HR 839 IH

109th CONGRESS

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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title– This Act may be cited as the `Restore Scientific Integrity to Federal Research and Policymaking Act'.

(b) Table of Contents– The table of contents for 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. 2. FINDINGS AND PURPOSE.

(a) Findings—Congress finds the following:

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

(2) Multiple policy and legislative decisions affecting the health and safety of the American public and the state of the environment depend upon comprehensive, accurate scientific information.

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

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

(5) Scientific advisory committees must comprise individuals with the appropriate expertise regardless of political affiliation.

(6) Over the past four years, leading scientific associations and scientific journals, Inspectors General, senior scientists within the Federal Government, former scientific officials from both Republican and Democratic administrations, and 48 Nobel Laureates have raised concerns about political interference with science in the executive branch of the Federal Government.

(7) This interference has included tampering with the conduct of research, gagging of government scientists, distortion of scientific information presented to Congress and the public, and manipulation of Federal scientific advisory committees.

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

SEC. 3. PROHIBITION OF POLITICAL INTERFERENCE WITH SCIENCE.

(a) In General—Subchapter V of chapter 73 of title 5, United States Code, is amended by adding at the end the following:

`Sec. 7354. Interference with science

`(a) In General—An employee may not engage in any of the following:

`(1) Tampering with the conduct of Federally funded scientific research or analysis.

`(2) Censorship of findings of Federally funded scientific research or analysis.

`(3) Directing the dissemination of scientific information known by the directing employee to be false or misleading.

`(b) Penalties—An employee who violates this section shall be subject to appropriate disciplinary action by the employing agency or entity.'.

(b) Prohibited Personnel Practice—Section 2302(b) of title 5, United States Code, is amended—

(1) in paragraph (11), by striking `or' at the end;
(2) in paragraph (12), by striking the period and inserting ‘; or’; and

(3) by inserting after paragraph (12) the following:

‘(13) take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee because of the development or dissemination, within the scope of employment, of scientific research or analysis that the employee reasonably believes to be accurate and valid.’.

(c) Clerical Amendment— The table of sections for chapter 73 of title 5, United States Code, is amended by inserting after the item relating to section 7353 the following:

‘7354. Interference with science.’.

SEC. 4. WHISTLEBLOWER EXTENSION FOR DISCLOSURES RELATING TO INTERFERENCE WITH SCIENCE.

(a) In General— Subparagraphs (A) and (B) of section 2302(b)(8) of title 5, United States Code, are amended—

(1) in clause (i), by striking ‘or’ at the end;

(2) in clause (ii), by adding ‘or’ at the end; and

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

‘(iii) tampering with the conduct of Federally funded scientific research or analysis, censoring the findings of Federally funded scientific research or analysis, or directing the dissemination of scientific information known by the directing employee to be false or misleading.’.

(b) Conforming Amendments—

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

(A) by striking ‘regulation, or gross’ and inserting ‘regulation; gross’; and

(B) by adding at the end the following: ‘or tampering with the conduct of Federally funded scientific research or analysis, censoring the findings of Federally funded scientific research or analysis, or directing the dissemination of scientific information known by the directing employee to be false or misleading;’

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

(A) in paragraph (1)—

(i) by striking ‘or’ at the end of subparagraph (A);

(ii) by inserting ‘or’ at the end of subparagraph (B); and

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

‘(C) tampering with the conduct of Federally funded scientific research or analysis, censoring the findings of Federally funded scientific research or analysis, or directing the dissemination of scientific information known by the directing employee to be false or misleading;’; and

(B) in paragraph (2)—
(i) by striking `or' at the end of subparagraph (A);

(ii) by striking the period at the end of subparagraph (B) and inserting `; or'; and

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

`(C) tampering with the conduct of Federally funded scientific research or analysis, censoring the findings of Federally funded scientific research or analysis, or directing the dissemination of scientific information known by the directing employee to be false or misleading.'.

SEC. 5. REQUIREMENTS RELATING TO FEDERAL SCIENTIFIC ADVISORY COMMITTEES.

(a) Bar on Litmus Tests− All appointments to Federal scientific advisory committees shall be made without regard to political affiliation, unless required by Federal statute.

(b) Designation of Members as Special Government Employees or Representatives−

(1) An individual appointed to a Federal scientific advisory committee who is not a full−time or permanent part−time officer or employee of the Federal Government shall be designated, by the agency to which the committee reports, as either—

(A) a special Government employee, if the individual is providing advice based on the individual's expertise or experience; or

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

(2) An agency shall review the members of each Federal scientific advisory committee that reports to the agency to determine whether each member's designation is appropriate, and to redesignate members if appropriate. Such review shall be made when the committee's charter expires or, in the case of a committee with an indefinite charter, every 2 years.

(c) Ensuring Independent Advice and Expertise−

(1) Each agency shall, to the extent permitted by law, appoint individuals to Federal scientific advisory committees as special government employees.

