

Mr. Sensenbrenner (WI) + Ms. Lofgren (CA)

**AMENDMENT OFFERED BY _____ TO THE
AMENDMENT IN THE NATURE OF A SUBSTITUTE**

Amend section 303 to read as follows:

1 **SEC. 303. PUBLIC ACCESS TO PUBLIC SCIENCE.**

2 (a) PUBLIC ACCESS POLICY.—

3 (1) IN GENERAL.—Each covered agency shall
4 formulate and implement a public access policy to
5 make covered works publicly available, without
6 charge, on the day after the end of the embargo pe-
7 riod, in a manner consistent with copyright law.

8 (2) SPECIFICATIONS.—The public access policy
9 shall—

10 (A) allow the public to read, download, and
11 analyze by machine covered works in digital
12 form;

13 (B) facilitate easy public search of, anal-
14 ysis of, and access to covered works;

15 (C) encourage public-private collaboration
16 to—

17 (i) maximize the potential for inter-
18 operability between public and private plat-
19 forms;

1 (ii) avoid unnecessary duplication of
2 existing mechanisms; and

3 (iii) maximize the impact of the cov-
4 ered agency's research investment;

5 (D) ensure that attribution to authors,
6 journals, and original publishers is maintained;
7 and

8 (E) ensure that publications and metadata
9 are stored in an archive that—

10 (i) provides for long-term preservation
11 and access to full content of the covered
12 work without charge, where appropriate,
13 and balancing cost and public value;

14 (ii) uses a standard, widely available,
15 and, to the extent possible, nonproprietary
16 archival format for text and associated
17 content, including images, video, and sup-
18 porting data;

19 (iii) provides access for persons with
20 disabilities consistent with section 508 of
21 the Rehabilitation Act of 1973 (29 U.S.C.
22 794d); and

23 (iv) enables integration and interoper-
24 ability with other public access reposi-
25 tories.

1 (3) METADATA.—Notwithstanding paragraph
2 (1), a covered agency’s public access policy shall en-
3 sure full public access to covered works’ metadata
4 without charge upon first publication in a data for-
5 mat that ensures interoperability with current and
6 anticipated future search technology. Where possible,
7 the metadata shall provide a link to the location
8 where the full text and associated supplemental ma-
9 terials will be made available at the end of the appli-
10 cable embargo period.

11 (b) FORMULATION OF A PUBLIC ACCESS POLICY.—

12 (1) IN GENERAL.—Each public access policy
13 shall include—

14 (A) a strategy for enabling the public to
15 electronically locate and access publications re-
16 sulting from federally-funded scientific research;

17 (B) a strategy for maintaining a repository
18 or repositories, either within the covered agency
19 or through an arrangement with another Fed-
20 eral agency or agencies or through an arrange-
21 ment with a public or private entity, if con-
22 sistent with the purposes of this section, includ-
23 ing free public access in perpetuity, interoper-
24 ability, and long-term preservation, so long as
25 the covered agency maintains an active web link

1 to the repository or repositories for public ac-
2 cess;

3 (C) a strategy for incorporating existing
4 covered works into the repository or repositories
5 required under subparagraph (B) to the extent
6 practicable;

7 (D) a strategy for notifying research fund-
8 ing recipients of their obligations under this
9 section; and

10 (E) a strategy for taking into account dif-
11 ferent funding models for scholarly publishing,
12 including author-pays fees, in the covered agen-
13 cy's grant and other funding mechanisms.

14 (2) COORDINATION WITH STAKEHOLDERS.—In
15 developing its public access policy, the covered agen-
16 cy shall use a transparent process for soliciting views
17 from stakeholders, including federally funded re-
18 searchers, institutions of higher education, libraries,
19 publishers, users of federally funded research re-
20 sults, and civil society groups.

21 (3) COORDINATION WITH OTHER FEDERAL
22 AGENCIES.—In developing its public access policy,
23 the covered agency shall collaborate and coordinate
24 with other Federal agencies to maximize the consist-

1 ency and compatibility of public access across the
2 Federal Government.

3 (4) REPORT TO CONGRESS.—Not later than 90
4 days after the date of enactment of this Act, each
5 covered agency shall transmit a report, containing
6 its public access policy and the mechanism described
7 in subsection (e), to the Committee on Science,
8 Space, and Technology of the House of Representa-
9 tives and the Committee on Commerce, Science, and
10 Transportation of the Senate. Such report shall in-
11 clude an examination of whether covered works
12 should include a royalty-free copyright license that is
13 available to the public and that permits the reuse of
14 those research papers, on the condition that attribu-
15 tion is given to the author or authors of the research
16 and any others designated by the copyright owner.

17 (c) IMPLEMENTATION OF PUBLIC ACCESS POLICY.—

18 (1) IN GENERAL.—Not later than 1 year after
19 the transmission of the report required under sub-
20 section (b)(4), each covered agency shall implement
21 its public access policy.

22 (2) INPUT.—The implementation of such policy,
23 including the mechanism described in subsection (e),
24 shall consider input provided by relevant stake-
25 holders and other Federal agencies.

1 (3) SAVINGS PROVISION.—Nothing in this sec-
2 tion shall affect the application of United States
3 copyright law.

4 (d) PERIODIC REVIEW.—

5 (1) IN GENERAL.—At least once every 5 years,
6 each covered agency shall revise, as necessary, its
7 public access policy, including the mechanism de-
8 scribed in subsection (e).

9 (2) REPORT TO CONGRESS.—Each covered
10 agency shall transmit a report containing its public
11 access policy and the mechanism described in sub-
12 section (e), as revised under paragraph (1), to the
13 Committee on Science, Space, and Technology of the
14 House of Representatives and the Committee on
15 Commerce, Science, and Transportation of the Sen-
16 ate not later than 30 days after completing such re-
17 vision.

18 (e) MECHANISM FOR MODIFICATION OF EMBARGO
19 PERIOD.—Each covered agency, in coordination with the
20 stakeholders described in subsection (b)(2), shall provide
21 a mechanism for a stakeholder to petition to change the
22 embargo period under this section for specific covered
23 works by presenting evidence that the public interest will
24 be substantially and uniquely harmed under a covered
25 agency's public access policy related to such work. If a

1 covered agency determines that the public interest will be
2 substantially and uniquely harmed upon reviewing the pe-
3 tition, the covered agency may change the embargo period
4 by no more than 6 months at a time from its current em-
5 bargo period.

6 (f) DEFINITIONS.—For the purposes of this section—

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

8 (A) the National Aeronautics and Space
9 Administration;

10 (B) the National Science Foundation;

11 (C) the National Institute of Standards
12 and Technology;

13 (D) the National Weather Service; and

14 (E) the Office of Science of the Depart-
15 ment of Energy;

16 (2) the term “covered work” means any peer-
17 reviewed research results published in scholarly pub-
18 lications that are based on research funded in whole
19 or in part by a covered agency, but such term does
20 not include—

21 (A) research progress reports presented at
22 professional meetings or conferences;

23 (B) laboratory notes, preliminary data
24 analyses, notes of the author, phone logs, or

1 other information used to produce final manu-
2 scripts;

3 (C) classified research; or

4 (D) work not submitted to a peer-reviewed
5 publication or work that is rejected by a peer-
6 reviewed publication; and

7 (3) the term “embargo period” means the pe-
8 riod of time no more than 12 months after the ini-
9 tial date of publication of a covered work, unless
10 modified under subsection (e).

