

EPA

**Moderator: Leif Hockstad
July 1, 2020
9:00 a.m. ET**

OPERATOR: This is Conference #: 4392811.

Kelley Raymond: Good morning. My name is Kelly Raymond and I'm the senior adviser for the EPA's Office of Air and Radiation. I am the presiding officer for today's public hearing on the EPA's proposed rule increasing consistency in considering benefits and costs in the Clean Air Act rulemaking process.

Welcome and thank you for joining us today. Joining me on the panel are two colleagues who will now introduce themselves.

Leif?

Leif Hockstad: Hello. Yes. Thank you, Kelley. This is Leif Hockstad in the Office of Air and Radiation's Office of Air Policy and Program support.

Kelley Raymond: Thank you, Leif. And Allison?

Allison Crimmins: Hi, this is Allison Crimmins. I'm also in the Office of Air and Radiation in Air Policy Support.

Kelley Raymond: Thanks, Allison.

On June 11, 2020, EPA published in the Federal Register a proposal for public comment concerning processes EPA should undertake when promulgating regulations under the Clean Air Act to ensure that information regarding the

benefits and costs of regulatory decisions is developed and provided to the public in a consistent and transparent manner.

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 analysis to the public where rulemakings promulgated under the Clean Air Act. 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 using the best available scientific information in accordance with best practices from the economic, engineering, physical, and biological sciences and ensuring transparency of the benefit cost analysis.

Before we begin, I'd like to describe the process and some ground rules to help make sure that today's hearing runs smoothly. Here's how today's hearing will work. When you are called on to speak, the operator will unmute your line, please state your name and spell it for the transcript.

This virtual hearing will be transcribed and included in the record of comments on this rulemaking action.

Each speaker will have five minutes to give comments. To be fair to everyone, our facilitator will strictly enforce the five-minute time limit. EPA purpose and role during this hearing is to listen to your comments. We may also occasionally ask clarifying question after a commenter has concluded their comment.

Therefore, when you are finished speaking, please remain on the line until we have confirmed whether there are clarifying questions from our EPA panel. Once we're done, the operator will remute your line. The facilitator will call on the next speaker and so on.

In addition to the oral comments you'll make today. I encourage each of you to submit a written copy of your testimony. Comments must be received on or before August 3rd 2020.

Instructions for submitting materials to the docket are available in the proposal's June 11 Federal Register Notice.

During this hearing as time allows, we will take comments from members of the public who did not pre-register to speak, but would also like to do so today. Each additional commenter will have up to five minutes to speak as time allows.

We'll take comments in the order we received these requests. So, if you did not register in advance, we will try to accommodate last minute speakers again as time allow.

If speakers have additional comments that you would like to make beyond those that you are providing during your five-minute timeslot or if you are listening and did not get an opportunity to speak, I encourage you to submit those comments on writing.

Again, written comments must be received on or before August 3, 2020, and they will be given equal consideration to today's oral comments. Instructions for submitting materials to the docket are available in the June 11th Federal Register Notice.

Please note that due to public health concerns related to COVID-19, the EPA Docket Center and reading room are closed to the public with limited exceptions. For this reason, we encourage the public to submit comments via [regulations.gov](https://www.regulations.gov) or e-mail.

As time allows. We may take short breaks during the session when they closed this session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers.

Thank you again for taking the time today to share your comments on EPA's proposal. I'm now going to turn the floor over to our facilitator for this hearing, Jan Connery from IRG, a contractor to EPA.

My focus for the rest of the session will be on listening to your comments together with my colleagues. We look forward to your input. So, let's get started.

Jan Connery: Thank you and good morning, everyone. I'm going to start by briefly reviewing the procedure for each speaker. We'll take speakers in the order indicated in the confirmation emails and in the agenda posted on EPA's website, that's the order in which our speaker signed up.

If any speaker isn't present at the time they are called, we will move to the next. When I call your name, the operator will unmute your line. I will ask each of you to begin by stating and then spelling your name for transcription purposes. Then you can immediately begin your comment.

You will have five minutes. I will be keeping time. After four minutes, I will say one minute, so you know that one minute remains. At the five-minute mark, you might hear my timer beep. And I'll also let you know that your time is up.

At that point, please conclude your comment, but stay on the line while we check whether EPA has any clarifying questions.

After any questions, your line will be muted again by the operator and we will move to our next speaker. As mentioned, we may have time to take additional people who are on the line, did not pre-register to speak, but find they would like to do so today.

When we see that we do have that opportunity, I will provide specific instructions for how you can sign up to do that. So, let's get started. Our first speakers are Rachel Jones, followed by Howard Feldman.

Operator, would you please unmute Rachel Jones' line?

Rachel Jones: Good morning, can you hear me? This is Rachel Jones.

Jan Connery: Yes. Yes, we can, Rachel. Please state and spell your name and then begin your comments.

Rachel Jones: My name is Rachel Jones. R-A-C-H-E-L J-O-N-E-S. I'm here today representing the National Association of Manufacturers. On behalf of fourteen thousand manufacturers, small and large in every industrial sector in all 50 states, and most importantly to 12 million men and women who make things in America.

We appreciate the opportunity to assist the agency as it focuses on increasing consistency and transparency in Clean Air Act rulemaking processes. Manufacturers have a strong track record of leaders and environmental stewardship. We're consistently reducing emissions, conserving critical resources, protecting biodiversity, limiting waste, and providing safe products and solutions so others in our country can do the (same).

But to keep leaning in, we need better regulations to get those. We need a process that is fair, open, and inclusive. Manufacturers support EPA's mission to improve the consistency and transparency of the regulatory process, and we are committed to achieving ambitious environmental goals. It's imperative that all communities, stakeholders, especially small manufacturers who are often disproportionately impacted by regulation have a seat at the table when rules are being considered, written, evaluated, and finalized.

The public relies on smart regulations to set clear rules that support a clean environment, safe workplaces, and a better quality of life. But backroom negotiations, partisan rulemaking, and bureaucratic decisions only lead to confusion. An open and honest regulatory process will be easy for people to understand and engage with and is clear in its use of methods and data.

At the same time, every regulation comes with a price tag and those (thoughts) matter, especially the small businesses and local communities. Cost benefit analysis is a key tool agencies use to ensure that regulations promote the public health and do more good than any unintentional consequences they might have.

Manufacturers strongly support EPA's mission to the tools that are clear and supported by the public. We must ensure that the regulatory systems – system addresses our shared challenges without unintentionally impeding innovation and our ability to compete in the global marketplace.

In our view, effective cost considerations must include transparency, scientific integrity, and accountability. This means an objective rulemaking process should rely on solid, unbiased scientific information and (rode the bus) risk assessments while ensuring that an administration of any political bend is not tempted to abuse of authority by issuing poorly considered rules or gutting environmental protections.

The EPA has a unique opportunity to prove that it can accomplish this goal. Innovation and ingenuity are a combination that can empower us to overcome the greatest environmental challenges we face while we grow a stronger and more inclusive society together. However, poorly planned federal actions can lead to lost opportunities by undermining manufacturers competitiveness, shipping jobs overseas and leaving our most underserved communities without hope.

The choice between environmental protection and a strong economy is not an either or proposition. We can have both. Americans deserve both.

Manufacturers are committed to smart, strong environmental protection and improving the lives of all Americans so that no one is left behind. We look forward to commenting further and building a more inclusive future together.

Thank you.

Jan Connery: Thank you. EPA, are there any questions of clarification?

Kelley Raymond: None. No clarifying questions at this time. Thank you.

Jan Connery: OK. Thank you very much, Rachel.

Our next speaker is Howard Feldman to be followed by Christopher Frey. Operator, please unmute Howard Feldman. And Howard, please begin by stating and spelling your name and then you can start your comment.

Howard Feldman: Good morning, my name is Howard – Howard J. Feldman, H-O-W-A-R-D, initial J; last name, Feldman, F-E-L-D-M-A-N. I am senior counselor at for Policy, Economics and Regulatory Affairs for the American Petroleum Institute.

API is the only National Trade Association representing all facets of the oil and natural gas industry, which supports more than 10 million U.S. jobs in over 7 percent of the U.S. economy. Our members recognize their responsibility to work with the public, the government, and others, developing news of the natural resources in an environmentally sound manner while protecting the health and safety of our employees and the public.

API offers the following comments on EPA's proposed rule on increasing consistency and transparency in considering benefits and costs.

To be clear, API supports this proposal to provide consistency and greater transparency in analyzing the benefits and costs of proposed rules. API submitted detailed comments and on August 13, 2018, in response to the previous ANPR. And we encourage the Agency to consider those comments and exhibits again.

We encourage the EPA to finalize this proposal expeditiously and to the extent possible, require the data analysis used in establishing and evaluating environmental, health, and welfare and economic impacts be transparent and replicable. Consistent, transparent calculation, consideration, regulatory benefits and costs are required in numerous statutes and executive orders. And (the mandate) is precisely for the purpose of improving the efficacy of environmental regulation and allocation in both industry and agency resources.

Efforts to improve the consistency and transparency of these analysis should not therefore be viewed as an abandonment of the agency's pursuit of improved environmental outcomes, nor has the API ever advocated for such a

result. Rather, responsible public policy should rely on a more rational prioritization of resources that is informed by a meaningful weighing of the compliance burdens against the risks in full consideration of the uncertainty associated with those risks.

This proposal is a critical step towards that important goal. It is essential that EPA explicitly require rulemakings to address and highlight uncertainties in data models and analysis used in decision making. This is particularly important when models are used to quantify benefits of an action at levels at or below existing standards of background (concern), for instance, of a regulated substance.

Final rules should require explicit information that supports policy decisions, including the scientific, economic, environmental impact data and models used to predict health and environmental impacts, benefits, costs, and/or market impacts of a specific regulatory interventions.

Of course, benefits should not be double counted. Benefits should be presented for the targeted pollutant. In addition to presentation of total benefits, cost should be calculated using best practice tools to determine the full cost of a regulation. The administration's regulatory reform efforts are rightly focused on EPA's foundational charge of protecting human health and the environment.

This proposal is a step forward in providing consistent process for new regulations to calculate benefits and costs that can inform the agency as to how to move forward with a rulemaking initiative. Implementation of a robust benefit and cost analysis process could support the agencies and other stakeholders' foci on rulemakings with the best opportunities to maximize societal benefit.

API supports regulatory actions that protect human health and the environment. In the past decade, the nation continues to achieve environmental progress. Under current regulations, specifically according to the EPA, combine emissions from the six common pollutants declined by 7 percent from 2017 to 2019.

From 2018 to 2019, the number of days listed as unhealthy (percent) to the groups dropped by 40 percent across the US. And the amount of criteria, pollutants in our air continue to fall.

Americans are breathing the cleanest air in decades as the combined emissions of criteria and precursor balloons were reduced by a 77 percent between 1970 and 2019.

The oil and gas industry has contributed substantially to these improvements, most by reducing its direct emissions or by supplying cleaner fuels to the power and transportation sectors.

Under improved Clean Air Act provisions ...

Jan Connery: One minute.

Howard Feldman: ... such as those being proposed in this rule, continue the innovation and technologies developed by the oil and gas industry, can build on these achievements and provide benefits based on sound benefit cost analysis.

In closing, through this rule, EPA should ensure the future rulemakings use clear and consistent data and approaches and show how the agency justifies proposed tools to benefit all of society.

API appreciates the opportunities to provide these comments in our forthcoming, detailed written comments. We look forward to working with EPA and other stakeholders to improve the agency's consideration of benefits and costs. Thank you.

Jan Connery: Thank you, Howard.

EPA, are there any questions of clarification for Howard?

Kelley Raymond: No, no clarifying questions at this time. Thank you.

Jan Connery: All right. We'll move to the next speaker. That is Christopher Frey to be followed by Cara Cook.

Operator, would you please unmute Christopher Frey's line? And, Christopher, please start by stating and spelling your name and then you can begin your comment. Please go ahead, Christopher, if you're ...

Christopher Frey: Yes. This is Christopher Fray, C-H-R-I-S-T-O-P-H-E-R; last name, F-R-E-Y.

