

June 24, 2020

The Honorable Andrew Wheeler
Administrator
US Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20004

Docket ID No. EPA-HQ-OAR-2020-00044

Comments on “Increasing Consistency and Transparency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process”

Dear Administrator Wheeler,

Thank you for the opportunity to provide comments on the proposed rule published by the Environmental Protection Agency (EPA) to refine and standardize cost benefit analysis procedures under the Clean Air Act. On behalf of the Ohio Business Roundtable (OBRT), we recognize the importance of this rulemaking and your efforts to codify best practices that will safeguard the state’s manufacturers and other businesses from unnecessary and significant costs while protecting Ohio’s environment, which is also an essential driver of business.

Since its inception, OBRT has worked with Ohio’s governors and legislative leaders to make Ohio more business-friendly and more competitive both nationally and internationally. Therefore, it is only natural that we also encourage our government’s regulators to develop solutions that will improve Ohio’s economic vitality and ensure that Ohio remains the ideal state in which to live, work and succeed.

Cost benefit analysis is one of the most important tools at a regulator’s disposal; after all, the chief duty of a regulator is to determine the impacts and externalities of a regulation on its subjects and the public at large. This duty is especially important for the EPA because environmental conservation is a national, shared priority. Furthermore, countless business operations critical to the wellbeing and prosperity of Americans fall under the jurisdiction of the EPA. Already the EPA’s regulations account for 80% of benefits and 70% of costs for all regulations from 2007 to 2016.

As you mentioned in your memo last year, costs and benefits within the EPA have “historically been treated differently depending on the media office and the underlying authority,” alongside “various concepts of benefits, costs and other factors” in the regulatory decision

making process that yield sub-optimal outcomes. Too often regulations are enacted even when costs outweigh benefits. This results in heightened regulatory burdens that stifle private industry and enterprise. While big businesses can more likely handle the financial drains to their bottom line, small and medium sized businesses are less likely to be able to absorb such costs. Further, when regulations present compliance costs that significantly outstrip benefits, it may incentivize some companies to falsify compliance.

The most glaring example comes courtesy of the 'MATS' rule to reduce mercury and air pollutants from coal and oil-fired energy plants. Research has shown compliance costs to exceed \$9 billion with the benefits of reduced hazards totaling \$6 million. This is a huge discrepancy that should have spurred more in-depth review or rewriting of the regulation. Instead, the department seemed only to consider benefits, and the rule was put on the books.

To remedy some of these problems, the EPA should continue forward on instituting summaries of the results of cost benefit analyses, including relevant ranges and ancillary benefits that are also worth considering. The EPA can also improve its position as an authority on regulations by being clear about key assumptions that drive these analyses as well as a frank disclosure of uncertainty or risk in the models used and how that may influence decision making. Lastly, regulations can benefit from a retrospective review to cut down on the trend of an ever-growing regulatory state. Retrospective review has been a bipartisan goal for every Administration since President Ronald Reagan.

Regulations are wide reaching and impactful for businesses in Ohio. OBRT acknowledges the importance of regulations that protect public health and safety, but to preserve our competitive markets, it is essential to have a regulatory framework that prioritizes fairness as well.

Thank you for your time and consideration.

Sincerely,

Patrick J. Tiberi
President & CEO
Ohio Business Roundtable