

114TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } 114-

SECRET SCIENCE REFORM ACT OF 2015

March 2

~~FEBRUARY~~ --, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Texas, from the Committee on Science, Space, and Technology, submitted the following

R E P O R T

together with

Minority and Additional VIEWS

[To accompany H.R. 1030]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science, Space, and Technology, to whom was referred the bill (H.R. 1030) to prohibit the Environmental Protection Agency from proposing, finalizing, or disseminating regulations or assessments based upon science that is not transparent or reproducible, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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COMMITTEE STATEMENT AND VIEWS

Purpose and Summary

The purpose of H.R. 1030, the “Secret Science Reform Act of 2015,” is to ensure the Environmental Protection Agency uses the best available science and to prohibit proposing, finalizing, or disseminating a covered action unless all scientific and technical information relied on to support the covered action is specifically identified and publicly available.

Background and Need for Legislation

Science has been central to EPA's mission and functions since its establishment in 1970. The Agency's recently-finalized Scientific Integrity Policy describes science as “the backbone of the EPA's decision-making.”¹ Efforts to encourage and guarantee open scientific research and assessment at the EPA are based in a number of historical, legal, and administrative origins.

In 1983, then-Administrator William Ruckelshaus wrote a memo to all EPA employees dictating that the agency should operate as though it were “in a fishbowl.” The memo stressed the importance of being as open as possible, while also providing the fullest possible public participation in decision making.² EPA Administrator Gina McCarthy echoed this priority in her confirmation hearing, stating that “The rule of law, along with sound science and transparency, is one of EPA's core values and, if I am confirmed, it will continue to guide all EPA actions.”³ Similarly, she stated that, “EPA is committed to transparency with regard to the scientific bases of agency decision making.”⁴ Science is a critical component of EPA's regulatory decisions related to several environmental laws, including the Environmental Research, Development, and Demonstration Authorization Act, the Clean Air Act, the Clean Water Act, and the Safe Drinking Water Act.

Recent EPA and White House scientific integrity, regulatory, and open access policies indicate strong support for open access to scientific information, including the information underlying Federal regulatory actions. Executive Order 13563 requires that regulations “be based upon the best available science.”⁵ Similarly, President Obama's March 2009 Scientific Integrity Memo states that “[t]o the extent permitted by law, there

¹ http://www.epa.gov/osa/pdfs/epa_scientific_integrity_policy_20120115.pdf

² <http://www2.epa.gov/aboutepa/ruckelshaus-takes-steps-improve-flow-agency-information-fishbowl-policy#memo>.

³ http://www.epw.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_id=d71fd4b6-ce77-3a98-46a0-fb02b0cae0ed

⁴ Ibid.

⁵ <http://www.gpo.gov/fdsys/pkg/FR-2011-01-21/pdf/2011-1385.pdf>

should be transparency in the preparation, identification, and use of scientific and technological information in policymaking.”⁶

Following up on this direction, the White House Office of Science and Technology Policy (OSTP) Memo from December 2010 states that “agencies should expand and promote access to scientific information by making it available online in open formats. Where appropriate, this should include data and models underlying regulatory proposals and policy decisions.”⁷ OSTP also issued a 2013 Memorandum on “Increasing Access to the results of Federally Funded Scientific Research,” in which the President’s Science Advisor John Holdren explained that, “The Administration is committed to ensuring that, to the greatest extent and with the fewest constraints possible and consistent with law and the objectives set out below, the direct results of federally funded scientific research are made available to and useful for the public, industry, and the scientific community. Such results include peer-reviewed publications and digital data.”⁸

In order to provide Agency-specific guidelines emanating from the President’s and OSTP’s Scientific Integrity Memos, EPA’s 2012 final Scientific Integrity Policy states: “Scientific research and analysis comprise the foundation of all major EPA policy decisions. Therefore, the Agency should maintain vigilance toward ensuring that scientific research and results are presented openly and with integrity, accuracy, timeliness, and the full public scrutiny demanded when developing sound, high-quality environmental science.”⁹

