

United States Senate

WASHINGTON, DC 20510

February 12, 2026

The Honorable Lee Zeldin
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, DC 20460

Dear Administrator Zeldin,

We write in response to EPA's apparent decision that it will no longer count health effects when conducting cost-benefit analysis for Clean Air Act rules limiting dangerous pollutants. In a recent rulemaking concerning power plant regulations, EPA has specifically announced its intention to apply this policy to fine particulate matter (PM_{2.5}) and ozone, alleging that the benefits calculus for these pollutants is particularly "uncertain".¹

EPA's new policy is irrational. Even where health benefits are "uncertain", what is certain is that they are not zero. It will lead to perverse outcomes in which EPA will reject actions that would impose relatively minor costs on polluting industries while resulting in massive benefits to public health – including in saved lives. It is contrary to Congress's intent and directive as spelled out in the Clean Air Act. It is legally flawed. The only beneficiaries will be polluting industries, many of which are among President Trump's largest donors.

The purpose of the Clean Air Act, as confirmed repeatedly by the text of the statute, is to promote clean air. In 1967, on the opening page of the Act, Congress stated that "air pollution...has resulted in mounting dangers to the public health and welfare"² and determined that it was therefore the purpose of the Act to "protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare..."³ You yourself affirmed this directive under oath in your own confirmation hearing in January 2025, when you testified to the Senate Environment and Public Works Committee that "[EPA's] mission is simple, but essential: to protect human health and the environment." You can't "protect human health" if you don't count it.

Since the Clean Air Act's inception, EPA has implemented its health-protecting mission through rulemaking and enforcement. For several decades, since the issuance of Executive Order 12866, EPA and other federal agencies have conducted robust cost-benefit analyses, comparing monetized expected health benefits against compliance costs, as an often-foundational component of rulemaking.⁴ Indeed, cost-benefit analyses are often relied upon by courts to determine if a rulemaking was reasonable and not "arbitrary and capricious".

¹ *Economic Impact Analysis for the New Source Performance Standards Review for Stationary Combustion Turbines: Final Rule*, 91 Fed. Reg. 1910 (Jan. 15, 2026), https://www.epa.gov/system/files/documents/2026-01/combustion_turbines_eia_final_2026-01.pdf.

² 42 U.S.C. § 7401(a)(2).

³ *Id.* at (b)(1).

⁴ Maeve P. Carey, "Cost-Benefit Analysis in Federal Agency Rulemaking", *Congressional Research Service* (Oct. 28, 2024), <https://www.congress.gov/crs-product/IF12058>.

It is true that a cost-benefit analysis is an inexact metric for evaluating the value of a human life.⁵ It is also true that some health benefits are difficult to quantify to their full extent.⁶ But these points simply show that health benefits are often destined, even when monetized, to be undervalued—which makes it more important than ever that EPA at a minimum weigh those health benefits that *are* monetizable. Putting a minimum dollars and cents value on health assures the public that EPA is doing the work it is obligated to do; protecting the public health and considering compliance costs in the context of overall benefits, including the benefits that the Clean Air Act is designed to achieve. This assurance is doubly important now, when your EPA has shown time and time again that it values corporate profit over protecting the public. Instead of giving this assurance, your EPA now intends to set health benefits to zero.

EPA has declared that it will no longer monetize the benefits of reducing PM_{2.5} and ozone pollution, on the basis that the benefits of their reduction are “uncertain”. But the benefit of reducing air pollution is demonstrably not zero. PM_{2.5} pollution causes heart attacks,⁷ asthma,⁸ bronchitis,⁹ lung cancer,¹⁰ strokes,¹¹ premature births,¹² and death.¹³ Ozone pollution causes lung disease, asthma attacks, nervous system and cardiovascular problems, and reproductive issues.¹⁴ Economists and scientists have long established workable metrics for monetarily quantifying the health benefits of reduced pollution.¹⁵ The method for calculating PM_{2.5} benefits, according to a former EPA economist who worked at the agency from 1998 until 2025, is “one of the most heavily reviewed processes probably ever in the federal government, and [it] has been through many iterations in both Democratic and Republican administrations.”¹⁶ In setting its updated PM_{2.5} national ambient air quality (NAAQs) standards in 2024, EPA calculated a benefit of

⁵ Steven Kelman, “Cost-Benefit Analysis: An Ethical Critique”, American Enterprise Institute (Feb. 7, 1981), <https://www.aei.org/articles/cost-benefit-analysis-an-ethical-critique/>.

