

April 11, 2011

Mr. Cass R. Sunstein
Administrator, Office of Information
and Regulatory Affairs
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Sunstein:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your memorandum dated February 2, 2011, to the Heads of Executive Departments and Agencies, and of Independent Regulatory Agencies, regarding Executive Order 13563, "Improving Regulation and Regulatory Review." The last section of your memorandum encourages Independent Agencies, such as NRC, to give consideration to the provisions of the Executive Order, and to consider undertaking a retrospective analysis of existing rules on a voluntary basis.

Executive Order 13563 reaffirms and supplements Executive Order 12866, issued by President Clinton in 1993. Although independent regulatory agencies like the NRC are not subject to these Orders, the NRC nonetheless voluntarily began to adopt many of the suggested improvements following the issuance of Executive Order 12866. Therefore, many features of Executive Order 13563 have already been implemented.

For instance, the Order encourages agencies issuing proposed rules "to afford the public a meaningful opportunity to comment through the Internet" for "at least 60 days." The NRC already offers opportunities to comment on proposed rules through e-mail and the website www.regulations.gov. In addition, the NRC usually provides 75 days to comment on proposed rules.

The Order encourages agencies to consider the costs and benefits of regulatory actions. To the extent it is allowed under the Atomic Energy Act, the NRC has considered the costs and benefits of new or modified requirements in regulatory analyses since 1976. In addition, for certain regulated facilities such as nuclear power plants, the NRC may evaluate costs and benefits as part of its "backfitting" analyses. When a backfit analysis is conducted, the NRC considers whether the costs of modifying facilities to comply with new requirements are justified by a substantial increase in the protection of public health and safety or the common defense and security. We should point out that cost is not considered if we decide that the modifications are necessary to meet the minimum standards for safety and security under the Atomic Energy Act.

The Order also asks agencies to adopt specific performance objectives, rather than specifying the actions that must be adopted. The NRC has already adopted many performance-based regulations, which let the regulated entities decide how best to accomplish the goals set forth in the regulation. For the last twenty years, the agency has incorporated insights from risk assessments into regulatory decision making. This approach focuses attention on risk-significant safety systems structures and components and reduces unnecessary conservatisms associated with our regulations. Recently, a task force was established to enhance the use of risk information in regulatory activities.

The Memorandum accompanying the Order also directs covered agencies to “develop plans for making information concerning their regulatory compliance and enforcement activities accessible, downloadable, and searchable online.” NRC already provides access to this kind of information through our website, www.nrc.gov and our public Agencywide Documents Access and Management System (ADAMS). In addition, the NRC website provides daily Status Reports, Event Notifications, Safety Performance Summaries, inspection reports, enforcement actions, press releases, and public meeting information for all nuclear power plants.

The Commission is committed to maintaining an effective and efficient regulatory process that is open and transparent.

Sincerely,

/RA/

Gregory B. Jaczko