Developed in response to Office of Management and Budget (OMB) guidelines issued following provisions of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-554; H.R. 5658), EPA’s *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity, of Information Disseminated by the Environmental Protection Agency* state that the Agency is “committed to providing public access to environmental information” and that, in order to fulfill its mission, “EPA must rely upon information of appropriate quality for each decision we make.” EPA also notes the limitations of these guidelines, stating that they “provide non-binding policy and procedural guidance, and are therefore not intended to create legal rights, impose legally binding requirements or obligations on EPA or the public when applied in particular situations, or change or impact the status of information we disseminate, nor to contravene any other legal requirements that may apply to particular agency determinations or other actions.”¹⁰

⁶ <http://www.whitehouse.gov/the-press-office/memorandum-heads-executive-departments-and-agencies-3-9-09>

⁷ <http://www.whitehouse.gov/sites/default/files/microsites/ostp/scientific-integrity-memo-12172010.pdf>.

⁸ http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp_public_access_memo_2013.pdf.

⁹ http://www.epa.gov/osa/pdfs/epa_scientific_integrity_policy_20120115.pdf.

¹⁰ http://www.epa.gov/quality/informationguidelines/documents/EPA_InfoQualityGuidelines.pdf.

OMB Circular A-110 also indicates that the federal government has a right to data produced under certain federally-funded research awards. In 1999, following an amendment to the Omnibus Appropriations Act for FY1999 (often referred to as the “Shelby Amendment” due to the role of Senator Richard Shelby) OMB revised this circular to “ensure that all data produced under an award will be made available to the public through the procedures established under the Freedom of Information Act.”¹¹

Despite a seemingly strong position in favor of openness and transparency regarding the science behind regulations, the Administration has yet to make public the scientific data that is behind numerous EPA regulations. Some outside researchers have sought the scientific data behind these regulations and have been denied access. The Committee issued a subpoena for the scientific data behind these regulations. EPA ultimately responded that it was unable to provide all of the data but provided what it did have.

Concerns had initially been raised regarding the ability of EPA to release the data that it did have without raising confidentiality concerns. However, EPA’s March 7, 2014, final subpoena response explained that “[t]he agency’s efforts ultimately resulted in the Centers for Disease Control reaching the conclusion that all of the research data could be provided without the need for de-identification.”

EPA further indicated in its response to the Committee, that “[a]ny other data...are not (and were not) in the possession, custody, or control of the EPA, nor are they within the authority to obtain data that the agency identified.” EPA acknowledged that “the data provided are not sufficient in themselves to replicate the analyses in the epidemiological studies, nor would they allow for the one to one mapping of each pollutant and ecological variable to each subject.” Without this scientific information, the public is required to blindly trust the EPA’s scientific findings that are the basis of some of the most costly regulations in history.

Legislative History

In the 113th Congress, the Subcommittee on Environment held a hearing on February 11, 2014, focused on “The Secret Science Reform Act” and *Ensuring Open Science at EPA*. The Subcommittee received testimony from expert witnesses, which informed the Committee on the need for improved transparency and reproducibility of regulatory science used by the Environmental Protection Agency. Witnesses were also asked to provide comments on “The Secret Science Reform Act of 2014.” The Subcommittee received testimony from the Honorable John Graham, Dean, School of Public and Environmental Affairs, Indiana University; Dr. Louis Anthony Cox, Jr., Chief Sciences Officer, Next Health Technologies, Clinical Professor, Biostatistics and Informatics, Colorado Health Sciences Center, and President, Cox Associates; Dr. Ellen Silbergeld, Professor, Bloomberg School of Public Health, Johns Hopkins University; and Mr. Raymond Keating, Chief Economist, Small Business & Entrepreneurship Council.

¹¹ <http://www.whitehouse.gov/sites/default/files/omb/fedreg/a110-finalnotice.html>

On November 14, 2013, the Committee on Science, Space, and Technology held a hearing entitled, *Strengthening Transparency and Accountability within the Environmental Protection Agency*. The purpose of this hearing was to review science and technology activities at the EPA, including: agency-wide policies and practices related to the development and use of science in regulatory decisions; the role of independent scientific advisory bodies such as the EPA Science Advisory Board and the EPA Clean Air Scientific Advisory Committee; and the importance of transparency and integrity in the Agency's science activities. The Committee received testimony from The Honorable Gina McCarthy, the Administrator of the U. S. Environmental Protection Agency.

