

109TH CONGRESS
1ST SESSION

H. R. 839

To protect scientific integrity in Federal research and policymaking.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2005

Mr. WAXMAN (for himself and Mr. GORDON) introduced the following bill; which was referred to the Committee on Government Reform, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect scientific integrity in Federal research and policymaking.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Restore Scientific Integrity to Federal Research and Pol-
6 icymaking Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purpose.

Sec. 3. Prohibition of political interference with science.

Sec. 4. Whistleblower extension for disclosures relating to interference with science.

Sec. 5. Requirements relating to Federal scientific advisory committees.

Sec. 6. Peer review.

Sec. 7. State of scientific integrity report.

Sec. 8. Definitions.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) America has for its history served as a
4 world leader of scientific innovation and research.

5 (2) Multiple policy and legislative decisions af-
6 fecting the health and safety of the American public
7 and the state of the environment depend upon com-
8 prehensive, accurate scientific information.

9 (3) The Federal Government plays a key role in
10 fostering and supporting scientific research.

11 (4) The conduct of such research depends on
12 free investigation and open exchange of ideas.

13 (5) Scientific advisory committees must com-
14 prise individuals with the appropriate expertise re-
15 gardless of political affiliation.

16 (6) Over the past four years, leading scientific
17 associations and scientific journals, Inspectors Gen-
18 eral, senior scientists within the Federal Govern-
19 ment, former scientific officials from both Repub-
20 lican and Democratic administrations, and 48 Nobel
21 Laureates have raised concerns about political inter-

1 ference with science in the executive branch of the
2 Federal Government.

3 (7) This interference has included tampering
4 with the conduct of research, gagging of government
5 scientists, distortion of scientific information pre-
6 sented to Congress and the public, and manipulation
7 of Federal scientific advisory committees.

8 (b) PURPOSE.—The purpose of this Act is to protect
9 scientific integrity in Federal research and policymaking.

10 **SEC. 3. PROHIBITION OF POLITICAL INTERFERENCE WITH**
11 **SCIENCE.**

12 (a) IN GENERAL.—Subchapter V of chapter 73 of
13 title 5, United States Code, is amended by adding at the
14 end the following:

15 **“§ 7354. Interference with science**

16 “(a) IN GENERAL.—An employee may not engage in
17 any of the following:

18 “(1) Tampering with the conduct of Federally
19 funded scientific research or analysis.

20 “(2) Censorship of findings of Federally funded
21 scientific research or analysis.

22 “(3) Directing the dissemination of scientific in-
23 formation known by the directing employee to be
24 false or misleading.

1 “(b) PENALTIES.—An employee who violates this sec-
2 tion shall be subject to appropriate disciplinary action by
3 the employing agency or entity.”.

4 (b) PROHIBITED PERSONNEL PRACTICE.—Section
5 2302(b) of title 5, United States Code, is amended—

6 (1) in paragraph (11), by striking “or” at the
7 end;

8 (2) in paragraph (12), by striking the period
9 and inserting “; or”; and

10 (3) by inserting after paragraph (12) the fol-
11 lowing:

12 “(13) take or fail to take, or threaten to take
13 or fail to take, a personnel action with respect to
14 any employee because of the development or dissemi-
15 nation, within the scope of employment, of scientific
16 research or analysis that the employee reasonably
17 believes to be accurate and valid.”.

18 (c) CLERICAL AMENDMENT.—The table of sections
19 for chapter 73 of title 5, United States Code, is amended
20 by inserting after the item relating to section 7353 the
21 following:

 “7354. Interference with science.”.

1 **SEC. 4. WHISTLEBLOWER EXTENSION FOR DISCLOSURES**
2 **RELATING TO INTERFERENCE WITH**
3 **SCIENCE.**

4 (a) IN GENERAL.—Subparagraphs (A) and (B) of
5 section 2302(b)(8) of title 5, United States Code, are
6 amended—

7 (1) in clause (i), by striking “or” at the end;

8 (2) in clause (ii), by adding “or” at the end;

9 and

10 (3) by inserting after clause (ii) the following:

11 “(iii) tampering with the conduct of
12 Federally funded scientific research or
13 analysis, censoring the findings of Feder-
14 ally funded scientific research or analysis,
15 or directing the dissemination of scientific
16 information known by the directing em-
17 ployee to be false or misleading.”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) Section 1212(a)(3) of title 5, United States
20 Code, is amended—

21 (A) by striking “regulation, or gross” and
22 inserting “regulation; gross”; and

23 (B) by adding at the end the following: “or
24 tampering with the conduct of Federally funded
25 scientific research or analysis, censoring the
26 findings of Federally funded scientific research

1 or analysis, or directing the dissemination of
2 scientific information known by the directing
3 employee to be false or misleading;”

4 (2) Section 1213(a) of such title is amended—

5 (A) in paragraph (1)—

6 (i) by striking “or” at the end of sub-
7 paragraph (A);

