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Saving Science from Politics: CPR Scholars' 'Nine Reforms' Offers Blueprint

Washington, DC ----- In a variety of ways during the Bush Administration, scientific findings, the scientific process and scientists themselves have come under attack as never before. On issues ranging from global warming and environmental protection to consumer health and safety, the Administration has routinely put politics and ideology ahead of science. With the Bush years coming to a close, what should policymakers and the scientific community do to restore respect for the vital role of science in the policy process?

A new publication from the Center for Progressive Reform, coauthored by CPR Member Scholars Rena Steinzor and Wendy Wagner, with CPR policy analyst Matthew Shudtz, seeks to answer that question. Saving Science from Politics: Nine Essential Reforms of the Legal System puts forward proposals developed in consultation with a host of scholars and experts, several of them fellow CPR Member Scholars.

"The attack on science must stop," said Wagner. "Unfortunately, the manipulation of science has become so ingrained in our legal and political system that a new President and a new mindset won't be enough to fix the problem. We need affirmative reforms that protect science and scientists." Wagner is a law professor at the University of Texas Law School in Austin and at Case Law School in Cleveland. She is co-author, with Thomas O. McGarity, also of the University of Texas Law School, of the recent book, *Bending Science: How Special Interests Corrupt Public Health Research*, published by Harvard University Press.

"These proposals would protect scientists from harassment, drastically improve conflict-of-interest disclosure requirements, open up industry-funded studies to scrutiny to which they are not now subjected, protect whistleblowers, and more," said Steinzor, a law professor at the University of Maryland and President of the Center for Progressive Reform. "Our hope is that implementing them will transform the role of science in the policy process – leaving policymaking to elected officials and appointees, but making it harder for policymakers and industry to reshape or create faux science that conforms to their ideological or economic wishes."

The nine core proposals:

1. *Level the playing field for publicly and privately funded research used in the regulatory process.* Current law requires that publicly funded research used in the regulatory process be made public, but not privately funded research. That unjustifiably shields such data, much of it created by or for regulated industries, from scrutiny.

2. *Require Disclosure of Sponsor-Controlled Research*. Studies have shown that research conducted for private entities is more likely to be skewed. Studies submitted to federal agencies should therefore disclose the degree of control that study sponsors had over the research.

3. *Strengthen adverse effects reporting*. Companies that manufacture toxic chemicals have substantial amounts of information regarding the potential risks those chemicals pose to workers, the public and the environment. But as the recent disclosures over the dangers from chemicals used in manufacturing Teflon demonstrates, companies sometimes withhold critical data. Public and private entities that become aware of potentially significant risks caused by hazardous substances in consumer products, chemicals sold in commerce or used in manufacturing, or disposed in a manner that causes human exposure must disclose any known information regarding these risks to regulatory authorities.

4. *Separate science from policy*. Scientists at federal agencies are sometimes pressured by political appointees to revise scientific conclusions in studies they prepare for policymakers. An example of the practice was described in a 2007 report from the Inspector General of the Department of Interior, which described efforts by a political appointee to pressure agency scientists to revise their research reports so as to undercut enforcement of the Endangered Species Act. Studies that inform the regulatory policy should be disclosed and docketed in the administrative record before political appointees and other interested parties can apply pressure to edit or distort findings.

5. *Protect whistleblowers*. Current protections for whistleblowers are inadequate, despite the key role they play in unearthing misconduct. Protections should be expanded with stronger recordkeeping requirements that would make political interference more easily detectable, reallocation of federal positions between the career and excepted service, new federal scientific integrity regulations, and other improved and expanded whistleblower protections.

6. *Establish a legal cause of action for harassed scientists*. Not content to challenge findings and research methods, industry representatives have sometimes waged war on the scientists themselves, threatening them with lawsuits, subpoenaing them to testify in court, compelling the withdrawal of articles, and pressuring their academic institutions. Scientists subject to harassment, including frivolous charges of scientific misconduct or open record requests and other legal process (e.g., subpoenas, interrogatories) that are unreasonable in scope or demand, should have the right to seek damages by filing an action in federal court.

7. *Restore balance and transparency to peer review*. Congress passed the Federal Advisory Committee Act (FACA) to ensure that when private sector parties gather in committees to advise the government, the resulting consultations are disclosed to the public and the committees reflect a balance of views on the issues. These protections have been eroded in practice and by the courts, exempting too many peer review panels

from transparency requirements and resulting in stacked advisory panels. Stronger disclosure requirements should be instituted, and agency efforts to screen for bias and conflicts of interest should be subject to public notice and comment.

8. Prevent overbroad trade secret claims from compromising public health and natural resources. When companies submit research about chemicals in commerce, they routinely stamp it as "confidential business information," thereby sequestering it from public release. Any entity claiming confidentiality should be required to provide upfront substantiation of the need for such protection, and such confidentiality should expire within five years in the absence of a compelling reason to the contrary.

9. *Create an environmental science registry.* The FDA's clinical studies registry is designed to prevent duplication of research and prevent private sponsors from suppressing studies that do not turn out as well as they hoped – for example, by showing that a chemical could have an adverse effect on public health or the environment. Comparable disclosure requirement should be applied to studies conducted on the environmental effects of common chemicals or pesticides.

Through August 29, Wagner and Steinzor are blogging clean science issues with fellow CPR Member Scholars David Adelman (University of Arizona College of Law), John Applegate (Indiana University School of Law), Holly Doremus (University of California, Davis and Berkeley). Visit www.cprblog.org or www.progressivereform.org to follow the conversation or ask questions. *Saving Science from Politics* is available at http://www.progressivereform.org/articles/SavingScience805.pdf. More information about the Wagner/McGarity book, *Bending Science*, is available on CPR's website at http://www.progressivereform.org/BendingScienceBook.cfm.

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The Center for Progressive Reform is a nonprofit research and educational organization whose network of scholars across the nation is dedicated to protecting health, safety, and the environment through analysis and commentary. For more information, contact Matthew Freeman at 301-762-8980 or at mfreeman@progressivereform.org. Visit CPR on the web at www.progressivereform.org.