



This document is scheduled to be published in the Federal Register on 10/04/2019 and available online at <https://federalregister.gov/d/2019-21662>, and on govinfo.gov

[6450-01-P]

DEPARTMENT OF ENERGY

Interim Report Implementing Updates to the Department of Energy's Information Quality Act Guidelines

AGENCY: Office of the Chief Information Officer, Department of Energy.

ACTION: Notice of availability and request for comment.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of an interim report to the Office of Management and Budget (OMB) on the DOE Information Quality Act (IQA) Guidelines setting forth updates to DOE's policy and procedures to ensure and maximize the quality, utility, objectivity, and integrity of the information that DOE disseminates to members of the public. DOE has prepared this interim report pursuant to OMB Memorandum M-19-15, *Improving Implementation of the Information Quality Act*, issued April 24, 2019, which requires federal departments and agencies to update their existing IQA Guidelines to address implementation updates and additional best practices. DOE invites public comment on the interim report and draft updates to the DOE IQA Guidelines.

DATES: DOE will accept comments regarding this interim report and draft guidelines no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. See section II, "Public Participation," for details.

ADDRESSES: The interim DOE report and guidelines in this notice are available on the web site of the DOE Chief Information Officer (CIO) at <https://www.energy.gov/cio/department-energy-information-quality-guidelines>.

Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at <https://www.regulations.gov>. Follow the instructions for submitting comments.

Alternatively, interested persons may submit written comments, by mail to: Brooke Dickson, Office of the Chief Information Officer, U.S. Department of Energy, 1000 Independence Avenue SW., Room 8H-089, Washington, DC 20585, or by email at *DOEPRA@hq.doe.gov*. No telefacsimiles (faxes) will be accepted.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Brooke Dickson at *DOEPRA@hq.doe.gov* or by telephone at (202) 287-5786. A copy of the interim IQA Guidelines is included in this Notice and is also posted on the DOE website at *https://www.energy.gov/cio/department-energy-information-quality-guidelines*.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

The Office of Management and Budget's (OMB) issued the *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies* (67 FR 8452, February 22, 2002) under section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106-554, 114 Stat. 2763) (OMB Guidelines). Pursuant to the OMB Guidelines, the DOE published its Final Report containing the Departmental version of the Guidelines in the *Federal Register* on October 7, 2002 (67 FR 62446) (DOE IQA Guidelines).

DOE's IQA Guidelines provide guidance to Departmental Elements (i.e., major DOE offices) on maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated to the public; establish mechanisms for the public to seek and request administrative correction of disseminated information; and explain how the Chief Information Officer will comply with OMB's annual reporting requirement concerning complaints from members of the public.

On April 24, 2019, OMB issued Memorandum M-19-15, *Improving Implementation of the Information Quality Act*, requiring federal departments and agencies to update their existing IQA Guidelines to address implementation updates and additional best practices. DOE is issuing an interim report that includes proposed updates to the DOE IQA Guidelines to align with the requirements of OMB M-19-15. This interim update has been approved by the Secretary of Energy and posted to the DOE IQA website located at <https://www.energy.gov/cio/department-energy-information-quality-guidelines>. The interim update outlines the Department's compliance with appropriate and acceptable OMB M-19-15 implementation updates.

DOE invites public comment on the interim report and draft updates to the DOE IQA Guidelines. DOE plans to issue its final and updated IQA Guidelines after consideration of public comments received on the draft guidelines.

II. Public Participation

Submission of Comments

DOE will accept comments and information regarding these proposed updates no later than the date provided in the **DATES** section at the beginning of this notice. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this notice.

Submitting comments via <https://www.regulations.gov>. The <https://www.regulations.gov> web page will require you to provide your name and contact information. Your contact information will be viewable to DOE staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical

difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to <https://www.regulations.gov> information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereafter referred to as Confidential Business Information (CBI)). Comments submitted through <http://www.regulations.gov> cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted.

DOE processes submissions made through <https://www.regulations.gov> before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that <http://www.regulations.gov> provides after you have successfully uploaded your comment.

Submitting comments via email or mail. Comments and documents submitted via email or mail also will be posted to <https://www.regulations.gov>. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include

your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Signed in Washington, DC on September 27, 2019.

Mark Kneidinger,

Principal Deputy Chief Information Officer,

Office of the Chief Information Officer,

U.S. Department of Energy.

Interim Update to the Department of Energy Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Department of Energy

Introduction

The Office of Management and Budget (OMB) issued Memorandum M-19-15, *Improving Implementation of the Information Quality Act*, on April 24, 2019, requiring federal departments and agencies to update their existing Information Quality Act (IQA) Guidelines to address implementation updates and additional best practices. This is an interim update to the Department of Energy's (DOE or Department) final report pursuant to OMB's *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies* (OMB IQA Guidelines), 67 FR 8452 (February 22, 2002) under section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106-554, 114 Stat. 2763). The Final Report, hereafter referred to as the DOE IQA Guidelines, was published in the *Federal Register* on October 7, 2002 (67 FR 62446).

