



INFORMATIONAL MEMORANDUM

TO: Agency Administrators
Department of Agriculture

FROM: Chavonda Jacobs-Young, Ph.D.
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Chavonda Jacobs-Young 5/8/19

SUBJECT: Final Policy Guidance on Disclaimers, Disclosures and Acknowledgements in Outside Scientific Publications and Presentations

The USDA is strongly committed to ensuring the highest level of integrity in all aspects of the Department's engagement in scientific and technological activities and the use of scientific information in policy making. Departmental policies explicitly allow scientists and employees to communicate their scientific findings objectively without political interference or inappropriate influence, and it outlines procedures that help safeguard their rights to do so.

In 2018, USDA engaged in a periodic analysis of the policies and practices regarding the use of disclaimers in its scientific and technical publications and presentations in non-USDA scientific venues. The initial review found that some agencies lacked formal disclaimer usage policies or used inconsistent and sometimes confusing practices. Areas identified for potential improvement included department-wide uniform disclaimer language and development of agency-specific disclaimer usage policies for agencies that currently lack them.

An interim guidance was implemented pending development of a final guidance. With that process now complete, the Department has determined that the following final actions should be implemented immediately.

Each agency within USDA will continue to use its own internal policies and discretion to determine when the inclusion of a disclaimer statement is warranted as part of any outside scientific and technical publication or presentation by scientists and employees who are appearing in their official capacity and whose work has not been formally disseminated by the Department as official government positions. When such a disclaimer is deemed necessary, uniform language will be used that states:

"The findings and conclusions in this [publication/presentation/blog/report] are those of the author(s) and should not be construed to represent any official USDA or U.S. Government determination or policy."

It should be stressed that this memorandum does not create a new requirement to use disclaimers in outside publications by USDA scientists in agencies that already have disclaimer usage policies in place. The guidance establishes uniform language for disclaimers that are already required under the existing policies of various USDA agencies. For agencies lacking policies, they are directed to develop their own agency-specific policies for disclaimer usage. While considering agency-specific policies, these agencies are encouraged to use the Model for Reviews and Clearances (Appendix A) to determine if a disclaimer is warranted.*

Relevant publications should include the final disclaimer language in the Acknowledgements section. Relevant presentations should include this alternate disclaimer on the title slide in similar font and size

* Appendix A provides a recommended model framework of potential reviews to identify if a disclaimer is appropriate and guidance on appropriate placement/usage of the disclaimer.

to the name and title of the presenter. Official disseminations of the U.S. Department of Agriculture do not require this statement since they are official positions of the federal government.

Additionally, all outside publications and presentations should continue to acknowledge the public funding of the published work by USDA (and any other sources of funding). Funding acknowledgement statements raise the visibility of USDA-funded research efforts and allows the public to readily identify publications from USDA scientists and employees.

Model funding acknowledgement statement:

“This [research/work/presentation] was supported [in part] by the U.S. Department of Agriculture, [insert agency name].”

We appreciate your partnership in supporting the USDA mission and our scientific publications. Any questions about the implementation or scope of this guidance can be directed to the Departmental Scientific Integrity Officer, William Trenkle (William.Trenkle@osec.usda.gov), 202-690-0745.

APPENDIX A: A MODEL FOR OUTSIDE SCIENTIFIC AND TECHNICAL PUBLICATION REVIEWS AND CLEARANCES at USDA FOR DETERMINING THE NECESSITY OF DISCLAIMER USE

PURPOSE: The purpose of this guidance is to provide a model of the recommended review and clearance processes that should be undertaken prior to outside publication of manuscripts and/or presentations to identify if a disclaimer is warranted.

All **Outside Scientific and Technical publications** [public oral, print or electronic presentation] should be reviewed for technical accuracy and include all appropriate authors, disclaimers and acknowledgements. (**Outside** means *non-USDA* media/publishing; some exceptions including, but not limited to, negotiated statements) This is because:

- USDA promotes a culture of scientific integrity. (DR 1074-001)
- Reviews and Clearances help to ensure the quality, accuracy, and transparency of scientific information used to support policy and decision making.
- Science, and public trust in science, thrives in an environment that shields scientific data and analyses and their use in policymaking from political interference or inappropriate influence.
- Publications should provide scientific information in an accurate and unbiased style.
- This guidance is intended to instill public confidence in USDA research and science-based public policymaking by articulating the status of publications through the appropriate and consistent usage of disclaimers across the department.

