Priority Environmental Health Initiatives for First 100 Days of Obama Administration

#1: Restore Scientific Rigor and Integrity to Federal Agencies Decision-Making

- ✓ Appoint full science advisory panel to the FDA. *(Page 19)*
- ✓ Appoint full panel of CPSC commissioners. *(Page 22)*
- ✓ Address financial conflicts of interest of scientific advisors government-wide. *(Page 5)*
- ✓ Restore the independence of EPA's IRIS program and rescind the 2008 policy, which formalized interference from OMB and other agencies. *(EPA: Office of Research and Development – Page 6)*
- ✓ Revoke the Human Testing rule *(EPA: Office of Pollution Prevention and Toxic Substances – Page 12)*
- ✓ Restore funding for federal biomonitoring and expand biomonitoring programs in the states. *(CDC: Coordinating Center for Environmental Health and Injury Prevention (CCEHIP), National Center for Environmental Health, Division of Laboratory Sciences,- Page 21)*
- ✓ Finalize the IRIS formaldehyde health assessment. *(EPA: Office of Research and Development – Page 6)*
- ✓ Withdraw the scientifically flawed draft dibutyl phthalate IRIS assessment and begin a new cumulative risk assessment on phthalates consistent with advice from National Academy of Sciences. *(EPA: Office of Research and Development – Page 7)*
- ✓ Finalize the IRIS TCE health assessment. *(EPA: Office of Research and Development – Page 7)*
- ✓ Reverse EPA's refusal to follow the unanimous recommendation of its Clean Air Science Advisory Committee (CASAC) to strengthen the primary ozone standard. *(EPA: Office of Air and Radiation – Page 10)*

#2: Promote Information Disclosure to Help the Public Protect Themselves

- ✓ Reverse the 2006 rulemaking that reduced the number of industrial facilities required to provide detailed reports of their emissions under the Toxic Release Inventory. *(EPA: Office of Environmental Information – Page 6)*
- ✓ Reverse last minute exemptions from reporting requirements for emissions reporting for factory farms. *(EPA: Office of Solid Waste and Emergency Response – Page 12)*
- ✓ Require labeling of phthalates in consumer products. *(CPSC: Office of Hazard Identification and Reduction – Page 22)*
- ✓ Clear the way for public participation in permitting decisions by reversing a Clean Air Act operating permits rule under Title V, the so-called "flexible permits" rule. *(EPA: Office of Air and Radiation – Page 9)*
- ✓ Ensure the consistency and transparency of the pesticide registration process by improving public access to scientific and risk assessment information. *(EPA: Office of Pollution Prevention and Toxic Substances – Page 14)*
- ✓ Require bottled water to be labeled with information on source, contaminants, and potential health effects of any contaminant found. *(FDA: Office of Nutrition, Labeling, and Dietary Supplements– Page 20)*

#3: Reduce Air Pollution

- ✓ Change U.S. position to support a binding treaty for reducing global mercury pollution. *(EPA: Office of International Programs – Page 5)*
- ✓ Re-instate and expand lead air monitors under ambient lead rule. *(EPA: Office of Air and Radiation – Page 7)*
- ✓ Abandon petition for Supreme Court review of lower court's decision that threw out EPA's weak and unlawful regulation of mercury emissions from power plants. *(EPA: Office of Air and Radiation – Page 8)*
- ✓ Reverse the Clean Air Act new source review rule that allows industrial polluters to "disaggregate" and therefore ignore related emissions increases, thereby gaining an exemption from pollution control obligations. *(EPA: Office of Air and Radiation – Page 8)*
- ✓ Reverse the Clean Air Act new source review rule that will exempt fugitive emissions from being considered when determining emissions increases and the need to install pollution controls at industrial facilities. *(EPA: Office of Air and Radiation – Page 8)*
- ✓ Reverse a December 2005 EPA OAQPS guidance document on Best Available Control Technology Requirements for Proposed Coal-Fired Power Plants. *(EPA: Office of Air and Radiation – Page 9)*
- ✓ Reverse a January 2007 OAR guidance document on Source Determinations for Oil and Gas Industries that allows the oil and gas industry to avoid stringent pollution controls. *(EPA: Office of Air and Radiation – Page 9)*
- ✓ Reverse loopholes in two MACT standards for incinerators. *(EPA: Office of Air and Radiation – Page 9)*

#4: Increase Public Health Protection

- ✓ Reverse the Bush administration policies that force the public to be subject to lifetime cancer risks > 100-in-1-million and weaken cancer risk assessments. *(EPA Office of Research and Development – Page 10)*
- ✓ Implement the Endocrine Disruptor Screening Program. *(EPA: Office Pollution Prevention and Toxic Substances – Page 16)*
- ✓ Issue a FR Notice that all engineered nano-scale materials be considered either new chemicals or a significant new use of existing chemicals under TSCA section 5. *(EPA: Office of Pollution Prevention and Toxic Substances – Page 16)*
- ✓ Resume Environmental Justice reviews of all major EPA regulations. *(EPA: Office of Environmental Justice – Page 11)*
- ✓ Create an Office of Climate Change and Health to coordinate federal, state, and local activities at the Centers for Disease Control and Prevention. *(CDC -Page 21)*
- ✓ Improve EPA's management of the chemical review program under the Toxic Substances Control Act. *(EPA: Office of Pollution Prevention and Toxic Substances – Page 17)*

#5: Clean Up our Water

- ✓ Initiate promulgation of a primary national drinking water standard for perchlorate that protects the most vulnerable populations. *(EPA: Office of Research and Development and Office of Water – Page 10)*
- ✓ Fully regulate factory farms with a strong CAFO rule. *(EPA: Office of Water – Page 11)*
- ✓ Restore USGS monitoring capacity for toxic chemicals and other contaminants in the nation's waters. *(USGS: National Water Quality Assessment Program – Page 25)*

- ✓ Restore funding for flood monitoring. *(USGS: National Streamflow Information Program (NSIP) – Page 25)*

#6: Hold Polluters Accountable

- ✓ Lead the effort in support of reauthorizing the Superfund polluter-pays tax. *(EPA: Office of Solid Waste and Emergency Response – Page 11)*

