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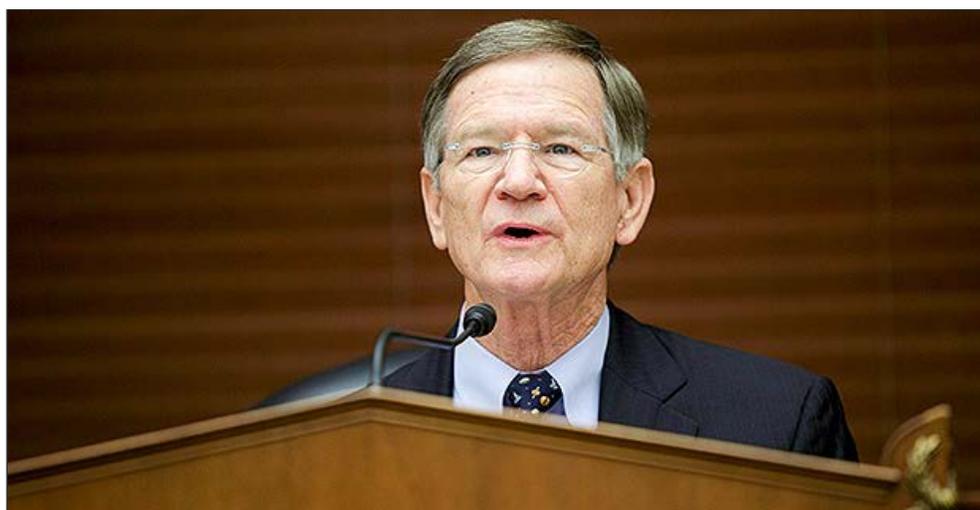
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POLITICS

GOP to revive 'secret science' bill — and now it could pass

Scott Waldman, E&E News reporter

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House Science, Space and Technology Chairman Lamar Smith (R-Texas) has charged U.S. EPA with not being transparent about the science used to support regulations. Science groups say his legislation, which could see new life in this Congress, would actually undermine scientific research and environmental policy. Photo by Joel Kowsky/NASA, courtesy of Flickr.

A move by conservative lawmakers and business groups to fundamentally alter how science is used in crafting environmental policy has a greater chance than ever of becoming law.

The "Secret Science Reform Act" has been pushed by Rep. Lamar Smith (R-Texas) for years. It would require that U.S. EPA use only "transparent or reproducible" science to develop regulations and that such scientific data be posted online so that they can be scrutinized.

Proponents argue that the legislation simply makes science transparent and allows for independent scrutiny to ensure science is not politically tainted before

it influences policy.

Democrats and scores of scientific organizations say the measure would have a crippling effect, since large-scale studies are not easy to reproduce and some industry data can't be made public.

In years past, Democrats have effectively killed the measure in the Senate, and President Obama threatened to veto it. But with the political road map now completely transformed, both proponents and opponents say the bill stands its best chance in years of passing both houses and landing on a friendly White House desk.

In December, Smith told a receptive crowd at the conservative Heritage Foundation that the "secret science" bill would be one of his top priorities in the 115th Congress. In fact, if the bill is introduced soon, observers say, that's because it likely has already received the blessing of the incoming Trump White House.

"Regulations should be based on sound science, not science fiction," Smith said.

The renewed fight comes against a backdrop of an empowered climate skepticism in Congress and impending pushback against eight years of environmental regulations under Obama. While the measure is not aimed solely at climate rules like the Clean Power Plan, which Trump has vowed to undo, its passage would help undermine the scientific expertise underpinning it and other efforts to regulate air and water pollutants.

Observers expect it to be introduced within the next month, when, if passed, it will meet a likely friendly White House.

And while much of the early attention on what actions the new Congress will take has focused on the "Midnight Rule Relief Act" and the "Regulatory Accountability Act," the "Secret Science Reform Act" could have long-lasting consequences that extend beyond the Trump administration or Smith's tenure as chairman of the House Committee on Science, Space and Technology.

"The legislation simply requires the EPA to base its regulations on publicly available data," Smith said at the Heritage event. "Why would the EPA want to hide this information from the American people? Obviously, it's one of three reasons. The data doesn't show what they claim that it might show, or the data doesn't exist, or they've cherry-picked the data. The American people have every right to be suspicious when the EPA uses politically correct science to get the results they want and then refuses to reveal the data behind how those decisions were made."

Repercussions for decades to come

Opponents argue that the measure intentionally would weaken the scientific process by casting unnecessary doubt on research while opening policy up to industry influence. What's more, the bill could quickly spread to other agencies,

said Yogin Kothari of the Center for Science and Democracy at the Union of Concerned Scientists.

"If something like this passes, it sets a really bad precedent," he said. "This bill, it's not designed to promote good science; it's really just crafted to prevent the use of independent science in developing public health and safety protections, and if a version like this were to get into other areas of the federal government, it could bring the entire regulatory process to a grinding halt."

The bill easily passed the House last year and made it through the Senate Environment and Public Works Committee, then headed by Sen. Jim Inhofe (R-Okla.), who is known for his hostility to climate policy. This year, Kothari said, the committee is just as likely to pass the bill, and Senate Democrats would have to act as a backstop to prevent it from hitting the president's desk.

Observers noted that Democrats only have so much political capital to fend against a broad array of legislation, and it stands a strong chance of passage if attached to a policy rider on a must-pass bill. Still, Democrats say they are prepared to fight it.

Rep. Eddie Bernice Johnson (D-Texas), the ranking member of the Science Committee, said EPA does not use "secret" science, but instead relies upon peer-reviewed research from trusted scientific sources.

"So-called 'secret science' legislation is an insidious attack on the EPA's ability to use the best science to protect public health," she said in a statement. "Judging from the groups that have endorsed 'secret science' legislation in the past, it might be more accurate to state that this legislation is the polluting industries' attempt to hurt the EPA's rulemaking ability."

The bill was supported by dozens of industry groups, like the American Chemistry Council, American Petroleum Institute and American Fuel & Petrochemical Manufacturers. It was opposed by dozens of scientific organizations and universities, including the American Geophysical Union, Harvard University and the National Council for Science and the Environment.

The American Association for the Advancement of Science has cautioned that the bill would take the review of scientific studies away from the scientific community and instead put the responsibility "into the hands of a judge and jury."

It has pointed out that many studies collect data on human health and that revealing them could violate medical disclosure laws. What's more, it would be nearly impossible to reproduce some studies, including, for example, a study that tracks human health results over 40 years from exposure to air pollution at a coal plant.

If passed into law, the bill's effects could outlast the Trump administration, said Sean Gallagher, senior government relations officer at the American Association for the Advancement of Science.

"If they do it in the way they're talking about, it fundamentally alters any executive orders going forward and the EPA's ability to use science going forward," he said. "So that, in some sense, regardless of the administration, will have a longer-lasting impact. If the bad effects of the bill manifest, and that's a big if, it will have a longer-lasting effect than any executive order could."

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