

Ten reasons to oppose Section 12307 in House-passed Farm Bill, the so-called “Sound Science” provision

Section 12307 of the House-passed Farm Bill would have a profound effect on all agency science-based rulemaking. It would place regulatory agencies, including independent agencies, in a stranglehold, making it virtually impossible for them to protect public health and safety and the environment, and fulfill their lawful missions.

The provision:

- 1) **A classic gambit to choke public protections through “paralysis by analysis.”** It requires the White House Office of Science and Technology Policy to develop a set of guidelines based on complicated, confusing, and arbitrary congressional mandates for using science in agency policymaking, and requires agencies to create procedures based on those guidelines. If the agencies fail to put these new procedures in place by January 1, 2014, they cannot act.
- 2) **Second-guesses agency experts on how to use science.** Even though agencies already have in place long established methods for using science, the provision’s myriad new requirements constitute a procedural obstacle course for agencies --- hamstringing their actions by asking them to defend and justify any scientific judgments they make, greatly delaying crucial public protections.
- 3) **Affects virtually any work an agency does** – not only proposing regulations, but also issuing guidance documents, labeling requirements, risk assessments, and safety determinations.
- 4) **Includes all independent agencies** such as the Consumer Product Safety Commission, the Nuclear Regulatory Commission, and the Consumer Financial Protection Board. The provision would prevent these independent agencies from implementing crucial new statutes, including financial system reform aimed at preventing another Wall Street meltdown and critical updates to consumer protection laws.
- 5) **Vague**, restrictions could apply to the “science” involved in developing financial regulations, jeopardizing the implementation of crucial needed safeguards for our financial system.
- 6) **Requires cash-strapped agencies to do duplicative and often meaningless work.** For example, under the requirements of this provision, before the Occupational Safety and Health Administration could conclude that a wet floor in a workplace was a hazard, it would have to commission a peer-reviewed study! The same would hold true for the National Highway Traffic Safety Administration if it wanted to set restrictions on pedestrians crossing busy highways.

- 7) **Gives wealthy corporations even more opportunities to manipulate the regulatory process.** The provision opens the door for corporations to challenge agency science on the dubious grounds that the agency did not evaluate all the studies on an issue (including half-baked studies funded by the corporations themselves), or conduct sufficient peer review, or to contend that the science the agency used was “compromised” in some way. Because the provision’s requirements are so vague, deep-pocketed corporations will have endless opportunities to challenge agency science, delaying safeguards and wasting scarce public resources.
- 8) **Permits judges to have the final say on what agencies can and cannot do on complex scientific issues.** If wealthy corporations are otherwise unable to delay a covered agency activity indefinitely while it is under development, they can still challenge the activity in court by arguing that the agency undertaking the action failed to meet one or more of the provision’s vague procedural requirements. The provision authorizes the courts to conclude that those agency activities are “arbitrary and capricious,” opening the door for the courts to make the final decisions on complex issues that demand our best and most independent scientific and technical expertise.
- 9) **Secretly included in the House-passed farm bill.** By attaching it as a secret rider to a huge, must-pass bill, the provision’s sponsors are attempting to bypass all debate, committee review, and hearings. Given that the provision would dramatically change the way all federal agencies operate and undermine their ability to safeguard the American people, it is no surprise that its sponsors would resort to such undemocratic tactics.
- 10) **Drafted broadly,** such that that it could be interpreted to apply to many other agency activities, including the development of weapons, infrastructure projects, or Homeland Security actions.

The [Coalition for Sensible Safeguards](#) is an alliance of consumer, small business, labor, scientific, research, good government, faith, community, health, environmental, and public interest groups, as well as concerned individuals, joined in the belief that our country’s system of regulatory safeguards provides a stable framework that secures our quality of life and paves the way for a sound economy that benefits us all.