

HONEST AND OPEN NEW EPA SCIENCE TREATMENT ACT
OF 2017

MARCH 24, 2017.—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

The Committee on Science, Space, and Technology, to whom was referred the bill (H.R. 1430) 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, report favorably thereon without amendment and recommend that the bill do pass.

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COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

The purpose of H.R. 1430, the “Honest and Open New EPA Science Treatment Act,” or HONEST Act, is to ensure the Environmental Protection Agency (EPA) uses the best available science and

to prohibit proposing, finalizing, or disseminating a covered action unless all scientific and technical information relied upon 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 the Agency's establishment in 1970. The Agency's own 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 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."² The memo stressed the importance of being as open as possible, while also providing the greatest possible public participation in decision making.³ Gina McCarthy, the EPA Administrator under former President Obama, echoed this priority in her confirmation hearing, stating: "If I am confirmed, I look forward to working with Members on this Committee to ensure that EPA's use of science in protecting water quality is rigorous and transparent."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.

Most recently, Scott Pruitt, in his confirmation hearing for his current position as EPA Administrator, emphasized the importance of open and honest processes at the EPA. Specifically, he noted that he is "committed to ensuring EPA's decisions are conducted through open processes that take into account the full range of views of the American people, including the economic consequences of any regulation."⁵ He further stated that "it is very important that the [rulemaking] process be adhered to," in reference to an openness and transparency.⁶ He warns that "otherwise, [EPA] acts in an arbitrary and capricious way."⁷

Under the Obama Administration, EPA and White House scientific integrity, regulatory, and open access policies indicated strong support for open access to scientific information, including the information underlying Federal regulatory actions. For in-

¹U.S. Environmental Protection Agency Scientific Integrity Policy (2012), https://www.epa.gov/sites/production/files/2014-02/documents/scientific_integrity_policy_2012.pdf.

²Memorandum from Lisa Jackson, EPA Administrator, Transparency in EPA's Operations (April 23, 2009) (available at https://www.epa.gov/sites/production/files/2014-02/documents/transparency_in_epas_operations.pdf).

³Memorandum from EPA, Fishbowl Memo (May 19, 1983) (available at <http://www.regulationwriters.com/downloads/EPA-Fishbowl-Memo-05-19-1983-Ruckelshaus.pdf>).

⁴Hearing on the Nomination of Gina McCarthy to be Administrator of the Environmental Protection Agency, Before the Committee on Environment and Public Works, 113th Cong. 701 (2013) (statement of Gina McCarthy, Assistant Administrator of EPA).

⁵Hearing on Nomination of Scott Pruitt to be Administrator of the Environmental Protection Program, Before the Committee on Environment and Public Works, 115 Cong. 37 (Attorney General, State of Oklahoma), available at https://www.epw.senate.gov/public/_cache/files/0e505de4-aa91-4dcc-ba23-dc9ddab01c0b/scott-pruitt-opening-statement-final-.pdf.

⁶Hearing on Nomination of Scott Pruitt to be Administrator of the Environmental Protection Program, Opening Statement Before the Committee on Environment and Public Works, 115 Cong. 37 (Scott Pruitt, Attorney General, State of Oklahoma), available at https://www.epw.senate.gov/public/_cache/files/1291a5e0-b3aa-403d-8ce3-64cb2ef86851/spw-011817.pdf.

⁷*Id.*

stance, Executive Order 13563 required that regulations “be based upon the best available science.”⁸ Similarly, President Obama’s March 2009 Scientific Integrity Memo states that “[t]o the extent permitted by law, there should be transparency in the preparation, identification, and use of scientific and technological information in policymaking.”⁹

Following up on this direction, the White House Office of Science and Technology Policy (OSTP) Memo from December 2010 stated 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.”¹⁰ OSTP also issued a 2013 Memorandum entitled, *Increasing Access to the Results of Federally Funded Scientific Research*, in which the then-President’s Science Advisor John Holdren explained that “[t]he 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.”¹¹

In order to provide Agency-specific guidelines emanating from the former 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.”¹²

EPA developed guidelines 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.”¹³ EPA also noted 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

⁸ Exec. Order No. 13,563, 3 C.F.R. 13563 (2011).

