



# INTERNATIONAL SOCIETY OF REGULATORY TOXICOLOGY AND PHARMACOLOGY

**President**  
Terry F. Quill, Esq.

December 12, 2003

**Vice President**  
George A. Burdock, Ph.D.

**Past President**  
Michael Gough, Ph.D.

**Secretary**  
Thomas W. Orme, Ph.D.

**Treasurer**  
Christopher J. Borgert, Ph.D.

**Executive Secretary**  
Sallie W. Carr

**General Counsel**  
Gary L. Yingling, Esq.

**Council**  
John Ashby, Ph.D.  
Richard A. Becker, Ph.D.  
Ann B. Brown, Ph.D.  
Robert A. Budinsky, Jr., Ph.D.  
Jeffrey H. Driver, Dr.PH.  
Brent Finley, Ph.D., DABT  
Suzanne C. Fitzpatrick, Ph.D.  
Jay I. Goodman, Ph.D.  
John G. Keller, Ph.D.  
C. Lewis, Ph.D.  
N. McEwen, Jr., Ph.D.  
Salem, Ph.D.  
Edward V. Sargent, Ph.D.  
Robert J. Scheuplein, Ph.D.  
Glenn S. Simon, Ph.D.  
Laura Tarantino, Ph.D.  
Robert G. Tardiff, Ph.D.  
William P. Wood, Ph.D.

**Emeritus Council Member**  
C. Jelleff Carr, Ph.D.  
Frederick Coulston, Ph.D.

**RTP Editor**  
Gio B. Gori, D.Sc.

Dr. Margo Schwab  
Office of Information and Regulatory Affairs  
Office of Management and Budget  
725 17<sup>th</sup> Street NW  
New Executive Office Building  
Room 10201  
Washington, DC 20503

Dear Dr. Schwab:

The Executive Committee of the International Society of Regulatory Toxicology and Pharmacology submits the following comment to the Bulletin issued by OIRA on August 29, 2003, dealing with a Draft of proposed federal peer review standards for regulatory science.

1. The ultimate goal of the proposed standards is to provide regulatory proceedings with factual scientific analysis of the data at hand. To ensure this goal, the Draft ought to specify what is intended for "rigorous scientific review". As a minimum it should insist that members of peer review panels and the panels themselves must be aware of and explicit in disclosing the distinction of opinion/hypothesis and experimentally verified evidence. Federal Court proceedings have adopted such distinction for more than a decade since the Daubert decision of the Supreme Court, and regulatory decisions should conform to such standards if they are to stand up to legal challenge. Accordingly, the Draft should include language to the effect that:

"Agencies should instruct members of peer review panels, and the panels themselves, that in the process of reviewing and commenting on the evidence at hand, they must be explicit in disclosing what may constitute opinion and hypothesis, and what may be experimentally validated findings and conclusions that stand independent of opinion. Validated findings should meet the minimum evidentiary criteria that are standard in science, namely a) a warrant that what has been measured is what it is said to have been measured; b) a warrant that the variables measured are the only difference between control and test conditions; c) a warrant that independent experiments have consistently reproduced the results."

2. The Draft's section of peer review selection seems to require excluding an individual who "has, in recent years, advocated a position on the specific matter at issue". Such a requirement seems contradictory to the peer review function

because, by definition, experts competent on any given subject must have worked and openly taken positions on the subject.

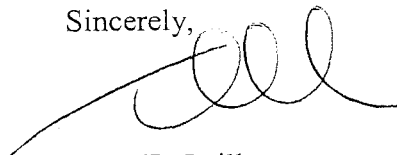
3. A regulatory peer review, as intended in the Draft and in current federal law, is an open and thorough process that cannot be compared nor substituted by the peer review for publication in a scientific journal. The former addresses at length all the circumstances that determine the factual veracity of an issue, the latter may speak to the formal construct of a manuscript but is too superficial to vouch for the actual truthfulness of a paper.
4. The Draft's insistence on finding apparently unbiased reviewers is Utopian and undiscerning, for it would be literally impossible to find individuals who lack any "appearance" of being unbiased. The tangled ties of most academicians could raise any suspicion, as would be the case for those who are contractors and consultants to industry and government simultaneously, for government or NGO employees and grantees, and so on. Instead, the provisions in 1 above would force individuals to state and document whether they are representing an opinion or experimentally validated evidence – a distinction of essence in defining the reliability and soundness of a review panel's conclusions.

More generally, a requirement could be issued that peer review panels should be composed according to the instructions of the Environmental Research, Development and Demonstration Act of 1978, in regard to the composition of the Science Advisory Board at EPA. Those instructions specifically require a balanced inclusion of representatives from all stakeholders, none excluded. In addition, the draft could consider expanding the recommendation to detach the peer review function from the agency needing the review, by assigning the function to an outside contractor. OIRA also might consider proposing a new statute to authorize a new government agency solely devoted to conduct peer reviews for other agencies, utilizing a composite pool of national and international experts.

5. The draft should specifically mention and require a well documented minority report from peer review panels that cannot achieve a consensus.

The ISRTP Executive Committee commends OIRA for a promising starting documents, and stands ready to offer what further assistance may be required.

Sincerely,

A handwritten signature in black ink, consisting of a long horizontal stroke followed by several loops and a final upward stroke.

Terry F. Quill  
President, ISRTP