

CONGRESSIONAL TESTIMONY

Free Speech Under Attack (Part III): The Legal Assault on Environmental Activists and the First Amendment

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My name is Daren Bakst. I am the Senior Research Fellow, Environmental Policy and Regulation at The Heritage Foundation. The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

I want to thank the Members of the House of Representatives Committee on Oversight and Reform, Subcommittee on Civil Rights and Civil Liberties for this opportunity to discuss governmental efforts to chill speech and limit public participation on climate, energy, and environmental issues.

Chilling of Speech on Climate, Energy, and Environmental Issues

Open discourse should be the norm in this nation. Yet, when it comes to energy and environmental issues, the chilling of speech is too often the reality.

People who dare to challenge any aspect of the climate narrative, including certain policy choices, are labeled “climate deniers.” This is a disgusting, insulting, and intentional analogy to those who deny the Holocaust, used as a means to try and silence any form of disagreement.

Instead of substantive and thoughtful discussion, there are regular ad hominem attacks and other attacks on the messenger instead of the message. While resorting to such low tactics is a good indication that the attacker has no substantive arguments, this does not mean these tactics are not regularly employed.

Unfortunately, these personal attacks pale in comparison to other means to chill speech. There are calls to put people in jail for their views on the climate. James Hansen, one of the most well-known climate activists, argued that CEOs of fossil fuel companies should be tried for high crimes against

humanity and nature.¹ An Environmental Protection Agency (EPA) attorney (in his personal capacity) wrote about potential criminal actions that can be taken against “perpetrators” of alleged climate deceit.² An article is currently being prominently featured on UNESCO’s web site arguing that it is time to prosecute climate deniers.³

Federal legislators have urged the Department of Justice to prosecute “climate skeptics,” including under the Racketeer Influenced and Corrupt Organizations Act (RICO).⁴ Certain states are getting creative to try and prosecute conventional fuel companies.⁵

This chilling list keeps getting worse. There are recent reports of Biden administration officials pressuring social media companies to restrict speech, such as speech connected to climate policy⁶ and COVID-19.⁷ The government appears to be trying to do an end-run around the First Amendment by using others to block speech it could not otherwise directly censor on its own.

This is being done, apparently, to go after concerns about misinformation. But misinformation is often just a label for speech that one does not like, including subjective speech that is neither right nor wrong. These actions are inexcusable. And, even if the government wanted to take some heavy-handed approach, it does not require censorship, but additional speech. As Justice Louis D. Brandeis famously wrote in his concurrence in *Whitney v. California*:

If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence.⁸

¹ James Hansen, “Twenty years later: tipping points near on global warming,” *The Guardian*, June 23, 2008, <https://www.theguardian.com/environment/2008/jun/23/climatechange.carbonemissions> (accessed September 13, 2022) and See also James Hansen, “Global Warming Twenty Years Later: Tipping Points Near,” http://www.columbia.edu/~jeh1/2008/TwentyYearsLater_20080623.pdf (accessed September 13, 2022).

² William C. Tucker, “Deceitful Tongues: Is Climate Change Denial a Crime?” *Ecology Law Quarterly*, Vol. 39 No. 3 pp. 831-894, <https://www.jstor.org/stable/24113621> (accessed September 13, 2022).

³ Catriona McKinnon “Climate Crimes must be Brought to Justice,” UNESCO, 2019, <https://en.unesco.org/courier/2019-3/climate-crimes-must-be-brought-justice> (accessed September 13, 2022).

⁴ David B. Rivkin Jr. and Andrew M. Grossman, “Punishing Climate Change Skeptics,” *Wall Street Journal*, March 23, 2016, <https://www.wsj.com/articles/punishing-climate-change-skeptics-1458772173> (accessed September 13, 2022).

⁵ Jennifer Peltz, “Exxon Mobil Wins Lawsuit Over Climate Change Risks,” *PBS*, December 10, 2019, <https://www.pbs.org/newshour/nation/exxon-mobil-wins-lawsuit-over-climate-change-risks> (accessed September 13, 2022) and “Exxon Accused of Misleading Investors on Climate Change,” *BBC*, October 22, 2019, <https://www.bbc.com/news/business-50132400> (accessed September 13, 2022) and Jonathan Stempel and Nate Raymond, “Exxon Mobil Loses Appeal to Stop Climate Change Probes,” *Reuters*, March 15, 2022, <https://www.reuters.com/business/energy/exxon-mobil-loses-appeal-over-climate-change-probes-2022-03-15/> (accessed September 13, 2022).

