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VIA ELECTRONIC FILING

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RE: The U.S. Environmental Protection Agency's Proposed Rule: Increasing Consistency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process (EPA-HQ-OAR-2020-00044)

On behalf of the Pennsylvania Chamber of Business and Industry (PA Chamber), the largest, broad-based business advocacy organization in the Commonwealth, thank you for the opportunity to comment on the EPA's propose rulemaking, Increasing Consistency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process (Proposed Cost-Benefit Rule), Docket EPA-HQ-OAR-2020-00044.

For decades, the PA Chamber has brought the perspective and counsel of its broad membership to participate in constructive dialogue with regulators regarding mutual goals of economic development and environmental stewardship. The comments below state the PA Chamber's policies (which inform our organization's advocacy) on environmental regulation and air quality and this organization's support for the proposed rulemaking. These comments supplement oral testimony delivered on July 1, 2020.

PA Chamber Statement of Policy

The Pennsylvania Chamber of Business and Industry believes that environmental excellence and economic growth are mutually-compatible objectives, and that environmental and natural resources laws and programs should be framed and implemented to concurrently meet these twin objectives. The PA Chamber advocates for environmental laws, regulations and policies that:

- are based on sound science and a careful assessment of environmental objectives, risks, alternatives, costs, and economic and other impacts;
- set environmental protection goals, while allowing and encouraging flexibility and creativity in their achievement;
- allow market-based approaches to seek attainment of environmental goals in the most cost-effective manner;
- measure success based on environmental health and quality metrics rather than fines and penalties;
- assess compliance based on clear, predictable and defined criteria established through stakeholder processes and with sound science;
- do not impose costs which are unjustified compared to actual benefits achieved;
- do not exceed federal requirements unless there is a clear, broadly accepted, scientifically-based need considering conditions particular to Pennsylvania;
- develop a private-public relationship which promotes working together to meet proper compliance; and
- ensure timely regulatory approvals and authorizations.

As part of a sustainable economic and environmental policy, the PA Chamber supports natural resources management laws and programs that encourage the scientifically-sound conservation, stewardship and development of Pennsylvania's natural resources (including water, timber, minerals, oil and gas) for the benefit of all Pennsylvanians. Additionally, the PA Chamber supports the voluntary pollution prevention and sustainability measures, and environmental management systems utilized by companies to efficiently and effectively meet environmental regulatory requirements and utilize resources to meet their financial and business objectives.

With respect to air quality, PA Chamber advocates for cost effective air laws, regulations and policies based on sound principles that are reasonable and technologically and economically feasible to protect and enhance public health and the environment without placing in-state businesses at a competitive disadvantage. With regard to greenhouse gas emissions, the PA Chamber supports efforts in Pennsylvania which balance societal environmental, energy, and economic objectives, fit rationally within any finally adopted and applicable national or international strategy, and capitalize on the availability of Pennsylvania's diverse natural resources to facilitate economic development in the Commonwealth.

Pennsylvania Has Achieved Significant Improvements in Air Quality, and the PA Chamber Encourages EPA to Examine Assumptions Regarding Anthropogenic Forces and Background Concentrations of Air Quality, Based on the Impacts of Reduced Activity in Response to the Pandemic

In terms of achieved and forecasted emissions reductions, the state's success in meeting and surpassing federal air quality obligations cannot be emphasized enough. According to DEP and EPA air quality data, the state has achieved the following significant reductions in air emissions statewide since 1996:

Nitrogen oxides	-65%
Volatile organic compounds	-36%
Particulate matter (2.5 ug/m3)	-27%
Particulate matter (10 ug/m3)	-45%
SO2	-90%
Carbon monoxide	-69%
Carbon dioxide	-21%

With specific regard to Pennsylvania, since 2005 the state has reduced its greenhouse gas emissions in total tons more than that of all but one other state, according to the most recently available federal Energy Information Administration data.¹ According to EPA data, Pennsylvania has reduced such emissions in total by 22 percent since 2005, with an 11.5 percent reduction from the transportation sector and a 38 percent reduction in the power generation sector.²

DEP employs a statewide network of monitors to track the Commonwealth's air quality to inform the state's progress in meeting federal air quality standards. As DEP data and reports have noted, every monitoring station in the state is measuring attainment for the daily particulate matter standard, all but one monitoring station is measuring attainment for the annual particulate matter standard and 1-hour SO₂ standard, and all but four monitoring stations are measuring attainment of the 8-hour standard for ozone. This represents considerable progress compared to where the state was in years past, as concentrations of ozone and sulfur

¹ Energy-Related Carbon Dioxide Emissions by State, 2005-2016. U.S. Energy Information Administration. <https://www.eia.gov/environment/emissions/state/analysis/>

² CO₂ Emissions from Fossil Fuel Combustion by State, 1990-2017. U.S. Environmental Protection Agency. https://www.epa.gov/sites/production/files/2019-11/documents/co2ffc_2017.pdf

dioxide are now a fraction of where they were 30 years ago. As one example, ambient levels of SO₂ were measured at 342 parts per billion in Beaver County in 1991. Today, the measurements are around 22 parts per billion.

