Message

From: Ringel, Aaron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1654BDC951284A6D899A418A89FB0ABF-RINGEL, AAR]
Sent: 4/24/2018 8:21:14 PM
To: Block, Molly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=60d0c681a16441a0b4fa16aa2dd4b9c5-Block, Moll]
Subject: Re: Quoted in WaPo

Personal Matters / Ex. 6

Sent from my iPhone

On Apr 24, 2018, at 3:13 PM, Block, Molly <block.molly@epa.gov> wrote:

Personal Matters / Ex. 6

Washington Post
https://www.washingtonpost.com/news/energy-environment/wp/2018/04/24/pruitt-to-unveil-controversial-transparency-rule-limiting-what-research-epa-can-use/?utm_term=.12eecce54b16
Pruitt unveils controversial 'transparency' rule Tuesday limiting what research EPA can use
By Juliet Eilperin and Brady Dennis, 4/24/18, 2:38 PM

Environmental Protection Agency Administrator Scott Pruitt proposed a rule Tuesday that would establish new standards for what science could be used in writing agency regulations, according to individuals briefed on the plan. The sweeping change, long sought by conservatives, could have significant implications for decisions on everything from the toxicity of household products to the level of soot that power plants can emit.

The rule would only allow EPA to consider studies for which the underlying data are made available publicly. Advocates describe this approach as an advance for transparency, but critics say it would effectively block the agency from relying on long-standing, landmark studies linking air pollution and pesticide exposure to harmful health effects.

"Today is a red-letter day. It's a banner day," Pruitt told a group of supporters at agency headquarters. "The science that we use is going to be transparent. It's going to be reproducible."

The move reflects a broader effort already underway to change how the agency conducts and uses science to guide its work. Pruitt has already changed the standards for who can serve on EPA's advisory committees, barring scientists who received EPA grants for their research while still allowing those funded by industry.

The rule will be subject to a 30-day comment period, EPA officials said. Pruitt, who had described the change during interviews with select media over the past month, said it will "enhance confidence in our decision-making" and prove "durable" because it will be issued as a regulation.

"This is not a policy," he said. "This is not a memo."

Many scientists argue that applying a standard to public health and environmental studies that is not currently required by peer-reviewed journals would limit the information the EPA could take into account.

Some researchers collect personal data from subjects but pledge to keep it confidential — as was the case in a major 1993 study by Harvard University that established the link between fine-particle air pollution and premature deaths, as well as more recent research that tapped a Medicare database available to any scientific group guaranteeing confidentiality of the personal information. That practice would not be allowed under the new rule.

In an interview Tuesday, former EPA Administrator Gina McCarthy said that requiring the kind of disclosure Pruitt envisions would have disqualified the federal government from tapping groundbreaking research, such as studies linking exposure to lead gasoline to neurological damage. Scientists will have trouble recruiting study participants if the rule is enacted, she predicted, even if they pledge to redact private information before handing it over to the government.

"The best studies follow individuals over time, so that you can control all the factors except for the ones you're measuring," said McCarthy, who now directs the Center for Climate, Health and the Global Environment at Harvard's public health school. "But it means following people's personal history, their medical history. And nobody would want somebody to expose all of their private information."

House Science Committee Chairman Lamar Smith (R-Tex.) sought to establish a requirement similar to the one Pruitt has proposed, but his legislation, titled the Honest and Open New EPA Science Treatment Act, failed to pass both chambers.

Pruitt and Smith met at EPA headquarters on Jan. 9, according to Pruitt's public calendar, and an email obtained under the Freedom of Information Act indicates that the lawmaker pressed the administrator to adopt the legislation's goal as his own.

Smith made "his pitch that EPA internally implement the HONEST Act [so that] no regulation can go into effect unless the scientific data is publicly available for review," Aaron Ringel, deputy associate administrator for congressional affairs at the EPA, wrote other agency staffers. His email was obtained by the Union of Concerned Scientists, a scientific advocacy organization.

Conservatives, such as Trump EPA transition team member Steve Milloy, have long tried to discredit independent research the agency used to justify limiting air pollution from burning coal and other fossil fuels. A series of studies has shown that fine particulate matter, often referred to as soot, enters the lungs and bloodstream and can cause illnesses such as asthma as well as premature death.

"During the Obama administration, the EPA wantonly destroyed 94 percent of the market value of the coal industry, killed thousands of coal mining jobs and wreaked havoc on coal mining families and communities," Milloy said in a statement, "all based on data the EPA and its taxpayer-funded university researchers have been hiding from the public and Congress for more than 20 years."

While the administration presses ahead, legal experts warn that the rule may be vulnerable to a court challenge. In unanimous decisions in 2002 and 2010, the U.S. Court of Appeals for the District of Columbia Circuit said the EPA is not legally obligated to obtain and publicize the data underlying the research it considers in crafting regulations.

In the 2002 case, brought by the American Trucking Associations, Inc., two judges appointed by Ronald Reagan and one named by Bill Clinton wrote that they agreed with the agency that such a requirement "would be impractical and unnecessary." The government's defense had noted that "EPA's reliance on published scientific studies without obtaining and reviewing the underlying data is not only reasonable, it is the only workable approach."

A range of scientific organizations are already campaigning to block the rule from being finalized. On Monday, 985 scientists signed a letter organized by the Union of Concerned Scientists, urging Pruitt not to forge ahead with the policy change.

"There are ways to improve transparency in the decision-making process, but restricting the use of science would improve neither transparency nor the quality of EPA decision-making," they wrote. "If fully implemented, this proposal would greatly weaken EPA's ability to comprehensively consider the scientific evidence across the full array of health studies."

Under the proposed rule, third parties would be able to test and try to replicate the findings of studies submitted to EPA. But, the scientists wrote, "many public health studies cannot be replicated, as doing so would require intentionally and unethically exposing people and the environment to harmful contaminants or recreating one-time events."

Gretchen Goldman, an expert on air pollution and research director for the organization's Center for Science and Democracy, said the rule could put some scientists in a quandary: Keeping personal health data or propriety information private would mean having their work ignored by the EPA.

"We have this incredible science-based process that works, and it has worked, by and large, even in the face of tremendous political pressures to not go with a science-based decision," Goldman said.

The Environmental Protection Network, a group of former EPA employees, issued a report Tuesday stating that many older studies — in which the original data sets were either not maintained or stored in outdated formats — would be eliminated under the proposed rule.

And while there is no estimate yet for how much it would cost EPA to obtain and disseminate studies' underlying data, the Congressional Budget Office has projected that Smith's measure, if enacted, would cost the agency $250 million for initial compliance and then between $1 million and $100 million annually. A 2015 CBO analysis estimated that EPA would cut the number of studies it relies on by half because of the bill's requirements.

Geophysicist Marcia McNutt, who is president of the National Academy of Sciences, said Tuesday that she is concerned the rule would prevent the EPA from relying on the best available scientific evidence.

"This decision seems hasty," she wrote in an email. "I would be fearful that the very foundations of clean air and clean water could be undermined."