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Office

14th & Independence SW
P.O. Box 96090
Washington, DC 20090-6090

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Subject: Improving the Integrity of Forest Service Tasks and Work Responsibilities

To: Deputy Chiefs, Regional Foresters, Station Directors, Area Director, and IITF Director

My 6170 letter of December 20, 2001, was a reminder that we must maintain the highest standards of professional and ethical conduct in carrying out our responsibilities. This is essential so that the public and our partners can trust the data and results of our studies and the foundation they provide for our decisions.

In August 2000, we published our Forest Service Code of Scientific Ethics (www.fs.fed.us/research/sciethics). On December 6, 2000, the White House Office of Science and Technology Policy issued its Notification of Final Policy on Research Misconduct in the Federal Register (65 FR 76720). That final policy requires each agency to issue its own policies within one year. With this letter, I am transmitting a new Forest Service Interim Directive (ID) that formally implements our Code of Scientific Ethics consistent with the new Federal policy on research misconduct.

This policy is our commitment to maintaining the integrity of our scientific activities, including data collection for research, development, and demonstration studies. As ID 4080-2002-1 indicates, allegations of misconduct are investigated and resolved as either criminal or administrative misconduct, depending on the nature of the allegation.

The Code of Scientific Ethics has broader application than just Station employees, and rightly so. The Code, now adopted at FSM 4086, covers *any* Forest Service employee who participates in a study funded, in whole or in part, from the Forest Research appropriation. Although the ID applies only to employee misconduct, the Federal policy extends to all agency partners and cooperators, including people employed by State agencies, universities, and non-governmental organizations, who participate in basic, applied, or demonstration research funded with Federal research appropriations. Therefore, Forest Service employees must assure that all partners and cooperators are made aware of and comply with the new Federal policy. For example, State employees who participate in data collection as part of the Forest Inventory and Analysis (FIA) program are covered by the new Federal policy, because they are participating in a program funded through a Federal research appropriation.

It is my expectation that the same high ethical standards found in the ID will guide all that we do. I want Line Officers throughout the agency to have the same expectation and to hold people accountable when employee behavior does not meet these expectations. Disciplinary action for unethical actions by employees not participating in research studies will be handled through existing administrative misconduct procedures rather than through the research misconduct procedures specified in the ID.



Line Officers also need to ensure that field employees who collect data receive necessary levels of training, guidance, and oversight and that the responsibility and importance of data collection is reinforced. We need committed people doing this important work. We are a science-based organization and *any* efforts to collect, analyze, display, communicate, and use species or other resource information must be conducted to professional and ethical standards, and within established Quality Assurance and Quality Control (QA/QC) protocols.

The original request to prepare a Code of Scientific Ethics for the Forest Service came from the Forest Products Laboratory Partnership Council in 1998. The Deputy Chief for Research & Development formed a team to develop the Code and that team worked closely with union representatives to develop a Code that all support. I intend to appoint another team that represents all Deputy areas to determine whether there are gaps in existing direction on professional ethics and employee misconduct and to propose appropriate direction. There also are other actions underway. We will be responding to the Office of Management and Budget's new *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies* that were issued as final policy on January 3, 2002 in the Federal Register (67 FR 369). This new policy requires standards of quality control to ensure the integrity of the data we collect and information we use and disseminate. We need to implement this new policy by October 1, 2002.

Throughout the history of the Forest Service, the agency has established and maintained a reputation for highly professional and credible work. I take our ethical obligations very seriously and so must you. Our agency's credibility demands that we ensure that the breach of scientific protocol in the Canada lynx survey remains an isolated example and does not repeat itself. Issuance of our Code of Scientific Ethics and the other actions outlined in this letter are steps to establish clear expectations of employee conduct throughout the Forest Service. **Please ensure that all of your employees receive this information.**

I have great confidence that with your support and leadership, all Forest Service employees will continue to exhibit the high professional standards and ethical conduct for which we are known.

