

## **U.S. International Trade Commission Information Quality Guidelines**

1. Purpose. As a matter of good and effective agency information resources management, the United States International Trade Commission (“Commission”) intends to continue treating information quality as integral to every step of its development of information, including creation, collection, maintenance, and dissemination, with due regard to the nature and timeliness of the information at issue. The Commission issues these Information Quality Guidelines (hereinafter “the Commission’s Information Quality Guidelines” or “these Guidelines”) to describe the agency’s procedures for ensuring and maximizing the quality, objectivity, utility, and integrity of information that it disseminates to the public, to set forth the administrative procedure by which an affected person may obtain correction of disseminated information that does not comply with the Commission’s Information Quality Guidelines and the implementing guidelines and accompanying explanatory notes of the Office of Management and Budget (“OMB”) published in interim final form on September 28, 2001 (66 FR 49718) and in final form on February 22, 2002 (67 FR 8452) (hereinafter “OMB’s Government-Wide Guidelines” or “OMB’s guidelines”), and to provide for periodic reporting to OMB.

With respect to draft information collection packages that are to be used to generate information products subject to these guidelines, the Commission will ensure that such draft information collection packages submitted for OMB approval result in the information being collected, maintained, and used in a manner that is consistent with these and OMB’s guidelines.

The Commission intends to implement these guidelines in a way that will take into consideration the agency’s budget, resources, and pressing priorities and obligations.

These guidelines are a general statement of agency policy and are not legally binding on the Commission or on affected persons.

2. Authority. The Commission’s Information Quality Guidelines are based on section 515 of the Treasury and General Government Appropriations Act, 2001 (Public Law No. 106-554) (hereinafter “section 515”) and OMB’s Government-Wide Guidelines.

3. Effective Date. As provided in OMB’s Government-Wide Guidelines, these Guidelines apply only to covered information products (described herein) disseminated on or after October 1, 2002, regardless of when the information was first disseminated. The Commission archives a large amount of information products in its files, on its web site, and on the agency’s electronic database information service (“EDIS”) as a courtesy to the public. The fact that an information product that was disseminated by the Commission before this date is still maintained by the Commission does not make the information product subject to these or OMB’s Guidelines or to the request for correction process. The Commission does not intend any informational products issued prior to October 1, 2002 to be subject to section 515, and the burden of proof is on the party requesting correction of the information product to demonstrate that the product is

continuing to be disseminated within the meaning of section 515, OMB's Government-Wide Guidelines and these Guidelines. For example, some previously released information products continue to be used for decision-making or are relied upon by the Commission and the public as official, authoritative, government data; these data are, in effect, constantly being redisseminated and are thus subject to these guidelines, as explained in more detail herein.

4. Definitions. The definitions of "quality," "utility," "objectivity," "integrity," "information," "Government information," "information dissemination product," "dissemination," "influential," and "reproducibility," are contained in OMB's Government-Wide Guidelines, except as amplified or explained in specific circumstances described herein.

5. Applicability. The mission of the Commission is to: (1) administer U.S. trade remedy laws within its mandate in a fair and objective manner; (2) provide the President, the United States Trade Representative, and Congress with independent, quality analysis, information, and support on matters of tariffs and international trade and competitiveness; and (3) maintain the Harmonized Tariff Schedule of the United States. In so doing, the Commission serves the public by implementing U.S. law and supporting the development of sound and informed U.S. trade policy. At the same time, the Commission only infrequently engages in rule-making but very frequently deals with nonpublic information and operates under strict statutory and regulatory deadlines.

The Commission intends to implement these Guidelines in compliance with the requirements of section 515 and OMB's Government-Wide Guidelines. In carrying out its mission, the Commission generates a variety of information products. It is the Commission's intent that these Guidelines apply only to information products such as statistical or actuarial information prepared for public dissemination and reports, studies, and summaries prepared to inform the public that are subject to section 515 and OMB's Government-Wide Guidelines, as discussed below. It is not the Commission's intent to include under these guidelines privileged information products and procedural, operational, policy, and internal manuals prepared for the management and operations of the Commission and its sub-departments that are not primarily intended for public dissemination.

