

SUMMARY
EPN Comments on
EPA’s Supplemental Proposal to its
“Strengthening Transparency in Regulatory Science” Rule
May 18, 2020

EPN mourns the attitude of the current EPA management toward the role of science in agency decision-making. Our detailed concerns are expressed in [comments](#) on EPA’s March 2020 supplemental notice to its proposed April 2018 [Strengthening Transparency in Regulatory Science](#) rulemaking. The proposal would deprive agency decision-makers of access to scientific studies for which the underlying data cannot be made publicly available. It would reverse the decades-old EPA practice of using the best available science in carrying out the responsibilities Congress placed on the agency. The supplemental proposal doubles down on this mistaken approach. Both are highly mistaken and detrimental to high-quality, impartial decision-making on behalf of the health and safety of the American public.

As EPN [previously noted](#), the first proposal was basically an attack on epidemiological studies that have been critical in setting protective air standards for the American public. Often the studies rely on personal information, which, if disclosed, would violate the privacy of subjects of the studies. Examples include sensitive groups such as children or adults exposed to polluted air who have serious conditions like asthma or cardiovascular disease. Providing information that makes it easy to identify people as subjects of a research study could haunt them throughout their lifetimes, making it hard to obtain medical insurance or possibly employment.

The most recent supplementary proposal would make things even worse and runs farther afoul of the law. The original proposal only covered studies and dose-response models (the association between a dose and the incidence of a health effect in an exposed group) used to support “significant regulatory actions.” Now EPA would place a heavy burden on using such studies for all models that the agency uses in decision-making. Scientific models are essential parts of making sense of many pieces of research, to organize them in logical and objective ways that provide a bigger picture of how change is happening.

Sadly, EPA proposes to extend the prohibition beyond data and models supporting significant regulatory actions to include assessments of multiple studies, data and models it labels as “influential scientific information,” which EPA defines as having an impact on “important public policies or private sector decisions.” This would include assessments such as EPA’s Integrated Science Assessments and National Academy of Sciences reports. This action, if finalized, essentially creates more chaos detrimental to EPA’s timely development of risk and other scientific assessments of environmental threats, ultimately damaging to public health.

To add insult to injury, the supplemental proposal claims that the legal authority to make these fundamental and exceptionally damaging changes is found in what is known as the “Housekeeping Statute.” This is a law originally passed in 1789, the very early days of the Republic, to allow government departments to set up internal rules for their day-to-day office housekeeping. In other words, government agencies need to make internal rules to keep their internal trains running on time, and the first Congress said they could. Multiple courts have said that the law was never intended to impose the kinds of restrictions that EPA now

proposes. The supplemental proposal would illegally twist the statute to withhold science from consideration in rulemakings that broadly affect the public interest.

EPN hopes that EPA comes to its senses and steps away from these proposed restrictions on science, which would cripple reasoned agency decision-making to the detriment of the health and safety of the American public. The consequences of this unseemly turn from science are all too vivid in some of the responses to the COVID-19 crisis for which data and serious research should be honored, not rejected, in the fight against the global pandemic.