



Water vapor rises from the smoke stack of a petrochemical refinery located along the Houston ship channel in Houston, Texas, U.S., on Monday, Jan. 3, 2011. (photo: F. Carter Smith/Bloomberg/Getty Images)

## Republicans Are Using Big Tobacco's Secret Science Playbook to Gut Health Rules

By Sharon Lerner, The Intercept, 06 February 17

Much of the country has been watching in horror as Donald Trump has made good on his promises to eviscerate the Environmental Protection Agency - delaying [30 regulations](#), severely limiting the information staffers can release, and installing Scott Pruitt as the agency's administrator to destroy the agency from within. But even those keeping their eyes on the EPA may have missed a quieter attack on environmental protections now being launched in Congress.

On Tuesday, the [House Committee on Science, Space, and Technology](#) is expected to hold a hearing on a bill to undermine health regulations that is based on a strategy cooked up by tobacco industry strategists more than two decades ago. At what Republicans on the committee have dubbed the "[Making EPA Great Again](#)" hearing, lawmakers are likely to discuss "The Secret Science Reform Act," a bill that would limit the EPA to using only data that can be replicated or made available for "independent analysis."

The proposal may sound reasonable enough at first. But because health research often contains confidential

personal information that is illegal to share, the bill would prevent the EPA from using many of the best scientific studies. It would also prohibit using studies of one-time events, such as the Gulf oil spill or the effect of a partial ban of [chlorpyrifos](#) on children, which fueled the EPA's decision to eliminate all agricultural uses of the pesticide, because these events - and thus the studies of them - can't be repeated. Although it is nominally about transparency, the bill leaves intact [protections](#) that allow industry to keep much of its own inner workings and skewed research secret from the public, while delegitimizing studies done by researchers with no vested interest in their outcome.

The top-billed witness scheduled to provide testimony at the House hearing on Tuesday is a lawyer named Jeffrey Holmstead, who has worked to block the EPA's efforts to limit mercury pollution while representing coal companies including Duke Energy, Progress Energy, and Southern Company. Meanwhile, Lamar Smith, the Texas Republican chair of the House Science Committee who has been zealously promoting the secret science bill, is also in the pocket of the energy companies. Though he's also received funding from Koch Industries and [iHeartMedia](#) (formerly Clear Channel

Communications), Smith's biggest contributors are [oil and gas](#) companies, according to the Center for Responsive Politics. Also testifying on Tuesday will be Kimberly Smith of the American Chemistry Council, the chemical industry trade group.

This bald industry bid to subvert public health-based regulations that can cut into profit isn't new. What's new is that this upside-down environmental attack, in which those who benefit directly from polluting industries are

policing the independent scientists who can show the harms of their products, could now succeed. Although the House passed the "secret science" bill in 2014 and 2015, it never made it to the Senate floor. After it passed the House in 2015, Barbara Boxer called the bill "[insane](#)," Bernie Sanders called it "laughable," and President Obama promised to veto it. This time, it's not a joke. With a Republican majority in both houses and Trump in the White House, the Secret Science act could easily become law.



**THE EPA  
WRECKING  
CREW**



**MYRON EBELL**

Head of Trump EPA transition team; director of Competitive Enterprise Institute; former member American Petroleum Institute Global Climate Science Communications Team; former policy director, Frontiers of Freedom, which has ties to Tobacco Institute, Lorillard Tobacco, Philip Morris



**CRAIG RICHARDSON**

President, Energy & Environment Legal Institute; former congressional staffer for Rep. Tom DeLay; ties to Philip Morris, Tobacco Institute, R.J. Reynolds Tobacco



**CHRISTOPHER HORNER**

Trump EPA transition team; senior legal fellow, Energy & Environment Legal Institute; attorney representing R.J. Reynolds Tobacco at Bracewell & Patterson, LLP; harassed climate scientists; former lobbyist for Chemical Manufacturers Association



**DAVID SCHNARE**

Trump EPA transition team; general counsel of Energy & Environment Legal Institute; harassed climate scientists with FOIA requests and lawsuits



**STEVE MILLOY**

Senior policy fellow, Energy & Environment Legal Institute; former member American Petroleum Institute Global Climate Science Communications Team; former head of the Advancement of Sound Science Coalition, a front group created and funded by a PR firm acting for Philip Morris; Breitbart author



**JAMES ENSTROM**

Former research fellow, Energy & Environment Legal Institute; consulted for Philip Morris, Council for Tobacco Research, Center for Indoor Air Research



**AMY OLIVER COOKE**

Trump EPA transition team; senior media fellow, Energy & Environment Legal Institute; director of the Energy Policy Center for the Independence Institute; founder of Mothers in Love with Fracking

Graphic: The Intercept

The small group of lawyers and PR strategists orchestrating the secret science effort are closely tied to those attacking the EPA from within. All have connections to either big tobacco, oil, or both - and almost all have been affiliated with a small, right wing group called the [Energy & Environment Legal Institute](#). It's interesting that E&E should fixate on transparency since the group has gone to great lengths to conceal its donors. Nevertheless, public records document some of the group's ties to big coal companies, including the now bankrupt [Alpha Natural Resources](#), [Peabody Coal](#), and [Arch Coal](#).

