



# MARINE MAMMAL COMMISSION

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To: John P. Holdren  
Subject: Scientific Integrity at the Marine Mammal Commission

Title II of the Marine Mammal Protection Act of 1972, as amended, established the Marine Mammal Commission. The Commission consists of three members who are appointed by the President subject to Senate confirmation. The Act requires that individuals serving as Commissioners be knowledgeable in the fields of marine ecology and resource management.

The Commission is assisted in its work by a nine-member Committee of Scientific Advisors on Marine Mammals. Members of the Committee are appointed by the Chairman of the Commission after consultation with the Chairman of the Council on Environmental Quality, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the President of the National Academy of Sciences. The Act requires that Committee members be knowledgeable in marine ecology and marine mammal affairs. The Commission also consists of an Executive Director, who is appointed by the Chairman with the approval of the other Commissioners, and a small professional staff with scientific, policy, legal, budgetary, and administrative duties and expertise.

The Marine Mammal Commission is committed to maintaining the integrity of, and promoting public trust in, the science used to inform policy decisions under the Marine Mammal Protection Act and related statutes. The Commission has established and follows specific measures to meet its commitment to scientific integrity. The Act assigns seven major duties to the Commission (16 U.S.C. § 1402(a)), nearly all of which involve gathering, compiling, evaluating, analyzing, interpreting, or reporting scientific information. The Commission uses such scientific information to conduct specific reviews and studies, and to formulate recommendations to other agencies, the Administration, and Congress. The Act also requires that the reports and recommendations of the Commission “shall be matters of public record and made available to the public at all reasonable times.”

Your 17 December 2010 memorandum on scientific integrity guides executive departments and agencies toward four objectives pertaining to the foundations of scientific integrity in government, public communications, use of federal advisory committees, and professional development of government scientists and engineers. The following sections describe how the Marine Mammal Commission’s policies and procedures seek to achieve those objectives.

## **I. FOUNDATIONS OF SCIENTIFIC INTEGRITY IN GOVERNMENT**

The Marine Mammal Commission's organization, policies and procedures are intended to—

### **1. Ensure a culture of scientific integrity.**

- The Commission uses a longstanding review process to develop sound scientific and policy advice and formulate recommendations to further the purposes of the Marine Mammal Protection Act. The process is designed to facilitate “honest investigation, open discussion, refined understanding, and a firm commitment to evidence.” It includes—
  - expert investigation and analysis of scientific information by staff or members of the Commission's Committee of Scientific Advisors on Marine Mammals,
  - scientific input from outside experts and sources when appropriate,
  - analysis, “peer” review, and comment by members of the Committee of Scientific Advisors on Marine Mammals, and
  - final review and approval of agency recommendations and the underlying rationale by the Commissioners.
- The Committee of Scientific Advisors on Marine Mammals constitutes a standing peer review body. It provides independent assessment of recommendations being considered by the Commission and the scientific underpinning for those recommendations. Such reviews help to ensure the scientific integrity of Commission recommendations and shield the Commission's use and interpretation of scientific data and analyses from political influence.

### **2. Strengthen the actual and perceived credibility of government research**

- The Marine Mammal Protection Act requires that the Commissioners are knowledgeable in the fields of marine ecology and resource management. The Act also requires that nominees be vetted by the Chairman of the Council on Environmental Quality, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the President of the National Academy of Sciences prior to nomination by the President and that, once nominated, they be confirmed by the Senate prior to appointment.
- The Act also requires that members of the Committee of Scientific Advisors on Marine Mammals are knowledgeable in marine ecology and marine mammal affairs. The Commission Chair is required to consult with the Chair of the Council on Environmental Quality, the Secretary of the Smithsonian Institution, the Director of National Science Foundation, and the President of the National Academy of Sciences before appointing Committee members. That consultation is specifically aimed at ensuring that Committee members have the required experience.
- Commissioners and members of the Committee of Scientific Advisors on Marine Mammals serve as special government employees and are required to file financial disclosure reports. Staff members who serve in decision-making and policy setting positions also are subject to government ethics reporting and disqualification requirements. The reports provide a basis for identifying actual and potential conflicts of interest, which are then used to determine when Commissioners, Committee members, or staff members must be disqualified or excused from participating in related Commission matters.