#7: Protect the Public and the Environment from Pesticides

- ✓ Initiate cancellation proceedings to ban certain high-risk toxic pesticides. *(EPA: Office of Pollution Prevention and Toxic Substances – Page 13)*
- ✓ Complete the proposed ban on Carbofuran. *(EPA: Office of Pollution Prevention and Toxic Substances – Page 13)*
- ✓ Take steps to reduce spray drift, a common source of human exposure to dangerous pesticides. *(EPA: Office of Pollution Prevention and Toxic Substances – Page 13)*
- ✓ Develop guidance for proper use of safety factors in evaluation of pesticides and toxic substances consistent with recent National Academy of Sciences recommendations. *(EPA: Office of Pollution Prevention and Toxic Substances – Page 14)*
- ✓ Ensure the consistency and transparency of the pesticide registration process by improving public access to scientific and risk assessment information.*(EPA: Office of Pollution Prevention and Toxic Substances – Page 14)*
- ✓ Amend EPA pesticide registration guidelines to fill data gaps concerning pesticide risks to pollinators.*(EPA: Office of Pollution Prevention and Toxic Substances – Page 14)*
- ✓ Correct the multiple deficiencies with the agency's use of FIFRA's "Section 18" emergency exemptions. *(EPA: Office of Pollution Prevention and Toxic Substances – Page 15)*
- ✓ Improve pesticide applicator training and continuing education requirements concerning pollinator protection. *(EPA: Office of Pollution Prevention and Toxic Substances – Page15)*
- ✓ Restore the collection of agricultural pesticide usage data. *(USDA: National Agriculture Statistics Service (NASS) – Page 24)*
- ✓ Elevate the importance of IPM methods at USDA. *(USDA: Natural Resources Conservation Service – Page 24)*
- ✓ Halt or rescind NRCS' new proposal to eliminate its long standing Pest Management Practice Standard 595. *(USDA: Natural Resources Conservation Service – Page 24)*
- ✓ Require the use of Integrated Pest Management at all HUD-owned properties and those that received federal funding from HUD. (*HUD: Office of Public and Indian Housing – Page 23)*

#8: Better Protect Consumers from Dangerous Chemicals in Food and Products

- ✓ Expand Pesticide Residue Testing in Food. *(FDA: Office of Food Safety – Page 17)*
- ✓ Determine major sources of exposure to phthalates in food. *(FDA: Office of Food Additive Safety) – Page 17)* and consumer products. *(CPSC – Office of Hazard Identification and Reduction – Page 22)*
  Ban Bisphenol A in food packaging. *(FDA: Office of Food Additive Safety – Page 19)*
- ✓ Determine major additional sources of exposure to BPA in food. *(FDA: Office of Food Additive Safety – Page 18)*
- ✓ Undertake review of uses of BPA in consumer products not regulated by FDA. *(CPSC – Office of Hazard Identification and Reduction – Page 22)*

- ✓ Reverse recent decision to allow sale of toys and childcare products containing banned phthalates beyond February 10, 2009 [if not already overturned by Congress or the courts]. *(CPSC – Office of the General Counsel – Page 22)*
- ✓ Finalize flame retardant standard. *(CPSC: Office of Hazard Identification and Reduction – Page 23)*
- ✓ Ban Lindane as a pharmaceutical. *(FDA: Office of Pharmaceutical Science – Page 19)*
- ✓ Regulate the use of antimicrobials in personal care products. *(FDA: Office of Nonprescription Products – Page 19)*
- ✓ Improve Mercury in Fish Testing Program. *(FDA: Office of Food Safety – Page 19)*
- ✓ Regulate water bottles and packaging materials in bottles to ensure safety. *(FDA: Office of Food Additive Safety – Page 20)*

Priority Environmental Health Initiatives for
First 100 Days of Obama Administration

Administration-wide

- ✓ **Restore scientific integrity and address financial conflicts of interest of scientific advisors government-wide.**

  The role of scientists and consultants with a financial interest in the outcome of their research can result in biased conclusions and recommendations to the regulatory agencies. In addition, many agencies favor reliance upon industry-funded studies rather than independent or academic studies.

  Action needed –

  The administration should require full disclosure of financial ties to businesses with interests in the outcome of research or the potential regulation that might be driven by the research. Scientists with a direct financial interest in the matters under review should not be allowed to serve in any kind of advisory role to EPA, FDA or other agencies. Agencies should favor independently-funded studies and expand the capacity to fund research that is relevant to the regulatory agencies. These policies should be announced within 100 days.

EPA

Office of International Programs

- ✓ **Global Mercury Pollution** - Change U.S. position to support a binding treaty for reducing global mercury pollution.

  Under the Bush administration, the U.S. delegation has consistently opposed entering into negotiations to develop a binding legal instrument to control global mercury emissions and has instead advocated only voluntary measures, which to date have been grossly ineffective. EPA is one of the primary agencies involved in this matter, along with the State Department.

  Action needed –

  The new administration needs to change the position of the U.S. government and support entering into discussions on a Legally Binding Instrument (LBI) to address mercury pollution at the United Nations Environment Program Governing Council meeting in Nairobi in February. No rulemaking, Executive Order or legislation is required.

Office of Environmental Information

- ✓ **Right to Know -** Reverse the 2006 rulemaking that reduced the number of industrial facilities required to provide detailed reports of their toxic chemical emissions.

  In 2006 the Bush administration weakened the reporting requirements for the Toxics Release Inventory (TRI), allowing facilities to release four times more pollution before they must provide detailed information to the public. The higher reporting thresholds allowed more than 3,500 facilities to suspend their detailed reporting requirements.

  Action needed –

  EPA should immediately announce that it intends to reverse the rule. Following the announcement the Agency has three options for moving forward:

  - withdraw this rule and reinstate the previous reporting requirements via a notice and comment rulemaking;
  - urge Congress to pass simple legislation overturning the rule;
  - Settle the litigation on this rulemaking brought by the state of New York by agreeing to go through another notice and comment rulemaking on the changes to the TRI by a date certain.

National Center for Environmental Assessment

- ✓ **Risk assessment in EPA's IRIS program -** Restore the independence of EPA's IRIS program and rescind the 2008 policy which formalized interference from the Office of Management and Budget, Departments of Energy and Defense, and other agencies, while shielding their positions from public scrutiny.

