

EPA

Moderator: Leif Hockstad
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1:00 p.m. ET

OPERATOR: This is Conference #: 9729406.

Operator: Ladies and gentlemen, thank you for standing by and welcome to the public hearing on the proposed rule increasing consistency and transparency in considering benefits and costs in the Clean Air Act rulemaking process with your speaker today Kelley Raymond.

Kelley Raymond: Good afternoon. My name is Kelley Raymond, I'm the senior advisor for the EPA's Office of Air and Radiation. I am the presiding officer for today's public hearing on EPA's proposed rule, increasing consistency and 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: Hi, this is Leif Hockstad in the Office of Air and Radiation and the Office of Air Policy and Program Support.

Kelley Raymond: Thank you. And Emily?

Emily Kroloff: Hello. This is Emily Kroloff from the Office of Air and Radiation and the Office of Air Policy and Program Support.

Kelley Raymond: Thank you. On June 11, 2020, EPA published in the Federal Register a proposal for public comment considering 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. 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 for 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 benefit-cost analysis using the best available scientific information in accordance with best practices from the economic, engineering, physiological – physical, biological sciences and ensuring transparency of the benefit-cost analysis.

Before we begin, I'd like to describe the process and 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 un mute 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 limit.

EPA's purpose and role during this hearing is to listen to your comments. We may also occasionally ask a clarifying question after 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 the EPA panel. Once we're done, the operator will remute your line. The facilitator will then call on the next speaker and so on.

In addition to the oral comments you'll make today, I encourage each of you to write – submit a written copy of your testimony. Comments must be

received on or before August 3, 2020. Instructions for submitting materials to the docket are available in the proposal's June 11th 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 like to do so today. Each additional commenter will have up to five minutes to speak if time allows. We will take comments in the order that we received these requests.

So, even if you did not register in advance, we will try to accommodate last-minute speakers again as time allows. If speakers have additional comments you would like to make beyond those you are providing in your five-minute timeslot or if you're listening and do not get an opportunity to speak, I encourage you to submit those comments in 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 email.

As time allows, we may take short breaks during the session. We may close the session 15 and 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 ERG, a contractor to EPA. My focus for the rest of the session will be to listen to your comments together with my colleagues. We look forward to your input. Let's get started.

Jan Connery: Great. Thanks so much, Kelley. Hello, everyone. I'm going to start by briefly reviewing the procedure for each speaker. We'll be taking speakers in the order indicated in the confirmation emails and the agenda that was posted

on EPA's website and that's the order in which our speakers signed up. If any speaker is not present at the time they're called, we will move to the next who is.

When I call your name, the operator will unmute your line. I'll then ask each of you to begin by stating and then spelling your name for transcription purposes. And then you can immediately begin your comment and you'll have five minutes.

We had a session this morning of this public hearing and everyone who commented did a great job staying within the five minutes. So, I will be keeping time. But the only time that you'll hear me speak up with a reference to the time is 15 (minutes) before the end. So, it's four minutes 45 seconds. If you've gone that far, you'll hear me say, 15 seconds and that's your cue to start wrapping up.

At the five-minute mark, you might hear my timer beep and please wrap up at that point if you haven't done so yet. But whenever you finished your comment, be sure to stay on the line while we check whether EPA has any clarifying questions for you. After any questions, your line will be muted again by the operator and we will move to the next speaker.

Now, as Kelley mentioned, we will, as time allows, be offering the opportunity for anyone who signed up today as a listener who did not preregister to speak if you decided that you would like to make a comment, as time allows, we will offer that opportunity and I will explain then how you can sign up. It's very easy when we get to that point.

So, let's get started. Looking at the list of speakers that we have, our first speaker is Dan Byers. But I do not – no, Dan has just joined us. Great. OK. We will start with Dan. Operator, please unmute Dan's line and, Dan, please begin by stating then spelling your name and then beginning your comment.

Dan Byers:

Great. Thank you. This is Dan Byers, D-A-N B-Y-E-R-S. I appreciate the opportunity to speak today. I am presenting on behalf of the U.S. Chamber of Commerce.

High-quality cost-benefit analyses are foundational to balance and inform regulatory decision making. Americans deserve a regulatory system that will fairly and transparently evaluate the impacts of agency regulations on our communities and businesses. Doing so will improve cost-benefit processes at EPA and in doing so increase stakeholder and public trust in the agency's work.

First, it should be emphasized at the outset that the process of developing BCAs is not easy. Forecasting both costs and benefits requires regulators to make a litany of subjective and uncertain assumptions that become increasingly difficult to accurately estimate to further out they projected to the future.

This is true across government agencies (that have) EPA the need to make difficult assumptions on market, technological and risk factors at several layers of complexity. These challenges cannot be eliminated but they can be managed and made transparent and in doing so provide valuable insight to inform decision makers' judgments.

Unfortunately, however, too many EPA cost-benefit analyses have been plagued by inconsistent approaches, problematic and/or nontransparent assumptions and a failure to acknowledge and communicate significant sources of uncertainty.

Equally problematic, these shortcomings are often exacerbated when regulatory review is translated to agency fact sheets and marketing materials. While the desire to simplify and summarize complex BCAs into a set of, quote, "headline numbers" is understandable that often presents a false precision that can mislead policymakers and the public alike.

My full written testimony will comment more directly on the proposed rule. I want to use my remaining time on a representative example of the problem that needs addressed.

In 2011, EPA published an analysis titled, Benefits and Costs of the Clean Air Act Amendments of 1990. The headlines of the fact sheet accompanying this report declared that the benefits from the law will, quote, "reach

approximately \$2 trillion in the year 2020" and that benefits of these regulations exceed costs by, quote, "a factor of more than 30 to one."

The paper failed to mention that the vast majority of these claim benefits do not pertain to pollutants targeted by EPA rules that rather drive from fine particulate matter co-benefits. For perspective, data compiled by the Chamber found that between 2000 and 2016, 97 percent of all monetized regulatory benefits claimed by EPA were derived from PM_{2.5}.

EPA's fact sheet went on to assert that in 2020, the law would prevent 17 million lost workdays, 5.4 million missed days at school and 230,000 early deaths. No ranges related to these projections were given and the only mention of uncertainty in the factsheet was to state that they were extremely unlikely to impact the report's conclusion.

Concerned that EPA's claims implied a level of precision and confidence unjustified by the data, toxicologist and current chair of EPA's Clean Air Science Advisory Committee, Dr. Anthony Cox, undertook an analysis of the report. His findings were published in the journal of Risk Analysis. In short, Cox concluded that, quote, "accuracy requires acknowledging that the cost purchase a relatively uncertain, possibly smaller benefit.

By applying a different approach to uncertainty analysis that is science specific probabilities to key benefit assumptions, Cox calculated benefits amounting to \$19 billion, about two orders of magnitude smaller than the 2 trillion claimed by EPA. In less than a year, just this regulatory cost estimate of 65 billion.

The point of sharing this example is not to suggest the Cox's forecast was right and EPA's is wrong. Any number of experts can and do have reasonable disagreements over the appropriate inputs to use. Rather, the point is to illustrate the enormous influence of subjective and uncertain assumptions on BCA outputs and how even modest changes to certain estimates can have large impacts on projected benefits once propagated through the entire analysis.

This reality highlights the importance of ensuring that regulatory analyses and the company agency advocacy materials communicate key uncertainties and avoid conveying unjustified overconfidence in a single benefit estimate.

The proposed regulation will go a long way to addressing this and other deficiencies in EPA's regulatory development process and more open and standardized approach to BCA development not only makes common sense, it will enhance public understanding of the scientific and other inputs that drive EPA's decisions, improve the integrity of the rulemaking process and lead to better public policy.

Thank you for the opportunity to present our views.

Jan Connery: Great. Thank you, Dan. EPA, do you have any questions or clarifications for Dan?

Kelley Raymond: No clarifying questions. Thank you.

Jan Connery: OK. We will move to our next speaker and I do apologize if I mispronounce anyone's name but that is Vijay Limaye. And after that will be Diana Van Vleet. Operator, would you please unmute Vijay and, Vijay, please begin by stating and spelling your name and then start your comment.

Vijay Limaye: Thank you. Hello there. This is Vijay Limaye, V-I-J-A-Y, last name L-I-M-A-Y-E. I want to thank EPA for organizing this public hearing on the agency's proposal on accounting for costs and benefits in Clean Air Act rulemakings.

I'm trained as a PhD environmental epidemiologist and I'm also former EPA scientist myself. My work focuses on better understanding these harmful effects of air pollution and climate change on human health. And at EPA, I worked on air pollution health science data and policy.

I now work as a climate and health scientist at the Natural Resources Defense Council, NRDC. For EPA to undermine the quantification and benefits of clean-air amidst our national public health crisis is frankly unconscionable. This proposal is intended to hamstring EPA's ability to pass effective clean air

protections in the future and regulate clean air and to help this country reckon with the scientific reality and economic dangers of climate change.

Through the proposal, EPA leaders are undermining science and continuing to deny the major health threats of climate change and air pollution to the detriment of every American. The Clean Air Act is the tool we need to address these problems and we must strengthen not undermine it.

And the report we published at NRDC highlights the landmark achievements of the Clean Air Act as it turns 50 years old. It's delivered honest intent to reduce air pollution, improve health and extend lifespan for people all around the country.

Through this proposal, EPA is preparing to weaken the Clean Air Act by denying the truth that fossil fuels drive both deadly air pollution and the climate crisis. But climate change is here and now. It's fueling environmental changes like extreme weather and wildfires. It's contributing to dangerous heat waves, air pollution episodes and infectious disease outbreaks.

Climate sensitive events like these are expected to increase and worse in frequency, intensity, duration and/or aerial extent into the future according to the federal government's own analysis. Moreover, they pose a wide array of direct and indirect threats to our health and the economy.

Some communities are more vulnerable to the ways that climate change harms our health and others lack the economic capacity to prepare for and adapt to these effects. These effects have real consequences both in people's pain and suffering and in costs that are largely absent from our accounting of climate change-related damages.

The projected future health and economic burden of climate change will be enormous for this country if climate pollution continues unchecked and communities are not prepared. But those costs are not only a future concern. They're making it hard for Americans right now.

I led a 2019 peer-reviewed open access scientific study in collaboration with an economist at the University of California San Francisco to estimate the

health cost of climate sensitive events across the U.S. All those events that we looked at occurred just during one year, 2012.

And using public data and EPA's own valuation method, we found that just a sample of those events from wildfires and wildfire smoke in Washington and Colorado, outbreaks of infectious disease in Michigan and Texas, a heat wave in Wisconsin, air pollution and allergenic pollen in Nevada and North Carolina, extreme weather in Ohio, harmful algal blooms in Florida and Hurricane Sandy's impacts in New York and New Jersey inflicted huge harms on the American public.

About 900 deaths, 21,000 hospitalizations and 18,000 ER visits. We estimated the economic toll of deaths and illnesses at a staggering \$10 billion. Those are the damages that are excluded from EPA's own analysis and would be further inhibited by this rule.

EPA and the rule proposes that it exercised its, quote, "subject-matter expertise" in determining how important the non-quantified benefits or costs of a rule may be. I want to note that this definition is overly subjective and open to arbitrary and biased decision-making.

EPA proposes to analyze only the endpoints for which the scientific evidence indicates there's a clear causal relationship or likely causal relationship. But for many health effects linked to historically high levels of climate warming carbon dioxide, there is no EPA work to assess causality because EPA's leaders do not even acknowledge that the climate crisis is real and a threat to our health and the economy.

EPA must do more to support comprehensive analysis of the health costs of climate change and the health and economic benefits of climate action within the Clean Air Act. Our research is showing that actions to achieve pollution reduction today could help America to avoid tens of billions of dollars or even hundreds of billions of dollars in future health cost from the climate crisis.