⁶ For a further discussion on this topic, see *National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units Review of the Residual Risk and Technology Review*, 89 Fed. Reg. 38508 at 38553 (May 7, 2024). In this rule, EPA quantified benefits as far as feasible and then qualitatively considered additional benefits.

⁷ Environmental Protection Agency, “Health and Environmental Effects of Particulate Matter (PM)” (May 23, 2025), <https://perma.cc/T58A-748U>; California Air Resources Board, “Inhalable Particulate Matter and Health (PM2.5 and PM10)” (2025), <https://ww2.arb.ca.gov/resources/inhalable-particulate-matter-and-health>

⁸ *Id.*

⁹ *Id.*

¹⁰ Meg Yang et al., “Particulate matter air pollution as a cause of lung cancer: epidemiological and experimental evidence”, *British Journal of Cancer*, Vol 358, 986-996 (2025), <https://www.nature.com/articles/s41416-025-02999-2#Bib1>

¹¹ Li Yang et al., “Long-term exposure to particulate matter pollution and incidence of ischemic and hemorrhagic stroke: A prospective cohort study in Eastern China”, *Environmental Pollution*, Vol. 358 (Oct. 1, 2024), <https://www.sciencedirect.com/science/article/abs/pii/S0269749124011606>];

¹² <https://pmc.ncbi.nlm.nih.gov/articles/PMC12031216/>

¹³ Environmental Protection Agency, “Health and Environmental Effects of Particulate Matter (PM)” (May 23, 2025), <https://perma.cc/T58A-748U>; California Air Resources Board, “Inhalable Particulate Matter and Health (PM2.5 and PM10)” (2025), <https://ww2.arb.ca.gov/resources/inhalable-particulate-matter-and-health>];

¹⁴ American Lung Association, “Ozone” (June 9, 2025), <https://www.lung.org/clean-air/outdoors/what-makes-air-unhealthy/ozone>

¹⁵ Administrator Lee Zeldin, Question for the Record, United States Senate Committee on Environment and Public Works (“In EPA’s Regulatory Impact Analyses, mortality risk changes are valued using estimates of what is commonly referred to as the value of a statistical life. EPA routinely adjusts its value of a statistical life estimate, to account for inflation and income growth.”) *See also* EPA, “Mortality Risk Valuation” (accessed Jan 14, 2026), <https://perma.cc/KL99-LWDM>.

¹⁶ Dawn Reeves, “Experts Refute EPA’s Uncertainty Claims For PM, Ozone Health Benefits”, *Inside EPA* (Jan. 16, 2026), <https://insideepa.com/daily-news/experts-refute-epa-s-uncertainty-claims-pm-ozone-health-benefits>.

between \$22 and \$46 *billion* in avoided morbidities and premature death in the year 2032.¹⁷ The total compliance cost to industry, meanwhile, was calculated to be \$590 million—between one and two one-hundredths of the estimated health benefit value.¹⁸ Moreover, as EPA itself acknowledges,¹⁹ compliance cost values themselves are subject to a significant degree of uncertainty. EPA has frequently overestimated cost to industry when promulgating regulations in the past.²⁰ Finally, even assuming \$590 million is correct, it must be noted that while the expense of forgoing the \$22 to 46 billion benefit would burden Americans across the country in lives lost, more frequent and severe illnesses, missed school days and lost labor productivity, the \$590 million in savings would go mostly into the pockets of a small group of Trump’s fossil fuel donors.²¹

It seems self-evident that where EPA does conduct a cost-benefit analysis, it would be irrational to consider only the cost of setting standards, while ignoring the monetized public health benefits of those standards. Self-evident or not, we can rely on the edict of the Administrative Procedure Act, confirmed by Supreme Court precedent, which holds that agency rulemaking is arbitrary and capricious, and therefore invalid, when the agency fails to consider an important aspect of the problem.²² The devastating and astronomically expensive impacts that PM_{2.5}, ozone, and other dangerous pollutants have on the public health is clearly an “important aspect” of the problem of regulating them. This clear conclusion is further supported by the Ninth Circuit case *Center for Biological Diversity v. National Highway Traffic Safety Administration (NHTSA)*,²³ in which that court vacated Bush-era vehicle standards after NHTSA failed to consider the benefits of reduced greenhouse gases in an associated environmental review. The court held that “NHTSA’s reasoning is arbitrary and capricious for several reasons. First, while the record shows that there is a range of values, the value of carbon emissions reduction is certainly not zero.”²⁴

