



MARINE MAMMAL COMMISSION

GUIDELINES FOR ENSURING AND MAXIMIZING THE QUALITY, OBJECTIVITY, UTILITY, AND INTEGRITY OF INFORMATION

Summary

The Marine Mammal Commission adopts these guidelines to ensure and maximize the quality, objectivity, utility, and integrity of information disseminated by the agency in accordance with the directive issued by the Office of Management and Budget (67 Fed. Reg. 8452–8460), pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001.

Background

Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-554) 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.” Pursuant to this directive, OMB issued guidelines on 22 February 2002 (67 Fed. Reg. 8452–8460) that direct each federal agency to (1) issue its own guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by the agency; (2) establish administrative mechanisms to allow affected persons to seek and obtain correction of information that does not comply with the OMB guidelines or the agency’s guidelines, and (3) report periodically to the director of OMB on the number and nature of complaints received by the agency regarding the accuracy of information disseminated by the agency and how such complaints were handled by the agency.

The Marine Mammal Commission was established under the Marine Mammal Protection Act of 1972 to provide independent oversight of the marine mammal conservation policies and programs being carried out by federal agencies. The Commission is charged with developing, reviewing, and making recommendations on domestic and international actions and policies of all federal agencies with respect to marine mammal protection and conservation and with carrying out a research program. In carrying out its mission, the Commission develops and disseminates scientific and other information and reviews information provided by other federal agencies.

To comply with the OMB directive, the Marine Mammal Commission published proposed agency guidelines on 27 June 2011 (76 Fed. Reg. 37376) and final agency guidelines on 17 August 2011 (76 Fed. Reg. 51060).

Definitions

The following definitions, which are consistent with the definitions included in the directive published by OMB on 22 February 2002, are used in and apply to the Marine Mammal Commission's guidelines—

1. **"Affected"** persons are those who use, may benefit from, or may be harmed by the disseminated information.
2. **"Dissemination"** means agency-initiated or sponsored distribution of information to the public. Dissemination does not include the distribution of information limited to government employees or agency contractors or grantees; intra- or inter-agency use of 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.
3. **"Influential,"** when used in the phrase "influential scientific, financial, or statistical information," means that the agency can reasonably determine that dissemination of the information will have or does have a clear and substantial impact on important public policy and private sector decisions.
4. **"Information"** means any communication or representation of facts or data in any medium or form including textual, numerical, cartographic, narrative, or audiovisual.
5. **"Integrity"** refers to security—the protection of information from unauthorized access or revision—to ensure that the information is not compromised through corruption or falsification.
6. **"Objectivity"** is a measure of whether disseminated information is accurate, reliable, and unbiased and whether that information is presented in an accurate, clear, complete, and unbiased manner.
7. **"Person"** means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a regional, national, state, territorial, tribal, or local government or branch, or a political subdivision of a state, territory, tribal, or local government, or a branch of a political subdivision, or an international organization.
8. **"Quality"** encompasses the "utility," "objectivity," and "integrity" of disseminated information. Thus, the government-wide guidelines and the Commission's guidelines may refer to these statutory terms collectively as "quality."
9. **"Reproducibility"** means that the information is capable of being substantially reproduced,

subject to an acceptable degree of imprecision. For information judged to be more or less influential, the degree of imprecision that is tolerated will be reduced or increased accordingly. With respect to analytic 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.

10. **“Transparency”** refers to a clear description of the methods, data sources, assumptions, outcomes, and related information that will allow a data user to understand how the information product was designed or produced.
11. **“Utility”** refers to the usefulness of the information to the Commission, other federal agencies, and other intended users, including the public.

Scope of the Guidelines

Information Disseminated and Covered by these Guidelines: Subject to the exceptions noted below, all information disseminated by the agency is subject to these guidelines. This includes Commission reports and recommendations provided to other agencies, and postings to the Commission’s Web site.

Information Not Covered by these Guidelines: The following information and communications are not covered by the applicable data quality requirements and not subject to these guidelines—

- Information for which distribution is intended to be limited to government employees or agency contractors or grantees.
- Information for which distribution or sharing is intended to be limited to intra- or inter-agency use.
- Responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act, or other similar law.
- Information relating solely to correspondence with individuals or persons.
- Press releases, fact sheets, press conferences, or similar communications in any medium that announce, support the announcement of, or give public notice of information that the Commission has disseminated elsewhere.
- Archival records, including library holdings.
- Archival information disseminated by the Commission before October 1, 2002, and still maintained as archival material.
- Public filings.
- Subpoenas.
- Information limited to adjudicative processes, such as pleadings, including information developed during the conduct of any criminal or civil action or administrative enforcement action, investigation, or audit against specific parties, or information distributed in documents limited to administrative action determining the rights and liabilities of specific