EPA's proposal is without merit and should be withdrawn. Thank you for your attention.

Jan Connery: Thank you. EPA, do we have any clarifying questions for Vijay?

Kelley Raymond: No clarifying questions. Thank you.

Jan Connery: All right. Then we will move to our next speaker and that is Diana Van Vleet who will be followed by Kevin Cromar. Operator, please unmute Diana and, Diana, please begin by stating and spelling your name and then start your comment.

Diana Van Vleet: Thank you so much. Good afternoon. My name is Diana Van Vleet, D-I-A-N-A, Van Vleet is V-A-N V as in victor, L-E-E-T, and I'm the national director of Outreach & Engagement for the American Lung Association's Healthy Air Campaign.

Thank you so much for the opportunity to speak today on this important topic. While there are other speakers who will get into the more technical piece of this proposal, today, I just want to drive home this point. The proposal being discussed today is a wolf in sheep's clothing.

While the proposal claims to increase consistency and considering benefits and costs in the Clean Air Act rulemaking process, there are many ways in which it could distort, skew or impede future cost-benefit analyses for the Clean Air Act rulemakings.

This rule seeks to solve a problem that does not exist. EPA has a long history of examining the costs and benefits of proposed and implemented regulations using peer-reviewed and vetted guidelines. EPA itself recognized that these guidelines provide excellent, well-vetted and updated tools and in this proposal, it fails to identify any real problems that exist within the current system.

The purpose and aim of this proposal is vague at best. We know that nearly half of Americans are still breathing unhealthy air and we know that air pollution is harmful leading to more asthma attacks, respiratory harms, heart attacks, strokes and even early deaths.

As if that weren't enough, emerging signs are pointing to the fact that air pollution is even more harmful than we thought being linked to dementia, reproductive harm and increased death rates from COVID-19.

Why is the EPA actively pursuing ways to discount the health benefits of pollution protections especially when the health benefits of pollution reduction are already undervalued?

As one specific example, new studies out of Harvard University since the original Mercury and Air Toxic Standards cost-benefit analysis tell us that the benefits of reducing mercury from power plants are even greater than we thought and that EPA greatly undercounted the benefits of reducing mercury emissions in their calculations.

The proposed rule would apply benefits as an average across the society instead of distributional analysis. Because of systemic racism in our country, communities of color often share a greater burden of air pollution. Reductions in harmful emissions from power plants close to predominantly low-income communities of color would have greater health benefit than reductions in wealthier less trafficked societies.

The cost-benefit analysis of the rules should take those additional benefits into consideration. EPA's proposal to change this process for calculating cost-benefit analysis for regulatory decision-making will have the dangerous implications for public health. Many benefits from regulating harmful emissions are already undervalued and the proposed rule will place Americans at further risk for the harmful health effects of air pollution.

On behalf of the American Lung Association, I opposed this proposal and urge EPA to withdraw it. Furthermore, I urge EPA to extend the comment period for this proposal to adequately allow the public including health and medical professionals at the frontlines currently dealing with the COVID-19 pandemic to weigh in on this dangerous proposal.

Thank you so much for your time.

Jan Connery: Thank you for your comment. EPA, do you have any clarifying questions for Diana?

Kelley Raymond: No clarifying questions. Thank you.

Jan Connery: All right. Then we will move to our next commenter that is Kevin Cromar to be followed by Martin Rodriguez. Operator, please unmute Kevin and, Kevin, please begin by saying your name then spelling your name and then starting your comment.

Kevin Cromar: Great. Thank you. My name is Kevin Cromar, C-R-O-M-A-R. I'm the director of the Air Quality Program at the Marron Institute of Urban Management and an associate professor of Environmental Medicine and Population Health at NYU School of Medicine.

The value of effective economic analysis has been a common theme throughout my professional work as an environmental researcher and my experience working on policy issues at the state and federal level and in my current role on the Utah Air Quality board and it's from this perspective that I'm concerned with proposed changes in how EPA evaluates the cost and benefits environmental policies.

I think we all know that the details of economic analysis can become quite complex but a guiding principle for economic analysis is remarkably simple. We should compare all the cost and all the benefits of proposed agency actions.

Despite giving lip service to this bedrock principle, the proposed rule instead dramatically curtails important aspects that are necessary to fully account for the totality of impacts from proposed agency actions. It promulgated the proposed changes and how costs and benefits are evaluated will sufficiently degrade the credibility of economic analysis conducted EPA to the point that it will no longer be able to credibly function as an objective policy analysis tool.

The announcement to revise their approach to cost-benefit analysis, including the proposed – the proposal to not consider reduction in calculating benefits of

actions remind us how far the agency astray from its original mission when it was established 50 years ago. Recognizing that a piecemeal approach to complex environmental challenges defies effective action, then President Nixon calls for the creation of the EPA not only to bring together diverse disciplines for effective pollution control but also to perceive the environment as a single interrelated system.

EPA's proposal not only divorces their evaluation of societal benefits from environmental protection from established economic principles, it also attempts to fragment the management of interconnected environment into discrete pollutants as if they were somehow omitted separately from one another. This is a direct opposition to the agency's long sought after and, in some cases, realize efficiency gains that have occurred when considering diverse pollutants together.

There's numerous examples of this multiple inefficiency. Just a couple I'd mention are the cluster rules that combine not only air pollutants but also water quality rules together for pulp and paper mills to permitting issues involving pollution offsets for a range of various pollutants. I think every EPA staff or who has sought for efficiency gains would probably nod their head in recognition that doing things in a more (secluded) fashion indeed leads to great efficiency gains.

It's also concerning that the agency intends to rely on the results of a flawed integrated science assessment to no longer quantitatively consider economic benefits of reducing mortality risk attributable to elevated levels of ozone. The scientific community provided overwhelming evidence to no avail in opposition to the agency's decision in 2019 to downgrade the impacts of ozone for mortality from likely to be causal to suggestive of a causal relationship in the integrated science assessment.

The proposed rule intends to rely on this existing agency document to selectively remove mortality impacts attributable to ozone and future benefit calculations. This flawed approach would not only fail to reflect the collective body of evidence regarding the adverse impacts of ozone but would also compound the institutional shortcomings that were on display during the

last review of the NAAQS for ozone in which there was no meaningful revision to the ISA based on contributions from qualified experts that participated in the public comment process.

It's become apparent not just from the current proposal but also in recent regulatory impact assessments that the current political leadership in EPA view economic analysis as little more than an inconvenience and the pursuit of their preferred policy goals. The proposed changes are just the latest in a series of efforts to codify procedures that intentionally dismiss health benefits as part of economic analysis.

These efforts include attempting to ignore health benefits for pollution reduction below arbitrary thresholds, changing economic assessments to fit predetermined outcomes rather than using economic analysis to inform decision-making and ignoring the economic benefits of any pollutant besides the narrowly defined target pollutant.

Along with parallel efforts to systematically ignore scientific research demonstrated in the adverse health risks of environmental pollutants, it's impossible to come to any other conclusion than the actions of the current leadership at EPA are working in direct opposition to the agency's mission to protect human health and the environment.

And thank you for the opportunity to comment. I appreciate it.

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

Kelley Raymond: No clarifying questions. Thank you.

Jan Connery: All right. We will go to our next speaker, that is Martin Rodriguez. Martin – sorry, operator, would you please unmute Martin's line and, Martin, please begin by stating then spelling your name and then start your comment.

Martin Rodriguez: Thank you. Martin Rodriguez, that is M-A-R-T-I-N and Rodriguez is R-O-D-R-I-G-U-E-Z. Thank you.

I'm here today on behalf of more than 3.2 Americans for Prosperity activists across all 50 states to offer our support in this important and long overdue proposed revision to the way the agency has been conducting its regulatory impact analysis.

Under the previous administration, the EPA promulgated an average of 565 rules every year and while the federal government has a role to play in protecting Americans from significant negative externalities, it is vital that policymakers and the public understand the full cost of regulations will impose and compare those with a rigorous assessment of the benefits that can be expected.

Unfortunately, the methodology the EPA has historically used to assess the proposed rules and regulations is incomplete, misleading and often fails to capture the full economic impacts of these regulations. Among the existing problems to be addressed in this proposed revision, it's the particularly thorny EPA practice of assessing – assigning generous monetary values to inherently imprecise economic benefits of outcomes of the proposed regulations. This approach has many shortcomings.

Chiefly, that many of the agency calculations at questionable market values to the benefits ledgers of proposed rules even in cases where no market exchange for the benefits claim. That approach is troubling when you consider the net cost-benefit outcome because regulatory costs are commonly well defined and expressed in loss of productivity, higher prices for consumers, loss of market share for domestic industry, job losses due to shift of production overseas and so on.

On the other hand, the benefits are uncertain, hard to measure and highly speculative. It is difficult to calculate the full and final benefit of the regulation after implementation.

For decades, the EPA has consistently overstated the benefits by adding capricious social costs and benefits to their calculations relying on things like co-benefits and global benefits of any of their giving rules. Frequently, a rule designed to reduce emissions of one pollutant would claim most of its benefits

from incremental reductions of secondary pollutant. Those incidental reductions commonly known as our co-benefits.

The main problem with this approach is that the agency overextends its regulatory power far beyond its statutory authority while also inflating the benefits of a proposed rule. It is fair to say that the agency cost-benefit analysis process has become one that favors and encourage more regulations even when the significant cost they would impose to Americans are accompanied by very limited tangible benefits.

When considering specific changes in reforms, it is crucial for the EPA to establish an open independent and fact-based cost-benefit analysis where researchers have access to the raw data and the methods employed by the agency. No underlying data should be shield from scrutiny as a matter of scientific integrity but also as a matter of transparency and public policy.

Furthermore, the cost-benefit analysis should be subject to blind peer review and all results should be posted for public scrutiny. The best ways to rationalize EPA approach to regulations would be for Congress to enforce proper oversight and approve all significant rules issued by the agency in order to prevent regulatory overreach of previous decades.

Federal rules that impact millions of people and billions of dollars should be held to this high standard, transparency, consistency and a more robust logistic oversight are nonpartisan issues that everyone could easily get behind. Legitimate and reality-based cost-benefit analysis at the EPA would benefit consumers, workers and businesses. Regulations based on faulty premise in ill-conceived notions enact unnecessary barriers to our economy making us less productive and secure.

Having a robust energy (efforts) ...

Jan Connery: Fifteen seconds.

Martin Rodriguez: ... and a healthy environment is possible.

Thank you for your time and we're very proud to be supporting this rule.

Jan Connery: Great. Thanks, Martin. EPA, any questions of clarification?

Kelley Raymond: No clarifying questions. Thank you.

Jan Connery: All right. Well, our next listed speaker is Marlo Lewis but we don't appear to have Marlo on the line yet. So, we will go to the following speaker who is on the line that is Liz Mueller to be followed by William Hardie. Operator, would you please unmute Liz's line and, Liz, please begin by stating then spelling your name and then starting your comment.

Liz Mueller: Good afternoon. My name is Liz Mueller, Liz, L-I-Z, Mueller, M-U-E-L-L-E-R. I am the national director of Advocacy for the American Lung Association's Healthy Air Campaign. Thank you for the opportunity to speak on this topic and I urge you to listen very carefully to all of the comments provided today.

The American Lung Association strongly opposes the proposed changes in calculating and utilizing the cost-benefit analysis in EPA rulemaking. The proposal has dangerous implications for public health and it could result in inaccurate calculations of the health benefits of reducing harmful emissions.

I urge EPA to maintain the existing long-standing practice for calculating the full benefits and costs of federal rules and the acts the administration to abandon these efforts. This proposal is another example of EPA's seeking to solve a problem that does not exist.