  In April 2008, the Office of Management and Budget changed the existing policy concerning inter-agency review and input regarding "IRIS" risk assessments. These assessments determine the safe levels of exposure to toxic chemicals and serve as the cornerstone for EPA's air, water, and toxic waste sites cleanup standards.

  Action needed –

  Immediately rescind the April 2008 policy and restore the previous procedures for EPA evaluation of hazardous chemical risk. Additional changes and improvement to the restored IRIS process are clearly needed and should be initiated within the first 100 days, whether via rulemaking or guidance, or via legislation, such as was recently introduced in the House.

- ✓ **Health assessment for formaldehyde -** Finalize the formaldehyde health assessment.

  The IRIS formaldehyde health assessment has been delayed for years due to interference from the White House and the plywood industry. As a result, health standards have not been updated to reflect recent science on the dangers posed by this prevalent carcinogen. This delay also

allowed the air office to provide the plywood industry with an exemption from reporting requirements for formaldehyde emissions.

Action needed –

EPA should immediately finalize its formaldehyde IRIS assessment. This does not require notice and comment rulemaking and could be done within 100 days. The air office should initiate a rulemaking to update its health standards and obligations under the Clean Air Act for formaldehyde based upon the IRIS assessment.

- ✓ **Health assessment for Di-n-butyl phthalate (DBP) -** Withdraw the current draft DBP IRIS assessment and begin a new cumulative risk assessment on phthalates.

  In 2006, U.S. EPA published a draft risk assessment of DBP and proposed a flawed reference dose that violated its own guidelines and is not protective of public health. This draft has not yet been finalized. In contrast, California EPA evaluated the same body of scientific literature on the toxicity of DBP and finalized a safe level of exposure that is 2,000 times lower than the "safe" level proposed by U.S. EPA. The National Academy of Science s recently issued a report recommending cumulative risk assessment for this class of chemicals.

  Action needed –

  EPA should immediately withdraw the current draft DBP risk assessment and initiate a re-assessment via a cumulative risk assessment of phthalates that considers a common mode of action and cumulative impacts. Biomonitoring data of the U.S. population should be incorporated in this assessment.

- ✓ **Health assessment for Trichloroethylene (TCE) -** Finalize the TCE health assessment.

  TCE is an industrial solvent that was widely used for de-greasing industrial metal parts across the country and is associated with childhood leukemia and other cancers. It is now the most widespread contaminant at Superfund sites and has extensively contaminated our nation's groundwater resources. The Bush administration has refused to allow the EPA to finalize the health assessment needed to set standards for drinking water, site cleanup, and indoor air.

  Action needed –

  EPA should finalize this health assessment immediately.

<u>Office of Air and Radiation</u>

- ✓ **Lead pollution -** Re-instate and expand lead air monitors.

  The number of lead air monitors across the country has been cut in half over the past decade, from 394 monitors in 1997 to only 188 monitors in 2007. The EPA's Clean Air Scientific Advisory Committee found this level insufficient and recommended that the lead monitoring

network be substantially expanded. In October 2008, EPA finalized a new and more health-protective standard for airborne lead in its NAAQS program. However, as part of the new plan, the EPA acted in contradiction to its own analysis and raised the monitoring threshold and curtailed or eliminated monitoring requirements in cities of certain sizes, sharply reducing the ability to assess daily exposure to this notorious neurotoxin across the country.

Action needed –

EPA should immediately announce that it intends to reverse the monitoring requirements of the lead NAAQS rule and, consistent with its own previous analysis.

- ✓ **Mercury emissions from power plants** - Abandon petition for Supreme Court review of lower court's decision that threw out EPA's weak and unlawful regulation of mercury emissions from power plants.

  The current administration has filed a cert petition with the Supreme Court, hoping to reverse a lower court ruling that threw out EPA's weak and unlawful rule regulating mercury emissions from power plants. The Supreme Court recently granted NRDC and the other parties in the case an extension until January 21st to file its brief in opposition to the administration's cert petition.

  Action needed –

  The administration should immediately withdraw its petition for Supreme Court review of the mercury decision and announce its intention to move expeditiously to set new, strong rules that will result in faster and steeper reductions of mercury emissions (and other toxic air pollutants) from power plants, as required under the Clean Air Act.

- ✓ **Emissions from industrial facilities** - Reverse the Clean Air Act new source review rule that allows industrial polluters to "disaggregate" and therefore ignore related emissions increases, thereby gaining an exemption from pollution control obligations.

  This weakening rule has been pushed heavily by oil refineries, chemical plants and pharmaceutical plants. Final rule expected to be adopted by January 1st.

  Action needed –

  EPA should announce plans to reverse this rule in the first 100 days.

- ✓ **Emissions from mines, CAFOs and other industrial sources** - Reverse the Clean Air Act new source review rule that will exempt so-called "fugitive" emissions from being considered when determining emissions increases and the need to install pollution controls at industrial facilities.

  This rule determined that a host of industrial sources not specifically identified in the Clean Air Act, including mining sites and factory farms, do not have to count their "fugitive" emissions in calculating whether they are a "major source" under the Act. The exemption ensures that these sources will be able to avoid numerous important pollution control requirements under the Act.

Action needed –

EPA should announce plans to reverse this rule in the first 100 days.

- ✓ **Public participation in permitting decisions** - Reverse a Clean Air Act operating permits rule under Title V, the so-called "flexible permits" rule.

  This rule is expected to reduce and/or eliminate opportunities for public permit revisions.

  Action needed –

  EPA should announce plans to reverse this rule in the first 100 days.

- ✓ **Considering IGCC technology as BACT** - Reverse a December 13, 2005 EPA guidance document from Stephen Page, Director of the Office of Air Quality, Planning and Standards on Best Available Control Technology Requirements for Proposed Coal-Fired Power Plant Projects regarding technology standards for new coal-fired power plants.

  The guidance, issued in 2005, asserts that federal and state permitting authorities are not required to consider the use of Integrated Gasification Combined Cycle (IGCC) technology as an available option pursuant to a Best Available Control Technology (BACT) analysis for new coal-fired power plants.

  Action needed –

  EPA should announce withdraw this guidance in the first 100 days.

- ✓ **Aggregate emissions from industrial sources** - Reverse a January 12, 2007 guidance document on Source Determinations for Oil and Gas Industries from Acting Administrator for Air William Wehrum that allows the oil and gas industry to avoid stringent pollution controls.

