April 27, 2015

The Honorable James Inhofe  
Chair, Committee on Environment  
and Public Works  
United States Senate  
Washington, D.C. 20510

The Honorable Barbara Boxer  
Ranking Member, Committee on Environment  
and Public Works  
United States Senate  
Washington, D.C. 20510

Dear Chairman Inhofe and Ranking Member Boxer,

I am writing on behalf of the American Association for the Advancement of Science (AAAS), the world’s largest general scientific society, to express deep concerns about the impact of the Secret Science Reform Act of 2015 (S. 544). We encourage you and your colleagues to evaluate the unintended consequences of this bill and revise it significantly to address the below concerns.

Section 2 of the bill prohibits the Environmental Protection Agency (EPA) from using research that is not “publicly available online in a manner that is sufficient for independent analysis and substantial reproduction of research results.” While transparency and reproducibility are of utmost importance to the scientific community, this mandate is overly broad and will have severe unintended consequences.

Research, especially in areas of public health, involves longitudinal studies that are so large and of great duration that they could not realistically be reproduced. Examples include a 40 year study on the ecology of a forest or an epidemiological study that tracks patients over the course of their lives. Rather than reproducing these studies, scientists use statistical modeling to test and verify results. However, as written S. 544 prohibits EPA from using the research results of these studies, thus limiting the best available science to make sound regulation.

In addition, S. 544 would also prohibit EPA from using research conducted during one-time events, like the Deepwater Horizon oil spill, to issue covered actions or conduct hazard assessments. Because research cannot be reproduced on these one-time events, S. 544 would also bar EPA from utilizing any of their findings.

S. 544 also does not clarify what is meant by “sufficient for independent analysis,” or if an analysis would be required before EPA could use research results. Consequently, S. 544 would subject the EPA to litigation, burdening it with heavy administrative costs and send a chilling effect to the scientific community.

Moreover, while Section 2 states that nothing shall be construed as “superseding any nondiscretionary statutory requirement,” this language remains insufficient to protect the privacy of individuals and businesses who participate in research studies. The public and private sector routinely collect data for research, including proprietary business information and private health information, under strict pledges to protect confidentiality. Such data should not be made publicly available, and again S. 544 is unclear how an “independent analysis” would be conducted, risking the violation of privacy laws.
Furthermore, S. 544 may be duplicative of efforts already undertaken by the Office of Science and Technology Policy (OSTP). OSTP is working with federal agencies to establish access to data policies that relate “to the dissemination and long-term stewardship of the results of unclassified research, including digital data and peer-reviewed scholarly publications.” Agencies are beginning to issue their data access policies, and given the complexities associated with access to research data as outlined above we suggest that Congress wait to review the agency policies before imposing new statutory requirements.

Again, we strongly support transparency and maintaining the highest standards for research utilized in the regulatory process. However, as written S. 544 would prohibit the EPA from using the best available science, send a chilling effect to researchers and the scientific community, impose burdensome costs to the EPA, and may be duplicative of efforts already undertaken by OSTP. We urge you to carefully consider these concerns and significantly revise the legislation.

Sincerely,

[Signature]

Geraldine Richmond  
AAAS President  
Presidential Chair in Science and Professor of Chemistry  
University of Oregon