



Pollinator Stewardship Council

P.O. Box 304, Perkinston, MS 39573

www.pollinatorstewardship.org

832-727-9492

Feb. 12, 2014

Honorable David Schweikert, Chairman
Subcommittee on Environment
Committee on Science, Space, and Technology
2318 Rayburn House Office Building
Washington, DC 20515

Honorable Lamar Smith, Chairman
Committee on Science, Space, and Technology
2321 Rayburn House Office Building
Washington, DC 20515

Honorable Eddie Bernice Johnson, Ranking Member
Committee on Science, Space, and Technology
2321 Rayburn House Office Building
Washington, DC 20515

Honorable Suzanne Bonamici, Ranking Member
Subcommittee on Environment
Committee on Science, Space, and Technology
2318 Rayburn House Office Building
Washington, DC 20515

Re: H.R. 4012, Secret Science Reform Act of 2014

Dear Chairman Schweikert, Chairman Smith, Ranking Member Johnson, and Ranking Member Bonamici,

Thank you for your concern about open and transparent science in guiding the decisions of the Environmental Protection Agency. However, the proposed bill, H.R. 4012 "Secret Science Reform Act 2014," disregards all previous US Code that clearly defines the process of open and transparent science.

The Secret Science Reform Act of 2014 presents a circular argument with euphemistic terminology. The language in the bill would prohibit the EPA from "proposing, finalizing, or disseminating regulations or assessment based upon science that is not transparent or reproducible." How do you know science is reproducible unless it is transparent such that other researchers could reproduce the results? If research was not provided, how do you know it was not provided, and therefore transparent? Research for pesticides is submitted to EPA by the manufacturer of the pesticide. From the language in this bill is Congress implying the manufacturers have not been transparent, and have not provided research that is reproducible? If this bill is enacted pesticide manufacturers could submit "research" that they claim is protected under confidential business information, and that the "data" submitted to EPA would be illegal to publish or disseminate for public review (and prospective reproducible research) rendering the submitted research to the EPA not transparent, or as this bill defines it "secret science."

The Pollinator Stewardship Council's mission is to defend managed and native pollinators vital to a sustainable and affordable food supply from the adverse impact of pesticides.

The National Environmental Policy set forth by Congress declared “to use all practicable means and measures, including financial and technical assistance, . . . to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.”

“All reports to or by the Administrator relevant to the Agency’s program of research, development, and demonstration shall promptly be made available to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate unless prohibited by law.” It further states the reports “shall be made available to the public for comment and to the heads of affected agencies for comment and, in the case of recommendations for action, for response.” “For the purpose of assisting the Department of Energy in planning and assigning priorities in research development and demonstration activities to environmental control technologies, the Administrator shall actively make available to the Department all information on research activities and results of research programs of the Environmental Protection Agency.” (42 U.S.C. 4369)

The Environmental Research, Development, and Demonstration Authorization Act of 1978 defines the coordination with research at EPA stating, “The Administrator of the Environmental Protection Agency shall assure that the expenditure of any funds appropriated pursuant to this Act or any other provision of law for environmental research and development related to regulatory program activities shall be coordinated with and reflect the research needs and priorities of the program offices, as well as the research needs and priorities of the Agency, including those defined in the five-year research plan.” Appropriate program offices include “the Office of Pesticides, for environmental effects of pesticides.” The section of US code further clarifies the EPA is to maintain “a high level of scientific quality.” (42 U.S.C. 4364)

The language in H.R. 4012 appears to contradict previous U.S. Code, and would cause the EPA to review their five year plan pertaining to research needs and priorities, shut down the public comment section of Regulations.gov, and if the EPA would publish data about a new pesticide, “disclosure of which is prohibited by” H.R. 4012, the EPA would be committing a crime. To reiterate, H.R. 4012 would be required to make decisions based on “specifically identified” and “publically available” research that can be reviewed for “independent analysis and substantial reproduction,” yet EPA would be committing a crime if they disseminate any information about the research including “risk, exposure, hazard assessment, criteria document, standard, limitation, regulation, regulatory impact analysis, or guidance,” “materials, data, associated protocols necessary to understand, assess, and extend conclusions,” computer codes and models in the creation and analysis” of the research, the “recorded factual materials,” and the “detailed descriptions of how to access and use such information.” H.R. 4012 would make the entire EPA product review process a criminal act on the part of the Agency whose mission is to protect man and the environment.

What we have in H.R. 4012 is a circular construct with a misleading name that in actuality defies all sense of an “open and transparent government.”