/s/ Dale N. Bosworth

DALE N. BOSWORTH
Chief

Enclosure

Scientific Ethics

Questions and Answers

Questions and Answers About Why the Interim Directive is Being Released Now

Why is the Forest Service publishing this Interim Directive (ID) now?

The primary reason is to implement a new federal policy on research misconduct. The breach of scientific protocol in the Canada lynx survey is a secondary reason. The new federal policy issued on December 6, 2000, by the White House Office of Science and Technology Policy in the Federal Register (65 FR 76260) gave agencies one year to implement it. The Code of Scientific Ethics, first published in August 2000, plus the Chief's letter on professional ethics dated December 20, 2001, notifying employees of the critical nature of this misconduct, and finally, this letter and the ID implement the new federal policy.

Why is this guidance being issued as an Interim Directive?

The Forest Service directives system provides for issuance of IDs to more rapidly disseminate change in agency policy than occurs with amendments to directives. Issuance of policy as an ID does not mean that it is only temporary policy. This ID remains in effect for 18 months. We expect to incorporate this ID into a permanent amendment to FSM 4080 before the ID expires.

What is the scope of the new federal policy?

The new federal policy applies to all federal agencies and federally funded research, whether conducted in-house or by partners at universities or in non-governmental organizations. This new policy is consistent with the expectations of Chief and Staff for our agency. As the quality of our data and studies gets better and more reliable, support for study findings and management decisions based on those findings may be better supported.

If this new policy applies to all employees, why is it being issued in FSM 4080, which is usually for Research?

The Interim Directive applies to any study funded, wholly or in part, by the Forest Research appropriation. Often, National Forest System or State & Private Forestry employees are partners or collaborators in studies partially funded by research. That means this Interim Directive applies to them too. It's not a question of whether an employee is in NFS, S&PF, or R&D; it's a question of whether or not funds appropriated for research are funding part or all of the study.

We are issuing this as an Interim Directive because it embodies the essence of the agency policy required by the new federal policy on research misconduct. We feel it is imperative that the information be sent to you now as an Interim Directive to clarify the agency's position on scientific misconduct matters. At the same time, we believe that some additional work is needed to develop a policy that more clearly states the Chief's expectations and can apply more consistently across all the lines of work we do. Therefore, the Chief will appoint another team

that represents all Deputy areas to determine whether there are gaps in existing direction on professional ethics and employee misconduct and to propose appropriate direction to clarify issues and fill gaps so that clear, consistent expectations exist for all our activities. This may require the development of a more generic policy for the FSM 1000 series. Forming another team will allow for further input and review by all Deputy Areas while an ID is in place.

Is this all the agency is going to do to address professional ethics and employee conduct?

No. Further actions will include:

- Development of materials to include with normal ethics and conduct training for new employees and for annual refreshers for all employees.
- Establishment of points of contact for the agency's major data collection networks, such as the National Atmospheric Deposition Program, and sharing the contacts widely during communications, outreach and training programs so people know who to contact with questions and suggestions.

I belong to the National Federation of Federal Employees. Where does the Union stand?

The Forest Products Laboratory Partnership Council identified the need for such a code of ethics in 1998 and helped to develop it. NFFE endorses the direction in the directive and will help assure that the process for dealing with allegations of scientific misconduct is both fair and fairly applied.

Does this policy relate to the Regional Monitoring Plans due in April 2002?

The policy does not directly apply to the regional monitoring plans unless research appropriations are used to partially fund the monitoring activities. However, given the Chief's emphasis on improving the quality and integrity of data collected, it is expected that employees responsible for developing and implementing the regional monitoring plans will do so consistent with the Code of Scientific Ethics and the ID. The Monitoring Plans are a good place to identify the specific systems or networks that require high data quality, and the Regional contacts for each. The plans can then be used as communications links to get questions answered about the monitoring design.

This Administration, the previous one, and Congress have been adamant that the information collected and used by the Federal Government be top quality. The implementing rules and guidance are in place and our agency is required to put our implementing policies in place as well. Placing a strong emphasis on protocols for collecting monitoring data, assuring that these protocols are clearly communicated in training sessions, and verifying that persons collecting the data are adhering to the protocols should be three key elements of any monitoring plan.

