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Subject: Bulletin on Peer Review and Information Quality

The National Association of Counties (NACo) is the only national organization that represents county governments in the United States. NACo ensures that the nation's 3066 counties are heard and understood in the White House and the halls of Congress. NACo's membership totals more than 2,000 counties, representing over 80 percent of the nation's population. We are pleased to submit our comments in strong support of the proposed Bulletin on Peer Review and Information Quality.

NACo has long advocated that sound science must be a cornerstone of federal regulatory policy. Federal departments and agencies must be required to provide fair, peer-reviewed scientifically-sound and consistent assessments of purported health, safety or environmental risks prior to the imposition of new mandates on states or local governments. Local governments need additional information to identify the various environmental mandates, and to evaluate the success of programs formed to comply with them.

NACo supports a fully-coordinated and expanded research effort with should be open to input from state and local governments and private industry. Congress and the Administration should authorize and adequately fund efforts to assess scientifically verifiable risks prior to requiring any actions by local governments.

Scientific peer review is an accepted tool. Peer review of the science used in regulations helps to ensure that the scientific analysis used in regulatory actions and decisions is reliable. With regulations becoming more costly and more complex, peer review of the science used in reaching decisions is especially important.

Peer review at the pre-decisional stage of a study or report, as set forth in the proposed bulletin, is especially important. It is much easier to fix a rule before it is proposed or at the proposal stage than to undo a regulatory decision that has already occurred. The information quality guidelines provide a data correction mechanism to address situations where information has already been disseminated. The peer review requirement provides a complement to this requirement at the pre-dissemination stage.

In addition to rules becoming more costly and more complex, they are also becoming more controversial. More regulatory decisions are being challenged now than ever before. The U.S. Fish & Wildlife had to stop making decisions relating to critical habitat designations in July of this year because it ran out of funding, due to court challenges to its decisions. The Service's work plan on listing and critical habitat decisions is dictated by the courts instead of the agency's priorities.

Peer review of the science used in agency decision-making would hopefully provide greater public confidence in agency rulemakings. Peer-reviewed science is less likely to be appealed or challenged in court. Controversial or cutting-edge science proposed in rulemaking would receive greater credibility if it receives a "second opinion" in the peer review process.

Agency rulemaking is also more likely to be upheld if the science behind it has been peer reviewed. Courts are more likely to respect rulemaking science if it has undergone independent scrutiny. Peer review will better ensure that agency rules are predicated on sound science rather than on court decisions.

Many federal agencies already have their own peer review programs for various types of rulemaking. There is, however, no consistency between agencies on the standards or procedures for the various peer review programs, and possibly no consistency between different programs within the same agency. The Bulletin would provide minimum standard criteria for all agencies to incorporate in peer review programs. These minimum criteria are necessary to improve the quality of rulemaking for all agencies. Agency peer review programs that already meet or exceed the criteria in the Bulletin should not change.

Agency peer review programs prove the point that peer review of agency science does not have to unduly delay the regulatory process. An efficient peer review process can occur in a timely manner without causing regulatory gridlock. We believe that as agencies implement and refine their peer review processes, they will become more efficient so that delay can no longer be considered

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