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We Should Expect More from the EPA

 By [Jeff Stier, Esq.](#)

The Environmental Protection Agency (EPA) is right about one thing: the public should hold it accountable for how its programs work. The EPA said as much last month in a press release announcing its participation in ExpectMore.gov, which "provides the public with candid, easy to understand assessments of federal programs," including approximately forty-three from EPA.

So why did this huge, wasteful federal agency stonewall a small, information-seeking consumer advocacy organization and flout the law in the process?

On August 23, 2005, the American Council on Science and Health (ACSH), a non-profit group that debunks unscientific claims, and [the Washington Legal Foundation \(WLF\)](#), a public interest law firm, [jointly filed a petition](#) under the Information Quality Act (IQA) calling on the EPA to eliminate "junk science" from the process by which it determines whether a substance is likely to cause cancer in humans. IQA requires the federal government to ensure the "equality, objectivity, utility, and integrity" of information it dispenses to the public -- and to explain itself in a timely fashion when petitioned about regulations that fail to employ the best available science.

EPA routinely declares chemicals "carcinogens" -- implying a likelihood of a health threat to humans -- based solely on the creation of tumors in lab rodents through the administration of superhigh doses that are irrelevant to ordinary human exposure levels. Rat tests do not even reliably predict effects in rats' close relatives, mice, let alone effects in humans -- though similar effects in multiple species might be an indicator of a genuine problem. As ACSH has explained in its report *America's War on "Carcinogens"*, declaring substances "carcinogens" -- when they should more properly be called merely "high-dose rodent carcinogens" -- is a chief source of health panics, junk-science lawsuits, activist crusades against chemicals, and the waste of resources from unnecessary abatement, cleanup, and product recall/reformulation/replacement.

The ACSH/WLF petition requested that EPA comply with the IQA by eliminating guidelines indicating that a substance may be labeled a "likely" human carcinogen based solely or primarily on the results of animal studies. The petition notes that the great majority of toxicologists agree this practice is scientifically unsound.

The law permits EPA, if it so chooses, to adopt policies that err on the side of caution when faced with genuinely equivocal evidence regarding a substance's carcinogenicity, *but the IQA does not permit EPA to distort the evidence itself in furtherance of such policies.* EPA commits such distortion through its guidelines' use of "default options" -- its purported right to assume, without regard to the scientific evidence, that tumors in lab rodents indicate that much smaller doses can cause cancer in humans. Erring on the "safe side" in regulatory decisions does not, we argue, permit EPA to falsely claim that such regulated substances truly are "likely to be carcinogenic to humans."

The EPA's own IQA guidelines allow them either forty-five or ninety days from our August

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23 filing to respond or to ask for an additional ninety days to resolve the matter. Not surprisingly, they chose the ninety days. Still, shortly after the ninetieth day, they informed us they needed an additional sixty days. Then, on January 20th, three days before the new deadline -- and nearly five months after our petition was filed -- the EPA asked for a third extension, informing us that they needed "additional time" -- another sixty days -- to complete their review. If only the EPA held themselves to the standards to which they hold everyone else -- imposing fines on companies slow to comply with EPA edicts. At a typical EPA fine rate of \$25,000 per day, the agency would owe ACSH about \$3,000,000 -- and with each day they delayed, the EPA was harming consumers and industry by using shoddy science to regulate or ban products that were used safely for years. We should indeed expect more from the EPA.

Finally, in early March, two weeks before their final self-imposed deadline, EPA replied with a dodge, claiming that their Risk Assessment Guidelines are not statements of scientific fact -- and thus not covered by the IQA -- but merely statements of EPA policy. One might have hoped that science and policy would go together at the world's most powerful regulatory agency. WLF is appealing on behalf of ACSH, filing a request for reconsideration with the EPA.

Jeff Stier, Esq., is an associate director of the American Council on Science and Health. A copy of the ACSH/WLF petition can be found at: <http://wlf.org/Litigating/casedetail.asp?detail=368> . Information on the filing of the petition and EPA's repeated delays in answering can be found at: http://www.acsh.org/healthissues/newsid.1167/healthissue_detail.asp .

(the gory details from ACSH)

- aBetterEarth.org
- AgBioWorld
- [American Justice Partnership](http://AmericanJusticePartnership)
- [Anti-Quackery and Science Blog](http://Anti-QuackeryandScienceBlog)
- [Anti-Quackery Ring](http://Anti-QuackeryRing)
- BiomonitoringInfo.org
- [Blogborygmi.com \(Nick Gene & co.\)](http://Blogborygmi.com)
- CalorieLab
- [The Cancer Blog](http://TheCancerBlog)
- [Catallarchy \(econ, etc.\)](http://Catallarchy)
- [Competitive Enterprise Institute](http://CompetitiveEnterpriseInstitute)
- ConsumerFreedom.com
- Debunkers.org
- Diet-Blog.com
- [Dynamist/Virginia Postrel](http://Dynamist/VirginiaPostrel)
- Fishscam
- GruntDoc
- [Health Beat \(medical news/research\)](http://HealthBeat)
- [Health Business Blog](http://HealthBusinessBlog)
- [Health Intelligence Network blog](http://HealthIntelligenceNetworkBlog)
- [In the Pipeline \(drugs per Derek Lowe\)](http://InThePipeline)
- [Infography on Medical Care: Quacks, Quackery](http://InfographyonMedicalCare)
- [Institute of Ideas](http://InstituteofIdeas)
- [JunkScience.com \(Steve Milloy\)](http://JunkScience.com)
- MedMusings
- [National Council Against Health Fraud](http://NationalCouncilAgainstHealthFraud)
- Overlawyered.com
- ParkinsonsHealth
- Quackbusters
- Quackfiles
- Quackfiles.blogspot.com
- Quackwatch
- [James Randi, ultimate skeptic](http://JamesRandi)
- [Rangel, M.D.](http://RangelMD)
- [Reason \(including Seavey pieces\)](http://Reason)
- [SAGEcrossroads.net \(aging\)](http://SAGEcrossroads.net)
- [Scientific Review of Alternative Medicine](http://ScientificReviewofAlternativeMedicine)
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