The Department is issuing this interim update of its IQA Guidelines that includes proposed updates to the DOE IQA Guidelines to align with the requirements of OMB M-19-15, *Improving Implementation of the Information Quality Act*, April 24, 2019. The Department commits to updating its IQA Guidelines pursuant to the Implementation Updates requirements outlined in OMB M-19-15. The Department plans to issue its final and updated IQA Guidelines after consideration of public comments received on these draft guidelines after a public comment period.

Background

DOE is responsible for the administration of a wide variety of national defense, energy supply, energy conservation, and nuclear waste cleanup programs authorized by law. DOE administers a system of national laboratories with active scientific research programs. DOE also disseminates a large volume of statistical reports through its Energy Information Administration (EIA).

Although DOE is not a major regulatory agency, DOE has some rulemaking mandates and authorities, such as the appliance energy conservation program of test procedures and standards, that require the dissemination of financial, scientific, and statistical information. Like other agencies, DOE publishes draft and final environmental impact statements and environmental assessments under the National Environmental Policy Act, 42 U.S.C. 4321-4347.

Discussion of Guidelines and OMB M-19-15 Implementation Updates

DOE has always maintained high standards of quality in the production of information disseminated to members of the public. As a source of scientific and statistical information on which members of the public and other government officials rely, DOE has long had procedures to assure adequate information quality. EIA is a leader in this regard and has elaborate procedures to ensure the quality of its information products. DOE's Office of Energy Efficiency and Renewable Energy (EERE) has elaborate special procedures for some of its rulemakings. That office has codified a general statement of policy in Appendix A to Subpart C of 10 CFR part 430 with regard to its information quality review procedures for information used in its appliance energy conservation standards rulemakings. The draft updates to DOE IQA Guidelines set forth below are modeled on the Implementation Update requirements of OMB M-19-15 to augment the original standard of quality (including objectivity, utility, and integrity) in the development and dissemination of DOE or DOE-sponsored information to the public introduced in the DOE IQA Guidelines published in 2002. The updates also review the

procedures that DOE has traditionally followed to review information products for adequate quality. The DOE IQA Guidelines continue to provide a uniform set of procedures for members of the public who wish to request correction. These procedures ensure that final DOE decisions with respect to requests for correction will be made by high level management officials with the concurrence of the DOE Office of General Counsel. Section 515 establishes procedures and performance goals for the internal management of the Executive Branch. While seeking to establish a process that assures that DOE is attentive to the issue of information quality, neither section 515 nor the OMB IQA Guidelines nor DOE's own IQA Guidelines provide for judicially manageable standards regarding the quality of information that the agency may disseminate. Therefore, neither section 515 nor the OMB IQA Guidelines nor DOE's IQA Guidelines create private rights or contemplate judicial oversight of its directives through judicial review. The Department complies with OMB annual reporting on IQA management.

This interim update to the DOE IQA Guidelines is prepared by the DOE Office of the Chief Information Officer (OCIO), who is responsible for coordinating DOE's response to OMB's IQA Guidelines, in cooperation with other affected DOE offices. This interim update has been through Departmental clearance and is posted to the DOE IQA website located at <https://www.energy.gov/cio/department-energy-information-quality-guidelines>. DOE invites public comment on the draft updates to the DOE IQA Guidelines. DOE plans to issue its final updated IQA Guidelines after consideration of public comments received on the draft updates.

Interim Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated to the Public by the Department of Energy

I. Background

Section 515, Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106-554), known as the Information Quality Act (IQA), directed 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 Department issued its final report and guidelines on October 7, 2002 (67 FR 62446).

Pursuant to OMB Memorandum M-19-15, *Improving Implementation of the Information Quality Act* April 24, 2019, the Department is updating its IQA Guidelines to align with M-19-15 Implementation Update requirements.

This interim update to DOE’s IQA Guidelines is issued by the Department’s Office of the Chief Information Officer (OCIO). DOE’s IQA Guidelines are intended to provide guidance to Departmental Elements (i.e., major DOE offices) on maximizing the quality, objectivity, utility, and integrity of information, including statistical information, disseminated to the public. The updates to DOE’s IQA Guidelines are modeled on the OMB M-19-15 Implementation Update criteria with modifications specific to DOE.

DOE invites public comment on the interim report and draft interim update to the DOE IQA Guidelines. A final version of the Department’s updated Information Quality Guidelines will be published after Departmental consideration and adjudication of received public comments.

The principal updates to DOE’s IQA Guidelines based on OMB M-19-15 are as follows:

1. *Influential information.* OMB M-19-15 Implementation Update 1.1 directed agencies to identify specific types of information the agency produces that are “influential” and to provide a rigorous process for determining whether types of information not specifically listed by the guidelines qualify as “influential.” In the 2002 final report on the DOE IQA Guidelines, DOE included its own definition of “influential” when that term is applied to financial, scientific, or statistical information. Under the OMB IQA Guidelines, “influential” information should meet the highest standards of quality and transparency (consistent with countervailing considerations such as confidentiality) and data must be capable of reproduction by a qualified individual outside of the agency. DOE decided to define “influential information” as information that DOE routinely embargoes because of its potential effect on markets, information on which a regulatory action with a \$100 million per year impact is based, and other information products on a case-by-case basis.

