
INDUSTRY TARGETS UNIVERSITY RESEARCH UNDER DATA QUALITY ACT

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An industry group is warning EPA that it can no longer consider university and other third-party research that fails to meet data quality requirements, even if it is submitted as part of public comments on rulemakings.

At the same time, the group is preparing to launch a campaign to put university-affiliated scientists on notice that if they want the federal government to consider their research in the regulatory process, they must meet the requirements of the newly implemented Data Quality Act and agency information quality guidelines.

The group, the Center for Regulatory Effectiveness (CRE), has also begun filing the first-ever data quality challenge against EPA over third-party data submitted by a university and an environmental group that makes the case for stricter regulation.

The pending campaign against academia is already drawing sharp protest from university sources and environmentalists, who say they will urge EPA to ensure that the free flow of scientific information remains a top agency priority by soundly rejecting the industry challenge. However, EPA says the CRE comments will be treated not in a data quality context but as comments on the rule in question, with a response simply placed in the docket.

The sources say industry's efforts have extremely serious implications if EPA does not issue a swift, strong rejection because it means industry could raise bogus data quality issues any time it wants to slow implementation of a regulation it does not like, regardless of the quality of the science.

At issue are comments CRE recently submitted to EPA warning the agency that if it incorporates comments jointly submitted by Cornell University and the Natural Resources Defense Council (NRDC) into a final risk assessment on the land application of biosolids, then CRE will challenge the final agency action. Biosolids are biological wastes that remain in a wastewater treatment facility, and are often used in agriculture.

CRE contends the comments "contain substantial inaccuracies, omissions and biases and lack reproducibility" in arguing that the draft risk assessment underestimated risks from dioxin. *Relevant documents are available on InsideEPA.com.*

CRE filed its supplemental comments Feb. 27 challenging the September 2002 NRDC and Cornell comments on the draft risk assessment. "The CRE is misusing the Data Quality Act in an effort to influence an agency decision," the group OMB Watch charges. "By using the threat of a possible future challenge the CRE is attempting to insert itself and its views on NRDC's comments into an internal EPA decision."

EPA has released draft assessment factors outlining how the agency will evaluate the quality of information from external sources, such as comments it receives on proposals, but the agency has not finalized those assessment factors. The Data Quality Act, which Congress adopted as a budget rider, requires agencies to ensure the maximum quality of information but applies only to information disseminated by agencies. The act also contains no procedures for the public to participate in decisions federal agencies make on whether to disseminate information.

The CRE petition has outraged environmentalists and university sources. “CRE is absurd,” one environmentalist says. “It is using a sledgehammer to stop public access in a rulemaking.”

Another warns that by targeting university research, industry is revealing that its ultimate attempt is to discourage scientists from submitting their data to EPA and other agencies. “They want to blockade the free exchange of reliable scientific information. If EPA can’t rely on independent scientific university researchers who have to go through the peer-review process to get their work published, then who can we be relying on in this country?” the source asks. “Their desire is to have the scientists say it is not worth the trouble to present my findings or risk a lawsuit from industry.”

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