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Subject: Proposed OMB peer review guideline comments

The following represent comments from the Society of American Florists and the American Nursery and Landscape Association. A "word" copy of the comments is also attached.

- SAF-ANLA comments.doc

**Comments  
to the  
Office of Management and Budget  
Executive Office of the President  
on  
Proposed Bulletin on Peer Review and Information Quality**

**Submitted by the  
SOCIETY OF AMERICAN FLORISTS  
and the  
AMERICAN NURSERY & LANDSCAPE ASSOCIATION**

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The Society of American Florists (SAF) and the American Nursery and Landscape Association (ANLA) appreciate the opportunity to comment on the Office of Management and Budget's (OMB) Proposed Bulletin on Peer Review and Information Quality, as published in the September 15, 2003 issue of the *Federal Register*.

The Society of American Florists (SAF) is the national trade association representing the entire floriculture industry, a nearly \$19 billion component of the U.S. economy. Our membership includes nearly 15,000 small businesses, including growers, wholesalers, retailers, importers and related organizations, located in communities nationwide and abroad. Our industry produces and sells cut flowers and foliage, foliage plants, potted flowering plants, bedding plants, and landscape plants.

The American Nursery & Landscape Association (ANLA) is the national trade association for the nursery and landscape industry. ANLA represents 2,500 production nurseries, landscape firms, retail garden centers and horticultural distribution centers, and the 16,000 additional family farm and small business members of the state and regional nursery and landscape associations. The Association's grower members are estimated to produce about 75% of the nursery crops moving in domestic commerce in the U.S. that are destined for landscape use.

## **I. BACKGROUND ON THE INDUSTRY**

According to the USDA's National Agricultural Statistics Service (NASS), the nursery and greenhouse industry remains the fastest growing agricultural sector in cash receipts. The 1997 Census of Agriculture shows that nursery, greenhouse and floriculture crop sales totaled \$10.9 billion in 1997, up from \$7.6 billion in 1992. This represents a *43 percent increase* in sales over the previous 1992 Census. Together these crops make up 11 percent of total U.S. farmgate receipts, up from 10 percent. Some 33,935 farms produced nursery plants as their principal crop; floriculture farms numbered 21,824.

In crop value, nursery and greenhouse crops have surpassed wheat, cotton, and tobacco and are now the third largest plant crop – behind only corn and soybeans. Nursery and greenhouse crop production now ranks among the top five agricultural commodities in 24 states, and among the top 10 in 40 states. Growers produce thousands of varieties of cultivated nursery, bedding, foliage and potted flowering plants in a wide array of different forms and sizes on 1,305,052 acres of open ground and 1,799 million square feet under the protective cover of permanent or temporary greenhouses.

## **II. CONCERNS REGARDING THE PROPOSED BULLETIN**

Our comments on the proposed Bulletin primarily relate to the guidelines as they would affect actions taken by the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine (PPQ). Nonetheless, our members could be affected by this proposal as it is applied in other agencies as well. Therefore, we request that our comments also be considered by OMB in their more general sense, as the proposal would apply to any federal entity.

We certainly agree that peer review is a critical element in ensuring the quality of scientific information. However, there is a wide diversity and variability in what agencies are tasked to do,

the complexity of the science, and the public policy issues that must be balanced. There is also an important distinction between ensuring that decisions are made upon the best possible science, and what most people think of as "peer review."

Thus, we do support the concept of requiring agencies to use the "best possible science" in decisionmaking, and of utilizing peer review as one component of that process. However, the proposed guidelines, while they could be helpful to agencies, also could present some problems which have not been adequately addressed.

Peer review, alone, will not ensure good science, although it is important in reaching good science. Therefore, we would request that OMB and the Office of Science and Technology Policy (OSTP) tread carefully in issuing government-wide guidelines that might actually have the opposite effect from that intended. Some of the aspects of the current proposal (in particular, restrictions on the selection of peer reviewers which might actually dissuade an agency from including highly-qualified scientists simply *because* they already have experience with and knowledge of the subject matter) are troublesome.

