Comments on the Environmental Protection Agency proposed scientific integrity policy
Union of Concerned Scientists
August 26, 2011

On August 6, 2011, the Environmental Protection Agency (EPA) released a first draft of a scientific integrity policy. While the draft policy establishes a foundation to promote and preserve a culture of integrity at the agency, it lacks critical protections and procedural details. It is essential that the EPA improve the policy to ensure that it can stand the test of time against administrations or individuals who are less well-intentioned or fail to embrace the EPA’s public service mission.

The EPA should be commended for establishing scientific integrity guidelines and making a draft policy available for public comment. The draft policy takes some steps towards protecting the right of scientists to communicate freely to the press and public. It also gives scientists the right to review agency scientific documents that rely or purport to rely on their work to ensure accuracy. The policy also effectively clarifies the difference between scientific products and policy products.

However, in its draft form, the policy does not completely protect scientists and scientific research from political interference. When revising the policy, EPA staff should be sure to address:

- Strengthening and clarifying whistleblower protections for those who report political interference in science;
- Adding specific timelines to research presenting and publishing procedures;
- Expanding conflict of interest definitions;
- Improving transparency by creating a plan to report who is meeting with top agency officials;
- Creating accountability by putting forth a plan for investigating and publicly reporting alleged and confirmed instances of lapses in scientific integrity;
- Going beyond the Federal Advisory Committee Act to strengthen disclosure of and reduce conflict of interests and better distinguish between different types of committees; and
- Insulating EPA science from manipulation during White House and interagency review.

The policy does not explicitly explain if these missing components are incorporated within established agency policies or will be included in forthcoming policies.

Finally, both the policy and the Principles of Scientific Integrity referred to in the policy should apply not only to employees but also to contractors. Furthermore, career employees, political appointees, and contractors who manage scientists should also be held to the same high scientific integrity standard.

The comments below provide more detail regarding areas where the policy succeeds and highlights four key areas where the policy should be strengthened. Attachment A is an annotated analysis of the policy, where green boxes indicate positive aspects of the policy, yellow boxes indicate areas that exhibit minor weaknesses or that need more elucidation and red boxes indicate areas of significant concern.
Essential draft policy components that should be retained

The EPA’s draft scientific integrity policy contains several components that should be retained. The policy is successful at promoting scientific integrity and clarifying the selection and use of federal advisory boards.

A. Preserving the rights of scientists and their research: The policy makes strong commitments to protecting the right of scientists to review agency scientific documents and speak freely to the press and public.

A.1. The policy protects the rights of scientists to speak freely to the media. Section IV.A.1 of the policy is strong. The right for scientists to speak to the public and the media is important to promoting a culture of scientific integrity at the agency. It is especially helpful that the policy provides clear language to use when speaking in one’s personal capacity to the media.

A.2. The policy grants scientists the right to review an Agency document prior to its release. The ability of a scientist to review the final version of an agency publication that incorporates research that he/she has conducted is important. This limits the ability of supervisors and political appointees to manipulate or distort scientific research.

B. Promoting scientific integrity within the agency: The policy emphasizes the importance of science in decision making at the agency and establishes principles of scientific integrity which its employees are expected to adhere to.

B.1. The policy establishes a culture of scientific integrity. The EPA’s Principles of Scientific Integrity states that EPA employees should practice honesty, respect and open communication. The policy stresses that scientists research should be of the highest integrity, they should avoid conflicts of interest and they should welcome differing views of scientific and technical matters. While the EPA’s Principles of Scientific Integrity are strong, there are some reservations about the policy detailed below.

B.2. The policy clarifies the role of scientific information in policymaking. The policy requires that decisions by EPA science managers of a scientific product should be based only on scientific considerations. In addition, it establishes the distinction between scientific process and the policy decisions made based on scientific research.

B.3. The policy commits to agency awareness of scientific integrity policies. The policies are only effective if they are fully embraced and utilized by the target audience. The EPA commits to providing training and to making policy available in one location on the internet. The agency should be sure to also upload procedures and supporting documents to the website.

C. Eliminating inappropriate influence on federal advisory committees (FACs). The policy establishes strong standards for the selection and use of federal advisory committees to ensure that political interests do not corrupt these committees. Section IV.C.1 is robust and is strengthened by the direct wording from the White House Office of Science and Technology Policy December 17, 2010 memorandum. While the policy could be modified to close additional loopholes in FACs, the policy succeeds by:
• Stressing that the selection of members should be based solely one’s “expertise, knowledge and contribution to the relevant subject area.”
• Committing to strong conflict of interest standards. Conflicts of Interest corrupt the ability of Federal Advisory Committees to do their job. The policy makes conflict of interest statements publicly available.
• Reminding agency officials that Advisory Committee reports and recommendations must not be subject to agency revision.

Key areas where the policy should be strengthened

There are four key areas where the policy can be strengthened:

A. Protecting government scientists
B. Making the agency more accountable and transparent
C. Minimizing conflicts of interest
D. Standardizing publication and research dissemination policies.

A. Protecting Government Scientists: The policy lacks essential protections for EPA scientists, including whistleblowing rights and freedom of speech, and does not place adequate responsibility on supervisors to uphold the principles of scientific integrity.

