

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.

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## 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

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## 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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