I'm a past chair and the Clean Air Scientific Advisory Committee and a past member of the Science Advisory Board. These comments are on behalf of myself.

This proposed rule is poorly formulated, leaving unanswered key questions regarding what is the actual problem to be solved with its vague references to quote stakeholder unquote comments that are clearly self-serving, too regulated industries. This proposal is more evidence that the EPA has been captured by the industries that it's supposed to regulate.

Under ERDA, the administrator is required to notify the Science Advisory Board of Planned Actions at the time it sends those actions for formal review by other agencies. EPA should demonstrate that it provided the SAB with the proposed rule no later than when it was sent to any other federal agency for review and comment and that the SAB has had an opportunity to review and comment on the proposed rule.

The goals that EPA appears to want to achieve putatively consistency and transparency in BCA would be achieved via guidance rather than regulation. Statements of, quote, "stakeholders" unquote may be highly biased and fraught with self-serving conflict of interest in which truth is sacrificed for talking points aimed to influence policy outcomes rather than promote objective approaches to analysis and inform decision making.

EPA should transparently disclose and provided administrative record for public review and comment regarding the problem identification, characterization, and analysis upon which this regulatory proposal was founded, if any.

The public cannot ascertain whether EPA has conducted a critical, fair and balanced assessment of stakeholder comments or simply granted wishes to

regulated industries, EPA should explain the precedent for establishing regulations of scientific methods and economic methods rather than guidance. Why is it not sufficient to revise the guidelines rather than create a regulation?

A key area of logical improvement of benefit cost analysis and of regulatory impact analysis would be to require a peer review. Often, this analysis are done toward the end of a rulemaking process and have not been subjective to individual peer review.

EPA could assure that BCA's received expert peer review in which the review criteria review – themselves reviewed by the Science Advisory Board, a criteria such as, quote, "transparency, consistency, and best practices," should be evaluated by the Science Advisory Board.

EPA should provide for peer review on many other issues such as determining how important non-quantified benefits or cost may be in the context of an overall analysis. The proposal contains undefined terms such as scientifically robust study, what does that even mean?

The language regarding epidemiologic studies appears aimed at setting the stage to exclude epidemiology all together by creating vague, ambiguous criteria that could be narrowly interpret – interpreted to exclude almost any study.

It's also completely contrary to fundamental principles and best practices of BCA and its potential role and decision making to even countenance partial counting of benefits of a regulation rather than its full benefit to society in the BCA.

EPA should cite and acknowledge the Science Advisory Board's report on the mercury air toxic standard which states among other things that excluding co-benefits as a departure from the board's recommended practice.

EPA peppers the text with hypothetical examples that are unsupported with any citations, facts or evidence, and examples regarding vehicle emission standards. In fact, the EPA's own science advisory board identified significant weaknesses in the analyses EPA use to justify the greenhouse gas rollback.

In general, EPA's just looking for an out to refuse ...

Jan Connery: One minute.

Christopher Frey: ... as part of its deregulatory agenda.

Whether there's a question posed by EPA, should a codify selection criteria for selecting amongst studies known, in general EPA should not regulate science. EPA should provide flexible guidance about science that allows science to evolve as the best practices evolve.

There's some comments or statements in the document that don't make any sense. I'll put those in my written comments.

And finally, on – I'll ask how does this proposed rule advance environmental justice as called for in various executive orders? There's no mention at all and this is a requirement for a proposed rule.

Thank you.

Jan Connery: Thank you, Christopher.

EPA, do we have any questions for Christopher?

Kelley Raymond: No, no clarifying questions. Thank you.

Jan Connery: All right. Thanks.

We'll move on to our next speaker who is Cara Cook. And Cara will be followed by Paul Billings.

Operator, please unmute Cara's line. And while he's doing so, Cara, I'll say please begin by stating and spelling your name and then start your comment.

Cara Cook: Great. Thank you. My name is Cara Cook, C A R A, Cook, C-O-O-K.

Thank you for the opportunity to provide comments today. I'm a public health nurse in the climate and health program manager at the Alliance of Nurses for

Healthy Environment. The Alliance is a national nursing organization focused solely on the intersection of human health and the environment.

Our organization opposes EPA's increased consistency in considering benefits and costs in Clean Air Act rulemaking proposal. Our organization has serious concerns that EPA proposal would result in inaccurate calculations of the benefits and costs to health, and therefore, potentially prevent or hamper the development of regulations that are necessary to protect health from harmful pollution. We urge EPA to maintain the long-existing longstanding practice of calculating the full benefits and costs of federal rules.

For this proposal, EPA has failed to identify any real problems that exist with the current system. EPA has a long history of examining the costs and benefits of proposed and implemented regulations. In the instance of the Clean Air Act, the benefits of clean air rules significantly outweigh the costs of regulation.

In its prospective study on the benefits and costs of the Clean Air Act, EPA estimated that the central benefits estimate exceeds cost by a factor of more than 30 to one. EPA's recent action on the Mercury and Air Toxic Standards shows the problems with changing its cost-benefit approach.

The Mercury and Air Toxic Standards are a success story, reducing mercury emissions by more than 81 percent from 2011 to 2017, providing tremendous health benefits from reductions in dangerous air toxics.

In the EPA's recently finalized rule, a misguided approach is applied that discounts the co-benefits of the rule, which potentially undermines the rule. In its explanation, EPA indicated the rule was no longer appropriate and necessary because of co-benefits added in the original regulatory impact analysis, benefits that some say are double counted or should not be considered in this action.

Mercury is as – these are – those arguments are flawed. Mercury is hardly the only air pollutants that these plants produce. There are over 80 hazardous air pollutants that have significant impacts to health and many have direct impacts on those living near polluting facilities and then some transform

themselves into other – and especially fine particulate matter and can travel long distances away.

Assessing the full implications of air pollution regulations is necessary to ensure adequate protections for human health. Exposure to air pollution can shorten life, cause heart attacks, worsen chronic respiratory conditions, and increase the likelihood that people with asthma will need emergency care or end up in the hospital.

In addition, millions of Americans suffer a greater vulnerability to hazardous air pollutant threats, whether that'd be because of vulnerabilities across the lifespan or from greater risk or exposure.

People of color and low-income communities are more likely to live near-polluting facilities and are among those that experience higher exposure to pollutants and who may experience greater negative health outcomes to such exposures. These populations are most likely to be disproportionately impacted by inadequate air pollution standards.

And lastly, I'll add that benefits are likely undercounted already. A limitation of cost-benefit analysis for air pollution standards is that models don't necessarily have the ability to measure all the health benefits. For example, particle pollution causes lung cancer. The current models don't have a way to estimate the benefits of cases of cancer avoided.

The Mercury and Air Toxic Standards also highlights this point. New study show the original analysis tells us that the benefits of reducing mercury from power plants are much greater than we thought, and that EPA greatly undercounted the benefits in reducing mercury emissions in their calculations.

So, in closing, I reiterate that the Alliance of Nurses for Healthy Environments strongly opposes the EPA's proposal, increase consistency in considering benefits and costs in the Clean Air Act rulemaking process. And we urge EPA to maintain the existing practice of calculating the full benefits and costs. Thank you.

Jan Connery: Thank you. Are there any questions of clarification from EPA for Cara?

Kelley Raymond: No, no question. Thank you.

Jan Connery: OK. Good.

Well, we'll move on to our next speaker and that is Paul Billings to be followed by Ben Levitan.

And, operator, please unmute Paul Billings' line. And Paul, please start by stating and spelling your name for the record and then begin your comment.

Paul Billings: Thank you. Good morning. I'm Paul Billings, P-A-U-L B-I-L-L-I-N-G-S, I'm the National Senior Vice President of Public Policy for the American Lung Association.

I appreciate the opportunity to speak today. The American Lung Association is the oldest voluntary health organization in the U.S. Lung disease is the fourth leading cause of death in the U.S. and lung cancer is a leading cancer killer among women.

Nearly 25 million people, including six million children, suffer from asthma. We advocate on behalf of everyone who breathes. In April, we released our 21st annual state of the year report. The report found that nearly 5 in 10 people hundred or 150 million Americans living counties of unhealthy ozone or particle pollution. This represents an increase from last year's report that showed 141.1 million people living in those counties.

State of the Air highlights that people of color bear a disproportionate burden from air pollution. Studies have found Hispanics, Asians, American Indians, Alaska Natives and especially African Americans has experienced higher risks of harm, including premature death from exposure to air pollution, approximately 74 million people of color, or nearly 6 in 10 living counties that received at least one failing grade for ozone or particle pollution compared to four out of 10 whites.

Of the over just 20 million – of the just over 20 million people who live in counties that get failing grades for ozone short term or year-round particle

pollution, 14 million are people of color. Yet in the middle of a COVID-19 pandemic that has claimed the lives of more than 125,000, EPA is proposing a new rule that will change and weaken the cost-benefit analysis of air pollution cleanup rules. This doesn't make sense.

First, the American Lung Association strongly opposes this proposal and urges EPA to withdraw it. Last month, the American Lung Association and 13 health organizations requested an extension of the comment period of at least 30 additional days after the end of the national COVID-19 emergency or 30 additional days after the close of the currently scheduled comment period, whichever's later.

I reiterate this request today. Health and medical professionals are focused on fighting the pandemic and cannot fully participate in this rulemaking.

Cost benefit analysis has many limitations. Far too often, the estimates of costs far exceed with pollution cleanup actually costs, and frequently, the calculation underestimates the benefits or cannot calculate all the benefits. This rule does not address this fundamental weakness.

Instead, it appears this proposal is designed to further ignore the benefits of reductions of key pollutants. I acknowledge the cost-benefit analysis performed in a consistent way do show benefits of cleaning up air pollution. I note that EPA found its review of the benefits and costs of the 1990 Clean Air Act amendments, benefits exceeded costs by a factor of more than 30 to 1.

Pollution reductions that save lives should be celebrated, especially at a time when we are reminded of the important of lung health and the connection between air pollution and COVID-19 death rates.

Pollution cleanup strategies like the Mercury and Air Toxic Standards that achieve reductions of emissions of multiple pollutants should be praised for their efficiency. It's a win-win in pollution controls installed on operator to reduce toxic air pollution from power plants also reduce particulate matter pollution.

This reduces the burden of pollution on public health. It protects babies from methylmercury that damages the developing nervous systems – systems, it reduces the exposure to carcinogens and it saves thousands of lives each year. This may be an inconvenient fact for the polluter who wants to avoid installing and operating pollution controls and may be impossible for EPA to justify rolling back these pollution cleanup rules.

But I can assure you that many Americans living near power plants whose children are healthier today expressly because of the success of the math standards, this is much more than a matter of convenience and avoiding pollution control costs. These benefits are real.

The benefits of reducing pollution. That means a child will not have an asthma attack or an adult won't die prematurely. These are – benefits are important. EPA should not abandon past practice and promulgate a rule to ignore these benefits. I note that new studies released since the original mercury and air toxic standards cost-benefit analysis tells us the benefits of reducing the mercury from power plants are much higher and the EPA greatly undercounted the benefits of reducing mercury emissions in their initial calculations.

I also note the compliance was much less expensive than estimated. In 2012 the EPA estimated that complying with the MATS would be \$9.8 billion a year in 2015. The actual cost has been far less than that amount. More health benefits at a lower cost, that is a win.

In sum, we urge EPA withdraw this proposal ...

Jan Connery: Thirty seconds.

Paul Billing: ... continue to follow past practice for calculating all the benefits when conducting cost-benefit analysis.

Thank you

Jan Connery: Thank you, Paul.

Are there any questions of clarification from EPA?

Kelley Raymond: No, no clarifying questions. Thank you.

Jan Connery: Great. We'll move on to our next speaker who is Ben Levitan, to be followed by Rachel Cleetus.

Operator, please unmute. Ben's line. Sorry, Paul's – sorry, yes, Ben's line.

And, Ben, begin by stating and spelling your name and then you may start your comment.

Ben Levitan: Good morning. My name is Ben Levitan, B-E-N L-E-V-I-T-A-N. I'm a senior attorney on the U.S. Clean Air Team at Environmental Defense Fund.

