

**FEDERAL ENERGY REGULATORY COMMISSION
INFORMATION QUALITY GUIDELINES
IMPLEMENTING SECTION 515**

Background

Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (P.L. 106-554) directed the Office of Management and Budget (OMB) to issue government-wide guidelines to "provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies." OMB's final guidelines were published on February 22, 2002. 67 FR 8452 (2002). Agencies were directed to issue implementing guidelines by October 1, 2002. For that purpose, the Federal Energy Regulatory Commission (FERC or Commission) issued a notice of availability of proposed guidelines on April 30, 2002, with comments due by June 7, 2002. That deadline was extended until July 5, 2002. The Commission received comments from the Citizens for Sensible Safeguards, the Center for Regulatory Effectiveness, and OMB. The Commission is now issuing these guidelines pursuant to OMB's Guidelines and these comments. These guidelines apply only to information disseminated on or after October 1, 2002.

The Commission has procedures already in place under which members of the public bring to the Commission's attention perceived errors, including information quality issues, in its issuances and other aspects of its records in Commission proceedings. Accordingly, these guidelines are not intended to duplicate or replace the Commission's rehearing or notice and comment process in its docketed proceedings. Requests for rehearing must be submitted in accordance with 18 C.F.R. § 385.713. To the extent that the Commission learns of an error in an issuance in a docketed proceeding, the Commission will follow its normal process and issue an erratum correcting the mistake as soon as possible. Nothing in these guidelines changes the existing procedures. An additional complaint and appeal process for information that is already subject to a public comment process or an administrative rehearing process would be inappropriate, legally duplicative and unfair to other parties or commenters who comply with the existing processes.

Definitions

Section 515 denotes four substantive terms regarding information disseminated by Federal agencies: quality, utility, objectivity and integrity. In its guidelines OMB, defines these terms as follows:

1. "Quality" is an encompassing term comprising utility, objectivity, and integrity. Accordingly, the guidelines sometimes refer to these four statutory terms, collectively, as "quality."

2. "Utility" refers to the usefulness of the information to its intended users, including the public. In assessing the usefulness of information that the agency disseminates to the public, the agency needs to consider the uses of the information not only from the perspective of the agency but also the perspective of the public. As a result, when transparency of information is relevant for assessing the information's usefulness from the public's perspective, the agency must take care to ensure the transparency has been addressed in its review of the information.

3. "Objectivity" involves two distinct elements, presentation and substance.

a. "Objectivity" includes whether disseminated information is being presented in an accurate, clear, complete, and unbiased manner. This involves whether the information is presented within a proper context. Sometimes, in disseminating certain types of information to the public, other information must also be disseminated in order to ensure an accurate, clear, complete and unbiased presentation. In addition, the agency needs to identify the sources of the disseminated information and, in a scientific, financial, or statistical context, the supporting data and models, so that the public can assess for itself whether there may be some reason to question the objectivity of the sources.

Where appropriate, data should have full, accurate, transparent documentation, and factors affecting data quality should be identified and disclosed to users. However, the objectivity standard does not override other compelling interests such as privacy, trade secrets, intellectual property, and other confidentiality protections.

b. In addition, "objectivity" involves a focus on ensuring accurate, reliable, and unbiased information. In a scientific, financial, or statistical context, the original and supporting data shall be generated, and the analytic results shall be developed, using sound statistical and research methods.

(i) If data and analytic results have been subjected to formal, independent, external peer review, the information may generally be presumed to be of acceptable objectivity. However, this presumption is rebuttable based on a persuasive showing by the petitioner in a

particular instance. If an agency sponsored peer review is employed to help satisfy the objectivity standard, the review process employed shall meet the general criteria for competent and credible peer review recommended by OMB-OIRA to the President's Management Council, (http://www.whitehouse.gov/omb/inforeg/oira_review-process.html).

(ii) If an agency is responsible for disseminating influential scientific, financial, or statistical information, agency guidelines shall require the disseminated information to have a high degree of transparency about data and methods used in the analysis to facilitate the reproducibility of such information by qualified third parties.

4. "Integrity" refers to the security of information – protection of the information from unauthorized access or revision to ensure that the information is not compromised through corruption or falsification.

For purposes of the FERC's Guidelines, the following definitions will apply.