EPA itself has recognized that the long-standing guidelines have provided excellent and well-vetted insight and it has a long history of using cost-benefit analysis. If there's anything that should be updated in a way EPA calculates costs and benefits is that the current system actually undervalues health benefits due to inability of current models to adequately show the full impacts of reduction on air pollution on health.

There are couple of examples that highlight how health benefits have been undervalued. Since EPA implemented the original Mercury and Air Toxic

Standard cost-benefit analysis, new studies have emerged showing that the full benefits to health were actually far greater than originally thought.

However, in a telling foreshadowing to this proposal, EPA's recent final rule to undermine the Mercury and Air Toxic Standards did not consider this study even though they showed that up to 11,000 premature deaths would be prevented.

This purposeful obliviousness resulted in a determination of the cost implemented standards weren't justified. Simply ignoring the full benefits to health is an approach that was deeply concerning when it came to the Mercury and Air Toxic Standards and applying this approach to other regulations across the agency will have far-reaching and damaging impact to the public health of this country.

The Clean Air Act has led dramatic improvements in air quality over the last 50 years. In a study done on the impact of the Clean Air Act from 1990 until 2020, EPA estimated that the benefits of implementing the regulations and emission reductions mandated by the Clean Air Act outweighed the cost by more than 30 to one.

Further external analysis showed incredible benefits from cleaner air. Up to 370,000 deaths prevented, almost 200,000 fewer hospital admissions for respiratory and cardiovascular illnesses and up to 3.8 trillion in net economic benefits are evidence that steps taken to clean up the air as mandated by the Clean Air Act are working and need to be strengthened and not dismantled.

I want to end my testimony by calling out the vagueness of the way this proposal is written and referred to by the agency. In his remarks and endorsements regarding the proposal, Administrator Wheeler had suggested that the proposal would have a substantive impact on rulemakings and affects private citizens.

But the text of the rule itself refers to the proposal as procedural and that it wouldn't regulate any person or entity outside the EPA. It also declares that the procedural rule is exempt from the notice and comment requirements set forth in the Administrative Procedure Act.

This lack of clarity begs the question which is, will this be procedural or will it have a substantive impact on rulemaking without the necessary public comment period mandated in the Administrative Procedure Act. We strongly oppose the basis for this rulemaking but at the very least, EPA and Administrator Wheeler need to clarify the scope and purpose of this rule before any further actions are taken.

In a time where COVID-19 continues to wreak havoc across our country, Americans don't need another threat to their health. In proposing this rule, EPA is disregarding the health benefits of reducing air pollution which could fundamentally obstruct further reduction in pollution, reductions that are needed not only to prevent the worst impact of climate change but the immediate reduction that are needed right now in low-income areas and communities of color across the country.

Americans don't need another threat to their health. I urge EPA to abandon this effort to change the structure of cost-benefit analysis and to instead strengthen the commitment to protecting the public health. Thank you.

Jan Connery: Thank you, Liz. Are there any EPA clarifying questions for Liz?

Kelley Raymond: No clarifying questions. Thank you.

Jan Connery: All right. We will move to our next speaker that is William Hardie. Operator, please unmute William and, William, please begin by stating and spelling your name and then starting your comment.

William Hardie: Yes. Good afternoon. My name is William Hardie. The last name is spelled H-A-R-D-I-E. Let me first thank you for the opportunity to voice my opinion. I am a professor of pediatrics at Cincinnati Children's Hospital where I'm a pediatric pulmonologist with now 30 years of experience taking care of children with respiratory disorders.

In addition, I'm active in basic sciences and some clinical research with National Institute of Health funding. I think my comments – I want to be mainly focused at the EPA, again, recognizes the importance of clean air on

the health of children. Over the past decade, there has been very clear research linking air quality with lung function in children.

Children who are exposed to poor quality of air have lower lung function subsequently and that detrimental lung function stays with them. First, in children who are born with premature lungs have abnormal lung function and that abnormal lung function persists when their adults.

Lung function that's been diminished cannot be improved. We know that from adult studies. Adults who have poor lung quality and reduced lung function are generally unable to improve that air quality with maneuvers such as exercise or medications.

So, the point is that once you have diminished lung function that stays with you throughout the rest of your life. We also know that there's a very clear relationship between lung function and morbidity and mortality in adults. So, those who have poor lung quality will end up having more sickness and die at a younger age.

As we are – as other speakers have already mentioned today, dealing with a health crisis that directly affects the lungs that seems like a very poor timing to potentially add or effect legislation to improve our air quality. I went through this proposal carefully and I have several concerns, many of which have already been voiced by some of the previous speakers.

I think that my – some of the concerns I specifically have noted when I read through this was that it appears quite vague as to how the EPA will decide which scientific evidence that they feel should be used in the just – in the determination of the cost analysis.

In addition, I have concerns that there is not a clear method that people – that the public can look into the methodology and voice any concerns about which of – which equations are used in which scientific rationale is used.

As also mentioned by other speakers, the proposal could – is also removed co-pollutant health benefits from the primary cost-benefit analysis. This does not include the impact of those.

Therefore, it (appears) to me that the current method of the current proposal likely to underestimate the health benefits of clean air. For these reasons, I therefore ask that the EPA withdraw this proposal.

Jan Connery: All right. Does that conclude your comment?

William Hardie: That does. Yes.

Jan Connery: All right. Thank you.

EPA, do you have any clarifying questions for William?

Kelley Raymond: No clarifying questions. Thank you.

Jan Connery: OK. And it looks like our next speaker, listed as Ike Brannon is not on the line with us. So, we will go to the following speaker who is on the line and that is Nick Goldstein.

Operator, please unmute Nick's line. And, Nick, please begin by saying then spelling your name and then starting your comment.

Nick Goldstein: Nick, N-I-C-K, Goldstein, G-O-L-D-S-T-E-I-N. You can hear me correctly, right?

Jan Connery: Yes. Just fine. Thanks.

Nick Goldstein: Thank you. Good afternoon. I'm Nick Goldstein, Vice President of Regulatory and legal issues with the American Road and Transportation Builders Association or ARTBA.

ARTBA is a 118-year-old organization based on the nation's capital representing all sectors of the U.S. transportation construction industry. An industry that generates \$500 billion in U.S. economic activity and help sustain more than 4 million American jobs.

On behalf of ARTBA's members, I respectfully offer our support for the EPA's proposed rule on increasing consistency in considering benefits and cost in the Clean Air Act rulemaking process.

The total cost of federal regulations to the nation's economy has been estimated at \$1.9 trillion for 2019, an accurate review of economic impact essential to the discussion of any proposed regulation no matter their intentions or end-goals all regulations impact job creation, development and the overall economic health of the areas where they're implemented.

Being able to accurately quantify these effects allows better decision-making when balancing the costs and benefits achieved by proposed regulations. ARTBA recognize that regulations play a vital role in protecting the public interest of the transportation review and approval process.

They also provide a sense of predictability, ensure a balance between moving our – meeting our transportation's needs and protecting vital natural resources.

These goals, however, do not have to be in conflict. The most successful transportation, the streamlining efforts have been processed oriented and have essentially found the path for regulatory requirements to be fulfilled in a smarter, more efficient manner.

However, in recent years, the rulemaking process is more from something intended to protect the public interest into a tool to achieve diverse policy and political objectives by sidestepping traditional practices.

Furthermore, this process has been routinely unaccountable to affected interests while often dismissing or under evaluating – undervaluing project cost increases, delays and compromises in safety which can result. Even more disturbingly, some regulatory initiatives advanced by the previous administration diverted from Congress's clear intentions on certain policy areas, thereby unilaterally infusing the administration as political priorities into the regulatory process.

For the transportation construction industry, regulatory compliance represents a significant undertaking. According to a report by the U.S. Government and

Accountability Office, as many as 200 major steps are involved in developing a transportation project from the identification of the project to the start construction.

Project delays carry severe financial consequences. According to a 2016 report by the Texas A&M Transportation Institute, project delay has estimated cost to 87,000 per month for small projects such as reconstruction, \$420,000 per month for medium sized project such as road widening and \$1.3 million per month for large projects such as new roads or bridges.

Transportation construction is directly tied to the economic health and development of this country. According to the Federal Highway Administration, every \$1 billion spent on highway and bridge improvement supports almost 28,000 jobs. Given that these broad and direct and indirect contributions, the economic impact – the impact on transportation development should be taken into account when analyzing new regulations.

For example, if the new regulation reports to county out of compliance with the federal Clean Air Act requirements and place federal highway funds in danger of being withheld, the economic repercussions could be severe.

Additionally, ARTBA have noted in multiple sets of common to the EPA over the years, delaying transportation improvements also delays the congestion reduction and improvements of public health and safety associated with their completion.

In order to more accurately assess the impacts of its rulemakings, the EPA must strive to take all of these factors into account as it analyzes future regulations. Specifically, ARTBA has two suggestions per the EPA and future economic analysis.

First, the proposed rule should take into account differences among the areas of the country where regulations will be implemented. In order for proposed regulations be more workable, they need to be flexible enough to recognize unique aspects of the localities charged with their implementation.

For example, the economic impacts of delaying a transportation to improvement in a sparsely populated rural area are likely to be different – different from projects being delayed in dense urban settings.

For the transportation sector, most of this information can be ascertained for regions, long-term transportation plans looking at an area – plans for transportation development will give the EPA an idea of exactly what types of transportation improvements could be placed in jeopardy by proposed regulation.

Furthermore, the EPA should strive – design a process for its economic analysis are independently verified. Neutrality is important in determining whether or not there is a significant justification for proposed regulations. Having verification of economic data come from a party who hinder supports or opposes the regulation in question while providing increased level of certainty of the rulemaking process ...

Jan Connery: 15 seconds.

Nick Goldstein: ... and helpful doing the record for regulations in the event of litigation.

In conclusion, our ARTBA applause the EPA for initiating this discussion on increasing consistency and transparency and see regarding cost and benefits of the rulemaking process and we look forward to continuing a dialogue until result in regulations, balancing the need for transportation improvement with sound environmental protection.

Thank you.

Jan Connery: OK. Just on time. Thank you very much, Nick.

EPA, do you have any clarifying questions?

Kelley Raymond: No clarifying questions. Thank you.

Jan Connery: All right. And I understand that our prior registered speaker, Ike Brannon, is now with us. So, we're going to go to Ike if you would unmute his line, please, operator.

And, Ike, would you please begin by first stating and then spelling your name for our transcription record and then starting your comment.

Ike Brannon: My name is Ike Brannon. I-K-E B-R-A-N-N-O-N.

Good afternoon. My name is Ike Brannon. I'm an economist affiliated with the Jack Kemp Foundation and I'm also a contributing editor for regulation magazine.

For my current positions in government, (requiring) current positions I spent a decade in government, working at the office of information and regulatory affairs, House, Energy, and Commerce Committee, and a Congressional Joint Economic Committee as well as several other positions.

In my current and previous positions, I have done a considerable amount of research and cost benefit analysis and I have written numerous articles suggesting ways in which we might reform and improve its practice in our federal agencies.

I believe that EPA's initiative to improve the consistency in considering the costs and benefits in the Clean Air Act rulemaking process is a welcome move. I learned from my time in OIRA and my subsequent research on cost-benefit analysis is that the process can work only if each of the agents involved are guarded by the same rules that are operating with a clear understanding of the process.

I do not believe this is always true. For instance, Executive Order 12866 that requires executive branch agencies to perform cost-benefit analysis which says it is necessary for any proposed rule for the economic impact that exceeds \$100 million.

However, one complaint that I've heard from our OIRA staff and observed firsthand when I worked there is that federal agencies including EPA tend to discover numerous proposed rules that have an impact just below that threshold, making them immune to OIRA review.

Research by Sam Batkins, my former colleague at American Action Forum found evidence of this behavior. Another problem with the rule as it's currently defined as agencies typically perform their cost-benefit analysis for their proposed rules. I believe we get the form of moral hazard.