On behalf of our more than 2.5 million members and supporters, EDF urges EPA to withdraw this harmful and unnecessary proposal which could distort the agency's assessment of benefits and costs of all significant Clean Air Act protections going forward.

It could skew analysis of everything from health-based air quality standards to emission standards for vehicles and large industrial facilities to chemical disaster prevention safeguards. Addressing the media shortly before signing this proposal, Administrator Wheeler provided a troubling indication of his intent. EPA would no longer consider co-benefits when justifying public health protections.

He specifically targeted the Mercury and air toxic standards, calling the consideration of co-benefits, in that context, a shell game. But what Wheeler, dismissed as a shell game, includes the prevention of up to 11,000 premature deaths and the avoidance of other health harms, including 130,000 asthma attacks every year.

Characterizing these co-benefits as some sort of accounting trick ignores their real and vital impacts for families and communities across America. Simply put, thousands of lives depend on EPA prioritizing public health and the environment as it's required to do.

That said, there is an actual shell game at work. Wheeler is dismissing the co-benefits of reduced particle pollution from mass, while at the same time, declining to issue health protective standards for ambient air quality to target the pollutant directly.

This immediately undermines any suggestion in the proposal that EPA might compensate for the loss of co-benefits by directly regulating the pollutant at issue. Instead, the proposal could pave the way for the agency to entirely disregard co-benefits and the corresponding lies at stake.

Nowhere does the proposal forthrightly acknowledge the harm it threatens. Rather, EPA expressly abstains from evaluating the environmental justice impacts of the proposal on communities of color and low-income communities, flouting executive order 12898 on purported grounds such so this action does not establish an environmental health or safety standard.

But the executive order, by its terms, requires federal agencies to ensure that their programs, policies, and activities do not have the effect of denying persons, including populations the benefits of such programs, policies and activities. A policy affecting how EPA calculates or assesses public health benefits falls squarely within the executive orders purview and EPA must clearly explain the environmental justice impacts.

It is especially troubling that the proposal appears to arbitrarily and unlawfully accord greater weight to costs and benefits, further eroding the statutory rights of those the Clean Air Act was designed to protect. The proposal seems animated by an underlying assumption that the agency has historically underestimated costs or overestimated benefits, but nowhere does the agency substantiate that claim which was apparently made by unidentified commenters on a 2018 ANPR.

In fact, EPA's assumption defies the evidence, which if anything, shows the opposite. The benefits of Clean Air Act protections have exceeded expectations while the cost had been less than anticipated. Yet the proposal does not assess ways that the EPA has historically underestimated benefits and overestimated costs nor does it consider whether systematic changes are

in order to fully account for benefits, further indicating that this rulemaking, it's arbitrary and one sided.

In addition to its many other flaws, this proposal is simply unnecessary. EPA has long utilized its guidelines for preparing economic analysis which it is currently revising. The proposal offers no compelling rationale for now promulgating a regulation on the same topic.

In sum, EPA has not demonstrated that this regulation would solve any problem but there are many ways in which it could distort, skew, or impede future cost-benefit analysis for Clean Air Act rulemakings.

We strongly urge EPA to withdraw this ill-conceived proposal. Thank you.

Jan Connery: Thank you. Are there any EPA questions of clarification for Ben?

Kelley Raymond: No, no clarifying question. Thank you.

Jan Connery: OK. Great. We will move then to our next speaker who is Rachel Cleetus, to be followed by Jonathan Levenshus.

Operator, please unmute Rachel's line and Rachel, begin by stating and then spelling your name and then start your comment.

Rachel Cleetus: Hello, my name is Rachel Cleetus, R-A-C-H-E-L C-L-E-E-T-U-S. I'm the policy director for the Climate and Energy Program at the Union of Concerned Scientists. Thank you for the opportunity to speak today. I'm here on behalf of UCS and our network of more than 25,000 scientists and more than 500,000 supporters here to say that we strongly repudiate the EPA's proposed rule on benefit cost analysis.

We're greatly concerned that at a time when our nation is faced with increasing evidence of the dangers of air pollution and the damaging impacts of climate change, the EPA is moving forward with a rulemaking that aims to seriously undercut vital Clean Air Act protections.

This proposal marks a significant and damaging departure from longstanding economic and regulatory best practice, threatens far reaching implications, undermines public health of a given rule, as well as the robustness of future Clean Air Act rulemaking processes.

We believe the statute is neither necessary nor appropriate and risk doing significant harm, which will fall disproportionately on communities of color.

The EPA is supposed to evaluate evidence and craft rules that protect public health and safety. Instead, this proposed rulemaking slips that mission on its head. They're transparently aimed at undermining the clear case for strong public health protections, devaluing, and marginalizing significant direct benefits of these policies, essentially rigging the process to justify the weaker rules that the Trump administration has single mindedly pursued.

Erasing numbers from a spreadsheet doesn't change the reality that cutting pollution saves lives and improve health. If finalized, these changes will enable powerful industries to pollute more under the pretense that it's less harmful. Families and communities will be paying the cost of this manipulation of science directed by Administrator Wheeler.

Longstanding economic and regulatory best practice makes clear the benefits and goals should be treated similarly. There should be no differentiation between direct and co-benefits. Any departure would be significant, damaging, and then indefensible a shift in procedure with grave health and environmental justice consequences.

This action would deeply devalue rules that could achieve significant simultaneous reduction in pollutants and thus lower the probability of the public reaping these increased health benefits from a single rule. It's scientifically inaccurate to discount or ignore the benefits below the current standards for non-threshold pollutants such as particulate matter.

Evidence suggests that health impacts continue to be observed at levels below their current annual PM2.5 standard, for example. These health impacts, including premature mortality, does need to be considered. Failing to do that using evidence-based concentration response functions that benefit cost

analysis is ignoring both science and legal precedent for accurate accounting of benefits from pollution reduction.

The administration's actions to date relating to the social cost of carbon have also been far out of line with longstanding best practice. It is inappropriate to require consistency, quote-unquote, "consistency across the Clean Air Act." Given the differences in statutory obligation for different pollutants.

By departing from longstanding practice and muddying the findings of regulatory analysis, this anticipated action would not increase transparency for the public nor the rulemaking process. The EPA's assessment of costs and benefits is already transparent to the public and the proposal offers no evidence of a lack of transparency.

In the middle of one of the greatest public health crises in living memory, EPA Administrator Wheeler is focused on making it easier to undo existing public health protections, making it harder to put new ones in place. It's unconscionable.

Given the state of national emergency due to the COVID-19 pandemic and the far reaching of this proposal, we believe the public should be given more time to comment on the rule. UCS has also submitted a request to extend that common period at least 30 days beyond when the federal government lists the state of national emergency.

We strongly urge the EPA to abandon this harmful and unnecessary proposal to ...

Jan Connery: One minute.

Rachel Cleetus: ... instead rely on longstanding regulatory, economic, and scientific best practices and to renew its commitment to focus on the vital mission of the agency to protect public health.

Thank you.

Jan Connery: Thank you, Rachel. EPA, do we have any questions of clarification?

Kelley Raymond: No, no clarifying questions. Thank you.

Jan Connery: OK. We will move to our next speaker who is Jonathan Levenshus to be followed by Daren Bakst.

Operator Please unmute, Jonathan. And, Jonathan, begin by stating and then spelling your name and then start your comment.

Jonathan Levenshus: Good morning. My name is Jonathan Levenshus, J-O-N-A-T-H-A-N L-E-V-E-N-S-H-U-S. I'm the director of federal campaigns for the Sierra Club's Beyond Coal Campaign.

On behalf of our millions of members and supporters, I'm speaking this morning against the EPA proposal. The Sierra Club will be submitting written comments into the docket before the comment deadline.

We are deeply concerned that EPA is advancing this process during a national public health emergency. While I appreciate the opportunity to comment this morning, I strongly oppose the decision to proceed with the hearing. By issuing this proposal during the COVID-19 pandemic, EPA is failing to take seriously the impact it will have on millions of Americans affected by harmful air pollution and those who are experiencing the respiratory virus. I urge EPA to extend the comment period and to also provide additional opportunities for public input here.

Sierra Club is also deeply concerned about EPA's wholesale efforts to undermine environmental protections especially for populations impacted most by pollution. Recent research, for example, found that long-term exposure to air pollution, which disproportionately burdens low income communities and communities of color, is associated with a significantly higher death rate from COVID-19 in the United States.

Under the Trump administration. EPA has taken action after action to weaken, reconsider, delay or withdraw scores of critical environmental and public health safeguards that the agency previously adopted to comply with its statutory obligations.

Many of these rollbacks have been premised on the claim that those safeguards would somehow impose unreasonably burdensome costs on industry, would hamper economic growth, or would not generate the kinds of health benefits that the agency had initially calculated.

On the contrary, the Clean Air Act rules that EPA is now seeking to undermine have yielded major public health and environmental benefits, net of all costs, and we'll continue to do so into the future.

To obscure the damage that would result from its rollback proposals, the agency has issued analysis of regulatory costs and benefits that rely on specious and oriented reasoning while avoiding evidence-based science and economics that would, if applied correctly, impugning agency's newly preferred course of action.

Over the last several years, Sierra Club and our allies have submitted rigorous legal and technical comments detailing the serious errors in EPA's regulatory assessments that attempt to justify these rollbacks. But now, EPA is proposing a deeply flawed and entirely unnecessary analytical approach that would apply to all significant Clean Air Act rulemakings going forward.

Sierra Club strenuously opposes this misguided scheme. Instead of proceeding with this proposal, EPA must reverse its defective practices for analyzing the costs and benefits of Clean Air Act rules. We must also stop the practice of severely restricting the kinds of scientific research that EPA may rely upon in rulemaking efforts.

For decades, the EPA relied on evidence-based science, research, and economics to develop its rules. But with this proposal, the Trump administration has taken a decidedly anti-regulatory approach to a new level. That's wrong. And the implications of this proposal for all future EPA rulemaking are profound.

If finalized, this rule would require the agency to show a, quote, "compelling need for federal government intervention in the market," unquote, each and every time it undertakes a major Clean Air Act rulemaking. Not only has Congress never required such a demonstration, it already found that there was

a compelling need for federal pollution standards by passing the Clean Air Act in the first place.

Additionally, the proposal would force EPA to differentiate between emission reductions of a rules targeted pollutant on the one hand, and emission reductions of all other pollutants or co-benefits on the other hand. Yet there is no legal, scientific or economic basis for such a distinction.

This proposal could also pave the way for EPA to ignore co-benefits altogether. An arbitrary and radical anti-regulatory step that Andrew Wheeler's EPA has already undertaken in specific context. The EPA must not standardize this irrational approach simply because certain industries it favors have asked them to do so.

We cannot afford to hamstring EPA's ability to protect public health and welfare. If this rule were finalized, it would mean more greenhouse gas pollution, more smog and soot pollution, and more haze in our national parks. It could also mean more premature deaths, more emergency room visits, and more missed work and school days.

The public deserves better but EPA did take this drastic step to undermine the benefits of Clean Air ...

Jan Connery: One minute.

Jonathan Levenshus: ... the pandemic and our – as our country is struggling with racial and economic justice – injustices is unconscionable.

Now, more than ever, it's critical to keep protections in place that protect the public from the adverse health impacts of air pollution. It's also critical that we follow the advice of our scientists and public health experts.

If we can do more to save lives from air pollution, we should. Indeed, we must by throwing up roadblocks like this proposal toward effective Clean Air Act protections. This bill would do the opposite. Please withdraw this dangerous proposal.

Thank you

Jan Connery: Thank you, Jonathan. Are there any EPA questions of clarification?

Kelley Raymond: No, no questions. Thank you.

Jan Connery: All right. We will move to the next speaker who is Daren Bakst to be followed by Kelly Aves.

Operator, please unmute Daren.

Daren, begin by stating and then spelling your name and then start your comment.

Daren Bakst: Thank you. Daren Bakst, D-A-R-R-E-N B-A-K-S-T, my name is Daren Bakst and I'm a Senior Research Fellow at the Heritage Foundation. The views I expressed in the statement are my own and shouldn't be construed as representing any official position of the Heritage Foundation.

