



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Silver Spring, MD 20910

OFFICE OF OCEANIC AND ATMOSPHERIC RESEARCH

DEC 14 2010

Mr. Jeff Ruch
Executive Director
Public Employees for Environmental Responsibility
2000 P Street, NW; Suite 240
Washington, D.C. 20036

Dear Mr. Ruch:

This letter responds to your appeal ("Appeal"), on behalf of Public Employees for Environmental Responsibility (PEER), of the January 26, 2010, Denial of the Request for Correction ("Initial Decision"), received by PEER on September 8, 2010, of the August 2006 "Assessment of Potential Tsunami Impact for Pearl Harbor, Hawaii," NOAA Technical Memorandum OAR PMEL-131 ("Assessment"). My office completed its review of your appeal and has the following response.

Summary

In its appeal, PEER's essential contentions are that:

1. The Assessment is subject to NOAA's Information Quality Guidelines;
2. The Assessment constitutes "Influential Scientific Information";
3. Pre-Dissemination review was informal and did not ensure quality; and
4. The Assessment did not meet the objectivity guidelines for interpreted products.

I agree with the first contention. However, after a careful review of the Assessment and the Initial Decision and for the reasons below, contentions 2 through 4 have been found to be without merit.

Discussion

1. The Assessment is Subject to NOAA's Information Quality Guidelines

PEER contends that the Assessment is "Influential Scientific Information" and therefore subject to NOAA's Information Quality Guidelines (Guidelines). This statement confuses the applicability of two separate guidance documents, the Guidelines and the Office of Management and Budget's Final Information Quality Bulletin for Peer Review (OMB Peer Review Bulletin), issued December 16, 2004 (70 FR 2664, Jan. 14, 2005). The Guidelines "cover information disseminated by NOAA on or after October 1, 2002."¹

In June 2006, NOAA's Office of the Chief Administrative Officer (CAO) tasked the Pacific Marine Environmental Laboratory (PMEL) to determine whether the proposed site for its Pacific

¹ See NOAA Information Quality Guidelines, Part I.



Regional Center on Ford Island, Pearl Harbor, Hawaii was at risk from the threat of a tsunami. This request was made as part of CAO's due diligence effort to evaluate the tsunami hazard at the proposed site of the new NOAA facility. PMEL completed the study in August 2006.

NOAA's Information Quality Guidelines explicitly state that they do not apply to "information produced for the internal management and operations of NOAA, and not **primarily** [emphasis added] intended for public dissemination." The Assessment was produced at the request of the CAO to provide model results for evaluating the suitability of Ford Island as a site for the development of the Pacific Region Center facility and was intended for its use as part of the CAO's due diligence effort. PMEL viewed the Assessment as management information produced for the internal management of NOAA and, therefore, it is arguably not subject to the Guidelines. Studies that are of scientific interest are often published as NOAA Technical Memoranda, as this one was. However, because the Assessment was disseminated electronically and in print, for purposes of this appeal, we assumed that the assessment is subject to the Guidelines.

2. The Assessment Does Not Constitute "Influential Scientific Information"

"Influential scientific information" is a subset of the information covered by the Guidelines, and is further subject to the OMB Peer Review Bulletin. For the reasons described below, the Assessment does not fall within the definition of "influential scientific information" and is therefore not covered by the OMB Peer Review Bulletin.

Influential scientific information is defined by the Guidelines to mean "scientific information the agency reasonably can determine will have or does have a clear and substantial impact on important public policies or private sector decisions." This definition is identical to the definition contained in section I(6) of the OMB Peer Review Bulletin; OMB provided considerable discretion to agencies regarding how best to implement the provisions of its "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies." See 66 Fed. Reg. 49718, 49719 (Sept. 29, 2001).

The Assessment was considered by NOAA in making the decision to locate its new Pacific Regional Center on Ford Island, which is located in the middle of Pearl Harbor. The question, then, is whether NOAA's decision about where to locate the new Pacific Regional Center had "a clear and substantial impact on important public policies or important private sector decisions." NOAA's decision clearly did not have a substantial impact on important private sector decisions. Furthermore, although relocation is a decision important to NOAA, it was not a decision affecting an "important public policy."

