

# Center for Regulatory Effectiveness

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May 31, 2002

Mr. James V. Scanlon  
Director, Division of Data Policy  
Office of the Assistant Secretary for Planning and Evaluation  
U.S. Department of Health and Human Services  
Hubert H. Humphrey Building, Room 440D  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

RE: Information Quality Comments: CDC and ATSDR

Dear Mr. Scanlon:

The Center for Regulatory Effectiveness (CRE) is pleased to provide you with our comments on the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry's proposed information quality guidelines, issued pursuant to the Data Quality Act (44 U.S.C. § 3516, note). These comments are specific to CDC; however, all of the comments are also applicable to ATSDR. Our comments on the proposed information quality guidelines of other HHS agencies are being provided under separate cover. The Center has had a leading role in passage of the Act and maintains a strong ongoing interest in the important issue of Data Quality. Please see our website ([www.theCRE.com](http://www.theCRE.com)) for more information about CRE and our work in this area.

Given the deference the public pays to governmental information and the significant role such information plays in regulation and public and private resource allocation decisions, the quality of the federal government's information is a matter of crucial importance to everyone who uses that information. Consequently, CRE appreciates this opportunity to provide its views and recommendations to the CDC and ATSDR in order to help achieve congressional intent in enacting this new "Good Government" law and of OMB in promulgating its guidelines containing government-wide Data Quality standards (67 *Fed. Reg.* 8452, Feb. 22, 2002).

To assist CDC and ATSDR in meeting their obligations under the Data Quality Act and OMB's guidelines, CRE has prepared and enclosed the following attachments:

(1) **CRE General Comments to All Federal Agencies Related to Data Quality Guidelines**

- This paper, which is part of our comments to CDC and ATSDR on their proposed Data Quality guidelines, outlines a number of cross-cutting issues related to Data Quality guidelines which are applicable to all agencies and contains CRE's recommendations on how such issues should be addressed.
  - CRE strongly believes that proper action on these key issues will help ensure that the guidelines issued by the agency are workable, effective, and in keeping with the requirements of both the statute and the government-wide standards set by OMB.
- In the paper, CRE identifies and evaluates a number of agency approaches to these cross-cutting issues. Such examples include positive agency proposals which might be emulated, as well as problematic agency proposals which should be avoided.

(2) **Legal Memorandum on the Data Quality Act's Applicability to All Public Information**

- CRE is concerned by attempts by a number of agencies in their proposed guidelines to exempt certain categories of public information from the Data Quality Act's standards. Consequently, CRE retained Multinational Legal Services (MLS) to examine this important issue. Attached is a legal memorandum which summarizes the MLS inquiry into the Data Quality Act's applicability to all public information. The MLS memorandum is part of CRE's comments to CDC and ATSDR. In short, MLS found:
  - Analysis of the Data Quality Act, the Public Information provisions of the Paperwork Reduction Act, and legislative history demonstrate that Congress intended Data Quality Act standards to apply to all public information.
  - Thus, neither OMB nor any other federal agency has discretion to violate this legislative intent by exempting categories of information from the standards set forth pursuant to the Data Quality Act.

(3) **CRE Comments on Specific Provisions of the CDC's Proposed Data Quality Guidelines**

(A) ***RETROACTIVE APPLICATION OF THE CDC DATA QUALITY GUIDELINES***

Every agency's Data Quality guidelines will become effective on October 1, 2002 and apply to information being disseminated on or after October 1, regardless

of when the information was first disseminated. This retroactivity principle is explicitly enunciated in OMB's February 22, 2002 guidelines, III.4. All agency guidelines are required to comply with the requirements for those guidelines set forth by OMB in their February 22<sup>nd</sup> Final Guidelines.

*CDC Draft Guidelines*

The CDC draft guidelines from state that OMB's guidelines "apply to information disseminated by CDC on or after October 1, 2002."

*Concern*

Although CDC statement is correct, it does not clearly indicate the important point that information being disseminated on or after October 1<sup>st</sup> is covered regardless of when the information was first disseminated.

*CRE Recommendation*

Adopt the following language: "These guidelines will cover information disseminated on or after October 1, 2002, regardless of when the information was first disseminated."

**(B) *CDC'S PROPOSED REQUIREMENTS FOR OBJECTIVE AND UNBIASED INFORMATION***

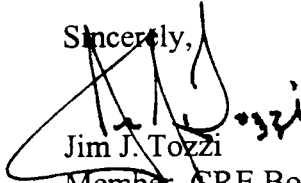
The CDC/ATSDR proposal states that the agency assures that its information is "objective" and "unbiased." Sec. V, A. However, it then goes on to state that for influential scientific information, it will adapt the principles from the SDWA amendments and ensure that its presentation of information about risk effects is "comprehensive, informative, and understandable," rather than "objective" and "unbiased." Sec. VII, 2. This apparent rejection of the "objective" and "unbiased" standard from the legislation and the OMB guidelines appears to be condoned by the HHS proposed guidelines, which imply that risk information can be considered "unbiased" if it is consistent with the quality standards in the SDWA amendment standards. Sec. D, 2), C, 2. The SDWA quality standards do not address the issue of bias.

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Finally, CRE believes that in light of the ongoing importance of the Data Quality issue, all federal agencies should adopt Data Quality as a Performance Goal. Not only would this assist the in regularly monitoring and improving its information quality activities, but it would also serve to increase the transparency of the agency process for Congress and the interested public.

CRE would be happy to answer any questions you might have related to its comments and supporting materials. Please contact us at (202) 265-2383, if we might be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim J. Tozzi". The signature is stylized and overlaps with the printed name below it.

Jim J. Tozzi

Member, CRE Board of Advisors

Attachments