I commend the EPA for proposing a rule that shows an appreciation for being transparent, about how the agency goes about making its decisions. Proving benefit cost analysis under the Clean Air Act, including by developing consistency and transparency, isn't merely about or knowing how decisions are being made, it's mainly about improving the agency's regulatory decisions that impact the lives of all Americans.

Today, I'd like to focus on one aspect of the proposed rule. The issue of ancillary benefits. The proposed rule would require that the Agency disaggregate the benefits into those benefits that are targeted and ancillary to the statutory objective of the regulation.

While the dissemination of this information will be helpful to some extent, any final rules should provide a clear, reasonable standard as to how ancillary benefits will be used in deciding whether to move forward with a rulemaking.

For many years, the use of ancillary benefits has been used to justify Clean Air Act rules that have no legitimate basis for being promulgated in the first place. Unfortunately, the EPA, has long abused benefit cost analysis and not

merely with the MATS rule where ancillary benefits from reductions of particular matter which can afford 99.9 percent of monetized benefits.

So, why does the abuse of the ancillary benefit is a problem? Let me only provide just two reasons. First, the overruling of ancillary benefits can allow the EPA to regulate a pollutant without ever making a case that reducing emissions to the target pollutant is even warranted. That's what happened with MATS rule.

In fact, why the EPA bother to try to figure out the benefits of regulating a targeted pollutant? That's the question EPA hasn't currently asked themselves in the past.

According to New York consulting data the EPA did not quantify any direct benefits for six major Clean Air Act rules from 2009 (until) 2011. The quantified benefits were exclusively from the ancillary benefits.

Second, when ancillary benefits are greater than the direct benefits, the stated purpose of the rule cannot reasonably be claimed to be the true purpose of the rule. Instead, the rule is really about addressing the pollutant giving the ancillary benefits.

For example, the MATS rule based on the alleged benefits is really just a particulate matter rule. The EPA should have analyzed the rule that includes conducting proper regulatory analysis such as identifying ways to address particulate matter.

It also includes that showing that particulate matter can legally be regulated under the specific Clean Air Act provision. Especially since the statute already has other sections that address the regulation of particulate matter. The use of ancillary benefits shouldn't provide the EPA at end-run to get around the law to regulate whatever it wants.

Before providing my recommendations, I'd like to make a point that I think is lost. The word ancillary as defined has been less important as something else, secondary or subordinate. The ancillary benefits exceed the direct benefits,

the primary benefits of a rule that can hardly be considered less important than the direct benefits or subordinate to them.

When the agency and others use the term co-benefits which is misleading, it suggests that benefits are equal to each other. However, as I pointed out, the ancillary benefits which is the terminology used in OMB Circular A-4 isn't synonymous for being equal to direct benefits.

So, should the EPA take ancillary benefits into account? There's a wide spectrum of reasonable options. At a minimum, direct benefit should exceed ancillary benefits.

In others words, the majority of the total benefit should come from direct benefits. This helps to ensure that a primary purpose to the rule is really the primary purpose. This shows that the primary benefit – benefits are, in fact, the primary benefits.

This will help to avoid end-runs around the law and require proper regulatory analysis of what is the thought that should we target of the rule. Quite simply, instead of a objective way to avoid regulatory abuse and to prevent agency from developing pretextual reasons for promulgating a rule.

This approach, though, again, is a minimum approach that should be used to instill treatment of benefits ...

Jan Connery: One minute.

Daren Bakst: ... coequal to direct benefits. The EPA can consider ancillary benefits who had not give them so much inappropriate way. For example, the EPA could allow significant amount of ancillary benefits to be considered when comparing the total benefits to cost.

For example, EPA would not be able to exceed 25 percent of the total benefits for some other objective, yet, significant amount of total benefits.

Thank you for this opportunity to provide comments today. I'd look forward to submitting written questions on the proposed rule and addressing the treatment of ancillary benefits in greater detail. Thanks.

Jan Connery: Thank you. Does EPA have questions of clarification for Daren?

Kelley Raymond: No, no questions. Thank you.

Jan Connery: OK. We will move to the next speaker who is Kelly Aves to be followed by Steve Milloy.

Operator, please unmute Kelly's line. And, Kelly, begin by stating and spelling your name and then start your comments.

Kelly Aves: My name is Kelly Aves, K-E-L-L-Y- A-V-E-S. I'm a policy intern at the Environmental Law and Policy Center, ELPC, and a graduate student at the University of Chicago. My testimony is to respectfully provide comment in opposition of the proposed rulemaking.

The language concerning the methods of BCA is not only unnecessarily vague, but unnecessary altogether. As stated in the rule itself, the EPA already has peer reviewed guidelines on performing BCA. Creating a rule in BCA is either an attempt to prevent future administrations from enacting changes as they see fit to deviate from the accepted best practices and existing EPA guidelines or both.

The lack of clarity in the rules surrounding what is to be counted as a direct benefit versus what is to be counted as a co-benefit opens the door for degrading the BCA process. BCA is supposed to determine if a regulation will result in a net benefit to society.

In other words, an increase in social welfare. Social welfare cannot be constrained to the narrowness of the impact of a single pollutant in question. The real positive spillover effects of co-benefits must be considered.

What is further concerning is that this rule appears to allow the results of the BCA to dictate which regulations are enacted. This is explicitly not allowed

for the national ambient air quality standards, but must not creep into other areas of decision making when it is not required.

The EPA should not perform retrospective BCA analysis of significant Clean Air Act ruling rulemaking. Performing a narrow BCA on already existing and act as regulations would serve no purpose except rolling back important health protections.

Additionally, the guidelines for which scientific studies can be used for the estimation of benefits is vague and potentially limiting. Proving a true causal relationship in science described in this proposal as a requirement for selecting benefit endpoints is oftentimes impossible and causal language is commonly avoided by scientists as good practice.

Also, from an epidemiological study to be considered, quote, "the study location must be appropriately matched the analysis and that the study population characteristics must be sufficiently similar to those of the analysis," unquote. Not only are these requirements insufficiently described, they seem unduly stringent.

Based on costs and ethical considerations, many epidemiological studies are natural experiments and may not perfectly meet these criteria, reducing the amount of critical evidence that might have been used to calculate benefits.

Lastly, not accounting for important co-benefits from regulations under the Clean Air Act, especially from PM2.5 production is dangerous for public health and goes against the EPA's core mission to protect human health and the environment.

My responsibilities, while ELPC include measuring the levels of PM2.5 in the neighborhood, I live in Hyde Park, on the south side of Chicago, it is not out of the ordinary to measure particulate matter levels of 20 micrograms per meter cubed. By not including co-benefits such as PM2.5 reductions, the EPA is unreasonably tipping the balance against regulation by comparing artificially depressed benefits to a full set of costs.

In doing so, you are endangering people that live in neighborhoods like mine that have been historically disadvantaged by loosening restrictions and potentially increasing harmful pollutants and PM2.5. This contradicts the core mission the EPA claims to uphold and the entire objective of the Clean Air Act.

While I appreciate the chance to testify before the EPA on its proposed rulemaking, I must say that certain aspects of the proceeding are disappointing. The necessity of meeting virtually has not yet diminished. However, this must not become the norm when in-person gatherings become safe again.

Recent public hearings to a phone call with community speakers as those sharing important and emotional testimony have no way to tell if EPA staff or attorneys was listening. The ELPC has raised its concern in several hearings now, including phone-in hearings for rules, which pre-dated the COVID-19 crisis.

The ELPC urges that the EPA offer public hearings over a video platform with the option to dial on over phone -- over phone. Being able to see those speaking face to face and ...

Jan Connery: One minute.

Kelly Aves: ... a feeling of normalcy and competence in knowing that your comments are being taken seriously. Just to reiterate, we oppose this proposed rulemaking. Thank you

Jan Connery: Thank you, Kelly. Are there any EPA questions of clarification?

Kelley Raymond: No, no questions at this time. Thank you.

Jan Connery: All right, we will move to our next speaker, that is Steve Milloy, to be followed by Trisha Dellolacono.

Operator, please unmute Steve's line. And, Steve, begin by stating and then spelling your name and then start your comment.

Steve Milloy: My name is Steve Milloy. S-T-E-V-E M-I-L-L-O-Y.

Good morning. My name's Steve Malloy. I publish JunkScience.com. I commend EPA for trying to improve the travesty its cost-benefit analysis has become. EPA has too often, over the past 25 years, justified huge and actual regulatory costs with entirely imaginary benefits.

Over the decades, corrupt EPA staff have figured out how to gain cost-benefit analysis to justify ever more burdensome and pointless regulation. The epitome of this corruptions PM – is EPA's PM2.5 Air Quality Regulation. EPA staff has claimed that PM and outdoor air kills anywhere from fifteen 15,000 to as many as 560,000 people per year.

Then EPA staff places a dollar value on the lives allegedly saved by its regulations. In 1996, for example, when EPA staff claimed its PM (act) would save 15,000 lives per year, the value of saved life was \$5 million.

By 2011, when EPA staff (claimed) its war in coal rules, would save 38,000 lives per year, the value of a lost life jumped to almost 10 million. You start multiplying tens of thousands of lives saved with valuations in the millions of dollars, you get fantasy annual economic benefits on the order of tens of billions of dollars.

In this way, EPA had valued its war on coal rules is worth two and a half percent of GDP. That was crazy. In this way, the cost of every regulation, no matter how it rages, is easily justified. That is how the Obama EPA sold its war on coal rules to the unwary public.

There are two levels of fraud here. First, anyone who has studied PM and is honest about what they have learned, the PM kills no one. So, claims of lives saved by PM regulation are just pure fantasy.

Next, the value of an alleged life saved is also bogus. The initial valuation of a life saved use by EPA 1996 that is \$5 million dollars was conjured up by dishonest economists surveying people with this question, how much would you pay to reduce your risk of premature – premature death by one in 100,000?

Obviously, any answer to that question is entirely arbitrary and absurd. To get to the \$5 million valuation, the EPA staff took the median response from the series of such surveys which was \$50 and multiplied by 100,000.

That process has nothing to do with economics. It's just a rationalization for getting a big benefit number. "The Economist" called this former fraud contingent evaluation.

The two-step process that I just described (is inventing) out of thin air a number of lives saved and then inventing out of thin air a monetary value for this fake lives saved is what – is what has constituted flagship EPA cost-benefit analysis since 1996.

As you can see, the fundamental problem with EPA staff is one of honesty. Honesty is a problem that plagues many political endeavors which is largely what EPA has become.

I appreciate this rulemaking by the Trump EPA because it's drawing attention and interest to the corrupt ways EPA has practices cost-benefit analysis.

While this rulemaking can't fix the dishonesty ramping among EPA staff, it can shine a light on it. Thank you for that.

Jan Connery: Have you concluded your comments?

Steve Milloy: Yes.

Jan Connery: OK. Great. Thank you, Steve.

Are there any questions of clarification from EPA?

Kelley Raymond: No, no clarifying questions. Thank you.

Jan Connery: All right, we will move to our next commenter, Trisha Dellolacono, who will be followed by Patrice Tomcik.

Operator, please unmute, Tricia. Tricia, begin by stating then spelling your name and then start your comment.

Trisha Dellolacono: Good morning. My name is Trisha Dellolacono. It's Trisha, T-R-I-S-H-A, Dellolacono, D-E-L-L-O-L-A-C-O-N-O. I'm the national field manager for Moms Clean Air Force. We are an organization of over 1 million parents across the country fighting to protect our children's health and future from climate change and harmful air pollution.

Thank you for the opportunity to allow testimony on this important issue. And speaking today on behalf of our more than 1 million members in urging the EPA to withdraw this reckless and dangerous proposal that would change the important and lifesaving cost-benefit analysis practices at EPA.

I'm also a mom to four young children. We live in a small town in southern New Jersey. I work every day to ensure their health is protected. And as national field manager for a public health organization, I work with families across the country who are disproportionately impacted from air pollution to ensure that these families have vital public health protections in place.

This proposal is especially detrimental to these same communities, low income and communities of color, that are overburdened by air pollution and comes as our country grapples with a global public health pandemic that is disproportionately affecting the health of our black and brown communities at alarming rates.

