

**Environmental Protection Network (EPN) Comments for the
Public Teleconference of the EPA Science Advisory Board (SAB)
on the Draft Report of the “Censored Science” Rule**

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My name is Dan Costa, retired National Program Director of the Air, Climate & Energy Research Program in ORD. On behalf of EPN, I appreciate the opportunity to address the SAB’s draft report on EPA’s proposed “Transparency” rule. Let me highlight 4 prominent flaws in both the conceptualization and appreciation of the impacts of the rule.

First, the Agency has not clearly identified that there exists a need for this rule and ignores the existence of its own procedures for dealing with data issues. No examples for the need are provided, nor are there noted specific challenges to the adequacy of current, well-established science review processes. The SAB clearly notes this same concern in the text of its report, and we feel that SAB should emphasize this in the Executive Summary as it may be the preeminent issue behind the proposal as it stands.

EPA would best move towards improving transparency in concert with other federal agencies rather than a fixed agency regulation that puts the need for reanalysis above any other criteria for evaluating the scientific literature.

Second is the protection of personal privacy. The proposed rule casually states that personally identifiable information will be protected, seemingly oblivious to existent HIPAA rules that govern its use in research and how data access is restricted when studies are reviewed. There is a long tradition of dealing with legitimate data-sharing requests and appropriate safe-guards. A demand for widespread public access to data will hamstring epidemiological research and its critical value in weight-of-evidence regulatory decisions. The proposed rule is also dangerously vague on the use of established scientific records and how they might be re-used or excluded in mandated reassessments.

The third point is cost-benefit. The rule states that “EPA believes the benefits of this proposed rule justify the costs.” Yet no evidence is provided to back this claim other than the value of the undefined “validation” of the science. The monetary and time costs and who will pay for data handling, formatting, vetting, posting, along with associated metadata seem to be ignored.

Fourth, the proposed rule gives the Administrator the authority to “exempt significant regulatory decisions on a case-by-case basis.” This authority would arbitrarily include and exclude studies whether scientifically peer reviewed or not. Sole authority in one person without a well-crafted process to assure “non-secretive” and unbiased criteria is perilous to sound and balanced decision-making.

In summary, the proposed transparency rule seems to be an unvarnished attempt to undermine time-honored and time-proven procedures to vet science. Regulatory science may be imperfect, but it is self-critiquing in its evolution, working hand-in-hand with policy re-assessments to provide state-of-the-art knowledge protections for public health and the environment.