

December 5, 2000

Judy H. Mann, Esq.
Office of Government Ethics
1201 New York Avenue, N.W.
Suite 500
Washington, D.C. 20005-3917

Dear Ms. Mann:

The Nuclear Regulatory Commission (NRC) appreciates the opportunity to comment on the proposed amendments to 5 C.F.R. Part 2640. These amendments would revise some existing exemptions from the prohibition in 18 U.S.C. 208(a) and add a new exemption to the list of financial interests that are too remote or inconsequential to warrant disqualification. The Commission supports the adoption of the proposed rule, particularly the \$15,000 *de minimis* exemption for matters involving financial interests in securities. This sum would match one of the asset valuation amounts found in the public financial disclosure report (SF 278). This change will permit ready determinations by agency ethics officials whether an employee's stock holding requires the individual to recuse himself or herself from participating in a particular matter.

This would also be an opportune time to align the financial disclosure reporting thresholds with the regulations of the Office of Government Ethics (OGE) on disqualification. Employees should only be required to provide information that is relevant to the administration and application of the conflict of interest laws. Currently, employees are reporting stock holdings valued at \$1,000 or more. There is no policy justification for reporting *de minimis* financial interests. The current requirement is not only burdensome to the employee but also to agency ethics personnel. Many hours are spent each year contacting employees who have not provided the required information on *de minimis* financial interests. In addition, the reporting of *de minimis* interests undermines the credibility of the Federal ethics regime, as it is hard to explain to employees why ethics officials need information on financial holdings that are deemed to be remote and inconsequential. Accordingly, employees should not be required to report stock holdings valued at less than \$15,000.

We recognize that statutory changes would be required to effectuate this change for public financial disclosure form filers. As a result, we recommend that OGE request the necessary changes in its forthcoming report to the Congress on financial disclosure, as mandated in the Presidential Transition Act of 2000. However, OGE does not need legislation to eliminate the reporting of *de minimis* financial interests for confidential financial disclosure reports. Section 201(d) of Executive Order 12731 provides OGE with the authority to promulgate regulations establishing a system of confidential financial disclosure by Executive Branch employees. In exercising that authority, OGE has issued regulations that impose differing reporting requirements for filers of public and confidential disclosure forms. For example, although public filers report holdings in savings and checking accounts, confidential filers are not required to report this information. Therefore, if the *de minimis* levels in the proposed regulations become

final, we recommend that OGE raise accordingly the reporting thresholds for confidential financial disclosure reports.

We appreciate your consideration of our comments. If you need further information or wish to discuss our views, please contact John Szabo at 301-415-1610 or jls@nrc.gov.

Sincerely,

/RA/

Karen D. Cyr
General Counsel and Designated
Agency Ethics Official

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