I urge the EPA to maintain the existing, longstanding, and vital practice of calculating the full benefits and costs of federal rules and strongly urge the administration to withdraw this proposal that would change the cost-benefit analysis practices by the EPA.

This proposal would result in inaccurate calculations of the public health benefits and cost-savings to our health. The requirements would make new clean air protections more difficult to justify and distort the agency's consideration of vital health science.

We have already seen how this skewed approach to cost-benefit analysis would play out in the recent attack on our mercury and air toxic standard. As a mom of four, including my 7-month-old baby girl, mercury protections are vitally important in ensuring the health and safety of my family and my baby's developing brain from the harmful effects of mercury, a potent neurotoxin.

Mercury pollution has been shown to cause serious health impacts in children, babies, and developing fetuses. It crosses the placenta of pregnant women and harms the brains of developing baby. Our current mercury and air toxic standards have cleaned up more than 80 percent of our nation's mercury pollution since the finalization of the rule in 2012.

Administrator Wheeler's attack on mercury protections sets the stage for a sweeping relaxation of pollution rules by making it harder to justify the costs of new regulations. The rule under discussion today is simply a continuation of this approach which prioritizes deregularization of the industry over the health of our families.

According to Carol Browner, who headed the EPA from 1993 to 2001, the Wheeler Mercury Rule radically changes how the agency undertakes cost-benefit analysis. She characterized the Wheeler attack as a sinister Trojan horse policy that will undermine how EPA considers science and evaluates economic benefits and regulations in the future.

A cost-benefit analysis takes into account the total benefits and human health of implementing a given regulation when calculating its costs. In the case of the mercury standard, the custom installing scrubbers that remove mercury and other air toxics from smokestack emissions compared to the health benefits of preventing that pollution from harming people.

The reality is that those scrubbers have the added benefit of removing deadly particulate pollution from the coal plant emissions in the process of saving thousands of lives and preventing tens of thousands of asthma attacks.

Pretending that those important added public health benefits do not exist is reckless and dangerous and exactly what this proposal will do. Administrator Wheeler's mercury attack dramatically undercounts the benefits, claiming that

the only relevant benefits are those that come from reducing the mercury pollution, despite the fact that the scrubbers are also reducing deaths, deadly particulate pollution.

Yet on the cost side, every single thing is being accounted for to try to run up that number. Similarly, the cost benefit proposal would codify a process that inflates costs and ignores benefits. The results will harm public health, including the health of my children ...

Jan Connery: One minute.

Trisha Dellolacono: ... urging the EPA to withdraw its proposal and abandon any efforts to change the cost-benefit analysis.

Thank you.

Jan Connery: Thank you, Trisha.

Are there any EPA questions of clarification?

Kelley Raymond: No, no questions. Thank you.

Jan Connery: OK. We will move to our next commenter, that's Patrice Tomcik, followed by Elizabeth Brandt.

Operator, please unmute Patrice's line. And, Patrice, begin by stating and then spilling your name and then start your comment.

Patrice Tomcik: Good morning. My name is Patrice Tomcik, P-A-T-R-I-C-E T-O-M-C-I-K. I'm the project manager of state campaigns for Moms Clean Air Force in an organization of over 1 million moms and dads united to protect our children's health from air pollution and climate change.

Thank you for the opportunity to give my testimony today. I live in Gibsonia, Pennsylvania, about 30 minutes north of Pittsburgh with my husband and two young children. EPA's proposal to change the process for calculating cost-benefit analysis for regulatory decision making would have serious health impacts for children and families across the nation.

As we face the impact of COVID-19, a virus that attacks the respiratory system, the importance of clean air and public health protections for our families is paramount. I oppose this proposal and urge EPA to withdraw it.

For three and a half years, the Trump administration has senselessly attacked clean air safeguards proven to protect health under the Clean Air Act. The benefits of the Clean Air Act to protect public health have exceeded expectations, while the costs have been less than anticipated. Despite the success of the Clean Air Act, Trump's EPA has attempted to weaken or eliminate vital pollution protections from the clean cars that clean cars (burn) mercury air toxic standards, particulate pollution, and the oil and gas methane rule while denying science and giving polluters the freedom to pollute.

I live on top of the Marcellus Shale and my children go to school a half mile away from unconventional gas wells, often called fracking. I'm concerned about harmful air pollutants that my children may be exposed to from well – from the well pad that they attend school or play outdoors sports because methane is often paired with other toxic pollutants such as benzene, the release of methane into the air can cause serious health problems, especially for the 2.8 million children who go to school and 12.5 million people who live within a half mile of oil and gas operations nationally.

Currently, Administrator Wheeler is working to eliminate the EPA oil and gas methane rule, which would leave a majority of children and families without any methane protections. As a mother, I can tell you that nobody gets to put a price on my children's health.

Eliminating the cost-benefit analysis is another way that Administrator Wheeler is attempting to a – attempting a permanent tipping of the scales in favor of polluters while denying the science that provides evidence of the costs of pollution to public health, and by diminishing the value of benefits from reducing air pollution while disregarding the consideration of co-benefits to health from pollution reductions.

Scientists have known for decades that polluted air can cause health conditions that make people more vulnerable to disease and infection.

Wheeler has moved to censor the types of scientific research that EPA can consider when setting pollution standards, preventing relevant peer reviewed public health research from being considered when making decisions about the environment and human health.

These peer reviewed studies provide the real cost to human lives from air pollution such as asthma attacks, heart attacks, respiratory disease, cancer, developmental disease, birth defects, premature birth, low birth weight, death, and climate impacts that further impact health.

Administrative Wheeler's proposal could pave the way for the EPA to diminish the clear health value of air pollution reductions, while at the same time disregarding the co-benefits to help of reducing associated pollutants.

The crux of this terrible proposal centers on the denial of robust and consistent scientific evidence that air pollution causes serious health impacts.

In addition to many other flaws, the proposal fails to identify any real problems that exist with the current system and only serves to create more red tape for cost-benefit analysis of future Clean Air Act rulemakings.

EPA has examined the costs and benefits of regulations for decades, using the existing peer reviewed embedded guidelines and determined it to be a useful tool. This proposal is simply unnecessary and attempts to solve a problem that doesn't really exist.

As COVID-19 rewrites our present and our future ...

Jan Connery: One minute.

Patrice Tomcik: ... Moms won't accept continuing on the same polluting path we had before. The cost of inaction has already put our family's health at risk, especially now in protecting public health and safeguarding our climate is more important than ever.

I urge EPA to maintain the existing longstanding practice of calculating the full benefits and costs of federal rules and strongly urged the administration to

abandon any efforts to change the cost-benefit analysis. Thank you very much.

Jan Connery: Thank you, Patrice. Are there any questions of clarification from EPA?

Kelley Raymond: No. No questions. Thank you.

Jan Connery: All right. We'll move to our next commenter, that is Elizabeth Brandt to be followed by Hayden Wong Hashimoto.

Operator, please unmute Elizabeth. And, Elizabeth, start by stating and then spelling your name and then begin your comment.

Elizabeth Brandt: Hi. I'm Elizabeth Brandt. That's E-L-I-Z-A-B-E-T-H B-R-A-N-D-T.

Hello and thank you so much for listening to my testimony today. My name is Elizabeth Brandt. I'm a social worker and a regional field manager for Moms Clean Air Force. Moms Clean Air Force is an organization of more than one million parents across America who are taking action against air pollution and climate change.

We are motivated by love for our children and we are asking EPA to stand strong in protecting their health. I oppose this proposal and I urge the EPA to withdraw it.

EPA's proposal to change the process for calculating cost-benefit analyses for regulatory decision making will have dangerous implications for public health when many benefits from regulating harmful emissions are already undervalued and the proposed rule will place Americans at further risk of the harmful health effects of air pollution.

I'm not a technical expert. I'm a mom and a social worker. I grew up next to a copper smelting site in Tacoma, Washington, that has impacted my family's health. What I've learned from my family's experience is that pollution causes long term damage that impacted families are left to bear without much help.

The yard of my childhood home in Tacoma is still full of arsenic. Decades after moving away, my sister had cancer that her oncologist described as atypical for a woman of her age with no genetic cancer markers.

I have also been told that I am at risk for developing cancer. No one can know if my family's experience is due to the pollution from the smelter but scientists agree that the health of our neighborhood was and so is negatively impacted by smelter pollution.

Obviously, there is a cost to cancer, both to the impacted family and the larger community. My sister could not work full time for a year during her treatment and its prospective study on the benefits and costs of the Clean Air Act, EPA estimated that the central benefits estimate exceeds cost by a factor of more than 30 to one.

Reductions in heart attacks, asthma exacerbations, missed days of work and school, and premature deaths are not only beneficial to health, but also reduce costs.

Which families bear these costs? Which communities? The proposed rule would look only at averages across American instead of looking at how specific communities are impacted.

This is patently unfair because systemic racism in our country, communities of color share a greater burden of air pollution. African-American people breathes 50 percent more PM2.5 than the population at large. African American children are more than three times as likely as white children to be admitted to the hospital for asthma attacks.

When we look at national or regional averages, these patterns are invisible. Let me be clear, America has no expendable children, no expendable people and no expendable community. This proposal has sidestepped making any investigation into its impact on environmental justice communities. That is unacceptable.

At this point, when our neighbors are struggling to breathe due to so many insidious forms of racism, any policy that does not confront these realities

head-on is part of the problem. This proposal seems to be yet one more plank in the Trump EPA deregulatory agenda.

EPA's do nothing proposals on the national ambient air quality standard from the EPA showed that while Administrator Wheeler is willing to totally dismiss co-benefits and better address directly of different policies, the Trump EPA won't address them at all.

Also, this proposal mandates that EPA do cost-benefit analysis that doesn't lay out a framework for how the analysis will shape regulation. We can't leave this to chance. I have no reason to trust that this vague policy will adequately protect American families in line with the Clean Air Act.

I could not prevent my sister's cancer. But I'm determined that my kids and their generation will not have this experience. It is the responsibility of all ...

Jan Connery: One minute.

Elizabeth Brandt: ... adults and EPA leaders to protect children who don't yet have a voice to speak about pollution and the air that they breathe.

I urge EPA to maintain the existing long-standing practice of calculating the full benefits and cost of federal rules. Our American children are the greatest resource and investment that we have in our future. As a parent, I have one simple request for the EPA. Please consider their health first. No amount of profit can be traded for healthy kids. Thank you.

Jan Connery: Thank you.

EPA, do you have any questions of clarification for Elizabeth?

Kelley Raymond: No, no clarifying questions. Thank you.

Jan Connery: All right. We will move to our next speaker, who is Hayden Wong Hashimoto, to be followed by Paul Noe or Noe.

So, operator, please unmute Hayden's line.

And, Hayden, you may begin by stating and spelling your name and then start your comment.

Hayden Hashimoto: My name is Hayden Hashimoto, that's H-A-Y-D-E-N H-A-S-H-I-M-O-T-O.

Good morning. My name is Hayden Hashimoto and I'm an attorney and legal fellow with the Clean Air Task Force. CATF seeks to protect public health and the environment from the impacts of harmful air pollution through research, analysis and public activity.

U.S. EPA's proposed rule on the benefits and costs of Clean Air Act rulemaking threatens to subvert the agency's mission to protect human health and the environment. The proposal has no legitimate purpose and instead appears intended to hamstring future environmental regulation by creating excessive burdens for the agency as a prerequisite to regulation.

The proposal also appears intended to undermine the agency's ability to justify regulations based on the full range of benefits to public health and the environment. Last but certainly not least, the agency has no valid statutory authority for this role. Therefore, it must be withdrawn.

EPA's claim of statutory authority under Section 301 of the Clean Air Act is inconsistent with the statutory language. Section 301, as EPA admits, provides authority to the administrator, quote, "to prescribe such regulations that are necessary to carry out his functions," unquote.

EPA provides no explanation as to why this new and unprecedented rule is necessary to carry out any function of the agency. It is also worth noting that the D.C. Circuit very recently rejected a couple of similar attempts by federal agencies to exploit general grants of rulemaking authority.

In New York Stock Exchange, the (SEC), the D.C. Circuit declared that, quote, "rules are not adopted in search of regulatory problems to solve, they are adopted to correct problems with existing regulatory requirements that an agency has delegated authority to address," end quote.

