

Comments on the Department of the Interior proposed “scientific integrity” policy
September 20, 2010

On August 31, 2010, the Department of the Interior (DOI) proposed an agency-wide scientific integrity policy. Unfortunately, while we are pleased to see an agency initiate and draft such a policy, the content of the proposed policy is little more than the smallest step in the right direction.

The proposed policy is not an agency-wide scientific integrity policy as it states, but rather a scientist misconduct policy. In March 2009, President Obama issued a memorandum outlining a plan for achieving scientific integrity across all federal agencies. The proposed policy addresses only a fraction of the solutions outlined in President Obama’s memorandum and effectively fails to ensure “the highest level of integrity in all aspects of the executive branch’s involvement with scientific and technological processes.”¹ Fortunately, the DOI does not have to start from scratch to address all of President Obama’s recommendations. The DOI can improve publication guidelines by adopting an exemplary publication policy recently implemented by the U.S. Fish and Wildlife Service, a bureau of the DOI.

The proposed policy does little to prevent the kinds of abuses of science recently revealed at the former Minerals Management Service or the manipulation of science that was so common at the DOI in the last administration. Research misconduct is just one of many challenges included in addressing scientific integrity and the full array of issues in the President’s memorandum need to be addressed. An effective scientific integrity policy also addresses potential abuse committed by individuals with positions far higher than those occupied by scientists, which is the focus of the proposed policy.

Furthermore, in April 2010 the DOI Office of Inspector General released an internal evaluation of the Department’s scientific integrity policy. This report highlights a lack of comprehensive scientific integrity policy at the agency, stating “without policies to ensure the integrity of its scientific research, Interior runs the risk that flawed information will reach the scientific community and general public, thereby breaching the public’s trust and damaging the Interior’s reputation.”² While the proposed policy does address misconduct among scientists, it is far from a robust and comprehensive scientific integrity policy.

In this document we provide three broad categories of recommendations that address items that would not only strengthen the proposed DOI code of conduct, but would prove an exemplary scientific integrity policy for the Department:

- A. **Protecting Government Scientists** – The proposed DOI policy does not protect government scientists who report political interference in their work. Reforms are needed to strengthen whistleblower protection and ensure that scientists who expose waste, fraud, or abuse may do so without fear of retaliation.

¹ Obama, B. Memorandum for the Heads of Executive Branch Departments and Agencies, Subject: Scientific Integrity. March 9, 2009. Online at http://www.whitehouse.gov/the_press_office/Memorandum-for-the-Heads-of-Executive-Departments-and-Agencies-3-9-09/.

² DOI, Office of Inspector General. Evaluation Report: Interior Lacks a Scientific Integrity Policy. April 2010. Online at <http://www.doioig.gov/images/stories/reports/pdf/ScientificIntegrityPolicy.pdf>.

- B. **Making Government More Transparent** – The proposed DOI policy does not outline clear guidelines for scientist communications with the media or open up federal science and decision making to scrutiny from Congress and the public. Transparency is an important and inexpensive means of revealing and ending political interference in science.
- C. **Scientific Information and Advice** – While the proposed DOI policy does outline scientist misconduct, it fails to address restoring regulatory integrity, the scientific advisory committee system and ethics rules governing federal decision makers.

A. Protecting Government Scientists

DOI scientists and researchers need certain rights and protections to fulfill their responsibility to the U.S. public. One frontline defense against political interference in science is to specifically affirm that scientists who report such abuses are protected from retaliation.

- A.1. **The DOI scientific integrity policy should protect whistle blowers who expose waste, fraud, and abuse.** Improved whistle-blower policy should:
 - Make clear that whistle-blower protections from retaliation apply to federal employees who report efforts to alter or suppress research or technical information
 - Give federal employees the same access to jury trials that Congress has given to millions of private sector workers
- A.2. **The DOI should issue a statement that encourages staff to speak out internally about concerns—especially those involving an abuse of science—and state that the agency values their input.**
- A.3. **The DOI should proactively educate government scientists and researchers regarding their rights and protections.**

B. Making Government More Transparent

The integrity of DOI science is threatened in no small part by decisions made behind closed doors. Opening up agency science and decision making to scrutiny from Congress and the public is an important and inexpensive means of exposing and ending political interference in science. The public needs greater access to DOI science through better disclosure of regulatory decision making, wider use of information technology, and the reform of agency communication policies to allow scientists and researchers to freely share their expertise.