These improvements in air quality have resulted in significant improvements in public health, but it may be reasonable to presume these reductions are approaching background levels and that further reductions in emissions – even to a significant degree - may not yield much in the way of additional improvements in ambient air concentrations. The PA Chamber encourages EPA to examine the monitoring data in Pennsylvania and the country, once it has been QA/QCed by state and federal regulators, for the period when economic activity was most significantly curtailed this year during the pandemic. Should it be apparent that ambient air quality did not change significantly despite major decreases in commercial and industry activity and motor vehicle traffic, it would be then be important to evaluate assumptions regarding the impact of such emission sources on air quality, as well as existing assumptions relative to the contributions from international sources, naturally occurring levels, or exceptional events, such as fires.

The PA Chamber Supports the Proposed Cost-Benefit Rule

In various regulatory dockets and public forums, including testimony delivered to the House Committee on Energy and Commerce in 2017³, the PA Chamber has noted its support for a reconsideration of the process guiding the calculation of costs and benefits under Clean Air Act rulemakings. It has been the experience of our members that the manner in which the agency has conducted such evaluations in the past have been inconsistent or even absent in certain rulemakings. Businesses are expected to be very precise with the particulars of a proposed facility's operations and impacts when a permit is applied for. As a matter of equity, it is only fair that the agency be precise, thorough and consistent in developing its rules under the Clean Air Act – one of the most important and broad statutes in the entire body of federal law. We are not the only group to have this view – several courts, including the Supreme Court, have issued decisions making clear that the process EPA uses to calculate costs and benefits must be improved. This rule would incorporate that direction into law.

The PA Chamber offers the follow specific comments with respect to the Proposed Cost-Benefit Rule.

- 1) EPA should not assume, as it has in the past, than any worker displaced as a result of a regulation will immediately be rehired elsewhere at the same wage. The comprehensive cost of job losses are significant and not properly recognized, as noted by Jonathan Masur and Eric Posner, who conservatively estimate that the lifetime loss of income for one unemployed worker is \$100,000 throughout the worker's lifetime. By accounting for this lifetime loss of earnings, the agency would set regulatory policy in a more balanced and transparent manner.⁴ In a separate paper, Masur and Posner note that traditional cost-benefit accounting ignores employment impacts in large part by relying on the faulty assumption that all workers who lose jobs as a result of the regulation will quickly regain them at equal wages.⁵

³ Testimony of the PA Chamber Before the United States House of Representatives Committee on Energy and Commerce, Feb. 16, 2017.

https://www.pachamber.org/advocacy/legislative_agenda/communications/House_EC_Sub_Enviro_Modernizing_Environmental_Laws.pdf

⁴ Unemployment and Regulatory Policy. Jonathan S. Masur and Eric A. Posner, December 2012.

http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1605&context=law_and_economics

⁵ Regulation, Unemployment and Cost-Benefit Analysis. Jonathan S. Masur and Eric A. Posner, August 2011. https://chicagounbound.uchicago.edu/law_and_economics/419/

- 2) EPA has in the past assigned the same public health value to every avoided or controlled ton of emissions of criteria pollutants, even if the reduction occurs in a county or region that is in attainment with National Ambient Air Quality Standards, which are established at a level sufficient to protect the public health plus a sufficient margin of safety. This assumes there is no threshold level of exposure to the atmospheric concentrations of the emissions regulated by the NAAQS – but such an assumption is inherently in conflict with how the NAAQS are established. It is contradictory for EPA to on one hand establish NAAQS requirements that stake out goals at which the public health is presumed to be protected, plus a margin of safety, and then on the other hand assume public health is further improved once reductions occur beyond those goals. EPA should emphasize in its final Cost-Benefit Rule it will no longer assume all reductions of criteria pollutants achieve the same level of public health on either side of attainment thresholds, by establishing benefit endpoints based on peer-reviewed scientific evidence showing a causal link between exposure and effect. As the Clean Air Scientific Advisory Committee has recommended, EPA must refine and improve its process regarding causality.

- 3) The PA Chamber supports the Proposed Cost-Benefit Rule's provisions to make public any models and assumptions used to inform rulemakings. The public and the regulated community are not served if they are unable to examine, criticize or support the underlying science in regulations that implement the provisions of one of the nation's bedrock environmental statutes.

Thank you for the opportunity to present the perspective of our organization and its members in this important matter, and for your attention and consideration of our comments.

Sincerely,



Kevin Sunday
Director, Government Affairs