DOE revisited its parameters for identifying “influential information,” as instructed by OMB-M-19-15, and believes that, consistent with the OMB directive, DOE’s definition of “influential information” provides sufficient guidance for program managers for determining the amount and type of pre-dissemination review necessary. In addition, DOE has extended the option to DOE Elements to tailor DOE’s definition of “influential information” to meet their program requirements to ensure that high standards of quality are maintained for all information products aimed at the public. For example, EIA adopted DOE’s definition of “influential information” and supplemented their application of the definition to include the associated requirements of “reproducibility” and “transparency.”¹ EIA’s expansion of the DOE definition was necessary to ensure that important energy products that would not have been included under DOE’s definition

¹ https://www.eia.gov/about/information_quality_guidelines.php

were subject to the same high standards for utility, transparency, and reproducibility. DOE OCIO will establish a review process for DOE Elements who elect to modify and adopt an Element-specific version of the DOE definition of “influential” information.

2. *Peer review.* DOE complies with OMB’s *Final Information Quality Bulletin for Peer Review*, which states that “peer review typically evaluates the clarity of hypotheses, the validity of the research design, the quality of data collection procedures, the robustness of the methods employed, the appropriateness of the methods for the hypotheses being tested, the extent to which the conclusions follow from the analysis, and the strengths and limitations of the overall product,” 70 FR 2664-2665 (Jan. 14, 2005). DOE Elements, along with National Laboratories, may use peer review panels or comparable assessment processes, to objectively evaluate programmatic, technical, scientific, business methods, analytic results, and other findings. DOE Elements may rely on internal or external peer review panels and processes to make these evaluations. In cases where previously determined influential information has changed significantly, the DOE Element with authority over the data should consider whether a second peer review panel or comparable assessment process should be convened to evaluate the objectivity and reliability of the changed data, as appropriate given the program’s intended use of the modified information.

3. *Privacy and confidentiality of data.* Existing Federal Government policy requires agencies to ensure that privacy and confidentiality are fully protected in data and information that is made publicly available, known as “open data.” DOE Elements must ensure that both raw information and analytic results that are covered by these Guidelines, including influential information, does not identify specific individuals or place confidentiality at risk. DOE Elements are directed to work with the Department’s Privacy Program office, legal counsel, and other appropriate subject

matter experts to ensure that information is appropriately and adequately managed and protected consistent with applicable laws, regulations, and policies regarding confidentiality, appropriate access and use, and security and privacy practices.

4. *Open data and re-use of data.* Open data is a core principle of OMB M-19-15 and has been a federal government-wide standard since 2009. The Department has an established open data program and maintains a website, located at <https://www.energy.gov/data/open-energy-data>, to enable public access to released DOE open data sets. DOE Elements both disseminate data that is re-used across a variety of sectors and utilize open data and other data sources to inform Departmental analyses. In addressing OMB M-19-15 Implementation Updates pertaining to open data, the Department elected to rely on established open data processes while strengthening the importance of documentation and transparency and source documentation to support informed selection of data and to enable accountability in the “downstream” or secondary use of data.

5. *Transparency, open code, data reproducibility, confidentiality, and applicability to non-government data.* Multiple OMB M-19-15 Implementation Updates focus on the principles of transparency and reproducibility. Several legal and policy updates have occurred since the publication of the 2002 IQA Guidelines. Data standards and architectures have been developed to manage data, which provide transparency for agencies into data creation, collection, usage, transfer, and dissemination. Open data requirements promulgated by OMB have required agencies to identify data sets and data collections with broad utility outside of their source agency. In 2016, OMB established policies for making Federal-source code publicly available. DOE complies with both legal and policy requirements for making source code available, consistent with applicable law and policy.

6. *Request for correction processing timelines and appeals requests.* Upon consideration of OMB M-19-15 implementation Updates 4.1-4.5, DOE reaffirms its previously established timelines for the Request for Correction and appeals process under its IQA Guidelines. DOE's 60-day response deadline is significantly shorter than the 120 days suggested by OMB M-19-15. Since DOE's IQA Guidelines were issued in 2002, DOE has received only one Request for Correction. DOE responded to the request consistent with its current guidelines, offering a response to the requestor's data quality arguments, and in doing so did not take a policy position. The requestor has not appealed DOE's response. To ensure the integrity of the appeals process, DOE has added to its Request for Correction appeals process that the DOE Element must ensure that those individuals reviewing and responding to an appeals request were not involved in the review and initial response to the Request for Correction. DOE OCIO will consider coordinating draft responses to received requests for correction with OMB appropriate to the received request.

The updated DOE IQA Guidelines maintain DOE's existing mechanisms for members of the public to seek and obtain administrative correction of disseminated information that does not comply with the quality requirements of these Guidelines. Finally, the Guidelines explain how the CIO will comply with OMB's annual reporting requirement concerning complaints from members of the public.