Other Commission information products do not fall within the coverage of section 515 and OMB's Government-Wide Guidelines, as explained herein, and it is not the Commission's intention to apply these Guidelines to them. Such excluded information includes responses to Freedom of Information Act and Privacy Act requests, correspondence with individuals (including correspondence related to possible breaches of Administrative Protective Orders and corresponding sanctions), information that is provided in response to individual requests, and links to other website pages from the Commission's website. These Guidelines also do not apply to press releases, fact sheets, press conferences or similar communications in any medium that

announce, support the announcement, or give public notice of information the Commission has disseminated elsewhere.

The Commission and its administrative law judges conduct a variety of different proceedings, as explained in more detail below. Certain publicly disclosable information submitted in these proceedings by parties and non-parties is distributed by the Commission as a service to the public through postings of documents on EDIS or otherwise; such information is excluded from these Guidelines to the extent that the Commission has not authored such documents, and is not distributing the information in a manner that suggests that the Commission endorses or adopts the information. Whereas the initial distribution to the public of such documents is not intended to be covered by these Guidelines, these Guidelines may still apply to a subsequent distribution of the information in which the Commission adopts, endorses or uses the information to formulate or support a regulation, guidance, or other agency decision or position, subject to the limitations described herein.

Other information products submitted by parties and non-parties in proceedings before the Commission and administrative law judges involve nonpublic information, and as such, their distribution generally is limited. The Commission does not intend such information products as well as other information products not disseminated to the public, including documents intended only for inter-agency and intra-agency use or sharing of information, to be subject to these Guidelines.

Because OMB's Government-Wide Guidelines also exclude certain information that is disseminated in "adjudicative processes," the Commission's Information Quality Guidelines do not apply to decisions, orders, subpoenas, transcripts, opinions, staff reports, amicus and other briefs, or any other documents issued or generated by administrative law judges, the Office of Unfair Import Investigations, the Commission, and staff in the course of investigative and litigation phases of cases involving 19 U.S.C. § 1337. Initial determinations issued by Commission administrative law judges in unfair import practices investigations are subject to review by the Commission in accordance with applicable laws, regulations, and procedures. Final Commission decisions, including initial determinations of administrative law judges that become final Commission decisions, are subject to judicial review in accordance with applicable laws, regulations and procedures. Because these proceedings involve well-established procedural safeguards, rights to address the quality of the factual allegations and decisions, and an opportunity to contest decisions, orders, or any other documents issued or generated by administrative law judges, Commission staff, the Office of Unfair Import Investigations, and the Commission in the course of these proceedings and related appeals, such information products are excluded from these Guidelines. Moreover, these Guidelines do not provide any additional rights of challenge or appeal.

The Commission also conducts import injury investigations under a number of other statutory authorities, including 19 U.S.C. §§ 1671 et seq. and 19 U.S.C. §§ 2251 to 2254, 2451, 3352, and 3371. These investigations are not adjudicative proceedings, but are subject to judicial

review in accordance with applicable laws, regulations, and procedures. The Commission considers documents generated by the Commission or its staff in such investigations to be sufficiently analogous to adjudicative processes for the purposes of section 515 to conclude that subpoenas, decisions, orders, transcripts, opinions, staff reports, amicus and other briefs, and any other documents issued by the Commission or its staff in those investigations and related appeals are not covered by section 515 or OMB's Government-Wide Guidelines. With respect to appeals of some of these proceedings to the World Trade Organization, while such appeals cannot be brought by U.S. citizens, such appeals also do test the information products involved in these proceedings. Because these proceedings involve well-established procedural safeguards, rights to address the quality of factual allegations and decisions, and an opportunity to contest decisions, orders, or any other documents issued by the Commission or staff in the course of these proceedings or related appeals, such information products are excluded from these Guidelines. Moreover, these Guidelines do not provide any additional rights of challenge or appeal.

Other excluded information includes archival information disseminated by the Commission's main and law libraries, Secretary's Office, and other agency offices, directly or through the Commission's web site (including via postings on EDIS), as well as certain information products generated by agency employees. Staff research products, such as the International Economic Review and the Industry, Trade, and Technology Review, contain a disclaimer to advise users that the information products are those of staff and do not represent the views of the Commission; these products are published and communicated in the same manner as products generated by their academic peers, and as such are excluded from these Guidelines.