A.1. The policy must be expanded to apply to all EPA employees, including political appointees, supervisors and contractors. As it is currently written, the policy does not explicitly stipulate that contractors and those supervising scientists should abide by the principles of scientific integrity or that any deviation from those principles is in violation of agency misconduct policy. The policy should:

• Clearly state those supervising scientists must adhere to the policy. While it is important that scientists be held to a high standard of scientific integrity, it is just as important that supervisors and political appointees are held to the same level. The policy places no burden on supervisors or political appointees to uphold scientific integrity. It is especially important given that political appointees and supervisors are in positions to directly influence not only policy decisions, but the work-plans of scientists.

• Expand the definition of scientific misconduct. While fabrication and falsification of research are examples of misconduct, the policy must make it clear that scientific misconduct also includes coercion or intimidation of scientists, censoring or suppressing analysis, unduly delaying the release of scientific findings, or inappropriately influencing scientific advisory panels. In addition, this section needs an explicit reference to the misrepresentation, exaggeration or downplaying of scientific uncertainty.

A.2. The policy should better protect whistleblowers who report waste, fraud and abuse. Whistleblowers are in particularly vulnerable positions and protections must be robust to prevent intimidation or retaliation from other scientists or supervisors. The policy should:
• Clearly state that the rights and protections of whistleblowers and the ramifications for violating those rights. The order should include the following text: “It shall violate agency policy for any individual with authority to recommend or take a personnel action to censor or discriminate in any way because an employee or applicant discloses, is about to disclose, or is associated with the disclosure of research or other information that the employee or applicant reasonably believes is evidence of illegality, gross waste, gross mismanagement, abuse of authority or a substantial and specific danger to public health or safety, unless the information’s public release is specifically prohibited by statute or specifically designated pursuant under Executive Order to be kept classified in the interest of national defense or the conduct of foreign affairs. There shall be no exceptions to this right, including but not limited to motives for the disclosure; the disclosure being part of job duties; the disclosure having been made previously; whether the disclosure was oral or in writing, whether the disclosure is categorized as Controlled Unclassified Information or Critical, Infrastructure Information; or the amount of time that has passed since events in the disclosure. If disclosure is specifically prohibited by Executive Order or the information is classified, the same rights against censorship and discrimination apply to disclosing the information to the agency head or delegate, the Office of Inspector General, or the U.S. Office of Special Counsel.

• Commit to removing roadblocks that may be intentionally set up to impede access to science in policymaking. Roadblocks can be set up by limiting scientists ability to conduct research and develop reports; assigning scientists unnecessary bureaucratic duties; ignoring or suppressing science in the policymaking process when it is deemed to be inconvenient or in conflict with a political agenda or; retaliating against scientists by reassigning them to new projects or taking away duties.

A.3. The policy should not infringe on freedom of speech rights, violate the Anti-Gag Statute, or inhibit communication with Congress. The draft policy does not adequately preserve the freedom of speech for EPA employees. The policy should:

• Increase its support for the right of scientists to freely speak to the media and the public. While this section of the policy is strong, it could adopt the following text: “Scientists and other staff have the fundamental right to express their personal views, provided they specify that they are not speaking on behalf of, or as a representative of, the agency but rather in their private capacity. So long as this disclaimer is made, the employee is permitted to mention his or her institutional affiliation and position if it has helped inform his or her views on the matter. The employee is also allowed to make reasonable use of agency time and resources for the purposes of expressing their personal views. Furthermore, final authority over the content of and parties to any particular media communication resides with the reporter and the scientists with whom he or she communicates.”

• Ensure that agency officials do not interfere with scientists contact with the media. The section is strong but some wording could be interpreted to require public affairs officials to monitor or sit-in on scientists’ interactions with the media. Public affairs should provide assistance in responding to media requests only if it is requested by the
employee. Otherwise, employees may feel intimidated from corresponding with the media. The policy should state that the EPA will never prevent or attempt to discourage an employee from speaking to the media.

- **Comply with Lloyd LaFollette Act (5 U.S.C. 7211) and the Anti-Gag Statute.** The policy should be modified so that they cannot be interpreted to violate the Anti-Gag Statute nor the Lloyd LaFollette Act (5 U.S.C. 7211), which states that "the right of employees... to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied." Furthermore, the EPA should encourage the White House Office of Management and Budget to release guidance on review of congressional testimony as requested in the White House Office of Science and Technology Policy December 17, 2010 memorandum.

**A.4. The policy should establish procedures for expressing and monitoring differing opinions.** It is expected that professional differences of opinion over scientific or technical matters will arise. EPA encourages scientists to resolve these concerns but should establish a procedure through which dissenting opinions can be submitted. EPA should consider adopting a version of the Nuclear Regulatory Commission’s “Differing Professional Opinions Program” (Directive 10.159).

**B. Making the Agency More Accountable and Transparent:** Allowing public access to information about agency proceedings is an important to making the agency accountable and preventing inappropriate political interference. While the EPA commits to operating in a “fishbowl,” the policy could better outline specific procedures to strengthen public accountability of the agency.

- **B.1. The agency should release scientific misconduct procedures.** While the EPA has released procedures for addressing research misconduct, the “Scientific Misconduct in the Conduct and Discipline Manual” and other documents such as the Scientific Integrity Committee Charter and the Flow Chart for Allegations of Misconduct have not been made publicly available. Until these are released, it is unclear how well this policy limits political interference and scientific misconduct. It is also important that these procedures address other forms of misconduct including coercion of scientists and suppression or manipulation of research.