⁶ James Comer and Yvette Herrell, Ranking Member of Committee on Oversight and Reform and Ranking Member of the Subcommittee on Environment, letter to Gina McCarthy, White House National Climate Advisor, August 2, 2022, <https://republicans-oversight.house.gov/wp-content/uploads/2022/08/Gina-McCarthy-Misinfo-Letter-08022022.pdf> (accessed September 13, 2022).

⁷ Jacob Sullum, “These Emails Show How the Biden Administration's Crusade Against 'Misinformation' Imposes Censorship by Proxy,” *Reason*, September 1, 2022, <https://reason.com/2022/09/01/these-emails-show-how-the-biden-administrations-crusade-against-misinformation-imposes-censorship-by-proxy/> (accessed September 13, 2022) and Bethany Blankley, “AGs sue Biden administration over claims it colluded with social media giants to censor speech,” *The Center Square*, May 6, 2022, https://www.thecentersquare.com/national/ags-sue-biden-administration-over-claims-it-colluded-with-social-media-giants-to-censor-speech/article_59db14ec-cd72-11ec-8f27-736909a8c7f4.html (accessed September 13, 2022).

⁸ *Whitney v. People of the State of California*, 274 U.S. 357 (1927) https://www.law.cornell.edu/supremecourt/text/274/357#writing-USSC_CR_0274_0357_ZC (accessed September 13, 2022).

It is incredible that in the United States where freedom of speech is held so sacred that defending such a basic right is even necessary. But unfortunately, that is exactly where we find ourselves, especially when it comes to energy and environmental issues.

Plus, if there were any effort to correct “misinformation,” it should certainly not come from government trying to dictate what citizens can say and not say. It should focus on how the government itself disseminates misinformation. Congress has long recognized that there are problems with government disseminated information, and even created the Information Quality Act (IQA) to empower Americans to ensure that the government does not distribute inaccurate information or make major policy decisions based on flawed science and data.

These current dangerous and “Orwellian” calls to correct misinformation on citizens are hypocritical at best as the Biden administration pushes a narrative that gas prices are the “Putin tax,” even though retail prices⁹ for regular gasoline already had risen¹⁰ by 48 percent from the week ending Jan. 25, 2021 (when President Joe Biden took office), to the week ending Feb. 21, 2022 (three days before Russia’s invasion of Ukraine).

When it comes to academic research and science, which if inaccurate can lead to the government misinformation, it should come as no surprise that there are serious concerns. These problems with academic research and science exist across disciplines,¹¹ which makes claims of misinformation even more egregious since the claims of “misinformation” themselves can often be based on

2022) and see also *Linmark Associates, Inc., v. Township of Willingboro*, 431 U.S. 85 (1977), <https://www.law.cornell.edu/supremecourt/text/431/85> (accessed September 13, 2022).

⁹ Katie Tubb, “What’s Driving Up Gas Prices – and Why the White House Won’t Help,” *The Daily Signal*, (March 14, 2022), <https://www.dailysignal.com/2022/03/14/whats-driving-up-gas-prices-and-why-the-white-house-wont-help/> (accessed September 13, 2022).

¹⁰ U.S. Energy Information Administration, “Weekly U.S. Regular All Formulations Retail Gasoline Prices (Dollars per Gallon),” dataset, https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=EMM_EPMR_PTE_NUS_DPG&f=W (accessed September 13, 2022).

¹¹ Richard Smith, former editor of the *British Medical Journal* wrote, “peer review is a flawed process, full of easily identified defects with little evidence that it works.” Stanford University professor John Ioannidis wrote a widely cited essay in which he argued, “It can be proven that most claimed research findings are false.” Richard Horton, editor of *The Lancet*, asserted that “much of the scientific literature, perhaps half, may simply be untrue.”