6. Basic Standard of Quality. The Commission adopts information quality (including objectivity, utility and integrity), as defined in these and OMB's guidelines, as a goal. The Commission has in place procedures that incorporate information quality criteria into its information dissemination practices, and it intends to update these procedures in the future, as needed, to meet this goal. The agency's procedures for ensuring the quality of information it disseminates are intended to provide "reasonable assurance" that the information is accurate, clear, complete, unbiased, useful for intended users, and secure from unauthorized access or revision. This basic quality standard is consistent with the standard employed in internal management reviews to ensure the effectiveness and efficiency of the agency's operations.

7. Procedures to Ensure Quality (including Objectivity, Utility, and Integrity) of Information Disseminated by the Commission.

a. Research program products. The Commission frequently prepares research projects at the request of and for the use of members of the Executive and Legislative branches of the Government. Commission research products are produced by the Office of Operations with assistance from other staff offices. A team prepares a draft report which is then submitted to a rigorous review process normally involving primary review and senior review by agency staff and then review and approval by the Commission. These robustness checks are tailored to the nature and multiplicity of issues involved in the particular circumstances. Once approved, the products

are provided to customers. Much of the information that the Commission distributes is nonpublic information that is made available only to authorized recipients. In general, information that is publicly disclosable is provided to the general public through the Commission's website and other means of dissemination.

The transparency of research products is assured, where feasible and appropriate, through inclusion of clear explanations of study methodology in report texts. Thus, to the extent that interested parties have appropriate access to the material, the statistical information and analyses that the Commission distributes in its reports are available, and if appropriately qualified persons use the same or a similar methodology, they would be expected to generate similar findings and results. When the Commission determines that the information it will disseminate to the public is "influential" financial or statistical information, extra care will be taken to include a high degree of transparency about data and methods to comply with agency and OMB's Government-Wide Guidelines' requirement for reproducibility of such information. As a practical matter, however, confidentiality constraints are likely to limit the frequency with which the Commission disseminates "influential" information.

b. Trade information. Commission trade information, including the Harmonized Tariff Schedule, is produced by the Office of Operations with assistance from other staff offices. Each information product undergoes an internal review by subject matter experts prior to review by the Commission, where appropriate.

c. General information about the Commission. The Commission's Offices of External Relations and of the Secretary disseminate a variety of information products that provide information about the agency, agency authorities, activities and programs, as well as the contact information for the public to interact with and access that information or those services. An example is the Commission's Year in Review publication that summarizes agency activities during the past year. The Office of External Relations reviews each such information product prior to its review and approval by the Commission, and its subsequent public dissemination.

The Commission issues a Strategic Plan, annual Performance Plan, and annual Performance Report in accordance with the Government Performance and Results Act. These documents are prepared by subject matter experts and reviewed by Commission office directors, and are approved by the Commission prior to their issuance. The Commission and Commission staff also prepare various documents that describe agency processes such as the Antidumping and Countervailing Duty Handbook and An Introduction to Administrative Protective Order in Import Injury Investigations, and these publications are subject to appropriate internal reviews by subject matter experts.

d. Integrity of information on the Commission website. Commission office directors and appropriate subject matter experts in their offices are responsible for ensuring that accurate, complete, and current information in each office's area of responsibility is provided to the webmaster for posting to the Commission website. Information maintained on the website

for public dissemination is backed up regularly to permit restoration in the event of any compromise of the site.

e. The Commission has procedures in place to protect information from unauthorized, unanticipated, or unintentional modification, in order to prevent information from being compromised through corruption or falsification.

f. Use of disclaimers. As a part of its procedures to ensure information quality, the Commission uses disclaimers where appropriate. For example, a disclaimer notice regarding the accuracy and timeliness of information provided on the DataWeb website is included on that website. Other disclaimers may be used, as appropriate, in future information dissemination products.

8. Requests for Correction of Disseminated Information. This section sets forth the administrative procedures by which an affected person may obtain correction of information disseminated to the public by the Commission that does not comply with OMB's Government-Wide Guidelines and the Commission's Information Quality Guidelines. This administrative procedure applies only to requests for correction of disseminated information, as defined herein.

a. Existing mechanisms. In some proceedings, such as under 19 U.S.C. §§ 1332 et seq., 2704, 3005, 3010, and 3204, there are existing mechanisms in place under the relevant statutes, regulations, and Commission practice to ensure the quality of information, to handle requests for correction of information, and, as needed, to correct information disseminated to the public. Particularly in light of the strict operating deadlines imposed exogenously by statutes, regulations, the legislative branch, and/or the executive branch in these proceedings, the Commission intends to use existing mechanisms to ensure the quality of information products generated therein by the Commission and staff and disseminated to the public.

