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Department of Commerce Information Quality Guidelines

Response to Comments on Draft Guidelines

Department of Commerce and Operating Unit Web Sites for Information Quality Guidelines

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DEPARTMENT OF COMMERCE

Office of the Secretary

RIN: 0690-XX07; Docket No. 020430099-2226-02

Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Disseminated Information

AGENCY: Department of Commerce.

ACTION: Notice

SUMMARY: Section 515 of Public Law 106-554, the Treasury and General Government Appropriations Act for Fiscal Year 2001, directs the Office of Management and Budget (OMB) to issue government-wide guidelines that "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." The OMB guidelines require that agencies subject to the OMB guidelines must establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the OMB guidelines or the agency guidelines. The OMB final guidelines were published in the Federal Register on February 22, 2002. Those guidelines direct that, by October 1, 2002, agencies publish their information quality guidelines.

The Department of Commerce published its draft guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of disseminated information on its Internet Web site on May 1, 2002 and in the Federal Register on May 3, 2002 (67 FR 22398). The Department of Commerce's response to the comments received is included in the SUPPLEMENTARY INFORMATION section of this document.

This document implements section 515 for the Department of Commerce and defines the Department of Commerce's information quality guidelines. It may be

revised periodically, based on experience, evolving requirements in the Department of Commerce, and concerns expressed by the public.

ADDRESSES: Correspondence should be sent to Thomas N. Pyke, Jr., Chief Information Officer, Department of Commerce, 14th St. and Constitution Ave. NW, Room 5029B, Washington, DC 20230. Send e-mail to informationquality@doc.gov. Department of Commerce operating units will publish their information quality standards on the Web sites listed in the SUPPLEMENTARY INFORMATION section of this document. Correspondence on the operating unit standards should be addressed directly to the contact noted in the operating unit standards.

FOR FURTHER INFORMATION CONTACT: Diana H. Hynek, Office of the Chief Information Officer, Department of Commerce, 14th St. and Constitution Ave. NW, Room 6625, Washington, DC 20230. Telephone (202) 482-0266 or by e-mail to dhynek@doc.gov.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The U.S. Department of Commerce ("Commerce" or "Department") is one of the most diverse Federal departments, both in terms of its mission and the information it provides to the public. We are responsible for daily weather reporting, facilitating the use of technology both at home and in the workplace, collecting statistics that assist the public and private sector, and supporting the environmental and economic health of U.S. communities. Our mission is to promote job creation and improve living standards for all Americans by creating an infrastructure that encourages economic growth, technological competitiveness, and sustainable development, conservation, and wise use of living marine resources.

To carry out this mission, three strategic goals have been identified. They are to provide the information and the framework to enable the economy to operate efficiently and equitably; provide the infrastructure for innovation to enhance U.S. competitiveness; and observe and manage the Earth's environment to promote sustainable growth.

Commerce provides the basic economic data necessary to develop sound business decisions, producing many of the commonly used economic statistics issued by the U.S. Government. The Department also produces information designed to encourage the use of science and technology in the production of consumer goods and services.

Commerce plays an important role in the nation's global business development. The Department develops and disseminates foreign market research and international trade opportunities through its offices in the United States and in 83 foreign countries. Commerce also monitors and enforces compliance with U.S.

trade laws and agreements, and defends American firms from injurious foreign business practices by administering U.S. antidumping and countervailing duty laws.

The oceanic and atmospheric programs at Commerce improve the understanding and rational use of the natural environment to further the Nation's safety, welfare, security, and commerce. These responsibilities include predicting the weather, charting the seas, and protecting the oceans and coastal areas.

Domestically, Commerce's programs promote long-term business enterprises that create jobs for minority groups and in underdeveloped areas across the United States. These programs are supported by reports, publications, projections, and business expertise. The Department provides services to citizens and private business as well as to state, local, and tribal governments.

COMMERCE COMMITMENT TO INFORMATION QUALITY

Given the broad responsibilities of the Commerce Department in scientific, technical, and statistical information, Commerce welcomes the opportunity provided by the issuance of the Office of Management and Budget information quality guidelines to demonstrate our thorough and professional approach to information release.

Our goal is to ensure and maximize the quality of the information we release to the public. We are committed to making the methods, models, and processes that produce our information transparent and rigorous. At the Commerce Department, we have a long tradition of producing relevant, credible, high quality information to the public at large, the academic community, and the private sector.

We believe that we uphold a high standard regarding information quality through the use of quality control procedures for statistical data collection and processing. The 2000 decennial census, conducted by the Census Bureau, was the most accurate census in the history of the Nation. Commerce has made significant strides in redesigning the national income

and product accounts by improving the conceptual foundation and incorporating new estimating methods and other statistical improvements. Our scientific research incorporates both internal and external peer review as appropriate. The Department boasts two Nobel Prize winners in science. We operate supercomputers that rank in the Nation's top ten in processing power. These powerful computers allow us a high degree of model resolution that increases the number of data points used to improve the accuracy of weather forecasts.

In summary, these Commerce guidelines are a continuation of our commitment to information quality. We have a proven track record in producing high quality information and welcome the opportunity to present our information quality guidelines.

GUIDELINES FOR ENSURING AND MAXIMIZING THE QUALITY, OBJECTIVITY, UTILITY, AND INTEGRITY OF INFORMATION DISSEMINATED BY THE DEPARTMENT OF COMMERCE AND ITS OPERATING UNITS

Because of the diversity of Commerce's mission, we have taken a distributed approach to preparing our information quality guidelines. Outlined below are the responsibilities of the Department of Commerce and the responsibilities of the individual operating units of the Department.

I. Department of Commerce Responsibilities

The Department of Commerce Chief Information Officer (CIO) will prepare and submit reports annually to the Director of the Office of Management and Budget (OMB) regarding the number and nature of complaints received by the Department of Commerce regarding Department compliance with the OMB guidelines concerning the quality, objectivity, utility, and integrity of information and how such complaints were resolved, as required by Section 515 of the Treasury and General Government Appropriations Act for FY 2001 (Public Law 106-554) and the OMB Guidelines.

II. Operating Unit Responsibilities

The operating units of the Department are organizational entities outside the Office of the Secretary charged with carrying out specified substantive functions (i.e., programs) of the Department. For purposes of this document, operating unit responsibilities will apply to the Office of the Secretary also.

1. By October 1, 2002, document and make available to the public information quality standards that address the requirements of quality, objectivity, utility, and integrity for all non-exempt information disseminated by the operating unit.
2. By October 1, 2002, establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the operating unit on or after October 1, 2002, that does not comply with these Department guidelines and the OMB guidelines.