- **B.2. The policy should require regular public reporting of allegations of political interference in science.** The EPA should disclose both the aggregate number of misconduct allegations and the specifics of cases where misconduct is confirmed. Otherwise, it is convenient for agency officials to cover-up allegations or to make it difficult for outside stakeholders to conduct executive oversight. It is important that the policy requires reporting reasonable allegations of scientific misconduct while ensuring the rights and privacy of those covered by the policy and ensuring that allegations do not result in slander or libel.

- **B.3. Records of who is meeting with EPA officials should be made public.** It is important that the public can monitor what individuals and public interest groups have access to EPA policymakers. The EPA should follow the lead of the White House and release visitor log reports in a timely manner. The disclosure should apply to all political appointees, the Senior Executive Service and GS-14 and GS-15 level employees.
B.4. The policy should commit to making policymaking transparent. The policy makes important commitments in requiring “decisions about the content of a scientific product to be based only on scientific considerations.” However, it could be better strengthened by providing a procedure on how it will integrate this commitment into the agency. In addition, the policy should better define in what circumstances should “EPA policymakers involve science experts.” Without clear transparent policymaking guidelines, the door is open to political interference.

C. Minimizing conflicts of interest: While the policy makes commitments to ensuring that conflicts of interest are not present in research, policymaking and federal advisory committees, it fails to provide methods to determine whether a conflict of interest exists and does not allow for public accountability.

C.1. The policy should define what constitutes a conflict of interest. Conflicts of interest open the door for interference and misconduct whether intentional or unintentional. The policy should explicitly state who is covered under conflicts of interest and whether it applies to spouses or grown-children of an employee. It should also clarify what monetary value constitutes a conflict of interest and how far back reporting requirements should extend.

C.2. The EPA should require disclosure of which federal scientists serve on which non-profit boards. While scientists should be encouraged to participate in boards of scientific societies and non-profits, it is imperative that this is disclosed and made publicly available. Corporations and special interests can have large influences on these committees and it is important to make sure that these are not used to gain inappropriate access to federal scientists and policy-makers.

C.3. The EPA should expand standards for Federal Advisory Committees. The policy establishes strong standards for the Federal Advisory Committee commitments but it is important the policy close critical loopholes. The EPA should strive to make FACs conflict-free. In cases where this is unattainable, there should restrictions on the number of COI waivers and heightened transparency when a waiver is issued. In addition, it is critical to provide clear distinctions between scientific and stakeholder committees as this determines if members are appointed as special government employees or as representatives. EPA should also commit to operate subgroups or task forces formed by federal advisory panels under Federal Advisory Committee Act provisions.

D. Standardizing publication and research dissemination policies: Without clear policy for the dissemination of research, there is opportunity for political interference. The EPA should commit to ensuring timely and transparent procedures for the release of scientific information.

D.1. The policy should specify the manner in which data, records and research will be made public. This is very important commitment. To protect scientific integrity during the interagency review process, purely scientific documents and information should be made public at the same time that they are submitted to other agencies for review. It is essential that the opportunity is eliminated for individuals outside the EPA to censor or distort scientific information prior to its public release.
D.2. EPA should standardize a procedure for publishing scientific research. While the policy encourages publication, it could be strengthened by clarifying policies and timelines for the review and publication of research. Scientists often face confusion and unexplained delays when attempting to publish research. The EPA should integrate the United States Fish and Wildlife Service’s publications policy into their policy.
U.S. Environmental Protection Agency
Scientific Integrity Policy
Draft

I. Purpose

This policy provides a framework to enhance scientific integrity throughout EPA. The Agency has established, and will continue to promote, a culture of integrity and openness for all of its employees. This policy framework includes: the promotion of scientific ethical standards, including quality standards; communications with the public; the use of advisory committees and peer review; and professional development. It also describes the scope and role of a standing committee of Agency-wide scientific integrity officials to implement this policy.¹

II. Background

Science² is the backbone of EPA’s decision-making. The ability to pursue the Agency’s mission to protect human health and the environment depends upon the integrity of the science on which we rely. The environmental policies, decisions, guidance and regulations that impact the lives of all Americans every day are grounded, at a most fundamental level, in sound, high quality science. When dealing with science, it is the responsibility of every EPA employee to conduct, utilize, and communicate science with the highest degree of honesty, integrity, and transparency, both within and outside the Agency.

At EPA, promoting a culture of scientific integrity is central to our identity and the credibility of our work. The Agency remains committed to operating “in a fishbowl” and ensuring transparency in EPA’s interactions with all members of the public. These values were first expressed in then Administrator William Ruckelshaus’ “Fishbowl Memo” (19 May 1983).³ This memo established a culture of integrity and openness for all employees by promising EPA would operate “in a fishbowl” and “will attempt to communicate with everyone from the environmentalists to those we regulate, and we will do so as openly as possible.” To operate an effective science and regulatory agency like EPA, it is also essential that political or other officials not suppress or alter scientific findings.

¹ This policy is intended to improve the internal management and operation of the Agency and is not intended to, and does not, create any obligation, right or benefit on any member of the public. This policy is not intended to, and does not create any right or benefit, substantive or procedural, enforceable by law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees or agents, or any other person.