Questions and Answers about the Interim Directive and the Code of Ethics

What are ethics?

Sets of moral principles or values that help an individual choose how to behave in a relationship. Professional ethics are the rules or standards of conduct for members of a profession or an organization. Scientific ethics are rules or standards of conduct for professionals who are engaged in scientific studies.

This is labeled a “Code of Scientific Ethics.” Why should I pay attention to it when I am not in Research & Development?

This is the *Forest Service* Code of Scientific Ethics and the *Forest Service* policy. The White House policy on which this Code is based applies to *all* federal agencies and federally funded research activities, including activities of non-federal partners such as university professors and graduate students, employees of state agencies, and members of non-governmental organizations. Anyone participating in a study funded with federal research appropriations falls under the new White House policy. The Code has been developed as the Forest Service response to that new policy. Therefore, the Code applies to anyone who participates in a Forest Service study funded, wholly or partially, with research appropriations.

What kinds of studies are considered to be research?

The new federal policy defines research as including “all basic, applied, and demonstration research in all fields of science, engineering, and mathematics.” All of the studies conducted or funded by Forest Service Research & Development are covered by this definition. Some activities, often partially funded by State & Private Forestry or National Forest System appropriations, fall within the definition of “demonstration research.” Often called “administrative studies” or “adaptive management studies” within the Forest Service, these activities seek to demonstrate the practical application of research results to specific on-the-ground situations. Consequently, the application of the new federal policy and the Code of Scientific Ethics go beyond the persons and programs of Forest Service Research & Development.

Here are a few examples of the kinds of data collection and other activities not traditionally identified as research within our agency to which the Code applies, if the work is funded wholly or partially with research appropriations. This list is not all-inclusive:

- Weather observations used to help develop and calibrate fire behavior models, make forecasts, and to preposition firefighters and equipment.
- Outdoor recreation participation surveys to better assess how our lands are used and why.
- Inventories generating data for our corporate databases (e.g., NRIS).
- “Survey and Manage” where a cooperative agreement allows certain kinds of activities to proceed in T&E habitat, while scientifically designed surveys also proceed to better define the actual habitat that needs to be protected.
- Federal reference method monitoring to assist states and EPA protect the resources managed by the Forest Service. These include studies such as the National Acidic Deposition Program.

- Forest Health Monitoring, Forest Inventory and Analysis program, and watershed assessments under the Unified Federal Policy.
- Air pollution emissions from smoke (or the data to estimate them) needed for EPA and state regulatory processes.

What are the kinds of misconduct?

Scientific misconduct includes both professional misconduct and research misconduct. Both are special cases of administrative misconduct, as defined in 7 CFR 752. Standards of conduct are found in the USDA Personnel Bulletin 735-1, Subpart B and 5 CFR 2635.101. The HRM home page on the Forest Service website contains a link (http://fsweb.wo.fs.fed.us/hrm/emp_rel_ethics/ethics_conduct/) to that USDA bulletin. Links to the CFR can be found on the USDA website (<http://www.usda.gov/ethics/rules/rule8.htm>) and on the website of the Office of Governmental Ethics (http://www.usoge.gov/pages/forms_pubs_otherdocs/fpo_files/reference/rfsoc_99.pdf)

The new federal policy contains the following definition:

“Research misconduct is defined as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

- *Fabrication is making up data or results and recording or reporting them.*
- *Falsification is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.*
- *Plagiarism is the appropriation of another person’s ideas, processes, results, or words without giving appropriate credit.*
- *Research misconduct does not include honest error or differences of opinion.”*

The Interim Directive defines professional misconduct as:

“Includes, but not limited to, exploitation of research associates, denying authorship inappropriately, duplicative publication, misstating one’s research credentials, failing to retain significant data for a reasonable period, unauthorized use of data, or failing to publish significant data in a timely manner without reasonable cause.”

If I engage in misconduct, what kind of punishment can I expect?