Agency staff have the vested interest in their rule-passing muster and it puts economist tasked with the cost-benefit analysis in a difficult position. It puts an understanding as often that their cost-benefit analysis should validate it regardless of the evidence.

Of course, that incentive can work in the opposite direction from administration that has anti-regulatory standards as well. I also believe the quality of the cost benefit analysis varies depending on the administration. Per regulation administration, (we'll offer to) work with EPA and especially let them know that we'll be less critical of any cost benefit analysis which leads to a less rigorous analysis as well.

This can also happen in administrations (directed) by other agencies as well. In the aftermath of 9/11, why OIRA received one economic analysis that had its printed title of engineering analysis crossed off and economic scribbled above it.

Needless to say, my colleagues and I at OIRA found this to be of marginal value. Any discussion of any regulatory tweak of the Clean Air Act should acknowledge the fact that it has provided enormous benefits to our society. When reason for its effectiveness was submitted, is that the level of analysis put into its creation, resulted in a remarkably effective piece of legislation.

Congress work for years at a bipartisan fashion to shape it in a way that resulted in it achieving a vastly improved environment that vastly outweighed the compliance and enforcement cost. However, there have been rules engendered by that I am not convinced were cost-effective and we should have a process in place that prevents those from being enacted without substantive changes.

And I don't think the current system achieves that. I've written elsewhere that I believe the optimal solution would be to take task of creating cost-benefit

analysis out of the hands of the agencies and putting them in a new entity altogether which I think would insulate it somewhat from the systemic pressures that accrue when doing such tasks in the agency.

Thus far, I've seen little congressional support for such a step. I believe that the EPA's proposed rule would limit some of the moral hazards that appear to hinder the value of the agencies cost-benefit analysis and it would strengthen the validity of these analyses in both Republican and Democratic administration.

I think it's notable that Cass Sunstein, a former OIRA administrator and someone who has published a great deal of research and cost-benefit analysis has written that this constitutes, quote, "an important memorandum that makes perfect sense."

I'm an economist, not a political scientist but having worked in both congressional and executive branch, one critical concern I have about the functioning of our government is that power tends to creep from the former to the latter, year by year, regardless of administration.

I think this trend is worrisome and it degrades the quality of our government. I see this proposed rule as one small step towards constraining that accretion. Few agencies initiate steps that limit their discretion and I applaud EPA for attempting to do such a thing.

I hope this constraint will force administrations with ambitious agendas to seek congressional activity first rather than scheme to subvert the legislative branch by getting creative with rulemaking.

Having an executive branch more engage with congress would ultimately do a government that orders would have more faith than lead outcomes that are greater proportion of its citizenry would approve.

Thank you.

Jan Connery: All right. Thank you very much, Ike.

EPA, do you have any clarifying questions for Ike?

Kelley Raymond: Ike, you referenced a number of articles that you wrote. If you are submitting written comments to the docket, I would encourage you to attach your articles as well. Thank you.

Ike Brannon: OK. Thank you. Thank you.

Jan Connery: OK. Our next three speakers haven't yet joined us. But Karen Kerrigan is on the line. And so if you don't mind going a little early, Karen, operator, would you unmute Karen's line?

Louis Tosi: Excuse me. I'm here. That's – you can have me later but I'm Mr. Tosi.

Jan Connery: Tosi. OK. OK. Sure. No, you ...

Louis Tosi: I just joined.

Jan Connery: You just joined. All right. Well, you are indeed next.

So, let's go to Louis Tosi.

Louis Tosi: (Sure).

Jan Connery: And while the operator's unmuting your line, I'll just say that please begin by stating then spelling your name and then proceed with your comment and you'll have five minutes.

Louis Tosi: You want me to proceed?

Jan Connery: Yes. Yes. Sorry. Please go ahead.

Louis Tosi: OK. My name is Louis Tosi, L-O-U-I-S T-O-S-I. And I want to thank EPA for the chance to comment on the proposed rule which the agency published to redefine and standardize cost-benefit analysis, procedures, under the Clean Air Act.

Although I'm an attorney and often represent parties, I'm making these comments on my behalf individually and not on behalf of any entity or

organization. I've gone to the step of making these comments because I believe this is a very important rulemaking.

I've been involved with environmental law since the early '70s usually representing business interests and I've had the opportunity to work in most of the phases of the Clean Air Act including state implementation plans. I was involved in some of the early SIPS, new source review, the PST rules, interstate pollution, NAAQS attainment and designations and various case has been involved in best available technology loss to avoid emission rates.

Those technology determinations required balancing of economics. I've been the handle cases in the 674 in D.C. Circuit and I was counsel record in the U.S. Supreme Court, Chevron case, a famous case of agency deference. I was a little younger and had more hair.

Over the years, I really have personally felt that it's important to balance rules against all the public needs and that credibility in the rules is an important factor in transparency. And transparency is important for several reasons, one of which is that it encourage public participation and as I will talk later, it's the basis of judicial review under the Administrative Procedure Act and the Clean Air Act provisions on that.

This rulemaking will start to codify best scientific and economic practices regarding economic life in a country and I believe it's an important rulemaking which I support wholeheartedly. Cost benefit analysis is a very important tool in the EPA's toolbox.

It's really what we have to address the overall – overarching question of why should we regulate it at all and how far should the rules go.

Obviously, environmental protection and public health is the national and shared priority. But countless business operations critical to national economic vitality fall under EPA'S jurisdiction, it's estimated that EPA'S rules account for 80 percent of the benefits and 70 percent the cost of the regulations in the last decade.

Now, the EPA often uses cost-benefit analysis, but as Administrator Wheeler mentioned, those efforts have been treated differently by different media offices as well as by different administrations. Many times, regulations are enacted even when cost outweigh the benefit.

And this result is heightened when regulatory burdens, especially had small businesses. When regulations impose costs significantly outstrip the benefit, it creates an incentive to avoid the regulations to seek loopholes or move production activities offshore or more comforting jurisdictions.

Cost benefit analysis also adds credibility to the rules. It helps ensure public acceptance because when people understand the basis for the rule and whether or not it really helps, it becomes harder to contest it and the psychology of compliance has greater impact.

An important sense to me, any rulemaking regardless of the statutory basis which ignores cost-benefit analysis borders on being arbitrary and capricious. It's hard to imagine there's a rule worth billions in costs but only trivial benefits – and has trivial benefits wouldn't be capricious within the meaning of the word. And by looking at cost and benefits, EPA's better equipped to make these trade-offs.

As an example in the electric utility MATS rules, Scalia writing for the court, recognize the importance of balancing and understanding cost-benefit in the mercury MATS rule.

It's been reported that compliance cost for that rule would exceed 9 billion with only small marginally calculated benefits not just add outside of my context, these benefits tend to be based in risk assessment or projections rather than reality. This huge discrepancy should have spurred more in depth review in writing regulation and one consequence of avoiding that ...

Jan Connery: Fifteen seconds left.

Louis Tosi: OK. I'll just move on to the end. I want to say in conclusion that increasing cost-benefit analysis is going to make for better rules, more acceptance, better compliance and increase the efficiency of the agency's mission.

Thank you.

Jan Connery: All right. Thank you. Do we have any questions from EPA?

Kelley Raymond: No clarifying question. Thank you.

Jan Connery: OK. Well ...

Louis Tosi: Thank you.

Jan Connery: ... I believe the next speaker signed up who is on the line is Karen Kerrigan. So, operator, please unmute Karen's line. And Karen, please begin by stating and spelling your name and then proceeding with your comment.

Karen Kerrigan: You bet. Good afternoon. This is Karen, K-A-R-E-N, Kerrigan, K-E-R-R-I-G-A-N. And thank you for the opportunity to provide input today. Again, I'm President of the – President and CEO of the Small Business & Entrepreneurship Council.

We are an advocacy research and education organization with more than 100,000 members throughout the country. And for just over 26 years now, we've been working on a range of private sector initiatives, public policy, policy initiatives to improve the environment and the ecosystem for startup activity and strong small business growth.

So, we focus on a wide range of issues, impacting entrepreneurship, startups, and small businesses. The regulation and the regulatory environment have been core issues and priorities for our organization over its 26-year history.

Regulation does have a disproportionate impact on small businesses and excessive regulation dampens investment, on healthy economic growth, economic vibrancy, and small business competitiveness.

We have long supported legislative and administration efforts, many of them bipartisan. I met my dad across congresses and across administrations to improve the regulatory system and to make it more transparent, more sensitive responses, and accountable to small businesses.

The EPA's proposed rulemaking to create a best practice process for regulations promulgated under the Clean Air Act includes the type of concepts, ideas, and reforms we have long supported, which we believe will produce better regulations and an improved regulatory system for small businesses.

The aim of the benefit-cost analysis proposal is to ensure consistency and transparency in developing future analysis. And those or these principles are very important to small business' health and growth and your understanding of the regulatory process.

Several components of the proposal or issues, again, that we've been working on for quite some time, including the use of best available science, making public the underlining – underlying data used in analysis.

Using best science along with good data will ensure relevant information and inputs are being used, which is highly important given the speed of change and knowledge in our very fast-changing world.

Transparency with respect to the underlying data, use and analysis is a – we think is a really positive development that will invite discussion and healthy debates, which we believe is a good thing when developing major rules.

We fully agree with the EPA's proposed benefit-cost analysis approach with respect to major rules and those that would disproportionately affect an industry, group or area, and those that are novel or relevant for other policy reasons.

Small businesses – well, let's just say, this type of penetration and emphasis is very important to small businesses as small firms dominate almost every U.S. industry, and they are the dominant employer in almost every local community into a region of the country.

They are the innovators that are developing new products and services that make our economy more competitive and give consumers more affordable choices. A process that drills down by industry group or area in evaluating

benefits and costs of proposed rule will serve to improve insight, improve fairness, and will help to prevent unintended consequences that could prove to be harmful.

So, just to wrap it up, the benefit-cost analysis proposal uses the tools and we believe the values of the modern economy and, in the end, will produce better regulation. And we look forward to working with the EPA filing our formal comments as we move forward to a final rulemaking. Thank you very much.

Jan Connery: Thank you. EPA, do you have any clarifying questions for Karen?

Kelley Raymond: No clarifying question. Thank you.

Jan Connery: All right. Well, we will move to our next speaker who is on the line, and that is George Thurston. So, operator, if you would unmute George's line, and, George, please start by saying then spelling your name and then begin your comment.

George Thurston: Yes, good afternoon. This is George Thurston, G-E-O-R-G-E T-H-U-R-S-T-O-N. Thanks for the opportunity to speak at the meeting today. I'm a Professor of Environmental Medicine at the New York University School of Medicine where I investigate the effects of air pollution on human health.

I'm speaking today on behalf of the North American Chapter of the International Society for Environmental Epidemiology. We have serious concerns about EPA's planned rule called increasing consistency and transparency and considering costs and benefits in the rulemaking process and what it means to the protection of public health from air pollution.

Our major concern is that this proposed rule can allow the EPA to ignore many of the health benefits that would result from the regulation of air pollution emissions and the implementation of our air quality standards, thereby undercutting health and financial justification for those actions to protect public health.

A key part of the evaluation of the new regulation is an estimation of the human health benefits of that action and their financial evaluation versus the monetary cost to polluters of implementing that regulation.

In the real world when one pollutant source is controlled or eliminated, it usually is – it controls other pollutants at the same time that would not otherwise be controlled. I think that's an important point.

However, this proposed rule leaves open the possibility that those other health co-benefits could be just ignored by the EPA, thereby under estimating the full health benefits of the regulatory action and undermining the rationale for going forward with that regulation, allowing more air pollution to be breathed by the American public and allowing more adverse health effects than if the air quality regulations were to be implemented.

