

**Public Teleconference of the Chartered Science Advisory Board to Discuss the Scientific and Technical Basis of the Proposed Rule Titled “Increasing Consistency and Transparency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process”**

**Discussion Topics for the Science Advisory Board**

The EPA proposed rule titled “Increasing Consistency and Transparency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process” was published on June 11, 2020 (85 FR 35612-35627). The proposed rule would establish procedural requirements governing the development and presentation of benefit-cost analyses (BCA) for significant rulemakings promulgated under the Clean Air Act (CAA). **Please comment on the extent to which the provisions in the following sections of the proposed rule are consistent with best available scientific information and in accordance with best practices from the economic, engineering, physical, and biological sciences.**

Please keep in mind that many requirements in the proposed rule are codifying practices outlined in existing peer reviewed guidance documents, including the EPA’s *Guidelines for Preparing Economic Analyses*. The *Guidelines* are currently undergoing a periodic update and the SAB Economic Guidelines Review Panel (SAB-EGRP) is in the process of reviewing the revisions contained in this update.<sup>1</sup> The SAB-EGRP’s report will pass through the Chartered SAB. Hence, for topics that are covered within both the *Guidelines* and the proposed rule, it would be most efficient for the SAB to identify any proposed requirements pertaining to these topics that are additional or inconsistent with practices recommended in the *Guidelines* and discuss limiting the review of the substance of these issues (e.g., definitions of economic terms, development of a baseline, treatment of uncertainty) to the review of the SAB-EGRP’s report.

**1. Section 83.1 – Definitions (85 FR 35625)**

This section provides definitions that apply to the proposed rule. Please comment on the technical accuracy and clarity of the definitions and as appropriate provide suggestions for improvement.

**2. Section 83.3(a)(4) on the baseline used in benefit-cost analyses (85 FR 35626)**

This section requires that, in preparing the benefit-cost analysis, the Agency must use a baseline that appropriately considers relevant factors and relies on transparent and reasonable assumptions. Please comment on whether the requirements in Section 83.3(a)(4) are consistent with best practices and existing guidelines.

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<sup>1</sup> All materials related to the SAB-EGRP review of the draft *Guidelines* revision are available: <https://yosemite.epa.gov/sab/sabproduct.nsf/LookupWebProjectsCurrentBOARD/30D5E59E8DC91C2285258403006EEE00?OpenDocument>. This includes the draft revision, the Agency charge, all information pertaining to the formation of the Panel and the four public meetings, and the Panel’s draft report.

### **3. Section 83.3(a)(7) on estimating benefits (85 FR 35626)**

This section establishes requirements for the selection of benefit endpoints. Please comment on the requirement that the Agency must select endpoints for which the scientific evidence indicates there is a clear causal or likely causal relationship between pollutant exposure and effect. Do you have recommendations for how to establish criteria for a weight of evidence determination on causality that would be appropriate to apply to all benefit endpoints for purposes of deciding inclusion in a benefit-cost analysis?

### **4. Section 83.3(a)(9) on health endpoints (85 FR 35626)**

This section includes proposed requirements pertaining to how the Agency will select concentration-response relationships from the scientific literature for use in quantifying health endpoints in a benefit-cost analysis. Please comment on these requirements. Are there further improvements which could be made to the rule regarding how concentration-response functions should be selected for use in a benefit-cost analysis?

In particular, please comment on:

(a) The requirements in section 83.3(a)(9)(iii)(D) stating that a “study location must be appropriately matched to the analysis” and that “the study population characteristics must be sufficiently similar to those of the analysis.”

(b) The following requirements in section 83.3(a)(9)(vii)(A) through (G):

- The requirement to characterize the variability in the concentration-response functions across studies and models, including plausible alternatives;
- The requirement to characterize the assumptions, defaults, and uncertainties, their rationale, and their influence on the resulting estimates;
- The requirement to characterize the extent to which scientific literature suggests that the nature of the effect may vary across demographic or health characteristics;
- The requirement to characterize the potential variability of the concentration-response function over the range in concentrations of interest for the given policy;
- The requirement to characterize the influence of potential confounders on the reported risk coefficient;
- The requirement to characterize the likelihood that the parameters of the concentration-response differ based on geographic location;
- The requirement to characterize the attributes that affect the suitability of the study or model for informing a risk assessment, including the age of the air quality data, and the generalizability of the study population.

### **5. Section 83.3(a)(10) on characterizing uncertainty (85 FR 35627)**

This section establishes requirements for characterizing uncertainties underlying the estimation of both benefits and costs. Please comment on these requirements:

- The requirement to use quantitative methods to analyze uncertainties that have the largest potential effect on benefits or cost estimates;
- The requirement to quantitatively characterize sources of uncertainty in the assessment of costs, changes in air quality, assessment of likely changes in health and welfare endpoints, and the valuation of those changes;
- The requirement to consider sources of uncertainty both independently and jointly;
- The requirement to consider the extent to which qualitatively-assessed costs or benefits are characterized by uncertainty;
- The requirement characterize how probability distributions of input assumption uncertainty would impact the resulting distribution of benefits and cost estimates;
- The requirement to provide expected-value estimates of benefits and costs, as well as distributions about each of the estimates, and the requirement to present a plausible range of benefits and costs in cases where estimates of expected values are not feasible

**6. Section 83.3(a)(12) on public data (85 FR 35627)**

This section requires that, to the extent permitted by law, the EPA must ensure that all information (including data and models) used in the development of the benefit-cost analysis is publicly available. Please comment on whether the requirements in Section 83.3(a)(12) are consistent with best practices for conducting scientific analysis.

**7. Requirement for Retrospective Analysis of Significant Clean Air Act Rulemaking.**

In the notice of proposed rulemaking the EPA requests comment on whether the Agency should include a requirement for conducting retrospective analysis of significant Clean Air Act rulemaking (85 FR 35624, Section V, Additional Considerations and Requests for Comment). If EPA were to make a policy decision to require retrospective analyses under this rule, how can the Agency overcome the challenges with conducting retrospective analysis in cases where the EPA's ability to collect information about the costs and efficacy of realized compliance strategies is limited or otherwise influenced by other statutes?