In the 112th Congress, the Committee held two hearings focused on science at the EPA. On November 30, 2011, the Subcommittee on Energy and Environment held a hearing entitled, *Fostering Quality Science at EPA: Perspectives on Common Sense Reform*. The purpose of the hearing was to provide external perspectives on the need to reauthorize and reform science, research and development activities at EPA; explore the intersection of Agency-supported science and its regulatory mission; and receive focused recommendations to raise the level, quality, usefulness, and objectivity of EPA science, including any necessary changes to the Environmental Research, Development and Demonstration Authorization Act. The subcommittee received testimony from Ms. Susan Dudley, Director, Regulatory Studies Center, and Research Professor of Public Policy & Public Administration, The George Washington University; Dr. Alan Moghissi, President, Institute for Regulatory Science; Dr. Kenneth Green, Resident Scholar, American Enterprise Institute; and Dr. Gary Marchant, Professor of Law and Executive Director, Center for Law, Science & Innovation, Arizona State University.

On February 3, 2012, the Subcommittee on Energy and Environment held a second hearing to provide external perspectives on the need to reauthorize and reform science and research and development activities at the EPA. The Subcommittee received testimony from Mr. Daniel Greenbaum, President and Chief Executive Officer, Health Effects Institute; Dr. Deborah Swackhamer, Professor, Environmental Health Sciences, University of Minnesota, and Chairwoman, EPA Science Advisory Board; Mr. Michael Walls, Vice President, Regulatory and Technical Affairs, American Chemistry Council; Dr. Richard Belzer, President, Regulatory Checkbook; Dr. Jerald Schnoor, Allen S. Henry Chair in Engineering, Department of Civil and Environmental Engineering, University of Iowa; and Dr. S. Stanley Young, Assistant Director for Bioinformatics, National Institute of Statistical Sciences.

In the 113th Congress, H.R. 4012, "The Secret Science Reform Act of 2014" was passed in the House by a vote of 237 Ayes, 190 Nays, on November 19, 2014.

Committee Views

H.R. 1030, The Secret Science Reform Act of 2015, requires that the Environmental Protection Agency base its regulations and assessments on the best

available science that is publicly available in a manner sufficient for independent analysis and scientific replication. This approach to regulatory science is consistent with the data access requirements of major scientific journals as well as the transparency policy of this Administration. Transparency and reproducibility are basic tenets of science. Costly environmental regulations should only be based upon data that is available to independent scientists and the public.

This legislation is consistent with the White House's scientific integrity policy, the President's Executive Order 13563, data access provisions of major scientific journals, and the recommendations of the Administration's top science advisors and the Bipartisan Policy Center. In 2012, the President's Science Advisor testified that "Absolutely, the data on which regulatory decisions and other decisions are based should be made available to the Committee and should be made public unless there is a classification reason." Also in 2012, the Chair of EPA's Science Advisory Board in response to follow-up questions after a hearing titled *Fostering Quality Science at EPA: Need for Common Sense Reform (Day II)* stated that EPA's advisors recommend, "that literature and data used by EPA be peer-reviewed and made available to the public. When the SAB conducts peer reviews and evaluations, it prefers to review all data associated with the document in question. It is my experience that EPA makes its best effort to provide all data to the SAB, subject to ethical and legal restrictions."

The Committee received a letter of support from over 80 scientists, academic experts, and former EPA officials for "The Secret Science Reform Act" in the 113th Congress. Signatories include Ivy League professors, two former chairs of EPA science advisory committees, medical doctors, statisticians, deans of major universities, and environmental scientists. This legislation is similar to the data access provisions of major scientific journals like *Science* and *Nature*, as well as independent research entities like the Health Effects Institute.

H.R. 1030 makes clear that no protected information will be disclosed. This bill only requires information that is sufficient for independent scientists to validate and reproduce the results of this regulatory science. The bill does not require the public dissemination of information, the disclosure of which is prohibited by law. To this end, the Committee received a letter of support from more than 80 scientists, experts, and doctors which states that "complying with [the Secret Science Reform Act] can be accomplished without imposing unnecessary burdens, discouraging research, or raising confidentiality concerns. Across different disciplines, numerous statistical and technical approaches exist to protect any sensitive information."

