Opening Statement of Chairman Frank D. Lucas
Committee on Agriculture – Joint Public Hearing
To Review the Costs of Federal Regulatory Dysfunction
to American jobs, agriculture, health and species
May 3, 2011

As prepared for delivery

Thank you, Chairman Hastings and Ranking Member Markey for working with Ranking Member Peterson and me on this important topic.

Though joint hearings represent a logistical challenge, the interactions and contradictions between the laws and programs under our various jurisdictions suggest that effective oversight will require more cooperation between committees in the future.

Recently, the Agriculture Committee engaged in a joint oversight process with the Committee on Transportation and Infrastructure that led to the successful passage of bipartisan legislation in the House which would eliminate a costly, burdensome and duplicative regulatory process for pesticides. While we wait for movement of the bill in the Senate, we now turn our attention to another costly and burdensome regulatory process that is both duplicative and dysfunctional.

In the process of reviewing individual pesticides under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the EPA assesses more than 120 scientific studies evaluating the products' safety and effectiveness. Pesticides distributed and sold in the United States must be evaluated and registered by the EPA based on scientific data showing that they will not cause unreasonable risks to human health, workers, or the environment when used as directed on the EPA approved product label.

As defined in the statute, the term "unreasonable adverse effects on the environment" includes any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

Once a pesticide is registered, the federal review process does not end. In fact, the law mandates a process of registration review. The registration review program makes sure that, as the ability to assess risk evolves and as policies and practices change, all registered pesticides continue to meet the statutory standard of no unreasonable adverse effects.

Despite having a rigorous, science-based process in place to register and periodically review pesticides, provisions of the Endangered Species Act (ESA) require that the EPA "consult" with the Fish and Wildlife Service or the National Marine Fisheries Service (collectively, the Services), whenever there is any possibility, however remote, that the use of the pesticide could adversely affect a threatened or endangered species.

Though no credible evidence has been presented documenting a causal link between the registration of a pesticide and the decline of any listed species populations or rates of recovery, this lack of scientific evidence has done nothing to impede environmental extremists. Groups

like the Center for Biological Diversity have been clogging our court rooms with frivolous lawsuits that have cost taxpayers tens of millions of dollars in litigation costs and have further congested an already dysfunctional federal bureaucracy.

Consultation is a process meant to facilitate understanding among and between agencies. Unfortunately, the consultation process under the ESA is heavily biased towards the European model of a Precautionary Principal. Should any expert agency ignore the opinion of one of the Services, they risk civil and criminal penalties in the event of the loss of a single plant or animal from a listed species.

Counter to the intent of consultation, the Services have administered a process where they ignore scientific evidence presented by the expert agencies. They refuse to consider or even accept public comment, and in some cases they have simply ignored requests by EPA for a consultation.

Recently, the Services have acknowledged that the scientific models they have used in developing their biological opinions for pesticides are fatally flawed. Thankfully, a request has been made by USDA, EPA, Interior and Commerce to have the National Academies of Science conduct a review of the models used by the Services. I am hopeful—and would expect confirmation from each of the Federal agencies here today—that the scope of the work that is contracted will be a comprehensive review of not only the scientific models used by the Services, but also of the models used to analyze the economic impacts of any suggested alternatives.

Of further concern is the fact that while waiting for the completion of this scientific peer review, EPA is still being asked to implement the recently finalized biological opinions which the agency has repeatedly and publicly challenged. Given the admission of fundamental flaws in the Services models, I would suggest that the Services consider seeking re-initiation of consultation when scientific models have been developed, validated, and agreed upon.

One final note, prior to this hearing, Chairman Hastings and I received a letter from the four departments suggesting that due to concerns over pending litigation, they would be unable to answer many of the questions the Committees would be raising. I would like to make clear that while I recognize certain questions regarding pending litigation are sensitive, Congressional oversight is equally as important and I hope the panelists will be as responsive as possible. I will tell you now that just because a question may be difficult, or may cause some degree of embarrassment for the bureaucracy, it does not mean that the question should be off limits to Congressional oversight.

I look forward to a cooperative dialogue with all of our witnesses today and am now happy to yield to my Ranking Member, Representative Peterson for his opening statement.