In the case of USDA's APHIS, we have long supported "transparency" in the decisionmaking process, and, particularly, in the collection of the scientific information upon which decisions regarding regulatory changes, quarantines, or decisions to allow import or export of agricultural commodities are based. For that reason, the National Plant Board conducted, in 1999, a stakeholder review of the APHIS-PPQ mission, producing the report entitled, "Safeguarding American Plant Resources: A Stakeholder Review of the APHIS-PPQ Safeguarding System." (the "Safeguarding Review"). (A copy of that report is available on the APHIS website.)

One of the central and most important foci of the Safeguarding Review was the need for increased transparency in agency decisionmaking and increased stakeholder (those with a "stake" in the primary mission of the organization -- the protection of America's plant resources) participation. Stakeholders would, of course, include affected industries like ours, and scientists outside of the Federal system, perhaps even outside of the United States, whose knowledge could help contribute to better decisions.

The Safeguarding Review specifically noted (page 3):

"Although the legal mandate for safeguarding activities rests with APHIS-PPQ, the system relies on collaboration with other USDA units, as well as several Federal agencies, state and local departments of agriculture, academia, environmental organizations, and industry. The safeguarding framework extends beyond U.S. borders through Agency participation in setting plant health standards with the North American Plant Protection organization (NAPPO) and the International Plant Protection Convention Secretariat of the United Nations' Food and Agriculture Organization and through trade negotiations with partners worldwide. The challenge faced by APHIS-PPQ is to build upon domestic and international partnerships to assume an authoritative role in phytosanitary negotiations that ensures continued market access, while simultaneously protecting both agricultural and environmental sectors of society. Processing and disseminating scientific information in a relevant and persuasive manner will enhance the ability of the Agency to retain this leadership position in a global economy that requires a broadly shared knowledge base."

Since that Review, in 1999, APHIS has made, and continues to make, good progress in its outreach efforts to include the collection of more, and better, scientific data in its

decisionmaking. We are working with APHIS as it continues to improve its scientific processes, and moves toward a decreased reliance on its own internal information and analysis, "a potential impediment to bringing the most robust science to bear on a decision." (Safeguarding Report, page 24).

Thus, we regard peer review, and perhaps equally important, **peer input**, as of very high importance.

We support the concept of requiring that agencies conduct peer reviews of the most important scientific and technical information relevant to regulatory policies. However, the definition of "significant regulatory information" as a possible impact of \$100 million or more in any year, could eliminate decisions which are of importance, although presumably this criteria could be overridden by "information that might influence local, state, regional, or international decisions."

We are concerned that the proposal states that "For this category of especially important information, whose reliability is paramount, agencies must take care to select external peer reviewers who possess the requisite experience and independence from the agency." (page 54026, *Federal Register* Vo.. 68, No. 178).

It would seem that industries such as ours, which have a direct "stake" in the agency's decisions, could thereby be *precluded* from providing scientific information or recommending or serving as peer reviewers with information which could be absolutely crucial to agency decisions, simply because we could be deemed to have insufficient "independence from the agency."

OMB has asked for suggestions on how agencies can encourage peer-review participation by qualified scientists. We have been working specifically with APHIS toward that goal, and would suggest that the best way for agencies to encourage participation by qualified scientists is, in many cases, to consult with the affected industries, *prior to the commencement of rulemaking*, if need be, when *ex parte* considerations do not preclude full and robust discussion of potential issues and provision of ample scientific information which the agency might not have internally.

Obviously, another important concern is the provision to the agencies of adequate resources with which to comply with the mandates of the proposed guidelines. There are several administrative requirements in the proposal (annual reports, the agency's plan for conducting a peer review, studies that will be subject to peer review requirements of the proposal, etc.) which will constitute a demand upon already thin agency resources. We would strongly recommend that OMB address the issue of how this proposal can be strengthened by appropriate additions to agency budgets, for compliance with the mandates.

In summary, we support the concept of peer review as just one component of the sound science upon which good regulatory decisions must be made. As noted above, we are working with APHIS, and with other agencies as well, to help in that effort. We do not oppose the concept of a government-wide requirement that agencies use peer review as one component of their "sound science" decisionmaking. However, such a requirement must be carefully crafted so as to avoid placing an undue emphasis on peer review, at one extreme, or too narrowly delimiting those who are qualified to serve as peer reviewers, at the other extreme. Finally, the agencies must be given the resources with which to comply with additional mandates.

We thank you for the opportunity to comment on this proposed ruling.