A 2016 *Nature* survey found that fifty-two percent of researchers surveyed agreed that there was a significant crisis of reproducibility, ninety percent of the respondents agreed that there was either a significant or slight crisis, and only three percent said there was no crisis. This same survey found that “[m]ore than 70% of researchers have tried and failed to reproduce another scientist’s experiments, and more than half have failed to reproduce their own experiments.” See Daren Bakst, *Strengthening the Information Quality Act to Improve Federally Disseminated Public Health Information*, 75 *FOOD & DRUG L.J.* 234 (2020) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3753181 (accessed September 13, 2022). See also “Shifting Sands: Report I,” Stanley Young, National Association of Scholars <https://www.nas.org/reports/shifting-sands-report-i> (accessed September 13, 2022) and Julia Belluz, Brad Plumer, and Brian Resnick, “The 7 biggest problems facing science, according to 270 scientists,” *Vox*, September 7, 2016 (updated), <https://www.vox.com/2016/7/14/12016710/science-challenges-research-funding-peer-review-process> (accessed September 13, 2022).

misinformation. Further, there are scientists who have a real fear,¹² often justified,¹³ for daring to challenge the conventional wisdom in climate, energy, and environment.

This does a disservice not only to the scientists but also to our country because the best science may never see the light of day. The goal should be to ensure that any scientific information being used, especially in making policy decisions, is in fact sound science. There should also be a recognition that scientific knowledge is not static but dynamic, and in need of constantly being challenged and reviewed.

Science also does not answer policy questions. Science can inform policy decisions by providing answers to objective questions, without making value judgements. Policy decisions though require value judgements and subjective decision-making. For example, science can inform policymakers about the likelihood that a pollutant may cause harm to humans, but it does not answer the inherent value question as to what is an acceptable level of risk.

Yet policy and opinion are too often presented as science, thus allowing its proponents to try and chill speech by claiming that opponents of the policy are simply anti-science. This certainly happens when it comes to climate science, but it is not limited to climate issues. For example, this conflating of science and policy has led to government science advisory boards veering off mission into legal issues surrounding the Clean Water Act¹⁴ and trying to use environmental objectives to alter the federal Dietary Guidelines.¹⁵

Susan Dudley, who is Director of the GW Regulatory Studies Center, explained these concerns in 2017 Congressional testimony:

It is this tendency to “camouflag[e] controversial policy decisions as science” that Wendy Wagner called a “science charade” and it can be particularly pernicious. For instance, a 2009 Bipartisan Policy Center (BPC) 2009 report, *Improving the Use of Science in Regulatory Policy*, concluded that “a tendency to frame regulatory issues as debates solely about science, regardless of the actual subject in dispute, is at the root of the stalemate and acrimony all too present in the regulatory system today.” Both of these problems, hidden policy judgments and the science charade, can be the result of officials falling prey to the “is-ought fallacy”: incorrectly mixing up positive information about what “is” with normative advice about what

¹² Press Release, “Climate Skeptics Reveal ‘Horror Stories’ of Scientific Suppression,” U.S. Senate Committee on Environment & Public Works, March 6, 2008, <https://www.epw.senate.gov/public/index.cfm/press-releases-all?ID=865DBE39-802A-23AD-4949-EE9098538277> (accessed September 13, 2022).

¹³ Willie Soon, “The Politicization and Weaponization of Science: Dark Times as Witnessed Through the Lens of Climate Science,” April 11, 2022, https://42259955-3e43-448d-b24b-f1ffb9d4e3c7.usrfiles.com/ugd/422599_ffb37f347fe94074a091119616f12720.pdf (accessed September 13, 2022) and David French, Senior Counsel for American Center for Law & Justice, letter to Mark G. Yudof, President of University of California, May 21, 2012, <http://scientificintegrityinstitute.org/french052112.pdf> (accessed September 13, 2022).

¹⁴ See e.g. Daren Bakst, “On “Waters of U.S.” Rule, EPA’s Science Advisory Board Conflates Policy Preferences for Science,” Heritage Foundation *Commentary*, January 31, 2020, <https://www.heritage.org/environment/commentary/waters-us-rule-epas-science-advisory-board-conflates-policy-preferences> (accessed September 13, 2022).

¹⁵ See e.g. Daren Bakst, “Extreme Environmental Agenda Hijacks Dietary Guidelines: Comment to the Advisory Committee,” Heritage Foundation *Commentary*, <https://www.heritage.org/public-health/commentary/extreme-environmental-agenda-hijacks-dietary-guidelines-comment-the> (accessed September 13, 2022).

“ought to be.”¹⁶ [Citations omitted].

This conflating of science and policy is just one major problem that needs to be addressed within and outside the regulatory process. Concern over how the government limits speech, including public participation, in the regulatory process should be made a top priority for policymakers.