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

(A) no individual appointed to serve on a Federal scientific advisory committee has a conflict of interest that is relevant to the functions to be performed, unless such conflict is promptly and publicly disclosed and the agency determines that the conflict is unavoidable; and

(B) each report of the advisory committee will be the result of the advisory committee's independent judgment and include a statement indicating the process used by the advisory committee in formulating the recommendations or conclusions contained in the report.

(3) Each agency shall require that individuals that the agency appoints or intends to appoint to serve on a Federal scientific advisory committee inform the agency of the individual's conflicts of interest that are relevant to the functions to be performed.

(4) If an agency determines that representative members are required on a Federal scientific advisory committee, the Advisory Committee Management Officer of the agency shall consult with the designated agency ethics official to ensure that the designation is appropriate and necessary to fulfilling the committee's purpose.
(5) The designated agency ethics official of each agency shall issue guidance to ensure that Federal scientific advisory committees are providing sufficiently independent advice and expertise.

(6) The Administrator for General Services shall conduct an annual review of compliance by agencies with this subsection and shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs and Homeland Security of the Senate a report on the results of the review.

(d) Disclosure of Information—

(1) ITEMS REQUIRED TO BE DISCLOSED— With respect to each Federal scientific advisory committee established before, on, or after the date of the enactment of this Act, the agency to which the committee reports shall make available as described in paragraph (2) the following information, at a minimum:

(A) The charter of the committee.

(B) A description of the committee formation process, including at least—

(i) the process for identifying prospective members;

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

(iii) a justification of the need for representative members, if any.

(C) A list of all current members, including, for each member, the following:

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

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

(iii) In the case of a representative, the individuals or entity whose viewpoint the member represents.

(D) A list of all special Government employees who have received conflict of interest waivers under section 208(b) of title 18, United States Code, under regulations issued by the Office of Government Ethics, a summary description of the conflict necessitating the waiver, and the reason for granting the waiver.

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

(F) Transcripts of all meetings of the committee.

(G) Notices of future meetings of the committee.

(2) METHODS OF DISCLOSURE—

(A)(i) Except as provided in clause (ii), the information required to be disclosed by an agency under this subsection shall be available electronically, including on the official public Internet site of the agency, at least 7 calendar days before each meeting of a Federal scientific advisory committee.

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

(B) The Administrator of General Services shall provide, on the official public Internet site of the General Services Administration, electronic access to the information made available by each agency under subparagraph (A).
SEC. 6. PEER REVIEW.

(a) Agency-Directed Peer Review—Each agency shall determine a peer review process appropriate for the agency's functions and needs.

(b) Ineffectiveness of Information Quality Bulletin for Peer Review—The Information Quality Bulletin for Peer Review, issued in final form by the Office of Management and Budget on December 16, 2004 (70 Fed. Reg. 2664; January 14, 2005), shall have no force or effect as of the date of the enactment of this Act, and shall not apply to information disseminated by the Federal Government to the public before, on, or after such date.

SEC. 7. STATE OF SCIENTIFIC INTEGRITY REPORT.

By January 15 of each year, beginning with January 15, 2006, the Director of the Office of Science and Technology Policy shall provide to Congress a report addressing—

(1) major controversies regarding scientific integrity that arose during the year, and the current status of such controversies, including controversies brought to the attention of the Director by members of Congress;

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

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

(B) a brief description of the violations to which the information under subparagraph (A) relates, excluding any information that identifies or makes possible the identification of any individual;

(3) Federal policy changes during the year related to scientific integrity, including changes that affect the right to publish, the use of data, communications with the public, participation in professional scientific activities, and Federal advisory committee membership; and

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

SEC. 8. DEFINITIONS.

In this Act:

(1) FEDERAL SCIENTIFIC ADVISORY COMMITTEE—The term 'Federal scientific advisory committee' means any advisory committee established in whole or in part to provide expert scientific advice, or to provide policy advice based in whole or in part on an assessment of scientific information.

(2) ADVISORY COMMITTEE—The term 'advisory committee' has the meaning provided in section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.).

(3) AGENCY—The term 'agency' has the same meaning as in section 551(1) of title 5, United States Code.

(4) SCIENTIFIC—The term 'scientific' means relating to the natural, medical, or social sciences or engineering, encompassing, but not limited to, the fields considered related to science and engineering by the National Science Foundation.

(5) TAMPERING—The term 'tampering' means improperly altering or obstructing so as to substantially distort, or directing others to do so.

(6) CENSORSHIP—The term 'censorship' means improper prevention of the dissemination of valid and nonclassified
scientific findings.

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

(8) ADVISORY COMMITTEE MANAGEMENT OFFICER— The term `Advisory Committee Management Officer'
means the officer designated under section 8(b) of the Federal Advisory Committee Act (5 U.S.C. App.).

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