

**Comments of Environmental Defense Fund at EPA’s Public Hearing on
“Rescinding the Rule on Increasing Consistency and Transparency in
Considering Benefits and Costs in the Clean Air Rulemaking Process,” 86
Fed. Reg. 26,406 (May 14, 2021)**

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Good morning. My name is Ashley Maiolatesi, and I am a Legal Fellow at Environmental Defense Fund. On behalf of our more than 2.5 million members and supporters, EDF urges EPA to issue a final rule confirming its rescission of the Benefit-Cost Rule. If allowed to remain on the books, the Benefit-Cost Rule would obstruct the development of clean air protections necessary to save lives in communities across our nation by distorting the assessment of benefits and costs underlying significant Clean Air Act rulemakings. As EPA correctly concluded in the interim rescission, the Benefit-Cost Rule was “inadvisable, not needed, and untethered to the [Clean Air Act].”

As a threshold matter, the Benefit-Cost Rule relied on no relevant legal authority, was unnecessary, and would undermine the purpose of the Clean Air Act. The *sole* legal authority the rule cited was Clean Air Act Section 301(a)(1), which empowers the Administrator to take only those actions “necessary” to carry out EPA’s functions under the Act. However, nothing about the rule was necessary, in light of EPA’s longstanding peer-reviewed Guidelines for Preparing Economic Analyses, best practices from the White House Office of Management and Budget, and the agency’s strong record of rigorous cost-benefit assessments.

Further, the Benefit-Cost rule never clearly articulated any problem that it would solve. It cited concerns of “transparency” and “consistency,” but failed to provide even a single example of a problem justifying those concerns. Aside from solving no problem, the Benefit-Cost Rule would have fundamentally undermined EPA’s statutory obligations to protect the public health by preventing the agency from considering the best available science and inviting net benefit calculations that are misleading and inconsistent with economic best practices. These flaws, among others, rendered the Benefit-Cost Rule arbitrary, capricious, and unlawful.

In addition to the legal flaws just discussed, the Benefit-Cost Rule would have actively undercut the commitment by EPA and the administration to utilize the best available science and to protect public health and the environment. EPA and the administration have also committed to environmental justice, recognizing that communities of color, Indigenous communities, and low-income communities bear a disproportionate burden from environmental harms. Rescinding the Benefit-Cost Rule aligns with these commitments, enabling EPA to more rigorously consider and communicate the ways in which every community can benefit from public health

safeguards. The Benefit-Cost Rule jeopardized EPA's ability to protect communities by requiring distorted benefit-cost analyses that arbitrarily understated the benefits of life-saving Clean Air Act protections.

Clean Air Act protections have delivered enormous health and economic benefits across the country. EPA has estimated that, every year, these protections prevent more than 200,000 deaths, 2 million childhood asthma attacks, and 22 million lost school and work days, among many other crucial health benefits. EPA has valued these benefits at more than \$2 trillion annually, estimating that benefits between 1990 and 2020 exceeded costs by a factor of at least 30 to 1. Since 1970, EPA safeguards promulgated under the Clean Air Act have saved lives, improved health, and elevated the quality of life nationwide by reducing harmful pollution that contaminates the air we breathe and the places we live, work, and recreate. Thanks to these safeguards, our air quality has markedly improved over the past five decades—while our population, gross domestic product, and other indicia of economic activity have dramatically increased.

As a result of the Clean Air Act, the United States has become an international leader in pollution control industries, spurring innovation and job creation. By 2017, the combined emissions of the six most common pollutants fell 73%, compared to 1970. During this time, gross domestic product grew 246% and the population grew by more than 50%. The achievements of the Clean Air Act have not only led to improvements in public health, but studies have found protections have resulted in a variety of other improvements in economic well-being and quality of life. For example, improved air quality in our nation's protected areas has resulted in increased tourism at national parks, as visitors place a premium on clean air. That, in turn, generates significant revenue for local economies. Clean Air Act protections also drive innovation and progress, solidifying the United States as an economic and technological leader.

The requirements in the Benefit-Cost Rule were arbitrary and capricious and would have conflicted with EPA's statutory obligations to protect the public from dangerous air pollution. We strongly urge EPA to issue a final rule confirming the rescission of the Benefit-Cost Rule. Thank you.