And in Merck & Co. Inc., the U.S. Department of Health and Human Services, those court state that, quote, "although the secretary's regulatory authority is broad, it does not allow him to move the goalpost to wherever he kicks the ball," end quote.

EPA claims its unprecedented proposals intended to address vague notions of consistency and transparency, yet the reality is that Congress wrote the Clean Air Act to allow and sometimes mandate EPA to consider or not consider the cost impacts of regulation in different ways, depending on statutory context.

And while EPA acknowledges in the proposal itself that, quote, "as discussed in OMB Circular A-4, a good regulatory analysis cannot be developed according to a formula," end quote. In fact, that appears to be precisely the point of making this proposal.

It is also important to note that what EPA proposes here are restrictive procedural requirements with no provisions to account for the significant budgetary costs of the agency of imposing these requirements. This proposal also creates a serious risk of analysis paralysis and is likely to hinder the agency's ability to respond quickly to new and potentially serious threats to public health and the environment. While EPA requests comment on whether elements of the proposal should consider the agency's resource constraints, the proposed rule fails to adequately account for this critical issue in its implementation.

For example, the agency proposes an imprudent methodology for selecting concentration response functions, which rather than choosing functions with the strongest scientific support, would require using combination of all functions that satisfy minimum criteria to the extent of technical feasibility.

This overly inclusive approach creates essential for both obfuscation of the strongest science and excessive amount of analytical burden. The presentational requirements in this proposal are also concerning. As they appear designed to undermine the agency's ability to justify environmental regulations based on the full range of benefits achieved by those regulations and puts caps upon the relevance of certain benefits it does monetize.

While EPA claims this is a purely procedural rule. The agency goes into detail about the use of BCA in developing regulations and how courts have used BCA to inform the review and invalidate unreasonable and arbitrary and capricious agency actions. The EPA also solicits comments on how the institution consider BCA results in its regulatory decisions.

Therefore, it is difficult to understand how this proposal would have no substantive impact on environmental regulations. This rule is one more piece of this of this administration's far reaching attempts to manipulate agency calculations of science in order to undermine EPA's ability to issue health and environmentally protective rules under the Clean Air Act.

By mandating this analytic approach, the non-monetizable benefits, the public health and the environment get short shrift as the ancillary benefits of Clean Air Act rules associated with fine particulate matter reduction. This is the same process to devalue such ancillary benefits that characterizes the agency's recent supplemental proposal to limit EPA's consideration of longstanding scientific studies, including the epidemiology underlying PM-related benefits.

It also uses the same kind of approach to cost and benefits finalized in the agency's recent reversal of the appropriate and necessary funding for the mercury and air toxic standards or MATS in which ancillary particulate matter reductions are given no discernible weight in the cost-benefit assessment.

Lastly, and tellingly, while the currently proposal notes – while the current proposal notes concerns about overestimation of benefits and underestimation of costs, it does not concern itself with the agency's overestimation of costs and underestimation of benefits as strikingly occurred in the MATS appropriateness reversal.

To be clear, we will fiercely resist this effort to convert the agency's mission and further, a deregulatory agenda. It is critically important that EPA not hamstring efforts to achieve its mission by putting in place requirements that prevent the agency from fully considering all benefits of environmental as Congress intended.

That is especially the case for consideration of air pollution reduction benefits like reductions in particulate matter, which disproportionately burden disadvantaged communities, particularly low income, black, ...

Jan Connery: Thirty seconds.

Hayden Wong Hashimoto: ... and other communities of color across the U.S

We urge EPA to withdraw this unlawful and unwarranted proposal. Thank you.

Jan Connery: Thank you, Hayden.

EPA, do you have any questions of clarification?

Kelley Raymond: No, no questions. Thank you.

Jan Connery: All right. We will move to our next commenter, that's Paul Noe, to be followed by Aella Morad.

Operator, please unmute Paul's line. And, Paul, please begin by stating and spelling your name and then start your comment.

Paul Noe: Good morning. My name is Paul Noe, that P-A-U-L N-O-E. I am testifying on behalf of the American Forest and Paper Association and the American Wood Council.

I want to begin by thanking EPA for the opportunity to testify on a role that raises important issues for improving the consistency and transparency of the regulatory process. There is longstanding bipartisan agreement that the goal of regulation is to enhance, not undermine, societal well-being. If drafted appropriately, this rule could be an important opportunity to advance an evidence-based regulatory system to accomplish that goal.

Benefit cost analysis, despite its limitations, is the best tool to ensure that regulations do more good than harm. That is why every president for over 40 years has required regulatory agencies like EPA to use benefit cost analysis.

As the Clinton administration put it, regulations like other instruments of government policy have enormous potential for both good and harm. Well-chosen and carefully crafted regulations can protect consumers from dangerous products and ensure that they have information to make informed choices.

Such regulations can limit pollution, increase worker safety, discourage unfair business practices, and contribute in many ways to a safer, healthier, more productive and more equitable society. Excessive or poorly designed regulations, by contrast, can cause confusion and delay, give rise to unreasonable compliance costs in the form of capital investments, labor and ongoing paperwork, retard innovation, reduce productivity and accidentally distort private incentives.

The only way to distinguish between regulations that do good and those that do harm is through careful assessment and evaluation of their benefits and costs. Such analysis can also often be used to redesign harmful regulations so they do produce more good than harm and redesign good regulations so they produce even more net benefits.

The scholarly literature shows that important roles that can save lives or protect our health and environment are the very rules that can pass benefit-cost analysis with flying colors. Such rules may indeed be expensive, but unsurprisingly, they can deliver benefits well beyond their costs.

Properly drafted, this rule could provide greatly needed regulatory certainty. Regulatory proposals would rise or fall based on the evidence rather than simply on shifting political winds, raw emotion, or power politics. Such an evidence-based regulatory system would powerfully incentivize the development of much stronger evidence, help ensure regulations are beneficial, and hopefully help bridge the partisan divide.

The two key components of the rule are a benefit cost requirement to ensure all significant regulatory actions, including deregulatory actions, do more good than harm. And second, information quality safeguards, for example, to ensure that the benefit cost analysis than any related risk assessment has data

that's the best available is transparent, capable of being reproduced as well as objective, unbiased and based on the weight of the evidence.

This benefit costs rule not only is supported by longstanding policy principles, but it's arguably necessary given recent Supreme Court decisions on benefit cost analysis, including *Entergy v. Riverkeeper* in *Michigan v. the EPA*.

Under the longstanding *State Farm* decision and related case law, an agency must consider all important aspects of a regulatory problem as Justice ...

Jan Connery: One minute.

Paul Noe: ... Kagan stated in *Michigan v. EPA*, absent unambiguous statutory language to the contrary, weighing costs and benefits is, quote, "always a relevant and usually a highly important factor in regulation."

Thank you again for the opportunity to discuss the proposed rule today.

Jan Connery: Thank you for your comment, Paul.

EPA, are there questions of clarification for Paul?

Kelley Raymond: No, no clarifying questions. Thank you.

Jan Connery: All right. We'll move to our next speaker. Excuse me if I'm not pronouncing your name right, but Aella Morad, to be followed by Benjamin Zycher.

Operator, please unmute Aella and please begin by stating and then spelling your name and then start your comment.

Aella Morad: My name is Aella Morad, A-E-L-L-A; last name, Morad, M-O-R-A-D. I am a Canadian nurse currently residing in New York City. I am a part of Alliance for Nurses in a Healthy Environment. I oppose this proposal and urge the EPA to withdraw it.

It does not make sense to apply a calculating cost-benefit analysis for regulatory decision making. It will have dangerous implications for public health.

For example, when the Paris agreement was influenced by the economist, Nicholas Stern, it enabled the idea of carbon trading among wealthy nations with poorer countries. As a consequence, carbon emissions continued to rise all over the world, while wealthy countries simply pay for the right to produce excessive amounts of carbon emissions that have been proven to link – to be linked to climate change.

My family is a visible minority and we are at a greater risk of living in a community with a greater burden of air pollution. The air quality in New York City is vastly different from Montreal. And it reminds me of the air quality when I would travel to third world countries such as like India or Pakistan.

And I am happy that the majority of New Yorkers are wearing masks because of COVID-19. But it also actually helps protect from the fumes of air pollution and smog.

I wear a mask when I go jogging and it actually makes breathing easier than without it. And it is difficult to explain my 1-year-old why her mom and dad always need to wear a mask when they go outside and why she cannot hug her friend.

If we do not oppose this proposal, I wonder what kind of future will be for future American children. How is this going to affect children mentally? A cost-benefit analysis is not appropriate when the well-being of American children are involved.

Thank you.

Jan Connery: Thank you. Are there any questions of clarification for Aella?

Aella Morad: And you pronounced my name correctly. Thank you.

Kelley Raymond: One clarifying question. I just want to make sure I understood properly. The recommendation is that the agency no longer do any cost-benefit analysis or regulation?

Aella Morad: I just think that's not an appropriate cost benefit. As we can see what – in my comparison of the Paris agreement, that's what's created more holes and why people are not – why other countries are not respecting the agreement, the principles of the agreement, because no other countries are doing carbon trading and other countries continue to pollute just as much as they did before the Paris agreement.

So, you need to – you can't look at it in that type of perspective. You need to look at in a more holistic way of how it's affecting the people and the benefits of that and that needs to outweigh the economic part of this. So, yes.

Kelley Raymond: OK. Thank you. No other clarifying questions. Thank you.

Jan Connery: All right. We will move to our next commenter, Benjamin Zycher, to be followed by Stephanie Kodish.

Operator, please unmute Benjamin.

And, Benjamin. They start by stating and spelling your name and then begin your comment.

Benjamin Zycher: Thank you. Benjamin, B-E-N-J-A-M-I-N, Zycher, Z-Y-C-H-E-R. I am a resident scholar at the American Enterprise Institute.

This draft rule make a good start in terms of rationalizing an analytic process as proven replete with abuse and political, bureaucratic game-playing design the support has appropriate and necessary the adoption of rules that could never satisfy any honest benefit-cost analysis.

So, good example is the 2011 EPA benefit cost analysis of its Mercury and Air Toxic Standard. The EPA cost estimate was \$9.6 billion. The estimated benefits were between \$1 million and \$6 million, thus yielding estimated costs, exceeding estimated benefits by at least 1,600 to one.

EPA preceded in 2016 to justify the rule by including indirect co-benefits over 90 percent of which were the asserted health benefits of reductions and emissions of fine particulates. That analysis was deeply dubious. And so,

EPA last May was quite correct to revise its analysis, finding that the match rule is not appropriate and necessary.

The Clean Air Act explicitly requires the EPA upon finding that a given criteria pollutant endangers the public health to promulgate a national ambient air quality standard that protects the public health with an adequate margin of safety.

The law mandates that costs not be considered in the establishment of the NAAQS. This means that those standards are likely to be too stringent in a benefit-cost sense, lowering the emissions of those pollutants even more through a co-benefits backdoor of a new regulation aimed at an entirely different type of emission means that the excess net costs of the regulation are likely to be driven up even more.

In a nutshell, EPA now is soliciting comment on whether regulation written under one section of the clean air act aims specifically at a given air pollutant can be deemed appropriately and necessary primarily on the basis of the asserted benefits of reducing emissions of a different pollutant covered under – and entirely separate section of the Clean Air Act.

That is a crucial question, the general answer to which is driven by common sense. Congress already has enacted a section of the Clean Air Act to address the co-benefit pollutant and if the existing regulations apply to that pollutant fail to satisfy the public health requirements of the law or if they failed to accurately reflect (the weighted) scientific knowledge, then the EPA should revise those existing regulations.

Note that the vast majority be the certain co-benefits of additional fine particulate reductions would be absurd in geographic areas already an attainment with that NAAQS, it's – which itself is a precautionary standard sufficiently load or protect the public health with adequate margin of safety if, as required by the law, the NAAQS accurately reflects the latest scientific knowledge on the health benefits of exposure to particulates, then it is difficult to see how reductions below the NAAQS can be justified.

The new EPA draft rules on benefit-cost analysis potentially will prove a real advance for rationality in regulation under the Clean Air Act. It is difficult to justify new or tightened rules without the purported co-benefits of ever greater reductions and foreign particulates.