The operating unit will respond to all initial requests within 60 calendar days of receipt. If the request requires more than 60 calendar days to resolve, the operating unit will inform the complainant that more time is required and indicate the reason why and an estimated decision date. The operating unit will respond to all requests for appeals within 60 calendar days of receipt. If the request requires more than 60 calendar days to resolve, the operating unit will inform the complainant that more time is required and indicate the reason why and an estimated decision date.

In cases where the operating unit disseminates a study, analysis, or other information prior to the final operating unit action or information product, requests for correction will be considered prior to the final operating unit action or information product in those cases where the operating unit has determined that an earlier response would not unduly delay issuance of the operating unit action or information product and the complainant has shown a reasonable likelihood of suffering actual harm from the operating units dissemination if the operating unit does not resolve the complaint prior to the final operating unit action or information product.

Note: The guidelines addressed in items 1 and 2 cover information disseminated on or after October 1, 2002, regardless of when the information was first disseminated, except that pre-dissemination review procedures shall apply only to information first disseminated on or after October 1, 2002. Covered information disseminated will comply with all applicable OMB Information Quality Guidelines as well as these Department of Commerce Information Quality Guidelines.

3. Beginning on October 1, 2002, demonstrate in the operating unit's Paperwork Reduction Act (PRA) submissions to OMB the "practical utility" of a proposed collection of information that the operating unit plans to disseminate. Additionally, for all proposed collections of information that will be disseminated to the public, demonstrate in the operating unit's PRA clearance submissions to OMB that the proposed collection of information will result in information that will be collected, maintained, and used in a way consistent with applicable information quality guidelines.
4. Assist the Department CIO in the preparation of annual reports to OMB by providing information requested by the Department CIO.

RESPONSE TO COMMENTS

The Department and its operating units received eleven responses to the request for comments. Four responses were received from public interest groups; one was from a voluntary professional association; two were from a for-profit corporation; and four were from industry associations. Some of the comments contained in the submissions were addressed either to the entire Federal government or to agencies other than the Department. In this notice, the Department is responding only to comments relevant to its applicable information quality standards. In addition, the Department has received further guidance from OMB (OMB guidance, June 10) on the development of information quality guidelines, which helps the Department respond to some of the comments. A detailed analysis of the comments, and the Department's response based on both the comments and the OMB guidance, follows.

General

Comment: Some commenters suggested that the Department and its operating units should view information quality as a "performance goal." One of these commenters requested, in particular, that the National Oceanic and Atmospheric

Administration (NOAA) list the names of the component offices (e.g., National Marine Fisheries Service, National Weather Service, etc.) that will be subject to the guidelines.

Response: In keeping with the guidance provided by OMB, the Department views its information quality guidelines as performance standards. NOAA's information quality guidelines apply to all its line (component) offices.

Comment: Some commenters suggested that the Department provide additional, subsequent opportunity in the future for further public comment on the guidelines after publication on October 1, 2002. These commenters noted that the Department's guidelines lack a centralized focus and commitment to implementation of the new information quality and oversight system and administrative correction mechanisms. These commenters stated that the Department must establish a complete, centrally focused and harmonized information correction system.

Response: Pursuant to public request, the Department extended for 30 days the period for public comments on its draft guidelines. While the Department would like to gather additional public input, further extension of the public comment period, or a further round of comments, is not possible due to the statute's October 1, 2002, deadline for implementation of the Department's information quality guidelines.

Comment: Some commenters noted that the Department's guidelines lack a centralized focus and commitment to implementation of the new information quality and oversight system and administrative correction mechanisms. These commenters stated that the Department must establish a complete, centrally focused and harmonized information correction system.

Response: As to adopting a single, central information correction system, the Department's guidelines reflect the reality of the broad scope of the Department's mandate, from conducting each decennial census to forecasting the weather. In keeping with the first principle stated by OMB in its own guidance to federal agencies, a one-size-fits-all approach is not effective (67 FR at 8452). Were the Department or some of its component operating units (OUs) to attempt to apply a single centralized standard, it would necessarily be far less specific - and less effective as a performance standard - than the approach taken.

Comment: Several commenters urged the Department to establish a permanent, dedicated area on its Web site where all documents, notices of existing challenges to disseminated data, resolutions of those challenges, uncorrected information found wanting, and other items related to guidelines can be disseminated.

Response: The Department and its OUs will publish the information quality guidelines as well as other appropriate information on their respective Web sites for public use.

Comment: Some of the commenters pointed out that the guidelines fail to require that the dissemination of the corrected data will be accomplished in a manner equal to the dissemination of and proportional to the significance and importance of the original data.

Response: The form of corrective action will be determined by the nature and timeliness of the information involved and such factors as the significance of the error on the use of the information and the magnitude of the error.

Comment: Some commenters suggested that the Department's guidelines have not proposed complete, functional, and responsible administrative review mechanisms that will afford affected parties meaningful opportunity to ensure data quality and obtain timely correction of flawed information.

Response: OMB notes that under its guidelines "agencies need only ensure that their own guidelines are consistent with ... OMB guidelines, and then ensure that their administrative mechanisms satisfy the standards and procedural requirements in the new agency guidelines." (67 FR at 8453) In keeping with this directive, the administrative review mechanisms adopted by the Department's OUs are designed to ensure a fair opportunity to seek and obtain correction of information that does not comply with applicable guidelines.

Comment: Some commenters urged a clear statement in the guidelines that these mechanisms are available for challenges based on alleged non-conformance with the OMB or the Department's guidelines.

Response: Administrative mechanisms are provided for appropriate challenges based on all applicable guidelines.

Comment: One commenter urged the Department to make every effort to clearly assert that the guidelines are not judicially reviewable and that the Department is not legally bound by the guidelines and has the right to depart from them when appropriate.

Response: The Department takes the mandate of Section 515 seriously and has published information quality guidelines and standards designed to ensure and maximize the quality of information that it disseminates and will comply with those guidelines and standards. The Department notes that the guidelines are not intended to provide any right to judicial review.

Comment: One commenter suggested that the Department state that public access to information is a central government responsibility that the agency will uphold and that the guidelines should not impose unnecessary administrative burdens that would inhibit agencies from continuing to disseminate information that can be of great benefit and value to the public. The commenter suggested that the Department should look to Section 515 itself to determine the scope and components that are required to be in the guidelines. This commenter also stated that Section 515 should be reviewed as a clarification of the Paperwork

Reduction Act (PRA) and that the Department should state that "quality" is only one factor to consider. The commenter stated that the agency must answer to its core substantive mission, operate within budgetary constraints, and consider the benefits of timely dissemination.

