

January 17, 2019

Statement of John Bachmann for the Public Meeting of the EPA Chartered Science Advisory Board (SAB) on the Draft Scientific Advisory Board Report (10/16/19) on the Scientific and Technical Basis of the Environmental Protection Agency's (EPA) Proposed Rule titled *Strengthening Transparency in Regulatory Science*

This is John Bachmann, I'm former associate director for Science/Policy in EPA's Air Office in Research Triangle Park.

My key points on regulating the use of science:

- On Process – Happy New Year's Eve everybody - comments in 10 days.
- On Substance – The draft SAB report does a service to EPA by pointing out a large number of conceptual and practical deficiencies in the proposed rule as well as the lack of any attempt to assess the potential costs, benefits, and risks associated with actually implementing the rule. Perhaps the most important point raised in the full report is the following:

“In general, the SAB finds that the EPA has not fully identified the problem to be addressed by the Proposed Rule. The EPA must comply with federal transparency and data integrity laws and, as discussed in this report, some additional requirements of the Proposed Rule may not add transparency, and even may make some kinds of research more difficult.”

Absolutely. The agency has *not* demonstrated the need for this proposed regulation. In the past, EPA has shown the flexibility to handle significant data issues, including reanalysis, when they have arisen. I played a role in making some of these happen. EPA can continue to use its existing procedures as it moves towards improving transparency along with other federal agencies. The agency can better address evolving scientific information related to dose-response issues by issuing guidance (e.g., the ongoing effort to update existing cancer risk assessment guidelines and adopting new guidelines for additional endpoints) without trying to craft a fixed regulation that would make the need for reanalysis more important than any other criteria for evaluating the scientific literature used for regulatory decision-making.

- Implicit in the cover letter, and explicit in many of the individual comments, including those by supporters of the thrust of Administrator Wheeler's proposal, is that if EPA wants to proceed, it should take much more time to consider fully the many specifics, nuances, and recommendations identified by the SAB in their review of this major new rule and to conduct a thorough analysis of the economic costs, critically the loss of more productive research, and the potential risks to environmental protection. A statement to that effect should be included in the summary.

- Equally important is that you should request to see any supplemental or re-proposal of a transparency in regulatory science rule at the time it is provided for interagency review. This would allow the SAB to evaluate how far EPA is willing to go to address your concerns and recommendations. Thus far, the Administrator has shown little interest even in following the law in seeking your advice, much less responding to your requests for review of this ill-considered skeleton of a rule and its development.

Thank you.