Three Examples of Government Limiting Opinion and Public Participation in Rulemaking

To formulate sound energy and environmental policy, policymakers need the best available science and data. There is also a need for meaningful public participation, especially within the rulemaking context, where unelected and unaccountable agency officials are making some of the most important policy decisions affecting Americans. This participation not only serves as a check on agencies but also provides agencies much-needed insight and expertise. Unfortunately, there are many recent examples where the government is ignoring difference perspectives and the voice of the American people, including:

1) EPA Dismissal of the Entire CASAC and SAB. In April 2021, EPA Administrator Michael Regan dismissed all of the advisers from two legally required panels, the Clean Air Scientific Advisory Committee (CASAC) and the EPA's Science Advisory Board (SAB).¹⁷

This shocking move, at a minimum, gives the impression that the Administrator wants to hear only from those who will support the Biden administration's agenda. It suggests decisions, such as those regarding particulate matter and ground level ozone, are already foregone conclusions.

John Graham, who had led the EPA's disbanded Science Advisory Board, stated after this purge: “Now for the first time in the agency's 50-year history, we have an administrator interested in scientific advice only from those scientists he has personally appointed.”¹⁸

2) Fight Over EPA Transparency. Who could possibly oppose ensuring that the American people can properly assess and evaluate how the EPA makes the most important policy decisions affecting our lives? Well, environmental pressure groups did.

The Trump administration's EPA finalized a transparency rule at the start of 2021.¹⁹ The rule would have helped to improve access to underlying data and models for key studies so that the science used in promulgating regulations could properly be evaluated by the public.

¹⁶ U.S. Senate. *Hearing on Agency Use of Science in the Rulemaking Process: Proposals for Improving Transparency and Accountability*. Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Regulatory Affairs, March 9, 2017. 115th Cong. 1st sess. (statement of Susan E. Dudley, Director, GW Regulatory Studies Center) <https://www.hsgac.senate.gov/imo/media/doc/DUDLEY%20TESTIMONY.pdf> (accessed September 13, 2022).

¹⁷ Daren Bakst, “Congress Needs to Undo EPA's ‘Science Massacre,’” *Heritage Foundation Commentary*, May 20, 2021, <https://www.heritage.org/agriculture/commentary/congress-needs-undo-epas-science-massacre> (accessed September 13, 2022).

¹⁸ Lisa Friedman, “The E.P.A. Administration Purges its Scientific Advisory Boards, Which Included Many Trump Appointees.” *The New York Times*, <https://www.nytimes.com/2021/03/31/us/epa-advisory-boards-trump.html> (accessed September 13, 2022).

¹⁹ “Strengthening Transparency in Pivotal Science Underlying Significant Regulatory Actions and Influential Scientific Information,” Final Rule, Environmental Protection Agency, 86 *Fed. Reg.* 469 (2021), <https://www.federalregister.gov/documents/2021/01/06/2020-29179/strengthening-transparency-in-pivotal-science-underlying-significant-regulatory-actions-and> (accessed September 13, 2022).

Just because someone writes a report drawing “scientific” conclusions does not mean the report is adequate, especially if there is no support for the conclusions. By promoting transparency, the public, including outside experts, can provide a check on agencies so that officials are not simply cherry-picking the studies that yield the desired outcome.

Unfortunately, the Biden administration did not defend this critical rule in court,²⁰ which is not surprising given the environmental movement’s antagonism towards expecting that science be properly substantiated as reflected in its opposition to the rule.

3) Bringing Back Sue and Settle. The “sue and settle” tactic gets around the protections afforded to citizens by Congress through the Administrative Procedure Act. In general, environmental groups will sue an environmental agency, like the EPA, to require them to issue a specific rule. While these are sometimes called deadline suits, this is misleading because there are times when the consent decrees or settlement agreements directing agency action involve substantive requirements that the agency is expected to include in a proposed rulemaking. These agreements are usually made behind closed doors without public input and often without intervenors.

Even for true deadline suits, the agency may agree to timelines that are unrealistic and potentially avoid procedural requirements that otherwise would have been applied. Further, agreeing to these lawsuits in effect allows environmental groups to dictate the priorities and agenda of the agency.