Response: The Department agrees that public access to information is a central government responsibility and intends to apply its information quality guidelines in ways conducive to wide dissemination of information that is of benefit and value to the public. The Department agrees that nothing in Section 515 is intended to diminish or interfere with the Department's core substantive mission and activities, or its ability to operate within budgetary constraints to timely disseminate beneficial information to the public.

Comment: One commenter urged the Department to provide appropriate policy direction to its operating units regarding the data quality standards and pre-dissemination review procedures to ensure that the OMB information quality standards will be met.

Response: Such policy direction has been an integral part of the Department's implementation of OMB's guidelines.

Comment: Some commenters noted that the Department should provide effective procedures for the timely correction of information determined to be flawed and for appropriate prohibitions on further use and dissemination of such information until it is corrected.

Response: In keeping with OMB's directive, the administrative review mechanisms adopted by the Department's OUs are designed to ensure a fair opportunity to seek and obtain correction of information that does not comply with applicable guidelines. In any given instance, the form of corrective action will be determined by the nature and timeliness of the information involved and factors including, but not limited to, the significance of the error on the use of the information and the magnitude of the error.

Comment: Some commenters noted that the Department should revise its draft guidelines to address the open issues, eliminate (or carefully circumscribe and narrow) the proposed exemptions and limitations, and set forth a complete, centrally focused data correction scheme for the Department that implements *new* information quality and oversight systems and the full administrative correction mechanisms contemplated by Congress and OMB. The commenters stated that the changes should include the specific measures recommended herein.

Response: The OMB guidelines clearly state that agencies should incorporate the standards and procedures required by OMB's "guidelines into their existing information resources management and administrative practices rather than create new and potentially duplicative or contradictory processes." (67 FR at 8453)

Scope

Comment: Several commenters stated that the Department should revise the "Scope" sentence to read: "These guidelines cover information disseminated (as defined in the OMB Guidelines) by the Department on or after October 1, 2002, *regardless of when the information was first disseminated.*"

Response: The Department has clarified that it is the pre-dissemination review procedures that will apply only to information first disseminated on or after October 1, 2002. The Scope section now clearly states that the pre-dissemination review requirement applies to information that the agency first disseminates on or after October 1, 2002, and that the administrative correction mechanisms apply to information that the agency disseminates on or after October 1, 2002, regardless of when the agency first disseminated the information. This language is consistent with OMB's guidance to federal agencies.

Information Not Covered by the Department's Guidelines

Comment: Some commenters expressed concerns about the Department's exemption of certain information from the guidelines. Some of these commenters suggested that the exemptions be "eliminated or narrowly circumscribed" to prevent undermining the mandate of the Act. One commenter objected to OMB's creation of exemptions not authorized by Section 515 and the inconsistency between OMB's "dissemination" exemptions in its Section 515 guidelines with OMB's broader definition of "dissemination" in implementing the PRA. This commenter also objected to additional exemptions proposed by federal agencies. One commenter noted that OMB exempts some types and categories of information from the guidelines and argues that neither OMB nor the agencies has legal authority to exempt "any information that an agency has in fact made public." This commenter further objected to agency inclusion of OMB exemptions and to any agency interpretations, changes, or exemptions that differ from OMB's.

Response: The Department is implementing the guidance (guidelines and June 10 supplemental information) developed by OMB. Comments raising concerns with the OMB guidelines are outside the scope of the Department's actions. The Department has clarified that the exemption for press releases only applies to press releases themselves and not to any background information on which the press release is based. The Department and its OUs did not create exemptions in addition to those outlined by OMB.

Comment: Two commenters noted that Section 515 lists no exceptions to information disseminated by an agency and, therefore, the Department should not attempt to restrict coverage by narrowing the classifications of information covered. The commenters believe that all information disseminated by the Department should be covered by the guidelines, including information "initiated or sponsored" by the Department and third party information that the Department

disseminates in a manner that reasonably suggests that the agency agrees with the information. The commenters suggested that the Department should include "information contained in rulemaking dockets" among the classes of information covered.

Response: The Department notes that the information not covered by the guidelines includes information that is not "disseminated" to the public by the Department (such as intra- or inter-agency information or responses to requests through FOIA, the Privacy Act, etc.) and information that is already public (such as press releases, public filings, etc.). The Department also points out that all "information" "disseminated" - as those terms are defined by OMB - by the Department is covered by these guidelines, including third party information. In addition, OMB exempted some types and categories of information within the statutory directive to "provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information." The Department has no control over the quality of information submitted to the agency during a rulemaking. However, any such information on which the Department might rely would be subject to the guidelines' provisions on third party information.

Comment: Several commenters suggested that these exemptions, especially, but not limited to, those covering adjudicatory proceedings and notice and comment-type proposed action, may undermine the mandate of Section 515. The commenters suggested that information dissemination as part of a proposed rule or proposed NRDAR plan not be excluded from the application of the guidelines. However, another commenter stated that the rulemaking process affords adequate procedures and opportunities for questioning and correcting information and that data disseminated from a rulemaking process should not be eligible for dispute under the information quality administrative mechanism.

Response: Regarding the commenters' suggestion that the Department include adjudicatory proceedings within the coverage of the guidelines, the Department notes that in the preamble to the OMB guidelines, OMB stated:

There are well-established procedural safeguards and rights to address the quality of adjudicatory decisions and to provide persons with an opportunity to contest decisions. These guidelines do not impose any additional requirements on agencies during adjudicative proceedings and do not provide parties to such adjudicative proceedings any additional rights of challenge or appeal (67 FR at 8454).

The Department agrees with this reasoning and has, therefore, retained the exemption for adjudicatory processes.

The Department's guidelines, including those of all the OUs, do not exempt information included in a rulemaking. However, the guidelines maintain the integrity of the rulemaking process by addressing requests for correction in a way that does not disrupt that process. This is in keeping with OMB's frequent

reiteration, in its guidance, that disruption of existing processes is neither contemplated nor desired.

Further, the Department notes that the commenters may have misunderstood the language in its draft guidelines concerning such actions. Informal and formal rulemakings and Natural Resource Damage Assessment and Restoration Plans (NRDAR Plans) are subject to these guidelines. As such, the information quality standards remain applicable to information disseminated as part of a proposed rule or a proposed Natural Resource Plan.

Comment: Some commenters stated that there are no "case-by-case" exemptions from applicability of the guidelines and states that "Congress clearly intended OMB's Data Quality guidelines to apply to all information that agencies subject to the PRA in fact make public." The commenters' examples suggest that, with regard to the meaning of "information," the reach of Section 515 is identical to that of the PRA. The commenters complain that agency proposals "exempt material relating or [sic] adjudicatory proceedings or processes, including briefs and other information submitted to courts." The commenters state that neither OMB nor any federal agency has authority to make this exemption.