- The Commission takes the following steps to ensure that its scientific staff is selected primarily on the basis of scientific and technological knowledge, credentials, experience, and integrity. It—
  - develops position descriptions and vacancy announcements that highlight required academic credentials germane to the fields of marine mammals, marine ecology, and resource management;
  - advertises vacancies broadly, including in newsletters, publications and Web sites of appropriate scientific societies and professional organizations;
  - considers candidates on the basis of scientific credentials along with other factors relevant to particular positions;
  - relies on independent reviews of candidate qualifications provided by the Office of Personnel Management.
- The Marine Mammal Protection Act requires that the Commissioners consult with the Committee of Scientific Advisors on Marine Mammals on all studies and recommendations under consideration, on research programs conducted or proposed under the authority of the Act, and on all applications for permits for scientific research.
- The Commission sponsors workshops and studies to develop, compile, and assess information required to better understand important scientific questions.
- The Commission abides by government-wide requirements providing whistleblower protection. As a small agency, the Commission does not have its own Inspector General. However, the Commission has entered into a cooperative agreement with the Inspector General of the Department of Commerce to conduct independent investigations should the need arise or if the objectivity of the Executive Director, the Chair of the Commission, or the General Counsel should be placed in question by a whistleblower's allegations.

**3. Facilitate the free flow of scientific and technological information consistent with privacy and classification standards.**

- The Commission actively seeks input from and open dialogue among all parties engaged in all issues (scientific, technological, and otherwise) pertaining to marine mammals. The Commission considers the open exchange of information and viewpoints as central to well-informed decision making.
- The Marine Mammal Protection Act specifies that all Commission reports and recommendations shall be matters of public record and made available to the public. In accordance with this requirement, the Commission publishes all its recommendations, annual reports, and technical reports on its Web site and in other formats, as appropriate.
- The Commission publishes an annual report of its activities and accomplishments for the immediately preceding year.
- The Commission makes available to the public various periodic, annual, or final reports from those conducting Commission-supported research. The Commission also encourages publication of scientific or management data or findings in refereed journals, and provides links to publications from such studies.

- The Commission encourages investigators to make data or meta-data available to the public in open formats and, when appropriate, posts or provides links to such material on its website.

#### **4. Establish principles for conveying scientific and technological information to the public.**

- The Commission provides a detailed rationale for all its recommendations involving scientific and policy advice to other government agencies. Among other things, the rationale for Commission recommendations is intended to explain any underlying assumptions and portray and discuss uncertainties.
- The Commission's annual reports provide a broad overview of Commission activities and accomplishments in a given year and highlight important issues concerning the conservation of marine mammals, including related scientific and technical information.
- The Commission provides references to the sources of scientific information that underlie its scientific and policy recommendations, and includes citations to such information, as appropriate, in letters and reports to promote transparency of its findings.
- Through its letters, annual reports, and other reports, the Commission provides independent expert analysis of scientific, policy, and regulatory issues consistent with the provisions of the Marine Mammal Protection Act.

## **II. PUBLIC COMMUNICATIONS**

Because of its small size, the Commission does not have a public affairs office. Rather, media contacts are handled on an as needed basis.

- In general, the Executive Director fields media requests or directs them to the staff member with the appropriate knowledge and expertise.
- Given the Commission's duties and its role as an independent oversight agency, a premium is placed on accurate and full presentation of scientific findings and their implications for effective marine mammal management and conservation. Disputes that may arise over whether to proceed with requested media interviews or contacts are handled through consultations between the Executive Director, the Commissioners, and the Commission staff.

## **III. USE OF FEDERAL ADVISORY COMMITTEES**

The Committee of Scientific Advisors on Marine Mammals is a federal advisory committee. The Commission manages Committee activities to ensure that they are in compliance with the Federal Advisory Committee Act.

