

# The Transparency Bills That Would Gut the EPA

Two proposed laws would sever the agency from scientific experts, and scientific expertise—all under the guise of honesty and openness.



Rep. Lamar Smith, R-Texas speaks on Capitol Hill in Washington.

Charles Dharapak / AP

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SCIENCE

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In early February, a Republican congressman from Florida introduced a bill that would “terminate the Environmental Protection Agency (EPA)” by next December. But the agency isn’t going anywhere, and neither is the bill. [As my colleague Robinson Meyer argued](#), it’s “stunt legislation,” with next-to-no chance of actually becoming law.

But you don’t need to destroy the EPA to render it dysfunctional. There are subtler ways.

In a recent hearing titled “[Making the EPA Great Again](#),” Lamar Smith, chairman of the House Science Committee, accused the EPA of pursuing “a political agenda, not a scientific one,” of proposing the most “ineffective regulations in history,” and of relying on “questionable science based on nonpublic information.” His solution is a pair of bills—the [HONEST Act](#) and the [EPA Science Advisory Board \(SAB\) Reform Act](#)—that are currently wending their way through Congress.

Both bills speak of inarguable goods like transparency, balance, and scientific integrity. They’re meant to “promote an open and honest EPA,” according to a statement from [Smith](#), whose [largest campaign contributors](#) are oil and gas companies. But several policy experts say that the bills are Trojan horses. They say that the seemingly positive HONEST Act would actually sever the EPA from much of the scientific evidence that it relies upon, while its companion would cut the agency off from many of its scientific experts—and both would strangle the EPA in costly bureaucracy.

“They’re trying to put a positive spin on it, and for obvious reasons: You’re not going to put on a piece of paper that you’re not interested in pursuing sound science,” says [Gina McCarthy](#), the outgoing EPA administrator. “They’re really designed to prevent us from getting the information we need to protect public health.”

It's not clear whether the bills are meant to disempower the EPA, but it is notable that they represent a politically safe way of doing so. The agency not only protects the environment; it also protects people *from* the environment by enforcing longstanding laws like the Clean Air Act and Clean Water Act. And such protections are popular with Americans on both sides of the political spectrum. "It would be unpopular to attack these laws directly, but you can go after the way the EPA administers those laws," says [Yogin Kothari](#) from the Center for Science and Democracy at the Union of Concerned Scientists.

"The result of each bill will be the same—worse science at EPA and less public health protections for American citizens," says Eddie Bernice Johnson, ranking Democrat member of the House Committee on Science, Space, and Technology. "If these bills become law, the ultimate result will be more sick Americans and more dead Americans."

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The HONEST Act, which stands for "Honest and Open New EPA Science Treatment," is the bill formerly known as The Secret Science Reform Act. It made a couple of [earlier runs](#) through Congress, before [appearing again last Wednesday](#) with a flamboyant new acronym.<sup>1</sup>

Why would one want to vote against an HONEST Act? That beguiling air continues in the text, which would prevent the EPA from developing rules unless all the information it used was "publicly available online in a manner that is sufficient for independent analysis and substantial reproduction of research results." That means that the agency can only rely on studies whose methods, materials, software code, and data are open and accessible.

[As I wrote last year](#), this language echoes discussions within the science community itself, about the value of freely available publications, the importance of improving reproducibility, and [a move towards open data](#).

“There’s a lot of sloppy science that’s out there—irreproducible science,” said a House Science Committee aide, who did not want to be named. “If the scientific data is public, and other scientists are able to look at it, we think that would make the underlying science of these rules less contentious, and lead to stronger public health protections.”

In the past, critics have argued that these rules would bar many kinds of important scientific evidence from consideration. For example, it would stop the EPA from crafting public health protections based on studies that use medical records, which are confidential and cannot be legally released. The HONEST Act tries to circumvent this objection by saying that personally identifiable information, trade secrets, and confidential information “shall be redacted prior to public availability.” But that language “is window dressing,” says Kothari, “and it can’t work in practice.” First, the EPA Administrator keeps the right to un-redact the redactions. Second, redacting the data from large studies “isn’t just blocking out a line,” says Kothari. It’s a huge job that can occupy entire offices for thousands of hours.