All **Outside publications** should receive an internal (or external if required by agency Policy & Procedures) expert technical review to ensure the publication meets the accepted high standards of the relevant discipline. This includes:

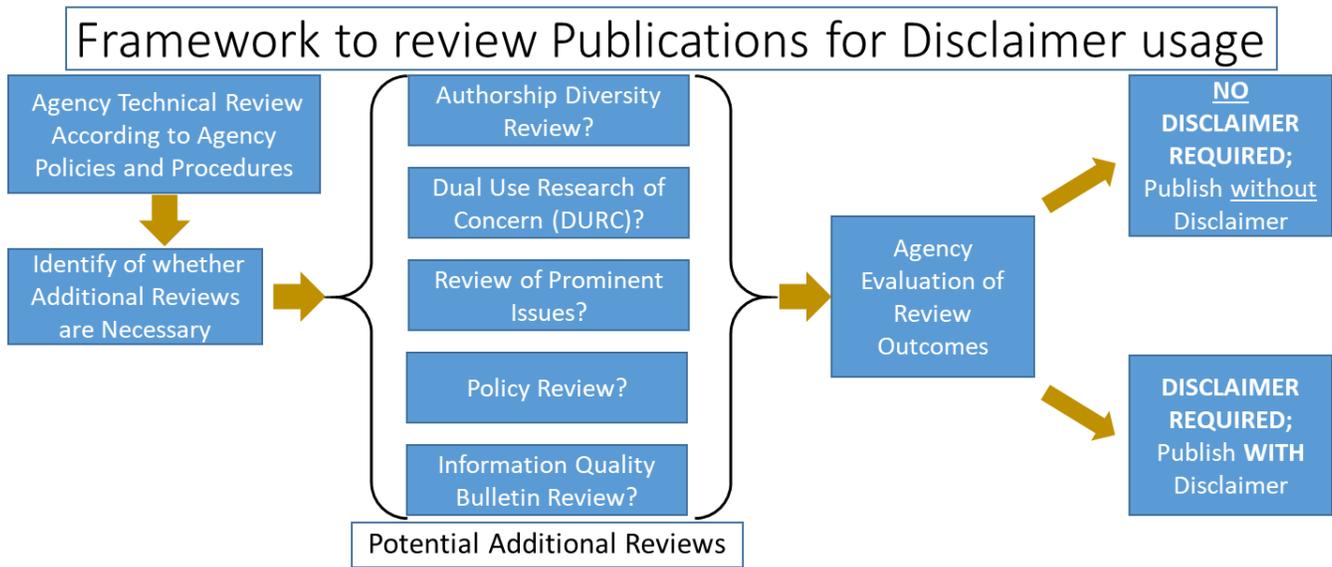
- Documentation of the review (e.g., tracking system and/or standard agency form).
- An internal peer review by colleagues and/or supervisory chain.
- Review up the supervisory chain (per agency policy) to ensure suitability for publication and identification of prominent issues.
- Timely completion of reviews by reviewers to avoid unnecessary delay of publication.
- Determination of authorship by agency and/or journal policies (such as ARS 152-02 P&P).
- NOTE: Precleared materials or presentations that have already received clearance do not require re-clearance.
- Acknowledgements that include funding acknowledgement of public funds such as the model statement below:
 - “This [research/work/presentation] was supported [in part] by the U.S. Department of Agriculture, [insert agency name].”

When a disclaimer is warranted for *Outside publications*, the approved FINAL language at USDA is:

“The findings and conclusions in this [publication/presentation/blog/report] are those of the author(s) and should not be construed to represent any official USDA or U.S. Government determination or policy.”

Outside publications may require additional agency reviews to identify if a Disclaimer is recommended.

This Model does not replace or supersede existing agency and departmental guidance on ethical standards of publication, limitations on public advocacy in official capacity, or the USDA Code of Scientific Ethics.



Identification of Additional Reviews for OUTSIDE PUBLICATIONS: [NOTE: Text version of Flow Chart]

1. Does the author list include Non-USDA individuals?
 - a. If Yes, Flag for **Authorship diversity guidance.** (pg 3)
 - b. No, go to next
2. Does the publication include potential Dual Use Research of Concern (DURC)?
 - a. If Yes, Flag for **Review of Dual Use Research of Concern (DURC).** (pg 4)
 - b. No, go to next
3. Does the publication include Prominent Issues?
 - a. If yes, Flag for **Additional Review of Prominent Issues.** (pg 5)
 - b. No, go to next.
4. Does the publication [public oral, print or electronic presentation] include information to influence, statements on, or interpretations of policies of USDA or USG?
 - a. Yes; Flag for **Policy Review Process** (Pg 6)
 - b. No; go to next
5. Does the publication have the potential to influence policymaking such that it could impact the economy by \$100M or greater (“influential”) or \$500M or greater (“highly influential”) as defined by OMB in the *Final Information Quality Bulletin for Peer Review* (2005)?
 - a. If Yes; Flag for **Policy Review Process** (Pg 6)
 - b. No; go to next
6. **Clear flagged review processes** by executing the flagged reviews to determine **Disclaimer** status as described in the AGENCY EVALUATION of REVIEW OUTCOMES FOR **DISCLAIMER USAGE.**
 - a. If a **Disclaimer** is warranted, then insert approved text into Acknowledgement (pg 7).
 - b. If no disclaimer is required by the flagged reviews, proceed without Disclaimer.

