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'Data Quality' Law Is Nemesis Of Regulation

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Things were not looking good a few years ago for the makers of atrazine, America's second-leading weedkiller. The company was seeking approval from the Environmental Protection Agency to keep the highly profitable product on the market. But scientists were finding it was disrupting hormones in wildlife -- in some cases turning frogs into bizarre creatures bearing both male and female sex organs.

Last October, concerns about the herbicide led the European Union to ban atrazine, starting in 2005. Yet that same month, after 10 years of contentious scientific review, the EPA decided to permit ongoing use in the United States with no new restrictions.

Herbicide approvals are complicated, and there is no one reason that atrazine passed regulatory muster in this country. But close observers give significant credit to a single sentence that was added to the EPA's final scientific assessment last year.

Hormone disruption, it read, cannot be considered a "legitimate regulatory endpoint at this time" -- that is, it is not an acceptable reason to restrict a chemical's use -- because the government had not settled on an officially accepted test for measuring such disruption.

Those words, which effectively rendered moot hundreds of pages of scientific evidence, were adopted by the EPA as a result of a petition filed by a Washington consultant working with atrazine's primary manufacturer, Syngenta Crop Protection. The petition was filed under the Data Quality Act, a little-known piece of legislation that, under President Bush's Office of Management and Budget, has become a potent tool for companies seeking to beat back regulation.

The Data Quality Act -- written by an industry lobbyist and slipped into a giant appropriations bill in 2000 without congressional discussion or debate -- is just two sentences directing the OMB to ensure that all information disseminated by the federal government is reliable. But the Bush administration's interpretation of those two sentences could tip the balance in regulatory disputes that weigh the interests of consumers and businesses.

John D. Graham, administrator of the OMB Office of Information and Regulatory Affairs (OIRA), who has directed implementation of the Data Quality Act, said the law will keep the federal government hewing to "sound science." He said the act, which allows people and companies to challenge government information they believe is inaccurate, is equally accessible to "a wide diversity of interests, both in the business community and in the consumer, environmental and conservation communities."