b. Other circumstances. Request for correction. A request for correction of disseminated information that allegedly does not comply with the Commission Information Quality Guidelines or OMB's Government-Wide Guidelines must be submitted, in writing, to the Secretary to the Commission, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436. The request for correction must specifically identify the disseminated information that allegedly does not comply and explain how the requestor is affected by the information error. These procedures are for corrections of factual data and information, not interpretations of data and information or requests for de-publication, and not to resolve underlying substantive, policy, or legal issues. Requesters should be aware that they bear the "burden of proof" with respect to the necessity for correction as well as with respect to the type of correction they seek.

i. Initial decision. The Secretary to the Commission, or her designee, will review a request for correction of disseminated information, with the assistance of other agency employees, as needed, and generally will issue a written initial decision to the requestor within 60 days of receipt of the request. If the request requires more than 60 days to resolve, the Secretary will

inform the requestor that more time is required and indicate the reason why and an estimated decision date. Requests for correction that are not specific may not be able to be processed, in a timely fashion, or at all. The agency will attempt to contact and work with requesters to obtain additional information when warranted.

After review has been completed, the Secretary, or her designee, with the assistance of other agency employees, as needed, will determine whether a correction is warranted, and, if so, what corrective action to take. Any corrective action will be determined by the nature and timeliness of the information involved and such factors as the significance of the error on the use of the information, and the magnitude of the error. The agency is 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. Requests for correction of information that are, inter alia, frivolous, speculative, made in bad faith or without justification, or are unlikely to have substantial future impact, will be rejected.

Subject to applicable law, rules and regulations, the agency reserves the right to respond to such complaints in a manner appropriate to the nature and extent of the complaint, including, e.g., by telephone, written letter, form letter, press release, mass mailing, or posting on the agency's web site that corrects a widely disseminated error or addresses a frequently raised complaint. Corrective measures, where appropriate, should be designed to provide reasonable notice to affected persons of any corrections made. The decision will advise the requestor of corrections made or, if the request is denied, will explain why no correction was made and advise the requestor of the opportunity to appeal the initial decision.

All requests to the Secretary under these Guidelines will be posted on EDIS, and responses to those requests will also be posted. By docketing requests for correction and subsequent responses, the Commission will ensure the transparency of the request and response process.

This process shall not be used to circumvent ordinary statutory and regulatory service and filing requirements in Commission proceedings. All requests for correction shall include the investigation number(s), if applicable, where an information product pertaining to a specific investigation(s) is involved, and the heading should indicate that it is a request for a correction.

ii. Appeal to the Chief Information Officer. A requestor may appeal an initial decision denying a request for correction of disseminated information to the Chief Information Officer ("CIO") of the Commission. The appeal must be submitted, in writing, to the Chief Information Officer, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436. The appeal must be submitted no later than 30 days from the date of the initial decision. The appeal must include a copy of the request for correction, a copy of the Secretary's initial decision, a statement of the reasons why the decision is not satisfactory to the requestor, and a statement of what remedy would be satisfactory to the requestor. With assistance from other agency officials, as necessary, the CIO generally will issue a decision within 60 days of

receipt of the appeal whether due diligence was used in consideration of the initial request; or, if a decision requires more than 60 days to resolve, the CIO will notify the requestor that more time is required and indicate the reason why and an estimated decision date. The decision of the CIO is final and is not subject to administrative or judicial review.

d. Reports. Beginning on January 1, 2004, and annually thereafter, the Commission will file reports with OMB that provide the number and nature of complaints received regarding information disseminated by the Commission and how the complaints were resolved.

9. Revisions to the Guidelines. Each Commission office that produces information dissemination products to which these Guidelines apply is responsible for notifying the CIO of the Commission whenever a change in the Guidelines with respect to the office's information products is required. Changes may be required, for example, when a new type of information dissemination product is created or an existing type of information product is discontinued, or when there is a change in the office's procedures for ensuring the quality of a type of information dissemination product for which the office is responsible. The CIO will initiate necessary changes to the Guidelines. When changes to the Guidelines are made, a revised version will be posted to the Commission's website.