The Supreme Court has also recognized that considering health benefits is of fundamental importance. In *Michigan v. EPA*,²⁵ the Supreme Court rejected an EPA power plants rule promulgated under section 112 after the agency determined that it need not consider cost of compliance when determining that it was “appropriate and necessary” to regulate the source in question.²⁶ The Court disagreed, expressing its concern that it would not be rational or “appropriate” to “impose billions of dollars in economic costs in

¹⁷ *Final Regulatory Impact Analysis for the Reconsideration of the National Ambient Air Quality Standards for Particulate Matter* (Jan. 2024), https://www.epa.gov/system/files/documents/2024-02/naaqs_pm_reconsideration_ria_final.pdf, at 26.

¹⁸ *Final Regulatory Impact Analysis for the Reconsideration of the National Ambient Air Quality Standards for Particulate Matter* (Jan. 2024), https://www.epa.gov/system/files/documents/2024-02/naaqs_pm_reconsideration_ria_final.pdf, at 26.

¹⁹ *Economic Impact Analysis for the New Source Performance Standards Review for Stationary Combustion Turbines: Final Rule*, 91 Fed. Reg. 1910 (Jan. 15, 2026), https://www.epa.gov/system/files/documents/2026-01/combustion_turbines_eia_final_2026-01.pdf, at 33.

²⁰ R. David Simpson, “Do Regulators Overestimate the Costs of Regulation?”, National Center for Environmental Economics (Dec. 2011), https://www.epa.gov/sites/default/files/2014-12/documents/do_regulators_overestimate_the_costs_of_regulation.pdf.

²¹ *Final Regulatory Impact Analysis for the Reconsideration of the National Ambient Air Quality Standards for Particulate Matter* (Jan. 2024), https://www.epa.gov/system/files/documents/2024-02/naaqs_pm_reconsideration_ria_final.pdf, at 26.

²² See generally *Motor Vehicle Manufacturers Ass’n v. State Farm Mutual Automobile Insurance Co.*, 463 U.S. 29, 42–43 (1983) (referencing the edict against “arbitrary and capricious” rulemaking outlined in 5 U.S.C. § 706(2)(A)).

²³ 538 F.3d 1172 (Ninth Cir. 2008).

²⁴ *Id.* at 1200.

²⁵ 576 U.S. 743 (2015).

²⁶ *Id.* at 759-60.

return for a few dollars in health or environmental benefits”, and further that EPA’s interpretation was legally flawed because it could “preclude[] the Agency from considering any type of cost”, including harms to “human health or the environment”.²⁷ The Court did not specifically direct EPA to monetize health benefits in *Michigan*, but its reasoning and dicta throughout suggested an underlying understanding that such a calculation is an important aspect of reasonable rulemaking. Crucially, the Court noted, “[c]onsideration of cost reflects the understanding that reasonable regulation ordinarily requires paying attention to the advantages *and* the disadvantages of agency decisions.”²⁸ This statement, read both ways, reflects the logical understanding that where EPA estimates compliance costs in dollars, it should also monetize associated public health benefits – what matters are the *relative* costs and benefits, and the agency needs to calculate both in order to compare them.. EPA might contest that “paying attention” to health benefits does not require monetizing them, but failing to do so risks comparing apples and oranges and, as discussed above, vastly underestimating the dangers of deregulation.

When you appeared before the Committee at your confirmation hearing, you testified: “the goal, the end state of all the conversations that we might have, any regulations that might get passed, any laws that might get passed by Congress” is to “have the cleanest, healthiest air, [and] drinking water.” And when Senator Blunt Rochester asked you to confirm that it was still your position that “EPA’s mission is to protect the health of the public and the environment,” you responded simply “yes.” Yet now, faced with the opportunity to consider quantifiable statistics about human health, you choose to ignore them entirely. That EPA may no longer monetize health benefits when setting new clean air standards does not mean that those health benefits don’t exist—it just means that you will ignore them and reject safer standards, in favor of protecting corporate interests.