Additionally, the National Academy of Sciences has confirmed that transparency and reproducibility in science is possible without any risks to confidentiality or privacy. In 2005, the Panel on Data Access for Research Purposes of the National Research Council stated in its report *Expanding Access to Research Data: Reconciling Risks and Opportunities*: "Nothing in the past suggest that increasing access to research data without damage to privacy and confidentiality rights is beyond scientific reach." This

Committee has received testimony from some respected experts that the provisions of H.R. 1030 would not raise confidentiality issues.

The legislation covers critical scientific documents related to “covered actions” in order to ensure that significant non-regulatory information is subject to basic standards of transparency and reproducibility. As Dr. John Graham, Indiana University and former head of White House Office of Information and Regulatory Affairs, testified: “When a federal agency makes a determination that a product, technology or substance is hazardous, the determination itself – without any formal regulatory action – can create a stigma in the marketplace that causes a loss of sales, jobs and so forth. The stigma can also trigger lawsuits against companies under the common laws of the fifty states. If the scientific and technical data underpinning the determinations are not transparent and reproducible, it can be quite difficult for scientists in an impacted company – or any scientist – to determine whether the determination is valid.” The definition of scientific and technical information in the bill is based on data access policies from leading science publications and EPA-funded research institutes.

SECTION-BY-SECTION

Section 1. Short Title

This section establishes the short title of the Act as the “Secret Science Reform Act of 2015.”

Section 2. Data Transparency

Section 2 amends the Environmental Research, Development, and Demonstration Authorization Act to:

- 1) Prohibit the Administrator for the EPA from finalizing, proposing, or disseminating a covered action unless all scientific and technical information relied on is:
 - a. The best available science,
 - b. Specifically identified, and
 - c. Publicly available in a manner that is sufficient for independent analysis and substantial reproduction of research results.
- 2) Protect personal and confidential information. It clarifies that nothing in the section requires the Administrator to disseminate scientific and technical information, nor does the section supersede any nondiscretionary statutory requirements.

- 3) Define “covered action” to mean a risk, exposure, or hazard assessment, criteria document, standard, limitation, regulation, regulatory impact analysis, or guidance. This section defines “scientific and technical information” to include materials, data, and associated protocols necessary to understand, assess, and extend conclusions, computer codes and models involved in the creation and analysis of information, recorded factual materials, and detailed descriptions of how to access and use such information.

- 4) Clarify that the Administrator shall implement this section in a manner that does not exceed \$1,000,000 per year from amounts otherwise authorized to the appropriated.

EXPLANATION OF AMENDMENTS

No amendments were adopted.

CORRESPONDENCE

FRED UPTON, MICHIGAN
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FOURTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
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Majority (202) 225-2927
Minority (202) 225-3641

March 2, 2015

The Honorable Lamar Smith
Chairman
Committee on Science, Space, and Technology
2321 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Smith:

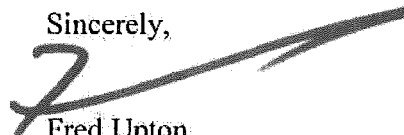
Lamar

I write in regard to H.R. 1030, Secret Science Reform Act of 2015. As you are aware, the bill was referred to the Committee on Science, Space, and Technology, but the Committee on Energy and Commerce has a jurisdictional interest in the bill. I wanted to notify you that the Committee on Energy and Commerce will forgo action on H.R. 1030 so that it may proceed expeditiously to the House floor for consideration.

This is done with the understanding that the Committee on Energy and Commerce's jurisdictional interests over this and similar legislation are in no way diminished or altered. In addition, the Committee reserves the right to seek conferees on H.R. 1030 and requests your support when such a request is made.

I would appreciate your response confirming this understanding with respect to H.R. 1030 and ask that a copy of our exchange of letters on this matter be included in the Congressional Record during consideration of the bill on the House floor.

Sincerely,



Fred Upton
Chairman

Congress of the United States
House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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March 2, 2015

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter regarding the Committee on Energy and Commerce's jurisdictional interest in H.R. 1030, the "Secret Science Reform Act of 2015," and your willingness to forego consideration of H.R. 2015 by your committee.