Review Exhibit 1 in FSM 4086.33 (the policy and equivalency table), which shows that penalties for the first offense vary from receiving a letter of reprimand to removal. The punishments are severe, even for a first offense. This is because it is easy to destroy credibility and very difficult to build it back.

I know someone engaged in misconduct, but I don’t want to be an informant. What should I do?

The Principles of Ethical Conduct issued by the U.S. Office of Governmental Ethics contain the following provisions:

- *“Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.”*
- *“Employees shall protect and conserve federal property and shall not use it for other than authorized activities.”*
- *“Employees shall put forth honest efforts in the performance of their duties.”*

The HRM home page on the Forest Service website contains a link to the USDA Personnel Bulletin 735-1, Subpart B (http://fsweb.wo.fs.fed.us/hrm/emp_rel_ethics/ethics_conduct/), which states that all employees are obligated to report waste, fraud, abuse, and corruption.

The new federal policy and the Interim Directive provide protection for you and for the person(s) accused. Please note that the consequences are different for the second offense, so reporting what you know early may help keep your coworkers from the more dire consequences. Also, if an investigation reveals that you knew something was wrong and that you did not report it, you may also be culpable.

I have been falsely charged. What can I do?

The policy includes safeguards for subjects of allegations, including timeliness, objectivity and confidentiality. You will have the opportunity to tell what you know and describe what you did as part of the fact-finding process.

I’m a partner in a study that I care about deeply. I know the study is using the wrong methodology, or at least I strongly suspect it’s wrong, because the results I’m getting seem incorrect. What do I do?

Make sure you know and understand the study design and the Quality Assurance/Quality Control (QA/QC) protocols for the study. The study design and QA/QC protocols are usually reviewed by statisticians and also peer-reviewed prior to the study being initiated. Contact the head of the study to get this information and to let them know of your questions. Use the chain of command if you need to speak to someone else. (See the Greeley letter below.)

I tried to get out to the research site time after time and it was snowed in, so I couldn’t get the data sample. Now, I am being accused of messing up the data. Am I really in trouble?

Missing data is handled differently, depending on how the study is designed. If you have kept accurate data records, and your supervisor and your key study contact have both been notified about your difficulty in getting to the site, you are probably okay.

Where can I get copies of all these policies that are going to affect me?

The HRM homepage on the Forest Service website (http://fsweb.wo.fs.fed.us/hrm/emp_rel_ethics/ethics_conduct/) contains all the agency directives pertaining to policies and conduct. You can also visit the website (<http://www.access.gpo.gov>) to read 5 CFR 2635. That is where the U.S. Office of Government Ethics has published Standards for Ethical Conduct of Employees of the Executive Branch.

Was the Union involved in the development of the policy and the code of ethics?

Yes. In 1998, the Forest Products Laboratory Partnership Council identified the need to create a Code of Scientific Ethics. NFFE has been involved in its development ever since. The agency was prepared to issue the Code in 1999. But when the White House Office of Science and Technology Policy began drafting its policy concerning research misconduct, the agency put finalization of the Code on hold until the new federal policy was issued. Then, the Code was revised to be consistent with the new federal policy and this Interim Directive was created.

Has this Code been peer-reviewed?

Yes. The Code was developed by a team of Forest Service R&D employees that included union representatives. It was circulated for peer review twice inside the agency during its development. It was also the basis of an article published in the *Journal of Forestry* (July 1999 issue, pages 32-33) and underwent review prior to being published.

I don't want to be held responsible for all of this work, especially with this Code of Ethics and threats of removal. What should I do?

Your supervisor is responsible for assigning the work and for assuring that you have been adequately briefed and properly trained to accomplish the tasks. Your job is to perform the assigned work to expected standards. Much of the work the Forest Service does is not only necessary to meet local resource management and public service objectives; it also contributes to meeting national requirements, such as Congressional mandates and legal requirements. Don't stop the work unnecessarily. If you are uncomfortable performing the work assigned, discuss the situation with your supervisor. Taking matters into your own hands, such as by submitting "controls" on your own, may constitute data fraud, expose you to liability, and jeopardize the project.