To help us better understand EPA’s decision-making process, please respond to the following requests for information and documents no later than February 26, 2026:

1. On what basis did EPA make the decision to no longer quantify health effects of PM_{2.5} and ozone pollution when undertaking the cost-benefit analysis as part of its Clean Air Act rulemaking? In your answer, please include a discussion of all EPA experts and offices consulted as part of the decision-making process.
2. What exactly will EPA take into account when undertaking Clean Air Act rulemaking cost-benefit analyses? Please clearly identify all factors it will consider as “costs” and all factors it will consider as “benefits.”
3. Has EPA discussed ceasing to quantify health effects of other pollutants, in addition to PM_{2.5} and ozone? If so, which pollutants?
4. Before making the decision to no longer take health effects into account when undertaking clean-air rulemaking cost-benefit analyses, did EPA consult with any third parties, including but not limited to the Secretary of Health and Human Services, the U.S. Surgeon General, public health experts, and interested civil society groups such as the “Make America Healthy Again” movement?
 - a. If yes, please provide the date of each such meeting and a description of the matters discussed.

²⁷ *Id.* at 752.

²⁸ *Id.*

- b. If no, why not?
5. Please produce any documents, including contemporaneous notes, memorializing any internal or external discussions and communications concerning items (1) through (4). Please also produce all communications between and among EPA and third parties, including but not limited to the White House, the Office of Management and Budget, the Department of Health and Human Services, the Office of the United States Surgeon General, and the fossil fuel industry concerning items (1) through (3), including but not limited to emails, briefing materials, talking points, calendar entries, reports, memoranda, internal analyses, and correspondence.

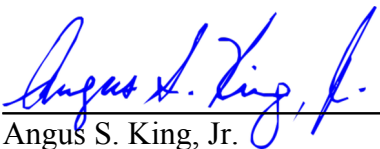
Sincerely,



Sheldon Whitehouse
United States Senator
Ranking Member
Committee on Environment
and Public Works



Charles E. Schumer
United States Senator



Angus S. King, Jr.
United States Senator



Martin Heinrich
United States Senator



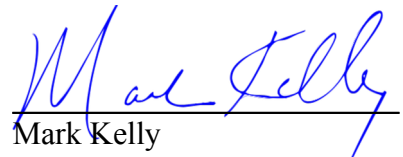
Adam B. Schiff
United States Senator



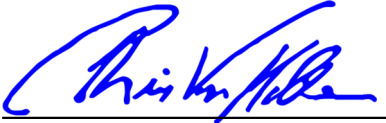
Angela D. Alsobrooks
United States Senator



Richard Blumenthal
United States Senator



Mark Kelly
United States Senator



Chris Van Hollen
United States Senator



Richard J. Durbin
United States Senator



Ruben Gallego
United States Senator



Michael F. Bennet
United States Senator



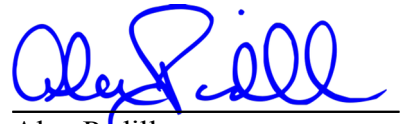
Lisa Blunt Rochester
United States Senator



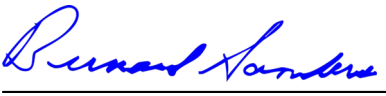
Kirsten Gillibrand
United States Senator



Jeffrey A. Merkley
United States Senator



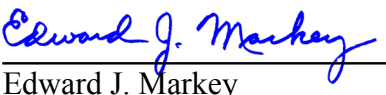
Alex Padilla
United States Senator



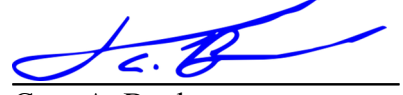
Bernard Sanders
United States Senator



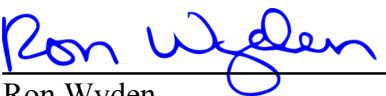
Jack Reed
United States Senator



Edward J. Markey
United States Senator



Cory A. Booker
United States Senator



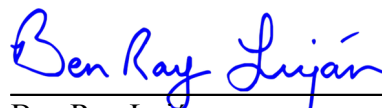
Ron Wyden
United States Senator



Tammy Duckworth
United States Senator



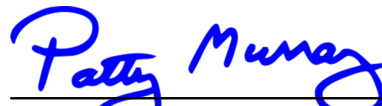
Mazie K. Hirono
United States Senator



Ben Ray Lujan
United States Senator



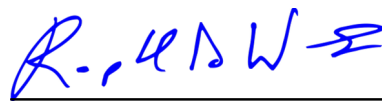
Elizabeth Warren
United States Senator



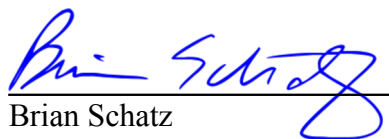
Patty Murray
United States Senator



Peter Welch
United States Senator



Raphael Warnock
United States Senator



Brian Schatz
United States Senator



Amy Klobuchar
United States Senator



Jeanne Shaheen
United States Senator