Response: This exemption was listed specifically by OMB in its own information quality guidelines to federal agencies, and the Department believes it is appropriate and in keeping with long-established principles of adjudicative processes, which have many inherent safeguards.

Standards and Pre-dissemination Review: Influential information and objectivity

Comment: Two commenters pointed out that the Department failed to provide any guidance on how influential scientific or technical information will be subjected to the required higher standards for quality and greater transparency. These commenters stated that the high level of generality provides insufficient guidance to NOAA's Fisheries Service, whose technical fishery conservation and management data is used to regulate fisheries. Some other commenters stated that the Department failed to address appropriate standards of objectivity for influential information.

Response: The Department has revised the guidelines to provide clearer guidance on quality standards for influential information and objectivity. The Department recognizes the importance of influential information that may be used in decisions such as fishery conservation and management. NOAA has revised its guidelines to discuss meeting the objectivity standard for influential information.

Comment: One commenter stated that the Department should narrowly define "influential" information, employing a high threshold for coverage to maximize its flexibility and preserve its ability to act in a timely fashion.

Response: The Department recognizes that a balancing process is involved in defining "influential" information. In keeping with OMB's directive that each agency "define 'influential' in ways appropriate for it given the nature and multiplicity of issues for which the agency is responsible" (67 FR at 8460), the Department's OUs have defined "influential" in ways appropriate to their specific missions and activities, with the goal of ensuring and maximizing information quality.

Comment: Some commenters suggested that the Department should abandon its proposed "objectivity" standard and instead should adopt the "objectivity" standard established by OMB for non-scientific, non-financial and non-statistical information. These commenters stated that the Department should also direct its operating units to do the same.

Response: As the Department has noted above, OMB has stressed that its guidelines are intended to be flexible and that a one-size-fits-all approach has not been taken, and that it has deliberately allowed agencies to tailor their guidelines to their mission and activities.

Comment: Two commenters stated that the Department should define the categories of information that are "influential" scientific, financial, and statistical information and include within those categories all information disseminated in connection with NRDAR Plans. Two commenters objected to the fact that some agencies neither adopted OMB's definition of "influential" nor provided one of their own.

Response: The Department does not believe it is appropriate to list prospectively all information that may be "influential." Rather, the OUs have defined the term "influential," either by adopting or adapting OMB's definition of that term, and will characterize specific information as such when appropriate. Certain information, such as the gross domestic product, can readily be predicted to consistently meet BEA's definition. However, NRDAR Plans would not typically meet the "influential" threshold established by NOAA. Such Plans deal with site-specific liabilities of one or several persons responsible for unlawful releases of hazardous substances or oil. As such, NRDAR Plans are not expected to have a genuinely clear and substantial impact on major public policy and private sector decisions.

Comment: One commenter suggested that the Department should not unduly limit the concept of "quality" information by narrow definitions of the terms "objectivity, utility, and integrity." This commenter suggested that the Department should begin the description of objectivity by pointing out that the term "objectivity" includes both the substance of information and its presentation.

Response: The Department has revised the definitions of objectivity, utility, and integrity, to incorporate the suggestion concerning both the substance and presentation of information.

Comment: Some commenters objected to the use of policy-driven or mission-driven assumptions or factors by agencies in connection with risk assessments. These commenters stated that only numerical information or factors can be considered in risk assessments and that risk management policy decisions should be clearly separated from the presentation of scientific data and analysis.

Response: The Department believes that an agency's (or operating unit's) activities and decisions must be consistent with and based upon its statutory mandate. Nothing in Section 515 or in the OMB guidelines repeals or amends the specific statutes governing agency action. Consistent with these statutes, the guidelines of all the Department's OUs require an absence of bias in both the presentation and substance elements of objectivity. In addition, the Department and all of its OUs are committed to transparency about how analytic results are generated, in terms of the specific data used, the various assumptions employed, the specific analytic methods applied, and the statistical procedures employed, consistent with other compelling interests such as privacy, trade secrets, intellectual property, and other confidentiality protections.

Comment: Several commenters pointed out that NOAA completely failed to either adopt or adapt the quality principles of the Safe Drinking Water Act (SDWA) for risk assessment. Two commenters stated that federal agencies must adopt (not adapt) both the SDWA science quality and risk assessment standards unless they conflict with other federal statutory requirements. Two of the commenters suggested that NOAA should adopt the SDWA standards, including a commitment to apply best available science for all influential scientific information it disseminates, including information disseminated in connection with NRDAR plans. These commenters stated that NOAA should specifically adopt the SDWA statutory risk criteria for health assessments and apply them to NRDAR plans.

Response: Although Section 515 does not mention either risk assessments or the Safe Drinking Water Act, the OMB guidelines clearly direct agencies to adopt or adapt the risk principles of the SDWA. Specifically, the OMB guidelines state that "[w]ith regard to analysis of risks to human health, safety and the environment maintained or disseminated by the agencies, agencies shall either adopt or adapt the quality principles applied by Congress to risk information used and disseminated pursuant to the Safe Drinking Water Act Amendments of 1996." NOAA's guidelines meet this requirement. NOAA has included in its guidelines a separate section discussing specifically the SDWA criteria for risk assessments. This discussion explains the adaptation of the SDWA criteria for "influential" information that constitutes assessment of risk to human health, safety, or the environment.

As to the suggestion by some commenters that the SDWA criteria apply to NRDAR Plans, the Department points out that NRDAR Plans are based upon existing statutory, regulatory, and other guidance that may not be completely compatible with the SDWA criteria. A natural resource damage assessment (NRDA) addresses the adverse impacts of past unlawful releases of hazardous

substances or oil to determine the liability of the person(s) responsible for those unlawful releases. This liability is measured by the cost of actions to restore the natural resources injured by the releases. Each NRDA is highly fact, site, and party-specific. The impact of an NRDA on one or a few persons' liability for past actions does not constitute the forward-looking impact intended to be included in the category of influential information or SDWA risk assessment. NRDAs are not risk assessments as that term is used in the SDWA or the OMB guidelines. The action to be taken as a result of a NRDA is mandated by law and designed to return the environment to the condition it would have been had the release not occurred. Thus, NRDAs are not analyses of the possible effects on the environment of taking or not taking some future action as are SDWA risk assessments.

