

ROY GAMSE TESTIMONY  
AT THE PUBLIC TELECONFERENCE  
OF THE ECONOMIC GUIDELINES REVIEW PANEL  
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I am Roy Gamse, formerly EPA Director of Economic Analysis and Deputy Assistant Administrator in the Nixon, Ford, Carter, and Reagan Administrations. Thank you for the opportunity to comment on the proposed guidelines.

With only three minutes, I'll focus my comments on one issue: **the mystery of co-benefits.**

Most of you know and some have been intimately involved with the issue of co-benefits in regulation. Co-benefits (or ancillary benefits) are simply the benefits that accrue from regulation of one environmental contaminant that result in control of another. The flip side is ancillary costs or risks – the bad things that occur as well. Think of taking a snapshot of the world before regulation and then another snapshot after regulation and measuring the ancillary benefits (and costs) of changes in the targeted pollutant and in other pollutants. The latter benefits are the co-benefits

It's well established that ancillary benefits and countervailing risks should be identified in any Regulatory or Economic Impact Analysis. OMB Circular A-4 was promulgated in 2003. It tells agencies to *"...look beyond direct benefits and costs..."* and *"...consider any important ancillary benefits and countervailing risks."* It goes on, *"... the same standards of information and analysis quality that apply to direct benefits and costs should be applied to ancillary benefits and countervailing risks."* So OMB has directed that co-benefits and countervailing risks be assessed by regulatory agencies for at least 17 years.

But assessing co-benefits was a standard practice of EPA even before the OMB requirement. Earlier versions of the Guidance document you are now reviewing explicitly included co-benefits and ancillary costs in 2000, 2008, and 2010. The currently effective 2010 Guidelines, for example, specify that an economic analysis of regulations should include both “...*directly intended effects... as well as ancillary (or co-) benefits and costs.*”

So it's settled, right? EPA policy as shown by the OMB A-4 Circular and EPA's currently effective 2010 guidelines is to include co-benefits.

But what about the fact that EPA has recently made policy decisions to ignore co-benefits in justifying regulations, even though their assessment is required by OMB and by EPA's own current Guidelines? Examples are:

- The recent decision on the Mercury & Air Toxics (MATS) rule, in which EPA reversed the decision to consider the benefits of reducing fine particulates, which are captured by the same technology that captures mercury.
- The dramatic retrenchment of the Obama Clean Power plan, based in part on ignoring co-benefits of soot and smog, which are also captured by steps that control CO<sub>2</sub>.

Those significant reversals made me want to see how EPA handled co-benefits in these new draft Guidelines.

What I found was that explicit mention of co-benefits had largely disappeared from the Guidelines. Instead I found:

- Discussion of Externalities in 5.1.3, which urges tracking of changes in emissions of one pollutant as a result of controlling a regulated pollutant.

- Discussion of Changes in Other Environmental Contaminants in Section 5.5.6, which also urges tracking of changes in other environmental contaminants when regulating a particular pollutant.
- Discussion of Benefits in Chapter 7 on page 7-5, which urges accounting for changes in contaminants or stressors that are not directly targeted by regulation.

Then I solved the mystery of where co-benefits went, reading footnote 129 at the bottom of page 5-18 in Section 5.5.6. It says *“benefits from changes in environmental contaminants other than those related to the statutory objective have sometimes been called ‘co-benefits’ ... or ‘co-pollutants’.”* It says such terms should be avoided because they are imprecise and have been used inconsistently. It also urges that the term *“Ancillary benefits”* should be used cautiously because it may be interpreted as having *“unintended”* meaning.

So instead of explicitly requiring assessments of co-benefits and ancillary costs and risks, as did OMB’s guidance for the last 17 years and as did EPA’s Guidelines for the last 20 years, EPA has changed its terminology and buried the references in a mountain of text and footnotes in a 430-page document.

There is no doubt that if you want to say that EPA does include the idea of co-benefits in its economic guidelines, you can find the justification buried in the draft guidelines. But compared to the last three versions of Guidelines and OMB’s direction, the proposed new version is much less clear. For an Agency inclined in its regulatory decisions to ignore co-benefits as if they don’t exist or don’t contribute to social welfare, this doesn’t seem incidental.

Finally, I note in the last paragraph of section 5.6 the following statement:

*“if the regulation is expected to induce large benefits from changes in environmental contaminant(s) beyond those arising from the primary statutory objective of the regulation, an analysis of a policy option where those contaminant(s) are regulated, either separately or simultaneously with the contaminants that are the primary statutory objective of the regulation, it may be useful to determine whether there are more economically efficient or appropriate ways of obtaining these unrelated benefits.” (page 5-19)*

This is an interesting idea that may be useful to regulators in some circumstances. However, I would note a major issue that would need to be addressed before this approach could be acceptable. That is, without a firm commitment to implementing the ‘more economically efficient or appropriate’ way of obtaining the co-benefits, the option that ignores them is, by definition, environmentally weaker than the original approach. It’s not whether there could be a more efficient way, but rather whether there will be more efficient alternative to attain the same combined benefits. Thus, any attempt to ignore or downplay the co-benefits must include development of a specific, timely option to obtain them in a credible manner.

**My suggestion to you is that you recommend strongly to EPA that including co-benefits or ancillary benefits in cost-benefit assessments be specifically and prominently required in these Guidelines (not buried in the details), just as it is in OMB Circular A-4 and in EPA’s own 2000, 2008, and 2010 Guidelines. Further, I recommend that you condition reliance on an alternative regulatory option that is a ‘more economically efficient or appropriate’ means of obtaining the co-benefits on the actual development of a concrete option to obtain them, not simply the existence of a study.**