Authorship diversity guidance for disclaimer usage:

PURPOSE: To provide a mechanism to identify when the authorship status of a publication may indicate that it is necessary to utilize a disclaimer to protect USDA interests.

This Review involves **Identification of authorship diversity** and its effect on **Disclaimer status:**

DISCLAIMER STATUS (as defined by authorship)

NOTE: Inclusion of Policy, DURC or Prominent Issues (flagged for review) could amend the guidance.

- **Publications with ONLY USDA authors (No other flags):**
 - The publication does not require a USDA disclaimer based on authorship.
- **Publications with USDA and other USG authors only (No other flags):**
 - USDA does not require a disclaimer, but:
 - If USDA is lead author, we recommend use of the USDA Disclaimer Language, but are willing to consider the inclusion of other Agency/Department publication disclaimers.
 - If USDA is not lead author, we may be willing to defer to the lead agency disclaimer policy (as long as the language does not include "...personal views...").
 - **NOTE: Review of proposed Disclaimer text required (OCS and/or OGC).**
- **Publications with USDA and NON-USG authors (academics/experts/etc) (no other flags):**
 - USDA does not always require a disclaimer and it will depend on the identity of the corresponding author (USDA or non-USG); the content of the publication; and the USDA review of the results and conclusions.
 - If the Agency review affirms that the final publication content accurately reports USDA and/or USG positions, then "No" disclaimer would be required.
 - If the Agency review identifies statements that are not consistent with USDA policy, then the policy statements can either be identified for amendment or, depending on the details, a "Disclaimer" may be appropriate.
 - If USDA is not the lead author, or lacks the ability to review and clear the final publication content prior to publication, then a "Disclaimer" may be appropriate.
- **Publications with USDA and NON-USG authors resulting from International Meetings:**
 - USDA does not always require a disclaimer and it will depend on the authorship/topic/content of the publication. When in doubt, guidance should be sought through the Office of the Chief Scientist (Department Scientific Integrity Officer and Senior Advisor for International Affairs) who can coordinate with the U.S. State Department if necessary.
 - As an example, in the case of a prior international meeting summary, US State Dept/OCS were consulted before using a disclaimer. In that case, the State Dept provided the following disclaimer, that stated: *{in this example, the "document" was a meeting summary report}*
 - **State Department Provided Disclaimer: "The views and opinions expressed in this document do not necessarily reflect the official policy or position of the participants' respective hosting organization or government."**
 - Best Practice is to identify outcome documents before meetings and, if necessary, pre-request inclusion of desired Disclaimer language in anticipated outcome documents.

Review of Dual Use Research of Concern (DURC):

PURPOSE: To ensure that USDA fulfills the requirements of USG policy relevant to Dual Use Research of Concern (DURC) with the intention of raising awareness and limiting the potential for misuse of scientific information derived from life sciences research.

Agencies must have a review process for DURC. Several USDA agencies have DURC review procedures in place. If you identify potential DURC and your agency does not have this review process in place, then the Department Scientific Integrity Officer (OCS) can help to identify appropriate subject matter expertise and facilitate the appropriate review in cooperation with one of the existing review processes as necessary.

Dual Use Research of Concern (DURC):

1. **Dual Use Research of Concern (DURC)** is life sciences research that, based on current understanding, can be reasonably anticipated to provide knowledge, information, products, or technologies that could be directly misapplied to pose a significant threat with broad potential consequences to public health and safety, agricultural crops and other plants, animals, the environment, materiel, or national security.
<https://www.phe.gov/s3/dualuse/Pages/default.aspx>
2. The **review of DURC should follow USG Policy**.
3. DURC must be communicated in a responsible manner.
4. DURC does not generally impact Disclaimer Status.

Additional Review of Prominent Issues:

PURPOSE: Prominent Issues reviews and approvals are to:

- assure sound peer review and policy interpretation,
- provide advance alert to the Administrator's and Secretary's offices, and/or
- provide timely identification of scientific breakthroughs having special public news media value

It is the responsibility of reviewers at **all management levels** to indicate if the manuscript falls into any of these categories.