  The guidance allows the oil and gas industry to "disaggregate" emissions by ignoring pollution increases at nearby facilities, to avoid total emission increases that would require stringent pollution controls.

  Action needed –

  EPA should announce withdraw this guidance in the first 100 days.

- ✓ **Hazardous emissions from incinerators** - Reverse loopholes in two MACT standards for incinerators.

  The loopholes in the MACT standards for solid waste incinerators (adoption expected by January 1st) and hazardous waste incinerators (already adopted) would allow dangerous HAP emissions from these facilities to escape control or receive weaker control.

Action needed –

EPA should announce its plans to strengthen these MACT standards in the first 100 days.

- ✓ **Assessing cancer risks from industrial facilities -** Reverse the Bush administration policies that force the public to be subject to lifetime cancer risks ≥ 100-in-1-million and weaken cancer risk assessments.

  Current EPA policies force the public to be subject to lifetime cancer risks ≥ 100-in-1-million under the CAA section 112(f)(2) residual risk program, and weaken cancer risk assessments to ignore HAPs from co-located sources, other equipment at the same facility, and background HAP levels.

  Action needed –

  EPA should reverse these policies in the first 100 days.

- ✓ **Ozone pollution -** Reverse EPA's refusal to follow the unanimous recommendation of its Clean Air Science Advisory Committee (CASAC) to strengthen the primary ozone standard.

  EPA has refused to follow the unanimous recommendation of its Clean Air Science Advisory Committee (CASAC) to strengthen the primary ozone standard NAAQS to between 60-70 ppb. EPA has also failed even to set a separate secondary ozone standard to protect crops, vegetation and forests, following intervention by President Bush that vetoed EPA's plan to set an independent standard.

  Action needed –

  EPA should announce in the first 100 days its plans to strengthen the primary ozone standard and set a secondary ozone standard.

Office of Water

- ✓ **Drinking water standard for perchlorate -** End years of delay and promulgate a drinking water standard that protects public health.

  Perchlorate is a chemical commonly used in rocket fuel and other explosives that has contaminated the drinking water of more than 20 million people. It has been shown to affect the production of hormones that are important to the development of fetuses during pregnancy. In October 2008, EPA announced it would not set a drinking water standard for perchlorate because it did not present an opportunity for meaningful reduction in health effects. On January 8, 2009, EPA announced instead that it will seek advice from the NAS about setting a perchlorate standard and that it will set an interim health advisory of 15 parts per billion.

Action needed –

EPA should move quickly to propose a drinking water standard for perchlorate that is protective of the most vulnerable populations, including pregnant women and infants, and considers the cumulative impacts of exposures to other substances that operate by the same mechanism of toxicity.

- ✓ **Factory farm pollution -** Fully regulate factory farms – with a strong CAFO rule.

  EPA has significant untapped authority to require permits from CAFOs and other periodic dischargers. EPA should require that any CAFO that does not seek a NPDES permit must submit a demonstration that it will not discharge. The agency must also ensure that facilities' nutrient management plans are fully reflected in their permits, available technologies to reduce pathogen pollution are employed, and specify that discharges from CAFO land application areas do not qualify as exempt agricultural stormwater.

Action needed –

EPA should within 100 days announce plans to issue a stronger rule for regulating CAFOs.

Office of Environmental Justice

- ✓ **Environmental Justice -** Resume Environmental Justice reviews of all major EPA regulations.

  Under Executive Order 12898, signed by President Clinton in 1994, EPA is required to collect human health and environmental data to assess and compare environmental and human health risks to people of various races, national origins, and income levels. Specifically, the EPA must perform environmental justice reviews of all programs, policies, and activities. Under President Bush, the Office of Environmental Justice was ignored and then decimated. The FY09 proposed budget cuts funding to the Office of Environmental Justice's budget by 35 percent.

Action needed –

Revitalize the Office of Environmental Justice, and re-prioritize incorporating environmental justice into agency decision-making.

Office of Solid Waste and Emergency Response

- ✓ **Polluter pays principle -** Lead the effort in support of reauthorizing the Superfund polluter-pays tax.

  The taxes levied on the oil and chemical industry under Superfund expired in 1995. The Bush administration never supported reauthorizing the polluter-pays tax, and never included resumption of those taxes in its annual budget resolution. Since 2002, the Superfund trust fund has been funded almost entirely by the American taxpayer (from general revenue).

Action needed –

EPA should endorse and lead the effort to have the polluter-pays taxes reauthorized (and to ensure that any revenue collected from restoration of those taxes is not diverted from the Superfund Trust Fund for other budgetary purposes). Endorsement of re-instating the Superfund taxes could begin within 100 days, by including a presumption that the tax will be restored in the budget it sends to Congress, and highlighting it in EPA's budget materials when they are released.

- ✓ **Emissions Reporting for Factory Farms -** Reverse last minute exemptions from reporting requirements.

  In December, EPA issued a final rule exempting the livestock and poultry industries from the requirement to report releases of hazardous substances (such as hydrogen sulfide and ammonia) above health-based thresholds to the federal government under CERCLA. The rule also created a release reporting exemption to the Emergency Planning and Community Right to Know Act (EPCRA) which requires notification of state and local authorities, for small facilities. This is the first time the EPA has ever created an exemption from hazardous substance notification requirement for a specific industry.

  Action needed –

  EPA should immediately announce its intention to reverse this rule and initiate a new notice and comment period.

<u>Office of Pollution Prevention and Toxic Substances</u>

- ✓ **Testing Toxic Chemicals on People -** Revoke the Human Testing rule.

  In 2005, Congress directed EPA to develop rules restricting human testing in pesticide evaluations. Congress specified certain requirements for EPA's rules, including that they prohibit testing on pregnant women, infants and children; comply with the requirements of the Nuremberg Code; and follow the recommendations of the National Academy of Sciences (NAS) report on human testing. EPA completed its rule, but failed to meet the requirements established by Congress. NRDC subsequently sued the agency over its failure and the case is pending in the 2nd Circuit Court of Appeals.

  Action needed –

  EPA should take a voluntary remand of the case challenging the legality of its human testing rule. This could be done within 100 days. EPA should then initiate a new rulemaking and propose a new rule that complies with the law.