² In this document, “science” and “scientific” are expansive terms that refer to the full spectrum of the scientific process, including basic science, applied science, engineering, and technology.

³ http://www.epa.gov/history/topics/policy/fishbowl.htm#memo
The Scientific Integrity Policy builds upon existing Agency and government-wide policies and enhances EPA’s overall scientific integrity commitment. This commitment is evidenced by the Agency’s adherence to the 2002 Office of Management and Budget (OMB) Information Quality Guidelines, the 2005 OMB Information Quality Bulletin for Peer Review, EPA’s Quality Policy (CIO 2106) for assuring the collection and use of sound, scientific data and information, EPA’s Peer Review Handbook for internal and external review of scientific products, and EPA’s Information Quality Guidelines for maximizing the transparency, integrity and utility of information published on the Agency’s websites.

EPA has appointed a Scientific Integrity Official (SIO) to champion scientific integrity throughout the Agency. The SIO chairs a standing committee of Deputy Scientific Integrity Officials representing each EPA Program Office and Region. These senior-level employees provide oversight for the implementation of the scientific integrity policy at EPA, act as a liaison to their respective Programs and Regions, and are available to address any questions or concerns regarding this policy.

This policy does not supersede the Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R. § 2635), EPA Supplemental Standards of Ethical Conduct (5 C.F.R. § 6401), any of the criminal conflict of interest statutes (18 U.S.C. §§ 201-209), the Hatch Act (5 U.S.C. § 7321 – 7326) or its implementing regulations (5 C.F.R. § 734), or law enforcement actions and/or investigations and inspections for regulatory compliance. This policy is not meant to supersede, amend, or alter any other EPA or federal information or personnel policy.

III. To Whom the Policy Applies

As of the effective date, all EPA employees, including political appointees, are expected to follow this policy when engaging in, supervising, managing, or influencing scientific activities, communicating information about Agency scientific activities, or utilizing scientific information in making Agency policy, management, or regulatory decisions.

IV. Scientific Integrity Policy

EPA fosters a culture of scientific integrity through its Principles of Scientific Integrity (Appendix A). These Principles were developed with EPA’s National Partnership Council (NPC), a partnership of Agency labor unions and management. The Principles of Scientific Integrity sets forth the Agency’s commitment to conducting science objectively, presenting results fairly and accurately, and avoiding conflicts of interest.

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5 http://www.whitehouse.gov/sites/default/files/omb/assets/omb/memoranda/fy2005/m05-03.pdf
6 http://www.epa.gov/irmpoli8/policies/21060.pdf
7 http://www.epa.gov/peerreview/pdfs/peer_review_handbook_2006.pdf
Consistent with EPA’s *Principles of Scientific Integrity*, EPA’s Scientific Integrity Policy expects EPA scientists and engineers, regardless of grade level, position, or duties to:

- Ensure that their work is of the highest integrity, free from political influence.
- Represent their own work fairly and accurately.
- Represent and acknowledge the intellectual contributions of others.
- Avoid conflicts of interest and ensure impartiality.
- Be cognizant of and understand the specific programmatic statutes that guide the employee’s work.
- Welcome differing views and opinions on scientific and technical matters as a legitimate and necessary part of the scientific process.
- Accept the affirmative responsibility to report any breach of this Scientific Integrity Policy.

To achieve the highest level of scientific integrity throughout the Agency, this policy outlines four specific areas: a) the culture of scientific integrity at EPA, b) public communications, c) the use of Federal advisory committees and peer review, and d) professional development of government scientists and engineers. In addition, the policy establishes a Scientific Integrity Committee to implement this policy.

A. Promoting a Culture of Scientific Integrity at EPA

Scientific information contributes significantly to the development of sound policies. Thus it is important that EPA policymakers involve science experts, where appropriate, and that the scientific information and processes relied upon in policymaking be of the highest scientific integrity, quality, rigor, and objectivity. Successful application of science in public policy depends on the integrity of the scientific process both to ensure the validity of the information itself and to engender public trust in the Agency. Therefore, EPA reaffirms and promotes its culture of scientific integrity across the Agency through this policy. As may be authorized under and consistent with existing Federal and EPA ethics, information, and personnel rules and policies, this policy:

- Ensures a culture of scientific integrity, fostering honest investigation, open discussion, refined understanding, and a firm commitment to evidence.
- Requires adherence to applicable EPA information quality, quality assurance, and peer review policies and procedures, ensuring that the Agency produces scientific products of the highest quality, rigor and objectivity for use in policy decisions.

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9 *Information Quality Act (INSERT LINK).*

• Recognizes the distinction between the scientific process and the policy decisions made based on the scientific research.

• Requires decisions by EPA science and other managers about the content of a scientific product to be based only on scientific considerations, i.e., the methods used are clear and appropriate, the presentation of results and conclusions is impartial, and there are no apparent, actual, or potential conflicts of interest.

• Ensures scientific findings are generated and disseminated in a transparent manner to the extent allowable by law.

• Requires all EPA employees to act honestly and refrain from acts of actual or perceived scientific misconduct. Scientific misconduct is defined as fabrication, falsification, or plagiarism in proposing, performing, or reviewing scientific and research activities, or in the publication or reporting of these activities. Scientific misconduct specifically includes intentional circumvention of the integrity of the science and research process that compromises the scientific process. Misconduct does not include honest error or differences of opinion.