A special concern is that the June 11, 2020 rule stipulates on Page 35620 that cost-benefit analysis, the pollutant analyzed in the study matches the pollutant of interest in the regulation, which would apparently close the door to including co-benefits from other pollutants that would also be reduced at the same time that the regulation is implemented.

Using mercury, the example actually mentioned earlier, and raised in the 2018 Federal Register hosting for this rule, most emissions control options would remove mercury from the exhaust of, say, a coal-fired power plant, would also remove health-damaging particulate matter air pollution that would not otherwise be controlled at the same time.

Thus, the health benefits of the regulation are far larger than just the specific pollutant that is the aim of the regulation alone. All of these benefits and evaluations, all of the benefits and their evaluations should definitely be fully included in the estimated benefits of regulations, ignoring, for example, the particulate matter, air quality benefits would inappropriately cook the books at the cost-benefits – of the cost-benefits, underestimate the full benefits and to undermine the public health protections.

Just as an aside, that was – the mentioning earlier of Justice Antonin Scalia, he ignored the co-benefits, and that's why the numbers that were raised by the

previous speaker was so low. And, in fact, the EPA estimate included the co-benefits, and was billions of dollars more than just to consider the benefits from the mercury alone because the emission controls used for mercury would also take out particulate matter. So, it's just common sense to include that as a benefit of the rule.

Finally, in summary, this rule is not needed. The cost-benefit approach used by the EPA in the past was perfectly appropriate. I wouldn't say it was perfect but it was certainly appropriate and it's similar to what other agencies and other governments are using at the same time.

And so, this rule seeks – this rule, the proposed rule, seeks to solve a problem that does not exist. The EPA should withdraw this rule. Thank you.

Jan Connery: Thank you, George. EPA, do you have any questions of clarification for George? Kelley, are you – are you unmuted?

George Thurston: All right, thank you.

Leif Hockstad: Hi, Jan, it's Leif. No, we don't have any additional clarifying question. Thank you very much.

Jan Connery: Oh, OK, all right, great. Thank you. OK. I want to note that we're a bit ahead of schedule because some of the folks haven't showed up or showed up yet that are listed.

So, this is a point where I just want to say to everyone who's on the line as a listener, if you have decided you would like to make a comment today, would you please press "star," "1" so that we can see that you are interested? That information will be coming to us pretty instantaneously. And so, we do have a bit of time to add one or two folks in if you'd like. So, I invite people to do that. Right now, I'm not seeing any takers.

So, while we wait and see if there's anyone who may like to do that by pressing "star," "1" on your phone, I'm going to go to our next speaker who is on the line. We're leaping ahead a little bit here. But the next person I have is Wayne Nastri. If you don't mind going a little earlier, Wayne. Operator,

would you please unmute Wayne's line for us? And Wayne, is it OK with you if you go earlier?

Wayne Nastri: Sure, that's fine.

Jan Connery: All right. Well, you probably know the drill, but start by saying then spelling your name and proceeding with your comment.

Wayne Nastri: Thank you. Hi, my name is Wayne Nastri, W-A-Y-N-E N-A-S-T-R-I. I'm the Executive Officer for the South Coast Air Quality Management District. And we're the local agency responsible for air quality in the Greater Los Angeles Area.

And I want to begin by thanking the panel for the opportunity to testify regarding the proposed rule, increasing consistency and transparency in considering benefits and costs in the Clean Air Act rulemaking process.

The 17 million residents in our jurisdiction breathe some of the worst air in the United States. And as an agency whose mission is to protect public health, we strongly believe that air quality policies and regulations must be guided by the best available science.

EPA stated goal in this proposed rulemaking is to, one, ensure that benefit-cost analyses, BCAs, are conducted for each significant action under the Clean Air Act, and, two, that these analyses be performed in a consistent and transparent manner in accordance with best economic practices.

And we agree that BCAs can be a useful tool in informing regulatory and policy decisions. However, given the extensive preexisting framework governing BCAs and the federal government and as EPA described in this proposal, it's unclear why this rulemaking is warranted.

Both Circular A4, OMB's guidance for economic analysis and EPA's guidelines for preparing economic analyses are formal peer-reviewed documents that reflect the current best practices in this field.

For almost 30 years, Executive Order 12866 has required BCAs to be conducted for all significant federal actions. And these are scrutinized during the White House review of the regulations and in the events EPA presented a deficient BCA or IRA could and would require EPA to correct the deficiency.

However, EPA does not explain why this comprehensive framework is deficient nor identifies specific problem or concern with previous rulemaking that this action would have addressed.

EPA alerts potential concerns regarding co-benefits, for example, that the mercury and air toxics will have costs justified on the basis of the monetized co-benefits of P.M. reduction more so than the fractional monetized benefits of mercury reduction.

But in that case, the accompanied BCA very clearly highlighted the costs and benefits from all categories associated with the rule, the assumptions relied upon in the models and literature used to estimate benefits.

While many stakeholders disagreed with EPA's determination in that rule, it was not due to a lack of transparency or inconsistent application of economic principles. More concerning is language in the proposal that appears to restrict the body of literature in the studies that can be used in monetizing benefits.

Economics is a branch of science, and as scientists, economists use best professional judgment in evaluating the suitability of studies to inform estimates of monetized benefits. EPA's guidelines preparing economic analyses, a peer review document prepared by the cadre of PhD level economists in EPA's National Center for Environmental Economics already provides detailed guidance as to how to monetize benefits, when it's appropriate to monetize benefits versus a more qualitative approach, and the types of studies that can be relied upon, et cetera, et cetera.

Establishing blanket restrictions from relying on certain studies, such as discounting epidemiological studies based on the age of the air quality data would arbitrarily cut out consideration of what is considered sound science.

And finally, we're concerned that by seeking comments on what the rule should prescribe how BCA should inform regulatory options, EPA seems to be indicating a preference that BCA should be the controlling factor in shaping regulations.

The same paper that EPA cites a support for requiring BCAs broad rulemaking also states that BCA should not be the sole basis for decision-making and should not be used as necessarily even sufficient for decision-making.

BCA is a more appropriately one input out of many in developing regulations aimed at protecting public health. And as EPA acknowledges, there are many areas where the Clean Air Act prohibits or limits consideration of cost in establishing standards.

We therefore ask that EPA reconsider this proposed rule, instead focus on implementing and improving existing economic guidelines and practices to ensure the development of robust transparent BCAs. Thank you and that concludes my comments.

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

Kelley Raymond: No clarifying question. Thank you.

Jan Connery: Thank you. All right. Well, our next listed commenter who is on the line and joined us recently is Ellie Reynolds. Ellie, if you don't mind going a little early. I'm going to have the operator unmute your line. You would begin by first saying and then spelling your name and then proceeding with your comment and you'll have 5 minutes.

Ellie Reynolds: Hello, everybody. Thank you so much for having me. And as she said, my name is Ellie Reynolds, E-L-L-I-E R-E-Y-N-O-L-D-S. I apologize, I'm a bit restless. I'm participating from our nation's capital on behalf of Environmental America. We're a network of 29 states environmental groups fighting for clean air to breathe, clean water to drink and protected open space.

We strongly oppose EPA's reckless proposal to change the process for calculating cost-benefit analyses for regulatory decision-making as it serves only to benefit polluters and will have disastrous implications for public health.

The Trump administration has, thus far, implemented a significant number of polluter-friendly rules, including weakening the clean power standards and rolling back the Clean Power Plan. And this proposed rule will place Americans at even further risk of harmful health effects from air pollution.

According to a May analysis by the Natural Resources Defense Council, the annual benefits from cleaner air due to the Clean Air Act include up to 370,000 avoided premature deaths, 189,000 fewer hospital admissions for cardiac and respiratory illnesses, and net economic benefits of up to \$3.8 trillion for the U.S. economy.

Moreover, the annual benefits of the Clean Air Act are up to 32 times greater than the cost of these regulations. Plain and simple, the EPA is going against its mission by pursuing this proposal.

The agency's role is to protect human health and the environment. By neglecting to consider the health benefits of environmental regulations and cost-benefit analyses, the EPA is unmistakably jeopardizing our country's health and wellbeing for the benefit of polluters.

Health co-benefits should be considered in EPA's Clean Air Act regulations. If we don't consider the benefits to public health, the threat to public health will continue. Thank you. I yield the rest of my time.

Jan Connery: Thank you, Ellie. Do we have any questions of clarification from EPA for Ellie?

Kelley Raymond: No clarifying question.

Jan Connery: All right. Well then, we will go to our next speaker who is on the line. We've been joined recently by Hilda Swirsky. We're just a couple of minutes ahead

of the time you probably expected, Hilda, but we're ready for you. So, I'm going to ask the operator to unmute your line. Please begin by saying and then spelling your name for our transcription record and then you may begin with your comment.

Hilda Swirsky: Thank you for this opportunity to speak to you this afternoon. My name is Hilda Swirsky, H-I-L-D-A S-W-I-R-S-K-Y, and I am a registered nurse testifying from Toronto, Ontario, Canada, who is a regional expert on the Air Quality Health Index and executive member of the Canadian Association of Nurses for the Environment and the Ontario Nurses for the Environment Interest Group.

Not only do I oppose this proposal but also urge the EPA to withdraw it. I concur with the American Public Health Association's 2017 policy that opposes weakening health protections under the Clean Air Act and defends the clean power plants as it is.

Their policy also recommends that the EPA increase its assessment and control of toxic air pollution, pollutants and continue to reduce pollutants that deplete the ozone layer. The (APAAK) further is asking for collaboration with EPA to remediate environmental justice concerns.

At this amazing time in history when the entire world is more focused on ensuring that the Black Lives Matter movement is taken seriously, we need to address environmental racism by ensuring we have strong environmental laws, not watered down, weakened one that this change in process will result in.

Health benefits gained from current cost-benefit rules cannot be underestimated or discounted the cost-benefit of having healthy populations. The EPA is highly regarded and respected for being up-to-date in its ongoing cost-benefit analyses that include rigorous peer reviews of guidelines and critical extensive scientific research prior to regulatory decision-making.

Changing the process will have critically alarming implications to meeting and strengthening national air quality standards, putting Americans at greater risk for negative health impacts of air pollution such as increased incidence of

aggravated asthma, lung cancers, ischemic heart disease, and chronic obstructive pulmonary disease. Maternal exposure has also been associated with low birth weight, preterm birth, and small gestational age birth.

One very successful strategy the EPA has used was to issue federal emission standards for new motor vehicles, non-road engines and new industrial equipment. There is also a need to share and collaborate on success stories and lesson learned.

Ontario's shutdown of all coal plants in 2014 after a phased out approach stands as a single largest greenhouse gas emissions reduction action on the continent and was primarily responsible for Ontario achieving its ambitious 2014 emissions reduction target of 6 percent below 1990 levels.

Our 2005 independent study estimated a total amount cost of coal-fired electricity, including how financial and environmental costs was 4.4 billion. The 2005 was the worst year for smog advisories and smog days in Ontario.

For Toronto alone, the largest city in Ontario, air quality improvements between 2004 and 2014 were estimated to have reduced air pollution deaths by 23 percent from 1,700 to 1,300, and reduced air pollution-related hospital admissions by 41 percent from 6,000 to 3,550. Toronto Public health cited the coal closures as a factor in these gains.

Transforming Ontario's energy supply mix decreased greenhouse gas, nitrogen oxide, sulfur dioxide and mercury emissions. Positive results of Ontario's strategy also included billions of dollars in public and private sector investments and the generation of thousands of jobs and significant increase in the amount of clean energy in our supply mix.

The fastest growing clean technology sector in Canada with a strong potential to provide Ontario manufacturers, solar ...

Jan Connery: Fifteen seconds left.

Hilda Swirsky: ... (photo volcanic) modules, wind turbines and related components as well as Ontario's expertise to external markets.

