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EPA

Lawsuit targets 'secret science' rule

Pamela King, E&E News reporter • Published: Tuesday, January 12, 2021



EPA Administrator Andrew Wheeler at agency headquarters last year. Francis Chung/E&E News

A coalition of environmental groups yesterday launched the first legal attack against the Trump administration's efforts to limit the use of science that supports pollution regulations.

Attorneys for the Environmental Defense Fund (EDF) and other organizations argued that EPA's Strengthening Transparency in Regulatory Science regulation, announced last week, violates rulemaking protocols under the Administrative Procedure Act and should be scrapped.

The [complaint](#), filed yesterday in the U.S. District Court for the District of Montana, targets a newly finalized EPA rule that requires the agency to give less weight to nonpublic scientific research and to emphasize studies in which the amount of a pollutant's harm to public health — or the "dose-response" data — is disclosed.

"The Trump administration's Censored Science rule weakens EPA's ability to protect Americans from dangerous pollution by restricting its use of the best available science," EDF senior attorney Ben Levitan said in a statement yesterday. "EPA also violated federal law by making the rule effective immediately, instead of providing the legally required 30-day window.

"Our lawsuit asks the court to block this eleventh-hour threat to Americans' health and safety," he continued.

While EPA Administrator Andrew Wheeler has touted the regulation as a way to "prioritize transparency" and "increase opportunities" for public engagement in rulemaking, environmental and public health experts noted that the rule effectively blocks the agency from using medical records or other key data that are protected by privacy laws ([Greenwire](#), Jan. 5).

Along with their lawsuit, EDF and the other environmental groups also filed a motion for summary judgment calling on the Montana district court to immediately freeze the EPA rule.

The groups' lawsuit comes one week after EPA published the final rule in the *Federal Register*. The challengers said they are asking the court to quickly suspend the regulation because the Trump administration took the unusual step of making the rule effective immediately after its publication.

"We want to ensure that public health standards are established using the best science possible," said Anne Hedges, director of policy and legislative affairs for the Montana Environmental Information Center, another challenger in the case. "Imagine telling EPA it should ignore the science when it sets limits of mercury pollution in our air and water or lead in our homes and yards. It's inexcusable."

EPA did not immediately respond to a request for comment on the lawsuit.

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