Comment: Two commenters urged NOAA to consider quality information as that which is "excellent, complete, up-to-date, and accurate." These commenters stated that NOAA should adopt and expand upon the standards set forth in the SDWA, with more specific guidance regarding all data, especially "original data." The commenters suggested these additional factors include:

(1) whether the most accurate methods were used to collect information;

(2) whether data measurement methodologies were validated;

(3) whether quality assurance/quality control techniques were applied;

(4) whether methods used produce data relevant to study hypotheses;

(5) whether any experimental conditions were carefully controlled;

(6) whether confounding factors were eliminated or successfully controlled;

(7) whether covariates were successfully controlled;

(8) whether the degree and source of measurement variation were determined;

(9) whether the data were collected by those with requisite qualifications;

(10) whether study materials/populations were representative of conclusions;

(11) whether appropriate statistical methodologies were employed; and

(12) whether weight-of-evidence analysis was applied to the information.

Response: All of the Department's OUs strive to maintain and disseminate information that is excellent, complete, up to date, and accurate and their guidelines are designed to achieve that goal. However, the suggested additional factors, which go beyond those enumerated in the SDWA, are not all appropriate to every review of influential information or to every risk assessment and

therefore would not be appropriate as standards. The Department notes that NOAA has added additional criteria concerning risk assessment to its guidelines.

Comment: One commenter felt that OMB went far beyond the congressional mandate to inappropriately ask agencies to adapt or adopt the SDWA risk assessment principles. The commenter stated that Department should state that the type of peer review envisioned by the SDWA is inappropriate for all types of risk analysis and may conflict with underlying statutes.

Response: In keeping with OMB's guidance, the Department has adapted the risk assessment principles of the SDWA.

Standards and Pre-dissemination Review: Robustness

Commenter: One commenter stated that OMB's guidelines require robustness checks for information that the agency cannot disclose, such as Confidential Business Information, but which is material to information that the agency does disseminate. The commenter proposed a standard for such robustness checks. This commenter also stated that OMB's "'general standard' for these robustness checks is 'that the information is capable of being substantially reproduced, subject to an acceptable degree of imprecision'" (citing 67 FR at 8452, 8457).

Response: The OMB Guidelines state that:

In situations where public access to data and methods will not occur due to other compelling interests, agencies shall apply especially rigorous robustness checks to analytic results and document what checks were undertaken. Agency guidelines shall, however, in all cases, require a disclosure of the specific data sources that have been used and the specific quantitative methods and assumptions that have been employed. Each agency is authorized to define the type of robustness checks, and the level of detail for documentation thereof, in ways appropriate for it given the nature and multiplicity of issues for which the agency is responsible.

Where an operating unit of the Department relies on information that cannot be disclosed to support influential information that it disseminates, it performs and discloses robustness checks according to the requirements set by OMB Guidelines and implemented in its own information quality guidelines.

Standards and Pre-dissemination Review: Third Party Data

Comment: Some commenters suggested that information generated by third parties, such as states, municipalities, and private entities, that is relied upon and disseminated by the Department is subject to the requirements of Section 515. The commenters stated that such information is subject to the same data quality standards, pre-dissemination review procedures, and administrative correction mechanisms as information generated by the Department.

Response: The Department has added language specifically dealing with third party information. The Department believes it may use reliable outside information, even though third-party sources such as states, municipalities, and universities are not themselves subject to Section 515. The scientific instrumentalities of such third parties play an appropriate role in providing scientific, financial, or statistical information to federal agencies.

The diverse operating units of the Department use such third-party information in varying ways. When used to develop information products or to form the basis of a decision or policy, this information is then subject to the OUs' guidelines. Thus, for an OU to use third-party information, it must be of known quality, and any limitations, assumptions, collection methods, or uncertainties concerning it must be taken into account.

Comment: Some commenters acknowledged a distinction between information generated outside the Department and not used, relied upon, or endorsed by the Department, but merely made public by the Department, and information generated outside the Department and used, relied upon, or endorsed by the Department. Two of these commenters stated that this was a distinction without a difference and that the guidelines should apply to both types of dissemination. One commenter stated that "the data quality guidelines should clearly state that they only apply to information disseminated from the agency itself and not when the agency is merely acting as a conduit of information."

Response: For Section 515 to apply, information must be "disseminated." By definition, "dissemination" means agency initiated or sponsored distribution of information to the public. OU guidelines apply to information that the OU disseminates. However, dissemination does not include distribution limited to government employees or agency contractors or grantees; intra- or inter-agency use or sharing of government information; and responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or other similar law. This definition also does not include distribution limited to correspondence with individuals or persons, press releases, archival records, public filings, subpoenas or adjudicative processes. When an OU distributes information generated by a third party but in no way claims that information as its own, the OU will inform the public that the information is not subject to the Section 515 or applicable information quality guidelines.

Comment: One commenter discussed Federal agencies' use of third-party proprietary models, stating: "The OMB guidelines further explain that when public access to models is impossible for 'privacy, trade secrets, intellectual property, and other confidentiality protections,: an agency `shall apply especially rigorous robustness checks to analytic results and documents what checks were undertaken'." [sic]

Response: The Department agrees that when public access to models used to generate influential scientific, financial, or statistical information is impossible,

especially rigorous robustness checks should be applied to analytic results and these checks should be disclosed.

Commenter: One commenter suggested that the Department prohibit use of third-party proprietary models that are barriers to public access to data in the guidelines, although the commenter did not cite a specific model.

Response: Without a specific indication of practices by the Department (or its OUs) using third-party models that the commenter finds objectionable, it is not possible to prepare a specific response. However, the Department strives for openness and transparency in all its scientific, financial, and statistical activities, consistent with applicable privacy, trade secrets, intellectual property, and other confidentiality protections.

Comment: Some commenters noted that the Department should develop provisions for new, and modify existing, contracts, cooperative agreements, and grants that require Department partners to furnish information that complies with the OMB and Department guidelines. The commenters also stated that these new provisions should prohibit use by these parties, in fulfilling their contractual, cooperative, or grant agreement obligations with the Department, of information that is not in compliance with the OMB and Department guidelines.

Response: The Department will consider any necessary modification of new and existing contracts, cooperative agreements, and grants with regard to the quality of information presented to the Department through these vehicles. However, such documents already contain provisions requiring work products to be of appropriately high quality.

National Assessment on Climate Change (NACC)

Comment: One commenter argued that, to the extent that the Department or NOAA refers or links to, or otherwise disseminates the first NACC, it is in violation of Section 515. The commenter further claimed that continuing to disseminate the NACC is unacceptable under the Act. The commenter continued with a lengthy, detailed condemnation of the NACC, produced by the U.S. Global Change Research Project (USGCRP).

Response: Although NOAA is one of many agencies that are partners in the USGCRP (http://www.usgcrp.gov/usgcrp/usagency.html), NOAA's activities in that capacity are the very sorts of activities that its mission requires. Any information that NOAA disseminates in connection with those activities, including any future contributions by NOAA to any collective product such as the NACC, will be in full compliance with NOAA's Information Quality Guidelines, when they become effective. However, any request for correction of the NACC itself should be addressed to the agency that created such information.

