

Opening Statement
Hearing before the Regulatory Affairs
And Federal Management Subcommittee,
Thursday March 9th at 10:00 AM

**“Agency Use of Science in the Rulemaking Process: Proposals for Improving
Transparency and Accountability.”**

Good morning and welcome to today’s Subcommittee hearing entitled “Agency Use of Science in the Rulemaking Process: Proposals for Improving Transparency and Accountability.”

Over two years ago, this Subcommittee began an in-depth review of the rulemaking process, tackling subjects such as retrospective review, agency use of guidance and issues surrounding small business concerns when it comes to improving regulatory outcomes.

This morning we continue our regulatory work by examining how agencies use scientific information to inform their regulatory decision-making.

The American people should be confident that when agencies regulate they are relying on up to date, accurate, and unbiased information.

To put it simply, agencies should rely on the best available information and make decisions based on the weight of that information.

When determining whether scientific information is the best available, agencies should consider things like whether the information has been peer-reviewed by an independent third-party; whether conclusions are verifiable and reproducible; whether the information’s use is consistent with its intended purpose; and whether the data is transparent and publically available.

This is not a new idea. Presidents from both parties have stressed the importance of relying on sound science to inform regulatory decisions.

Executive Order 12866, which has been in place since 1993 and endorsed by every president since, directs agencies to “base decisions on the best reasonably obtainable” scientific and technical information.

Eight years ago, President Obama went even further by issuing a memorandum to agency heads guaranteeing scientific integrity by following a list of principles that included consideration of well-established scientific processes and urging transparency to the public.

And in 2011, President Obama issued Executive Order 13563 where he directed each agency to “ensure the objectivity of any scientific and technical information” used to support regulatory actions.

Yet, despite these clear directives, agencies continue to use questionable science to support their regulatory decisions.

For example, in 2015 when the EPA proposed a ban on chlorpyrifos (chlor-pier-i-fos), an insecticide that farmers have been using successfully for decades, the agency based the regulation on a study that was discredited by their own Scientific Advisory Panel and the USDA.

I understand agencies often face difficult choices and not all studies come to the same conclusion, but it is very concerning when agencies are not open about why they choose to use a study with such significant criticism.

When agencies hide information from both Congress and the American people it is our job to question their motives and methods.

Transparency is not an unreasonable request. In fact it will go a long way in forcing better regulations and heading off lawsuits.

When agencies issue regulations that place legally binding requirements on the American people, the data the agency uses should be publically available for independent third-party review.

When many of the most costly Clean Air Act regulations are based on a single Harvard study, the EPA should not be able to hide behind the excuse that they can't release the study because they don't own it, Harvard does, despite the fact that Harvard receives well over a half of a billion dollars in federal awards.

Examples like these call into question whether agencies are actually using the best information available to them when they make regulatory decisions.

Each administration has their own priorities, but the principles supporting regulatory decisions should remain constant regardless of who occupies the White House.

If past administrations' attempts to encourage agencies to base their regulatory decisions on transparent sound science have failed, Congress should consider establishing new legal requirements.

I look forward to discussing steps Congress can take to implement these basic and fundamental requirements that have been endorsed by both Democrat and Republican administrations for decades.

With that, I recognize Ranking Member Heitkamp for her opening remarks.