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Revitalizing The Information Quality Act as a Procedural Cure For Unsound Regulatory Science: A Greenhouse Gas Rulemaking Case Study

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From tomremington.com:

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Executive Summary:

Congress passed the Information Quality Act (IQA) in 2000 to implement and amend the Paperwork Reduction Act. The law requires federal agencies to ensure the quality, objectivity, utility, and integrity of the scientific, technical, and statistical information that federal agencies adopt and disseminate to the public. Although the law is nominally a procedural statute, this WORKING PAPER explains how regulated entities and other stakeholders can successfully seek judicial enforcement of the IQA when agencies rely upon flawed science for federal rules, and those rules impose paperwork, compliance, and other burdens.

The Office of Management and Budget (OMB) is responsible for implementing the IQA. OMB's IQA Guidelines required that each federal agency develop and adhere to their own IQA guidelines, and set out minimum criteria for scientific peer review of agency-drafted and third-party studies and scientific assessments, as well as criteria for the selection of peer reviewers. OMB dictated that these peer-review standards be especially rigorous for "highly influential scientific assessments." Federal agencies must also provide an administrative review mechanism that will allow affected entities to seek correction of agency-disseminated information that was not adequately validated. Agencies routinely carry out this mandate by addressing requests for correction as part of their responses to public comments in a final regulation—an approach, the paper argues, that does not afford sufficient due process to stakeholders.

The Environmental Protection Agency's (EPA) 2009 greenhouse gas Endangerment Findings, and the decision-making process underlying them, offers an instructive IQA case study. A review of the extensive record and the peer review activities underlying the Findings reveals extensive violations of conflict-of-interest and other IQA-related standards. EPA also did not consider stakeholders' challenges regarding these

violations in a timely or sufficiently specialized manner. Stakeholders' requests for reconsideration of the Findings were also rejected.

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