Questions and Answers about the Lynx Survey Incident and its Relationship to this Policy

How widespread is the submittal or use of "false" information? Is it just among wildlife biologists?

Failing to follow directions and established protocols when collecting data makes us all look bad. Hopefully, the recent incident was an isolated case. But it may not be the only case where our professional conduct was not up to expectations. Let us learn from this incident and make sure our QA/QC protocols are communicated clearly to all the participants and partners in a study and that the work is performed to specification. We must remove any likelihood of future studies being compromised, and this means continual improvement in our QA/QC, oversight, and our vigilance.

In 1922, Chief Greeley wrote a letter talking about fiscal irregularities. Although it was written to address issues in a financial context, it also spoke directly to the professional ethics of resource managers at that time. Chief Greeley's message and its application to professional

ethics still resonate well with us today. Many of his points can, and should, be followed as faithfully by Forest Service employees today as he expected them to be followed back then. (See below.)

It sounds like the employees in the case of the lynx survey got off easy. Why have they not been removed?

There was an investigation and action was taken. The ongoing investigations may ultimately indicate that further action is warranted.

Submitting “controls” is a common research practice to assess field or laboratory procedures. Why is this lynx survey situation being treated so harshly?

The place for determining whether and how to use “controls” or “blind tests” is in the design of a study and in the Quality Assurance and Quality Control protocols established for the study. For the lynx survey, both field collection protocols and laboratory analyses protocols had been reviewed, published, and tested. Some personnel were under the mistaken impression that a different survey (1998) had shown lynx were in the area. Reanalysis of the samples from that study did not confirm any of the samples as lynx. Lynx locations identified by the 1998 study are considered to be unverified because of lack of controls.

PLAYING SQUARE WITH THE FISCAL REGULATIONS

By: W.B Greeley

The most distressing duty which has fallen my lot in the Service has been dealing with men, sometimes old associates on the trail, who have not played square with the fiscal regulations. I do not mean grafters: to the honor of the Service, they have been few and wide apart. I mean honest men, zealous men who put their names to vouchers or certifications that are not true. I call these men honest and zealous advisedly. Their false returns are not made for personal gain. Almost invariably they seek by this means to accomplish some cherished plan for advancing the interests of the Service in their charge, to put through some common sense betterment or economy on a National Forest, or to pay for something which the Government in all fairness should pay for but which the auditor cannot pass under its right name.

Two things hurt particularly in these cases. The first is that the starting point is often a desire to get results of benefit to the Service and the public. For years we have preached resourcefulness, initiative, that results are what counts. The very zeal to get results that count has led some men to justify wrong ways of getting them, when square compliance with the fiscal rules stood in the way. The second sting in these cases is the plea that lots of other Service men are doing the same sort of thing. Can it be that we have developed a hardened fiscal regulations "conscience," like the old public land conscience, which leads men who never knowingly tell untruths in other affairs of life to sign their names on a certain lot of office forms to things that are not so? We call them "fiscal irregularities", but every one of them gets down in the end to a lie, a lie with a name written under it.

I do not believe for a moment that this thing is common in the Service, but I do want to say, whether it hits many or few, that we must nail the lie in accounts with the Government just as we would nail it in dealings with private citizens. We must nail the fiscal lie, black, white or gray, a hundred dollars in a supply voucher or thirty cents padded in a subsistence account. The standing of the Forest Service depends upon the public confidence in our integrity, and integrity must be just as clear toward the Government as toward the public whom we serve. Besides, lies are lies and Satan is the father of them all. We can take no chance with the good name of the Forest Service. Men who do not play square with the fiscal regulations, however laudable or disinterested their motives, however fine their records in other respects, cannot be retained.

The rules which govern us are not perfect by any means. They are not always fair to the employee. But the way to meet a bad rule is not to find a devious and untruthful way around it. We will get it changed if we can; but if we cannot we must accept it with such cheer as we can muster as one of the rules of the game.

It must be one of our traditions, a part of the fine honor of the Forest Service, to play square with Fiscal Regulations.

From "Service Bulletin", U.S. Forest Service, August 21, 1922