

Small Business Alliance OF CALIFORNIA

Dedicated to Environmental Progress & Economic Growth

August 3, 2020

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

RE: Comments on rulemaking, "Increasing Consistency and Transparency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process"
Docket ID: EPA-HQ-OAR-2020-0044-000

Dear Administrator Wheeler:

The California Small Business Alliance (Alliance) is a coalition of California trade associations committed to protecting small business interests.

The Alliance is a coalition of California trade associations committed to protecting small business interests. Alliance members play an active part on numerous relevant government and non-government committees, task forces, policy forums and working groups advising agencies about the processes, costs, and compliance challenges that small businesses face, and assist them in identifying cost-effective and least economically debilitating measures to regulate this vital segment of our economy.

The Alliance welcomes the opportunity to offer comments on the U.S. Environmental Protection Agency's (EPA) proposed rule titled "*Promoting the Rule of Law Through Improved Agency Guidance Documents*" (Docket ID No. EPA-HQ-OA-2020-0128).

Alliance members support EPA's effort to increase consistency and transparency when considering benefits and costs in making regulatory decisions in a manner consistent with applicable authorizing statutes in the Clean Air Act (CAA). We believe that this proposed rule addresses issues raised in the June 13, 2018 advanced notice of proposed rulemaking, "*Increasing Consistency and Transparency in Considering Costs and Benefits in the Rulemaking Process*" (83 FR 27524), and proposes how its concepts will be implemented in rulemakings conducted by EPA using its authorities under the CAA. Moreover, we believe that this proposal will lead to a regulatory process that is more efficient and more predictable.

In reading EPA's advance notice of proposed rulemaking, we observed that the agency is soliciting comments on whether and how it should promulgate regulations that provide a consistent and transparent interpretation relating to the consideration of weighing costs and benefits in making regulatory decisions in a manner consistent with applicable authorizing statutes. Moreover, we noted that EPA is also soliciting comments on whether and how these regulations, if promulgated, could also prescribe specific analytic approaches to quantifying the costs and benefits of EPA regulations. To address this latter point, the Alliance offers the following recommendation for consideration in future cost-benefit analyses and subsequent guidance and rulemaking actions:

273 North Spruce Drive • Anaheim, CA 92805

Telephone: (714) 778-0763 • Web: www.SBAllianceCA.org

Rethinking the "Cost Effectiveness" Calculation Methodology

EPA should consider modifying its guidance on the methodology for calculating "Cost Effectiveness." Regulators should be removed as the sole adjudicators of the process because there is a perception that regulators could bias the analyses to recognize only those costs which will support the rules and regulations that the regulators have already committed to in federal or state implementation plans and/or local air quality management plans.

The responsibility for calculating "cost effectiveness" should at least be a shared responsibility with recognized entities in the business sector that is being most affected by a particular rule or regulation. Examples of these entities with valuable market information include, but are not limited to, the American Petroleum Institute, American Power Association, Printing Industries Association, National Association of Surface Finishing, Independent Petroleum Association of America, National Association of Manufacturers. And, if peer reviews are believed to be necessary, then the findings or conclusions by these private entities could be scrutinized by scholarly experts in recognized economic or academic institutions.

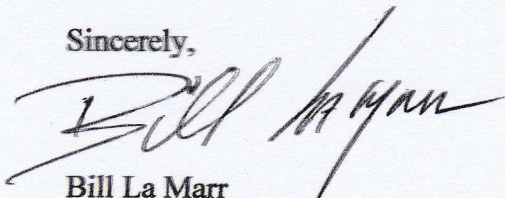
While the aspirational goal of this proposed rulemaking, is to ensure consistency and transparency, Alliance members feel obligated to remind EPA that the complexity of the federal and state regulatory systems creates disproportional cost burdens on small businesses, which account for 99.7% of U.S. companies and nearly half of private-sector workers. Small businesses pay on average \$11,700 per year per employee in regulatory costs, and the costs of regulation to smaller businesses with 50 employees or less are nearly 20% higher than they are for the average firm. The regulatory costs of federal economically significant rules to small businesses amount to over \$40 billion per year.

While we readily concede that rules are needed to do business in modern economies, an excessive and complex regulatory system creates significant adverse effects on the economy.

Unlike other business expenditures, such as research and development, regulatory spending is not an investment that generates growth for companies or the economy.

Alliance members appreciate the opportunity to comment and look forward to working with EPA to improve transparency and consistency in the rulemaking process.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill La Marr", written over a horizontal line.

Bill La Marr
Executive Director