This is great. It is important to reaffirm this distinction to ensure that politics do not interfere with the scientific process.

The policy should explain how the agency will meet this commitment. Also, conflict of interest is not comprehensively defined. Who is covered under the conflict of interest? Does it apply to relatives of the employee? What constitutes a conflict of interest – a cup of coffee or a $5,000 speaking fee? How far back do reporting requirements go? Is it still a conflict if you took money one year ago? Five years ago?

Timing is the key to the effectiveness of this provision. Scientific findings considered in decision-making are particularly vulnerable to interference when they go out for interagency or OMB review. It is essential that they be protected from undocumented revision by being made public when they leave the EPA. This prevents the White House or other government agencies – which may have political or financial interests at stake – from manipulating science to justify one policy over another.

It would be helpful if definitions were stated clearly in a separate section rather than imbedded in the text of the policy. Scientific misconduct also includes coercion or intimidation of scientists, censoring or suppressing analysis, unduly delaying the release of scientific findings, or inappropriately influencing scientific advisory panels. In addition, this section needs an explicit reference to the misrepresentation, exaggeration or downplaying of scientific uncertainty.

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• Strengthens the actual and perceived credibility of EPA science by, for example: ensuring that the selection of candidates for scientific positions is based primarily on their scientific and technological knowledge, credentials, experience, and integrity; ensuring that scientific studies used to support policy or regulatory decisions undergo appropriate levels of independent peer review; setting clear standards governing conflicts of interest; and adopting appropriate whistleblower protections.

Whistleblower protections need to be clearly stated so that whistleblowers do not face intimidation nor fear retaliation for exposing misconduct. The policy should specifically describe protections for whistleblowers and should commit to establishing a culture that supports whistleblowing rights. This order should explicitly state: It shall violate agency policy for any individual with authority to recommend or take a personnel action to censor or discriminate in any way because an employee or applicant discloses, is about to disclose, or is associated with the disclosure of research or other information that the employee or applicant reasonably believes is evidence of illegality, gross waste, gross mismanagement, abuse of authority or a substantial and specific danger to public health or safety, unless the information’s public release is specifically prohibited by statute or specifically designated pursuant under Executive Order to be kept classified in the interest of national defense or the conduct of foreign affairs. There shall be no exceptions to this right, including but not limited to motives for the disclosure; the disclosure being part of job duties; the disclosure having been made previously; whether the disclosure was oral or in writing, whether the disclosure is categorized as Controlled Unclassified Information or Critical Infrastructure Information; or the amount of time that has passed since events in the disclosure. If disclosure is specifically prohibited by Executive Order or the information is classified, the same rights against censorship and discrimination apply to disclosing the information to the agency head or delegate, the Office of Inspector General, or the U.S. Office of Special Counsel.
• Requires laboratory accreditation for the Agency’s scientific facilities by a nationally or internationally recognized, sanctioning body.

• Facilitates the free flow of scientific information, as appropriate and consistent with legal restrictions. EPA will continue to expand and promote access to scientific information by making it available online in open formats, including access to data and non-proprietary models underlying Agency policy decisions.

• Requires adherence to EPA documents that address the use and characterization of scientific information in Agency policy development, such as EPA’s Action Development Process (ADP, 2004), EPA’s Guidance for Risk Characterization\(^\text{10}\) and Risk Characterization Handbook.\(^\text{11}\)

[The policy is missing critical components. We have highlighted additional tenets that should be included.]

B. Release of Scientific Information to the Public

Scientific research and analysis comprise the foundation of all major EPA policy decisions. Therefore, the Agency should maintain vigilance toward ensuring the openness, integrity and public scrutiny that the development of sound, high-quality environmental science demands. This policy is intended to outline the Agency’s expectations for developing and communicating scientific information

\(^{10}\) http://www.epa.gov/spc/pdfs/rcguide.pdf

\(^{11}\) http://www.epa.gov/spc/pdfs/rchandbk.pdf

Again, the timing is important. See comments above regarding the release of scientific information.

The section should:

• Provide details of how the policy will be monitored. It should commit to examining, tracking and reporting all reasonable allegations of scientific misconduct while ensuring the rights and privacy of those covered by the policy and ensuring that allegations do not result in slander or libel. In addition, the investigations must have external accountability. The EPA should be required to publicly report both the aggregate number of misconduct allegations and those cases where misconduct is confirmed. The EPA should provide uncensored details of each case to the EPA inspector general, the Office of Government Ethics and/or Congress. Without external accountability, under an administration that is hostile to science, the entire policy could be rendered less effective. One method of reporting that could be considered is through 5 USC 1213.

• Follow the lead of the White House and release its visitor logs in a timely manner so that the public may better understand who is influencing the science and science-based policy decisions. The log policy should apply to political appointees, Senior Executive Service and GS-14 and GS-15 level employees.
to the public, to the scientific community, to Congress, and to the news media, further providing for and protecting EPA’s longstanding commitment to the full, timely, unfiltered and accurate dissemination of its scientific information free from political interference. In addition, this policy recognizes the importance and the need to foster a culture of openness regarding the results of research, scientific activities, and technical findings both within and beyond the EPA scientific community. EPA encourages and supports transparency in various forms including, but not limited to, publication in journals, conference papers and presentations, media interviews, responses to Congressional inquiries, web postings, and news releases.

