



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

MAY 04 2012

OFFICE OF CONGRESSIONAL AND
INTERGOVERNMENTAL RELATIONS

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20510

Dear Mr. Chairman:

Consistent with discussions with your staff, enclosed is a supplement to Assistant Administrator Gina McCarthy's February 3, 2012 response to your December 14, 2011 letter to Administrator Jackson regarding the Environmental Protection Agency's estimates of the public health benefits expected to result from regulatory actions.

The first enclosure provides additional information responsive to question 1 in your letter. Consistent with discussions with your staff, it further describes the process through which the EPA, in late 2008 and early 2009, updated its approach to calculating the benefits associated with reduction in fine particulate matter emissions.

The second enclosure is a document responsive to the request, in item 1.c of your December 14 letter, for "analyses and briefing or decision memoranda, for the EPA Administrator or EPA Assistant Administrator for Air and Radiation, relating to the change in assumptions." The enclosed document is a page from a March 23, 2009, briefing for the Administrator with regard to the then-draft proposal for Portland Cement National Emissions Standards for Hazardous Air Pollutants. It reflects estimates of the costs and benefits of two different regulatory options, including estimates under both the "old" and the updated methodologies for calculating benefits. The remainder of the relevant briefing is not responsive to your request.

Please note that this document implicates important agency confidentiality interests because it reflects non-public deliberations. Although we recognize the importance of the Committee's oversight functions, the EPA is concerned about further disclosure of this document for a number of reasons. First, because the document reveals deliberative information of the agency, the EPA is concerned about the chilling effect that would occur if agency employees believed their frank and honest opinions and analysis were to be disclosed in a broad setting. In addition, further disclosure could result in misunderstanding or misrepresentation of the purposes and rationale for the relevant EPA actions. This document is pre-decisional and may not reflect the agency's full and complete thinking on the relevant matters, which is provided in the final, public documents setting forth the relevant agency actions – in this case the relevant notice of proposed rulemaking and supporting analysis.



Accordingly, we have added a watermark to this document that reads "Internal Deliberative Document of the U.S. Environmental Protection Agency; Disclosure Authorized Only to Congress for Oversight Purposes." Through this accommodation, the EPA does not waive any confidentiality interests in this document or any similar documents in other circumstances. The EPA respectfully requests the Committee and its staff protect the document and the information contained in it from further dissemination. Should the Committee determine that its legislative mandate requires further distribution of this information outside the Committee, we request that such need first be discussed with the agency to help ensure the EPA's confidentiality interests are protected to the fullest extent possible.

Thank you for your interest in this important subject. If you have questions, please contact me or have your staff contact Tom Dickerson in my office at (202) 564-3638.

Sincerely,

Arvin Ganesan
Associate Administrator

cc: The Honorable Henry Waxman
Ranking Member

Enclosures

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ENCLOSURE

Supplemental Answer to Question 1 of the December 14, 2011 Letter

NOTE: This supplements the answer that was enclosed in Assistant Administrator Gina McCarthy's February 3, 2012 letter.

Question 1.b.: If EPA changed the assumption, explain who gave ultimate direction to change the assumption, when was it changed, and what was the basis for making the change.

The decision to return to a no-threshold approach for estimating the benefits of reducing PM 2.5 exposures was based on the EPA's assessment of the science and flowed from staff recommendations that were elevated through the appropriate management chain and regulatory development process.

As noted in Assistant Administrator McCarthy's letter of February 3, 2012, the EPA used a no-threshold approach to develop our main PM 2.5 benefits estimates for Clean Air Act rules from 1997 to 2006. This approach was based on the scientific literature showing that health effects can occur along the entire range of potential exposures to fine particles. In 2006, as the letter notes, the EPA changed its long-standing approach and applied an assumed threshold for the main benefits estimates of the 2006 PM NAAQS. As a result, the main benefits estimates for all regulatory analyses of regulations reducing exposure to PM_{2.5} conducted between 2006 and 2009 (when EPA returned to the no-threshold approach) reflected an assumption that there were no benefits associated with reducing PM_{2.5} below 10 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$).

In November 2008, several of the EPA's benefits analysts at the Office of Air Quality Planning & Standards (OAQPS) recommended changes to PM benefits analyses to improve the technical basis and scientific credibility of our benefits estimates for air quality regulations, including a recommendation that the EPA change the assumptions regarding applying thresholds to PM_{2.5} mortality estimates. The staff recommended using a non-threshold approach to estimating PM benefits for the main estimates because they believed that the current science did not support the application of concentration thresholds to epidemiologically-derived PM mortality estimates. The staff identified the then-upcoming Reciprocating Internal Combustion Engine (RICE) NESHAP proposal and Portland cement NSPS and NESHAP proposals as the rules that should be affected first by this change.

In December 2008, the EPA's Office of Research and Development released the first draft of the Integrated Science Assessment for PM for public comment. That assessment confirmed that there is no scientific evidence supporting an assumption of a threshold for PM_{2.5}-related effects. That same month, and in January 2009, the benefits staff presented their recommendation of a no-threshold approach internally -- to other members of their benefits team, the science advisor for their division, and several OAQPS managers -- before presenting them to, and receiving

endorsement from, OAR's Office of Policy Analysis and Review and the agency's National Center for Environmental Economics (part of the Office of Policy) in February 2009.

The EPA sent a draft of the benefits analysis for the RICE NESHAP proposal to the Office of Management and Budget (OMB) that used the no-threshold approach. However, because the OMB had an unusually short period to review the draft RICE proposal and the Regulatory Impact Analysis (RIA), the EPA agreed to remove the no-threshold approach from that RIA and wait until the upcoming proposed cement rules to make the change. The RICE rule was proposed Feb. 25, 2009; the accompanying RIA used the threshold-based approach in its PM benefits analysis.

During a March 2009 options selection meeting for the Administrator on the proposed Portland cement rules, the no-threshold methodology was mentioned. As that proposal and the accompanying RIA moved forward through the standard interagency review process, the EPA and OMB had several discussions on the methodology change, which was included in the RIA for the proposed Portland cement rules. In that proposal, which was signed April 21, 2009, the agency specifically sought comment on the use of the no-threshold approach. The EPA staff considered the comments received, along with advice from outside advisory panels, in developing the final RIA for the Portland cement rules. That final RIA (and all subsequent RIAs) used the no-threshold approach, which is fully supported by the scientific literature on the health effects of fine particles.

Question 1.c.: If EPA changed the assumption, provide all analyses and briefing or decision memoranda, for the EPA Administrator or EPA Assistant Administrator for Air and Radiation, relating to the change in assumptions.

Please see the enclosed document.