⁹ Memorandum for the Heads of Executive Departments and Agencies, Scientific Integrity (Mar. 9, 2009).

¹⁰ Memorandum for the Heads of Executive Departments and Agencies, Scientific Integrity, from John Holdren, Assistant to the President for Science and Technology (Dec. 17, 2010).

¹¹ Memorandum for the Heads of Executive Departments and Agencies, Increasing Access to the Results of Federally Funded Scientific Research, from John Holdren, Director (Feb. 22, 2013).

¹² U.S. Environmental Protection Agency Scientific Integrity Policy (2012), https://www.epa.gov/sites/production/files/2014-02/documents/scientific_integrity_policy_2012.pdf.

¹³ Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by the Environmental Protection Agency, EPA (2002), available at <https://www.epa.gov/sites/production/files/2015-08/documents/epa-info-quality-guidelines.pdf>.

any other legal requirements that may apply to particular Agency determinations or other actions.”¹⁴

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.”¹⁵

Despite a seemingly strong position in favor of openness and transparency regarding the science behind regulations, previous Administrations did not make public the scientific data that underpinning numerous EPA regulations. Outside researchers seeking this information were also denied access. In 2014, 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 without raising confidentiality concerns. However, EPA’s March 7, 2014, letter 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.”¹⁶

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.”¹⁷ 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.”¹⁸ Without this scientific information, the public is required to blindly trust the EPA’s scientific findings that are the basis for costly regulations.

LEGISLATIVE HISTORY

In the 114th Congress, the Committee on Science, Space, and Technology successfully marked up H.R. 1030, the Secret Science Reform Act of 2015, on February 23, 2015. Shortly after, on March 18, 2015, the House passed H.R. 1030 with a vote of 241 Ayes and 175 Nays. In addition, the Committee held numerous hearings throughout the 114th Congress that covered sound science and transparency at EPA. On March 17, 2015, the Committee held a hearing entitled *Reality Check: The Impact and Achievability of EPA’s Proposed Ozone Standards*. On April 29, 2015, the Subcommittee on Environment held a hearing entitled *Reality Check Part II: The Impact of EPA’s Proposed Ozone Standards on Rural*

¹⁴*Id.*

¹⁵FEDERAL REGISTER NOTICE RE OMB CIRCULAR A–110, OFFICE OF MGMT. & BUDGET, EXEC. OFFICE OF THE PRESIDENT, BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 1999 (1999).

¹⁶Letter from Gina McCarthy, Administrator at EPA to Lamar Smith, Chairman of H. Comm. on Science, Space, and Technology (Mar. 7, 2014) (on file with H. Comm. on Science, Space, and Technology).

¹⁷*Id.*

¹⁸*Id.*

America. On June 4, 2015, the Committee held a hearing entitled *EPA Regulatory Overreach: Impacts on American Competitiveness*. On July 9, 2015, the Committee held a hearing entitled *Examining EPA's Regulatory Overreach*, with then-EPA Administrator Gina McCarthy. On September 11, 2015, the Committee held a hearing entitled *State Perspectives: How EPA's power Plan Will Shut Down Power Plants*. On October 22, 2015, the Committee held a hearing entitled *EPA's 2015 Ozone Standard: Concerns Over Science and Implementation*. On March 23, 2016, the Subcommittee on Environment held a hearing entitled *Examining EPA's Regional Haze Program: Regulations Without Visible Benefits*. On May 26, 2016, the Committee held a hearing entitled *Impact of EPA's Clean Power Plan on States*. On June 22, 2016, the Committee held a hearing entitled *Ensuring Sound Science at EPA*, again with then-EPA Administrator Gina McCarthy. On September 15, 2016, the Subcommittees on Environment held a hearing entitled *A Solution in Search of Problem: EPA's Methane Regulations*. In the 114th Congress, sound science and transparency underscored the purpose and focus at each hearing conducted by the Committee, while also informing the need for this legislation.

In the 113th Congress, the Subcommittee on Environment held a hearing on February 11, 2014, entitled *Ensuring Open Science at EPA*, which focused on "The Secret Science Reform Act." 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 EPA. 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.