II. Introduction

The DOE OCIO has designed these Guidelines to apply to a wide variety of DOE information dissemination activities that may range in importance and scope. They are intended to be sufficiently generic to fit all media, printed, electronic, or other forms. The DOE OCIO has

sought to avoid the problems that would be inherent in developing detailed, prescriptive, “one-size-fits-all” DOE-wide guidelines that would artificially require different types of dissemination activities to be treated in the same manner.

The Guidelines are designed so that DOE Elements can apply them in a common sense and workable manner. It is important that these guidelines not impose unnecessary administrative burdens that would inhibit DOE Elements from continuing to take advantage of the Internet and other technologies to disseminate information to the public. In this regard, DOE Elements may incorporate the standards and procedures required by these guidelines into their existing information resources management and administrative practices rather than create new and potentially duplicative or contradictory processes. DOE Elements may rely on their implementation of the computer security provisions of the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501 et seq., to establish appropriate security safeguards for ensuring the integrity of the information that they disseminate.

III. DOE Information Quality Guidelines

A. What definitions apply to these Guidelines?

1. DOE Element means a major DOE office headed by an official whose position is subject to Senate confirmation or an office which directly reports to the Secretary, Deputy Secretary, or either of the DOE Under Secretaries.
2. Dissemination means DOE Element initiated or sponsored distribution of information to the public.
3. Influential means, when used in the context of scientific, financial, or statistical information, information (1) that is subject to embargo until the date of its dissemination by the Department or

DOE Element disseminating the information because of potential market effects; (2) that is the basis for a DOE action that may result in an annual effect on the economy of \$100 million or more; or (3) that is designated by a DOE Element as “influential.”

4. 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, including information that a DOE Element disseminates from a web page, but excluding the provision of hyperlinks to information that others disseminate.

5. Information dissemination product means any book, paper, map, machine-readable material, audiovisual production, or other documentary material, regardless of physical form or characteristic, a DOE Element disseminates to the public, including any electronic document, CD-ROM, or web page.

6. Integrity means the information has been secured and protected from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification.

7. Objectivity means the information is presented in an accurate, clear, complete, and unbiased manner and the substance of the information is accurate, reliable, and unbiased.

8. Open data means publicly available data that are made available consistent with relevant privacy, confidentiality, security, and other valid access, use, and dissemination restrictions, and are structured in a way that enables the data to be fully discoverable and usable by end users. Generally, open data are consistent with principles, explained in OMB guidance, of such data being public, accessible, machine-readable, described, reusable, complete, timely, and managed post-release.

9. Quality means utility, objectivity, and integrity.

10. Reproducibility means capability of being substantially reproduced, subject to an acceptable degree of imprecision, and with respect to analytical 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.
11. Subject to public comment means that DOE has made the information available for comment by members of the public, preliminary to making a final determination, through a notice in the *Federal Register* including, but not limited to, a notice of inquiry, an advance notice of proposed rulemaking, a notice of proposed rulemaking, a notice reopening or extending a comment period due to receipt of new information, a notice of availability of a draft environmental impact statement, a notice of a proposed information collection, or any other *Federal Register* notice that provides an opportunity for comment by members of the public regarding the quality of information on which a final determination may be based.
12. Utility means the usefulness of the information to its intended users, including the public.

B. Which public disseminations of information are and are not subject to these Guidelines?

These Guidelines apply to any public dissemination of information under the control of DOE. The definitions of “information” and “dissemination” establish the scope of the applicability of the guidelines. “Information” means any communication or representation of knowledge such as facts or data. Consequently, information does not include opinions.

“Dissemination” is defined to mean agency initiated or sponsored distribution of information to the public, including, for example, a risk assessment prepared by a DOE Element to inform the

agency's formulation of possible regulatory or other action. A DOE Element does not "initiate" the dissemination of information when a federally employed scientist or Federal grantee or contractor publishes his or her research findings, even if the DOE retains ownership or other intellectual property rights because DOE paid for the research. In such cases, to avoid confusion, the DOE Element should ensure that the researcher includes an appropriate disclaimer that the views are the researcher's and do not necessarily reflect the views of DOE. However, if a DOE Element directs a federally employed scientist or Federal grantee or contractor to disseminate information and retains authority to review and approve the information before release, then the DOE Element has sponsored the dissemination of the information.

Applicability to information from a non-Federal government source. These Guidelines apply to information under the control and management of the Department and its Element offices. Information is not under the control of the Department if the Department is not granted the authority to modify or change such data without the consent of the original source. In the interest of transparency or public awareness, DOE may make publicly available information provided by a non-Federal government source. For example, the Department may post on its website information regarding Native American Tribal infrastructure projects utilizing DOE-provided energy grants. Such information is produced and owned by the participating Tribal entities and made available to a broader audience through the DOE website, but DOE does not have authority to change or modify the data.