- ✓ **High Risk Pesticides -** Initiate cancellation proceedings to ban high risk toxic pesticides.

  There are a number of dangerous and outdated pesticides that remain permitted for use, although safer alternatives exist. These pesticides pose risks in particular to children, workers and endangered species, and most are persistent and bioaccumulative. NRDC has petitioned EPA to ban the use of several of these high-risk pesticides including endosulfan, 2, 4-D, chlorpyrifos, propoxur, DDVP, and carbaryl. To date, the agency has either denied or failed to act on each of these petitions.

  Action needed –

  EPA should immediately initiate the process to cancel each of these dangerous pesticides.

- ✓ **Carbofuran -** Complete the proposed ban on Carbofuran.

  Carbofuran is another widely used and extremely hazardous pesticide. In July, EPA proposed to cancel all uses of carbofuran, but it may not complete the cancellation process before the Bush Administration leaves office.

  Action needed –

  Finalize the EPA's proposed cancellation of all uses of carbofuran.

- ✓ **Spray drift -** Take steps to reduce this dangerous source of human exposure to dangerous pesticides.

  EPA has narrowly defined drift as: "the physical movement of pesticide droplets or particles through the air at the time of pesticide application or soon thereafter" This definition does not take into consideration other important sources of drift, including volatilization. The result is proposed control strategies that are inadequate for reducing the amounts of pesticides in the air. EPA needs to change its definition of "drift" to fully reflect the scope of potential human exposures. Additional control strategies are needed including banning aerial spraying, phasing out all broadcast spray and fumigation methods for the most hazardous and drift-prone pesticides; requiring on-property buffer zones for all pesticides applied by spray or blower technologies; and strengthening posting and notice requirements to protect sensitive community members.

  Action needed –

  EPA should announce within the first 100 days its intention to strengthen public protections from spray drift and begin steps toward adopting the reforms outlined above.

- ✓ **Safety factors -** Develop guidance for proper use of safety factors in evaluation of pesticides and other toxic substances.

  EPA has defined a number of default safety factors when assessing hazardous pesticides that are intended to provide a margin of safety where there are no reliable data to inform a hazard assessment. Most well-known among these is the "FQPA" or children's safety factor of 10X, a default factor intended to provide a stricter safety standard where infants or children may be exposed. Currently, in evaluating the safety of pesticides, EPA routinely declines to use the default safety factors as they are intended. The National Academy of Sciences recently released a report that criticizes this aspect of EPA's risk assessments for both pesticides and other toxic substances. The agency should develop guidance on how to apply its safety factors that is cogent, comprehensive, and protective. Importantly, the new guidance should specifically require the use of full safety factors where there is not adequate data to support its reduction.

  Action needed –

  EPA should initiate in the first 100 days development of a guidance on use of safety factors and retroactively apply the 10X FQPA factor for all pesticides where there are not adequate data to support reducing or removing the factor.

- ✓ **Pesticide registration -** Ensure the consistency and transparency of the pesticide registration process by improving public access to scientific and risk assessment information.

  The pesticide registration process lacks the consistency and transparency necessary to ensure there is a meaningful opportunity for public comment, as illustrated by the following examples: 1) in some cases, no notice has been published in the Federal Register informing that a pesticide registration application is under consideration; 2) registrations, once issued, have not been notified in the Federal Register or published; 3) Data Evaluation Reports (DERs), and other studies relied upon in the risk assessments, and sometimes EPA's risk assessments themselves are not available in the electronic dockets.

  Action needed –

  Within the first 100 days, EPA should adopt a policy to notify the public in the Federal Register of every pesticide registration application received and solicit public comment; post all DERs and all pesticide risk assessments on the electronic docket when the request for public comment is published; publish notice in the Federal Register of every registration issued; and post every registration decision document (i.e. every conditional and/or final registration, and every denial of registration) on the electronic docket and the EPA website.

- ✓ **Data gaps concerning pesticide risks to pollinators -** Require important information needed for a proper assessment of pesticide risks to pollinators.

  EPA does not require registrants to provide studies on pesticide residues in beehives (including hive pollen, honey, bee bread, and wax) resulting from bees foraging on plants treated with

pesticides, or to conduct studies on multiple bee species to ensure label guidelines reflect risks to managed specialty pollinators like bumble bees, alfalfa leafcutter bees, blue orchard bees, and alkali bees. Also, EPA generally requires higher-tier testing of pesticides (*i.e.* multi-generational pollinator field studies that include adults and brood) when lower-tier studies of adults suggest high acute toxicity and chronic effects. However, pesticides that show low acute toxicity and no observable chronic effects in adult bees may cause serious adverse effects in the brood.

Action needed –

EPA should amend its pesticide registration guidelines to require registrants to: 1) conduct studies examining pesticide residues in hive pollen, bee bread, honey and wax and incorporate this information into pesticide risk assessments; 2) conduct field testing on multiple bee species, including smaller native wild bees; and 3) conduct higher-tier, multi-generational field testing of pollinators for every pesticide being considered for registration.

- ✓ **Emergency Exemptions to Pesticide Restrictions -** Correct the multiple deficiencies with the agency's use of FIFRA's "Section 18" emergency exemptions.

  EPA's current rules allow for use of emergency exemptions from restrictions on pesticide uses in many situations for which they are not appropriate. These include granting "emergency" exemptions year after year, granting the exemptions in situations that are not true emergencies. In addition, the agency has failed to ensure adequate public participation in the administration of this program, by granting Section 18 requests without adequate opportunity for public review. Moreover, EPA routinely ignores its consultation requirements under the Endangered Species Act when issuing emergency exemptions.

  Action needed –

  EPA should immediately announce its intent to revise its rules for emergency exemptions to address the practices described above and begin the development of an improved emergency exemption framework.

- ✓ **Pesticide Applicator Training – Improve training of pesticide applicators to include pollinator protection.**

  Pesticide applicator training in pollinator protection practices is inadequate. The *National Pesticide Applicator Certification Core Manual* omits important information and offers advice which conflicts with EPA policy. Currently, the manual makes no mention of long-lasting pesticide residues, the risks of systemic treatments, or the comparative risks to pollinators of different chemical classes of pesticides. It also offers advice that undermines EPA-mandated precautionary statements on pesticide labels, *e.g.* "Do not spray crops in bloom *except when necessary*" and "…do not spray when beneficial insects are in the target area *except when absolutely necessary*," *[emphasis added]* although pesticide labels have no such exceptions in their precautionary statements.