In conclusion, consistent monitoring of key pollution metrics, including particulate matter concentrations and population exposures continues to be a critical need for the health of populations. And additional important need is just to follow up ...

Jan Connery: We need you to wrap up. Every commenter has 5 minutes and you're ...

Hilda Swirsky: Right.

Jan Connery: ... just a bit passed it.

Hilda Swirsky: Understood. Statistical analysis that can be used to assess the success of policy actions. Thank you.

Jan Connery: All right, thank you so much. Are there any questions of clarification from EPA for Hilda?

Kelley Raymond: No clarifying question.

Jan Connery: All righty. Well, we will move to our next registered commenter, and that is Kathryn Carey, who has joined us recently. So, Kathryn, I'll say, while your line is being unmuted by the operator, please begin by stating and then spelling your name for the transcription record then start your comment. You'll have five minutes. And as you see, if you get to the 4 minute 45 seconds mark, I will let you know you have 15 seconds left. Please go ahead.

Kathryn Carey: Hi, my name is Kathryn Carey, K-A-T-H-R-Y-N, last name C-A-R-E-Y. And I'm calling from New York City. That's where I live and work as a certified cardiac vascular nurse, and oppose to the proposed rule for both the change of the cost-benefit analysis.

Jan Connery: Kathryn?

Kathryn Carey: Yes?

Jan Connery: Excuse me for interrupting, but I want to check with the operator. There's a crack along the line and I'm a little worried that it's going to compromise our

ability to hear you. Do you think that could be coming from the connection that Kathryn has, (Carmen)?

Operator: Yes, it's coming from Ms. Carey's line.

Jan Connery: All right. Kathryn, I think we need you to call in again and we'll put you right back in as soon as we've got a good line with you.

Kathryn Carey: Is it any clearer now?

Jan Connery: No. I think it's the quality of whatever line you happen to be on. It happens ...

Kathryn Carey: OK.

Jan Connery: ... now and then.

Kathryn Carey: OK, I'll call back in.

Jan Connery: (Carmen), will it be relatively quick to reconnect to Kathryn or shall we go to the next speaker? Is it quick to reconnect her, (Carmen)? Sorry.

Operator: No, she's not reconnecting in.

Jan Connery: All right. Well, we'll go to the next speaker then. And if you're available, this is quite a bit of advance but it's Roy Gamse. So, if you'd unmute Roy's line, please. Roy, is it all right with you if you go now?

Roy Gamse: That's fine.

Jan Connery: OK. Well, I think you know the drill. Please state then spell your name and proceed with the comment.

Roy Gamse: OK. I am Roy, R-O-Y, Gamse, G-A-M-S-E.

Jan Connery: Roy, can you get a little closer? You're very faint. Are you able to get closer to your phone?

Roy Gamse: OK, let me turn up the volume. OK, should I start again?

Jan Connery: That's a little better. I think we can work with that, but if you can do anything more, it wouldn't hurt.

Roy Gamse: I would – I would have to call in again on a – on a landline.

Kelley Raymond: I can hear you, Roy. Jan, I can hear Roy.

Jan Connery: OK. All right, good. Well, let's go ahead with Roy. Go ahead. Please start again, Roy.

Roy Gamse: If it doesn't work, interrupt me and I'll call back from a landline, OK?

Jan Connery: All right.

Roy Gamse: I am Roy Gamse, R-O-Y G-A-M-S-E. I served at the EPA in the Nixon, Ford, Carter, and Reagan administrations as Director of Economic Analysis and Deputy Assistant Administrator responsible for overseeing EPA's regulation development process and its economic analysis in support of regulation development.

My comments today are titled, EPA is combating overregulation by overregulating itself again. The Trump administration has been publicly committed words and actions to reducing the number of the impact of regulations. In fact, the President's Executive Order 13771 directed the executive branch departments must eliminate two regulations for every one promulgated with the net reduction of cost.

It's very clear the administration wants to promulgate fewer regulations as those issues should be necessary to implement statutes and should provide net benefit to the public. Unfortunately, this regulation does not meet the test of being necessarily to implements Clean Air Act, and here's why.

EPA – a series of Presidential Executive Orders on regulatory impact analyses and cost-benefit analyses have been issued, requiring such analyses of regulations with significant impacts, including Executive Order 12291 issued by President Reagan in 1981, and Executive Order 12866 issued by President Clinton in 1993.

These orders apply to all significant regulations issued by EPA and all other executive branch departments and agencies. They still have a high level of the content analyses required with implementation overseen by rigorous staff of economists and analysts in OMB's OIRA office.

OMB's Circular A4 and regulatory analysis was issued in 2003 by OMB's Office of Information and Regulatory Affairs then headed by Professor John Graham, that prescribes in 30 detailed pages how regulatory analyses, including cost-benefit analyses, should be done. It spells out how to deal with the wide range of issues in quantifying, monetizing, discounting costs and benefits of regulations, including unquantifiable impacts.

EPA itself has adopted its own guidelines specifying how regulatory analyses and cost-benefit analyses should be done for proposed environmental regulations, spelling out much greater detail how the analytical issues and documentation should be done.

EPA's first economic analysis guidelines were adopted in 2000, they were updated in 2008 and 2010. These guidelines are currently being updated once more for the proposed draft in the last stages of an intensive review by an expert economics panel of EPA's Science Advisory Board headed by the same John Graham, who headed OMB's OIRA. One of the issues the OMB Circular A4, the guiding document on federal regulatory and economic impact analysis includes a former staff member of OIRA itself.

The EPA guideline draft under review with a 430-page document. If we were in-person, we'd see a document one and a half inches thick. It provides exhaustive prescriptive detail of cost-benefit discounting economic impacts and much more than the regulation under discussion today.

So, why is this regulation necessary? With techniques of economic analysis and cost-benefit analysis spell that detail by executive orders, OMB guidance in great detail and EPA's own internal guideline, what is the purpose of writing this regulation? It's not required by the Clean Air Act and the agency's assertion that Section 301(a)(1) provides authorities to stretch and attempt to find permission but no indication of a requirement.

Section 2(b) of the proposed Federal Register notice is that this proposed procedural rule would not regulate any person or entity outside the EPA, would not affect the rights or obligations of outside parties.

So, it wouldn't reduce a pound of pollution or cause any government entity to do anything. The only effect is on how EPA develops regulations. It's self-regulation by EPA, which already has 30 pages of OMB instructions and 430 pages of some guidelines reviewed by a panel of national regulatory economic experts.

Is Administrator Wheeler afraid he can't get his own people to follow the EPA guidelines, so these people are just now updating, obviously not. The one and only purpose of this rule is the private hands the future EPA administrators with a legally binding requirement with the implicit assumption that future OMB reviewers wouldn't be able to do the job their predecessor's own administration of the past 40 years have done.

By turning OMB and EPA guidelines into a legal requirement, this rule would encourage litigation over future rules to stop them not because they don't comply with the Clean Air Act statute but rather because in someone's opinion, they don't meet the requirements for economic analyses that are not even required by the Clean Air Act. That's not a reason to regulate.

And an administration that professes to want to simplify and reduce regulation, the self-regulation is just plain silly. The time spent developing is going to waste the resources from administration that professes a desire to reduce spending and government waste.

As I said at the outset, EPA is combating over regulation by overregulating itself again. Why again? Just as with the so-called science transparency rule, EPA is wasting resources by regulating only itself in a transparent attempt to limit or stop future regulation. Thank you for your attention.

Jan Connery: Great. Thank you so much, Roy. EPA, do you have a clarifying question for Roy?

Kelley Raymond: No clarifying question. Thank you.

Jan Connery: All right. And I understand we have Kathryn back on the line and it's a much improved line. I apologize for the interruption there, Kathryn, but we do want to make sure that EPA can clearly hear and all our listeners who are on the line as well can hear your comments and that we have it clearly for the transcript. So, please go ahead, try again, starting all over, stating your name, spelling your name, and then proceeding with your comments.

Kathryn Carey: My name is Kathryn Carey, K-A-T-H-R-Y-N, last name, C-A-R-E-Y. I'm calling from New York City. That's where I live and work as a certified cardiac vascular nurse. I'm opposed to this proposed rule to change the cost-benefit analysis process. I believe the current process should be maintained.

In considering the cost of rules governing air pollutants, the benefits of reducing the associated pollutants should continue to be included. Those co-benefits should not be diminished. As it stands, there doesn't seem to be a problem with the current analysis, so why change it?

If anything, the current process often underestimates the actual health benefits of proposed changes. And I'm concerned that the new measure would result in weighing heavily in the favor of costs to industry.

For example, the analysis that was done for (masks), the mercury air toxic standards ended up overestimating the cost of mercury containment measures. And later research studies showed that the health benefits were much more numerous than originally estimated by the EPA.

That was an example that resonated with me because I grew up just a few miles from a coal burning power plant and I ate fish as a child that was caught in nearby waters where mercury contamination was prevalent.

But expanding beyond that example, there are a multitude of air contaminants that affect the health of my patients. Time and time again, studies show that cleaner air prevents missed work and school. It prevents premature deaths, hospital admissions, respiratory emergencies and heart attacks like those that my patients suffer from.

So, the benefit to preventing those illnesses and death is far greater monetary benefit to our society than it would be a cost to the industry. Please do not consider implementing this unclear and unnecessary change to the current process. Thank you for your time.

Jan Connery: Great. Thank you, Kathryn. Any questions of clarification for Kathryn from EPA?

Kelley Raymond: No clarifying question. Thank you.

Jan Connery: All right. Well, we will move to our next two registered speakers, and those are Gary Ewart followed by Dan Eberhart. You've joined just recently so, I'll just say to both of you that you'll be starting by stating then spelling your name then proceeding with your comment. You have 5 minutes to comment. If you get to 4 minutes and 45 seconds, you'll hear me say, "15 seconds left" and that's the signal to wrap up. So, Gary, please proceed.

Gary Ewart: Thank you. My name is Gary Ewart, G-A-R-Y E-W-A-R-T, and I'm speaking on behalf of the American Thoracic Society. American Thoracic Society is a medical specialization of over 16,000 members dedicated to the prevention, detection, treatment and cure of respiratory disease, critical care illness and sleep disorder and breathing. In short, we're the lung docs.

Members of the ATS are experts in the adverse health effects of air pollution. And it is with our combined expertise as lung doctors and air pollution experts that we offer the following comments about the proposed rule.

The general comments, first, the ATS strongly supports efforts to improve the accuracy and transparency of the cost-benefit analysis conducted by EPA with Clean Air Act regulations. Regrettably, the proposed rule does nothing to improve EPA as cost-benefit process. And, in fact, the proposed rule appears to be expressly designed to reduce the accuracy of the cost-benefit efforts and to tilt the cost-benefit estimation process in favor of the regulated industry and against environmental regulation.

The first question is, why are we – why is EPA proposing to turn the administrative policy into regulatory policy? As is clearly pointed out in the extensive background section of the proposed rule, EPA has the authority to change how it does cost-benefit regulations. And there's many examples across administrations of refining the process.

So, why are they putting a regulation? Simply put, this provides another opportunity for regulated industry to more easily go to court to challenge the process. So, not only can they go to court to pose the rule, now, they can go to court to oppose the regulatory finding of cost-benefit that may eventually lead to. This is just another attempt to slow, weaken and stop EPA's authority of regulating air pollution.

Second issue I want to raise is ending the cost-benefit and – the co-benefit and primary cost-benefit analysis. And as promised to the press, Administrator Wheeler was uncharacteristically transparent in one of his true aims of this proposed rule, and that's to eliminate the consideration of co-benefits in the primary cost-benefit analysis.

