

PDR



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

May 17, 2000

CHAIRMAN

The Honorable Dennis Kucinich
Ranking Member
Subcommittee on National Economic Growth,
Natural Resources, and Regulatory Affairs
Committee on Government Reform
United States House of Representatives
Washington, D.C. 20515-6143

Dear Congressman Kucinich:

I am writing in response to your April 14, 2000 request for recommendations for changes to specific laws which appear to impose unnecessary or overly burdensome paperwork requirements and are good candidates for elimination or reduction.

As discussed in the enclosure, the Commission has identified two statutory provisions that we believe could be modified to reduce unnecessary burdens. For each statute, we have given the citation, our proposed change, and the rationale for our proposal. Each of the changes we recommend is aimed either at reducing unnecessary paperwork burdens on individuals, or at minimizing the cost to the agency of maintaining or disseminating information.

Please let me know if you have any questions regarding our recommendations.

Sincerely,

Richard A. Meserve

Enclosure:
Recommendations for statutory changes
to reduce unnecessary paperwork

cc: The Honorable Henry A. Waxman

DF02



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

May 17, 2000

CHAIRMAN

The Honorable David M. McIntosh, Chairman
Subcommittee on National Economic Growth,
Natural Resources, and Regulatory Affairs
Committee on Government Reform
United States House of Representatives
Washington, D.C. 20515-6143

Dear Mr. Chairman:

I am writing in response to your April 14, 2000 request for recommendations for changes to specific laws which appear to impose unnecessary or overly burdensome paperwork requirements and are good candidates for elimination or reduction.

As discussed in the enclosure, the Commission has identified two statutory provisions that we believe could be modified to reduce unnecessary burdens. For each statute, we have given the citation, our proposed change, and the rationale for our proposal. Each of the changes we recommend is aimed either at reducing unnecessary paperwork burdens on individuals, or at minimizing the cost to the agency of maintaining or disseminating information.

Please let me know if you have any questions regarding our recommendations.

Sincerely,

Richard A. Meserve

Enclosure:
Recommendations for statutory changes
to reduce unnecessary paperwork

cc: The Honorable Dan Burton

**NRC RECOMMENDATIONS FOR CHANGES IN SPECIFIC LAWS WHICH
IMPOSE UNNECESSARY OR OVERLY BURDENSOME PAPERWORK**

Ethics in Government Act, 5 U.S.C. App. 4, §102.

The public financial disclosure report (SF 278), which all senior employees must file annually, should be reformed by amending a section of the Ethics in Government Act of 1978 that specifically mandates certain reporting categories (e.g., \$1,001 to \$15,000, etc.). These categories no longer usefully reflect the financial thresholds requiring recusal from participating in certain Government matters.

For example, the first two categories for the reporting of assets are \$1,001-\$15,000 and \$15,001-\$50,000. However, under Office of Government Ethics (OGE) regulations in 5 C.F.R. Part 2640, issued in 1996, an employee can work on a Government matter affecting an entity in which the employee has a financial interest if the value of the interest does not exceed \$5,000; and if the Government matter is generic, such as a rulemaking, then the threshold is raised to \$25,000. Thus, an ethics counselor cannot determine from the form alone whether someone checking, say, the \$1,001-\$15,000 category might need to recuse herself from a matter affecting the entity in which she has an investment. Congress wisely gave OGE authority to determine the thresholds requiring recusal because OGE can update those figures more easily than can Congress. However, in 1978 Congress also established numerical reporting categories that, because they reflect then current dollar values, are no longer always useful in making recusal determinations. We recommend allowing the Office of Government Ethics to establish numerical reporting categories that match its recusal categories.

The same section of the Ethics in Government Act that establishes numerical reporting categories also requires that employees report any U.S. Government assets they own, such as U.S. saving bonds or Treasury notes. We believe that these assets should not be reported, because they clearly do not present a conflict of interest. Similarly, savings, checking, and money market accounts should not be reported. It should be noted that requirements governing what is reported on the confidential financial disclosure reports specifically exclude reporting these accounts and U.S. Government assets.

Federal Advisory Committee Act, 5 U.S.C. App. 2.

Section 10(b) of the Federal Advisory Committee Act requires that, subject to 5 U.S.C. 552 (FOIA), "the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in the offices of the advisory committee or agency to which the advisory committee reports until the advisory committee ceases to exist." (After that point, retention and disposition of the committee's records are addressed by other statutes.) Because of the Act's requirements, a statutorily permanent advisory committee, such as the NRC's Advisory Committee on Reactor Safeguards, must retain huge amounts of paper. The following changes in the requirements of section 10(b) would be useful:

The statute should be amended to eliminate from section 10(b) working papers and drafts prepared by an advisory committee or a subcommittee of an advisory committee,

or committee staff or consultants, except when they reflect the final work product of the committee on a topic or agenda item.

The statute should place a time limit of six years on the required availability of other documents listed in section 10(b), except transcripts and minutes, which would continue to be retained for the life of the committee.

The statute should make clear that availability of listed documents through the Public Document Room (PDR) of the agency to which the advisory committee reports satisfies the requirements of section 10(b), even when the PDR is not the only publicly accessible location in which the committee's documents are maintained. (In order that the public may know which documents were made available to the committee with respect to a meeting agenda item, an appendix to the minutes or transcript of the meeting involving that agenda item could be required to list those documents.)

Conforming changes should also be made to *section 8(b)(2)*, which requires each agency's Advisory Committee Management Officer (required to be designated by the head of each agency that has an advisory committee) to "assemble and maintain the reports, records, and other papers" of any committee during its existence, and (to the extent applicable) to the requirement of *section 10(c)* that the minutes of each advisory committee meeting shall contain "copies of all reports received, issued, or approved by the advisory committee."

Section 13 of the Act requires the Administrator of General Services to "provide for the filing with the Library of Congress of at least eight copies of each report made by every advisory committee and, where appropriate, background papers prepared by consultants." The Librarian of Congress must, in turn, "establish a depository for such reports and papers where they shall be available to public inspection and use." This requirement was enacted at a time when Government-wide use of electronic media was not envisioned. It would now seem appropriate to amend this requirement to permit the provision of one copy electronically to the Library of Congress in lieu of filing eight (paper) copies.

Under *section 14(a)* of the Act, unless Congress provides otherwise with respect to an advisory committee, the committee terminates automatically not later than two years after its establishment, unless renewed. *Section 14(b)(1)* requires that upon the renewal of an advisory committee, the committee "shall file a charter" as provided for a new committee in *section 9(c)*. Except where an item of information required to be included in the original charter has changed significantly, the filing of a brief notice of renewal with those required to receive the charter under *section 9* should be sufficient, and would save paper and time of agency staff. While this saving may appear inconsequential when viewed in the context of one small agency, such as the NRC, the saving may be significant when viewed on a Government-wide basis.