



Legislative Bulletin.....November 19, 2014

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H.R. 4012 - Secret Science Reform Act of 2014

H.R. 4012 – Secret Science Reform Act of 2014 (Schweikert, R-AZ)

Order of Business: [H.R. 4012](#) is scheduled for consideration on November 19, 2014, under a [structured rule](#), which makes in order two amendments that can be found at the end of this bulletin.

Summary: This bill prohibits the Environmental Protection Agency (EPA) Administrator from proposing, finalizing, or disseminating a “covered action” unless all scientific and technical information relied upon is made publically available in a manner that is sufficient for independent analysis and reproduction of research results.

The term “covered action” is defined as a risk, exposure or hazard assessment, criteria document, standard, limitation, regulation, regulatory impact analysis, or guidance.

Additional Background: Since its establishment in 1970, the EPA has publically claimed science is central to its mission and focus. Efforts to encourage open scientific research have been well documented throughout the history of the EPA, including in the confirmation hearing of Gina McCarthy, where she stated, “the rule of law, along with sound science and transparency is one of the EPA’s core values.” In addition, President Obama released a scientific integrity [memo](#) in 2009 outlining the need for “transparency in the preparation, identification, and use of scientific and technological information in policymaking.”

According to CBO, the EPA spends about \$500 million annually on research, which is relied upon for the development of regulations and other “covered actions” such as the issuance of guidance or regulatory impact analysis. It is estimated the EPA relies upon about 50,000 scientific studies per year to fulfill its mission.

Although the EPA claims to be in favor of openness and transparency in its science, it has failed to release the science behind numerous EPA regulations to both outside researchers and Congress. In one case, the EPA noted, “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.”

Committee Action: This bill was introduced by Representative Schweikert on February 6, 2014, and referred to the House Committee on Science, Space, and Technology. On June 24, 2014, the Committee held a [mark-up](#), and the bill was ordered to be reported out by voice vote.

Outside Groups Support: [U.S. Chamber of Commerce](#)
[American Alliance for Innovation](#) (coalition letter)

Administration Position: According to the [SAP](#), “The Administration strongly supports regulatory transparency, but strongly opposes H.R. 4012. If the President were presented with H.R. 4012, his senior advisors would recommend that he veto the bill.”

Cost to Taxpayers: [CBO](#) estimates that implementing H.R. 4012 would cost about \$250 million a year for the next few years, subject to appropriation of the necessary amounts. Costs in later years would probably decline gradually from that level. Enacting H.R. 4012 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Some conservatives would like to see the cost offset by other portions of the EPA’s budget.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H.R. 4012 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, and tribal governments.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: In compliance with clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 4012, the “Secret Science Reform Act of 2014,” contains no earmarks.

Constitutional Authority: According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3: The Congress shall have power to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.

Article I, Section 8, Clause 18: The Congress shall have power to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Amendments Made in Order:

#1 Kennedy (D, MA) – Ensures nothing in this bill will prevent the Administrator of the EPA from considering or relying upon any peer-reviewed scientific publication, even if the publication is based on data that is prohibited from public disclosure.

#2 Gosar (R, AZ) – Requires all scientific and technical information used to support a covered action to be made available online.

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