Standards and Pre-dissemination Review: Peer Review

Comment: One commenter asked what the standard is for rebutting the presumption of objectivity resulting from formal, independent, external peer review. Another commenter questioned whether the presumption of validity will apply if the agency does not comply with peer review criticism, views, or recommendations.

Response: Consistent with OMB's guidelines (67 FR at 8452, 8454), the Department's guidelines make clear that the presumption of objectivity resulting from formal, independent, external peer review is rebuttable and that the requester has the burden of rebutting the presumption that information subjected to formal, independent, external peer review is objective.

Comment: One commenter suggested that the Department should state that "influential" information will not be subject to new formal, external, independent peer review to meet the "objectivity" standard. The commenter noted that, where peer review is employed, the Department should commit to using appropriately balanced peer review panels and avoid conflicts of interest.

Response: Formal, independent, external peer review is sometimes available and is sometimes used, depending on the specific information and program involved. But other means are also used to ensure objectivity, according to the specific applicable information quality standards. Where peer review is used, the Department attempts to appropriately balance panels and to avoid conflicts of interest, while at the same time ensuring that reviewers have sufficient knowledge of the subject to provide meaningful review.

Melding of Processes

Comment: One commenter disagreed with the Department's position that "[r]equests to correct information contained within a Natural Resource Plan must be made during the public comment period provided when it is posted for comment." This commenter stated that Natural Resource Plans can be highly technical, and it is not always apparent whether they contain flawed information or conclusions at the time they are first disseminated. This same commenter stated that the provision in the draft guidelines stating that a comment or petition filed after a comment period has closed, "may be considered, at the discretion of the agency ... as a late comment." The commenter argued that Section 515 conveys independent rights granted to the public and neither Section 515 nor OMB's guidelines contain any such restrictions in instances where other notice and comment opportunities are available.

Response: The Department notes that, although Section 515 may not speak to requests for correction filed during a public comment period, OMB's guidance to the agencies does state that it is reasonable to meld the Section 515 correction process with a notice and comment process; therefore creating several procedures where an existing process will achieve the same purpose is unnecessary. Also, it is imperative that the operating unit drafting a rule or Natural Resource Plan be aware of and take into account any demonstration of

incorrect information. Therefore, the guidelines continue to meld the Section 515 process into existing public input processes where appropriate. In addition, in some cases, public comment periods are required and shaped by existing statutes or regulations.

Comment: Some commenters believe that the draft guidelines excluded requests for information correction if they pertain to information disseminated as part of a proposed rule or a Natural Resource Plan, which is inconsistent with the objectives and terms of Section 515 and with the OMB directive providing affected parties the unfettered right to "timely" correction of flawed information. The commenters noted that this approach also fails to address or redress the injury affected persons may suffer outside the context of a specific rulemaking or Natural Resource Plan during the pendency of long rulemaking or Natural Resource Plan processes. The commenters noted that rulemakings, as well as natural resource damage assessments and restoration decisions and plans, may take years to complete, during which time discrete, easily resolved and/or important data correction requests may languish without response, all the while adversely affecting the general public and/or the requester who is entitled to a timely response under Section 515. The commenters stated that the Department's guidelines should provide that discrete requests for objective information correction are to be resolved in a timely fashion using the focused procedures of the guidelines, rather than the unwieldy and daunting vehicle of a rulemaking or some other extended decisionmaking process involving the opportunity for notice and comment.

Response: As explained earlier, the Department has not excluded from the administrative correction mechanism information disseminated as part of a proposed rule or a Natural Resource Plan. The Department notes that the responsible office may choose to provide a response prior to the completion of a rulemaking or Natural Resource Plan, if doing so is appropriate and will not delay the issuance of the final action in the matter, particularly if the complainant can demonstrate actual harm from the information or demonstrate substantial uncertainty as to whether the proposed rule or Natural Resource Plan will take an unusual length of time for final issuance.

Administrative Correction Mechanism

Comment: Some commenters stated that the information correction mechanisms fail to meet the spirit, purpose, and objectives of Section 515 and the OMB guidelines.

Response: The Department has made numerous changes in the administrative mechanism in response to these comments. The Department does not intend to discourage requests for correction or erect procedural barriers that could block legitimate complaints. It is in the best interest of the Department and the public to timely correct information that does not comply with its guidelines.

Savings Clause

Comment: Some commenters urged the elimination of the "savings clause" intended to exempt from coverage certain unidentified information challenges where unspecified "different procedures" for correction may exist.

Response: The Department has deleted the "savings clause" from its guidelines.

Affected person

Comment: Several commenters suggested that the Department provide a broader definition of "affected persons" who can invoke these mechanisms, consistent with Congressional intent in Section 515 and similar to the proposals of several federal agencies. These commenters stated that the guidelines should also include procedures to enhance notification of and participation by affected parties.

Some commenters argued that the Department and its operating units definition of "affected person" resembles judicial requirement for "standing," which neither Section 515 nor OMB's guidelines require. The commenters urged the Department to adopt a definition of "affected person" that includes "anyone who uses the information, benefits from it, or is harmed by it," as well as trade associations and other groups who represent such persons.

Response: The Department never intended to limit the class of affected persons. However, the Department has revised the definition of "affected person" to describe more clearly a broad class of affected persons. Further, the revised definition is broad enough to include trade associations and others who are related to or associated with persons who may be affected.

Responsible Office

Comment: Some commenters recommended that the Department designate which office within an operating unit would qualify as the responsible office that may decide initial information correction requests. Several commenters stated that the Department should create an independent, dedicated appeal board outside the program office within which the "responsible office" resides to ensure uniform, objective, and timely resolution of appeals of information correction request denials.

Response: The Department's operating units have taken varying approaches to designating the responsible office, in each case using a method that best fits their mission and activities. This is in keeping with OMB's guidance, which has provided flexibility so that "each agency will be able to incorporate the requirements of these OMB guidelines into the agency's own information resource management and administrative practices." (67 FR at 8452). Also, as the Department has noted above, OMB encouraged agencies to incorporate the standards and procedures required by its guidelines into their existing information resources management and administrative practices rather than create new and potentially duplicative or contradictory processes.

Comment: One commenter complained that some agencies do not provide any indication as to the official responsible for deciding the disposition of requests for correction.

Response: The operating units of the Department do provide this information.

Appeal Official

Comment: One commenter suggested that allowing the "Appeal Official" to be only one administrative level above the official who made the initial decision is not sufficiently removed from the office that issued the contested information to ensure sufficient objectivity. The commenter noted that appeals should be made to a centralized Department-wide official, such as the Department's Chief Information Officer or the Section 515 officer. The commenter also stated that the guidelines should clearly state that the appeals officer should act in an "ombudsman" capacity, to objectively assess information complaints and not endeavor to uphold the agency's stated position.

