

113TH CONGRESS
1ST SESSION

H. R. 3157

To ensure public access to published materials concerning scientific research and development activities funded by Federal science agencies.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2013

Mr. SENSENBRENNER (for himself and Ms. EDDIE BERNICE JOHNSON of Texas) introduced the following bill; which was referred to the Committee on Science, Space, and Technology

A BILL

To ensure public access to published materials concerning scientific research and development activities funded by Federal science agencies.

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.**

4 This Act may be cited as the “Public Access to Public
5 Science Act”.

6 **SEC. 2. PUBLIC ACCESS POLICY.**

7 (a) IN GENERAL.—Each covered agency shall formu-
8 late and implement a public access policy to make covered
9 works publicly available, without charge, on the day after

1 the end of the embargo period, in a manner consistent
2 with copyright law.

3 (b) SPECIFICATIONS.—The public access policy
4 shall—

5 (1) allow the public to read, download, and ana-
6 lyze by machine covered works in digital form;

7 (2) facilitate easy public search of, analysis of,
8 and access to covered works;

9 (3) encourage public-private collaboration to—

10 (A) maximize the potential for interoper-
11 ability between public and private platforms;

12 (B) avoid unnecessary duplication of exist-
13 ing mechanisms; and

14 (C) maximize the impact of the covered
15 agency's research investment;

16 (4) ensure that attribution to authors, journals,
17 and original publishers is maintained; and

18 (5) ensure that publications and metadata are
19 stored in an archive that—

20 (A) provides for long-term preservation
21 and access to full content of the covered work
22 without charge, where appropriate, and bal-
23 ancing cost and public value;

24 (B) uses a standard, widely available, and,
25 to the extent possible, nonproprietary archival

1 format for text and associated content, includ-
2 ing images, video, and supporting data;

3 (C) provides access for persons with dis-
4 abilities consistent with section 508 of the Re-
5 habilitation Act of 1973 (29 U.S.C. 794d); and

6 (D) enables integration and interoper-
7 ability with other public access repositories.

8 (e) METADATA.—Notwithstanding subsection (a), a
9 covered agency’s public access policy shall ensure full pub-
10 lic access to covered works’ metadata without charge upon
11 first publication in a data format that ensures interoper-
12 ability with current and anticipated future search tech-
13 nology. Where possible, the metadata shall provide a link
14 to the location where the full text and associated supple-
15 mental materials will be made available at the end of the
16 applicable embargo period.

17 **SEC. 3. FORMULATION OF A PUBLIC ACCESS POLICY.**

18 (a) IN GENERAL.—Each public access policy shall in-
19 clude—

20 (1) a strategy for enabling the public to elec-
21 tronically locate and access publications resulting
22 from federally funded scientific research;

23 (2) a strategy for maintaining a repository or
24 repositories, either within the covered agency or
25 through an arrangement with another Federal agen-

1 cy or agencies or through an arrangement with a
2 public or private entity, if consistent with the pur-
3 poses of this Act, including free public access in per-
4 petuity, interoperability, and long-term preservation,
5 so long as the covered agency maintains an active
6 Web link to the repository or repositories for public
7 access;

8 (3) a strategy for incorporating existing covered
9 works into the repository or repositories required
10 under paragraph (2) to the extent practicable;

11 (4) a strategy for notifying research funding re-
12 cipients of their obligations under this Act; and

13 (5) a strategy for taking into account different
14 funding models for scholarly publishing, including
15 author-pays fees, in the covered agency's grant and
16 other funding mechanisms.

17 (b) COORDINATION WITH STAKEHOLDERS.—In de-
18 veloping its public access policy, the covered agency shall
19 use a transparent process for soliciting views from stake-
20 holders, including federally funded researchers, institu-
21 tions of higher education, libraries, publishers, users of
22 federally funded research results, and civil society groups.

23 (c) COORDINATION WITH OTHER FEDERAL AGEN-
24 CIES.—In developing its public access policy, the covered
25 agency shall collaborate and coordinate with other Federal

1 agencies to maximize the consistency and compatibility of
2 public access across the Federal Government.

3 (d) REPORT TO CONGRESS.—Not later than 6
4 months after the date of enactment of this Act, each cov-
5 ered agency shall transmit a report, containing its public
6 access policy and the mechanism described in section 6,
7 to the Committee on Science, Space, and Technology of
8 the House of Representatives and the Committee on Com-
9 merce, Science, and Transportation of the Senate.

10 **SEC. 4. IMPLEMENTATION OF PUBLIC ACCESS POLICY.**

11 (a) IN GENERAL.—Not later than 1 year after the
12 transmission of the report required under section 3(d),
13 each covered agency shall implement its public access pol-
14 icy.

15 (b) INPUT.—The implementation of such policy, in-
16 cluding the mechanism described in section 6, shall con-
17 sider input provided by relevant stakeholders and other
18 Federal agencies.

19 (c) SAVINGS PROVISION.—Nothing in this Act shall
20 affect the application of United States copyright law.

21 **SEC. 5. PERIODIC REVIEW.**

22 (a) IN GENERAL.—At least once every 5 years, each
23 covered agency shall revise, as necessary, its public access
24 policy, including the mechanism described in section 6.

1 (b) REPORT TO CONGRESS.—Each covered agency
2 shall transmit a report containing its public access policy
3 and the mechanism described in section 6, as revised
4 under subsection (a), to the Committee on Science, Space,
5 and Technology of the House of Representatives and the
6 Committee on Commerce, Science, and Transportation of
7 the Senate not later than 30 days after completing such
8 revision.

9 **SEC. 6. MECHANISM FOR MODIFICATION OF EMBARGO PE-**
10 **RIOD.**

11 Each covered agency, in coordination with the stake-
12 holders described in section 3(b), shall provide a mecha-
13 nism for a stakeholder to petition to change the embargo
14 period under this section for specific covered works by pre-
15 senting evidence that the public interest will be substan-
16 tially and uniquely harmed under a covered agency’s pub-
17 lic access policy related to such work. If a covered agency
18 determines that the public interest will be substantially
19 and uniquely harmed upon reviewing the petition, the cov-
20 ered agency may change the embargo period by no more
21 than 6 months at a time from its current embargo period.

22 **SEC. 7. DEFINITIONS.**

23 For the purposes of this Act—

24 (1) the term “covered agency” means—

1 (A) the National Aeronautics and Space
2 Administration;

3 (B) the National Science Foundation;

4 (C) the National Institute of Standards
5 and Technology; and

6 (D) the National Weather Service.

7 (2) the term “covered work” means any peer-
8 reviewed research results published in scholarly pub-
9 lications that are based on research funded in whole
10 or in part by a covered agency, but such term does
11 not include—

12 (A) research progress reports presented at
13 professional meetings or conferences;

14 (B) laboratory notes, preliminary data
15 analyses, notes of the author, phone logs, or
16 other information used to produce final manu-
17 scripts;

18 (C) classified research; or

19 (D) work not submitted to a peer-reviewed
20 publication or work that is rejected by a peer-
21 reviewed publication; and

22 (3) the term “embargo period” means the pe-
23 riod of time no more than 12 months after the ini-

- 1 tial date of publication of a covered work, unless
- 2 modified under section 6.

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