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Office of Science Advisor
ENVIRONMENTAL PROTECTION AGENCY
1200 Pennsylvania Ave., 8105R
Washington, D.C. 20460

BY ELECTRONIC MAIL

Re: Draft Scientific Integrity Policy

These comments on the Environmental Protection Agency's draft Scientific Integrity Policy, dated Aug. 5, 2011, are filed on behalf of the Society of Environmental Journalists, an international organization of more than 1,400 individual journalists, students and scholars working to strengthen the quality, reach and viability of journalism across all media to advance public understanding of environmental issues.

SEJ is the largest and oldest organization of journalists who cover topics related to the environment. Its members work in a variety of media including television, radio, print, and online. SEJ monitors the transparency of government agencies, including EPA, through its Freedom on Information Task Force and the associated Watchdog Project.

Journalists serve an important role in our democracy, informing the public about the science, policy, politics and economics of the complicated issues the nation faces -- issues from air pollution to combined sewer systems. Without access to information from agencies like EPA, journalists cannot serve their constitutional role as informers of the public, as envisioned by the authors of the First Amendment.

SEJ appreciates the opportunity to comment on the draft Scientific Integrity Policy. To ensure a completely transparent public review process, we urge EPA to make publicly available all of the comments submitted on the draft policy, as well as the agency's responses.

As EPA knows, SEJ has been engaged in dialogue for nearly two years with top agency public affairs officials about persistent and serious problems our members have in obtaining data, setting up interviews and gathering the most basic information about EPA activities on a variety of important issues. We previously documented these concerns in March 2010, in commenting on EPA's Open Government Initiative, and have repeated our concerns during frequent conference calls with EPA's Office of Public Affairs.

SEJ continues to hear from its members, almost daily, about the difficulties they have in getting answers to important questions for their stories. Journalists in multiple news outlets report getting the run-around from EPA press officers when seeking their

assistance. Typically, they end up with a short statement via e-mail that almost never answers their questions. Seldom are they able to interview the EPA person they would find most helpful.

So, we are encouraged that the draft Scientific Integrity Policy says EPA employees are expected to “Make themselves available to answer inquiries from the news media when there are media inquiries regarding their scientific work.”

EPA’s final policy, however, needs to emphasize that, in dealing with the news media, timeliness is an issue. In an era when the news cycle is measured in hours, information delayed is information denied. Reporters working on daily stories who call the press office should have a call-back in 20 minutes and prompt access to interviews with scientists.

We believe that the drafting - and eventual finalization - of this Scientific Integrity Policy could serve as a valuable vehicle to cure the agency’s deficient behavior regarding access to information for journalists as well as access to EPA professional staff, especially its scientists.

Because the policy, as proposed, would apply to “all EPA employees, including political appointees,” it has a very broad impact on how all agency staffers - from the administrator to researchers, inspectors and even public affairs spokespeople -- interact with the media. All EPA issues involve science in one form or another, so this policy affects literally every communication EPA has with the media, whether about a minor scientific paper in an obscure journal or a hotly contested policy over greenhouse gas emissions with huge economic implications.

We applaud EPA for promoting, as it said in the opening paragraph of the draft policy, “a culture of integrity and openness for all of its employees.”

Sadly, SEJ finds the proposed policy lacking in a number of important areas. It also falls short of what is needed to achieve EPA Administrator Lisa P. Jackson’s previously stated goal for transparency that “promotes accountability and provides information for citizens about what their government is doing.”

SEJ will focus its comments on a handful of points that are most salient when members of the news media seek to interact with EPA. These comments also will briefly raise related issues SEJ considers important.

There is much to reform about how EPA’s policies serve to foster openness in scientific research and in how that research serves key public policy goals.

An April 2008 report by the Union of Concerned Scientists (<http://tinyurl.com/4xetrect>) found 783 EPA scientists -- 51 percent of those surveyed -- disagreed or strongly disagreed with the statement that EPA allows scientists to “speak freely to the news media about their findings.” Only 13 percent of those EPA staffers surveyed agreed that EPA allows scientists to communicate freely with the media.

Incredibly, the UCS found 88 EPA scientists, 7 percent of those surveyed, had frequently or occasionally been directed to “provide incomplete, inaccurate or misleading information to the public, media or elected officials.” Another 123 scientists, 9 percent of those asked, had frequently or occasionally felt an implicit expectation that they do so.

Your draft policy states that the agency’s intention is to outline “expectations for developing and

communicating scientific information ... to the news media, further providing for and protecting EPA's long-standing commitment to the full, timely, unfiltered and accurate dissemination of its scientific information free from political influence."

Unfortunately, this proposal will not achieve those goals.

