

14 April 2020

Statement of John Bachmann for Union of Concerned Sciences
Public Hearing on EPA's supplemental Proposal for *Strengthening*
Transparency in Regulatory Science

Thanks to the UCS. This is John Bachmann; I'm former associate director for Science/Policy in EPA's air office in Research Triangle Park.

We're eight days before the 50th anniversary of the first Earth Day and I have some questions.

Why is EPA proposing to regulate science and rolling back regulations on pollution?

Why is EPA in such a hurry to finish a rule for which there is not only no legislative mandate, but if actually adopted and implemented would cause the agency to violate many of its statutory mandates?

Why do EPA's political leaders pretend that they actually care about science and external science advice or transparency in developing policy when again and again their own actions show otherwise?

A fair review of the supplemental proposal must conclude that it would expand greatly the problems, costs, and wasted effort inherent in the original, while continuing to weaken regulations and assessments by walling off access to many important scientific studies. Most importantly, EPA has still not demonstrated either the need for nor the benefits of regulating science, much less the costs.

A statement in the draft SAB report still stands, "In general, the SAB finds that the EPA has not fully identified the problem to be addressed by the Proposed Rule."

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 promoting some of those. 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 without trying to craft a fixed regulation that would make the need for reanalysis more important than any other criterion for evaluating the scientific literature used for regulatory decision-making.

The supplemental proposal offers several unattractive choices in the guise of trying to recognize the overwhelming objections from the scientific community. Publicly available tiered access vs. restricted access, including studies completed before the rule, or not. The second, less favored options try to give an appearance of being reasonable.

To quote one CASAC chair, “Baloney!” Because EPA has done no assessment of costs and benefits of the proposal and options, I looked at a single set of important studies that play a major role in the current review of the science and policy for fine particle air pollution – my purpose was to determine what studies might be essentially excluded under the core rule options (30.5).

Like the famous six city and ACS programs, these are cohort epidemiology studies of fine particles and mortality – it is generally not possible to provide unfettered access to the personal information needed for reanalysis. EPA’s assessments list over 40 such studies. Under the first option, I found at least 30 of these would be excluded from consideration, just as in the original proposal. Under the alternative, at least 25 would be downgraded to lower “consideration,” solely on the basis of data availability. Lower consideration or weight are not that different from exclusion.

Finally, EPA leaders’ true disregard for science is obvious in their actions, like:

- Shortening SAB and CASAC terms, dumping scientists who have EPA funding, but not industry consultants;
- Cutting EPA’s research budget;
- Unilaterally dissolving the expert panels long used in air standards reviews
- Failing to consult with SAB before the 2018 transparency proposal and waiting nearly a year to respond to SAB’s request to review the rule with a polite no.

So EPA – dump this rule now.

Thanks.