

FACT SHEET

Increasing Consistency and Transparency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process

(EPA-HQ-OAR-2020-00044)

ACTION

- On June 4th 2020, the U.S. Environmental Protection Agency (EPA) issued a proposal for public comment concerning processes EPA should undertake when promulgating regulations under the Clean Air Act (CAA) to ensure that information regarding the benefits and costs of regulatory decisions are developed and provided to the public in a consistent and transparent manner.
- The goal of this proposal is to ensure that all future significant regulations promulgated under the Clean Air Act be accompanied by a benefit-cost analysis (BCA) using the best available scientific information, in accordance with best practices from the economic, engineering, physical, and biological sciences, and ensuring transparency of the BCA.
- The proposed regulation consists of three main requirements:
 - *EPA will prepare a BCA for all future significant proposed and final regulations under the CAA.* EPA anticipates significant regulations will include those with the largest annual impact on the economy; those that would disproportionately affect an industry, group, or area; or those that are novel or relevant for other policy reasons.
 - *The BCA should be developed in accordance with best practices from the economic, engineering, physical, and biological sciences.* The proposal outlines required elements of BCA's, following established protocols for conducting best cost analyses published by the Office of Management and Budget and further elaborated in EPA's "Guidelines for Preparing Economic Analyses." These include addressing all key elements of a benefit-cost analysis and –to the extent permitted by law -- making underlying data available to the public.
 - *EPA must increase transparency in the presentation of the benefits resulting from significant CAA regulations.* In addition to a clear reporting of the overall results of the BCA, EPA proposes to require a summary presentation of the overall BCAs result in the rule, including total costs, benefits, and net benefits. EPA also proposes to require a separate reporting of the public health and welfare benefits that are specific to the objective of the CAA provision under which the rule is promulgated.
- In addition to these three main requirements, the proposal is soliciting comment on how EPA would take into consideration the results of a BCA in future rulemakings under specific provisions of the Clean Air Act, and how EPA should weigh the results of the BCA in future CAA regulatory decisions.
- This proposed rule, if finalized, will ensure a consistent approach to the EPA's CAA benefit-cost analyses under the CAA and will provide transparency by requiring the generation of relevant information in all significant rulemakings.
- EPA is soliciting comment on all aspects of this proposal and will accept comment for 45 days after publication in the *Federal Register*.
- In addition, EPA is planning to hold a virtual public hearing. Information on dates and including speaker registration will be posted online at <https://www.epa.gov/air-and-radiation/proposed-rule-increasing-consistency-considering-benefits-and-costs-clean-air-act>.

BACKGROUND

- Many EPA statutes, including the Clean Air Act, provide language on the consideration of costs, but there are no regulations that ensure that the public is provided an analysis of the benefits and costs in a consistent manner across media offices. This proposal focuses on providing consistent and transparent benefit cost analyses to the public for rulemakings promulgated under the Clean Air Act.
- EPA opened a public docket on regulatory reform in April 2017 to solicit feedback on Executive Order 13777, in which the Agency received comments about its consideration of costs and benefits. In 2018, EPA issued an Advance Notice of Proposed Rulemaking (ANPR) to solicit public input on whether and how to change the way it considers benefits and costs in making regulatory decisions.
- Subsequently, in May 2019, Administrator Wheeler sent a memo directing agency leadership to develop rules for notice and comment that outline how benefit-cost considerations will be applied to future rulemakings in a more consistent and transparent manner¹.
- This proposal is in response to the 2019 Wheeler memo, and is the next step in EPA's effort to improve the rulemaking process by establishing requirements to ensure consistent, transparent analyses of benefits and costs are provided to the public for all significant rules promulgated under the Clean Air Act.

HOW TO COMMENT

- EPA will accept comments for 45 days after the proposal is published in the *Federal Register*.
- Comments, identified by Docket ID No. EPA-HQ-OAR-2020-00044 may be submitted at <https://www.regulations.gov/>. Follow the on-line instructions for submitting comments.
- Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room is closed to public visitors to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via

FOR MORE INFORMATION

The proposed rule and additional background information are available at <https://www.epa.gov/air-and-radiation/proposed-rule-increasing-consistency-considering-benefits-and-costs-clean-air-act>.

- For further technical information about the rule, contact Leif Hockstad, EPA's Office of Air Policy and Program Support, at (202) 343-9432; or Hockstad.Leif@epa.gov

¹ https://www.epa.gov/sites/production/files/2019-05/documents/memorandum_05_13_2019_increasing_consistency_and_transparency_in_considering_benefits_and_costs_in_rule_making_process.pdf