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 then-Administrator of the EPA.

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-sup-

ported 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, 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” passed in the House by a vote of 237 Ayes, 190 Nays, on November 19, 2014.

COMMITTEE VIEWS

H.R. 1430, the Honest and Open New EPA Science Treatment Act of 2017, requires that EPA base its regulations and assessments on the “best available science” that is publicly available in a manner sufficient for independent analysis and scientific replication. However, H.R. 1430 explicitly does not require the EPA itself to make such scientific and technical information publicly available. In addition, to reinforce that intent, no more than \$1 million is authorized to implement H.R. 1430. The requirement for “best available science” refers to science that 1) follows the scientific method for constructing a testable hypothesis, which utilizes data collected and documented in a verifiable manner; 2) is reliable and would allow for independent replication; 3) produces results that do not raise concerns as to the integrity of the underlying data or the methodology used; and 4) utilizes underlying data and methodology that is available to the general public in an easily accessible manner.

This approach to regulatory science is consistent with the data access requirements of major scientific journals as well as the transparency policy of the Administration. The HONEST Act is also consistent with the previous Administration’s scientific integrity policy, Executive Order 13563, data access provisions of major scientific journals, and the recommendations of the Administration’s and EPA’s policy and science advisors and the Bipartisan Policy Center. In 2012, former President Obama’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.”¹⁹

Likewise, 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.”²⁰

The following entities and individuals provided Letters of Support for H.R. 1430 received by the 115th Congress:

Portland Cement Association
 National Stone Sand and Gravel Association
 Small Business and Entrepreneurship Council
 National Association of Home Builders
 Dr. Pat Michaels (CATO)
 Professor Will Happer (Princeton and CO2 Coalition)
 American Exploration and Production Council (AXPC)
 Independent Petroleum Association of America (IPAA)
 U.S. Chamber of Commerce
 E&E Action, Independence Institute, and Western Energy Alliance

Furthermore, 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 included 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. 1430 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, nu-

¹⁹*The Administration’s Climate Plan: Failure by Design Before H. Comm. on Science, Space, and Technology*, 113th Cong. 94 (2014) (statement of John Holdren, Director, Office of Science and Technology Policy, Executive Office of the President).

²⁰*Fostering Quality Science at EPA: Perspectives on Common Sense Reform Before H. Subcomm. On Energy and Environment of the H. Comm. on Science, Space, and Technology, Hearing Questions for the Rec.*, 112th Cong. 59 (2012) (statement of Deborah Swackhamer, U.S. EPA Science Advisory Board).

merous statistical and technical approaches exist to protect any sensitive information.”²¹

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.”²² This Committee has received testimony from some respected experts that the provisions of H.R. 1430 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. To this point, Dr. John Graham, professor at 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.²³

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.

In the 115th Congress, H.R. 1430 incorporates minor edits to clarify the bill’s language and intent. This is accomplished through the addition of language to protect personally identifiable information, as well as confidential business information. The bill also adds language to clarify that EPA is not required to undertake any retroactive action to adhere to this legislation.

SECTION-BY-SECTION

Section 1. Short title

This section establishes the short title of the Act as the “Honest and Open New EPA Science Treatment Act of 2017 or the HONEST Act.”

Section 2. Data transparency

Section 2 amends the Environmental Research, Development, and Demonstration Authorization Act of 1978 (ERDAA) to:

²¹ Letter from Angelo Campanella et al., Principal, Campanella Acoustics to Lamar Smith, Chairman of H. Comm. on Science, Space, and Technology (June 23, 2014) (on file with H. Comm. on Science, Space, and Technology).

²² NATIONAL ACADEMY OF SCIENCE, *EXPANDING ACCESS TO RESEARCH DATA: RECONCILING RISKS AND OPPORTUNITIES*, 35 (2005).

²³ *Ensuring Open Science at EPA, Before H. Subcomm. On Energy and Environment of the H. Comm. on Science, Space, and Technology*, 113th Cong. 65 (2014).

(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 online in a manner that is sufficient for independent analysis and substantial reproduction of research results, except personally identifiable information, trade secrets, or commercial or financial information.

