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Rules and Directives
Branch
NRC

May 31, 2002

Ms. Vicki Yanez
Information Quality, Mail Stop T6-E7
Nuclear Regulatory Commission
Washington DC 20555-0001

Re: Information Quality, 67 FR 22463

5/31/02
67 FR 22463
(6)

Dear Ms. Yanez:

The Section of Administrative Law and Regulatory Practice of the American Bar Association is pleased to submit comments on the proposed guidance for data quality that your agency has proposed under Section 515 of Public Law 106-554. The views expressed herein are presented on behalf of the Section of Administrative Law and Regulatory Practice. They have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the position of the Association.

These comments are focused on the mechanisms proposed for implementation of section 515's "correction of information that does not comply with (OMB guidance)". In commenting on the mechanisms we hope to improve them; these comments do not suggest that any of the substantive objectives of the agency discussed in your published proposal would or would not have our Section's support. Because many of the nation's experts in the administrative process and information policy are members of our Section, we hope to speak to the process and procedural aspects of the proposed guidelines.

The Commission's guidelines appear to be a very appropriate reflection of the OMB guidance and appear to be within the meaning of section 515.

We endorse the ability to reject bad-faith correction requests (22468 col. 3) but doubt a valid correction request could be denied where it is "without justification"; an individual requesting correction might not have all the articulation and justification desired by the staff but still may have a valid basis for seeking correction of an error.

Limiting corrections (22468 col. 3, item 5) to what is appropriate for the nature and timeliness of the information involved may be easier for staff but is not fully responsive to the OMB Guidance, 67 F.R. 8459 col. 1 item 3. Perhaps this could be clarified and expanded in the final NRC publication to better fit with the duty to correct errors as articulated by OMB. Even old information may be in need of correction.

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E-RIDS = ADM-03
add = V. Yanez (VEY)

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We agree with the provision at 67 FR 22463, "General Approach", para. 3, that there may be other types of NRC actions beyond rulemaking for which the "influential" category is properly to be applied. Based on our experience with similar regulatory systems in other agencies, we note that sometimes an NRC policy pronouncement that is not a final rule can have substantial force to induce compliance. The distinction drawn in this paragraph between rulemaking and the use of Regulatory Guides may not be a valid distinction since, in some cases, the nuclear power industry immediately follows a change in the Guide, thereby giving the supportive data set "influential" information status without the final rulemaking ordinarily used under 5 U.S.C. 553.

At 22465, "How NRC's Draft Guidelines Meet the Standard for Information Integrity", final paragraph, second sentence, we recommend clarifying the statement about official records, so that the reader understands what relationship there is between availability, accuracy and the ability to seek a correction of errors. If it means a category of documents to be corrected because they are not agency records, that could be expressed and explained. This warrants some clarification.

Thank you for considering these comments. If you wish clarification of any portions, please contact Professor James O'Reilly, Chair of the Committee on Government Information & Privacy, at (513) 556-0062.

Sincerely,



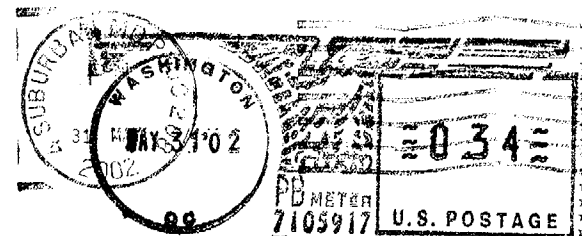
C. Boyden Gray
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*Rec'd
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