The Endangered Species Act provides just one example of the problems with sue and settle. Many species are listed as a result of lawsuits by advocacy groups that are settled behind closed doors.²¹ The case of the Hine’s emerald dragonfly helps to illustrate the problems. As explained by the U.S. Chamber of Commerce:

In 2008, environmental advocacy groups sued FWS to protest the exclusion of 13,000 acres of national forest land in Michigan and Missouri from the final “critical habitat” designation for the endangered Hine’s emerald dragonfly under the Endangered Species Act. Initially, FWS disputed the case; however, while the case was pending, the new administration [Obama Administration] took office, changed its mind, and settled with the plaintiffs on February 12, 2009. FWS doubled the size of the critical habitat area from 13,000 acres to more than 26,000 acres, as sought by the advocacy groups. Thus, FWS effectively removed a large amount of land from development without affected parties having any voice in the process. Even the federal government did not think FWS was clearly mandated to double the

²⁰ EPA web page entitled “Implementation of Vacatur - Strengthening Transparency in Pivotal Science Underlying Significant Regulatory Actions and Influential Scientific Information,” <https://www.epa.gov/osa/implementation-vacatur-strengthening-transparency-pivotal-science-underlying-significant> (accessed September 13, 2022).

²¹ See U.S. Government Accountability Office, “Environmental Litigation: Information on Endangered Species Act Deadline Suits,” GAO-17-304 (February 2017), <https://www.gao.gov/assets/690/683058.pdf> (accessed September 13, 2022); See also “Sue and Settle: Regulating Behind Closed Doors,” U.S. Chamber of Commerce (May 2013), <https://www.uschamber.com/sites/default/files/documents/files/SUEANDSETTLEREPORT-Final.pdf> (accessed September 13, 2022).

size of the critical habitat area, as evidenced by the previous administration's willingness to fight the lawsuit.²²

Through its actions in this closed process, the Fish and Wildlife Service might have agreed upon a listing and a critical habitat area that was not even substantiated by the science.

While the Trump administration could have done even more to address the problems of sue and settle, at least the EPA drafted up a memo to prevent abuses and help to promote public participation.²³ The Biden administration revoked this memo.²⁴

Recommendations for Policymakers to Protect Free Speech and Public Participation on Climate, Energy, and Environmental Issues

Energy and environmental issues need to be properly debated, yet when many individuals and businesses deem engagement to be a risk not worth taking, this will mean policy decisions are being made without proper consideration, and merely are fulfilling the established political narrative. This prevents critical points from getting properly heard, from the importance of ensuring that affordable and reliable energy remains a top priority²⁵ to how limiting energy supplies, including conventional fuels, can drive up prices and have a disproportionate impact on low-income households.²⁶

To help protect free speech and promote public participation on climate, energy, and environmental issues, Congress should, among other things:

Stop government censoring. Congress needs to ensure that the federal government does not directly or indirectly censor Americans for their free speech (in general). This would require exploring appropriate action to prevent likely violations of the First Amendment, including preventing government officials from improperly pressuring third parties to censor speech. Further, Congress should hold numerous hearings to provide the necessary oversight over agencies and government officials.

Strengthen the Information Quality Act. Congress should focus any concerns regarding misinformation where it belongs: misinformation disseminated by the government. The IQA, enacted in 2000, makes it possible for the public to serve as a check on government dissemination of

²² "Sue and Settle: Regulating Behind Closed Doors," U.S. Chamber of Commerce (May 2013), <https://www.uschamber.com/sites/default/files/documents/files/SUEANDSETTLEREPORT-Final.pdf> (accessed September 13, 2022) at pp. 21-22.

²³ EPA web page entitled "Directive Promoting Transparency and Public Participation in Consent Decrees and Settlement Agreements, October 16, 2017," <https://archive.epa.gov/epa/newsroom/directive-promoting-transparency-and-public-participation-consent-decrees-and-settlement.html> (accessed September 13, 2022).

²⁴ House Committee on Oversight and Reform Minority letter to Michael S. Regan, EPA Administrator, July 28, 2022, <https://republicans-oversight.house.gov/wp-content/uploads/2022/07/EPA-sue-and-settle-letter-072822-final.pdf> (accessed September 13, 2022).

²⁵ Kevin Dayaratna, David Kreuzer, and Katie Tubb, "Trading an Energy-Scarcity Agenda for Energy Abundance Pays Dividends," Heritage Foundation *Backgrounder* No. 3717, July 29, 2022, <https://www.heritage.org/energy-economics/report/trading-energy-scarcity-agenda-energy-abundance-pays-dividends> (accessed September 13, 2022).