1. "Dissemination" means Commission-initiated or Commission-sponsored distribution of information to the public.
2. "Government information" means information created, collected, processed, disseminated, or disposed of by or for the Federal Government.
3. "Information" means any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms. This definition includes information that the Commission disseminates from a web page, but does not include the provision of hyperlinks to information that others disseminate. This definition of information does not include information, where the presentation makes it clear that what is being offered is someone's opinion rather than fact or the Commission's official views.
4. "Information dissemination product" means any books, paper, map, machine-readable material, audiovisual production, or other documentary material, regardless of physical form or characteristic, that the Commission disseminates to the public. This definition includes an electronic document, CD-ROM, or web page.

5. "Influential" when used in the phrase "influential scientific, financial, or statistical information" means that the Commission can reasonably determine that dissemination of the information will have or does have a clear and substantial impact on important public policies or important private sector decisions.
6. "Reproducibility" means that the information is capable of being substantially reproduced, subject to an acceptable degree of imprecision. For information judged to have more (less) important impacts, the degree of imprecision that is tolerated is reduced (increased). With respect to analytic results, "capable of being substantially reproduced" means that independent analysis of the original or supporting data using identical methods would generate similar analytic results, subject to an acceptable degree of imprecision or error.
7. In the context of these guidelines, "transparency" is attained if the data and methods of analysis are sufficiently clear that a replication of the analysis is feasible. Transparency is important for peer review where employed. The more important benefit of transparency, however, is that the public will be able to assess how much the Commission's analytic result hinges on the specific analytic choices made.

Coverage of the Guidelines:

These Information Quality Guidelines (IQGs) cover agency-initiated or agency-sponsored distribution of information to the public. Examples of the information covered include, among others, engineering guidelines; administrative documents (for example, contact lists, phone directories, or organization charts); information on programs, services, and systems; and information submitted by others to the Commission and which the Commission disseminates as its own.

The IQG's do not cover, among other things:

- a. Distribution limited to government employees or agency contractors or grantees;
- b. Distribution intended to be limited to intra- or interagency use or sharing of government information;
- c. Responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act, or other similar laws;

- d. Distribution limited to correspondence with individuals or persons;
- e. Press releases that support the announcement or give public notice of information the Commission has disseminated elsewhere;
- f. Archival records;
- g. Filings made by members of the public, including regulated entities;
- h. All Commission orders, notices, and other official issuances;
- i. Staff Opinions rendered to individuals;
- j. Information limited to public filings, subpoenas, or adjudicative processes;
- k. Information that is not initiated or sponsored by the Commission;
- l. Information that expresses personal opinions rather than formal agency views;
- m. Trade secrets, intellectual property, confidential data or information;
- n. Non-routine or emergency public safety information.
- o. Information collections subject to the Paperwork Reduction Act, including Form Nos. 1, 2, 6, 11, 73, 80, 121, 556, 580, 714, and 715.

Nothing in these guidelines is intended to interfere with the Commission's obligations under the statutes it administers or with which it complies or with the Commission's enforcement of those statutes.

Applicability to Public Notice and Comment Processes

The correction and appeal process that will address data quality challenges does not apply to information disseminated by the Commission through any of its docketed proceedings or requests for comments on information collections subject to the Paperwork Reduction Act. The Commission will use its existing processes for responding to requests for correction of information associated with docketed proceedings. Challenges to information in notice and comment proceedings, such as notices of proposed rulemakings or environmental assessments, must comply with the Commission's existing comprehensive public comment process and directives for comment, including those published in the *Federal Register*. Challenges to information disseminated in other docketed proceedings, such as orders, opinions, ALJ decisions, filings or motions, must be filed in accordance with the Commission's rules, regulations and directives in those proceedings. Accordingly, these information quality guidelines are not intended and may not be used to circumvent, shadow, mimic, replace, or otherwise interfere with those processes, including the rehearing process. *See ECEE, Inc. v. FERC*, 611 F.2d 554, 565 (5th Cir. 1980)(holding that "[t]he purpose of a rehearing requirement is to give the administrative agency an initial opportunity to correct its errors.").

