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OPINION

Climate Change Chicanery And The Federal Agency-Academic Complex

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Confident that it can, once again, breach the constitutional separation of powers and bypass Congress, this time, by recasting a complex multilateral environmental treaty as a simple executive agreement not requiring Senate approval, the Obama administration touted its climate change bona fides to the world this past week at the United Nations Climate Summit in New York.

The President crowed about how the U.S. has significantly reduced its carbon emissions since 2006, and alluded to Environmental Protection Agency ("EPA") automobile and power plant greenhouse gas ("GHG") emissions control regulations triggered by EPA's controversial 2009 Clean Air Act GHG Endangerment Findings.

Apparently, the president had been misinformed about the legal soundness of those findings and the regulations they have spawned. Indeed, White House officials should have told him that many of the climate assessments cited as scientific support for such findings did not satisfy the strict scientific peer review standards imposed by the U.S. Information Quality Act ("IQA").

Undoubtedly, the National Oceanic and Atmospheric Administration ("NOAA"), the U.S. government's lead climate change agency, like EPA, would prefer to bypass the IQA if possible. The IQA requires all federal agencies to ensure the quality, objectivity, utility and integrity of the scientific information that federal agencies rely upon as the basis for regulations.

As the Daily Caller and other media have reported, the nonprofit Institute for Trade, Standards and Sustainable Development ("ITSSD") has called upon EPA

and [NOAA](#), in new separately filed Freedom of Information Act (“FOIA”) requests, to produce records substantiating that the peer reviews performed of NOAA and other agency-developed climate assessments supporting EPA’s GHG Endangerment Findings had satisfied the IQA’s strict peer review standards. Neither agency has responded substantively to these requests, despite the EPA’s assessment of an estimated document search fee of [more than USD \\$27,000](#).

As [InsideEPA](#) recently reported, ITSSD’s new NOAA FOIA Request shows that the peer reviews of each of ten NOAA-developed assessments supporting EPA’s Findings had failed to meet the IQA’s standards. These peer reviews had been performed by NOAA, the interagency U.S. Global Change Research Program/Climate Change Science Program (“USGCRP/CCSP”), which is overseen by the White House Office of Science and Technology Policy, and the National Research Council of the National Academy of Sciences (“NRC/NAS”).

NOAA had classified nine of these ten assessments as “highly influential scientific assessments,” (“HISAs”) since they relied upon novel and controversial Intergovernmental Panel on Climate Change (“IPCC”) assessments, concerned [unsettled science involving compound uncertainties](#) (limiting the usefulness of computer models developed to define them), and engendered an estimated multi-billion dollar impact on national, state and local economies. This classification subjected these assessments to the IQA’s most rigorous and least discretionary subject matter objectivity/bias, intellectual independence and conflicts-of-interest standards.

NOAA had failed to satisfy these standards primarily because the peer reviews of these assessments suffered from pervasive institutional conflicts of interest and lack of intellectual independence. ITSSD’s new FOIA clearly shows that they had been unduly influenced by the deep interconnections existing between NOAA, the USGCRP/CCSP, NOAA grant-funded universities and nonprofit institutes, the NRC/NAS, and each entity’s respective scientists.

ITSSD’s FOIA identifies the names and affiliations of numerous scientists who had served as members of NRC/NAS peer review panels, panel report review committees, and/or oversight boards and committees, while they had been affiliated with universities and nonprofit institutes with other scientists serving as author-contributors to the very assessments being peer reviewed. In addition, scientists from the same federal agencies (e.g., NOAA, NASA, NCAR-NSF) had served simultaneously as author-contributors to assessments then being peer reviewed and/or as members of the NOAA, USGCRP/CCSP and/or NRC/NAS peer review panels, committees and/or oversight boards reviewing them.

This FOIA also identifies many nongovernment scientist-authors and peer reviewers who had been affiliated with universities and nonprofit institutes then participating in NOAA grant-funded climate science research-related programs, the development of which NOAA had solicited via broad agency announcements

of funding opportunity (“BAA”s). The NOAA BAAs explicitly directed universities and nonprofit institutes to perform specific types of climate science and other related environmental research to support agency and administration climate policy priorities in exchange for NOAA’s funding of these programs. These programs were not the result of scientist-initiated applications to secure government grant monies for individual research efforts. The FOIA shows, for example, that NOAA awarded more than \$750 million of congressionally appropriated funds to universities and nonprofit institutes participating in only one (NOAA’s Cooperative Institute Program) of nine identified NOAA grant-funded climate science research-related programs!

ITSSD’s FOIA, furthermore, shows that each of the parties concerned had been handsomely remunerated by these arrangements. Policy-conforming universities and nonprofit institutes received significant sums from NOAA to establish, maintain or reestablish climate change science-related Cooperative Institutes governed by five-year agreements subject to renewal. Staffed by university and overseen by government scientists, these programs attracted the participation of additional universities, institutes and scientists that together helped to promote and advance NOAA as well as administration domestic and international climate change policies. The research findings generated by the scientists affiliated with such programs often later appeared in the form of peer-reviewed scientific journal publications which NOAA incorporated expressly or by reference into the climate assessments it had been developing. The EPA then used these NOAA-developed assessments as the scientific foundation, in part, of its GHG Endangerment Findings. The EPA has continued to reference these assessments as the scientific basis for each of the GHG emissions regulations it has since enacted and proposed.

The NRC/NAS, too, was enriched by such arrangements. It derived lucrative contracts from NOAA and other federal agencies to peer review the NOAA-developed climate assessments and to develop new complementary climate assessments for agency and administration use. For example, the National Academy of Sciences’ audited financial statements for FYEs [2008](#), [2010](#) and [2012](#) reveal that it had earned \$202.8 million, \$242.7 million and \$251.6 million in government contract revenues, respectively.

These assessments significantly helped NOAA and successive administrations to advance their climate policies and agendas and to satisfy their reporting obligations under the [U.S. Global Change Research Act of 1990](#). Moreover, they provided Obama’s former EPA administrator with sufficient data upon which to base a public welfare endangerment analysis and final findings in response to the 2007 U.S. Supreme Court decision in [Massachusetts v. EPA](#).

Lastly, the peer reviews performed of NOAA’s assessments violated the IQA’s most rigorous objectivity standards. ITSSD’s FOIA identifies the names and affiliations of more than two hundred scientists employed by NOAA and other

U.S. federal agencies and by universities and nonprofit institutes then participating in NOAA-grant funded programs that had made author-contributions to or had reviewed the Working Group I and/or II portions for each of the IPCC Third and Fourth Assessment Reports. This occurred during the Clinton and Bush administrations. As ITSSD documented in public comments it filed with EPA this past August, which the Daily Caller reported, the Obama administration continued this practice for the IPCC's Fifth Assessment Report. That successive administrations had invested substantial resources to develop and shape IPCC climate science belies the notion that the resulting U.S. government/international 'consensus' was unbiased, and that public stakeholders possessing climate science evidence contrary to that 'consensus' could ever have received a fair and objective legal hearing.

In sum, the multiple NOAA and EPA violations of the IQA's strict peer review standards occurred largely during the Bush administrations and mostly for reasons of expediency. The Obama administration, however, has since engaged in a grand cover-up of these IQA compliance failures, contradicting its public claims of unprecedented government transparency and accountability, to ensure the success of its progressive domestic and international climate agenda. For the time being, it has 'changed' the rules and procedures of science, including peer review, and effectively exploited for political ends a previously unknown federal agency-academic complex that has quietly emerged from behind a curtain of secretly funded federal programs.

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