What's a co-benefit? Co-benefit is when you take action to achieve one policy goal and you also achieve other policy goals. For example, pre-COVID, I'd like to work as a way to reduce my greenhouse gas emissions and carbon footprint. In addition to reducing greenhouse gas emissions, my biking to work also reduces other tailpipe emissions. I get daily exercise, it saves money on gas and parking.

So, when I think about the benefits of this, I'm not just measuring my greenhouse gas reduction, but I'm measuring holistically all the good things and some of the bad things that biking does for me.

EPA regulations should be acting in the same way. Other EPA regulations have similar co-benefits. Pollution control technology reduces mercury and air toxic pollutants, also reduces particulate matter. Policies that reduce greenhouse gas emissions also reduce other criteria pollutants like particle pollution and ozone.

For years, EPA has captured all the pollutant reductions that are achieved in Clean Air Act regulations. Unfortunately, the proposed rule would abandon this practice and would regulate or remove the cost-benefit analysis of co-benefits and would move it from a primary analysis to a secondary analysis. By downgrading the co-benefits to secondary analysis, the proposed rule will inappropriately underestimate the public health benefits and tilt the analysis against EPA regulation.

Another concern the ATS has is ozone causality. In a separate action, the 2020 EPA scientific – Integrated Science Assessment changed ozone causality for short-term exposure to ozone and its link to mortality from likely causal to suggestive of insufficient to infer a causal relationship. A similar change was made in downgrading causality of cardiovascular effects for short-term ozone exposure.

The ATS disagrees with both of these decisions in the ozone ISA. Unfortunately, the proposed cost-benefit rule we're discussing today would compound the impact of this bad decision by not including the ozone impacts in the future cost-benefit analysis.

So, because there is not a finding of either causal or likely causal for ozone, future cost-benefit analysis that deal with ozone under this proposed rule ...

Jan Connery: Fifteen seconds.

Gary Ewart: ... would not include that. Due to limited time, I can't expand, but we're also concerned about how this proposed rule would interact with other rules, particularly the proposed transparency rule, we're concerned that the transparency rule will eliminate many of the studies that EPA should be relying on to do accurate cost-benefits. Sadly, that appears to be one of the implicit goals of this rule. The ATS will ...

Jan Connery: Thank you, Gary.

Gary Ewart: ... detail upon these points in our written comments and would welcome any questions you may have. Thank you for your time.

Jan Connery: OK, thank you. All right. EPA, questions of clarification for Gary?

Kelley Raymond: No clarifying question. Thank you.

Gary Ewart: Thank you.

Jan Connery: OK. So, our next speaker is Dan Eberhart, and I'm just also going to mention to Molly Rauch, I know you're down as our last speaker. You may be on deck after Dan unless somebody joins us who was listed earlier and that could happen so just so you can be prepared.

In addition, I'll remind anyone who is joining us as a listener, if you have decided you would like to make a comment, we are going to have some time for that. And so, if you are interested, please press "star," "1", and that way, we'll be able to see and fold you in when we have time.

All right. So, we are going to Dan Eberhart next. Please state and spell your name and then proceed with your comment, Dan.

Dan Eberhart: All right. Dan Eberhart, E-B-E-R-H-A-R-T. Thank you for allowing me a few moments today to express my opinion. So, I think there are four reasons that the CBA rule should be adopted.

Number one, ensuring the agency balances, benefits, and costs in a regulatory decision-making process in a more formal way. Number two, I think increasing the consistency and the interpretation of the statutory terminology would be beneficial to future policymakers.

Number three, providing transparency in a way assigned to various factors and regulatory decisions for consistency will increase the transparency for everyone involved and make decisions better able to be analyzed post facto.

And finally, that promoting adherence to the best practices in conducting the technical analysis used to inform decisions will ultimately lead to better policy outcomes. Today, the EPA has not developed a system – systematic and consistent approach to how the agency estimates benefits or costs, the underlying detailed information that drives the agency decision-making.

In addition, the EPA has also failed to be fully transparent with regard to the many uncertainties underpinning their cost and benefit estimates. These include the many embedded policy assumptions EPA makes in developing the various cost and benefit estimates and their impact on the final estimates.

The public has a right to understand how uncertain these estimates are and what they include or omit. The EPA should require the full cost-benefit analysis be implemented agency-wide on a consistent basis.

This rule attempts to address these deficits by putting in place regulations that the EPA will be required to follow in assessing benefits and costs unless the EPA notifies the public through a rulemaking that is departing from these rules.

Understanding the full impacts and consequences of regulation will boost confidence in the private sector with its clarity. Improving this regulation will allow industries to better accumulate capital and develop long-term financial strategies, fully understanding the regulatory system that they are dealing with.

The improved CBA rulemaking will affect a broad swath of the economy here. Any business or manufacturer that's regulated by the Environmental Protection Agency will have greater transparency about the cost of new regulations and how they will affect their specific business.

The EPA regulates many essential U.S. industries that generate billions of dollars in revenue and support millions of jobs such as agriculture, automotive, construction, electric utilities, oil and gas, transportation, manufacturing, water and sewage utilities, mining, forestry and logging, and health care.

About 70 percent of the total federal regulatory costs born on U.S. industry are born by the Environmental Protection Agency. So, I think that this is critical and key and should be a very large component in the decision-making process.

Also, it should be noted that there's a bipartisan consensus across the public policymakers and the courts that the economics should, shall absolutely be considered during the analysis of any regulatory proposal.

Presidents Reagan, Clinton, and Obama had signed the executive orders that established that regulations should be created only when benefits exceed costs. So, there's bipartisan support in addition to just the Trump administration's impetus by Administrator Wheeler to move this CBA analysis forward.

Analysis should also include retrospective reviews in order to determine how previous regulations were imposed, their overall cost, and whether they contributed to the stated policy goals.

They should also include cumulative impacts and maintain clarity regarding the definitions of terms and values. As I see it, when the rule is finalized that it will have the following benefits. Best Practices will be followed as the EPA will be required to adopt best practices on how it assesses the risks, benefits, and costs. There will be a systematic review of all evidence. The rulemaking will require the EPA to conduct existing studies and models using clear criteria to prevent focusing disproportionately on one study alone.

There will be enhanced public accountability and engagement. The public will now have a greater understanding of what the EPA will do in estimating costs and benefits. This understanding ...

Jan Connery: Fifteen seconds.

Dan Eberhart: ... will allow effective businesses to provide more relevant information. I think that the rulemaking process the CBA adopts should be adopted so that there's more clarity and this will be better for industry and better for the environment as we analyze what we're doing at a federal level. Thank you.

Jan Connery: All right, thank you. EPA, do you have any questions of clarification for Dan?

Kelley Raymond: No clarifying question. Thank you.

Jan Connery: All righty.

Dan Eberhart: Thank you.

Jan Connery: So, give me one second. Here, we have a commenter who has been added to the list recently, that's David Baron who is next. David, would you please begin by stating then spelling your name then proceeding with your comment?

David Baron: Yes, thank you. My name is David Baron, D-A-V-I-D B as in boy, A-R-O-N. And I'm an attorney with Earthjustice, a nonprofit organization dedicated to ensuring that people receive the health and environmental protections that the law requires.

First of all, I want to echo requests that have been made for a 60-day extension of the comment period. The proposed rule attempts to impose a complex set of cost analyses on a broad swath of significant Clean Air Act rules.

And the current comment period is just not adequate for that, for this proposal, particularly in light of the fact that EPA itself took almost two full years to develop it, and nor is there any particular urgency in finalizing this rule.

In fact, EPA hasn't really shown any real need for this rule at all much less than an urgent one. EPA refers to claims of inconsistency and lack of transparency in cost-benefit analyses, but provides no specific examples and no explanation of why these claims amount to real substantial problems that require a rulemaking solution nor is there any explanation as to why mandated uniformity in the way EPA evaluates costs and benefits under different provisions of the Clean Air Act is necessary or consistent with EPA's lawful performance of its statutory duties or with the acts of health protection goals.

In fact, this proposal conflicts with those goals. Poor mounds of red tape in the way of sorely needed limits on dangerous pollutants and then force EPA professional staff to spend huge amounts of time conducting multiple cost analyses that Congress did not require, diverting those staff from performing the life-saving jobs that Congress did require.

And for what purpose, EPA doesn't even say if or how it will even use the results of this bureaucratic exercise. The fact is the Congress sat down in great detail in the Clean Air Act the factors it wanted EPA to consider for each health protective program from clean air standards to emission limits for factories and power plants, to protections against health risks from toxic pollutants.

And Congress didn't give EPA the authority to adopt the rule that the agency is proposing here. The only authority EPA cites for this rule is the X housekeeping provision, and this is anything but a housekeeping rule. The housekeeping provision only allows rules necessary to fill gaps in the act's substantive provisions not to adopt broad, new analytical schemes.

And here, EPA doesn't even cite what statutory gaps it's filling because it isn't. This is a purely ideological program designed to serve ideological purposes, not the purposes of the Clean Air Act.

Finally, EPA's time spent on this proposal arbitrarily diverts agency resources from the job of safeguarding public health in the environment. According to the American Lung Association, about 150 million people in the U.S. live in communities with unhelpful levels of ozone and particle pollution.

A disproportionate number of those are people of color. EPA is delinquent in undertaking a long list of actions that are critically important for protection of public health in the environment. These include updating toxic emission standards for industries, fixing standards found deficient by courts, and failing to remove illegal exemptions that allow major industries to emit dangerous levels of toxins.

EPA needs to focus its resources or needing its duties to protect people's health rather than developing schemes that will only lead to more delay in fulfilling the promise of the Clean Air Act. Thank you for the opportunity to comment.

Jan Connery: Great, thank you, David. Do we have any clarifying question from EPA for David?

Kelley Raymond: No clarifying question. Thank you.

Jan Connery: All right. Well, at the moment, we don't have any additional pre-registered speakers queued up though there are some that were on the list and haven't joined us, so they may yet. We don't have any responses from listeners who would like to comment now by pressing "star," "1". We haven't seen any activity there.

So, what we're going to do now is take a 15-minute break that would have us back at precisely 3:10 P.M. We will resume at 3:10. We will check to see if there are any additional speakers from the list or who've signed up by pressing "star," "1". If – and we will take any of those, and then after that, the meeting will conclude with the EPA closing remarks. So, there will be music on the line during the break, but please join us again at 3:10 P.M.

Operator: Ladies and gentlemen, you are listening to the public hearing on the proposed rule, increasing consistency and transparency in considering benefits and costs in the Clean Air Act rulemaking process. The conference will begin momentarily. Thank you for your patience and please continue to stand by.

Jan Connery: Hello, everyone. This is Jan Connery with ERG, the facilitator for this public hearing. Welcome back. If you're just joining us, we have taken a 15-minute break and we are resuming to take any additional speakers. We do have one of our pre-registered speakers, who I will call on momentarily.

Again, I invite anyone who is listening and has decided they'd like to speak, to let us know that by pressing "star," "1". So far, we don't see anyone who's done that. So, at this point, we have one additional speaker. That is Molly Rauch. And Molly, I'm glad we were able to reconnect with you so that you'll have a chance to comment. Please begin by stating and spelling your name and then begin with your comment.

Molly Rauch: Thank you. My name is Molly Rauch, that's M-O-L-L-Y, last name is R-A-U-C-H. Thank you for the opportunity to testify today. I am the Public Health Policy Director for Moms Clean Air Force, an organization of more

than 1 million moms and dads fighting to protect our children from air pollution and climate change.

I've lived in Washington, D.C. with my three children. I'm speaking today on behalf of our members in opposition to the cost-benefit proposal under discussion, and I urge EPA to withdraw their proposal.

EPA's proposal to change the process for calculating the costs and benefits of the Clean Air Act rules, this is an attack on public health. And because air pollution harms vulnerable groups disproportionately, this proposal is an attack specifically on the health of babies, children, pregnant women, black and brown Americans, older adults and those with underlying health conditions like asthma and heart disease.

