hold up rules simply based on the level of costs if the ratio of benefits to costs is clearly favorable. Such a course of action would itself impose an unacceptable toll on society in the form of higher medical bills, increased incidence of disease, and more unnecessary loss of life. Agencies should be permitted to consider an initial assessment adequate without a formal probability analysis, as long as the benefit to cost ratio is clearly greater than one, regardless of cost.

Our groups would like to make it clear that cost-benefit analysis, because of its inherent biases, should not take the place of health-based and technology standards for setting environmental requirements. However, to the extent that cost-benefit analysis continues to be used in the administration for informational purposes, OMB should try to produce the most objective information possible. As a result, we respectfully request that OMB only makes changes to the current best practices document that fully protect human life and the environment, as outlined in these comments.

Finally, we would like to respond to the draft report's request for input on the issue of precaution in risk assessment and risk management. Overall, the approach that the administration seems extremely imbalanced insofar as it implies that there is too much precaution in risk policy. In fact, where many issues related to public health and ecological systems are concerned, there is currently too little precaution -- not too much. This imbalance in the U.S. approach is especially pronounced when the effects are large-scale or irreversible, such as premature mortality, loss of species, destruction of wildlife habitat, and destabilization of global systems like the oceans or the atmosphere. The administration should abandon its review of the issue of precaution altogether or correct its tilt by giving greater emphasis to the implications of too little precaution in risk policy.

Thank you for your consideration of our views.

James K. Wyerman  
Executive Director  
20/20 Vision

John L. Kirkwood  
President and CEO  
American Lung Association

S. Elizabeth Birnbaum  
Director of Government Affairs  
American Rivers

David S. Tuft  
Director, Special Projects  
Breakthrough Technologies Institute

Armond Cohen  
Executive Director  
Clean Air Task Force

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