8 (ii) by inserting “or” at the end of
9 subparagraph (B); and

10 (iii) by inserting after subparagraph
11 (B) the following:

12 “(C) tampering with the conduct of Feder-
13 ally funded scientific research or analysis, cen-
14 soring the findings of Federally funded sci-
15 entific research or analysis, or directing the dis-
16 semination of scientific information known by
17 the directing employee to be false or mis-
18 leading;”; and

19 (B) in paragraph (2)—

20 (i) by striking “or” at the end of sub-
21 paragraph (A);

22 (ii) by striking the period at the end
23 of subparagraph (B) and inserting “; or”;
24 and

1 (C) by inserting after subparagraph (B)
2 the following:

3 “(C) tampering with the conduct of Feder-
4 ally funded scientific research or analysis, cen-
5 soring the findings of Federally funded sci-
6 entific research or analysis, or directing the dis-
7 semination of scientific information known by
8 the directing employee to be false or mis-
9 leading.”.

10 **SEC. 5. REQUIREMENTS RELATING TO FEDERAL SCI-**
11 **ENTIFIC ADVISORY COMMITTEES.**

12 (a) BAR ON LITMUS TESTS.—All appointments to
13 Federal scientific advisory committees shall be made with-
14 out regard to political affiliation, unless required by Fed-
15 eral statute.

16 (b) DESIGNATION OF MEMBERS AS SPECIAL GOV-
17 ERNMENT EMPLOYEES OR REPRESENTATIVES.—

18 (1) An individual appointed to a Federal sci-
19 entific advisory committee who is not a full-time or
20 permanent part-time officer or employee of the Fed-
21 eral Government shall be designated, by the agency
22 to which the committee reports, as either—

23 (A) a special Government employee, if the
24 individual is providing advice based on the indi-
25 vidual’s expertise or experience; or

1 (B) a representative, if the individual is
2 representing the views of individuals or entities
3 outside the Federal Government.

4 (2) An agency shall review the members of each
5 Federal scientific advisory committee that reports to
6 the agency to determine whether each member's des-
7 ignation is appropriate, and to redesignate members
8 if appropriate. Such review shall be made when the
9 committee's charter expires or, in the case of a com-
10 mittee with an indefinite charter, every 2 years.

11 (c) ENSURING INDEPENDENT ADVICE AND EXPER-
12 TISE.—

13 (1) Each agency shall, to the extent permitted
14 by law, appoint individuals to Federal scientific advi-
15 sory committees as special government employees.

16 (2) Each agency shall make its best efforts to
17 ensure that—

18 (A) no individual appointed to serve on a
19 Federal scientific advisory committee has a con-
20 flict of interest that is relevant to the functions
21 to be performed, unless such conflict is prompt-
22 ly and publicly disclosed and the agency deter-
23 mines that the conflict is unavoidable; and

24 (B) each report of the advisory committee
25 will be the result of the advisory committee's

1 independent judgment and include a statement
2 indicating the process used by the advisory
3 committee in formulating the recommendations
4 or conclusions contained in the report.

5 (3) Each agency shall require that individuals
6 that the agency appoints or intends to appoint to
7 serve on a Federal scientific advisory committee in-
8 form the agency of the individual's conflicts of inter-
9 est that are relevant to the functions to be per-
10 formed.

11 (4) If an agency determines that representative
12 members are required on a Federal scientific advi-
13 sory committee, the Advisory Committee Manage-
14 ment Officer of the agency shall consult with the
15 designated agency ethics official to ensure that the
16 designation is appropriate and necessary to fulfilling
17 the committee's purpose.

18 (5) The designated agency ethics official of
19 each agency shall issue guidance to ensure that Fed-
20 eral scientific advisory committees are providing suf-
21 ficiently independent advice and expertise.

22 (6) The Administrator for General Services
23 shall conduct an annual review of compliance by
24 agencies with this subsection and shall submit to the
25 Committee on Government Reform of the House of

1 Representatives and the Committee on Govern-
2 mental Affairs and Homeland Security of the Senate
3 a report on the results of the review.

4 (d) DISCLOSURE OF INFORMATION.—

5 (1) ITEMS REQUIRED TO BE DISCLOSED.—With
6 respect to each Federal scientific advisory committee
7 established before, on, or after the date of the enact-
8 ment of this Act, the agency to which the committee
9 reports shall make available as described in para-
10 graph (2) the following information, at a minimum:

11 (A) The charter of the committee.

12 (B) A description of the committee forma-
13 tion process, including at least—

14 (i) the process for identifying prospec-
15 tive members;

16 (ii) the process of selecting members
17 for balance of viewpoints or expertise; and

18 (iii) a justification of the need for rep-
19 resentative members, if any.

20 (C) A list of all current members, includ-
21 ing, for each member, the following:

22 (i) The name of any person or entity
23 that nominated the member.

1 (ii) Whether the member is designated
2 as a special Government employee or a
3 representative.

4 (iii) In the case of a representative,
5 the individuals or entity whose view point
6 the member represents.

