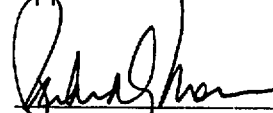


REQUEST REPLY BY 3/13/00
UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

COMSECY-00-0018

March 6, 2000

Approved w/comment:


Richard A. Meserve 3/14/00

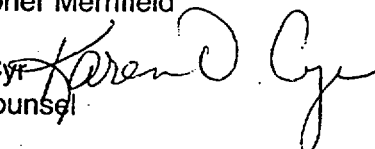
MEMORANDUM TO:

Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

Comment/RAM:

The comment on Section 102-3.150 concerning authorization to pay "additional expenses" to committee members should be deleted.

FROM:

Karen D. Cyr 
General Counsel

SUBJECT:

COMMENTS ON GSA PROPOSED FACA REGULATIONS

The General Services Administration (GSA) published a proposed rule on January 14, 2000, which would revisit current regulations implementing the Federal Advisory Committee Act (FACA). Comments are due by March 14, 2000.

The GSA has authority to administer FACA for the Executive Branch under Executive Order 12024. The current FACA regulations do not reflect legislative changes, shifts in Federal policy, and Federal court decisions relating to that statute since the regulations were last amended ten years ago. The proposed rule, which is a complete "plain language" rewrite of the current regulations, reflects these developments.

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The proposed rule would exclude from FACA coverage meetings between Federal employees and officials or employees of State, local, and tribal governments on intergovernmental responsibilities or administration, as well as committees created by the National Academy of Sciences and the National Academy of Public Administration. These exclusions were enacted into law after the existing regulations had been promulgated.

CONTACT: John Szabo
(301) 415-1610

REQUEST REPLY BY 3/13/00



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

COMSECY-00-0018

MAR -7 AM 10: 35

Approved.

March 6, 2000

Greta Joy Dicus
Greta Joy Dicus 3/20/00

OFFICE OF THE
GENERAL COUNSEL

MEMORANDUM TO: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

FROM: Karen D. Cyp *Karen D Cyp*
General Counsel

SUBJECT: COMMENTS ON GSA PROPOSED FACA REGULATIONS

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OFFICE OF THE
GENERAL COUNSEL

March 6, 2000

MEMORANDUM TO:

- Chairman Meserve
- Commissioner Dicus
- Commissioner Diaz
- Commissioner McGaffigan
- Commissioner Merrifield

I approve the draft comments subject to the attached edit.

Nils J. Diaz
Nils J. Diaz 3/14/00

FROM:

Karen D. *Karen D. Cye*
General Counsel

SUBJECT:

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MAR 06 13: 23

CONTACT: John Szabo
(301) 415-1610

ORIGINAL

ADDITIONAL COMMENTS ON PROPOSED RULE

Section 102-3.75(b): To satisfy the requirement that agencies must consult with the Secretariat before establishing, reestablishing, or renewing an advisory committee, this provision would provide agencies with the option to develop and submit an annual plan or submit a letter and the proposed charter to the Secretariat. We recommend that this provision explain more fully what is meant by an "annual plan" in this context.

Section 102-3.80: Although the proposed rule would require a public notice in the Federal Register when a discretionary advisory committee is established, reestablished, or renewed, there is no similar requirement for revisions to a committee charter. We recommend that the rule require that a notice be published when there is a major revision to a committee charter.

Section 102-3.140: This provision would require the designation of a Federal employee to serve as the Designated Federal Official (DFO) for each advisory committee and its subcommittees. Because there may be situations where the DFO may not be able to attend committee meetings or carry out other DFO duties, we recommend that this provision be amended to provide for the selection of other employees to serve as "alternate DFO."

Sections 102-3.150(d), (e), and (g): These provisions on determining compensation for advisory committee members, committee staff, and committee consultants would tie the rates of pay for members, staff, and consultants to the General Schedule. Because, as an excepted agency, the NRC is not under the General Schedule pay system, we recommend that these provisions be appropriately amended to add the phrase "or equivalent agency system" to include agencies that are not under the General Schedule.