I agree that the Committee on the Judiciary has a valid jurisdictional interest in certain provisions of H.R. 1030 and that the Committee's jurisdiction will not be adversely affected by your decision to forego consideration of H.R. 1030. As you have requested, I will support your request for an appropriate appointment of outside conferees from your Committee in the event of a House-Senate conference on this or similar legislation should such a conference be convened.

Finally, I will include a copy of your letter and this response in the Committee Report and in the *Congressional Record* during the floor consideration of this bill. Thank you again for your cooperation.

Sincerely,


Lamar Smith
Chairman

cc: The Honorable John Boehner, Speaker of the House
The Honorable Eddie Bernice Johnson, Ranking Minority Member
The Honorable Frank Pallone, Jr., Ranking Minority Member
Committee on Energy and Commerce
Mr. Tom Wickham, Parliamentarian

COMMITTEE CONSIDERATION

On February 25, 2015, the Committee met in open session and ordered reported favorably the bill, H.R. 1030, by roll call vote, a quorum being present.

ROLL CALL VOTES

Bill: H.R. 1030
ROLL CALL NO. 1

AMENDMENT NO. 1

Amendment Sponsor: Ms. Clark

DEFEATED

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. SMITH, <i>Chair - TX</i>		•		
2 Mr. LUCAS - OK **		•		
3 Mr. SENSENBRENNER - WI				
4 Mr. ROHRBACHER - CA		•		
5 Mr. NEUGEBAUER - TX				
6 Mr. MCCAUL - TX				
7 Mr. PALAZZO - MS		•		
8 Mr. BROOKS - AL		•		
9 Mr. HULTGREN - IL				
10 Mr. POSEY - FL		•		
11 Mr. MASSIE - KY		•		
12 Mr. BRIDENSTINE - OK				
13 Mr. WEBER - TX		•		
14 Mr. JOHNSON - OH		•		
15 Mr. MOOLENAAR - MI		•		
16 Mr. KNIGHT - CA		•		
17 Mr. BABIN - TX		•		
18 Mr. WESTERMAN - AR		•		
19 Mrs. COMSTOCK - VA				
20 Mr. NEWHOUSE - WA		•		
21 Mr. PALMER - AL		•		
22 Mr. LOUDERMILK - GA		•		
1 Ms. JOHNSON, <i>Ranking - TX</i>	•			
2 Ms. LOFGREN - CA	•			
3 Mr. LIPINSKI - IL				
4 Ms. EDWARDS - MD	•			
5 Ms. BONAMICI - OR	•			
6 Mr. SWALWELL - CA	•			
7 Mr. GRAYSON - FL	•			
8 Mr. BERA - CA	•			
9 Ms. ESTY - CT	•			

10	Mr. VEASEY – TX	•			
11	Ms. CLARK – MA	•			
12	Mr. BEYER – VA	•			
13	Mr. PERLMUTTER – CO				
14	Mr. TONKO – NY	•			
15	VACANT				
16	VACANT				
17	VACANT				
TOTALS		12	16		

Bill: H.R. 1030
ROLL CALL NO. 2

FINAL PASSAGE

PASSED

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. SMITH, <i>Chair - TX</i>	•			
2 Mr. LUCAS – OK **	•			
3 Mr. SENSENBRENNER – WI				
4 Mr. ROHRBACHER – CA	•			
5 Mr. NEUGEBAUER – TX				
6 Mr. MCCAUL - TX				
7 Mr. PALAZZO – MS				
8 Mr. BROOKS – AL	•			
9 Mr. HULTGREN – IL	•			
10 Mr. POSEY – FL	•			
11 Mr. MASSIE – KY	•			
12 Mr. BRIDENSTINE – OK				
13 Mr. WEBER – TX	•			
14 Mr. JOHNSON -- OH	•			
15 Mr. MOOLENAAR – MI				
16 Mr. KNIGHT – CA	•			
17 Mr. BABIN – TX	•			
18 Mr. WESTERMAN – AR	•			
19 Mrs. COMSTOCK – VA	•			
20 Mr. NEWHOUSE– WA	•			
21 Mr. PALMER – AL	•			
22 Mr. LOUDERMILK– GA	•			
1 Ms. JOHNSON, <i>Ranking - TX</i>		•		
2 Ms. LOFGREN - CA				
3 Mr. LIPINSKI - IL		•		
4 Ms. EDWARDS - MD		•		
5 Ms. BONAMICI - OR				
6 Mr. SWALWELL – CA		•		
7 Mr. GRAYSON – FL		•		
8 Mr. BERA – CA		•		
9 Ms. ESTY – CT				
10 Mr. VEASEY – TX		•		
11 Ms. CLARK – MA		•		

