



January 9, 2006

Submitted Electronically

Ms. Lisa Jones
Office of Information and Regulatory Affairs
Office of Management and Budget
NEOB, Room 10201
725 17th Street, NW
Washington, DC 20503

Re: Proposed Bulletin for Good Guidance Practices, 70 Federal Register 71866
(November 30, 2005)

Dear Ms. Jones:

The Edison Electric Institute (EEI) welcomes the opportunity to submit comments on the Office of Management and Budget's (OMB) *Proposed Bulletin for Good Guidance Practices*.

EEI is the premier trade association for U.S. shareholder-owned electric companies, and serves international affiliates and industry associates worldwide. Our U.S. members serve 97 percent of the ultimate customers in the shareholder-owned segment of the industry, and 71 percent of all electric utility ultimate customers in the nation. They generate almost 60 percent of the electricity produced by U.S. electric generators.

The electric utility industry is affected by a broad range of federal and state statutes and regulations, and is one of the most regulated industries in this country. In 2004 alone, EEI member companies spent more than \$6 billion on compliance with federal environmental regulations. There are many additional regulations our industry must comply with in the coming years on the federal, state, and local levels.

EEI and its members strongly support OMB's proposal to issue new guidance that seeks to improve the way federal agencies develop and utilize guidance documents. EEI agrees that agency guidance practices should be more transparent, consistent and accountable; in short, agencies should adhere to the same good government standards of transparency, quality and consistency for guidance documents as is required for the regulations they develop.

EEI appreciates the Administration's focus on promoting good management practices in all areas of federal regulatory policy, particularly with respect to ensuring that objective, unbiased, and scientifically sound information is the foundation of federal regulations and policies designed to protect public health, safety, and the environment. We also recognize the importance of federal agencies using data of the highest quality possible in communicating and disseminating information to state and local authorities and the general public.

It is therefore a logical development of Administration policy to require a complimentary standard for agencies to follow with respect to guidance documents. EEI agrees that agency guidance documents should be developed with appropriate review and public participation, accessible and transparent to the public, of high quality, and not improperly treated as binding requirements. Specifically, EEI believes that each federal agency should:

- develop written procedures for internal review and clearance of significant guidance documents;
- follow good guidance practices when providing important policy direction on a broad scale;
- ensure consistent application of good guidance practices;
- ensure that that information about the existence of guidance documents and guidance documents themselves are made available to the public; and
- have adequate procedures to address complaints regarding the development and use of guidance documents.

As to the Proposed Bulletin, EEI offers the following specific comments:

Scope

The Bulletin should expressly exclude informal guidance from its coverage. Informal guidance is offered to specific entities, such as informal advice, opinions or interpretations by agency officials on discrete issues. As such, this informal guidance has application only to the entity or individual that requested it, and by its nature should not fall under the scope of the Bulletin.

Procedures

EEI supports the standard elements identified in Section II.2, particularly II.2(v), which requires agencies to note if a new guidance document "is a revision to a previously issued guidance document and identify the document that it replaces." OMB should emphasize the importance of agencies determining whether older guidances exist on a topic and clarifying specifically what parts, if any, of such older guidances remain valid.

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EEI supports Section III's requirements that agencies post links to all of their currently-effective guidance documents, explain changes to the list in the prior year, and provide a means for the public to comment on them. It is important that all guidance documents are listed, and that active ones are accessible by easily recognized links.


OMB should revise the Bulletin to encourage agencies – where practical – to solicit public comment informally on draft significant guidance documents, just as OMB is doing with the Bulletin and previous OMB Bulletins. As some guidance documents can be somewhat technical and complicated, it would be beneficial to allow the public an informal opportunity to comment on them while still in draft, in order to uncover any unintended effects or address major flaws.

Additional Comments

OMB's Information Quality Act (IQA) Guidelines are not mentioned or referenced in the Proposed Bulletin. We note that there is much overlap between the Proposed Bulletin and the OMB IQA Guidelines and associated Information Quality Bulletin for Peer Review. It would be helpful if OMB explicitly states that relationship.

Thank you for the opportunity to comment on this important public policy issue. Again, EEI commends OMB, and particularly the Office of Information and Regulatory Affairs, for its efforts in furthering the Administration's policy of "smarter regulation" at all federal regulatory agencies. Please contact Michael Rossler at (202)508-5516 or at mrossler@eei.org if you have any questions about these comments.

Sincerely,



Quinlan J. Shea, III
Executive Director, Environment