Guidelines

Utility

Where appropriate, the Commission will strive to maintain and improve the utility of the information it disseminates by soliciting input from the internal and external users of the information. Outreach methods include as appropriate, use of focus groups, pilot projects, technical conferences, as well as issuance of drafts, and feedback from trade associations, government agencies, and other frequent users of information.

While gauging utility of information is especially critical when developing the information, the Commission recognizes that utility may be subject to change as regulations, markets, technology, and other factors change. The Commission will provide ongoing opportunities for input into the utility of information provided by the Commission by providing employee contacts where appropriate.

Objectivity

The Commission strives to present information to the public in an accurate, clear, complete, and unbiased manner. When drafting regulations and other information for public dissemination, the Commission has adopted the June 1, 1998 White House Memorandum on Plain Language in Government Writing,¹ and related guidance found at <http://www.plainlanguage.gov/> in order to draft, clear, easy-to read documents.

The Commission also strives to present a complete analysis in its documents. To that end, the Commission often solicits input from various interest groups (e.g. trade associations, customer representatives, and environmental groups) in developing a document. In addition, where practicable, draft information products are often posted on the Commission's Internet site for public comment prior to issuance.

For influential scientific, financial, or statistical information, the Commission uses external peer review, where appropriate. For instance, the Commission's "Engineering Guidelines for the Evaluation of Hydropower Projects" sets forth the procedures and criteria the Commission uses for the engineering review and analysis of hydroelectric projects. These Guidelines are used throughout the hydropower industry and as a technical reference by engineers and dam safety programs world wide. For influential information such as this, the Commission uses peer review where appropriate when updating the information. Also, the Commission utilizes the services of external experts who have in depth knowledge that may be unavailable internally.

¹ <http://www.npr.gov/npr/library/direct/memos/memoeng.html>.

The Commission also aims to provide and maintain information that is accurate, reliable and unbiased. As part of this effort, the Commission solicits the involvement of knowledgeable persons within the industry. When practicable, the Commission strives to be consistent with standards and guidelines issued by other agencies, as well as those issued by recognized standards-setting bodies.² In addition, where appropriate, the Commission relies on other widely-accepted research and when selecting methods of analysis, the Commission strives to recommend and utilize widely-recognized methods.

In addition, the agency identifies the sources of the disseminated information (to the extent reasonable and practical), consistent with confidentiality protections and, in a scientific, financial, or statistical context, the supporting data and models, so that the public can assess for itself whether there may be some reason to question the objectivity of the sources. Where the information is not available from the Commission's website, the information will identify the source of underlying data or methodology, consistent with confidentiality protections, as noted.

Integrity

Integrity refers to security, i.e., the protection of information from unauthorized access or revision to ensure that the information is not compromised through corruption or falsification. The Commission has implemented policies, procedures, and safeguards to implement compliance with the requirements of the:

- Computer Security Act of 1987;
- FERC Directive 4-6 "Interim FERC Computer Security Program" (which adopts U.S. Department of Agriculture's Internet Security Policy directive DR3140-2);
- National Institute of Standards and Technology (NIST) Special Publication 800-12;
- Information Infrastructure Protection Act of 1996;
- Government Information Security Reform Act, National Defense Authorization Act;
- Electronic Communications Privacy Act of 1986;
- Office of Management and Budget (OMB) Circular A-130 Appendix III;
- OMB Memorandum (M) M99-20 Security of Information resources;

² In order to create a more integrated and efficient natural gas pipeline grid, the Commission has adopted by reference business practice standards and communication protocols developed by the North American Energy Standards Board (NAESB). NAESB is a private, consensus standards developer whose natural gas standards are developed by representatives from all segments of the natural gas industry.

- OMB Memorandum 99-18 Privacy Policies on WWW sites;
- OMB Memorandum titled "NIST & GSA Federal Computer Incident Response Capability - Critical Infrastructure Protection," and various other statutes, implementing regulations, and policy guidance issued by various agencies within the Executive Branch and to assign responsibility for developing, implementing, and maintaining an IT Security Program.

In addition, the Commission has internal policies and procedures in place to maintain the integrity of and ensure the proper handling of paper documents, in accordance with:

- 44 U.S.C. Chapter 31, Records Management by Federal Agencies
- Title 36, Code of Federal Regulations (CFR), Parts 1220 through 1236 (National Archives and Records Administration Regulations).
- Title 41, CFR, Part 201 (Federal Information Resources Management Regulation)
- National Archives and Records Administration Records Management Publications.