12 Mr. BEYER – VA		•		
13 Mr. PERLMUTTER – CO		•		
14 Mr. TONKO – NY		•		
<u>15</u> Mr. TAKANO – CA				
<u>16</u> Mr. FOSTER – IL				
<u>17</u> VACANT				
TOTALS	16	11		

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill ensures the Environmental Protection Agency uses the best available science, and prohibits the Agency from proposing, finalizing, or disseminating a covered action unless all scientific and technical information relied on to support the covered action is specifically identified and publicly available. As such this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of Rule XIII and clause (2)(b)(1) of Rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 1030 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting H.R. 1030 does not direct the completion of any specific rule makings within the meaning of 5 U.S.C. 551.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104-4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 1030 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of Rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of Rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 1030. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. The Committee has requested but not received a cost estimate for this bill from the Director of the Congressional Budget Office. Based on cost estimates from similar legislation from the 113th Congress, however, the Committee believes that enactment of this bill would result in no net effect on direct spending over the 2015-2024 period. Assuming the appropriation of authorized amounts, the Committee estimates that the legislation would also have a discretionary cost of less than \$5 million over the 2015-2019 period.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of Rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee believes that this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

**ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND
DEMONSTRATION AUTHORIZATION ACT OF 1978**

* * * * *

SEC. 6. (a) The Administrator of the Environmental Protection Agency shall establish a separately identified program to conduct continuing and long-term environmental research and development. Unless otherwise specified by law, at least 15 per centum of any funds appropriated to the Administrator for environmental research and development under section 2(a) of this Act or under any other Act shall be allocated for long-term environmental research and development under this section.

[(b) The Administrator, after consultation with the Science Advisory Board, shall submit to the President and the Congress a report concerning the desirability and feasibility of establishing a national environmental laboratory, or a system of such laboratories, to assume or supplement the long-term environmental research functions created by subsection (a) of this section. Such report shall be submitted on or before March 31, 1978, and shall include findings and recommendations concerning—

[(1) specific types of research to be carried out by such laboratory or laboratories;

[(2) the coordination and integration of research to be conducted by such laboratory or laboratories with research conducted by existing Federal or other research facilities;

[(3) methods for assuring continuing long-range funding for such laboratory or laboratories; and

[(4) other administrative or legislative actions necessary to facilitate the establishment of such laboratory or laboratories.]

(b)(1) The Administrator shall not propose, finalize, or disseminate a covered action unless all scientific and technical information relied on to support such covered action is—

(A) the best available science;

(B) specifically identified; and

(C) publicly available online in a manner that is sufficient for independent analysis and substantial reproduction of research results.

(2) Nothing in the subsection shall be construed as—

(A) requiring the Administrator to disseminate scientific and technical information; or

(B) superseding any nondiscretionary statutory requirement.

(3) *In this subsection—*

(A) the term “covered action” means a risk, exposure, or hazard assessment, criteria document, standard, limitation, regulation, regulatory impact analysis, or guidance; and

(B) the term “scientific and technical information” includes—

(i) materials, data, and associated protocols necessary to understand, assess, and extend conclusions;

(ii) computer codes and models involved in the creation and analysis of such information;

(iii) recorded factual materials; and

(iv) detailed descriptions of how to access and use such information.

(4) The Administrator shall carry out this subsection in a manner that does not exceed \$1,000,000 per fiscal year, to be derived from amounts otherwise authorized to be appropriated.

* * * * *

MINORITY VIEWS



Minority Views to H.R. 1030, *the Secret Science Reform Act of 2015*

Submitted by

Ranking Member Eddie Bernice Johnson, Committee on Science, Space, and Technology

I strongly oppose H.R. 1030, *the Secret Science Reform Act of 2015*. I want to be clear: H.R. 1030 is based on a falsehood. The Environmental Protection Agency (EPA) does not use “secret science” to conduct its business. The EPA uses high-quality peer reviewed research from trusted scientific sources and H.R. 1030 is the Majority’s attempt to prevent the EPA from using this high-quality science. Judging from the groups that have endorsed this bill, it might be more accurate to state that H.R. 1030 is the polluting industries’ attempt to prevent the EPA from using the best available science.