Dissemination also does not include the following distributions:

- (1) Press releases, including but not limited to fact sheets, press conferences or similar communications in any medium that announce, support the announcement or give public notice of information a DOE Element has disseminated elsewhere;

- (2) Any inadvertent or unauthorized disclosure of information intended only for interagency and intra-agency communications;
- (3) Correspondence with individuals or persons;
- (4) Testimony and other submissions to Congress containing information a DOE Element has disseminated elsewhere;
- (5) Responses to requests for DOE records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or similar laws;
- (6) Information in public filings (such as public comments received by DOE in rulemaking proceedings), except where the DOE Element distributes information submitted to it by a third party in a manner that suggests that the DOE Element endorses or adopts the information, or indicates in its distribution that it is using or proposing to use the information to formulate or support a regulation, guidance, or other DOE Element decision or position.
- (7) Information contained in subpoenas or documents filed in connection with adjudicative proceedings (characterized by trial-type procedures with opportunity to test information quality), including DOE adjudicatory orders, opinions, amicus and other briefs, documents filed in Bonneville Power Administration's ratemaking proceedings, and documents submitted for purposes of a Nuclear Regulatory Commission licensing proceeding for a DOE facility;
- (8) Procedural, operational, policy and internal manuals and memoranda prepared for the management and operation of DOE Elements that are not primarily intended for public dissemination;

(9) Archival records (including information made available to the public on a DOE web site to document historical DOE actions); and

(10) Communications intended to be limited to government employees or DOE contractors or grantees.

(11) Social medial or blog posts containing information a DOE Element has disseminated elsewhere.

C. What are the Responsibilities of DOE Elements for ensuring quality of information disseminated to the public and responding to requests from members of the public for correction of information?

Ensuring Quality as a guiding principle. DOE Elements should have as a performance goal that information disseminated to the public meets a basic level of quality. The quality of information disseminated by DOE Elements is measured by its utility, objectivity, and integrity.

“Objectivity” focuses on whether the disseminated information is being presented in an accurate, clear, complete and unbiased manner and as a matter of substance, is accurate, reliable and unbiased. This includes whether the information is presented in the 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.

When using non-government sources to create information, specifically influential information, DOE Elements must provide sufficient information about the characteristics of the data and any analysis, including scope, protocols, and any information relevant to ensure objectivity in the use of non-government data in products, evaluations, or policies disseminated by the Department or a DOE Element. 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 should be generated, and the analytical results developed, using sound statistical and research methods. If the data and analytical 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 a member of the public seeking correction of information in a particular instance. If DOE Element-sponsored peer review is employed to help satisfy the objectivity standard, the review process employed should meet the general criteria for competent and credible peer review found in OMB's *Final Information Quality Bulletin for Peer Review*, issued in December 2004 and posted at (<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2005/m05-03.pdf>)

DOE Elements should comply with OMB's *Final Information Quality Bulletin for Peer Review*. When conducting peer review, reviewers are expected to evaluate both the objectivity of the underlying data and the sensitivity of the conclusions to analytic assumptions. In cases where previously determined influential information has changed significantly, the DOE Element with authority over the data should consider whether a second peer review panel or comparable assessment process should be convened to evaluate the objectivity and reliability of the changed data, as appropriate given the program's intended use of the modified information.

Influential information. If a DOE Element is responsible for disseminating and disseminates influential scientific, statistical, or financial information, a high degree of transparency of data and methods should be ensured to facilitate the reproducibility of such information by qualified third parties.

Influential when used in the context of scientific, financial or statistical information, means information:

- (1) that is subject to embargo until its dissemination by DOE or a DOE Element disseminating the information because of potential market effects;
- (2) that is the basis for a DOE action that may result in an annual effect on the economy of \$100 million or more; or
- (3) that is designated by a DOE Element as “influential.”

With regard to original and supporting data related thereto, these Guidelines do not direct that all disseminated original and supporting data be subjected to the reproducibility requirement applicable to influential information. DOE Elements may identify, in consultation with the relevant scientific and technical communities, those particular types of data that may practicably be subjected to the reproducibility requirement, given ethical, feasibility, confidentiality, privacy, trade secret, security, and intellectual property constraints. It is understood that reproducibility of data is an indication of transparency about research design and methods and thus a replication exercise (i.e. a new experiment, test, or sample) should not be required prior to each dissemination. At a minimum, DOE Elements should assure reproducibility for those kinds of original and supporting data according to “commonly accepted scientific, financial, or statistical standards.” DOE Elements may tailor DOE’s definition of “influential information” to meet their program requirements and to ensure that high standards of quality are maintained for all information products aimed at the public.

Making the data and models publicly available will assist in determining whether analytical results are capable of being substantially reproduced. However, the objectivity standard does not

override other compelling interests such as privacy, trade secret, security, intellectual property, and other confidentiality protections. In situations where public access to data and methods will not occur due to other compelling interests, DOE Elements should apply rigorous robustness checks to analytic results and document what checks were undertaken. DOE Elements should, however, disclose the specific data sources that have been used and the specific quantitative methods and assumptions that have been employed. However, each DOE Element should 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 DOE Element is responsible. With regard to the dissemination of information containing analyses of risks to human health, safety and the environment, it is DOE policy for DOE Elements in complying with the OMB guidelines to apply the following criteria adapted from the Safe Drinking Water Act Amendments of 1996.