- parties under applicable statutes and regulations.
- Solicitations (e.g., program announcements and requests for proposals).
 - Hyperlinks to information that another person disseminates, as well as paper-based information from other sources referenced, but not approved or endorsed by the Commission.
 - Policy manuals and management information produced for the internal management and operations of the Commission and not primarily intended for public dissemination.
 - Information presented to Congress as part of legislative or oversight processes, such as testimony of Commission officials, and information or drafting assistance provided to Congress in connection with proposed or pending legislation, that is not simultaneously disseminated to the public. (However, information that would otherwise be covered by applicable guidelines is not exempted from compliance merely because it is also presented to Congress.)
 - Documents not authored by the Commission and not intended to represent the Commission's views, including information authored and distributed by Commission grantees, as long as the documents are not disseminated by the Commission (see definition of "dissemination").
 - Research data, findings, reports and other materials published or otherwise distributed by employees or by Commission contractors or grantees that are identified as not representing the Commission's views.
 - Opinions where the presentation makes it clear that what is being offered is not the official view of the Commission.

Information Quality Standards and Pre-dissemination Review

The Marine Mammal Commission remains committed to ensuring the quality, objectivity, utility, and integrity of the information it disseminates. To meet this objective, the Commission has established various pre-dissemination review procedures. The applicable review procedures vary depending on the type of information being disseminated and the extent to which such information is considered influential.

All reports disseminated by the Commission undergo multiple levels of review by knowledgeable individuals prior to publication to ensure that the information each report contains is of a high quality and supports the conclusions reached. In addition to the report drafters, reviewers generally include other staff members, members of the Commission's Committee of Scientific Advisors on Marine Mammals, and the Commissioners. When appropriate, Commission reports also are provided to other agencies, experts outside the federal government, and stakeholders in the relevant issue for review prior to publication.

Section 203(c) of the Marine Mammal Protection Act (16 U.S.C. § 1403(c)) requires the Commission to consult with its Committee of Scientific Advisors on Marine Mammals "on all studies and recommendations which it may propose to make or has made, on research programs conducted or proposed to be conducted [by the Commission], and on all applications for scientific

permits.” The Committee of Scientific Advisors consists of nine scientists “knowledgeable in marine ecology and marine mammal affairs” appointed by the Chairman of the Commission after consulting with the Chairman of the Council on Environmental Quality, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the Chairman of the National Academy of Sciences. This appointment process helps to ensure that the Commission has ready access to a panel of knowledgeable experts in matters related to marine mammals and marine science, including members from the academic community and elsewhere outside of government. By submitting all agency recommendations and research programs to the Committee for review prior to adoption or dissemination, the Commission not only obtains policy advice, but has, in essence, a standing peer-review body to vet the quality of the information on which Commission recommendations are based before it is disseminated.

Information posted on the Commission’s Web site consists largely of Commission reports and recommendations. These documents already have been subjected to extensive review prior to being disseminated. Other information also may be posted on the Web site, including information on marine mammal species and issues of special concern. As with other materials disseminated by the Commission, and as appropriate, such information is vetted by Commission staff, members of the Committee of Scientific Advisors on Marine Mammals, the Commissioners, and outside experts prior to posting.

In exigent circumstances (e.g., when responding to emergencies such as oil spills or unusual mortality events that pose a risk to natural resources), it may not be possible for the Commission to provide full review of information prior to dissemination. In such cases, the Commissioners, the Commission’s Executive Director, or the Commission’s General Counsel may waive temporarily the information quality standards applicable to the dissemination of information. To the extent practicable, the Commission will provide public notice of any such waiver, explaining the reason for the waiver, identifying the official responsible for issuing the waiver, and indicating the expected duration of the waiver. To the extent practicable, full review of information disseminated under a waiver will be conducted after release of that information and revisions will be made as appropriate.

Information Integrity

The Commission maintains and posts material to its Web site through a contract. The contractor is responsible for, and has instituted safeguards and security measures to protect, the integrity of the information that it posts to the Commission’s Web site.

Administrative Process for Correction of Information

Overview: Any affected person (see definition above) may request, where appropriate, timely correction of disseminated information that does not comply with applicable information quality guidelines. The burden of proof is on the requester to show both the necessity for and type of correction sought.

Procedures for Submission of Initial Requests for Correction: An initial request for correction of disseminated information must be made in writing and submitted to:

Ensuring Data Quality

General Counsel
Marine Mammal Commission
4340 East-West Highway, Room 700
Bethesda, MD 20814

and marked to indicate that it is an information correction request. Any request for correction must include—

1. a description of the facts or data the requester seeks to have corrected;
2. an explanation of how the requester is an affected person with respect to the disputed facts or data;
3. the factual basis for believing the facts or data sought to be corrected are inconsistent with Commission or OMB information guidelines;
4. a proposed resolution, including the factual basis for believing the facts or data in the requester's proposed resolution are correct;
5. the consequences of not adopting the proposed resolution; and
6. the requester's contact information, including name, address, daytime telephone number, and e-mail address.

