



THE SECRETARY OF THE INTERIOR
WASHINGTON

ORDER NO. 3397

Subject: Rescission of Secretary's Order 3369 and 3369 Amendment A1, in order to promote scientific integrity.

Sec. 1 Purpose. This Order rescinds Secretary's Orders No. 3369 and 3369A1 (SO 3369), entitled "Promoting Open Science." The purpose of this Order is to require a review of all actions taken pursuant to SO 3369 by the Department of the Interior (Department), and to rescind all relevant documents and policies enacted by the Department pursuant thereto. By doing so, this Order reaffirms and builds on the principles identified in President Biden's Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking, dated January 27, 2021 (the Presidential Memorandum).

Sec. 2 Authority. This Order is issued under the authority of section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), as amended, and other relevant statutes.

Sec. 3 Background. On September 28, 2018, and October 18, 2018, former Secretary David L. Bernhardt issued SO 3369 and SO 3369A1, respectively, directing the Department to (1) base decisions on the "best available science," with a priority on "publicly available, reproducible, peer-reviewed science"; and (2) to make publicly available any scientific data relied upon in a rulemaking, the analysis relied upon in a rulemaking, and the methodology used to gather and analyze data to support a proposed or final rule. Subject to waiver by the Deputy Secretary, SO 3369 required the release of such data for all contracts, grants, cooperative agreements, or other similar agreements entered into by the Department. SO 3369 further ordered the Deputy Secretary to update the Departmental Manual (305 DM 3) with the principles of "open science" and to initiate a rulemaking process on the directives of SO 3369.

SO 3369 was issued without permitting the due consideration and review by the Department's career officials or by the broader scientific community. Among other serious concerns with the directives of SO 3369, requiring every Departmental partner to contractually agree to publish their data significantly hindered the Department's ability to enter into contracts for cutting-edge research, particularly when such research involved proprietary data. This restrictive approach to data further precluded the Department from utilizing sensitive information (e.g., regarding sacred sites or rare and threatened species) to inform complex policy decisions. The waiver process remained undefined and left the Department's scientific endeavors vulnerable to political influence. Finally, the prescribed Departmental Manual updates and rulemaking requirements of SO 3369 were never completed.

This Order seeks to ensure that the Department remains a leader in scientific integrity by rescinding SO 3369, ordering a review of all agency activities taken pursuant to SO 3369, and providing direction to the Bureaus and Offices to comply fully with the Presidential Memorandum.

Sec. 4 Directive. SO 3369 and SO 3369A1, “Promoting Open Science,” are hereby revoked.

Sec. 5 Implementation. Consistent with governing laws and regulations, I direct the following actions:

- a. Consistent with the Presidential Memorandum, the Department shall review, and revise as necessary, its scientific integrity policies to ensure the highest level of integrity in all aspects of the Department’s involvement with scientific and technological processes. All Bureaus and Offices shall ensure that their scientific-integrity policies ban improper political interference in the conduct of scientific research and in the collection of scientific or technological data; prevent the suppression or distortion of scientific or technological findings, data, information, conclusions, or technical results; and support scientists and researchers of all genders, races, ethnicities, and backgrounds.
- b. The Department shall conduct all agency activities associated with scientific and technological processes in accordance with the six principles set forth in section 1 of the Presidential Memorandum on Scientific Integrity issued March 9, 2009; the four foundations of scientific integrity in government set forth in part I of the Memorandum on Scientific Integrity issued by the Director of the Office of Science and Technology Policy on December 17, 2010; and 305 DM 3 - Integrity of Scientific and Scholarly Activities.
- c. Within [90] days of this Order, the Scientific Integrity Officer of each Bureau and Office shall furnish to the Secretary a written report summarizing all actions taken where compliance with SO 3369 was determinative in the outcome or decision. The report shall also include the Bureau or Office’s plan to reverse or alter, if necessary, each such action to bring the Bureau or Office into compliance with this Order.
- d. All Bureaus and Offices shall discontinue the requirement that contracts, grants, cooperative agreements, and other similar agreements require the publication of data on the internet or in the Federal Register.

Sec. 6 Effect of this Order. This Order is intended to improve the internal management of the Department. This Order and any resulting report or recommendations are not intended to, and do not create, any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person. To the extent there is any inconsistency between the provisions of this Order and any Federal laws or regulations, the laws or regulations will control.

Sec. 7 **Expiration Date.** This Order is effective immediately.

A handwritten signature in blue ink, reading "S. de la Vega", followed by a long horizontal flourish.

Scott A. de la Vega
Acting Secretary of the Interior

Date: **MAR 03 2021**