The most troublesome parts of the proposed policy are those governing the interaction between journalists and EPA employees. In particular, the draft policy is problematic in its intent on inserting public affairs agents, including political appointees, into the important back-and-forth between EPA program staff and members of the news media.

For instance, in Section IV, B.3:

"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."

In Section IV, B.1, the proposed policy states that agency scientists shall:

"... 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 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."

And finally, the draft policy states in Section IV, B.2:

"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."

These sections all advocate and, in some cases, mandate, interference by public affairs staffers -- sometimes political appointees whose backgrounds run more to political campaigning than environmental science or policymaking -- into the dissemination of information by EPA scientists to the media.

We believe that a much better approach is the one advocated by the Union of Concerned Scientists, which has concluded any EPA policies regarding the media and scientists must respect two fundamental rights: 1) scientists have the right to speak freely about any topic (including agency policy) if they clarify that they are speaking as private citizens, not as agency representatives, and 2) scientists have the right to review and correct any official document (such as a press release or report) that cites or references their scientific work, to ensure that accuracy has been maintained after the clearance and editing process. See UCS report, "Interference at the EPA," (<http://tinyurl.com/4xetrct>).

To those two principles, SEJ would add a third: That members of the news media have a right to interact with EPA staff, including scientists, without having agency staff and/or political minders listening in or otherwise taking part.

In addition, we believe that the existing EPA Region 8 media policy speaks correctly and eloquently on the issue of whether EPA staff, as part of their jobs, have an obligation to answer questions from the public and the news media:

“It is the policy of Region 8 of the U.S. EPA to operate with the maximum degree possible of public openness, disclosure and responsiveness ... EPA is a public agency, charged with doing the public’s business. Its funds for salaries and expenses come from American taxpayer. Each employee is a public servant and accessible to the public. News outlets are a legitimate extension of the public and are dealt with as such. Employees are authorized to deal with the public and the media and are responsible and accountable for those contacts.”

We would therefore urge EPA to abandon its current proposal’s language about media interactions in favor of language that follows the model policy recommended by the Union of Concerned Scientists, (<http://tinyurl.com/3dsnyxf>).

In particular, we advocate the following language:

“Final authority over the content of and parties to any particular media communication resides with the reporter and the scientist with whom he or she communicates.”

SEJ advocates adding specific language that states that public affairs officers are **NOT** required to sit in on interviews and that agency staff are permitted to speak to the press without the permission of or the involvement of the press office.

The EPA public affairs office does not need to be involved in every interaction between the news media and agency personnel. That is the way things worked for decades after William Ruckelshaus, EPA’s first administrator, issued the “Fishbowl Memo” in 1983, which is referenced in the proposed policy.

There is nothing wrong with EPA wanting agency staff, including scientists, to inform public affairs when they interact with the news media. But there is everything wrong with requiring a “minder” for each interview with a reporter. This is unnecessary, as decades of agency practice showed in the wake of the Fishbowl Memo. During that period, public affairs officers were there to be contacted when a journalist was unable to get information through direct contact with a scientist, regulator, or policy-maker with direct knowledge of the subject at hand.

SEJ also takes issue with the “note” in Section IV, B.1 of the proposed draft policy stating that EPA scientists “are not required to speak to the news media against their will” could very well encourage agency personnel to not cooperate with journalists. This note should be stricken from the proposed policy.

The comments above summarize SEJ’s most pressing concerns about the draft Scientific Integrity Policy.

There are other issues in the draft document that are tied up tightly with the ability of the news media to do its job in providing news to the public about the agency’s actions that SEJ would like to address:

The White House Office of Management and Budget

One of the gravest demonstrated threats to the integrity of science at EPA and other agencies is the ability of the Office of Management and Budget, an agency with no science expertise and much political power, to corrupt and suppress objective science findings. All EPA scientific findings should be publicly disclosed

before they go to the OMB. Transcripts of OMB meetings that include discussion of any scientific subject be made available to the public.

Access to Data and Information about the Scientific Process

Scientific studies include study design, the gathering of data, and extensive discussion of interpretation and conclusions. There should be a strong bias toward disclosure of such information, including the raw data behind studies. Documents related to the scientific process should be available for scrutiny, and should not be subject to Freedom of Information Act exemptions as ``deliberative process.'' Scientific debate is to be expected as normal, but it should be out in the open.

Privacy and Confidential Business Information

Exceptions to the release of data and information may be made for legitimate confidential business information and the privacy of people who are subjects of study. Promises of subject anonymity should be honored. Claims of proprietary information should not be honored unless certified and documented.

Open Meetings

Meetings of scientific advisory committees should be open to press and public, as the Federal Advisory Committee Act requires.

Thank you for the opportunity to comment on the draft Scientific Integrity Policy, and we trust you will incorporate this critique into your final policy.

Sincerely,

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