Action needed –

Improve pesticide applicator training requirements concerning pollinator protection to include more in-depth training in pollinator protection practices and ensure that these improved requirements are reflected in the *National Pesticide Applicator Certification Core Manual*. Include pollinator protection as a topic in all ongoing continuing education programs for applicator re-certification.

- ✓ **Endocrine Disrupting Chemicals -** Implement the Endocrine Disruptor Screening Program.

In 1996, Congress directed EPA to screen and test chemicals in commerce for endocrine disrupting effects. Now over 12 years and over $100 million dollars later, EPA has not yet tested a single chemical nor have they even finalized a list of chemicals to begin with or finalized a group of assays to use.

Action needed –

Possible in the first 100 days:

- Finalize initial list of chemicals for screening first developed in 2007.
- Issue test orders for first set of chemicals to be screened.
- Finalize Tier 1 screening tests.

Subsequently, EPA should:

- Implement the Tier 1 screening tests
- Finalize the Tier 2 tests
- Solicit recommendations for next batch of chemicals to test – including drinking water contaminants and chemicals to which humans are highly exposed

- ✓ **Nano-scale materials -** Issue a FR Notice that all engineered nano-scale materials be considered either new chemicals or a significant new use of existing chemicals under TSCA section 5.

The field of nanotechnology has developed a large number of nano-scale materials that are already in widespread use in industry but have not been tested for safety, in large part because EPA has not considered these materials to be "new" under TSCA section 5. In October 2008 EPA issued a FR Notice that it "generally considers" carbon nanotubes to be "new chemicals under TSCA section 5". However, limiting this announcement to only carbon nanotubes is not justified.

Action needed –

EPA should issue a broad statement that all chemicals engineered at the nano-scale should be considered new chemicals under TSCA so that it can require that information to be submitted on the manufacture, processing, use, distribution in commerce, and disposal of these materials. This could be done without a rulemaking.

- ✓ **Toxic Substances Control Act -** Improve EPA's management of the chemical review program.

The General Accounting Office found many deficiencies in the implementation by the agency of the Toxic Substances Control Act. Although legislative fixes will also be required, EPA should take advantage of their regulatory authority to increase the number and scientific quality of testing of new and existing chemicals and validating models.

Action needed –

Per GAO's recommendations, EPA should immediately use it's regulatory authority to: (1) develop a methodology for using information collected through the HPV Challenge Program to prioritize chemicals for further review and to identify and obtain additional information needed to assess their risks; (2) promulgate a rule requiring chemical companies to submit to EPA copies of any health and safety studies, as well as other information concerning the environmental and health effects of chemicals, that they submit to foreign governments on chemicals that the companies manufacture or process in, or import to, the United States; (3) develop a strategy for improving the models that EPA uses to assess and predict the risks of chemicals and to inform regulatory decisions on the production, use, and disposal of the chemicals; and (4) revise its regulations to require that companies reassert claims of confidentiality submitted to EPA under TSCA within a certain time period after the information is initially claimed as confidential.

<u>Food and Drug Administration</u>

- ✓ **Pesticide Residues in Food -** Expand pesticide residue testing.

Comprehensive testing for pesticide residues in food provides vital information to safeguard human health and prevent unsafe exposures to dangerous chemicals. However, current testing levels do not provide adequate data for all food types and only cover an estimated 0.00004 percent of the fruits and vegetables for sale and 0.00003 percent of imported produce. Additionally, FDA methods are antiquated and insensitive.

Action needed –

In the first 100 days, FDA should:

- Evaluate current testing protocols against current testing standards
- Develop a revised sampling protocol that ensures better representation of all food types and accounts for the increased hazards of imported foods.

FDA should subsequently implement increased testing for pesticide and other hazardous residues in food is needed, especially for imported foods which are more likely to be contaminated with chemicals at unsafe levels or illegal in the United States.

- ✓ **Phthalates in food packaging -** Determine major sources of exposure to phthalates.

Certain phthalates are known hormone disruptors, which interfere with the production of sex hormones and have been associated with reproductive harm. Food is hypothesized to be a major

source of exposure for many phthalates and FDA has approved several phthalates as food additives.

Action needed –

FDA should determine which phthalates are in modern food packaging and their potential for contaminating food supplies. FDA should also do testing of foods for phthalate levels and make this information public. Finally, FDA should determine exposure levels to phthalates in food, both as a result of food packaging and from contamination during production. A request to manufacturers for phthalates used in food packaging or processing could be done in 100 days. An exposure assessment will take over 100 days. Based upon this information, FDA should act to revoke the approval of phthalates in food packaging that are found to contaminate food and have not been proven to be safe.

- ✓ **Bisphenol A** - Ban Bisphenol A in food packaging.

Bisphenol A is an endocrine disrupting chemical approved for use in food packaging in the 1960s. More than 93 percent of the general population has some BPA in their bodies, and food and drinks are widely believed to be a major source of exposure. In animal studies, exposure to the amount of the chemical that most people now have in their bodies causes a wide array of abnormalities. Research shows that everyday levels of BPA may be linked to reproductive abnormalities, prostate and breast cancer, neurological damage, insulin resistance and diabetes, obesity, and cardiovascular disease.

A recent review of BPA's safety by FDA – which relied solely on two industry-funded studies -- was sharply criticized by an external panel of scientists, who gave specific recommendations for how the agency should improve its safety assessment of BPA. Yet FDA has reiterated its intent only to continue to study the problem, potentially for several years, without taking any additional action. In October, NRDC petitioned FDA to ban the use of BPA in food packaging. A reply from FDA is not due until April.

Action needed –

FDA should grant NRDC's petition in the first 100 days and immediately initiate proceedings to ban the use of BPA in food packaging. This would be the logical (and legally required) outcome if FDA were to revise its safety assessment based upon the recommendations from its review panel.

- ✓ **Bisphenol A -** Determine major additional sources of exposure to BPA.

Over 90% of the U.S. population carries residues of BPA in their bodies, and food and beverages are thought to be a major source of exposure to BPA. However, we do not know what others sources of exposure could be contributing to human body burdens of this chemical.