1. Use:
 - a. The best available peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and
 - b. Data collected by accepted methods (if the reliability of the method and the nature of decision justify use of the data).
2. Present information that is comprehensive, informative, and understandable.
3. Specify, to the extent practicable:
 - a. Each population addressed by any estimate of risk;
 - b. The expected risk or central estimate of risk for the populations addressed;

- c. Each appropriate upper-bound or lower-bound estimate of risk;
- d. Each significant uncertainty identified in the process of an assessment of risk and the studies that would assist in resolving the uncertainty; and
- e. Peer-reviewed studies known to the DOE Element that support, are directly relevant to, or fail to support any estimate of risk effects and the methodology used to reconcile inconsistencies in the scientific data. DOE Elements responsible for dissemination of vital health, environmental and medical information should interpret the reproducibility and peer-review standards in a manner appropriate to assuring the timely flow of vital information to medical providers, patients, health agencies, and the public.

“Utility” refers to the usefulness of the information to intended users including the public. In assessing the usefulness of information, DOE Elements need to consider the uses of the information they plan to disseminate not only from their perspective but also from 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, DOE Elements should take care to ensure that transparency has been addressed in its review of the information.

“Integrity” refers to security -- the protection of information from unauthorized access or revision to ensure that information by DOE or DOE Elements is not compromised through corruption or falsification.

Transparency of data and sources. With regard to analytic results, DOE Elements generally should demonstrate sufficient transparency about data and methods that an independent reanalysis could be undertaken by a qualified member of the public. These transparency

standards apply to analysis of data from a single study as well as to analyses that combine information from multiple studies.

Further, DOE Elements should, to the extent possible, consistent with security, privacy, intellectual property, trade secrets, and confidentiality protections, 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. While DOE Elements should consider the potential for using existing data sources, both internal and external to DOE, for statistical and research purposes, it is critical that data should have full, accurate, transparent documentation, and possible sources of error affecting data quality should be identified and disclosed to users.

If a DOE Element utilizes information originally collected or developed by another Federal agency and makes that information available to the public, the DOE Element will indicate the origin of the information and note that the originating Federal agency is responsible for the quality of the information.

When a DOE Element has performed analysis using a specialized set of computer code, the computer code used to process it should be made available to the public for further analysis, if consistent with applicable law and policy. Exceptions may arise when the code itself contains confidential information relating to the application of data protection methodologies, or DOE Elements are restricted from publicly releasing or disclosing any proprietary data. In such circumstances, DOE Elements should release a description of the data sources and/or methodology, and how the methodology is applied in the estimation process to maintain transparency of the published estimates.

Protection of privacy and confidentiality in data. Federal agencies, including DOE, collect, use, maintain, and disseminate information that may include personally identifiable information (PII). In addition to PII, DOE Elements may collect, use, and disseminate confidential information that includes proprietary business, technical, or financial information belonging to other Government agencies, other countries, or private sector or non-profit companies or organizations. DOE Elements should ensure that any data used or disseminated by or on behalf of the Department is protected consistent with statutory, regulatory, and policy requirements for privacy and confidentiality, proprietary data, and confidential business information. DOE Office of the CIO, in conjunction with DOE Elements, will explore methods that provide broader access to data sets while maintaining protections for PII and confidentiality in the use and disclosure of data. New methodologies for data access should be consistent with principles for ethical governance, the employment of sound security and privacy practices to safeguard the identity of individuals, while ensuring appropriate access and use.

If a DOE Element is considering secondary analysis of data that includes personally identifiable information, the DOE Element should coordinate with the DOE Senior Agency Official for Privacy, the DOE Chief Privacy Officer, and the DOE Program Office to meet all privacy requirements and manage privacy risks.

Pre-dissemination review procedures. Before disseminating information to members of the public, the originating office of the DOE Element is responsible for ensuring that the information is consistent with the OMB and DOE guidelines and that the information is of adequate quality for dissemination. If the information is influential financial, scientific, or statistical information, then, to the extent practicable, the DOE Element should provide for higher level review of the

originating office's conclusions. Each DOE Element should identify for the CIO a high ranking official who is responsible for ensuring the accountability of the DOE Element's program offices in reviewing information to be disseminated to members of the public under the OMB and DOE guidelines.

As a matter of good and effective information resources management, DOE Elements may develop and post on their websites supplemental guidelines for the process they will follow for reviewing the quality (including objectivity, utility and integrity) of information before it is disseminated. The DOE IQA Guidelines website will provide a central repository for DOE Element supplemental guidance related to quality review processes. DOE Elements should treat information quality as integral to every step of development of information, including creation, collection, maintenance, and dissemination. This process will enable every DOE Element to substantiate the quality of the information it has disseminated through documentation or other means appropriate to the information.

Paperwork Reduction Act. It is important that DOE Elements make use of OMB's Paperwork Reduction Act (PRA) clearance process to help improve the quality information that the DOE Elements collect and disseminate to the public. DOE Elements already are required to demonstrate in their PRA submissions to OMB the "practical utility" of a proposed collection of information the DOE Element plans to disseminate. Additionally, for all proposed collections of information that will be disseminated to the public, DOE Elements should evaluate the proposed collection in light of the OMB and DOE guidelines, and based on that evaluation, state in their 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 the OMB and DOE information quality guidelines. DOE Elements should consider and plan for any potential

re-use or re-purposing of information in data collection systems, known as “downstream uses.”

