

Four months ago, which feels as though it must have been two or three years before stay-at-home orders, I discussed the merits of retooling the National Environmental Policy Act (NEPA) process. In far too many instances, what was intended as a process for assuring that major projects are constructed with minimal environmental impact has been hijacked by BANANA zealots (build absolutely nothing anywhere near anyone). Last week the Environmental Protection Administration (EPA) issued a request for public comment on a rulemaking to codify the cost-benefit analysis required for Clean Air Act decisions. Once finalized, this new protocol is expected to be extended to water quality, oil and gas production, mining and other areas within EPA's regulatory purview.

Problems with current cost-benefit processes have bedeviled the past three Presidential administrations, creating a litany of Executive Orders issued by the Clinton, Bush and Obama White Houses in attempts to rationalize approval requirements. EPA Administrator Andrew Wheeler is proposing to return to first principles weighing the best scientific results with state-of-the-art economic and accounting practices in order to produce transparent and consistent cost-benefit evaluations. This initiative has earned surprising support from Cass Sunstein, Obama's administrator of the White House of Information and Regulatory Affairs. Sunstein characterized Wheeler's proposal as an "...important memorandum that makes terrific sense. In principle, it should improve the EPA's performance – and receive bipartisan applause."

The Trump administration's record of expressed animosity towards regulation makes a bipartisan embrace of any proposal issued by the EPA unlikely. The recent waiving of regulatory requirements for polluters during the COVID-19 emergency has been interpreted as a green light to 'burn your trash and drain your sludge ponds' while you can. This may not have been Wheeler's intention and may not prove to be the actual result, but the EPA is no longer viewed as a remediation ally by environmentalists -- better to fight them at every opportunity than engage. In this case, stonewalling could be a mistake. With the exception of public health impacts, the costs of regulation should always be less than the economic benefits they generate.

Critics, opponents and supporters have a 45-day window (until July 27) to submit comments, suggestions and opinions regarding the proposed rule. This feedback must be considered before the promulgation of a final rule. Providing a uniform, nationwide cost-benefit decision process will be a significant improvement over the frequent subjectivity plaguing current comparisons. Similar projects have received wildly different decisions depending on their location. It should also help speed the approval process while reducing grounds for litigation. There is always a tradeoff between public benefits and private costs each time a highway, bridge, manufacturing plant, energy project or agricultural processing facility is proposed. Delay denies the public evident benefits from needed infrastructure improvements and should occur only in the case of significant adverse impacts and costs.

As a lifelong Democrat and environmentalist, I recognize these appraisals must remain in balance. Sustainability, much like universal health care, is an admirable policy goal. I would like to think our pandemic experience has amply demonstrated that cleaner air, reduced congestion

and walkable neighborhoods are a good thing. They will not arrive immediately, however. As Elizabeth Kolbert, science writer for *The New Yorker* and 2015 Pulitzer Prize winning author of “*The Sixth Extinction*” noted in a recent interview, there is likely to be a spurt in fossil fuel use as our economy recovers from lockdown, just as there was following the Great Recession. We will likely need to rely on reliable, legacy technologies in order to jump-start crippled sectors of the economy.

This does not mean we should be discouraged. The economic advantages of renewable energy systems have been validated in the marketplace. A uniform cost-benefit protocol will identify similar strengths for mass transit and digital data management systems. Only public health consequences, particularly mortality incidence, require special consideration. These impacts cannot be treated as mere externalities, quantifiable only in terms of dollars. Human lives are an integral component of the global environment and thus deserve protection not mitigation. Now is the time to register your opinion on this deep-in-the-weeds rule-making (the proposed rule was published in the *Federal Register* on June 11) that carries long term implications for how the EPA will reach consistent cost-benefit decisions going forward.