The aides I spoke to denied that the process would be unmanageable, noting that every federal agency already redacts plenty of confidential information. But the Congressional Budget Office estimated that old iterations of the HONEST Act [would take \\$250 million a year](#) to enforce, and the new version only allocates an extra \$1 million to the added burden of redaction—all while Trump is planning to [cut the EPA’s budget](#). Tasked with doing more with less, the agency would be paralyzed. And for what? “The decision-making process at the EPA is already exhaustingly transparent,” [wrote](#) Gretchen Goldman from the Center for Science and Democracy. “[It] already painstakingly collects scientific data and other details from the studies that it relies on to make policy decisions. I know because they asked me for it.”

The HONEST Act's brother—the EPA Science Advisory Board Reform Act—influences not the evidence that the EPA uses, but the people who parse that evidence. Since 1978, that's been the [Science Advisory Board](#) (SAB)—a 48-person group of experts who provide independent counsel to the agency's administrator. Most current members are academic scientists, but 11 currently come from NGOs, state governments, and private companies like Procter & Gamble, Dow, and ExxonMobil. The SAB Reform Act's goal is to change those proportions.

The Act states that scientists can't sit on the SAB if they hold any grants from the EPA, and conversely, that board members may not apply for such grants for 3 years. “If you're a scientist getting an EPA grant to study the effects of Chemical A, and you're being asked to give your opinion on Chemical A, that causes a serious conflict,” explained a House Science Committee aide.

But in that situation, the board member would *already* have to recuse themselves. Holding an EPA grant would only be a conflict if board members were involved in, say, awarding EPA grants, or developing budgets for the agency. But they do none of those things. They simply evaluate whether the agency is using the best science.

The Act would “have a chilling effect on attracting the best and highly productive scientists,” says [Peter Thorne](#) from the University of Iowa, who currently chairs the SAB in his sixth and final year of service. Even if people were eligible to serve, why should they sever themselves—and their staff and trainees—from an important source of funding? And while the Act would disincentivize scientists, it would also make it easier for industry representatives to take their place. It states that people who are affiliated with parties that “may have a potential interest in the Board's advisory activities” shouldn't be excluded from membership, as long as they disclose said conflict.

So to recap: The Reform Act means that holding an EPA grant, which isn't truly a



conflict of interest, renders a scientist ineligible for SAB membership, while people with *actual* conflicts of interests can join as long as they disclose. In fact, “the bill doesn’t even define conflicts of interest,” says [Wendy Wagner](#), an environmental law expert at the University of Texas at Austin. “The term doesn’t even appear.”

The result, she says, will be a mere façade of the SAB, and something more akin to a stakeholder group. “It’s a dramatic departure from the past, and I think it’s pulling the wool over the public’s eyes.” And it’s unnecessary, adds Thorne. The SAB already operates in full daylight, with its meetings and rulings open to public and industry consultation. If any member disagrees with the board’s consensus, they can submit a dissenting opinion to the administrator.

Obama threatened to veto earlier incarnations of both acts. Trump hasn’t taken a formal stance, but given his antipathy towards regulation, and his choice of EPA administrator—[Scott Pruitt](#), who has repeatedly sued the EPA, and wrongly denies the reality of human-made climate change—his veto would likely go unused. Both bills would still need to land on his desk though, and odds are they would flop in the Senate; they need 60 votes, which means getting Democrats on board. “My biggest fear is that the bills get added onto must-pass legislation,” says Kothari. “It’s more real now than ever.”

The EPA isn’t the only agency at risk. The [Better Evaluation of Science and Technology \(BEST\) Act](#)—yes, that is genuinely its name—was proposed shortly after the HONEST Act and is similar in kind, but targets all federal agencies beyond the EPA. The [Regulatory Accountability Act](#)—a chimeric blend of six previous proposals--would add extra steps to the already time-consuming process of creating new regulations. And the [REINS Act](#), which I have written about before, would give Congress the final word on any major agency regulation, essentially substituting a long process of evidence-based deliberation for a snap political downvote.

Come the end of next year, there will still be an EPA. Whether it's a functioning one is another matter.

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1. It seems sinfully gauche to have the first letter of the acronym stand for the same word as the acronym itself. I'm also looking at you BRAIN Initiative. ↩
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#### ABOUT THE AUTHOR

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