In developing a PRA information collection, DOE Elements should add language to published public comment notices that identify potential downstream uses and potential impacts and uses and seek public comment on the anticipated downstream uses.

2. Responding to requests from members of the public. To facilitate public review of information disseminated to the public, these Guidelines provide procedures allowing members of the public to seek and obtain correction of information disseminated to the public that does not comply with the quality provisions of the OMB and DOE guidelines. The procedures, set out in Part IV below, provide separate mechanisms for information set forth or referenced in a DOE or DOE-sponsored document subject to public comment and all other DOE or DOE-sponsored information.

IV. Requests from members of the public for correction of publicly disseminated data.

A. How does a member of the public request correction of publicly disseminated information?

1. Requests from members of the public seeking correction of DOE or DOE-sponsored documents subject to public comment, rulemaking notices, and environmental impact statements.

(A) With respect to information set forth or referenced with endorsement in a DOE or DOE-sponsored document subject to public comment on or after [DATE OF ISSUANCE OF FINAL DOE IQA GUIDELINES], a member of the public must request correction within the comment period in a comment that:

(1) Specifically identifies the information in question and the document(s) containing the information;

- (2) Explains with specificity the reasons why the information is inconsistent with the applicable quality standards in the OMB or DOE guidelines;
- (3) Presents substitute information, if any, with an explanation showing that such information is consistent with the applicable quality standards in the OMB and DOE guidelines; and
- (4) Justifies the necessity for, and the form of, the requested correction.

(B) A member of the public must file a request for correction of a document subject to public comment at the address for comments set forth in DOE's notice providing for public comment.

(C) If a member of the public requests correction of information set forth or referenced with endorsement in a document subject to public comment prior to publication of the final document and provides a justification of the necessity for an early response, DOE may consider providing a preliminary response including but not limited to a *Federal Register* notice describing the request for correction and reopening the comment period.

(D) If a member of the public files a request for correction under paragraph IV.A.1 of these guidelines after the close of a comment period, DOE may consider the request to the same extent that DOE considers late-filed comments and time permits such consideration.

(E) With respect to information that is set forth or referenced with endorsement in a notice of final rulemaking or a final regulation disseminated on or after October 1, 2002, (regardless of when first disseminated and regardless of whether there was prior notice and opportunity for public comment), a member of the public:

- (1) Must file a request for correction with Office of the Chief Information Officer at the address provided in paragraph IV.A.2 of these guidelines;

(2) Must include in such a request the content required by paragraph IV.A.1 of these guidelines; and

(3) Must file such a request regarding the regulatory text or supporting information that would necessitate changes to the regulatory text as a petition for reconsideration or for regulatory amendments under 5 U.S.C. 553(e).

(F) With respect to information set forth or referenced with endorsement in a final environmental impact statement (and any related portion of a Record of Decision) disseminated on or after October 1, 2002, regardless of when first disseminated, a member of the public:

(1) Must file a request for correction with the Office of the Chief Information Officer at the address provided in paragraph IV.A.2 of these guidelines;

(2) Must include in such a request the content required by paragraph IV.A.1 of these guidelines; and

(3) Must file such a request in the form of a petition for a supplemental environmental impact statement if the petitioner asserts that are significant new circumstances or information as provided for in 40 CFR 1502.9(c)(1)(ii).

(G) With respect to information that is made subject to public comment on or after October 1, 2002, and that is set forth or referenced with endorsement in a DOE notice of final rulemaking or a final environmental impact statement (and any related portions of a Record of Decision), DOE may summarily deny a request for correction as untimely.

(H) A member of the public who files a request for correction under paragraph IV.A.1 has the burden of justification with respect to the necessity for correction as well as with respect to the timing and type of correction requested.

2. Requests from members of the public seeking correction of DOE or other DOE-sponsored documents.

(A) With respect to information set forth or referenced with endorsement in a DOE or DOE-sponsored document that is disseminated on or after October 1, 2002, regardless of when the information was first disseminated, and that is not subject to paragraph IV.A.1 of these guidelines, a member of the public must request correction by letter to the Office of the Chief Information Officer, Attention: DOE Quality Guidelines, U.S. Department of Energy, Forrestal Building -- Room 8H-089, 1000 Independence Avenue SW., Washington, DC 20585, or via Fax to (202) 586-0262, or by providing the information called for at the DOE Information Quality web site: <https://www.energy.gov/cio/department-energy-information-quality-guidelines>. This web site outlines the Department's process for submitting a request for correction under these Guidelines as set forth in paragraph (B) below.

(B) If a member of the public requests correction of DOE or DOE-sponsored information by letter, addressed to the CIO, then the letter must:

- (1) Specifically identify the information in question and the document(s) containing the information;
- (2) Explain with specificity the reasons why the information is inconsistent with the applicable quality standards in the OMB Guidelines or DOE guidelines;

(3) Present substitute information, if any, with an explanation showing that such information is consistent with the OMB guidelines and the DOE implementing guidelines; and

(4) Justify the necessity for, and the form of, the requested correction.