Action needed –

In conjunction with other federal agencies including the NTP, CPSC, EPA and CDC, FDA should undertake a BPA exposure assessment, taking into account known sources of exposure, potential sources of exposure and gaps in knowledge. An action plan for getting these gaps identified should be drafted and implementation initiated within 100 days. Major sources of exposure should be addressed as potential regulatory targets.

- ✓ **Lindane -** Ban Lindane as a pharmaceutical.

Lindane is a dangerous pesticide that has been banned by EPA for use on cattle and food but, in every state except California, it is still legal to use this neurotoxic pesticide as a pharmaceutical to treat head lice and scabies. Lindane is not safe for use on children and other vulnerable populations (it already carries a "black box" warming), and furthermore, it is ineffective. Safer substitutes exist and are readily available.

Action needed -

FDA should immediately initiate action to ban the use of pharmaceutical lindane by revoking all approvals for use.

- ✓ **Antimicrobials** - Regulate the use of antimicrobials in personal care products.

There is widespread use of chemicals marketed as "antimicrobials" in things like soap, deodorant, and toothpaste. These include the hormone-disrupting chemicals triclosan and triclocarban, which are not proven to be effective and are widespread and persistent environmental contaminants. FDA has been reviewing the safety of these chemicals *since 1978!*

Action needed -

FDA should quickly determine whether chemicals marketed as antimicrobials are safe for use in personal care products by finalizing the draft monograph and if a determination is made that they are not effective - they should be banned from use.

FDA should also require all products made using triclosan or triclocarban are labeled.

- ✓ **Scientific Advice and Consultation** - Appoint full science advisory panel.

FDA has a science advisory panel that is charged with giving advice to the Agency on complex technical issues and on emerging issues of regulatory importance. There can be up to 21 members on this board, including one consumer-group representative. . Currently there are ten vacancies on this board, leaving significant gaps in the breadth, expertise and input this committee has on important FDA decisions, including food additives such as BPA and phthalates.

Action needed -

FDA should appoint full complement of Science Board members including an equal representation of industry, academia, government and consumer group representatives.

- ✓ **Mercury Contamination in Fish -** Improve Mercury in Fish Testing Program.

Up-to-date and accurate data on mercury levels in fish are needed to guide consumers about safe fish choices. Current recommendations for many fish types are based on a small number of samples collected more than 15 years ago, and independent testing has found higher mercury levels in some fish species.

Action needed -

The FDA should adopt rapid screening methods for mercury in fish and test a statistically representative sample of all commonly consumed fish species from each region annually. Implementation of an improved testing program will take longer than 100 days. However, in 100 days FDA could:

- Commit to reforming the mercury in fish testing program
- Research rapid screening methods
- Develop a revised testing protocol that included a statistically representative sample of all commonly consumed fish species from each region annually.

- ✓ **Bottled Water -** Require bottled water to be labeled with info on source, contaminants, and potential health effects of any contaminant found.

FDA has some limited, basic requirements to label bottled water, but unlike with tap water, customers often do not have information about the source, quality, and potential health effects associated with the bottled water they purchase.

Action needed –

FDA should establish regulations that require bottled water to be labeled with specific information about the source of the water, the presence and levels of any contaminants found in the water, and the potential health effects associated with those contaminants. It should announce its intent to do so in the first 100 days.

- ✓ **Bottled Water -** Regulate bottles and packaging materials in bottles to ensure safety.

Although in our view FDA has broad authority to regulate bottled water in the U.S. the Agency has interpreted its authority to apply only to water that is sold interstate, regardless of whether the bottle or other packaging materials have been manufactured in another state and been part of interstate commerce. As a result, a significant amount of bottled water is not regulated by FDA, and much of it is subject to only lax or non-existent state level regulation and enforcement.

Action needed -

FDA should revise its rules so that all bottled water, even water bottled and sold in the same state, is regulated for safety. It should announce its intent to do so in the first 100 days. If FDA does not agree it has the authority to regulate bottled water meeting these criteria, then it should ask Congress for that authority within 100 days.

Centers for Disease Control and Prevention (CDC)

- ✓ **Biomonitoring -** Restore funding for federal biomonitoring and expand biomonitoring programs in the states.

  Biomonitoring, which measures toxic substances in blood and urine, is an essential tool in understanding what people are exposed to and how chemicals in the environment affect health. CDC studies have detected more than 100 chemicals in people in the United States. However, most state health departments lack the capacity to conduct this important type of monitoring. States need to do biomonitoring for emergency response as well as to monitor health-related exposures over time, identify communities at risk, and assess the effectiveness of state pollution control programs. In 2001, the CDC launched an initiative to provide planning grants for 33 states to develop biomonitoring capacity. Despite success of these grants and the overwhelming interest in developing state biomonitoring programs, presidential budget cuts have prevented the continuation of these programs.

  Action needed -

  Immediately restore the CDC's biomonitoring program, and expand its resources to support state biomonitoring program capacity.

- ✓ **Impacts of Climate Change on Health -** Create an Office of Climate Change and Health to coordinate federal, state, and local activities.

  Global warming directly threatens the health of all Americans, but the burdens of global warming will fall especially on certain vulnerable populations, including children, the elderly, and people living in poverty. Climate-health preparedness should include centralized coordination of public health activities, as well as regional, state and local-scale efforts targeted to address the most pressing threats in certain geographic areas.

  Action needed –

  The Secretary of Health and Human Services (HHS) should announce within 100 days the establishment of an Office of Climate Change and Health to coordinate efforts to address the public health impacts of climate change. Key aspects of public health preparedness include leadership, planning, coordination, tracking, and education.

Consumer Product Safety Commission (CPSC)

- ✓ **Toy Safety** - Reverse recent decision to allow sale of toys and child care products containing banned phthalates beyond February 10, 2009 [if not already overturned by Congress or the courts].

  In July 2008, Congress enacted a ban on the manufacture, distribution, sale or import of toys and childcare products containing six phthalates, effective on February 10, 2009. CPSC recently ruled that the products can continue to be sold after the date of the ban.

  Action needed –

  The CPSC should immediately reverse its decision and implement and enforce the ban on products containing banned phthalates.

- ✓ **CPSC commissioners** - Appoint full panel of CPSC commissioners.