Full and open communication is a shared responsibility throughout the Agency. To fulfill this shared responsibility, the following describes both what is expected of EPA’s scientists and what they, in turn, can expect from others in the Agency.

1. EPA Scientists

EPA scientists are expected to:

- Represent the results of their scientific activities clearly, accurately, honestly, objectively, thoroughly, and in a timely manner, consistent with their official responsibilities.

- Accurately communicate information on official EPA scientific studies and research. Should EPA scientists choose to communicate on matters that reflect their own personal opinions, they should clearly identify that the information represents their views and not those of EPA.

- Use the following disclaimer language when presenting written scientific information on matters that do not reflect their official Agency scientific activities and direct responsibilities or as may otherwise be required under EPA clearance procedures:

  *The views expressed in this [article/chapter/paper/speech] are those of the author(s) and do not necessarily reflect the views or policies of the U.S. Environmental Protection Agency.*

- Notify their supervisors of outreach activities and media interactions and adhere to EPA’s and their Program Office’s or Region’s clearance procedures associated with ensuring accuracy and disseminating scientific information and scientific assessments.

- Coordinate with appropriate EPA offices who also might receive public inquiries to ensure that scientific information for the general public and media is clearly, comprehensively, and accurately presented and explained.

- Make themselves available to answer inquiries from the news media when there are media inquiries regarding their scientific work. If the scientist is unwilling or unable to communicate directly with the news media, the

These are great principles but how will this happen? Who will monitor? Who will detect problems and enforce these strong words?

This is good but the section could be strengthened by adopting more supportive language such as, “Scientists and other staff have the fundamental right to express their personal views, provided they specify that they are not speaking on behalf of, or as a representative of, the agency but rather in their private capacity. So long as this disclaimer is made, the employee is permitted to mention his or her institutional affiliation and position if it has helped inform his or her views on the matter. The employee is also allowed to make reasonable use of agency time and resources for the purposes of expressing their personal views. Furthermore, final authority over the content of and parties to any particular media communication resides with the reporter and the scientists with whom he or she communicates.”

This is excellent. It is helpful to provide this wording to limit the potential for misunderstanding.

When does an employee have to notify their supervisor about interactions with the media? Giving supervisors notice and recap of a media interaction is appropriate. Requiring an employee to ask for or wait for permission is not.
scientist should still provide timely assistance to the public affairs office to help prepare and approve full and accurate responses to news media inquiries. Note: EPA scientists are not required to speak to the news media against their will.

- Review and approve the final version of any proposed Agency document, such as a press release, that significantly relies on their research, identifies them as an author, or purports to represent their scientific opinion.

2. Policy Officials

- Public and media questions about any policy implications raised by scientific studies should be addressed by designated Agency officials responsible for conveying information about EPA policy matters, such as program policy experts or designated spokespersons.

3. Public Affairs Staff

- Public affairs staff from Regional, Program, or HQ offices should work closely with the appropriate EPA scientists to ensure that scientific findings are clearly, accurately and accessibly presented and explained in a timely manner to the media.

- The public affairs staff from Regional, Program or HQ offices should attend interviews to ensure that the Agency is being fully responsive to media questions and to ensure responsiveness, consistency and accuracy with future inquiries that they themselves might receive about a scientific topic.

- Members of the public affairs staff from Regional, Program, or HQ offices should alert and coordinate with scientists officially involved in research on a given subject matter when press inquiries are received about that research or their other scientific activities.

- EPA will offer articulate and knowledgeable spokespersons or Agency representatives who can best serve the needs of the media and the American public.

- Any dispute arising from a decision to proceed or not to proceed with the issuance of a news release or other dissemination plan for public information will be resolved by the Office of External Affairs and Environmental Education (OEAEE) with the appropriate Assistant/Regional Administrator or designee.

- During a nationally significant incident or environmental crisis, OEAEE may officially activate or follow the Agency’s Crisis Communications Plan (EPA National Approach to Response Crisis Communications Plan Agency Order # 2010). During such episodes, this plan establishes EPA’s process for communicating critical environmental information to the public and for coordinating public information among EPA field operations, Regional Offices, and Headquarters. Under the plan, OEAEE has the communication lead for coordinating and publicly disseminating pertinent information.
OEAAE will closely coordinate with involved EPA scientists to ensure the accuracy of any Agency scientific information to be issued by EPA.

4. Congressional Relations Staff

- Office of Congressional and Intergovernmental Relations (OCIR) staff members are expected to coordinate with Agency scientists, their supervisors and appropriate Program Offices to ensure that Congressional inquiries receive prompt, accurate, comprehensive and responsive answers.

- OCIR staff members are expected to provide statements or information to Congress and Congressional staff on behalf of the Agency or reflecting the Agency’s official policy views and to coordinate as appropriate with the relevant EPA scientists to ensure scientific information is accurately conveyed.

- If asked to testify before Congress, and if approved by management, scientists should review prepared testimony with OCIR staff and communicate on matters associated with their work or area(s) of expertise in an accurate and clearly understandable manner.

- Senior management in the Congressional and Program/Regional Offices will provide any statements needed to address policy-related questions.