Section 102-3.150 would also authorize payment of the travel expenses and per diem of advisory committee members and their staff while performing their duties away from their homes or business. However, there is no authorization for any additional expenses that may be required for members to carry out their duties. For example, agencies may wish to provide committee members with certain resources, such as telephones, computers, fax machines, copiers, and office supplies for use in advisory committee business. They may also wish to provide an allowance for these items, as well as for clerical assistance. We recommend that the rule provide for agency authorization of such miscellaneous expenses.

Section 102-3.190(e): This provision would require that committee and subcommittee minutes be "finalized" within 90 calendar days of the meeting. We recommend that this term be changed to "certified," which would be consistent with the first paragraph of this section, which requires that the committee chairperson "certify" to the accuracy of the minutes.

Section 102-3.200: The first key point and guidance in the table in this provision relate to opening all advisory committee and subcommittee activities to the public. Paragraph B of the guidance "cautions" agencies to avoid excluding the public from a subcommittee meeting that develops substantive advice or recommendations which are subject to only nominal review by the parent committee. To prevent inadvertent violations and provide clear guidance, we recommend that the Paragraph B be relettered as Paragraph A and that it read as follows:

"Subcommittee meetings must be open to the public when the meeting develops substantive advice or recommendations which are subject to only nominal review by the



OFFICE OF THE
GENERAL COUNSEL

UNITED STATES
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March 6, 2000

*Approval, subject
to being altered
consistent with 16's
comments of March 10*

MEMORANDUM TO:

Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

FROM:

Karen D. Cyr
General Counsel

Karen D. Cyr

*Eddie Guffey Jr.
3/14/00*

SUBJECT:

COMMENTS ON GSA PROPOSED FACA REGULATIONS

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 10, 2000

EM

SC

File;
FACA,

OFFICE OF THE
INSPECTOR GENERAL

MEMORANDUM TO: Karen D. Cyr
General Counsel

FROM: *for* *David B. Lee*
Hubert T. Bell
Inspector General

SUBJECT: COMMENTS ON GSA PROPOSED FACA REGULATIONS

The Inspector General Act requires that my office review statutes, regulations and policies and to make recommendations concerning their impact on agency programs and operations. The purpose of this review is to analyze and comment on their effect on the economy and efficiency of programs and operations administered by the agency.

In accordance with that statutory obligation, we have reviewed draft comments on GSA proposed FACA Regulations, this memorandum addresses concerns resulting from that review.

The substance of the comments on the proposed regulations are valuable where they seek necessary guidance and additional definition and clarity. However, two points raise issues related to the agency's efficiency and economy. First, is the apparent objection to "seeking feedback" from advisory committee members and the public. Although the agency request for implementation direction is well placed, the comment questioning the need for this provision is a concern. At this time the agency is making extensive efforts to elicit public confidence in executing its mission, particularly in the area of effective communications. Eliminating potential communication, in the form of feedback, may result in a missed opportunity for the agency in this important area.

*John
Snyder
Wants
to know
if we
review*

The second concern is with regard to the comment on Section 102-3.150, in which the agency recommends authorization for it to pay "additional expenses" to committee members. The agency appears to seek authority to reimburse advisory committee members for items such as office supplies, clerical assistance and other miscellaneous expenses. Reimbursement for these items has been the subject of prior OIG investigations. In addition to finding that oversight and control for payment was lacking, the OIG found that allowing for this type of expense, absent adequate oversight and controls, is extremely vulnerable to fraud. Finally, with agency support readily available, the need for this type of reimbursement is not readily evident.

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2000
B...*

If you have questions regarding this matter, please contact Maryann L. Grodin on 415-5945.

REQUEST REPLY BY 3/13/00



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

COMSECY-00-0018

OFFICE OF THE
GENERAL COUNSEL

March 6, 2000

MEMORANDUM TO:

Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

Approved w/o comment.

FROM:

Karen D. Cyr
General Counsel

[Handwritten signature]
3/8/00

SUBJECT:

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