Response: In all cases, the Department's intent is for the review to be objective. The Appeal Official must be sufficiently removed to make a fair and objective review but at the same time needs to have enough expertise to understand the issues. This involves a balance that different operating units have met in different ways. However, in no case is the appeal official in the same office as the one that decided the initial complaint.

Comment: Some commenters asked for assurances that the heads of responsible offices and appeal officials will be provided sufficient resources to allow for meaningful initial information correction requests and appeals of denials of such within the presumptive 60-day time limit.

Response: The Department has designed its administrative mechanisms to achieve timely response to requests for correction within available resources.

Time Limits for Filing Requests

Comment: One commenter stated that the Department should "establish a timeliness requirement for requests after which an agency has the option to reject a request (e.g., a data quality complaint must be made within three month's of the information's release)."

Response: Since the information quality guidelines apply to information disseminated by the Department "on or after October 1, 2002, regardless of when the information was first disseminated . . .", the Department cannot limit requests for correction of information based on a specific dissemination date. Moreover, the Department believes that it is often difficult to define a specific date of dissemination of information from which to establish a timeliness requirement for a request for correction.

Comment: One commenter suggested that the Department clearly state that the burden of proof lies squarely with the requester to demonstrate both that they are an affected party and that the challenged information does not comply with OMB's guidelines.

Response: The Department and its operating units have added to their information quality guidelines a statement specifying that the burden of proof is on the requester to show both the necessity and type of correction sought and that, where appropriate, the requester has the burden of rebutting the presumption that information subjected to formal, independent, external peer review is objective. Additionally, the definition of "affected" has been changed. "Affected person" as now defined means an individual or entity that uses, benefits from, or is harmed by the disseminated information at issue. Any initial request for correction must include an explanation of how the requester is affected.

Timely Review

Comment: Some commenters addressed the issue of setting appropriate, specific time limits for agency decisions on information correction requests. Two of these commenters proposed language that provide agencies with flexibility for requests that may require a longer time frame for response without allowing open-ended delays for making decisions. Two commenters asked that the Department assure that proper and strict limits be imposed on the ability of the responsible offices to extend the time period for resolving initial information correction requests beyond the presumptive 60 day limit.

Response: The Department has retained the language in its draft guidelines: "An initial decision will be communicated to the requester, usually within 60 calendar days."

In order to assist the Department in making a timely response, it has added to its guidelines a list of corrective actions that may be taken in response to a correction request, based on the nature and timeliness of the information involved, as well as factors such as the significance of the error on the use of the information, and the magnitude of the error. Actions contained in that list include: personal contacts via letter or telephone, form letters, press releases, and postings on an appropriate Web site.

Comment: Some commenters suggested that the Department establish effective procedures and schedules for the timely correction of information determined to be flawed and for appropriate prohibitions on further use and dissemination of such information until it is corrected.

Response: The timetable for corrective action depends on many factors, including but not limited to: the magnitude and significance of the error, the timeliness of the information involved, the original form of dissemination, and the nature of the correction,. Any schedule for correction is dependent on these and

other factors that cannot be determined in advance. According to the Department's model administrative mechanism, which is used by most of the operating units, the initial decision is a determination of whether the information should be corrected and what, if any, corrective action should be taken, and this decision is communicated to the requester.

Comment: Some commenters stated that the Department's guidelines set unreasonable time frames for filing and addressing complaints regarding some data that undercut accuracy requirements. The commenters argued that an affected individual should be allowed to request correction at any time after improper data is disseminated, particularly for a fishery where timely, accurate distribution of data is paramount.

Response: Timeliness is an important factor in the determination of the appropriate response to an information correction request. The Department has addressed this issue in its revised guidelines by adding the list of corrective actions mentioned above, which recognizes timeliness as an important factor in determining a remedy and which includes withdrawal or correction of the information in question as a form of correction where appropriate. The guidelines now contain the statement: "The form of corrective action will be determined by the nature and timeliness of the information involved and such factors as the significance of the error on the use of the information and the magnitude of the error."

Comment: One commenter believes that agencies must provide a "specific time frame" for decisions on information correction requests.

Response: The Department provides time frames for response to requests for correction of information that it has disseminated. A single specific time limit for decision on requests for correction for all of the Department operating units is not possible because of the diverse missions of the Department's operating units. However, in all cases the Department will endeavor to respond as soon as reasonably possible, usually within 60 calendar days as stated in the Department's guidelines.

Initial Requests

Comment: One commenter suggested that the guidelines should explicitly state that the administrative mechanism applies only to corrections of factual information and that the Department will not consider interpretations of data and information, or requests for de-publishing. The commenter stated that to avoid wasteful duplication of effort the Department should limit complaints to information that is not already subject to existing data quality programs and measures (giving the example of rulemaking proceedings), and that complaints for any data quality standard that presents a potential moving target (i.e., "best available evidence") should be evaluated based on information available at the time of dissemination.

The commenter urged that the Department's response to correction requests should be proportional to the significance and importance of the information in question to establish the necessary flexibility to set aside a request that has been superceded or is otherwise outdated. The commenter also stated that the Department should limit the mechanism to only what is required in Section 515 to avoid any possibility of creating new rights under administrative law. Finally, the commenter noted that the Department needs adequate procedural safeguards to avoid becoming mired down in minor data disputes, bad faith requests, and frivolous, repetitive, or non-timely claims.

Response: Regarding consideration of interpretations of data and information, the Department's information quality guidelines and Section 515 itself are not designed to contemplate interpretations of data and information apart from requests for correction of information that is not in compliance with agency guidelines. Similarly, requests for de-publishing would be considered only in the context of an appropriate request for correction of Department-disseminated information, in which case withdrawal of the affected information would be one of the options considered if the information were found to be incorrect.

Although the Department has not limited complaints to information that is not already subject to existing data quality programs and measures, the Department has designed its administrative mechanisms to take advantage of existing processes that are designed to ensure the quality of information, such as rulemakings. The Department agrees that requests for correction should be evaluated based on the evidence available at the time of dissemination. However, where it is possible, timely, appropriate, and cost-effective to make corrections based on later-acquired evidence that meets the Department's quality standards, the Department will consider correction.

The Department agrees that its response to correction requests should be proportional to the significance and importance of the information in question (among other factors). The Department believes its guidelines provide the necessary flexibility to deal with superceded or outdated requests. The Department notes that its guidelines provide that requests that are duplicative, repetitious, or frivolous may be rejected and that information need not be corrected if the correction would serve no useful purpose.