“ . . . authentic transparency is defined as exposing how the government spends taxpayer money. Governments have an obligation to proactively disclose information about how they are conducting the public’s business, and it is through proactive disclosure that voters are able to hold public officials accountable.” (www.teapartypatriots.org/resources/transparency/)

The Pollinator Stewardship Council’s mission is to defend managed and native pollinators vital to a sustainable and affordable food supply from the adverse impact of pesticides.

“As a principle, public officials, civil servants, managers and directors of companies and organisations and board trustees have a duty to act visibly, predictably and understandably to promote participation and accountability. . . . Information should be managed and published that is:” relevant, accessible, timely, and accurate.

(www.transparency-initiative.org/about/definitions)

“Executive departments should harness new technologies to put information about their operations and decisions online and readily available to the public” and they should also “solicit public feedback to identify information of greatest use to the public. . . . executive departments and agencies should offer Americans increased opportunities to participate in policymaking and to provide their Government with the benefits of their collective expertise and information. . . . Executive departments and agencies should use innovative tools, methods, and systems to cooperate among themselves, across all levels of Government, and with nonprofit organizations, businesses, and individuals in the private sector.” (Transparency and Open Government, Memorandum for the heads of Executive Departments and Agencies, issued by President Barack Obama, and published in the Federal Register.

(www.whitehouse.gov/the_press_office/TransparencyandOpenGovernment)

It could appear as if H.R. 4012 would be contradicting a Memorandum of the President, along with U.S. Code already defined for the EPA.

Forty-two U.S.C. 4332 tells all Federal agencies they must cooperate with each other and coordinate efforts. The Federal agencies are to:

“(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man’s environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by subchapter II of this chapter, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

- (i) the environmental impact of the proposed action,
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) alternatives to the proposed action,
- (iv) the relationship between local short-term uses of man’s environment and the maintenance and enhancement of long-term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.”

The Pollinator Stewardship Council’s mission is to defend managed and native pollinators vital to a sustainable and affordable food supply from the adverse impact of pesticides.

President George W. Bush added to this section of the code in 2004 stating the purpose of his Executive Order was to ensure the “Departments of the Interior, Agriculture, Commerce, and Defense, and the Environmental Protection Agency implement laws relating to the environment and natural resources in a manner that promotes cooperative conservation, with an emphasis on appropriate inclusion of local participation in Federal decisionmaking, in accordance with their respective agency missions, policies, and regulations.” President Bush further clarified these “programs, projects, and activities are consistent with protecting public health and safety.”

The National Environmental Policy and goals state all Federal agencies must “comply with criteria or standards of environmental quality,” “coordinate or consult with other Federal or State Agency, or to act, or refrain from acting contingent upon the recommendations or certifications of any other Federal or State Agency.” (42 U.S.C. 4334)

In addition to challenging all of the previous U.S. Code, disregarding a Presidential memorandum, H.R. 4012 would defy the definitions across political parties of “transparent and open government.”

While “free market” ideologies decry government regulation, intervention, and intrusion, it is government intervention that is demanded when a crisis occurs; crises such as the contaminated water in West Virginia, the explosion of a fertilizer factory near Waco, Texas, or a river on fire due to pollution. The “free market” that demands freedom to make money based on supply and demand will have “demand” affected when their product pollutes water, explodes across the surrounding neighborhood, and ignites water. However, the “free market” expects the public and government (the tax payer) to pay the costs of clean-up. History has shown the Cuyahoga River in Northeast Ohio caught fire as early as 1868, and each subsequent crisis with the River related to industrial “boom” cycles within the economy.

(http://blog.cleveland.com/metro/2009/01/after_the_flames_the_story_beh.html) The Cuyahoga River caught fire in 1952 causing \$1.5M in damage, but it was the 1969 blaze that caused \$50,000 damage to a railroad bridge that got national attention. Yet, it has been, and still is Ohioans paying to clean up the mess created by “free market industrialists,” who were not encumbered by government regulation. If H.R. 4012 were enacted the U.S. would return to the days of lax regulation where rivers burn.

Public, private, and governmental sectors are working in a “manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.” (42 U.S.C. 4331) The “Secret Science and Reform Act of 2014” would undermine the purpose of the EPA and put man and the environment at great risk.

Sincerely,

Michele Colopy
Program Director

The Pollinator Stewardship Council’s mission is to defend managed and native pollinators vital to a sustainable and affordable food supply from the adverse impact of pesticides.