So why is the Majority pushing this legislation? Because the science is clear. Air pollution makes people sick and kills them. Second hand smoke makes people sick and kills them. Lead, Mercury, and a host of other chemicals can cause great harm and disease in people. Because the science is clear, the EPA must regulate these things to protect the public health.

Not that long ago, the tobacco industry realized that if they could muddle the message on the science, they could prevent their products from being regulated. So they engaged in a massive criminal conspiracy to defraud the American public, by funding their own sham science to cast doubt on the harm of tobacco.

Well, their efforts have not gone unnoticed by others. A host of polluting industries are following their blueprint, and attempting to cast doubt on all facets of health and environmental science. Moreover, many of the same exact scientists and public relations folks who worked for big tobacco are now doing similar work for the polluting industries.

We’ve seen it in this very Committee. When the Majority held a hearing on this legislation last Congress, every Majority witness at the hearing had significant ties to the tobacco industry. It’s really as if the Majority is not even trying to hide their true motivations.

So what does this legislation actually do? Two of our nation’s most trusted health institutions, the American Lung Association and the American Thoracic Society, have clearly described the central problem with this bill:

“The legislation... will compel the U.S. Environmental Protection Agency to either ignore the best science by prohibiting the agency from considering peer-reviewed research that is based on confidential patient information or force EPA to publically release confidential patient information, which would violate federal law. This is an untenable outcome that would completely undermine the ability of the EPA to perform its

responsibilities under the Clean Air Act and myriad other federal laws. The legislation will not improve EPA's actions; rather it will stifle public health protections."

That last point is worth repeating: "it will stifle public health protections." That's really what this is all about. H.R. 1030 is an attack on public health, thinly veiled under the false pretense of "good governance."

Before I began my life in public service, I worked as a nurse for 17 years. I've seen first-hand the terrible toll of heart and lung disease and of asthma, COPD, and other respiratory conditions. These people aren't statistics. They are real people with lives and aspirations and families they love. Their health will be worse if this bill is enacted into law. Their lives will be shorter. Their suffering will be greater. And their lives will be cut short by this legislation.

Last year, Dallas-Fort Worth received a grade of F for air quality by the American Lung Association and was ranked as the city with the 8th worst air according to their State of the Air report. In my home town, we desperately need better protections for the air we breathe. To get those protections, and to get them right, we need the EPA to be able to use all of the best available science, not just the science that fits the Majority's misguided priorities.

I have received letters from a number of groups who share my concerns over H.R. 1030, including: the American Association for the Advancement of Science, the American Lung Association, the American Thoracic Society, the American Statistical Association, the International Society for Environmental Epidemiology, the Natural Resources Defense Council, the BlueGreen Alliance, Defenders of Wildlife, Earthjustice, the Environmental Defense Fund, Greenpeace, the League of Conservation Voters, the Union of Concerned Scientists, Jacobs Institute of Women's Health, the National Center for Health Research, the National Physicians Alliance, Public Citizen, the American Association for Justice, and others.

H.R. 1030 is an insidious attack on the EPA's ability to use the best science to protect public health. Limiting, or prohibiting, what science EPA uses as part of its rulemaking should not be a consequence of this or any other bill. The American people deserve better. Therefore, I strongly oppose this legislation.

ADDITIONAL VIEWS

Donna F. Edwards
MD-4

Additional Views on HR 1030, the Secret Science Reform Act of 2015
Rep. Donna Edwards

I am strongly opposed to this bill for all of the reasons that have been previously mentioned by the Ranking Member and others at the markup. But I want to highlight one issue that, to me, really makes a mockery of this whole effort.

The Majority, in the bill that was introduced the day before it was marked up, has included a new section from the bill we considered last Congress. The end of the bill now reads:

“The Administrator shall carry out this subsection in a manner that does not exceed \$1,000,000 per fiscal year...”