C. The Use of Federal Advisory Committee and Peer Review

1. Federal Advisory Committees

EPA’s Scientific Integrity Policy, in coordination with the General Services Administration’s (GSA’s) guidance and consistent with guidance on lobbyists serving on Federal Advisory Committees (FACs)\(^\text{12}\), directs the following:\(^\text{13}\)

- Transparent recruitment of new FAC members to be through broad-based vacancy announcements in the Federal Register with an invitation for the public to recommend individuals for consideration and self-nominations to be submitted.

- Professional biographical information (including current and past professional affiliations) for appointed committee members to be made widely available to the public (e.g., via a website) subject to Privacy Act and other statutory/regulatory considerations. Such information should clearly illustrate an individual’s qualifications for serving on the committee.

- The selection of members to serve on a scientific or technical FAC to be based on expertise, knowledge, and contribution to the relevant subject area. Additional factors that may be considered are availability of the member to


\(^{13}\) Peer-reviewed committees convened solely for the purpose of reviewing research proposals to provide input on intra- or extramural funding decisions are not covered by this policy.
serve, diversity of views among members of the FAC, and the ability to work effectively on advisory committees.

- Except where prohibited by law, the Agency to make all Conflict of Interest waivers granted to committee members publicly available.
- Except when explicitly stated in a prior agreement between EPA and a FAC, all reports, recommendations, and products originated by FACs are to be treated as solely the findings of such committees rather than of EPA, and thus are not subject to Agency revision.

At EPA, FACs are overseen by the Office of Federal Advisory Committee Management and Outreach (OFACMO) with legal support from the Office of General Counsel (OGC). All EPA FACs comply with the requirements of the Federal Advisory Committee Act (5 USC App. 2) and the regulations issued by the General Services Administration (41 CFR Part 102-3).

EPA adheres to current standards governing conflict of interest as defined in statutes and implementing regulations. The Office of General Counsel’s Ethics Office oversees the procedures for Special Government Employees (SGEs) who serve on scientific FACs. These procedures include the submission of Confidential Financial Disclosure Forms for SGEs serving on Advisory Committees (EPA Form 3110-48), EPA Ethics Advisory 08-02: “Ethics Obligations for Special Government Employees,” and completion of an online and/or in-person Office of Government Ethics course.

2. Peer Review

To assure that scientific products undergo appropriate peer review by qualified experts, EPA relies on its Peer Review Policy (2006)\(^\text{14}\) and Peer Review Handbook (2006)\(^\text{15}\). The Peer Review Handbook is a how-to manual used by Agency staff and is often referred to by external stakeholders as a model of good peer review practices. It should be noted that peer review is not new to EPA, as the Agency-wide peer review policies have been in place since 1993\(^\text{16}\). The Peer Review Policy establishes EPA’s policy for peer review of scientific work products, including economic and social science products, that are intended to inform Agency decisions. It includes specific expectations for varying levels of scientific products including influential scientific information (ISI) and highly influential scientific assessments (HISA). In compliance with OMB’s 2004 Final Information Quality Bulletin for Peer Review, EPA posts a Peer Review Agenda\(^\text{17}\) for its HISAs and ISIs. In addition, the 2009 Addendum to EPA’s Peer Review Handbook entitled: “Appearance of a Lack of Impartiality in External Peer Reviews,”\(^\text{18}\) provides additional clarity for the regulatory

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\(^{14}\) http://www.epa.gov/peerreview/pdfs/peer_review_policy_and_memo.pdf

\(^{15}\) http://www.epa.gov/peerreview/pdfs/peer_review_handbook_2006.pdf

\(^{16}\) http://www.epa.gov/peerreview

\(^{17}\) http://cfpub.epa.gov/sisi/sisi_public_pr_agenda.cfm

\(^{18}\) http://www.epa.gov/peerreview/pdfs/spc_peer_rvw_handbook_addendum.pdf

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definition of “appearance of a lack of impartiality” for individuals who serve on peer review panels, criteria for applying this definition, and illustrative examples.

EPA’s quality and peer review programs are further supported by its *Summary of General Assessment Factors for Evaluating the Quality of Scientific and Technical Information* (2003). This document describes the assessment factors and considerations used by the Agency to evaluate the quality and relevance of scientific and technical information. These assessment factors are founded in the Agency guidelines, practices, and procedures that constitute EPA’s information and quality systems, including existing program-specific quality assurance policies.

D. Professional Development of Government Scientists and Engineers

Scientific leadership is a key component of advancing the mission of EPA. Agency scientists, therefore, are encouraged to engage with their peers in academia, industry, government, and non-governmental organizations, consistent with their work responsibilities. Examples of encouraged professional activities include presenting their work at scientific meetings, serving on editorial boards and on scientific expert review panels, and actively participating in professional societies and national/international scientific advisory and science assessment bodies. As may be authorized under and consistent with existing Federal and EPA ethics and personnel rules and policies, and subject to any management approval that may be required and the availability of appropriated funds, it is EPA policy to:

- Encourage publication and presentation of research findings in peer-reviewed, professional, or scholarly journals and at professional meetings.
- Allow Agency scientists and engineers to become editors or editorial board members of professional or scholarly journals.
- Allow participation in professional societies, committees, task forces and other specialized bodies of professional societies, including serving as officers or on the governing boards of such societies.
- Encourage Agency scientists to obtain both training to keep their scientific qualifications current and any additional training requirements mandated by the Agency.