- **Prominent Issues** could include:

1. Potential to attract media attention
2. Represents a significant scientific advancement
3. Significantly affects existing or future USDA policy
4. Potential trade implications
5. Other (description added by author/reviewer, which may include National Security, IP, etc)

Review of Prominent Issues:

1. Prominent issues may require consultation/review by additional USDA/USG stakeholders to ensure the quality, timeliness and accuracy of the publication. These reviews must be handled in a timely fashion.
 - a. The additional USDA/USG stakeholders could include, but are not limited to, additional agency staff/experts, the Office of Communications, other USDA agencies such as FAS, OCS, OCE, and/or OSEC.
 - b. If corrections/changes are requested by USDA/USG stakeholders, then the REVISED PUBLICATION **should** be returned to the stakeholders for ACCEPTANCE of the CHANGES and/or RESPONSE to comments.
2. If the Prominent issues involve Policy or Trade implications, ensure that the appropriate reviews are conducted to identify if a Disclaimer is appropriate.
 - a. Prominent issues may impact Disclaimer Status.
 - b. Policy implications would require completing the **Policy Review Process**
3. Prominent Issues are a broad class that indicate a Disclaimer may be warranted.
 - a. Policy Review/Trade implications may identify desirability of a Disclaimer
 - b. The "Other" classification will require case by case evaluation.
 - i. In general, if the USDA is willing to affirm the positions in the publication as official USDA/USG policy/positions, then a Disclaimer is not needed.

Policy Review Process

• **Review Processes for publication with policy implications:**

1. For publications that include information to influence, statements on, or interpretations of policies of USDA or USG, has the publication been reviewed/cleared by relevant USDA/USG stakeholders?

a. Office of Communications (OC) Clearance (Review) is required (DR-1410-001), See following:
SOURCE: USDA DR-1410-001, pg 14, sect 11a “Articles, Books and Other Materials Published Outside the Government”, see highlighted text.

QUOTED Departmental Regulation TEXT (DR-1410-001):

Standards. USDA employees may, during duty hours, prepare books, articles, and other materials for publication by nongovernmental organizations if such preparation is within the scope of their official duties and in accordance with applicable statutes and regulations. If the material treats a subject that interprets the policies of the USDA or deals with sensitive areas of any USDA program, the originating agency's information head must first submit the material to OC for review and clearance. Such materials should be submitted to OC **at least 10 working days** before they are offered to nongovernmental organizations for publication.

Articles prepared as part of an employee's official duties or while on Government time are the property of the Government. Authors must not accept payment for official articles published in nongovernmental journals, magazines, or newspapers.

b. Other USDA/USG stakeholders should be asked to review policy statements to ensure that USG policy is accurately reported.
i. If corrections/changes are requested by USDA/USG stakeholders, then the REVISED PUBLICATION **should** be returned to the stakeholders for ACCEPTANCE of the CHANGES.

2. Is the scientific publication subject to the “OMB Final Information Quality Bulletin for Peer Review” (2005) for review purposes? (NOTE: Scientific presentations should receive an appropriate disclaimer.)

For guidance on the broader USDA implementation of the Information Quality Act, see:

<https://www.ocio.usda.gov/policy-directives-records-forms/guidelines-quality-information/background>

a. If **Yes**, (or unclear)

- i. Does the scientific publication have the potential to impact economic activity that exceeds \$500M (“highly influential”), \$100M (“influential”) or is it unclear?
 - 1. If **YES** (or “unclear”), then obtain OIRA/OMB guidance and obtain review.
- ii. Does USDA believe that the OMB Quality review is necessary **before** publication?
 - 1. If **Yes**, then contact OIRA/OMB or use agency mechanism to contract for Review.
 - a. No disclaimer is required after completion of positive review.
 - 2. If **No**, then **USE** “DISCLAIMER” unless the agency/department affirms the policy positions within the publication as official department policy.

b. If **NOT** subject to Bulletin, then proceed with publication after appropriate reviews.

3. When the publication includes information to influence, statements on, or interpretations of policies of USDA or USG, does the agency/USDA review **affirm** that the publication states official USDA/USG positions?

- a. If **Yes**, then **NO** Disclaimer (Note: Some agencies may prefer to use a Disclaimer more broadly)
- b. If **No**, then **USE** “Disclaimer”

AGENCY EVALUATION of REVIEW OUTCOMES FOR DISCLAIMER USAGE:

PURPOSE: The purpose of this section is to identify when/if the usage of a disclaimer is appropriate on USDA authored/coauthored outside publications.