  Currently there are only two CPSC Commissioners but there should be five. The lack of Commissioners only exacerbates the inefficiencies and ineffectiveness of this Agency.

  Action needed –

  The Administration should immediately nominate three more CPSC Commissioners to establish a full quorum.

- ✓ **Phthalates in consumer products** - Require labeling of phthalates in consumer products.

  Phthalates are hormone-disrupting chemicals with wide applications in a number of consumer products. Currently, it is impossible to tell which products contain phthalates because there is no labeling requirement.

  Action needed -

  Both FDA and CPSC should require labeling of phthalates in consumer products and cosmetics. This will take over 100 days to implement, but both agencies should announce their intent to begin rulemakings to require labeling within 100 days.

- ✓ **Bisphenol A in consumer products** - Undertake review of uses of BPA in consumer products not regulated by FDA.

  Over 90% of the U.S. population carries residues of BPA in their bodies, and food and beverages are thought to be a major source of exposure to BPA. However, we do not know what others sources of exposure could be contributing to human body burdens of this chemical.

Action needed -

In conjunction with other federal agencies including the NTP, CPSC, EPA and CDC, FDA should undertake a BPA exposure assessment, taking into account known sources of exposure, potential sources of exposure and gaps in knowledge. An action plan for getting these gaps identified should be drafted and implementation initiated within 100 days.

- ✓ **Endocrine Disrupting Flame Retardants** - Finalize flame retardant standard.

Consumer products must meet certain flame retardant standards, which are intended to promote public safety and prevent fires and fire damage. However, the way the flame retardancy tests have been designed in the past has resulted in an over use of flame retardant chemicals and massive exposure in the general population. Some flame retardants are persistent, bioaccumulative toxins and have been shown to be hormone disruptors.

The CPSC recently proposed a new methodology for flame retardant testing called the "Standard for Flammability of Residential Upholstered Furniture" that would still keep furniture flame resistant but would dramatically decrease the amount of chemicals used to achieve flame retardancy. This standard is far more protective of public health. Unfortunately, the improved standard has yet to be finalized.

Action needed -

CPSC should finalize the new flame retardant standard immediately.

HUD

Pests and pesticide use in public housing - Promote Integrated Pest Management at housing facilities operated by HUD or that receive assistance from the agency.

Integrated Pest Management (IPM) provides safer, more effective pest control by addressing underlying causes of pest problems while minimizing or eliminating pesticide use. HUD was sued by more than ten attorneys general in 2003 for failing to promote Integrated Pest Management as required the Federal Insecticide, Fungicide and Rodenticide Act. While the agency officially recommends IPM, it still leaves IPM as a voluntary practice to be implemented at the discretion of local managers.

Action needed --

- Make IPM adoption mandatory at housing facilities that receive federal assistance.
- Revise plan requirements for Public Housing Authorities to include reporting on IPM adoption (eg revise 24 C.F.R. § 903.7).
- Promote adoption of legitimate IPM certification programs, including Green Shield Certified. Avoid endorsements of IPM programs that lack specific, verifiable performance standards, such as the National Pest Management Association's Quality Pro Green program.

USDA/NRCS

- ✓ **Pesticide use in agriculture -** Restore the collection of agricultural pesticide usage data by USDA's National Agriculture Statistics Service (NASS).

  In late 2007, NASS announced that it would begin phasing out most of its pesticide use survey effort. Since 1991, these data have provided the only reliable, publicly available source of data on pesticide and fertilizer use outside of California. Elimination of this program will severely hamper the efforts of USDA, land grant scientists, the Environmental Protection Agency (EPA) and state officials to perform pesticide risk assessments and make informed policy decisions on pesticide use.

  Action needed -

  USDA should announce its intent to restore this important monitoring and information program within the first 100 days.

- ✓ **Integrated Pest Management (IPM) -** Elevate the importance of IPM methods at USDA.

  USDA has been criticized by the General Accounting Office and, more recently, by NRDC for failing to promote environmentally friendly pest control or "Integrated Pest Management" when implementing Farm Bill conservation programs. This capacity is increasingly needed to help specialty crop producers, protect pollinators and help farmers transition to organic systems.

  Action needed -

  Create a new top-level position at USDA and/or NRCS that is charged with making the agency's capacity to promote Integrated Pest Management and organic transition assistance consistent across the country. The post and the appointee can be announced in the first 100 days.

- ✓ **Integrated Pest Management (IPM) -** Halt or rescind NRCS' new proposal to eliminate its long standing Pest Management Practice Standard 595.

  In November of 2008, NRCS circulated internally a proposal to eliminate its long-standing Pest Management Conservation Practice Standard 595 and replace it with a new Pesticide Risk Mitigation Practice Standard 596. While an improvement in some respects, the new standard would place severe restrictions on how and when the agency promotes IPM and environmentally friendly pest control.

  Action needed -

  Freeze or rescind the current proposal to eliminate Practice Standard 595 in the first 100 days. Solicit diverse stakeholder input to prior to revising the existing standard (can be done after first 100 days).

U.S. Geological Survey

- ✓ **National Water Quality Assessment Program (NAWQA)** - Restore USGS monitoring capacity for toxic chemicals and other contaminants in the nation's waters.

  The NAWQA tests for pesticides, volatile organic compounds, metals, and other environmental contaminants. Budget constraints over the last eight years have forced NAWQA to cut three-quarters of its surface-water, fixed-station water quality monitoring sites, from 496 in 2000 to only 113 in 2008. Ground water quality monitoring sites will be cut in half because of a 15 percent ($10 million) cut in funding from FY08 to FY09.

  Action needed -

  Restore the capacity of USGS to comprehensively test for the presence of toxic chemicals and other contaminants in the nations' waters.

- ✓ **USGS National Streamflow Information Program (NSIP)** - Restore funding for flood monitoring.

  Serious budget cuts made to the USGS National Streamflow Information Program (NSIP) jeopardize critical flood monitoring. This information is used to develop emergency response plans, predict floods, and measure climate change. The USGS stream gage program has been funded in a 50/50 co-operative with more than 800 state and local agencies (through the co-operative water program). The USGS operates and maintains approximately 7,500 streamgages that provide long-term, accurate information on stream flow.

  Action needed -

  The NSIP should be completely funded. A little more than $20 million is requested in the president's FY09 budget. A little more than $114 million is required to fully fund the program.