At a political level, the asserted co-benefits of reductions and fine particulates and new rules are an absolute imperative need to support demands for massive subsidization of costly, unreliable, and environmentally destructive wind and solar electricity. And in support of the political drive, the centralized economic activity in dense urban areas and to force individuals out of automobiles and on the mass transit.

In addition to the application of the co-benefits methodologies necessary to justify policies that limit greenhouse gas emissions, but no climate policy can satisfy any plausible benefit cost test unless regardless of what one believes about the science and evidence of climate phenomena, just as an example, the Paris agreement, were to be implemented immediately and enforce strictly, it would reduce temperatures in the year 2100 by 17 ...

Jan Connery: Thirty seconds left.

Benjamin Zycher: I urge the EPA to revise the rules so as to impose sharp limits on the use of co-benefits to justify proposed rules under the Clean Air Act. Thank you very much.

Jan Connery: Thank you, Benjamin.

EPA, any question of clarification?

Kelley Raymond: No, no questions. Thank you.

Jan Connery: All right. Our next speaker is Stephanie Kodish, to be followed by Michael Taylor.

Operator, please unmute Stephanie.

And, Stephanie, begin by stating and then spelling your name and then start your comment.

Stephanie Kodish: So, good morning. Stephanie, S-T-E-P-H-A-N-I-E. Kodish, KO-D-I-S-H.

Good morning. My name is Stephanie Kodish and I'm the senior director and counsel for the National Parks Conservation Association's Clean Air Program.

I'm here today to speak on behalf of NPCA's 1.3 million members and supporters in our National Parks that preserve our lands, cultural spaces, and much of the history that defines and unites us as a nation.

I ask that EPA withdraw this irrational rulemaking proposal that would undermine environmental protections critical to protecting national park sites, including the inspirational Great Smoky Mountains National Park in my home state of Tennessee, and the many landscapes, forts, museums, monuments, and other areas satisfied for (these) and enjoyment and of present and future generations.

Every single one of our 419 national park units suffer from the harms to their air, land, water, wildlife from air pollution and the effects of climate change. In fact, 96 percent our parks are plagued by significant pollution problems due to emissions of greenhouse gases, ozone, particulate matter, and other pollutants contributing to record setting wildfires, irretrievable loss of iconic species, irreversible depletion of snowpack, and severe air quality and visibility impairment, along with their related human health and economic harms.

While America's treasured park sites suffer, harms from the same suite of pollutants are felt by the children and families, recreation enthusiast business owners and others that regularly experience the effects of air and climate pollution across the country. And it is communities of color and the socioeconomically disadvantaged that are disproportionately affected by air pollution.

The Clean Air Act was designed to blunt the many insidious harms of pollution and when the emissions are reduced as a result of any Clean Air Act program, the benefits are not realized in isolation.

Regulating fine particles to protect public health also benefits wildlife. Reductions in mercury to safeguard nursing mothers and their babies also benefits aquatic ecosystems and limits bioaccumulation of toxins in fish.

Curbing nitrogen oxides from vehicles to reduce respiratory harms to communities helps to improve visibility in scenic landscapes. EPA's proposal would compel the agency to pretend that these and many other co-benefits of regulating pollutants somehow don't exist.

Co-benefits that make habitat inhabitable for wildlife make skies clearer and our wild spaces and draw tourists in for more days at National Park adjacent businesses. These co-benefits are significant and felt acutely in local communities.

For example, reduce visibility caused by pollutions (scattering light) has negative impacts for tourism regardless of the area of the country visited. A 2018 study, 33 parks found that each increase of one part per billion in ozone concentration is associated with a 2 percent decrease in monthly visitation during peak summer periods.

The study shows increased pollution results and reduced visitation, and therefore, reduced tourist dollars. Indeed, a coal benefit of various rules resulting in the regulation of nitrogen oxide, sulfur dioxide, and fine particulate matter is increased economic activity to local communities.

And while the Clean Air Act regional haze rule addresses visibility, co-benefits of regulating visibility and paring pollution extends deeply to benefit public health and other welfare interests. Clear and feasible solutions to carbs – curbs such harms exist deregulations like the primary and secondary NAAQS and the new source performance standards for oil and gas operations.

But these are just some of the programs and they protect vulnerable populations, families, and our parks. Indeed, myriad clean air programs result in pollutant reductions that stem the harms to our health and environment, and these harms are already undervalued. The benefits of our regulations cannot be understated and must fully be accounted for by the agency charged with safeguarding public health and our environment.

The fact is that the annual benefits of Clean Air Act implementation are up to 32 times greater than the cost of these regulations. This proposal wrongly waits ...

Jan Connery: One minute.

Stephanie Kodish: ... the cost of regulation over the benefits and would arbitrarily drown out the value of Clean Air Act regulation across the many interests that demand, warrant, in our (own) protection.

The current EPA economic guidelines are effective and provide the agency with a thorough accounting approach to assess all costs and benefits of rulemakings. There is no justifiable reason in the public interest to pursue this rulemaking. I urge EPA to continue assessing the full range of benefits and costs of federal clean air rules as has been the agency's practice and abandon this misguided proposal.

Our national parks and communities deserve no less. Thank you.

Jan Connery: Thank you.

EPA, do you have any questions of clarification for Stephanie?

Kelley Raymond: Not as a clarification, but, Stephanie, you did mention a study related to tourism impacts from air pollution. I just want to encourage you to place that in the docket.

Stephanie Kodish: Will do. Thank you.

Kelley Raymond: Thank you.

Jan Connery: OK. Our next speaker is Michael Taylor to be followed by Kevin Sunday.

Operator, please unmute Michael.

And, Michael, begin by stating and then spelling your name and then start your comment.

Michael Taylor: My name is Michael Taylor. M-I-C-H-A-E-L T-A-Y-L-O-R.

I'd like to start by saying that I live on the southern shore of the Chesapeake Bay and I've seen firsthand the progress achieved through the EPA is involvement in the Bay TMDL program. I'd like to take this opportunity to thank the EPA for leading that important and valuable effort.

Your guidance of this multi-state effort is required to keep all states moving forward and the effort is clearly working. I can see it. Let's keep it going.

I'm a retired former chief financial officer of two different billion-dollar, highly-regulated corporations. Given my former occupation, I'm very aware of the costs of regulations and their impact on corporate profits. I've also seen firsthand the benefits of the same regulations.

I'm very familiar with the science of cost-benefit analysis. It's something the CFO does almost every day. I must note that I've never used a cost benefit methodology that deemphasizes known benefits from the analysis as this new rule proposes.

As a former CFO of a public company regulated by the SEC, I was well aware, specifically, of the costs of financial market regulations. Yet those same regulations benefited us greatly, if indirectly. The safety and confidence provided by these regulations created a plethora of investors looking for relative safety, thereby making it easier and cheaper to raise capital.

While the primary reason for the regulations was to protect investors, the co-benefit was a greatly reduced cost of capital to the corporation, resulting in greater investment, growth, economic output and the creation of new jobs.

So, it is also with environmental regulations. Smart regulation is our strength. It's our differentiator. It makes us stronger, not weaker. It makes us more competitive, not less.

Known co-benefits have been and should be fully considered when evaluating environmental regulations. I ask, why would you de-emphasize known benefits to the citizens you serve? It makes no sense.

As an example, co-benefits have a huge impact on my backyard, the Chesapeake Bay. Reductions in nitrogen emissions did not only improve human health but they also play a large role in reducing the annual dead zones we have in the Bay and health of the Bay overall.

Indeed, the co-benefit of nitrogen reductions from air emissions are intuited into the calculations of the Bay TMDL. This has been recognized and acknowledged by the EPA.

In a 2018 presentation, the Agency noted that it expected an additional 1.6 million pounds of nitrogen reduction in the Chesapeake Bay, almost entirely driven from nitrogen reductions from the air.

The additional nitrogen reductions were modeled based on the expected benefits from implementing Clean Air Act regulator programs. Although those regulatory programs have a primary focus on human health benefits.

With a proposed cost benefit rule in front of us right now, the secondary benefits of this regulations may not fully considered. A healthier bay results in a healthier economy in addition to a healthier population. Our recent studies sponsored by the Chesapeake Bay Foundation determined that a bay that needs the TMDL goals will provide many billions of dollars of benefits in fisheries, real estate values, tourism, recreational spending, et cetera.

These types of benefit should not be deemphasized from future considerations. They are highly significant, not insignificant. Conversely, any backsliding in regulations will cost potentially billions of dollars in the same areas. This is specific only to the Chesapeake Bay watershed.

Let's not backslide. Let's fully weigh all benefits of Clean Air Act regulations. And my specific example, let's not weaken the impact of the Clean Air Act on the indisputable ...

Jan Connery: One minute.

Michael Taylor: ... we're making in the Chesapeake Bay, thereby relegating the entire subset of benefits experienced by thousands of the people you serve through the watershed.

The EPA was established to protect us from ourselves. Do not defeat your own mission. Resist attempts in affect to allow more pollution without fully considering all the consequences.

Please continue to protect myself, my children, and my children as well as yours. (Leave them) not only air that will not kill them or make them sick, but also for, example, a bay they can swim in, full of healthy wildlife and recreational benefits, creating future jobs and many other economic benefits.

I implore you to continue to fully include and consider co-benefits in the wing of regulations regarding the Clean Air Act. Thank you for your service in the EPA, your good faith efforts to protect us in our environment, thank you for your time, the opportunity to speak my mind, for listening with open minds, and for taking your stewardship seriously.

Jan Connery: Right on time. Thank you, Michael.

EPA, do you have any questions of clarification for Michael?

Kelley Raymond: One clarifying question, Michael, if you would. It would be great if you could put your testimony into the docket and for the Chesapeake Bay cleanup that you referenced. If there's any specific Clean Air Act regulations that you're referencing, it would be great if you could include which regulations those are for impacts on that area. Thank you.

Michael Taylor: Thank you. I'll do that.

Jan Connery: OK. We will move to our next speaker. That is Kevin Sunday and he will be followed by Kyle Isakower.

Operator, please unmute. Kevin.

Kevin, start by stating and then spelling your name for the record. And then please begin your comment.

Kevin Sunday: Thank you. Good morning. My name is Kevin Sunday, K-E-V-I-N S-U-N-D-A-Y. I'm the Director of Government Affairs with the Pennsylvania Chamber of Business and Industry. We're the largest broad-based business advocacy organization in the Commonwealth.

Our state is a global leader in energy production, manufacturing, life sciences, healthcare and education. And the success of our state's business is the success of the nation. Our broad and diverse membership have set out a policy vision on environmental regulation that supports a framework, laws and regulations that established science-based goals and provide flexibility in their achievement.

And as such, we support this proposed rulemaking and its goals. We've noted before in several forums, including testimony delivered to Congress, that the existing cost benefit accounting approach that EPA has used is incomplete and inconsistent.

For example, in considering any job losses incurred by regulation, the general approach, as economist Mazur and Posner have noted, assumes all laid off workers are quickly rehired elsewhere. We know in our experience that's not actually what happens.

We've questioned why, in addition, if a given county or region is already in attainment for a national ambient air quality standards which are themselves established such to protect public health and an adequate margin of safety should any reduction of emissions of criteria pollutants that occur directly or indirectly as a result of a rulemaking in those same counties and regions be counted as having a public – a positive public health benefit.

Further, the public has not served if data and the science at EPA relies on to make rules is not transparent. While the agency generally has been given a lot of deference, the regulated community and the public deserve to know what models and assumptions are going into the creation of these important regulations.

Finally, businesses are expected to be very precise with the particulars of the proposed facilities operations and impacts when applying for a permit. As a matter of equity, it's only fair that the agency be precise as well, thorough, and consistent in developing its rules under the Clean Air Act, which is one of the most important and broad statutes in the entire body of federal law.

We're not the only group to have this view. Several courts, including the Supreme Court, have issued decisions making clear that the process EPA has used to calculate costs and benefits must be improved. And this rule would go in that direction by incorporating those recommendations into law.

