

January 24, 2011

Administrator Lisa Jackson
U.S. Environmental Protection Agency
Ariel Rios Federal Building
1200 Pennsylvania Ave., NW
Washington DC 20460

Dear Ms. Jackson:

I am writing on behalf of Public Employees for Environmental Responsibility (PEER) to inquire what, if any, plans you and your agency have to implement President Obama's March 9, 2009 Executive Memorandum to all federal departments and agencies on the adoption of policies that protect scientific integrity.

As you know, on December, 17, 2010, the White House Office of Science and Technology Policy (OSTP) issued a memo directing all agencies to "develop and implement policies" to address a set of issues including scientists' right to speak and publish, interactions with scientific societies and the media, as well as bars against alteration of technical documents for political reasons. Agencies are to report back to OSTP by April 17, 2011 on what progress they have made.

In a December 21, 2010 e-mail to staff circulating the OSTP memo, you distinctly implied that EPA needed to do nothing further in this regard because:

"I am proud that we have maintained our commitment to scientific integrity. Our ongoing work to uphold scientific integrity is part of our progress as One EPA and should continue to set the standard for federal government agencies."

Despite this claim, PEER is unaware that EPA has policies in place that address the four-square requirements of the President's 2009 Directive or the 2010 OSTP memo.

This is no mere academic matter. On a regular basis PEER is contacted by EPA scientists complaining about breaches in scientific integrity or transparency. For example, EPA scientists state that under your leadership your agency has –

- Prevented one of its top experts on sea level rise from publishing papers;
- Impeded scientists from making invited presentations at scientific conferences;
and

- Failed to issue promised guidance on when scientists may speak with Congress or the press.

EPA does not have policies providing clear guidance on the ability of its scientists to protect against inappropriate alterations of their work, to participate in scientific societies or to freely communicate with outside experts, among other topics contained in the OSTP memo. Failing to address these fundamental issues belies your claim that EPA is setting the standard for scientific integrity among federal agencies.

On January 26, 2009, PEER wrote to urge you to translate vows you made during your confirmation hearing to foster “scientific integrity,” “the rule of law” and “transparency” into concrete, enforceable agency policies [copy enclosed]. Specifically, we urged you to implement rules and practices which:

1. Protect Science and Scientists from Political Interference.
2. Secure Agency Scientists’ Ability to Publish.
3. End the Gag Orders.
4. Adopt an Open Door Policy with Congress.
5. Make the “Rule of Law” a Rule of EPA.
6. Sanction Agency Scientist Participation in Professional Societies.
7. Restore Bottom-Up Communication with Agency Scientists on Matters Affecting Them.

To our disappointment, you implemented none of these measures, many of which were later contained in President Obama’s Directive. As a result, the actual conditions within EPA have fallen far short of the promise of “fishbowl”-like transparency that you made in your August 7, 2009 message to agency employees.

In many statements, you have indicated that there were lapses in scientific integrity at EPA during the prior administration that you intended to redress. Yet, you have implemented no rules to prevent a relapse of these lapses. The actual standards for scientific integrity within EPA have not changed from the Bush era.

We would strongly urge you to now begin a pointed dialogue with your scientists, consultation with your employee unions and outreach to stakeholders on how to improve the scientific integrity and transparency of EPA. As you know, OSTP has requested all agencies to report their progress in this area by April 17, 2010. Unless EPA is engaged in a large *sub rosa* effort to promulgate protocols, it appears likely that you will have nothing to report. In essence, EPA will have ignored the President’s Directive.

More fundamentally, EPA will have failed its own scientists who deserve clear guidance on when they can publish and speak, what outside professional activities are allowed and how they may consult with colleagues outside the agency. Other agencies, such as the Department of Interior, are pushing forward to promulgate precise rules in all of these

areas. If the Department of Interior can do this, why cannot EPA? How can EPA claim to set the standard for scientific integrity when it has no standards?

As scrutiny of EPA increases in coming months, it behooves the agency to do everything it can to ensure that its scientific products are unimpeachable. Without these fundamental safeguards, EPA risks jeopardizing its credibility at a critical moment when credible scientific work by the agency is urgently needed.

As you know, PEER opposed your confirmation as EPA Administrator based upon your record as Commissioner of the New Jersey Department of Environmental Protection (DEP). One of our principal concerns was that you repeatedly did not follow through on promises you made for action at DEP, leaving a trail of unfulfilled rhetorical commitments. We see a repetition of this same pattern during your tenure at EPA.

I would urge you to show that our concern was misplaced by taking direct, forthright, concrete steps to promote the work and careers of EPA scientists and to protect the integrity of their work products.

Sincerely,

Jeff Ruch
Executive Director

Cc. Director John Holdren, Office of Science & Technology Policy