When **Disclaimer** usage is desired/necessary, then the approved disclaimer language should be used, see below [*Usage guidance regarding size/placement/prominence follows for Manuscripts and Presentations*]:

- **FINAL USDA Disclaimer statement:**

- “The findings and conclusions in this [publication/presentation/blog/report] are those of the author(s) and should not be construed to represent any official USDA or U.S. Government determination or policy.”

- **PUBLICATION DISCLAIMER USAGE REQUIREMENTS:**

NO DISCLAIMER is required for USDA authored publications, which *DO NOT* include authorship diversity, policy, DURC or prominent issues. These publications can proceed with a positive technical/agency review. The following steps should be applied to all publications:

1. The publication review should be documented.
2. Acknowledgement should include public funds statement.
3. The Office of Communications should be notified of the pending publication.
 - a. Some agencies use weekly summaries

For Publications that may include authorship diversity, policy, DURC or prominent issues, a DISCLAIMER may be required in some cases.

If NO Disclaimer usage is indicated by one of the flagged issues after additional review(s), then publication can proceed with a positive technical/agency review. The following steps should be applied to all publications:

1. The publication review should be documented.
 - a. Flagged concerns and additional reviews should be documented.
2. Acknowledgement should include public funds statement.
3. The Office of Communications should be notified of the pending publication.
 - a. Some agencies use weekly summaries and these publications may need to be highlighted.

If DISCLAIMER usage is indicated by one of the flagged issues after additional review, then follow the guidance for appropriate disclaimer usage. After the addition of the Disclaimer, then publication can proceed with a positive technical/agency review. The following steps should be applied to all publications:

1. The publication review should be documented.
 - a. Flagged concerns and additional reviews should be documented.
2. Acknowledgement should include public funds statement.
3. The Office of Communications should be notified of the pending publication.
 - a. Some agencies use weekly summaries and these publications should be highlighted.

DISCLAIMER PLACEMENT GUIDANCE for PRESENTATIONS:

PURPOSE: To provide guidance on placement and usage expectations when use of a Disclaimer is indicated and to provides some Best Practices regarding Official Duty Presentations.

USDA employees are responsible for the statements they make, regardless of whether they have been cleared. Disclaimers should be used to distinguish the status of information, i.e., whether it is based on preliminary data or a partial data set, or it is to indicate the information has not been formally adopted as the official position of USDA/USG.

When a disclaimer is determined to be necessary, the font style and text of the disclaimer must be equally prominent as the font style used for the employee’s name and any USDA affiliation. Moreover, the disclaimer should be clearly labelled as a Disclaimer and should be adjacent to or reasonably close to the employee’s name or USDA title.

For example, in a presentation, the disclaimer should be placed on the Title slide in similar Font Type/Size as the name and title of the presenter. The disclaimer may be repeated on the Acknowledgments slide (if one is used).

Finally, the disclaimer language utilized for a specific scholarly writing/presentation may be modified by management, where necessary, to reduce the risk of the public misperceiving such writing/presentations as representing a government determination or policy.

Copyright of Presentations: 17 U.S.C § 105 states that copyright protection is not available in the United States for any work of the United States Government. If a presentation was done as part of official duties as a USDA employee, the presentation is a work of the United States Government and as such is in the public domain. If a USDA presenter is asked to sign a “Presentation Agreement” or copyright release, the employee should decline and should provide the “USDA PRESENTATION AGREEMENT” or agency-specific agreement.

DISCLAIMER PLACEMENT GUIDANCE for MANUSCRIPTS

PURPOSE: To provide guidance on placement and usage expectations when use of a Disclaimer is indicated and to provides some Best Practices regarding Manuscripts prepared as Official Duty.

When Disclaimer use is indicated, the Disclaimer should be included in the front section of reports or the Acknowledgements section of journal article manuscripts.

Employees should be careful in signing authorship agreements due to potential issues associated with copyright release. Authors should use the “USDA PUBLISHING AGREEMENT” or agency-specific agreement.

Copyright of Manuscripts. Author’s contribution to the Work was done as part of the Author’s official duties as a USDA employee and is a Work of the United States Government. Therefore, copyright may not be established in the United States. 17 U.S.C. § 105. If Publisher intends to disseminate the Work outside of the U.S., Publisher may secure copyright to the extent authorized under the domestic laws of the relevant country, subject to a paid-up, nonexclusive, irrevocable worldwide license to the United States in such copyrighted work to reproduce, prepare derivative works, distribute copies to the public and perform publicly and display publicly the work, and to permit others to do so.