



## National Tribal Air Association's Fact Sheet on EPA's Proposed Rule: Increasing Consistency in Considering Benefits and Costs in the CAA Rulemaking Process

### **What is the proposal?**

In June 2018, EPA sought comment on an Advanced Notice of Proposed Rulemaking (ANPRM) titled, "Increasing Consistency and Transparency in Considering Costs and Benefits in the Rulemaking Process." The ANPRM sought input on whether and how to set national standards agency-wide for how costs and benefits are calculated when EPA performs economic analyses of the impacts of their actions. These analyses are known as Benefit-Cost Analyses, or BCA. The ANPRM was related to [EO 13777](#), which seeks to reduce regulations. The current proposed rule, "Increasing Consistency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process," (hereafter, Proposed Rule) is the next step in the rulemaking process, and applies specifically to BCA for future regulations under the Clean Air Act (CAA), as opposed to agency-wide.

The Proposed Rule includes three elements:

- 1) EPA shall prepare a BCA for all future significant regulations under the CAA
- 2) BCAs are to be developed using the best available scientific information in accordance with best practices from the economic, engineering, physical, and biological sciences
- 3) Additional procedural requirements in the presentation of the BCA results, while maintaining the standard practices of measuring net benefits consistent with [EO 12866](#)

### **What does this mean for Tribes and Air Quality/Air Management?**

While much of this Proposed Rule is sensible, there is a risk that the co-benefits from a given rule will be undervalued, much in the way the co-benefits from reducing mercury were undervalued in the Mercury Air Toxics rule, and the social costs of carbon and the co-benefits of particulate matter reduction were undervalued in the Affordable Clean Energy rule. This Proposed Rule is widely supported by the oil and gas industry because it will likely skew the BCA towards showing increased costs to industry and decreased benefits to the public, ultimately resulting in decreased regulatory actions.

Additionally, while consistency is often something to strive for, the CAA has many different programs, regulatory approaches, categories of pollutants and emissions sources, and health impacts from all of these. Uniform analysis may not be appropriate across the board, and indeed may go against the regulatory requirements of the CAA. Many benefits from regulations cannot be captured in a BCA, such as social and emotional health gains from improved air quality as well as economic value from both the harvesting and enjoyment of natural resources. A cookie cutter approach will also prevent future rulemakings from considering the specific needs of

environmental justice communities, where residents are often overburdened by existing environmental problems or may suffer more severe consequences from new sources of emissions due to the prevalence of underlying health conditions.

### **How can I find more information and comment?**

The NTAA is preparing a Policy Resource Kit for Tribes that will include an informational webinar and a template letter Tribes can use to submit comments. The PRK will be posted on NTAA's website here: <https://www.ntatribalair.org/policy-resource-kits/>.

This [proposal was published in the Federal Register](#) on June 11, 2020. The comment period was extended from July 27, 2020, to **August 13, 2020**. Comments should be identified by Docket ID No. EPA-HQ-OAR-2020-00044 and should be submitted online at <https://www.regulations.gov/>.

If you have further questions, please contact NTAA's Project Director Andy Bessler at 928-523-0526 or at [Andy.Bessler@nau.edu](mailto:Andy.Bessler@nau.edu).