However, the Congressional Budget Office Cost Estimate of this bill from last Congress estimated that it would cost the EPA \$250 million dollars per year to implement the bill. But the Majority is now telling EPA that they cannot spend more than \$1 million dollars implementing this bill. To put this disparity in some perspective, CBO is estimating that implementing this bill would cost 25,000 percent more than the Majority is providing.

I understand why the Majority is doing this – they don’t want to pass legislation that costs anything to implement; it wouldn’t be “fiscally conservative.” However, it is totally absurd to tell an agency to undertake \$250 million dollars of work with \$1 million dollars. More importantly, it forces the agency into an untenable position. They must either ignore the requirements of this legislation, because the Majority isn’t providing them with the resources to carry them out, or they can comply with the requirements for all of 1 and a half days that funding will allow, and then shut down all of the covered actions under this bill.

That is just irresponsible – the Majority is actually legislating failure. It is creating a situation that EPA will never fulfill. If the Majority really believes in the premise behind this legislation, then the Majority should provide the agency with the \$250 million dollars annually that, at a minimum, the agency would need to carry out this bill.

I am opposed to this bill for a number of reasons, and most likely my colleagues on the other side of the aisle will disagree with me on those points. However, I have a hard time believing that any responsible Member of Congress would consciously support a bill that is guaranteed to cause failure. That would be grossly irresponsible. I strongly urge my colleagues to oppose this bill.

Union Calendar No.

114TH CONGRESS
1ST SESSION

H. R. 1030

[Report No. 114-]

To prohibit the Environmental Protection Agency from proposing, finalizing, or disseminating regulations or assessments based upon science that is not transparent or reproducible.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 2015

Mr. SMITH of Texas (for himself, Mr. SCHWEIKERT, Mr. LUCAS, Mr. BRIDENSTINE, Mr. WESTERMAN, Mr. NEUGEBAUER, Mr. PALAZZO, Mr. BROOKS of Alabama, Mr. HULTGREN, Mr. WEBER of Texas, Mr. BABIN, Mrs. COMSTOCK, Mr. NEWHOUSE, Mr. HARRIS, Mrs. LUMMIS, Mr. CRAMER, Mr. SESSIONS, Mr. YOUNG of Alaska, Mr. FARENTHOLD, Mr. GOSAR, Mr. PEARCE, and Mr. CRAWFORD) introduced the following bill; which was referred to the Committee on Science, Space, and Technology

FEBRUARY --, 2015

Committed to the Committee of the Whole House on the State of the Union,
and ordered to be printed

A BILL

To prohibit the Environmental Protection Agency from proposing, finalizing, or disseminating regulations or assessments based upon science that is not transparent or reproducible.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Secret Science Reform
5 Act of 2015”.

6 **SEC. 2. DATA TRANSPARENCY.**

7 Section 6(b) of the Environmental Research, Devel-
8 opment, and Demonstration Authorization Act of 1978
9 (42 U.S.C. 4363 note) is amended to read as follows:

10 “(b)(1) The Administrator shall not propose, finalize,
11 or disseminate a covered action unless all scientific and
12 technical information relied on to support such covered ac-
13 tion is—

14 “(A) the best available science;

15 “(B) specifically identified; and

16 “(C) publicly available online in a manner that
17 is sufficient for independent analysis and substantial
18 reproduction of research results.

19 “(2) Nothing in the subsection shall be construed
20 as—

21 “(A) requiring the Administrator to disseminate
22 scientific and technical information; or

23 “(B) superseding any nondiscretionary statu-
24 tory requirement.

25 “(3) In this subsection—

1 “(A) the term ‘covered action’ means a risk, ex-
2 posure, or hazard assessment, criteria document,
3 standard, limitation, regulation, regulatory impact
4 analysis, or guidance; and

5 “(B) the term ‘scientific and technical informa-
6 tion’ includes—

7 “(i) materials, data, and associated proto-
8 cols necessary to understand, assess, and ex-
9 tend conclusions;

10 “(ii) computer codes and models involved
11 in the creation and analysis of such informa-
12 tion;

13 “(iii) recorded factual materials; and

14 “(iv) detailed descriptions of how to access
15 and use such information.

16 “(4) The Administrator shall carry out this sub-
17 section in a manner that does not exceed \$1,000,000 per
18 fiscal year, to be derived from amounts otherwise author-
19 ized to be appropriated.”.