



To: Environmental Protection Agency

August 9, 2018

RE: Public Comment for Docket ID No. EPA–HQ– OA–2018–0107- Increasing Consistency and Transparency in Considering Costs and Benefits in the Rulemaking Process.

Dear Acting Administrator Wheeler:

Today, I write on behalf of more than 3.2 million Americans for Prosperity (AFP) activists across all 50 states to offer our support in this important and long overdue proposed revision to the way this agency has been conducting its regulatory impact analysis. AFP exists to recruit, educate, and mobilize citizens in support of the policies and goals of a free society at the local, state, and federal level, helping every American live their dream—especially the least fortunate. So, policies that impact energy – something we all rely on every day – are important to AFP and our activists.

Under the previous administration the EPA promulgated an average of 565 new rules every year.¹ While the federal government has a role to play in protecting Americans from significant negative externalities, it is vital that policymakers and the public understand the full cost regulations will impose on the public compared with a rigorous assessment of the benefits that can be expected. Unfortunately, the methodology the EPA has historically used to assess proposed rules and regulations is woefully incomplete, misleading, and often fails to capture the full economic impact of these regulations.

Among the existing problems to be addressed in this proposed revision, is the particularly thorny EPA practice of assigning generous monetary values to the inherently imprecise economic benefits of outcomes of proposed regulations. This approach has many shortcomings, chiefly that many of the agency calculations add questionable “market values” to the benefits ledger of proposed rules, even in cases where no market exists for the benefits claimed.²

That approach is troubling when you consider the net cost-benefit outcome, because regulatory costs are commonly well-defined and are expressed in loss of productivity, higher prices for consumers, lost market share for domestic industries, or job losses due to a shift of production overseas. On the other hand, the benefits are uncertain, hard to measure, and highly speculative. It is also difficult to calculate the full and final benefit of the regulation after implementation.

For decades, the EPA has consistently overstated the benefits by adding capricious “social costs and benefits” to their calculations, relying on things like the “co-benefits” and global benefits of any given rule. Frequently, a rule designed to reduce emissions of one pollutant would claim most of its benefits from incidental reductions of secondary pollutants. Those incidental reductions are known as “co-benefits.”³ The main problem with this approach is that the agency overextends its regulatory power far beyond its statutory authority, while also inflating the benefits of a proposed rule.

It is fair to say the agency’s cost-benefit analysis process has become one that favors and encourages more regulations, even when the significant costs they impose on Americans are accompanied by very limited tangible benefits.

For example, the EPA estimated that the benefits of two rules – the Cross-State Air Pollution Rule and the Mercury Air Transport Standard – would yield an estimated \$380 billion every year in health benefits. Considering that the coal industry contribution to the U.S. gross domestic product is “only” on the order of about \$225 billion per year, if the EPA’s benefits estimate were even partially true, it would actually make sense to just shut down the coal industry entirely.⁴

When considering specific changes and reforms, it is crucial for the EPA to establish an open, independent and fact-based cost-benefit analysis where researchers have access to the raw data and the methods employed by the agency. No underlying data should be shielded from scrutiny as a matter of scientific integrity, but also as matter of transparency in public policy. Furthermore, cost-benefit analysis should be subject to blind peer review and all results should also be posted for public scrutiny.⁵

Additionally, the cost of compliance should be compared against the actual benefit that the regulation is authorized to achieve – not related co-benefits. Likewise, domestic costs should be only weighted against domestic benefits.⁶

The best way to rationalize the EPA approach to regulations would be for Congress to enforce proper oversight and approve of all significant rules issued by the agency in order to prevent the regulatory overreach of previous decades. Federal rules that impact millions of people and billions of dollars should be held to this high standard. Transparency, consistency, and a more robust legislative oversight are nonpartisan issues that everyone could easily get behind.

Legitimate, independent and reality-based cost-benefit analysis at the EPA would benefit consumers, workers and business. Regulations based on faulty premises and ill-conceived notions enact unnecessary barriers to our economy, making us less productive and secure. Having a robust energy sector and a

healthy environment is possible. False dichotomies between stewardship and resource development spur disagreement and contention when in reality we have robust opportunities for cooperation and innovation. Our country is a world leader in both energy production and environmental stewardship, and that status can continue under a reformed cost-benefit analysis paradigm.

We thank you for the opportunity to address this important issue and we look forward to seeing progress.

Sincerely,

A handwritten signature in black ink that reads "Brent Gardner". The signature is written in a cursive, flowing style.

Brent Gardner

Chief Government Affairs Officer | *Americans for Prosperity*

¹ ["Cost-Benefit Reform at the EPA"](#), Wall Street Journal, June 6, 2018

² Roger Meiners, ["Regulating Our Way to Prosperity? The Use and Abuse of Cost-Benefit Analysis in Regulatory Decision-Making"](#), Policy Brief, Property Rights and Environment Research Center, March 2017

³ C. Boyden Gray, ["EPA's Use of Co-Benefits"](#), Environmental Law & Property Rights, Engage Volume 16, Issue 2, July 2015.

⁴ Milloy, Steve. Scare Pollution: Why and How to Fix the EPA (p. 226-227). Bench Press Inc. Kindle Edition.

⁵ Meiners, 2017

⁶ C. Boyden Gray, ["EPA's Use of Co-Benefits"](#), Environmental Law & Property Rights, Engage Volume 16, Issue 2, July 2015.