7 (D) A list of all special Government em-
8 ployees who have received conflict of interest
9 waivers under section 208(b) of title 18, United
10 States Code, under regulations issued by the
11 Office of Government Ethics, a summary de-
12 scription of the conflict necessitating the waiv-
13 er, and the reason for granting the waiver.

14 (E) A summary of the process used by the
15 committee for making decisions.

16 (F) Transcripts of all meetings of the com-
17 mittee.

18 (G) Notices of future meetings of the com-
19 mittee.

20 (2) METHODS OF DISCLOSURE.—

21 (A)(i) Except as provided in clause (ii), the
22 information required to be disclosed by an
23 agency under this subsection shall be available
24 electronically, including on the official public
25 Internet site of the agency, at least 7 calendar

1 days before each meeting of a Federal scientific
2 advisory committee.

3 (ii) In the case of a transcript of a meeting
4 of a Federal scientific advisory committee, the
5 transcript shall be disclosed by an agency under
6 this subsection not later than 7 calendar days
7 after the meeting.

8 (B) The Administrator of General Services
9 shall provide, on the official public Internet site
10 of the General Services Administration, elec-
11 tronic access to the information made available
12 by each agency under subparagraph (A).

13 **SEC. 6. PEER REVIEW.**

14 (a) AGENCY-DIRECTED PEER REVIEW.—Each agen-
15 cy shall determine a peer review process appropriate for
16 the agency's functions and needs.

17 (b) INEFFECTIVENESS OF INFORMATION QUALITY
18 BULLETIN FOR PEER REVIEW.—The Information Quality
19 Bulletin for Peer Review, issued in final form by the Office
20 of Management and Budget on December 16, 2004 (70
21 Fed. Reg. 2664; January 14, 2005), shall have no force
22 or effect as of the date of the enactment of this Act, and
23 shall not apply to information disseminated by the Federal
24 Government to the public before, on, or after such date.

1 **SEC. 7. STATE OF SCIENTIFIC INTEGRITY REPORT.**

2 By January 15 of each year, beginning with January
3 15, 2006, the Director of the Office of Science and Tech-
4 nology Policy shall provide to Congress a report address-
5 ing—

6 (1) major controversies regarding scientific in-
7 tegrity that arose during the year, and the current
8 status of such controversies, including controversies
9 brought to the attention of the Director by members
10 of Congress;

11 (2) by agency and with respect to the period
12 covered by the report—

13 (A) the number of instances in which the
14 amendments made by sections 3(a), 3(b), and
15 4(a), respectively, were violated; and

16 (B) a brief description of the violations to
17 which the information under subparagraph (A)
18 relates, excluding any information that identi-
19 fies or makes possible the identification of any
20 individual;

21 (3) Federal policy changes during the year re-
22 lated to scientific integrity, including changes that
23 affect the right to publish, the use of data, commu-
24 nications with the public, participation in profes-
25 sional scientific activities, and Federal advisory com-
26 mittee membership; and

1 (4) administration efforts specifically designed
2 to further scientific integrity.

3 **SEC. 8. DEFINITIONS.**

4 In this Act:

5 (1) **FEDERAL SCIENTIFIC ADVISORY COM-**
6 **MITTEE.**—The term “Federal scientific advisory
7 committee” means any advisory committee estab-
8 lished in whole or in part to provide expert scientific
9 advice, or to provide policy advice based in whole or
10 in part on an assessment of scientific information.

11 (2) **ADVISORY COMMITTEE.**—The term “advi-
12 sory committee” has the meaning provided in section
13 3(2) of the Federal Advisory Committee Act (5
14 U.S.C. App.).

15 (3) **AGENCY.**—The term “agency” has the same
16 meaning as in section 551(1) of title 5, United
17 States Code.

18 (4) **SCIENTIFIC.**—The term “scientific” means
19 relating to the natural, medical, or social sciences or
20 engineering, encompassing, but not limited to, the
21 fields considered related to science and engineering
22 by the National Science Foundation.

23 (5) **TAMPERING.**—The term “tampering”
24 means improperly altering or obstructing so as to
25 substantially distort, or directing others to do so.

1 (6) CENSORSHIP.—The term “censorship”
2 means improper prevention of the dissemination of
3 valid and nonclassified scientific findings.

4 (7) SPECIAL GOVERNMENT EMPLOYEE.—The
5 term “special Government employee” has the same
6 meaning as in section 202(a) of title 18, United
7 States Code.

8 (8) ADVISORY COMMITTEE MANAGEMENT OFFI-
9 CER.— The term “Advisory Committee Management
10 Officer” means the officer designated under section
11 8(b) of the Federal Advisory Committee Act (5
12 U.S.C. App.).

13 (9) DESIGNATED AGENCY ETHICS OFFICIAL.—
14 The term “designated agency ethics official” has the
15 same meaning as in section 109(3) of the Ethics in
16 Government Act of 1978 (5 U.S.C. App.).

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