V. EPA’s Scientific Integrity Committee

The Agency Scientific Integrity Committee is charged with implementing, reviewing, and revising as needed the four specific areas of scientific integrity described in the previous section, as well as addressing questions and concerns regarding scientific misconduct. The committee is chaired by the Scientific Integrity Official and consists of Deputy Scientific Integrity Officials that represent each of the Agency’s Program Offices and Regions. Attachment B is the charter for the Scientific Integrity Committee.

A. Roles and Responsibilities of the Scientific Integrity Committee:

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19 http://www.epa.gov/spc/pdfs/assess2.pdf
• Provide leadership for the Agency on scientific integrity.
• Implement this policy across the Agency, specifically as it pertains to the Agency Program or Regional Offices, in a consistent manner.
• Ensure Agency compliance with this policy.
• Address Scientific Integrity Policy concerns, updates, and amendments.
• Provide an annual report on scientific integrity implementation and scientific misconduct issues within the Agency.
• Coordinate with the Office of the Inspector General (OIG) on issues of scientific misconduct and the Office of General Counsel on issues of ethics as they pertain to scientific integrity.
• Keep EPA Senior Leadership informed of the Agency-wide status of scientific integrity, as necessary and appropriate.

B. Scientific Misconduct

The Scientific Integrity Committee is one of two paths to address scientific misconduct in EPA; the second is by reporting directly to the OIG. These two paths are shown in Appendix C. The Agency already has in place clearly articulated policies protecting against scientific misconduct in two important documents:

- **Scientific Misconduct in the Conduct and Discipline Manual** (EPA Order 3120.1) includes discipline guidelines for fabrication, plagiarism, misrepresentation, and causing a subordinate to engage in scientific misconduct.
- **Policy and Procedures for Addressing Research Misconduct** (EPA Order 3120.5) provides policy on reporting, procedures, investigations, and adjudication of research misconduct by EPA employees, contractors, and recipients of assistance agreements.

C. Training

As part of its mandate, the Scientific Integrity Committee oversees the development and implementation of training related to scientific integrity for all EPA staff. As part of EPA’s commitment to transparency, this training will be shared with the public via the internet.

In addition, accredited EPA laboratories provide annual Laboratory Ethics and Data Integrity Training for scientists and engineers engaged in generating scientific data to support cleanups, enforcement, and environmental assessments. This annual scientific ethics training fulfills accreditation standards and reinforces an understanding of the laboratory ethics policy.

D. Annual Reporting
The Scientific Integrity Committee will generate and make publicly available an annual report on the status of scientific integrity within the Agency. The report will highlight scientific integrity successes throughout the Program Offices and Regions, as well as identify areas for improvement and develop a plan for addressing critical weaknesses, if any. As part of this annual review, Deputy Scientific Integrity Officials will certify compliance with the Agency scientific integrity policy and report on scientific integrity implementation and scientific misconduct issues within their respective Offices or Regions.

E. Amending the Scientific Integrity Policy

This policy will become effective upon approval.

This policy shall be reviewed every two years by the Scientific Integrity Committee to ensure its effectiveness and adherence with applicable rules and regulations.

This policy may be revised at any time as recommended by the EPA Scientific Integrity Committee and approved by the EPA Science Advisor.

Appendices

A. EPA’s Principles of Scientific Integrity
B. Scientific Integrity Committee Charter (under development)
C. Flow Chart for Allegations of Misconduct (under development)

The policy should make the aggregate statistics publicly available as noted above. Also, the EPA should commit to following the United States Code for the disclosure of violations (5 U.S.C Sec. 1213).

These should be released and be available for public comment.
Appendix A

**EPA’s Principles of Scientific Integrity**

It is essential that EPA’s scientific and technical activities be of the highest quality and credibility if EPA is to carry out its responsibilities to protect human health and the environment. Honesty and integrity in its activities and decision-making processes are vital if the American public is to have trust and confidence in EPA’s decisions. EPA adheres to these Principles of Scientific Integrity.

**EPA employees, whatever their grade, job or duties, must:**

- Ensure their work is of the highest integrity—this means that the work must be performed objectively and without predetermined outcomes using the most appropriate techniques. Employees are responsible and accountable for the integrity and validity of their own work. Fabrication or falsification of work results are direct assaults on the integrity of EPA and will not be tolerated.

- Represent their own work fairly and accurately. When representing the work of others, employees must seek to understand the results are the implications of this work and also represent it fairly and accurately.

- Represent and acknowledge the intellectual contributions of others in representing their work to the public or in published writings such as journal articles or technical reports. To do otherwise is plagiarism. Employees should also refrain from taking credit for work with which they were not materially involved.

- Avoid financial conflicts of interest and ensure impartiality in the performance of their duties by respecting and adhering to the principles of ethical conduct and implementing standards contained in *Standards of Ethical Conduct for Employees of the Executive Branch* and in supplemental agency regulations.

- Be cognizant of and understand the specific, programmatic statutes that guide the employee’s work.

- Accept the affirmative responsibility to report any breach of these principles.

- Welcome differing views and opinions on scientific and technical matters as a legitimate and necessary part of the process to provide the best possible information to regulatory and policy decision-makers.

[There are several principles of scientific integrity that are missing here in addition to the ones mentioned above]