The DOI should improve upon the proposed policy by implementing the following recommendations.

- B.1. **The DOI should adopt policies that ensure free and open communication between scientists and researchers, and the media, policy makers, and the public. These guidelines should incorporate the following principles:**
 - **Scientists and researchers may freely express their personal views.** Scientists and researchers, as any federal employees, have a right to express their personal views outside of a few narrow restrictions (such as releasing classified or proprietary

information). Provided that a scientist makes an explicit disclaimer that he or she is speaking as a private citizen and is not seeking to represent official DOI policy, he or she should be allowed to speak freely about his or her research and to offer his or her **scientific** opinions—even in situations where the research may be controversial or have implications for agency policy. DOI policies governing communication with the media should make this option clear and explicit to employees.

- **Scientists and researchers have the right to review, amend, and comment publicly on the final version of any document or publication that significantly relies on their research, identifies them as an author or contributor, or purports to represent their scientific opinion.** While editing by non-scientists is often necessary and useful, final review by scientific experts is essential to ensuring that accuracy has been maintained in the clearance process.
- **DOI employees have clearly defined responsibilities in working with the media.** Employees are responsible for the accuracy and integrity of their communications and should not represent the agency on issues of politics or policy without prior approval from the DOI's public affairs officer (PAO). Employees are also responsible for working with the PAO to make significant research developments accessible and comprehensible to the public.
- **DOI PAOs have clearly defined roles, such as responding promptly to media inquiries and providing journalists and agency staff with accurate information, but not acting as “gatekeepers” of information.** Scientists and researchers should not be required to obtain pre-approval from the PAO before responding to a media request about their research. However, requiring scientists and researchers to give the PAO prior notice of such interactions when possible, and to recap the interview afterward, is appropriate.
- **Employees who leave DOI service should not be required to sign nondisclosure agreements that restrict disclosure beyond classified or proprietary information.**
- **Public affairs staff should have a plan for disseminating the media policy to DOI scientists and researchers and should conduct trainings in effective media communication that emphasize scientific openness.** The official DOI media policy should be publicly available on the agency website.

B.2. The proposed DOI scientific integrity policy should present agency policies on the clearance of official and non-official publications, presentations, and other information. Information sharing is an essential component of the scientific process. While the broad direction of DOI research is dictated by agency missions and funding priorities, scientists and researchers should be free to conduct that research and publish findings without fear of retaliation.

B.2.1. For non-official materials, authors should have the option of bypassing any policy review and publishing the work with a disclaimer that it does not represent agency policy. A timely and transparent policy review is appropriate and recommended for official agency documents and reports.

B.2.2. The DOI should set reasonable time limits for review and clearance of scientific publications and presentations. The supervisor or other reviewing

official shall provide to the author written clearance on the condition of specified changes being made, not later than 30 days after submission. If this deadline is not met, the author may proceed to submit the article for publication or presentation with an appropriate disclaimer stating that the article does not represent agency views or policies.

B.2.3. Draft versions of official DOI documents or scientific reports should periodically be made available to the public. A draft version should be released if a document has been completed by DOI technical staff yet held up in the policy or interagency review process for longer than six months.

B.2.4. Scientific work done on an employee's personal time should not be required to be submitted to an internal review process, even if the employee identifies his or her employer, provided that the work includes an appropriate disclaimer.

B.3. The DOI should institute a transparency policy for meetings with outside entities. This policy should require that the DOI post on its website a complete record of all meetings with outside entities including for-profit and not-for-profit organizations, other agencies, and individuals (with the exception of meetings related to national security). Such a policy need not be burdensome, as participants could enter the required information directly into a database before the start of any meeting. The database should include the names and affiliations of meeting attendees as well as the date, time, location, and subject of the meeting.

B.4. When a rule moves from a DOI agency to the Office of Management and Budget or another agency, the scientific underpinnings of the regulatory decisions should be made public.

