February 2, 2005

The Honorable Richard B. Cheney
President of the United States Senate
Washington, D.C. 20510

Dear Mr. President:

In accordance with Public Laws 94-409 and 104-66 (5 U.S.C. §552b(j)), I enclose the U.S. Nuclear Regulatory Commission's Annual Report of the Administration of the Government in the Sunshine Act for Calendar Year 2004.

Sincerely,

/RA/

Nils J. Diaz

Enclosure: As stated

Identical letter sent to:

The Honorable Richard B. Cheney
President of the United States Senate
Washington, D.C. 20510

The Honorable J. Dennis Hastert
Speaker of the United States
House of Representatives
Washington, D.C. 20515

ANNUAL REPORT

GOVERNMENT IN THE SUNSHINE ACT

1. AGENCY NAME: U.S. Nuclear Regulatory Commission

2. CALENDAR YEAR: 2004

3. CHANGES IN POLICIES AND PROCEDURES DURING PAST YEAR

None.

4. MEETINGS: (January 1, 2004 through December 31, 2004)

A. Total Number of Open 45 (62%)

B. Total Number of Closed 28 (38%)

C. Total Number of Partially Open/Closed 0 (0%)

Total Number of Meetings 73

The above meetings are counted by the number of separate agenda topics discussed as described in Appendix A. Appendix B contains a tabulation of open and closed meetings per month for CY 2004. Throughout this report, meeting numbers quoted are counts of individual items.

5. EXEMPTIONS USED FOR CLOSING OR PARTIALLY CLOSING MEETINGS

	Number of Times Used
Exemption 1	24
Exemption 1 & 2	1
Exemption 2	3
Total	28

6. DESCRIPTION OF LITIGATION AND FORMAL COMPLAINTS

None.

7. EXPLANATION OF CHANGES IN LAW

None.

Enclosure

8. ADDITIONAL INFORMATION

This report was prepared in the Office of the Secretary, U.S. Nuclear Regulatory Commission. Comments or inquiries on this report or related matters should be addressed to:

Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Telephone inquiries can be made to the Office of the Secretary by dialing (301) 415-1969.

APPENDICES:

A. Definition of Meeting
B. Tabulation of Open and Closed Meetings by Month
C. Tabulation of Meetings by Days' Notice

APPENDIX A

DEFINITION OF MEETING

NRC's Statutory Meeting Requirement

The Nuclear Regulatory Commission is a five-member independent regulatory commission established by the Energy Reorganization Act of 1974 (P.L. 93-408). It is responsible for ensuring the protection of the public health and safety through the licensing and regulation of the uses of nuclear materials. Section 201(a)(1) of the Energy Reorganization Act, 42 U.S.C. §5841(a)(1), provides that "[a]ction of the Commission shall be determined by a majority vote of the members present." In order to conduct meetings under the Government in the Sunshine Act, a quorum must be present.

Meetings Defined by Sunshine Act

The Commission's definition of "meeting" incorporates verbatim the Supreme Court's definition from FCC v. ITT World Communications, 466 U.S. 364 (1984) and is consistent with the approach endorsed by legal experts. The Commission defines "meeting" as:

> the deliberations of at least a quorum of Commissioners where such deliberations determine or result in the joint conduct or disposition of official Commission business, that is, where discussions are sufficiently focused on discrete proposals or issues as to cause or to be likely to cause the individual participating members to form reasonably firm positions regarding matters pending or likely to arise before the agency. Deliberations required or permitted by §§9.105, 9.106, or 9.108(c) do not constitute "meetings" within this definition.

10 CFR §9.101(c), Government in the Sunshine Act Regulations. This definition would properly allow some discussions among three or more Commissioners in a non-public setting.

The Natural Resources Defense Council challenged this regulation in the U.S. Court of Appeals for the D.C. Circuit. The lawsuit contested the Commission's May 1999 decision to implement its 1985 rule changing the definition of "meeting." The court's ruling upheld the NRC's actions. Natural Resources Defense Council, et al. v. NRC, 216 F. 3d 1180 (D.C. Cir. 2000).

Under current Commission procedures, generally one agenda item is scheduled for each Commission meeting or briefing. Accordingly, for the purpose of tabulating meetings in this report, each session is counted as a separate meeting even if several sessions or briefings occur on the same day. Appendix B contains meeting statistics reported using the above definition and methods.

APPENDIX B

TABULATION OF OPEN AND CLOSED MEETINGS BY MONTH

January 1, 2004 - December 31, 2004

CY 2004	Open	Closed	Open/Closed	Total
Jan	4	2	0	6
Feb	4	2	0	6
Mar	8	7	0	15
Apr	2	2	0	4
May	8	3	0	11
Jun	4	2	0	6
Jul	2	4	0	6
Aug	3	1	0	4
Sep	1	1	0	2
Oct	1	2	0	3
Nov	2	2	0	4
Dec	6	0	0	6
Year to Date	45	28	0	73

APPENDIX C

TABULATION OF MEETINGS
BY DAYS' NOTICE

January 1, 2004 - December 31, 2004

DAYS' NOTICE	OPEN	CLOSED	OPEN/CLOSED	TOTAL
12 or more	24	16	0	40
11	0	0	0	0
10	0	0	0	0
9	0	0	0	0
8	2	1	0	3
7	1	0	0	1
Subtotal	27	17	0	44
6	0	0	0	0
5	0	0	0	0
4	1	0	0	1
3	0	0	0	0
2	1	1	0	2
1	0	0	0	0
Less than 1	16	10	0	26
Subtotal	18	11	0	29
GRAND TOTAL	**45**	**28**	**0**	**73**