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The **Environmental Protection Agency (EPA)** Proposed Rule: **Strengthening Transparency in Regulatory Science**

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The attached comments on EPA's proposed "transparency" rule are submitted on behalf of Keeper of the Mountains Foundation and People Concerned About Chemical Safety, Inc. by William V. DePaulo, Esq., 860 Court Street, North, Suite 300, Lewisburg, WV 24901 Tel: 304-342-5588 Fax: 866-850-1501 william.depaulo@gmail.com

SUMMARY OF COMMENTS

KOTM and PCACS are directly affected by safety regulations promulgated by the EPA and other agencies of the federal and state government. As such, they are treat seriously issues pertaining to the soundness of the science underlying government regulations, and support any good faith proposal to improve those regulations in a manner likely to improve health outcomes.

At the same time, KOTM and PCACS acknowledge that they bring more than marginal skepticism to EPA's "transparency" rulemaking, proposed by an administration who has announced its hostility to the EPA's statutory mandate. The laundry list of EPA actions undoing the work of the last half century increases daily. Still, no serious observer could be against "transparency" in science, particularly where it is proffered as a way of making regulations better able to protect the citizens of the United States?

EPA's Notice states, reassuringly, that it is prospective only, suggesting that it is not proposed to be used to undo regulatory enactments of the past, particularly those pertaining to regulation of particulate matter. Simultaneously, however, the Notice requests comments regarding the long standing National Ambient Air Quality Standards (NAAQS) program. That bed rock of the EPA's implementation of the Clean Air Act will face: "future significant regulatory actions ...based on the administrative record from previous reviews—particularly where the governing statute requires repeated review on a fixed, date-certain cycle."

How, EPA's "transparency" rulemaking Notice asks, , should the proposed rule apply to the previous NAAQS record? Indeed, how, if – as is the case – the strictures currently proposed were not followed in the now decades old rulemakings? Is it too far a stretch to imagine that the current EPA administrators would use those purported historic deficiencies as a pretext for dismantling the entire edifice of the Clean Air Act?

Apart from the "reproducibility" crisis, KOTM and PCACS are interested in the "producibility" crisis. The current administration has withdrawn funding from the National Academies of Sciences, Engineering and Medicine for a study tentatively titled "Potential Human Health Effects of Surface Coal Mining Operations in Central Appalachia." See NAS Press Release dated August 21, 2017 (Attachment G). See also, Trump administration halts study on coal mining's impact on health, August 21, 2017 The Roanoke Times, http://www.roanoke.com/business/news/trump-administration-halts-study-on-coal-mining-s-impact-on/article_bf9a6a04-ad9e-5fe2-a0cb-177c2c9cccca.html (last visited May 25, 2018).

Similarly, PCACS has requested a copy of the Agency for Toxic Substances and Disease Registry (ATSDR) assessment of a class of toxic chemicals that has contaminated water supplies near military bases, chemical plants and other sites from New York to Michigan to West Virginia. The assessment was blocked after a January 30, 2018 email forwarded by James Herz of the Office of Management and Budget in which an unidentified White House employee reportedly stated: "The public, media, and Congressional reaction to these numbers is going to be huge" and "The impact to EPA and [the Defense Department] is going to be extremely painful. We (DoD and EPA) cannot seem to get ATSDR to realize the potential public relations nightmare this is going to be," See <https://www.politico.com/story/2018/05/14/emails-white-house-interfered-with-science-study-536950> (last visited May 16, 2018).

On May 22, 2018, the Department of Health and Human Services denied the request for the ATSDR study on the grounds that:"ATSDR's Toxicological Profile for Perfluoroalkyl Substances has not been approved for release to the public." See Attachment H.

PCACS is not insensitive to the potential for public embarrassment of political appointees. But the obvious question is why the study is not ready? Is it because

agency scientists are scrupulously running checks on the statistical bases for the conclusions in the study? Or is it because the release of the study would cause a predicable – and politically inconvenient – demand for enhanced regulatory response from an administration committed to the destruction of the EPA as an effective regulatory body?

Having stated their broad concerns, KOTM and PCACS support the broad proposition that rulemaking must be based upon sound science, and further support a good faith effort to develop understanding of such science based upon reproducible data.

Uploaded File(s) (Optional)

- ATTACHMENT G - National Academies Study on Potential Health Risks of Living in Proximity to Surface Coal Mining Sites in Central Appalachia.pdf: **success**
- 2018-05-30 KOTM PCACS COMMENTS ON PROPOSED TRANSPARENCY RULE.pdf: **success**
- ATTACHMENT A - Summaries of coal mining articles 030714.pdf: **success**
- ATTACHMENT C - Hu et al 2009.pdf: **success**
- ATTACHMENT H - 2018-05-22 HHS Final Response to FOIA request.pdf: **success**
- ATTACHMENT F - Choi et al 2013.pdf: **success**
- ATTACHMENT E - Hu et al 2012.pdf: **success**
- ATTACHMENT D - Choi et al 2012.pdf: **success**
- ATTACHMENT B - Zhu et al 2002.pdf: **success**

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Organization Name:

Keeper of the Mountains Foundation and People Concerned About Chemical Safety, Inc.

Submitter's Representative:

William V. DePaulo, Esq.