OMB's Proposed "Public Trust" Rule: Helping You Prepare Your Response

The Office of Management and Budget (OMB) published the proposed regulation, "The Fundamental Responsibilities of Recognized Statistical Agencies and Units," on August 18, 2023, and is requesting public comment through **October 2, 2023**. This proposed rule is the first of OMB's regulations required by the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act).

This resource is intended to provide a high level guide to the register comment to help direct you to sections that may be of interest to you. **The Data Foundation recommends you use this resource to help orient you as you build your understanding of the regulation, but that you use the notice itself for a full understanding of the proposed regulation.**

The proposed regulation aims to promote public trust in the federal statistical system by providing direction to statistical agencies and units on how to carry out their four fundamental responsibilities, described in 44 U.S.C. 3563. The four fundamental responsibilities are to:

- Produce and disseminate relevant and timely statistical information

- Conduct credible and accurate statistical activities

- Conduct objective statistical activities

- Ensure the confidentiality and exclusive statistical use of data collected for statistical purposes

The proposed regulation also provides direction to other federal agencies on how to enable, support, and facilitate statistical agencies and units in carrying out their fundamental responsibilities.

Key provisions of the proposed regulation include:

- Statistical agencies and units must have a clear and transparent mission that is focused on producing high-quality statistical information.

- Statistical agencies and units must have a strong commitment to confidentiality and must take steps to protect the privacy of respondents.

- Statistical agencies and units must be independent from political interference and must have the resources they need to carry out their responsibilities.

- Statistical agencies and units must be accountable to the public and must be transparent about their activities.

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The Break Down

Sections A and B in the proposed regulation are the executive summary and statutory authority, respectively. Below you can find a short summary of the remaining sections as well as suggestions for what information may be helpful to include in your comment to address that section.

Section C - Brief History of the U.S. Federal Statistical System and Related Authorities

Section C provides a brief overview of the history of the federal statistical system in the United States, including the challenges the statistical system faces as it continues to play a vital role informing the public.

What may be helpful in this section:

- Discussion of the government entities involved in the Federal Statistical System

- Brief descriptions of relevant authorities, including the Evidence Act, including CIPSEA 2018, the Paperwork Reduction Act, Privacy Act, and statistical policy directives

Section E. Discussion of Key Provisions

Section E provides an explanation of the proposed regulations. OMB emphasizes interest in all aspects of the proposed approach, and in particular, whether it thoroughly meets the four responsibilities outlined above (ref: 44 U.S.C. 3563)

What may be helpful in this section:

OMB is looking to answer discrete questions, including:

- How can OMB best articulate the known and expected benefits of this regulatory action?

- How to distinguish recognized statistical units from parent agencies?

- What are appropriate oversight and compliance structures?

The following is a bullet point synopsis of the proposed regulations from OMB. **The Data Foundation recommends you use this resource to help orient you as you build your understanding of the regulation.**

Proposed § 1321.2—Definitions

This section provides key terms and definitions that are relevant throughout the proposed regulation, many of which sync to current definitions in law. However, some key definitions to consider are:

(p) "Parent agency" means the full organizational structure, including every organizational level (including sub-agencies, offices, components, and units within the highest organizational level such as the Department), as well as the highest organizational level such as the Department, including any agency as defined in (b) and aside from the Recognized Statistical Agency or Unit as defined in (q), and any organizational units that contain the Recognized Statistical Agency or Unit as defined in (q).

(aa) "Support function" refers to core functions of an agency that support the programmatic functions in achieving the agency's mission, including legal, communications, legislative affairs, budget, IT, or procurement functions.

Proposed §1321.4—The Four Fundamental Responsibilities

OMB identifies that Recognized Statistical Agencies and Units carry the responsibility of fulfilling the fundamental responsibilities and parent agencies (and their officials) play a key role in supporting the ability of the Recognized Statistical Agencies and Units to meet their responsibilities.

The four fundamental responsibilities (44 U.S.C. 3563(a)(1)**) are:**

(1) to produce and disseminate relevant and timely statistical information;
(2) conduct credible and accurate statistical activities;
(3) conduct objective statistical activities; and
(4) protect the trust of information providers by ensuring the confidentiality and exclusive statistical use of their responses

What may be helpful in this section:

- Description of proposed budgeting process between statistical agencies/unit, parent agencies, and OMB

- Decision making authorities and the relationship between statistical agencies and other officials at parent agencies

- OMB's role in coordinating of federal information policy

Proposed §1321.5—Relevance and Timeliness

This section outlines how statistical units and agencies are to produce and disseminate statistical products and information that are relevant in a timely manner. OMB describes the activities included in ensuring relevance and timeliness of data, including stakeholder engagement, monitoring changes in policy conditions, and accessibility of data. This section also reiterates that statistical agencies would be in charge of dissemination and collection decisions.

What may be helpful in this section:

Details of the role and relationship between parent and statistical agencies in deciding items related to publication and collection of data

- Discussion of role of stakeholder engagement

- Coordination across programs and policies related to subject domains

Proposed §1321.6 Credibility and Accuracy

This section adopts requirements in SPD-1 that methodological standards must ensure that data and products are accurate and credible. This includes keeping up with new, better methods, and publicly providing descriptions of methods and procedures used to develop statistical products, subject to confidentiality and other statutory requirements, and must use plain language as much as possible.

What may be helpful in this section:

- How statistical agencies and their staff are to keep up to date on emerging methods and techniques

- Career development activities

- How to ensure quality of statistical products

Proposed §1321.7—Objectivity

In this section, OMB outlines proposed regulations to support the objectivity of statistical products, reinforcing that "objectivity of the information released to the public is maximized by making information available on an equitable, policy-neutral, transparent, timely, and punctual basis". This section also includes consideration for equitable access for all data users by including directions for dissemination policies.

What may be helpful in this section:

- How statistical agencies are empowered and expected to respond to articulated data needs

- What role the heads of statistical agencies role in data governance and data lifecycle management

- How to ensure protection against claims from the public of external manipulation or undue influence

Proposed §1321.8—Confidentiality

This section provides proposed regulation to support the confidentiality and exclusive statistical use of their data.

What may be helpful in this section:

- The parties responsible for ensure the confidentiality and security of statistical information

- Communication of confidentiality protection policies

- Responsibility for control and supervision of access to secure information

Proposed §1321.9—Compliance Review

The final section in the proposed regulation offers three options to address the need for a compliance review, including reviews from the Interagency Council on Statistical Policy, the Council of Inspectors General on Integrity and Efficiency, or the Inspector General of the Parent Agency.

What may be helpful in this section:

- Details of proposed review options

- Common elements of effective review