C. Scientific Information and Advice

The DOI cannot make fully informed decisions about our health, safety, and environment without access to the best available scientific information and advice. The DOI should restore regulatory integrity, improve the federal scientific advisory committee system, and improve conflict-of-interest policies for government employees.

C.1. The DOI policy should contain concrete steps to review tainted decisions and reverse policies that weaken scientific input. Regulatory changes and formal and informal guidance limiting the role of scientific advice should be identified, suspended, reviewed, and replaced. Where inappropriate misuse or manipulation of science has been identified, the decisions should be systematically reexamined and modified.

C.2. The DOI should strengthen their scientific advisory committee system. While the proposed policy does address the scientific review process it fails to improve upon the existing advisory committees system, a key component of science-based policy.

C.2.1. The process for selecting DOI advisory committee members should be made more transparent through the following reforms. The DOI should :

- Publicly announce their intent to form a new scientific advisory committee, or to select a new member for an existing committee.
- Publish criteria for selecting committee members and should solicit nominations for committee membership.
- Call for public comment on the charge to the committee.
- Make basic information on committee members easily available to the public. This information should describe each member's qualifications and background, and disclose past employers and funding sources.

C.2.2. The DOI should establish new standards of transparency and participation for all advisory committees. Such standards should include the following requirements:

- All advisory meetings should be open to the public, entirely or in part.
- When meetings or portions of meetings are closed, there should be a public record of the reason for excluding the public.
- Committees should actively encourage public input and should advertise upcoming meetings with adequate notice.
- Technology should be used, to the extent possible, to broadcast public meetings online for members of the public unable to attend in person.
- Materials from committee meetings should be posted online in a timely fashion, including agendas, minutes, transcripts, recordings, and other documents.

C.2.3. The DOI should provide clear guidelines for conflicts of interest on federal advisory committees. These guidelines should address the following issues:

- The DOI should specify which advisory committees are expressly scientific and which are designed to gather stakeholder input.
- The DOI should clarify their criteria for appointing advisory committee members as "special government employees" (SGEs) or "representatives," and ensure that the proper level of scrutiny of conflicts of interest occurs. (SGEs are subject to greater scrutiny than representatives, who are assumed to be stakeholders with special interests.)
- For committees whose mission is purely to provide objective scientific advice (as opposed to committees designed to gather input from stakeholders), committee members should be appointed as SGEs and should be entirely free of financial conflicts of interest.
- Scientists and researchers with conflicts of interest may provide their expertise to scientific advisory committees, but agencies should take steps to ensure that they do not have decision-making roles on those committees, and that their participation is limited to making presentations and responding to questions.
- Scientists who have taken public positions on issues should not be excluded from an advisory committee because of concerns about bias. Having a point of view does not preclude an objective assessment of the information

presented to a committee. A scientist's membership in a scientific association should not be considered evidence of bias, even if that association has a stated policy agenda.

C.2.4. The DOI should track the work of their scientific advisory committees and respond to their findings and recommendations.

- The DOI should clearly state what product they require of each advisory committee, and set a timeline and work plan for creating that product.
- The DOI should establish and enforce clear policies for how to incorporate committee findings and recommendations into agency decision making. Agencies should also publicly document any decision to overrule the recommendations of a scientific advisory committee, and provide a legitimate explanation of the decision.
- The DOI should review which scientific research and peer review work is being handled by outside contractors, with the goal of institutionalizing the input of independent advisory committees whenever feasible.

C.3. The DOI should improve conflict-of-interest policies for employees. While drafts have been issued for various bureaus, an agency-wide conflict of interest policy is necessary to consistent standards for agency employees

C.3.1. The DOI should establish clear conflict-of-interest guidelines for federal employees.

C.3.2. DOI employees involved in the writing or enforcement of regulations should disclose all conflicts of interest and any previous employment ties that might affect or be perceived as affecting their ability to do their job in an independent manner. These disclosures should be made in writing, publicly available, and required in all cases.

C.3.3. DOI employees with significant conflicts of interest may still contribute to a project, but agencies should bar them from holding decision-making authority or other positions where they can influence policy outcomes. Any conflict-of-interest waivers should stipulate the parameters of permitted participation.

C.3.5. DOI employees should be required to recuse themselves from decisions involving a former employer, whether or not they have current financial ties to that employer.

Sincerely,

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