(2) Protect personal and confidential information. The subsection clarifies that redacted information can be disclosed to a person only after a written confidentiality agreement has been signed with the Administrator, subject to developed guidance.

(3) Clarify the intent of disseminating information. This subsection clarifies that nothing in the section requires the Administrator to disseminate scientific and technical information, nor does the section supersede any nondiscretionary statutory requirements. It further clarifies that nothing in the section requires the Administrator to repeal, re-issue, or modify a regulation in effect on the date of enactment.

(4) 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.

(5) 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.

COMMITTEE CONSIDERATION

On February 29, 2017, the Committee met in open session and ordered reported favorably the bill, H.R. 1430, by roll call vote, a quorum being present.

ROLL CALL VOTES

Bill: H.R. 1430

Final Passage

	MEMBER	AYE	NO	PRESENT	NOT VOTING
1	Mr. SMITH, <i>Chair</i> - TX	X			
2	Mr. LUCAS - OK **	X			
3	Mr. ROHRBACHER - CA				
4	Mr. BROOKS - AL	X			
5	Mr. HULTGREN - IL	X			
6	Mr. POSEY - FL	X			
7	Mr. MASSIE - KY	X			
8	Mr. BRIDENSTINE - OK				
9	Mr. WEBER - TX	X			
10	Mr. KNIGHT - CA	X			
11	Mr. BABIN - TX				
12	Mrs. COMSTOCK - VA	X			
13	Mr. PALMER - AL	X			
14	Mr. LOUDERMILK - GA				
15	Mr. ABRAHAM - LA	X			
16	Mr. LAHOOD - IL	X			
17	Mr. WEBSTER - FL				
18	Mr. BANKS - IN	X			
19	Mr. BIGGS - AZ	X			
20	Mr. MARSHALL - KS	X			
21	Mr. DUNN - FL	X			
22	Mr. HIGGINS - LA	X			
<hr/>					
1	Ms. JOHNSON, <i>Ranking</i> - TX		X		
2	Ms. LOFGREN - CA				
3	Mr. LIPINSKI - IL		X		
4	Ms. BONAMICI - OR		X		
5	Mr. BERA - CA				
6	Ms. ESTY - CT		X		
7	Mr. VEASEY - TX				
8	Mr. BEYER - VA		X		
9	Ms. ROSEN - NV		X		
10	Mr. MCNERNEY - CA		X		
11	Mr. PERLMUTTER - CO		X		
12	Mr. TONKO - NY				
13	Mr. FOSTER - IL		X		
14	Mr. TAKANO - CA		X		
15	Ms. HANABUSA - HI		X		
16	Mr. CRIST - FL		X		
17	VACANT				
TOTALS		17	12		

** Vice Chair

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

H.R. 1430, The Honest and Open New EPA Science Treatment Act of 2017, requires that EPA base its regulations and assessments on the “best available science” that is publicly available in a manner sufficient for independent analysis and scientific replication.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 1430 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. 1430 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. 1430 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. 1430. 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 H.R. 1430 would result in no net effect on direct spending over the 2017–2024 period. Moreover, the Committee believes that no provision of the bill requires EPA to build any new substantial technological infrastructure systems, merely that the agency use science that is already publically available and therefore no cost to EPA. The Committee believes that, if necessary, existing federal technological infrastructure already exists to fulfill any provisions of the bill. The Committee further believes that the current Administration’s policies moving forward will already comport with the provisions of this bill. The Committee believes that the bill is clear that no retroactive action is required on the part of EPA with regard to existing covered actions. 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 2017–2021 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

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, and 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, except that any personally identifiable information, trade secrets, or commercial or financial information obtained from a person and privileged or confidential, shall be redacted prior to public availability.

(2) The redacted information described in paragraph (1)(C) shall be disclosed to a person only after such person signs a written confidentiality agreement with the Administrator, subject to guidance to be developed by the Administrator.

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

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

(B) superseding any nondiscretionary statutory requirement;

or

(C) requiring the Administrator to repeal, reissue, or modify a regulation in effect on the date of enactment of the Honest and Open New EPA Science Treatment Act of 2017.

(4) 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.*

(5) 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.

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