

## FACT SHEET

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

(EPA-HQ-OAR-2020-0044)

#### ACTION

- On December 9, 2020, the U.S. Environmental Protection Agency (EPA) announced a procedural rule establishing processes EPA will undertake when promulgating regulations under the Clean Air Act (CAA) to ensure that information regarding the benefits and costs of regulatory decisions are developed in a consistent and transparent manner, and considered to the extent allowed by law.
- The goal of this rule is to ensure that all future significant regulations promulgated under the CAA are 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 rule 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 are developed in accordance with best practices from the economic, engineering, physical, and biological sciences.* The rule outlines required elements of BCAs, 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 and costs resulting from significant CAA regulations.* In addition to a clear reporting of the overall results of the BCA, EPA will require 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.
- Furthermore, to provide as much information and transparency as possible, the EPA is finalizing a requirement to provide a description in each future rule's preamble of how the Agency considered the results of the BCA when the CAA provision or provisions under which the future rule is promulgated do permit consideration of the BCA.
- This rule 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.

## BACKGROUND

- Many EPA statutes, including the Clean Air Act, provide language on the consideration of costs, but there are no regulations that ensure that EPA provides an analysis of the benefits and costs in a consistent manner across offices. This procedural rule will ensure more consistent and transparent benefit cost analyses for rulemakings 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 (ANPRM) 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 manner.<sup>1</sup>
- This rule is in response to the 2019 Wheeler memo, and will ensure consistent, transparent analyses of benefits and costs are provided to the public for all significant rules promulgated under the Clean Air Act.

## FOR MORE INFORMATION

- The final rule and additional background information are available at <https://www.epa.gov/air-and-radiation/final-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](mailto:Hockstad.Leif@epa.gov)

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<sup>1</sup> [https://www.epa.gov/sites/production/files/2019-05/documents/memorandum\\_05\\_13\\_2019\\_increasing\\_consistency\\_and\\_transparency\\_in\\_considering\\_benefits\\_and\\_costs\\_in\\_rulemaking\\_process.pdf](https://www.epa.gov/sites/production/files/2019-05/documents/memorandum_05_13_2019_increasing_consistency_and_transparency_in_considering_benefits_and_costs_in_rulemaking_process.pdf)