



6 August 2001

Brooke Dickson
Office of Information and Regulatory Affairs
Office of Management and Budget
Washington, D.C. 20503

Dear Ms. Dickson:

This letter provides comments on the "Proposed Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by Federal Agencies" published in the Federal Register on June 28, 2001.

It is clear that federal agencies must ensure that governmental information is as reliable as possible. However, experience suggests that existing agency procedures already provide adequate assurances in this regard, especially concerning the release of scientific information. Thus, the imposition of new, redundant tests and checklists that must be satisfied before information is released may actually hamper the goal of transparency in government, and the spirit of the Paperwork Reduction Act, Freedom of Information Act and other federal law. In this regard, it is positive that the OMB's notice states that agencies are encouraged "to rely, to the extent possible, upon existing agency processes for evaluating information dissemination activities rather than require the creation of new and potentially duplicative or contradictory processes."

However, I am concerned that the effect of the June 28 notice may be to make release of government information more cumbersome. For example, the new requirement that agencies must consider "whether the information is useful to all users of the information, including the public" is problematic as the Paperwork Reduction Act already addresses this objective. What's more, there is no single "public," and information may be useful to some members of the public and not to others. Additionally, this test may provide still another avenue for misdirected impediments to the release by the government of material to which individuals or special interest groups object on political or economic grounds, simply by challenging data's "usefulness" to an ill-defined "public."

Furthermore, the notice raises serious concerns within the academic community, particularly the degree to which research performed by university faculty with federal support may fall within the scope of this notice. Indeed, given the presumed intent of these guidelines, it seems inappropriate to include faculty research supported by federal grants. However, the definitions of "dissemination," "government information" and "government publication" contained both in the notice and in Circular A-130 do not provide assurance that faculty research results are excluded from the June 28 notice. Thus, I strongly oppose the imposition of confusing new requirements on faculty that could limit their right to publish under long-standing academic tradition.

Next, I suggest that the June 28 notice exceeds the statutory mandate contained in Public Law 106-554. The statute does not require specific reference to scientific research information, and I urge that paragraph V.ii.a. ("With respect to scientific research information, the results must be substantially reproducible upon independent analysis of the underlying data") be deleted. If that paragraph is not deleted, can it be clarified? Will there be safeguards to ensure that the parties doing this analysis are themselves objective and have scientific credibility? Who is to perform said independent analysis, and who is to pay for it?

Vice Provost for Research
4505 Maryland Parkway • Box 451046 • Las Vegas, Nevada 89154-1046
(702) 895-4240 • FAX (702) 895-4242

Additionally, I am troubled at the prospect of interested parties seeking to review, with the intent of discrediting, the scientific basis for any position taken by the government since the statute requires "administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply" with these new rules. Indeed, OMB should not establish procedures that could facilitate the harassment of scientists who may be investigating questions of economic or social importance, simply because someone may dislike the conclusions reached through those investigations! Safeguards should be provided to prevent frivolous challenges and harassment, and "affected persons" should not be permitted to challenge the substance of information without showing that a qualified scientist has found fault with its quality or integrity. Without such precautions, I fear that we open the door to a legal quagmire.

Please consider also the term "substantially reproducible." As you know, research results are necessarily published before they have been replicated. Such results may be challenged later, and this is part of the long-standing process of scientific progress. However, the "substantially reproducible" standard could interfere with the publication of research results and delay important scientific discoveries from being publicized. If the entire paragraph is not to be deleted, I urge clarification that existing agency review procedures, including grant approval through peer review panels, as well as long-standing peer review requirements for publication in reputable scientific journals, satisfy these requirements. Further, if paragraph V.ii.a. is not deleted, I urge clarification of the term "underlying data" with the hope that this term be defined in a manner consistent with other existing federal policies and guidelines.

In summary, I find the June 28 notice to be ill-crafted and to raise many questions that merit serious review. Accordingly, I ask whether OMB can promulgate a notice that adequately addresses these questions and satisfies the public interest within the short time between the August 13 deadline for comments and the September 30 mandate for issuing these guidelines?

Thank you for the opportunity to provide comment.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Stephen Rice", written in a cursive style.

Stephen Rice
Vice Provost for Research