Section 1.02: The third sentence is a compound sentence and is confusing. We suggest that it be divided between the whistleblower aspect and the labor aspect. Suggested language: "This Order also does not apply to employees who are union representatives under the Federal Service Labor-Management Relations Statute when communicating in that capacity." We would prefer to use the term "representative" rather than "official" because it is not clear what is meant by an official and because the Federal-Service Management Relations Statute uses the term "representative."

Section 5: Researchers must get "prior approval" of the head of the operating unit before making a written "fundamental research communications." Although Section 5.01 states that approval may not be denied "based on the policy, budget or management implications of the research," this limitation is vague and there the DAO does no contain a standard on which approval/disapproval should be granted. Nor is there time limit during which the approving official must act. Further, the DAO contains no indication of whether or what action will be taken against a researcher does not obtain approval or who engages in a communication that has been disapproved.

Section 6.04: The exception permitting communication of "current weather forecasting information" is too limited and should permit discussion of weather events that have already taken place - not just "forecasts." The language should be changed simply to " . . . communicate information about the weather to the public."

Section 7.03: same change as Section 6.04.

Section 9: As previously discussed, any pre-clearance of non-official communications of interest violates the First Amendment. It is sufficient that employees be instructed that any non-official communication shall not contain classified or restricted material; violate applicable ethical standards; or improperly attribute the personal views of the employee to the Department. The requirement of a disclaimer (Section 9.01c) is a reasonable requirement and not inconsistent with an employee's First Amendment rights.

Furthermore, the DAO does not state whether or what action may be taken against an employee who does not provide the notice and review requirement contained therein; nor does it state whether an employee may engage in this non-official communication if the agency fails to act within the 14 day requirement.

Section 10.01: This section impermissibly authorizes a reviewing official to re-label an unofficial communication as an official communication and prohibit the employee from making the communication.