### **1. Recruitment Process**

- The knowledge requirements and appointment process for members of the Commission's Committee of Scientific Advisors on Marine Mammals are set forth in section 203 of the Marine Mammal Protection Act.

- Appointments initially are for a three-year term and may be extended for an additional period or indefinitely unless and until a successor is appointed. As such, vacancies do not occur on a regularly scheduled basis.
- Because of the statutorily mandated appointment process, which can take several months to complete, it is impractical to solicit recommendations for each vacancy as it occurs. Rather, the Commission will publish in the *Federal Register* periodic (e.g., every three years), general invitations seeking names of candidates for appointment to the Committee. This will provide the Commission with a list of possible candidates that can be considered each time that a vacancy occurs.

## **2. Biographical Information**

- The Commission's Web site identifies the current members of the Committee of Scientific Advisors on Marine Mammals and lists their affiliation.
- The Commission is in the process of expanding the biographical information it provides to include past affiliations, educational information, scientific expertise, and relevant experience.

## **3. Selection Process**

- The members of the Committee of Scientific Advisors on Marine Mammals are appointed by the Chairman of the Commission, in consultation with the other Commissioners and with the Chairman of the Council on Environmental Quality, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the President of the National Academy of Sciences. The consultation is intended to provide a check on whether candidates for the Committee have the required expertise.
- This process helps to maintain a high level of member expertise with regard to scientific disciplines (e.g., marine mammal veterinary medicine, population dynamics, biometrics, behavior, etc.), marine mammal species (e.g., cetaceans, pinnipeds, sirenians), and geographic areas of particular importance to the Commission's responsibilities.
- Diversity among Committee members and points of view represented also are considered by the Commissioners during the selection process. Expertise and geographical representation are two of the main considerations for selection.

## **4. Conflict of Interest Waivers**

Currently no members of the Committee of Scientific Advisors on Marine Mammals require a conflict of interest waiver. If the Commission issues any such waivers in the future, they will be made publicly available, except as provided for under 18 U.S.C. § 208(b) and applicable regulations implementing that provision.

## **5. Status of Reports, Recommendations, and other Products**

- Reports, recommendations, and other products produced by the Committee of Scientific Advisors on Marine Mammals are treated solely as the findings of the Committee.
- Such reports, recommendations, and other products are not subject to intra- or inter-agency revision.

#### **IV. PROFESSIONAL DEVELOPMENT OF GOVERNMENT SCIENTISTS AND ENGINEERS**

The Commission is committed to promoting and facilitating the professional development of its staff, including scientists, consistent with federal ethics rules, job responsibilities, and budgetary constraints. The Commissioners and members of the Committee of Scientific Advisors on Marine Mammals are independent scientists that serve as special government employees. Their pursuit of scientific research and professional development in their personal capacities is not limited in any way by their membership on the Commission or Committee except as required under applicable ethics laws and requirements.

- To the extent consistent with their job responsibilities and applicable ethics laws, staff members are allowed and encouraged to prepare articles and papers for publication in peer-reviewed, professional, or scholarly journals. Newly hired staff members are provided opportunities and encouraged to complete and submit for publication any papers or research results pending at the time of appointment.
- Scientific, management, and policy findings of the Commission and related work products, including those arising from studies or workshops sponsored by the Commission, may be appropriate for submission to peer reviewed, professional, or scholarly journals or presentation at professional meetings. Staff members are encouraged to pursue such publications or to make such presentations, both for their own professional development and as a means to further the mission of the Commission.
- Employees are allowed and encouraged, subject to applicable ethics laws, to serve as editors or editorial board members of professional or scholarly journals.
- Employees may participate fully in professional or scholarly societies and, subject to applicable ethics laws, serve as officers or on governing boards of such societies.
- Subject to applicable ethics laws, staff may receive honors and awards for their research and discoveries.
- Employees also are allowed and encouraged, subject to budgetary constraints, to continue their education by taking training and leadership courses related to their work responsibilities. They also are encouraged to participate in a wide array of interagency activities to ensure that they are well-informed regarding all activities pertinent to Commission responsibilities.