In closing, we thank you for the opportunity to voice the support of our broad and diverse membership to this rule and plan on filing formal written comments into the docket at a later time. Thank you.

Jan Connery: OK. Thank you, Kevin.

Any questions of clarification from EPA for Kevin?

Kelley Raymond: No clarifying questions. Thank you.

Jan Connery: All right. We will move to our next speaker, that's Kyle Isakower, to be followed by Miller Hudson.

Operator, please unmute Kyle.

And, Kyle, please start by stating and spelling your name for the record and then begin your comment.

Kyle Isakower: Good morning. My name is Kyle Isakower. That's K-Y-L-E I-S-A-K-O-W-E-R.

I am Senior Vice President for Regulatory and economic – and Energy Policy at the American Council for Capital Formation. ACCF is a nonprofit, nonpartisan economic policy organization dedicated to the advocacy of pro-growth tax, energy, environmental, regulatory trade, and economic policies that encourage investment in the U.S. economy.

ACCF appreciates the opportunity to provide comment to EPA on its proposed rulemaking to increase consistency in considering benefits and costs in the Clean Air Act rulemaking process. ACCF supports EPA's efforts to standardize and add transparency to benefit cost analysis in the Clean Air Act regulatory process and offers the following specific comments.

Since 1981, presidents of both parties have issued multiple executive orders and OMB circulars calling for the use of benefit cost analysis for significant agency actions. This proposal simply makes this a regulatory requirement. The proposal calls for use of the best available scientific information and best practices across multiple fields of science.

All stakeholders in the regulatory process should be able to rely on EPA to use best practices, regardless of which party controls the Oval Office. The proposal would also require EPA add transparency by publishing their benefit cost analysis in a manner that is objective, comprehensive, and reproducible.

Similarly, the data and analytical conclusions must be presented in a manner that is easily understood. To the extent possible, EPA must make public all the data and models that were used in the analysis to reach their conclusions. Further, the final rule must make clear that uncertainties in data or modeling are made transparent to stakeholders.

Stakeholders on both sides deserve to know that data – the data models and assumptions our government uses to make regulatory decisions and the uncertainties associated with them. This transparency should clearly identify what our targeted benefits and what our non-targeted co-benefits, importantly regarding co-benefits.

The benefits of reducing non-targeted compounds should be considered in benefit cost analysis. However, co-benefits should not be the primary driver in a regulatory decision making. If a benefit cost analysis demonstrates that this is the case, then the rule is targeting the wrong compound and should not move forward.

In conclusion, ACCF supports this proposal because it will require that EPA adopt best practices and how it assesses risks, benefits and costs, ensure that

EPA conducts more systematic reviews of existing base and models using clear criteria, provide stakeholders with a greater understanding of how EPA will estimate the benefits and costs, enhancing their ability to more effectively participate in the rulemaking process, enable greater public involvement, resulting in more complete and accurate analysis of the benefits and costs, and acknowledged key uncertainties in the benefit or cost estimates that may be critical in final decision making.

Thank you again for the opportunity to present to you this morning.

Jan Connery: Thank you, Kyle. Do you have any questions for Kyle?

Kelley Raymond: No clarifying questions. Thank you.

Jan Connery: All right. We'll move to our next speaker. That's Miller Hudson to be followed by Karyn Schmidt.

Operator, please unmute. Miller.

And, Miller, please begin by stating and then spelling your name and then start your comment.

Miller Hudson: Yes. This is Miller Hudson. Miller, M-I-L-L-E-R, Hudson, H-U-D-S-O-N.

I am here this morning to speak on what I think is the considerable and substantial merit of reforming the current cost-benefit analysis protocols. I'm speaking on behalf of myself. I'm neither a scientist nor an attorney, but can speak with considerable experience regarding public infrastructure projects and the impacts of the current system, which tend to serve the interests of those who wish to obstruct much needed public projects.

I serve several firms in the Colorado legislature as a Democrat years ago and more recently was the executive director of the Intermountain Fixed Guideway Authority a special purpose of unit of local government looking at reducing congestion along the I-70 mountain corridor west from Denver.

That overlap with the programmatic environmental impact statement to develop a preferred alternative to resolve that congestion along the interstate

highway corridor. In my examination of some of the materials that were used to justify this attempt to revise the cost-benefit analysis, there was a complaint about the fact that there is not uniform implementation across different regions.

I can't speak to that, but I can't speak to the fact that there is not even a uniform process internal to the development of the preferred alternative in a NEPA process where we found that both automated guide ways, rail and roadway analysis were different from one another while the overall purpose of the PIS was to find the same solution.

This is – does nothing but open the door to later litigation. So, I think that an accuracy becomes extremely important and that the attempt to create a uniform process is badly needed in order to help facilitate projects that are in the public interest.

I would also add one last recommendation that because economic and scientific processes and information develops at a pretty rapid rate these days. Some kind of a regular annual or biannual review of the cost-benefit analysis and public hearings to revise that and update it, I think, should be an integral part of this. Thank you.

Jan Connery: Thank you, Miller. EPA, do you have any questions of clarification?

Kelley Raymond: No clarifying question. Thank you.

Miller Hudson: Thank you.

Jan Connery: All right. We will move to our next speaker, that's Karyn Schmidt, to be followed by Sarah Cohen.

Operator, please unmute Karyn.

And, Karyn, please begin by stating, then spelling your name, and then start your comment.

Karyn Schmidt: Thank you. I am Karyn Schmidt. K-A-R-Y-N S-C-H-M-I-D-T.

I am Senior Director of Regulatory and Technical Affairs at the American Chemistry Council. ACC represents the business of chemistry in the United States.

ACC supports EPA efforts to increase consistency and transparency in considering benefits and costs in the Clean Air Act rulemaking process. Benefit cost analysis is a mature discipline and a valuable part of rulemaking.

In 1981, President Ronald Reagan signed an executive order giving the Office of Information and Regulatory Affairs or IRA authority to review executive agencies regulations. That executive order and a succeeding order signed by President Bill Clinton in 1993 have subsequently required agencies to analyze benefits and costs of their most significant regulations.

Cost-benefit analysis provides important information, not just to policymakers but also to the public. At bottom, it is the mechanism by which a regulation is evaluated to determine that it delivers more good than harm.

Among other things, it is important that regulations be based on high quality scientific information. Transparency is improved when the assumptions and models and information used by an agency are made clear and well understood.

This improves analysis and it improves the understanding of all stakeholders. The underlying quality of regulation drives both its anticipated benefits and costs. There is value in a benefit cost regulation that provides greater consistency and transparency with respect to how EPA conducts benefit cost analysis.

And ultimately, this will provide a better platform for all stakeholders to understand and participate in the regulatory process. ACC appreciates the opportunity to comment and looks forward to further participation in the regulatory process as EPA moves forward. Thank you for the opportunity to comment.

Jan Connery: Thank you, Karyn.

EPA, do you have any questions of clarification for Karyn?

Kelley Raymond: No clarifying questions. Thank you.

Jan Connery: OK. We do have two more speakers. Sarah Cohen, to be followed by Anne Mellinger-Birdsong, but I want to note that as was mentioned in the opening – EPA opening remarks and various other communications about this public hearing, that there would be the opportunity for anyone who is on the line that did not sign up to pre-register as a speaker, so therefore is not on our speaker list, as time allowed, that folks who were interested would be able to speak. And it looks like time does allow – our time will allow because this hearing – the first session will be open until noon, Eastern Time, and so that will give us approximately 45 minutes or so if there's anyone on the line who did not pre-register, but now has decided they'd like to make a comment.

So, if there is anyone on the line who'd like to do that, I'm going to just say press “star,” “1”. And that way, we will be able to see who's interested and the order in which they pressed “star,” “1”, and then we will be able to take additional comments from folks who had not pre-registered during the remaining approximately 45 minutes of this first session after our next two pre-registered speakers have commented.

So, I just wanted to let you know that. And we will now move to our next speaker, that is Sarah Cohen, to be followed by Anne Mellinger-Birdsong.

Operator, please unmute Sarah.

Sarah, begin by stating and then spelling your name and then proceed to your comment.

Sarah Cohen: Hello. This is Sarah Cohen. Sarah, S-A-R-A-H, Cohen, C-O-H-E-N. I'm with the South Carolina Chamber of Commerce, the state's largest business organization, business advocacy organization.

On June 4th, when the EPA announced this effort towards improving the regulatory process, we circulated the rule to our internal environmental technical committee. The environmental technical committee at the chamber

is made up of over 50 environmental experts, engineers, and attorneys who work for and represent companies that care about our environment and help guide us at the chamber to formulate position – policy positions regarding environmental regulations.

The Committee asked that I convey their support for this initiative and we expect to be submitting a comment letter during this process.

Our goal was to not stop – is not to stop the EPA or state regulation, but to improve them so that we can find a balance that allows companies to invest and expand while also doing the right thing for our air and water.

(Our members do) cost-benefit analysis is something that could be and should be bipartisan, and that is how the chamber approaches these issues at the state level.

Presidents of both parties supported a cost-benefit analysis. Cost-benefit analysis has the (rarest) of Washington qualities in these polarizing times in that it is bipartisan. The broad support reflects understanding of how burdensome the regulatory state can be.

The U.S. Chamber of Commerce, who we are affiliated with, estimates that federal regulations cost the American economy as much as \$1.9 trillion a year in direct costs, lost productivity and higher prices.

And I'll close by noting that South Carolina's own Attorney General Alan Wilson has commented by saying he commends the EPA and Administrator Wheeler for continuing to work to bring more transparency to the regulatory process for all stakeholders, a process that is based on sound science and a transparent cost-benefit analysis will results in more certainty for American industry and better regulations to protect our environment.

And with that, that is the end of my comments.

Jan Connery: Great. Thank you very much, Sarah.

EPA, do you have any clarifying questions for her?

Kelley Raymond: No clarifying questions. Thank you.

Jan Connery: All right. We will now move to our last pre-registered speaker for this first session of the public hearing. That is Anne Mellinger-Birdsong.

Operator, please unmute Anne.

And, Anne, and begin by stating and spelling your name and then proceeding with your comment.

Leif Hockstad: Hi, Jan, this is Leif Hockstad. That – the speaker did withdraw her registration this morning. So, we are finished with the pre-registered speakers for the morning session.

Jan Connery: All right. Now, I do want to check. I am not seeing additional folks who signed up, but I am not sure what I'm seeing is being refreshed.

So, Operator, are you able to tell me if anyone has signed up using the “star,” “1” function?

Operator: And so, Jan, no one pressed “star,” “1” (for today).

Jan Connery: OK. OK. Well, as a reminder to everyone listening, if you did not pre-register, but you would like to speak now, please press “star,” “1” and we'll be happy to put you right in.

But since we didn't have any takers from a few minutes ago, I'm going to check with Kelley, our presiding EPA officer, for this hearing.

EPA had stated that if there are no further speakers for 15 minutes after the last scheduled speaker, that EPA may close the hearing. And so, that would put us at about, if my math is right, 11:23, I think, that you could potentially close the hearing if you wanted to do that.

Kelley Raymond: Jan, why don't we then take a 15-minute break and then come back and check in if there are any additional people who would like to signal that they'd like to speak. And if at that time we have no additional speakers, we would close the first session.

Jan Connery: OK. And may I suggest that we – it's going to be slightly more than 15 minutes, 17. But let's do 11:25 a.m. as our return time, which should be a little easier for people to track, I think. So, let – if that's all right with you, Kelley, we'll start ...

Kelley Raymond: Of course.

Jan Connery: ... again promptly at 11:25 a.m. And I think everyone can remain on the line. It's just that our operator will be muting everyone. And there may be background music while we wait, but we'll be back again at 11:25. And if there are any additional speakers, we certainly look forward to hearing from you.

Kelley Raymond: My name is Kelley Raymond, and I'm the Senior Advisor for the EPA's Office of Air and Radiation. I have been chairing this hearing session today. We do not have any more registered speakers and we do not have anyone on the listening line to speak before we close this hearing. I want to thank my fellow panelists and to thank to everyone who offered testimony today regarding the proposed rule, "Increasing Consistency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process." Remember, you can continue to submit comments on this proposal through August 3, 2020. This hearing session is now adjourned.

END