Comment: One commenter suggested that the Department's rigid requirements for filing a request for correction serve as an entry barrier against the requestor. The commenter pointed out that no other federal agency has adopted such a rigid approach, which will terminate with prejudice the majority of requests received. The commenter noted that this practice could lead to retaining an acknowledged fact error in Department information by having such high barriers to a substantive examination of the error.

Response: The Department does not intend to place procedural barriers in the way of legitimate requests for correction. Numerous provisions in the Department's administrative correction mechanisms have been modified to make

the process easier to use. In addition, provisions have been added allowing defective requests to be amended and resubmitted.

Reconsideration of Requests

Comment: One commenter pointed out that the Department should be aware that Section 515 does not address reconsideration of complaints and that such a requirement is outside the scope of the statutory requirements. Therefore, the commenter stated that the Department's reconsideration process should remain fairly informal and limited in scope, since the review mechanism is to ensure that initial agency review was conducted with due diligence.

Response: Although the statutory language of Section 515 does not address reconsideration or appeals from initial denials of requests for correction, the Department has followed the OMB guidelines and, in keeping with those guidelines has, through its OUs, devised appeal processes "that serve to address the genuine and valid needs of the agency and its constituents without disrupting agency processes." (67 FR at 8458)

Contents of Request

Comment: Several commenters requested that the Department eliminate the requirement of a "proper request." One commenter explained that the problem was that requesters whose requests were determined not to be proper were not given the opportunity to amend the request, thereby creating in effect a form of summary judgment with prejudice.

Response: To investigate a request for correction and respond to the requester, the Department must have appropriate contact information and sufficient information regarding the source of the information disseminated and how the requester believes that information fails to comply with the applicable information quality standards. This information can only be provided by the requester. Therefore, the Department has retained the requirement of a "proper request" but has added that if a request is determined not to be proper, the requester may amend the request and resubmit it.

Stating a Claim

Comment: Some commenters urged the elimination of the proposed requirement that the responsible office make a preliminary determination, on the basis of the strength of the assertions in the request alone, that the information in question was based on non-conformance with the Department's information quality standards before objectively investigating and analyzing the request.

Response: This provision has been amended to clarify its purpose. The provision was never meant to preclude any request for correction. Rather it was meant to ensure that the Department could determine from the request exactly what the requestor's claim or complaint is. A request that cannot be understood

is not possible to address. Along with language clarifying this intent, language has been added stating that a request determined to not state a claim "may be amended and resubmitted ..."

Comment: One commenter strongly opposed the Department's position that there is no appeal from a decision that a request does not state a claim.

Response: The Department points out that an appeal is not necessary for a decision by the responsible office that a request does not state a claim because the guidelines clearly state that a denied request may be amended and resubmitted for consideration. The elements of a valid claim are listed in the guidelines. A refused claim may be amended to ensure that these elements are included in the resubmission.

Duplicative Requests

Comment: One commenter stated that the Department should state that if a request has been made and responded to, then a new, similar request may be rejected as frivolous or duplicative.

Response: The Department has included a statement that requests that are duplicative, repetitious, or frivolous may be rejected.

Criteria for Corrections

Comment: One commenter questioned whether the Department would always correct information when it agrees (in some sense) with a request for correction. The commenter suggested that agencies should be required to correct information in all cases.

Response: The OMB guidelines provide that agencies are "required to undertake only the degree of correction that they conclude is appropriate for the nature and timeliness of the information involved, and explain such practices in their annual fiscal year reports to OMB." (67 FR at 8453) Further, the OMB guidelines direct agencies to weigh the costs and benefits of higher quality information. The Department's guidelines are in compliance OMB guidelines.

Substantially the Same and Acceptable Error

Comment: Several commenters objected to the Department's assertion that it need not correct information that was within an "acceptable degree of imprecision" and information that failed to meet the applicable standards but would have been substantially the same or statistically the same had the applicable standards been met. One of these commenters also objected to the Department's assertion that it would not correct information the correction of which would serve no useful purpose.

Response: In the course of simplifying the Department's administrative correction mechanisms, references to the concepts of "acceptable degree of imprecision" and "substantially the same or statistically the same" have been removed from that part of the Department's guidelines. However, these concepts are fundamental to scientific inquiry and have not been discarded. In fact, the concept of "acceptable degree of imprecision" is inherent in OMB's view of "reproducibility" and is part of OMB's (and the Department's) definition of that term (67 FR at 8456, 8457, 8460). Similarly, concepts of acceptable statistical variability are essential to the scientific process. Information that falls within clearly delineated and acceptable statistical ranges is in fact scientifically correct. The Department has retained the assertion that no initial request for correction will be considered under these procedures concerning disseminated information the correction of which would serve no useful purpose, but has explained what is meant by "serve no useful purpose." Specifically, "[c]orrection of disseminated information would serve no useful purpose with respect to information that is not valid, used, or useful after a stated short period of time" (such as a weather forecast or atomic time). The Department points out that information need not be corrected if the information would have been substantially or statistically the same or if the information is within an acceptable degree of error, in line with the scientific process.

Budget Constraints

Comment: Several commenters stated that budgetary constraints should not be a basis for failing to correct information determined by the Department to be flawed. Some of these commenters stated that Section 515 gives the public the right to seek and obtain correction of federally disseminated information. One commenter suggested that "this noncorrection of known errors seems to be too smooth a path of evasion by the most interested staff members, against those requesters seeking legitimate redress and whose claim of error is acknowledged to be correct."

Response: The Department points out that budgetary constraints do not exempt information from any necessary correction. However, the OMB guidelines direct agencies to weigh the costs and benefits of higher quality information. The Department's intent in including the statement regarding resources unavailable to that official is now more correctly expressed, consistent with OMB's guidelines, as an examination of costs and benefits of higher quality information.

DEPARTMENT OF COMMERCE AND OPERATING UNIT WEB SITES

The Web sites that publish the Department of Commerce's information quality guidelines are noted below. The first site includes this document for the Department of Commerce. The remaining sites document the information quality guidelines for Commerce's operating units.

http://www.doc.gov/

http://www.osec.doc.gov/cio/oipr/OS%20Revised%20Info%20Qual%20Guidelines.htm

http://www.bxa.doc.gov/

http://www.esa.doc.gov/

http://www.bea.doc.gov/

http://www.census.gov/

http://www.doc.gov/eda/

http://www.ita.doc.gov/

http://www.mbda.gov/

http://www.noaa.gov/

http://www.ntia.doc.gov/

http://www.ta.doc.gov/

http://www.nist.gov/

https://www.ntis.gov/

Dated:

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Thomas N. Pyke, Jr.
Chief Information Officer