E&E senior policy fellow Steve Milloy, a former tobacco industry attorney, has perhaps written the most - at least publicly - about the secret science strategy, both in an [ebook](#) and for Steve Bannon's [Breitbart News](#). Milloy calls Myron Ebell, who oversaw Trump's EPA transition team, his "[friend and hero](#)." In the late 1990s, Milloy and Ebell were both members of the American Petroleum Institute's Global Climate Science Communications Team, which laid out oil industry's strategy to undermine the science of global warming. Meanwhile, three of Milloy's colleagues from E&E are also members of the EPA landing team. Among them are David Schnare, E&E's general counsel, who is perhaps best known for

harassing Michael Mann and other environmental scientists with FOIA requests, and Amy Oliver Cooke, an energy industry think tanker who created MILF, [Mothers In Love with Fracking](#).

<https://youtu.be/tq8XaTm6dda>

Two other E&E associates have been wrapped up in the secret science strategy for years. The first is Christopher Horner, a senior fellow at both E&E and the Competitive Enterprise Institute who is also a member of Trump's EPA landing team. Back in the 1990s, Horner worked for Bracewell LLP, the law firm (formerly known as Bracewell & [Giuliani](#)) supplying the top witness at Tuesday's hearing. The dawning awareness of the dangers of second-hand smoke was putting tobacco companies on the defensive, including Horner's client, the R.J. Reynolds Tobacco Company. In a 1996 [memo](#), which seems to be the earliest known reference to the secret science strategy, Horner laid out a plan to fight back.

"We propose creating, beginning with congressional oversight and a goal of enacting legislation, required review procedures which EPA and other federal agencies must follow," Horner wrote in his memo. "This is important to your organization because, at some point in the near future, EPA will most likely be ordered to re-examine ETS [environmental tobacco smoke]." Horner's plan? "To construct explicit procedural hurdles the Agency must follow in issuing scientific reports. Because there is virtually no chance of affecting change on this issue if the focus is ETS."

Horner already saw that the "secret science" approach could subvert far more than the imminent regulations based on the science about second-hand smoke. "Our approach is one of addressing process as opposed to scientific substance, and global applicability to industry rather than focusing on any single industrial sector," he wrote, going on to explain how the strategy could be used to interfere with the EPA's efforts to address mercury emissions, hazardous waste, and dioxins as well as air restrictions on air pollution.

### **The Attack on Air Pollution Protections**

By 1998, Powell Tate, a lobbying firm that represented R.J. Reynolds, had helped organize a secret science working group to look at questions of "data access," according to [one internal memo](#). The memo clarified that its intention was to "focus public opinion on the importance of requiring the disclosure of tax-payer funded analytical data."

Though it was the brainchild of tobacco strategists, the energy industry soon followed Horner's advice and adopted the secret science approach as a way to hamper

air quality improvement efforts. In the 1990s, the EPA began efforts to reduce the amount of tiny particles in the air, a kind of pollution known as PM 2.5, that are produced by combustion from power plants, cars, and manufacturing. The clearest evidence of the need to limit such particles came from the "Six Cities" [study](#), in which a team of Harvard researchers clearly tied higher levels of PM 2.5 particles to increased mortality, as well as lung cancer, asthma, and sudden infant death syndrome.

While the new limits were designed to save lives - preventing 15,000 premature deaths annually, according to EPA projections - the rules would also increase costs in some sectors by, for instance, making energy companies install pollution equipment. In response, a group funded by the Koch brothers rose up to challenge the EPA and the scientists on the grounds that scientists were hiding their data from the public. [Citizens for a Sound Economy](#), a forerunner of the Koch brothers' current [Freedom Works](#), demanded that the Harvard researchers provide their original data so an "independent" scientist could analyze it.

At first the researchers refused to share the data, which they had collected from individuals with the promise that their health information would remain confidential. Eventually, after an elaborate and expensive pressure campaign, the Six Cities researchers agreed to allow their data to be reanalyzed by two separate teams of researchers. Both confirmed the group's findings that rates of PM 2.5 were correlated with increased mortality.

The EPA went on to institute the changes. And scientists throughout the world have since come to recognize the dangers posed by small particle air pollution, which accounted for "over 2.1 million premature deaths and 52 million years of healthy life lost in 2010," according to the 2010 [Global Burden of Disease](#) report. The report drew on research by more than 450 experts from around the world and was led by the Institute of Health Metrics and Evaluation (IHME) at the University of Washington; the World Health Organization; the University of Queensland, Australia; Johns Hopkins University; and Harvard University.

Despite the scientific consensus, a small group of extremists has continued to fixate on the idea that the science on the dangers of air pollution is somehow a sham. Even more disturbingly, this small extreme group now holds sway in key parts of the U.S. government. Not least among them is Rep. Lamar Smith, who in 2013 [subpoenaed](#) the EPA in yet another effort to obtain the data from the Six Cities study.

In an [op-ed](#) that ran in the Wall Street Journal shortly afterward, Smith noted that "the data in question have not



been subjected to scrutiny and analysis by independent scientists." Smith pressed his point in a House Science Committee hearing a few days later, insisting that independent scientists were being denied access to the air pollution data. When Democrat Donna Edwards pressed Smith about who these scientists were, he mentioned the name Jim Enstrom.

Enstrom, you may not be surprised to learn, has been a research fellow at E&E and has [received money](#) from the Council for Tobacco Research, the Tobacco Institute, Philip Morris, and R.J. Reynolds. In part because he didn't disclose his tobacco industry ties in a study he did on the connection between second-hand smoke and mortality (which he [found](#) to be inconclusive), he was widely criticized by the scientific community, including the American Cancer Society, and was subsequently [dismissed](#) from UCLA.