

**Testimony of the
American Petroleum Institute
Public Hearing on the
Proposed Rule: Strengthening Transparency in Regulatory Science
[April 30, 2018; 83 Fed. Reg. 18,768; Docket ID: EPA-HQ-OA-2018-0259]
July 17, 2018**

Thank you for the opportunity to provide public comment today. My name is Ted Steichen a Senior Policy Advisor at the American Petroleum Institute (API).

API is the only national trade association representing all facets of the oil and natural gas industry, which supports 10.3 million U.S. jobs and nearly 8 percent of the U.S. economy. Our 620 corporate members - from large integrated oil and gas companies to small independent companies - comprise all segments of the industry. API member companies are producers, refiners, suppliers, retailers, pipeline operators and marine transporters as well as service and supply companies providing much of the nation's energy. Science used when developing policy and regulations impacts all aspects of API member business.

The members of API are dedicated to continuous efforts to improve the compatibility of their operations with the environment while economically developing energy resources and supplying high quality products and services to consumers. Our members recognize their responsibility to work with the public, the government, and others to develop and to use natural resources in an environmentally sound manner while protecting the health and safety of our employees and the public.

API supports the use of sound science as a critical component in public policy. To the extent possible, and consistent with the protection of other compelling interests such as privacy, trade secrets, intellectual property, and other confidentiality protections, data and analysis used in establishing and evaluating environmental, health, welfare and economic impacts should be transparent and reproducible and available as early as possible in the rulemaking process.

Transparency and reproducibility should also apply to underlying data and information, such as environmental and economic impact data and models that are utilized to predict costs, benefits, market impacts and/or environmental effects of specific regulatory interventions.

API members are aware there are some obstacles to full transparency and reproducibility and are committed to working with other stakeholders to develop practices that maximize science transparency while preserving existing confidentiality strictures.

As EPA goes about this rulemaking API suggests that regulatory decisions based on science should rely upon the following principles:

- ❖ Openness in science and related findings underpinning laws, regulations, standards and guidance documents.
 - This is especially true for government-funded research and science but should include all policy-relevant studies.

- ❖ Reproducibility of research and associated findings, including fully-annotated data, methodologies, model inputs, code and other critical information that support the conclusions of research. All of these should be available to the public.

- ❖ Inclusion of clear requirements to ensure that the data underlying decision-making are publicly available in a manner sufficient for independent validation, as much as practicable.
 - Privacy concerns are important, but advances in encryption technology and blinding of data make it possible to enhance transparency while ensuring privacy as necessary to comply with the law.

- ❖ Inclusion of clear requirements and a well-documented process are critical to ensure that the data underlying decision-making are publicly available in a manner sufficient for independent validation to the degree practicable.

- ❖ Protection for confidential business information (CBI) used in regulatory processes and support agency actions.
 - This protection for CBI may need to be maintained even for certain data that are submitted to EPA to inform rulemakings.
 - Protections for proprietary information or CBI should not be weakened, though results of agency analyses of this information could potentially be made available. Any such available results should be transparent regarding the agency's selection of key data, and the interpretation of that key data.

- ❖ Explicitly addressing and highlighting uncertainties in data, models and analyses when utilizing those studies in decision-making.
 - This is particularly important when models are used to quantify benefits of an action at levels at or below existing standards or background concentrations of a regulated substance.

- ❖ Broad application of these principles to information used to inform policy decisions, including scientific, economic and environmental impact data and models that are designed

to predict health and environment impacts, costs, benefits, and/or market impacts of specific regulatory interventions on complex economic or environmental systems.

- ❖ Engaging stakeholders, as early as possible, in the decision-making process to ensure application of data transparency principles for studies to be included and to address how studies that have not been reproduced or that are non-reproducible will be considered in the process.
 - For studies that are high quality and are regarded by the regulatory agency as the best available data for regulatory use though proprietary, identify the recourse for stakeholders regarding CBI, privacy concerns or other transparency issues, to ensure that regulatory decisions are indeed based on sound science.

- ❖ Application of these principles, as early as possible, in the pre-rule stage as technical support documents are prepared.

In closing, as described above, API supports the use of sound, transparent science in public policymaking and we plan to submit written comments to the docket.