



Into the Light or Fade to Black? EPA Administrator Pruitt's Proposed Secret Science Rule

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Highlighting the divisive nature of the proposal, criticism has also come from within the political ranks of the agency. Specifically, Nancy Beck, Deputy Assistant Administrator of the EPA's Office of Chemical Safety and Pollution Prevention, indicated that the rule would "jeopardize our entire pesticide registration/re-registration process" and could affect all risk evaluations under the TSCA, according to an email that was recently obtained under an open-records request. Discussing proprietary business data that would be banned from consideration under the proposed rule, Beck states that the data is "extremely valuable, extremely high quality, and NOT published," highlighting the importance of nonpublicly available data in the agency rulemaking process. Pruitt, however, maintains that the rule is warranted because "the ability to test, authenticate, and reproduce scientific findings is vital for the integrity of the rulemaking process." Critics argue that this statement disregards the importance of long-term studies or real-life situations that would be impractical and/or unethical to reproduce, such as the 1993 Six Cities Study that linked air pollution and mortality in the United States and monitored the 2010 Deepwater Horizon oil spill in the Gulf of Mexico.

Proponents of the rule have not identified which specific industries or other interest groups have the most to gain from the proposed rule, although the scope would be broad and would have the potential to affect every new rulemaking that relies on scientific data. Steve Milloy, a Trump EPA transition team member who aided in orchestrating the new rule, maintains that "junk science" has "fueled overregulation by the EPA for years" and that the proposal would resolve this issue by "bring[ing] science into the sunlight." If finalized, the proposed rule faces

inevitable legal challenges, especially in light of prior decisions, such as the 2002 American Trucking Associations ruling in which the U.S. Court of Appeals for the District of Columbia Circuit sided with the EPA's contention that obtaining and publicizing all the relevant data underlying the air pollution standards "would be impractical and unnecessary." John Walke, the clean-air director for the Natural Resources Defense Council, said in an interview that the contradictory approach of the proposed rule is "the very definition of an arbitrary agency action."

¹ The proposed rule is open for comments at the following link until May 30, 2018:
<https://www.federalregister.gov/documents/2018/04/30/2018-09078/strengthening-transparency-in-regulatory-science>

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