EPA already has a long standing practice of evaluating costs and benefits of Clean Air Act rules based on scientific and economic standards through peer-reviewed and well-vetted guidelines. There is zero evidence that there are problems with this practice or that this practice is not working.

The proposal under discussion today is trying to solve a problem that does not exist. And the evidence for that is within EPA's own proposal. In explaining the reason this rule was being promulgated, EPA writes, "The EPA opened a public docket in April 2017 to solicit feedback and identify regulations that impose costs that exceed benefits."

So, EPA decided that some regulations imposed costs that exceed benefits despite the fact that these regulations had already been evaluated for costs and benefits as laid out in EPA's peer-reviewed science-based guidelines.

To continue with the cost-benefit proposal under discussion today, EPA writes, "Among the public comments received, a large cross-section of stakeholders stated that the agency either underestimated costs, overestimated benefits or evaluated benefits and costs inconsistently in its rulemakings."

I would like to ask who are these unnamed stakeholders, who are concerned about overestimating benefits? As Policy Director for Moms Clean Air Force

and as a mom, I can assure you that these are not those 46 percent of Americans who lived in an area with unhealthy air.

These are not those families living close to heavy industry, living near heavily trafficked roads, living next to oil and gas operations, fighting for their children's health every day. We are actually concerned about the opposite problem, the idea that the full benefits of reducing pollution are not adequately monetized by the agency when considering rules.

For example, the improved birth outcomes that result from reducing particle pollution, such as reducing the number of preterm births and the number of low birth weight babies do not get counted when EPA considers rules that would reduce particles.

That means that the many benefits from regulating harmful emissions are already undervalued by EPA. Particle pollution is associated with tens of thousands of deaths each year. It causes heart disease, diabetes, lung cancer and lung disease, and increases the risk of lung infections, an important point as we are in the midst of a respiratory pandemic.

It's also faced with strong science indicating that the current knack standards for particle pollution are inadequate to protect public health. Administrator Wheeler has refused to strengthen the national standards for this deadly pollutant.

At the very same time, Mr. Wheeler has specifically cast aside consideration of the co-benefits of reduced particle pollution from the mercury and air toxic standards in that recently finalized rule. This directly contradicts the suggestion in the cost-benefit proposal under discussion today that EPA would compensate for the loss of co-benefits by directly regulating the pollutant in that issue.

Wheeler's EPA clearly has no intention of directly regulating particulate pollution. As my mom always says, "Actions speak louder than words," Mr. Wheeler's actions are showing us his true intent with this proposal to undercount the substantial and real health benefits of reducing particle pollution.

The cost-benefit proposal is a handout to industry under the guise of transparency. There is no evidence of a lack of transparency. The process is already transparent. Indeed, this is an attempt to make pollution appear less harmful than it is, less harmful than the scientists and economists and public health experts are telling us, and that goes expressly against the agency's mission to protect public health. Moms Clean Air Force strongly opposes the cost-benefit proposal. EPA should maintain ...

Jan Connery: Fifteen seconds.

Molly Rauch: ... the existing longstanding practice of calculating the full benefits and costs of pollution rules and EPA should withdraw this proposal. Thank you.

Jan Connery: Great, thanks very much. EPA, do we have any questions of clarification for Molly?

Kelley Raymond: No clarifying question. Thank you.

Jan Connery: All right. Well, we have not had anyone yet. Let us know by pressing "star," "1" that you would like to make a comment among our listeners. So, I invite you once again to do that. If you do it, we will see that pretty instantaneously. And we have time now because we don't right now have any additional of our pre-registered comments on the line or commenters. So, please go ahead and do that if you'd like.

I'm not seeing any takers. So, I'm going to ask our EPA presiding official Kelley, what you would like to do at this point?

Kelley Raymond: Thank you, Jan. Seeing that we have no additional speakers who have raised their hands and we have concluded our list of our pre-registered speakers, I'm going to go ahead and read the closing statements at this time.

So, my name is Kelley Raymond. I'm the Senior Advisor for EPA's Office of Air and Radiation. And I have been chairing this hearing session today. Given that we don't have any more registered speakers or any more individuals in the listing line speak before we close this hearing, I want to go

ahead and thank my fellow panelists and thank everyone who offered testimony today regarding the proposed rule, increasing consistency and 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.

Operator: And this concludes today's conference. Thank you for attending.

Jan Connery: Hello. This is Jan Connery, the facilitator for the public hearing. Jerry Sonnenberg, I understand you've joined us quite recently. We – and so, we've reopened the hearing so that we can take your comment.

We've got EPA folks on the line, I believe. Let me just confirm. Do we have Kelley Raymond, the presiding EPA official?

Kelley Raymond: Yes, Jan, I'm here.

Jan Connery: Wonderful. OK. And Leif, are you there as well?

Leif Hockstad: Yes, I am, Jan. Thank you.

Jan Connery: OK. And how about Emily?

Emily Kroloff: Yes, I'm also here.

Jan Connery: Perfect. All right. So, Jerry, we've got the same three EPA folks who have been listening to all the comments during this public hearing and they are back and so we can take your comment.

As with all commenters, you will have 5 minutes for your comment. We'd ask that you start by stating your name then spelling your name for the transcription record and then you may begin. I will be keeping time and if you get to 4 minutes and 45 seconds, I will let you know that you have 15 minutes left, so please wrap up at that point. And then please stay on the line because I'll be checking to see if EPA has any clarifying questions for you. So, if you're ready, Jerry, please begin.

Jerry Sonnenberg: Well, thank you very much. And let me first apologize. Obviously, I'm not smart enough to figure out that that was Eastern Time zone as opposed to Mountain Time zone, so I apologize for being late.

I am Jerry Sonnenberg, J-E-R-R-Y S-O-N-N-E-N-B-E-R-G. I am a farmer and rancher in Northeastern Colorado. I am also a State Senator in Colorado and served as the Ranking member and former Chair of the Senate Agriculture Committee. Thank you, again, for allowing me to testify today.

The Environmental Protection Agency's proposed rule governing how cost-benefit analyses are conducted and applied when imposing regulations under the Clean Air Act represent one of the most meaningful reform actions in recent memory.

Two hundred years ago, Chief Justice John Marshall declared the power to tax and the power to destroy. The same can be said of regulation. In recent years, government agencies have gone a step further and acted as if the power to regulate its (transmount) to an obligation to destroy, red tape duplication and litigation have created a regulatory environment that has become a weapon for activists and lawyers and a headache for businesses of all kind, including farmers and ranchers such as myself.

Regulatory overreach and the uncertainty that comes with it drives up costs that average citizens and consumers ultimately shoulder in the form of higher prices and sluggish job creation. I command the EPA Administrator Wheeler for identifying the dysfunction in the CBA process and resolving to address it.

The failure of offices within the agency to use the same language standards and procedures regarding CBA underscores how confusing and arbitrary the process has become for the businesses affected by the regulations.

But this is only the tip of the iceberg. After 40 years, policymakers have not been able to establish clear metrics for cost and benefit, the transparent procedures for providing public input. Every step in the process is an invitation for environmental activists to go back to square one. Delay often translates into stalled and canceled development and economic activity that would benefit workers and their families.

In essence, the regulatory process bends toward curtailing economic activity. This is unsustainable as the population increases. The demand for manufactured products, food and infrastructure will continue to collide directly with a regulatory environment designed to torque our capacity to meet that demand.

I have long been concerned that federal rules and regulations have been put in place without any thought to the impact they would have on the livelihoods of thousands of people. This was illustrated by the waters of the U.S. that created a huge burden for farmers and ranchers in Colorado.

But that far-reaching statute is just one of many cases of federal regulatory presumptive run amok. The proposed rule to address this mess is based on common sense concepts that the EPA should prepare a cost-benefit analysis for all future significant proposed and final regulations under the Clean Air Act and the CBAs must be developed using sound science and best practices plus additional steps to ensure a transparent procedure.

These guidelines follow directly from executive orders and policy initiatives from last two Democrats to occupy the White House, Bill Clinton, for example. In that regard, Wheeler is not making an abrupt departure from past policies but instead making the law function as intended and consistent with relevant rulings from the U.S. Supreme Court.

In 2015, case involving the regulation of mercury emissions from power plants, the late Justice Antonin Scalia, sorry, explained that the EPA had to consider relevant factors in imposing regulations and cost of \$10 billion or more would certainly qualify as a relevant factor.

As it stands, regulations taken together cost American businesses close to \$2 trillion a year according to the Chamber of Commerce study, but the EPA's vast reach over every industry, the American people have the right to know the net benefits of such massive costs.

The proposed rule will enable us to better understand the tradeoffs and ensure that regulations are warranted and fairly applied. It might be impossible to eliminate completely the tension between regulator and regulated.

Free enterprise by its nature is resistant to the reins of government. The current state of affairs, however, exacerbates that tension and calls into question the legitimacy of government actions. If the government finally establishes clear science-based means for evaluating costs and sets up a review process that is orderly, transparent, and inclusive of all public input, as the rule envisions, the private sector interest and the public more broadly will have more trust in policymaking.

Requiring a cost-benefit analysis be completed before imposing any further regulation will help the federal government to become more of a partner rather than an adversary to American agriculture, manufacturing, transportation, and other sectors.

That is the only way to ensure America will grow and prosper economically while preserving sound environmental standards that are created rationally and implemented in a balanced fashion. Again, I thank you for the opportunity to testify in front of you today. Did I lose you?

Kelley Raymond: Thank you, Jerry. I think ...

Jan Connery: Oh, I'm sorry. I think my mute is on, I didn't realize. OK. Thank you very much, Jerry. And over to Kelley to see if there are any EPA questions of clarification.

Kelley Raymond: No clarifying question. Thank you.

Jan Connery: OK. All right. Well, thanks very much, Jerry. And, Kelley, over to you as we have no one else on the line right now and I don't see anything that suggests we've got any additional speakers who've – who are asking to speak and haven't done so yet like Jerry, who had a time zone challenge.

Kelley Raymond: Sure. Do we want to pause just to be safe and make sure nobody needs to press "star," "1" in order to give a comment?

Jan Connery: Well, I don't think there's anyone on because you had an earlier concluded.

Kelley Raymond: I think one recent. I think one recent one.

Jan Connery: Oh, there is somebody new on, OK. Yes. All right. Well, for the benefit of the person who's joined us, you have the opportunity if you had registered as a listener to press "star," "1" if you would like to make a comment right now and we'll be able to see that right away. So, if you'd like to do that, you certainly have that opportunity, but please do that now. And if we see no activity, we'll assume that you don't want to – you don't want to comment during the session.

OK. Well, I'm not seeing any activity. So, I think – we know there aren't any commenters on – folks who want to comment on the line right now. The meeting was scheduled to conclude at 4:00. So, Kelley, I'll ask if you want to just stay on in case someone joins us or ...

Kelley Raymond: I can see that ...

Jan Connery: Yes.

Kelley Raymond: I want to make sure we follow the rules and I think we are – actually, when I looked at the pre-register times, we're actually a bit beyond where we had people pre-registered for.

Jan Connery: Yes.

Kelley Raymond: So, I think seeing nobody else joining in, Carmen, we have nobody holding who's trying to join, correct?

Operator: I'm showing nobody.

Kelley Raymond: OK, thank you. I think then it'd be advisable to reread the concluding statements just to be sure that we follow the rule and then we'll be concluding the session.

So, yes, my name is Kelley Raymond. I am the Senior Advisor for EPA's Office of Air and Radiation and I've been chairing this hearing session today. We do not have any more registered speakers or those on listening lines looking to speak before we close the hearing.

So, I want to thank my fellow panelists, thank everyone who offered testimony today regarding the proposed rule, increasing consistency and 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 series session is now adjourned.

END