No initial request for correction will be considered under these procedures if the request concerns—

1. a matter not involving “information” as defined in these guidelines;
2. information that has not been “disseminated” as defined in these guidelines;
3. disseminated information, the correction of which would serve no useful purpose; or
4. requests that are deemed to be duplicative, repetitious, or frivolous.

If the Commission determines that any of these exceptions apply, the responsible official will return the request to the person who submitted it, indicating that further action on the request will not be taken, identifying the applicable exception or exceptions, and explaining the basis for applying each of those exceptions in that particular instance.

The Commission’s goal is to provide a final decision on every properly filed request for correction within 60 days of receipt. If a request requires more than 60 days to resolve, the Commission will advise the requester that more time is needed, along with an explanation of the reason or reasons that more time is needed and an estimated decision date.

Action by the Responsible Official on Initial Requests for Correction: Upon receipt of a properly filed request, the responsible official will make a preliminary determination as to whether the request reasonably demonstrates, on the strength of the assertions made in the request alone, and assuming they are true and correct, that the information disseminated was based on a misapplication or non-application of the Commission's applicable information quality standards. The responsible official will communicate his or her initial determination concerning the sufficiency of a request, and otherwise specify the status of the request to the requester, usually within 30 days of receipt. A final determination that a request does not state a proper claim will be communicated, along with an

explanation of the deficiencies, to the requester, usually within 60 days of receipt. The requester may correct the deficiencies, otherwise amend, and resubmit the request.

If the responsible official preliminarily determines that a properly filed request indicates that there may be a valid claim, the Commission will institute an objective review process to investigate and analyze relevant material in a manner consistent with established internal procedures to determine whether the disseminated information complies with the Commission's information quality standards. During such a review the Commission may consult with members of its Committee of Scientific Advisors on Marine Mammals or outside experts to obtain their views on the quality, objectivity, utility, and integrity of the disputed information. After considering the record as a whole, the responsible official will make an initial decision as to whether the information should be corrected and what, if any, corrective action should be taken. At its discretion, the Commission may provide the requester with an opportunity to discuss the request with the responsible official or other reviewers.

If the Commission determines that corrective action is appropriate, corrective measures may be taken through a number of forms, including, but not limited to, personal contacts via letter or telephone, form letters, press releases, postings on an appropriate Web site, or withdrawal or amendment of the information in question. 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, the use or anticipated use of the information, and the magnitude of the error.

The responsible official will communicate his or her decision or indicate the status of the request to the requester, usually within 60 days of receipt of the request. That communication will specify the agency's initial decision, the basis for that decision, and whether, and, if so, what corrective action has been or will be taken. In addition, an initial decision will indicate the name and title of the official responsible for making the decision, a notice that the requester may appeal an initial denial within 30 days of that denial, and the name and title of the official to whom an appeal may be submitted. An initial denial will become a final agency decision if no appeal is filed within 30 days of that denial.

Appeal from an Initial Denial: An appeal of an initial denial must be filed within 30 days of the date of the initial decision. Any such appeal must be in writing and addressed to the official identified in the initial decision. An appeal of an initial denial must include:

1. the requester's name, current home or business address, and telephone number or e-mail address (in order to ensure timely communication);
2. a copy of the original request and any correspondence regarding the initial denial; and
3. a statement of the reasons why the requester believes the initial denial to be in error.

The official responsible for considering an appeal will be a Commissioner or a senior staff member who was not materially involved in reviewing the initial request or in making the initial decision. A decision concerning the appeal will be based on the entirety of the information in the appeal record. Generally, no opportunity for a personal appearance, oral argument, or hearing

concerning the appeal will be provided; however, at his or her discretion, the official responsible for considering the appeal may discuss the request with the appellant. The official responsible for considering the appeal will make every effort to make and communicate his or her decision to the requester, within 60 calendar days of receipt of the appeal. In the event that more time is needed, the responsible official will inform the appellant and provide an explanation of the reason or reasons that more time is needed, along with an estimated decision date.

Reporting requirements

The Commission will submit an annual report to OMB by 1 January of each year specifying the number and type of correction requests received during the previous year and how any such requests were resolved. These reports will explain the Commission's practices for responding to such requests, including those that fit within the scope of any of the exceptions under which a request was not considered. The Commission will submit its initial report in the first reporting cycle following adoption of final guidelines.

Contact information

For further information contact Michael L. Gosliner, General Counsel, Marine Mammal Commission, 4340 East-West Highway, Room 700, Bethesda MD 20814; telephone: (301) 504-0087; fax: (301) 504-0099

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Timothy J. Ragen
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Marine Mammal Commission