(C) A member of the public who files a request for correction under paragraph IV.A.2 has the burden of justification with respect to the necessity for correction as well as with respect to the type of correction requested.

(D) Requests from members of the public seeking correction of non-DOE information.

(1) DOE Elements may collect, use, and make available information from various sources and data owners. Elements must identify and highlight original sources of information when such information is used to create or modify influential information.

(2) If the Department receives a request for correction involving non-DOE controlled information, the following applies:

(a) The Department cannot correct or modify information that is owned or made available on behalf of the original data owner, such as a tribal nation.

(b) The Department will identify the specific information exempt from the correction process through a written response to the requester.

B. How does DOE process requests for correction?

1. *Incomplete requests.* If a request for correction is incomplete, DOE may seek clarification from the person submitting the request or return it without prejudice to resubmission.

2. *Public notice of a request for correction.* In selected cases, DOE may publish notice of the receipt of a request for correction and may invite public comment.
3. *Participation by other interested persons.* By letter, DOE may invite or allow other interested persons to comment on a request for correction.
4. *Initial decisions.* If the request for correction concerns information that does not involve a document subject to public comment, then the originating office of the DOE Element responsible for dissemination of the information should provide at least an initial decision within 60 days from the date of receipt. The response should contain a statement of reasons for the disposition. If an initial decision on a request for correction under this paragraph requires more than 60 days, then the DOE Element should inform the requestor that more time is required and indicate the reason why and an estimated decision date. The DOE Element's response should contain a point-by-point response to any data quality arguments contained in the RFC and should refer to any relevant peer review that directly considered the issue being raised, if available. In responding to an RFC, the DOE Element should not opine on the requestor's or DOE's policy position.

5. *Administrative appeals.* In the event DOE initially denies a request for correction of information not subject to public comment and the person who submitted the request would like additional review, then that person must submit a request for review, including a statement of reasons for modifying or reversing the initial decision, no later than 30 days from the date of that decision. A request for review under this paragraph must be submitted by e-mail to *DOEPRA@hq.doe.gov* or by regular mail to Office of the Chief Information Officer, Attention: DOE Quality Guidelines, U.S. Department of Energy, Forrestal Building -- Room 8H-089, 1000 Independence Avenue SW., Washington, DC 20585, or via Fax to (202) 586-0262. The CIO

will direct the request for review to the DOE Element which supervises the originating DOE program office, and the DOE Element, with the concurrence of the Office of the General Counsel, should issue a final decision for DOE (with a copy to the CIO) within 60 days from the date that the request for review is received. To ensure the integrity of the appeals process, the DOE Element should ensure that those individuals reviewing and responding to the appeals request were not involved in the review and initial response to the RFC. If a final decision on a request for correction under this paragraph requires more than 60 days, then the DOE Element should inform the requestor that more time is required and indicate the reason why and an estimated decision date.

6. *Any corrective action will be determined by the nature and timeliness of the information, the magnitude of the error, and the cost of undertaking a correction.* DOE Elements are not required to change, or in any way alter, the content or status of information simply based on the receipt of a request for correction. DOE Elements need not respond substantively to frivolous or repetitive requests for correction. Nor do DOE Elements have to respond substantively to requests that concern information not covered by the OMB or DOE Guidelines or from a person who has not justified the necessity for correction.

7. *Determination of merit.* If DOE determines that a request for correction of information not subject to public comment has merit, DOE may respond by correcting the information in question and without issuing a decision explaining the reasons for accepting the request.

8. *Multiple requests for correction.* If DOE receives multiple requests for correction of information not subject to public comment, DOE may consolidate the requests and respond on a DOE web site, or by notice in the *Federal Register*, or by issuing a correction in similar form and manner as the original information was issued.

9. *Applicability of the request for correction to the Guidelines.* If a member of the public complains about information set forth or referenced with endorsement in a DOE or DOE-sponsored document and does not request correction under the OMB and DOE guidelines, then the complaint is not subject to processing as a request for correction under those guidelines.

10. *Timeliness of the request for correction.* If a member of the public requests correction of information first disseminated more than one year prior to the request and the information does not have a continuing significant impact on DOE projects or policy decisions or on important private sector decisions, DOE may regard the information as stale for purposes of responding to the request.

11. *Additional procedures.* DOE may devise additional procedures on a case-by-case basis as may be appropriate to process requests for correction.

V. IQA Reporting Requirements.

On an annual basis, the Department will report to the Director of OMB on the requests for corrections received under these Guidelines through a process managed by OMB. The OCIO will serve as the Departmental lead for this report. DOE Elements must designate a reporting official, except as agreed otherwise between the DOE Element and the OCIO. The report will include the location of the Department's IQA webpage, the number of complaints received for the previous fiscal year, and a detailed description of the nature of submitted complaints (e.g., request for deletion or correction) and the resolution of complaints (e.g., number corrected, denied, or pending review).

[FR Doc. 2019-21662 Filed: 10/3/2019 8:45 am; Publication Date: 10/4/2019]