

ONE HUNDRED THIRTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

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WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
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July 2, 2014

The Honorable Fred Upton  
Chairman  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Upton:

Last week, the House Committee on Science, Space and Technology voted to report H.R. 4012, the “Secret Science Reform Act.” This bill could significantly impede implementation of multiple environmental statutes within the jurisdiction of the Committee on Energy and Commerce. I am writing to request that you assert the Committee’s jurisdiction so that we may formally review the bill and its potential impacts.

H.R. 4012 restricts the Environmental Protection Agency from proposing, finalizing, or disseminating a regulation, standard, or limitation; risk, exposure, or hazard assessment; criteria document; regulatory impact analysis; or guidance. Under the bill, EPA can take these actions only if all “scientific and technical information” relied on to support the action is “specifically identified” and made “publicly available in a manner that is sufficient for independent analysis and substantial reproduction of research results.”<sup>1</sup>

The bill is based on a false premise. It assumes that EPA uses secret scientific research. In fact, EPA relies extensively on scientific research that has been published in respected academic or technical journals after undergoing rigorous peer review, a formal process in which experts review the research and have the opportunity to question and challenge the authors’ data and assumptions. In cases where EPA relies on its own research, the notice-and-comment period allows the public ample time to review and comment on EPA’s work.

The bill is also unworkable. It essentially bars any use of scientific or technical information, materials, data, protocols, computer codes, or computer models, unless such information is made publicly available so as to allow for independent analysis and reproduction of research results. This would prevent EPA from using much of the best science available since

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<sup>1</sup> H.R. 4012, the Secret Science Reform Act (Feb. 16, 2014).

The Honorable Fred Upton

July 2, 2014

Page 2

the raw data used by academic scientists and other researchers is not routinely disclosed to the public. Health data sets often contain confidential patient information, which researchers are required to protect. Researchers may rely on proprietary computer models developed by themselves or the private sector. EPA generally does not have access to, and certainly has no right to distribute, personal health information or researchers' private and intellectual property.

Under this bill, if EPA cannot obtain and disclose all of the scientific and technical information underlying a peer-reviewed study, then EPA would not be able to rely on that study's findings when developing a regulation, disseminating toxicological information, or even implementing any number of existing regulations. This requirement would prevent EPA's use of many or most peer-reviewed research studies. This bill would impede, and might effectively prevent, EPA's implementation of numerous requirements under the Clean Air Act, Safe Drinking Water Act, Toxic Substances Control Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, and other statutes in our jurisdiction. It would apply both prospectively and to any "dissemination" of existing regulations or risk assessments, which would appear to render legally vulnerable many existing EPA regulations.

In effect, this bill amends all of the environmental statutes administered by EPA within the Committee's jurisdiction, and it threatens to undermine numerous regulations authorized by those statutes. While we may have different views on the substance of the bill, I hope you will agree with me that our Committee should, at a minimum, exercise its authority and formally review the legislation.

I look forward to your response.

Sincerely,



Henry A. Waxman  
Ranking Member