

1. Scrutiny of Data Access and Data Quality Laws

[Jim J. Tozzi](#), Member, Board of Advisors

Center for Regulatory Effectiveness, Washington, DC 20009, USA

Re: "[Symmetrical Transparency in Science](#)" Shrader-Frechette, et al., 663-664.

In their Letter "Symmetrical transparency in science" (6 May 2011, p. 663), K. Shrader-Frechette and N. Oreskes assert that private research on health and environmental issues is not subject to the same transparency and scrutiny for quality as "public" research, and they attribute that perceived lack of symmetry to the Data Access Act and Data Quality Act. Some clarification appears necessary.

The Data Access Act states that federal agencies must make available to the public all research and underlying data developed under a federal award (1). However, the law was severely restricted by the Office of Management and Budget (OMB) when it promulgated implementation rules.

The OMB rules require agencies to make private research under a federal award available only if it is used "in developing an agency action that has the force and effect of law"(2). In other words, private data relied on by an agency in a non-regulatory information dissemination, such as a risk assessment or a legislative recommendation, cannot be obtained. This alteration of the statutory mandate has never been challenged.

The quality standards of the Data Quality Act apply to private research if an agency relies on the private research in an information dissemination. The OMB rules state that "if an agency, as an institution, disseminates information prepared by an outside party in a manner that reasonably suggests that the agency agrees with the information, this appearance of having the information represent agency views makes agency dissemination of the information subject to these guidelines"(3).

The Data Access Act and Data Quality Act went a long way toward making private research data subject to the same transparency and quality standards as those that apply to federal agencies. The Acts surely did nothing to restrict public access to private research or scrutiny of its quality.

Jim J. Tozzi

Center for Regulatory Effectiveness, Washington, DC 20009, USA.

References

1. Public Law 105–277, 112 Stat. 2681 (1998) [section on Office of Management and Budget].
2. 64 Fed. Reg. 54926, 54930 (1999).
3. 67 Fed. Reg. 8452, 8454 (2002).

Conflict of Interest:

None declared

[... less](#)

[Read all E-Letters published for this article](#)

[Submit response](#)

Published 26 May 2011