The Commission is committed to integrating the principle of information quality into its development of information including creation, collection, maintenance, and dissemination.

Administrative Mechanism for Obtaining Correction of Information

Persons, as defined in the Paperwork Reduction Act,³ affected and seeking correction of information maintained and disseminated by the Commission on the basis that the information does not comply with the Commission's and OMB's information quality guidelines may file a written request for correction with the Commission.

To be complete, written requests for correction must contain the following information:

- Include the name, address, telephone number, and e-mail address, if any, of the requestor. Sign the request for correction if submitted on paper. If submitted by electronic filing, follow the Commission's electronic filing instructions on the Commission's website under the link "eFiling."
- Indicate that the request for correction is being filed in accordance with the administrative mechanism for seeking and obtaining correction of information maintained or disseminated by the Commission.

³ 44 USC Chapter 35.

- Explain why this information falls within the coverage of the guidelines, i.e., why it is not excluded from coverage.
- Specify the information that the requestor believes requires correction.
- Specify how the Commission failed to follow its or OMB's guidelines for information quality, listing the information quality standard(s) which has not been met.
- Describe how the person submitting the request is affected by the information error.
- Specify how the information should be corrected.
- Add any other relevant information.

A member of the public who files a request for correction under this paragraph has the burden of proof with respect to the necessity for correction as well as with respect to the type of correction requested.

Send written requests for correction to information covered by these guidelines to the Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426. Requests for correction may be filed electronically via the Internet in lieu of paper. See, 18 CFR § 385.2001(a)(iii) and the instructions on the Commission's web site at <http://www.ferc.gov> under the link to "E filing."

Processing Requests for Correction

The Office of External Affairs will receive and review requests for correction relating to information quality. Requests for correction will be forwarded to the appropriate official for further processing.

The Commission may respond to the request by personal contact via letter or e-mail, or by an errata notice, form letter, press release or mass mailing that corrects a widely disseminated error or addresses a frequently raised request. The requestor will be informed of the name of the official within the Commission to whom the referral has been sent.

The Commission will make every effort to respond within 60 calendar days of the receipt of the request to either identify the action that will be taken or reject the request. If the request requires more time to resolve, the Commission will so inform the requester and indicate the

reason why and an estimated decision date. If asked, the request will be submitted to the Commission's Dispute Resolution Service. For more information on the Commission's Dispute Resolution Service, see <http://www.ferc.gov/legal/drs/drs.htm>.

In accordance with OMB guidance, the agency reserves the right to reject claims made in bad faith or without justification. The Commission will undertake only the degree of correction appropriate for the nature and timeliness of the information involved.

Requests for Reconsideration

If the Office of External Affairs rejects the request for correction or does not resolve the request for correction to the satisfaction of the requestor, the requestor may request reconsideration of the decision. Any staff member who participated in the original review of the request for correction will not be assigned to participate in the review of the request for reconsideration except insofar as identifying or providing copies of records. The requestor may ask that the request for reconsideration be submitted to the Commission's Dispute Resolution Service. The Commission will make every effort to respond within 60 calendar days of the receipt of the request to identify the action that will be taken or reject the request for reconsideration. If the request requires more time to resolve, the Commission will inform the requester that more time is required and indicate the reason why and an estimated decision date.

If the request is rejected or not fully resolved, the requestor may send written requests for reconsideration within 45 days of the date of the response. The request must be in writing, addressed to the General Counsel, Federal Energy Regulatory Commission, Room 102-03, 888 First Street, NE, Washington, DC 20426, and clearly marked "Information Quality Guidelines Request for Reconsideration". Requests for reconsideration may be filed electronically via the Internet in lieu of paper. See, 18 CFR § 385.2001(a)(iii) and the instructions on the Commission's web site at <http://www.ferc.gov> under the link to "EFiling."

FERC Reporting Requirements

On an annual fiscal-year basis, the Commission shall submit a report to the Director of OMB providing information on the number and nature of complaints received regarding compliance with OMB guidelines, and how such complaints were resolved. The report will be posted on the Commission's web site. The report shall be submitted no later than January 1 of each following year. The first report shall be submitted by January 1, 2004.