NOAA has been consistent with its interpretation of what constitutes a public policy in this context, namely actions such as rulemakings, policy documents, or guidance that significantly affect a broad range of parties, interests, or stakeholders to the issue. The Assessment was never

intended to have, nor has it resulted in, any substantial impacts on public policy and therefore does not constitute “influential scientific information.”²

3. *Pre-Dissemination Review of the Assessment Met the Applicable Guidelines*

PEER contends that the pre-dissemination review of the Assessment was inadequate, as it was not a “formal, independent, third party” peer review as outlined in the OMB Peer Review Bulletin. As noted above, the Assessment did not constitute “influential scientific information” and was therefore not subject to the provisions of the OMB Peer Review Bulletin.

The applicable review process for “interpreted products” such as the Assessment is set forth in NOAA’s Guidelines:

Interpreted products are reviewed. Since the production of interpreted products often involves expert judgment, evaluation, and interpretation, these products are reviewed by technically qualified individuals to ensure that they are valid, complete, unbiased, objective, and relevant. Peer reviews, ranging from internal peer review by staff who were not involved in the development of the product to formal, independent, external peer review, are conducted at a level commensurate with the scientific information in the interpreted product.

Although this Assessment does not fall within the definition of “Influential Scientific Information,” NOAA takes seriously its commitment of ensuring the quality (*i.e.* utility, objectivity, and integrity) of all its information. The Assessment was reviewed by a peer review panel consisting of two external and one internal reviewer, to ensure that it was valid, complete, unbiased, objective, and relevant. Specifically, PMEL used a three-person peer panel to conduct a scientific review of the Assessment. The panel’s three peer reviewers were:

1. Dr. Yong Wei, a tsunami modeler and joint institute scientist with the University of Washington;
2. Dr. Fai Chung, a Professor of Ocean Engineering at the University of Hawaii who is a tsunami specialist; and
3. Dr. Stephen Hammond, NOAA scientist and PMEL Division Leader who reviews all publications from his division as part of the PMEL publication policy.

In addition to the three peer reviewers, Dr. Eddie Bernard, Director of PMEL reviewed the report as part of the PMEL publication policy. As co-author, he conducted technical reviews during the writing of the report. In publishing NOAA Technical Memorandum OAR PMEL-131, the

² PEER notes that the Pacific Tsunami Warning Center (PTWC) serves a vital role in protecting populations from a tsunami hazard. To address concerns about any temporary failure of the PTWC, it should be noted that, as stated in NWS Policy Directive 10-7 (June 9, 2009), the West Coast/Alaska Tsunami Warning Center serves as a backup for the PTWC.

authors followed standard PMEL review procedures as described in the PMEL Handbook. The reviewers were technically qualified and highly respected in their fields. Their review of the Assessment clearly fulfilled the applicable standard set forth in the Guidelines.

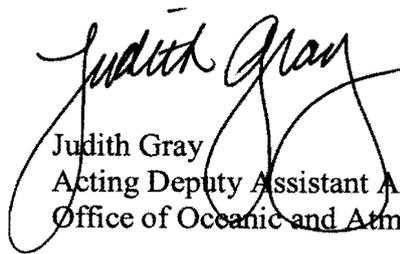
4. The Assessment Met the Objectivity Guidelines for Interpreted Products, And Other Applicable Criteria.

PEER contends that not only did NOAA fail to conduct a formal peer review, but that the Assessment was substantively flawed, in that it did not meet the standard for "objectivity" for interpreted products set forth in the Guidelines. In the Guidelines, objectivity is described as consisting of two distinct elements, presentation and substance: 1) the *presentation* element includes accuracy, clarity, and completeness of disseminated information, in an unbiased manner and in a proper context; 2) the *substance* refers to ensuring accurate, reliable, and unbiased information. The Guidelines also note that, in addition to the review process, the objectivity of interpreted products is achieved by using data of known quality or from sources acceptable to the relevant scientific communities, applying sound analytical techniques, and presenting the information in the proper context. The study upon which the Assessment is based was a specific application of an existing numerical model carefully used at PMEL and the methodology of the model had been published in the refereed literature establishing the model's credibility. The Assessment provides accurate, reliable, and unbiased information and met all of these criteria, as confirmed by the peer review panel, and therefore meets the objectivity guidelines for interpreted products.

Conclusion

PEER has not met its burden of proof for showing the necessity for corrections sought. For the reasons stated above, the appeal is denied.

Sincerely,



Judith Gray
Acting Deputy Assistant Administrator
Office of Oceanic and Atmospheric Research

cc: Glenn Tallia, NOAA
Mark Vincent, NOAA
Sarah Brabson, NOAA
Michael Uhart, NOAA