²⁶ Daren Bakst and Patrick Tyrrell, "Big Government Policies that Hurt the Poor and How to Address Them," Heritage Foundation Commentary, Heritage Foundation *Special Report* No. 176, April 5, 2017, <https://www.heritage.org/poverty-and-inequality/report/big-government-policies-hurt-the-poor-and-how-address-them> (accessed September 13, 2022).

information and the soundness of agency science.²⁷ The text of the IQA requires federal agencies to “issue guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by the agency.”²⁸

The IQA can help to ensure the accuracy of the information disseminated and promote transparency of the science used by agencies. The potential of the IQA to ensure scientific integrity has been undermined though by insufficient agency accountability and judicial decisions holding the IQA does not authorize judicial review.²⁹

There needs to be teeth put into IQA enforcement. This would involve requirements that agencies will respond thoughtfully and in a timely manner to public requests under the IQA. There would also be judicial review to ensure, in part, that agency science meets the established IQA guidelines, especially when informing policy decisions.

Restore the CASAC and SAB. Congress should restore the previous make-up of these legally required EPA scientific boards and hold extensive oversight hearings on the actions taken by the EPA. There should also be a thorough review of scientific advisory boards in general, including their effectiveness, how to keep them focused on their missions, and how/if they can be independent.

Promote transparency of the science. The EPA and other agencies should ensure that sufficient information is available for the public and outside experts to independently evaluate the underlying science used to inform regulations.

Require the challenging of conventional wisdom. Agency science can reflect junk science from the very beginning. Processes whereby this science becomes unchallengeable conventional wisdom does the country a disservice. Therefore, there should be regular and ongoing independent reviews of the foundational studies informing an agency’s understanding of major issues. Red team-blue team concepts where major assertions are challenged should be a norm.

Prohibit sue and settle. There should be clear prohibitions on agencies committing to anything substantive. The subject of any consent decree or settlement agreement should be limited to, at most, mandatory, non-discretionary actions where no procedural requirements can be avoided. Public notice in the *Federal Register* with a reasonable comment period should be provided before agencies can enter into any agreements/decrees and it should be much easier for parties to intervene. Further, Congress should do a thorough review of environmental statutes to allow for agencies to have appropriate discretion on whether to undergo an alleged mandatory action and Congress should also identify actions that should no longer be mandatory.

Stop the conflating of science and policy. Congress should ensure that agencies only ask science advisory committees to answer science questions only. Agency staff should ensure that the charge to

²⁷ Fiscal Year 2001 Consolidated Appropriations Act § 515(a), PUB. L. NO. 106-554, 114 STAT. 2763A-153 to 2763A-154. The IQA was enacted as Section 515 of the Treasury and General Government Appropriation Act for FY 2001.

²⁸ Ibid.

²⁹ See e.g. William Kelly, Jr., “A Closer and More Current Look at the ‘Information Quality Act,’ Its Legislative History, Case Law, and Judicial Review Issues,” SSRN, March 30, 2018 (last revised April 3, 2018) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3122670 (accessed September 13, 2022) and Curtis Copeland and Michael Simpson, “The Information Quality Act: OMB’s Guidance and Initial Implementation,” Congressional Research Service (August 19, 2004), <https://fas.org/sgp/crs/RL32532.pdf> (accessed September 13, 2022).

such committees is on point and committee members do not veer off their mission, especially into policy. Legislators should not require agencies to answer questions on science alone when such questions are not purely scientific in nature. For example, the listing of threatened and endangered species should be based solely on the science, but since listings can trigger regulatory requirements, they involve non-science related concerns. To properly distinguish science and policy, the listing decision should be decoupled from any regulatory implications.

Conclusion

There is going to be disagreement on policy objectives, and even when there is agreement on the objectives, there will be disagreement on how to achieve the objectives. Disagreement does not call for attacking those we disagree with, but instead engaging in thoughtful and respectful discourse on the issues.

When it comes to climate, energy, and environment issues, this is frequently not how disagreement is being addressed. The government itself is taking actions that are counter to the basic principles of this country and the Constitution. There is no place for government censoring Americans' opinions or identifying ways to limit the participation of those who would serve as an impediment to achieving the government's desired policy objectives.

Congress should put an end to these actions and help to create an environment where people are not scared to speak on the issues, but are empowered to voice their concerns, *regardless of perspective*. This simple recommendation should not be controversial because it simply reflects the importance of free speech in the United States. Some views on issues may not align with our own, but that speech should be protected and not infringed upon. After all, that is the very nature and purpose of free speech.

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