



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

COMMISSION
CORRESPONDENCE

October 14, 1980

The Honorable Jack Brooks
Chairman
Committee on Government Operations
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This letter responds to your request for comments by the Nuclear Regulatory Commission on H.R. 7506, the "Limitations on Government Recordkeeping Requirements and Actions Act of 1980." The bill would preclude an agency from requiring a person to maintain records more than four years after the event recorded ("other than a record relating to a dangerous material," specifically defined to include byproduct, source, or special nuclear material regulated by the NRC under the Atomic Energy Act). The bill would also impose a four-year "statute of limitations" on agency enforcement actions.

One of the NRC's major concerns with H.R. 7506 is whether records related to the conduct of NRC-licensed activities and to the construction and operation of nuclear facilities would be included in the "dangerous material" exemption. NRC's licensing and regulatory interest in long-term records extends beyond records directly related to "byproduct, source, or special nuclear material" to include such areas as quality assurance, operational occurrences, facility modifications, safety analyses, and inspections. Under NRC's present record-keeping requirements a number of important records for nuclear power plants are to be kept for the life of the facility, expected to be on the order of 30 years. These records include, for example, records of radiation exposure for all individuals entering radiation control areas, records of required quality assurance activities, and records of reactor tests and experiments. In view of the developing nature of nuclear technology and the long time periods associated with potential radiation hazards, the Commission believes it important that NRC record-keeping requirements not be limited by an arbitrarily imposed cutoff date. We would particularly oppose a cutoff like four years, which is much shorter than the periods over which the records may prove essential to effective monitoring of the nuclear power and nuclear waste management programs.

Accordingly, the Commission suggests that H.R. 7506 be clarified by the following revision to Section 2.(a)(1):

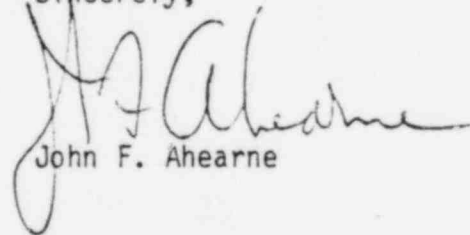
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(i) an agency may not require, or enforce any law or regulation to the extent that such law or regulation requires, that any person maintain, prepare, or produce any record (other than a record relating to (i) a dangerous material, or (ii) a facility or activity as defined in sections 11p., 11v., and 11 cc. of the Atomic Energy Act of 1954 as amended, 42 U.S.C. 2014 or (iii) a facility as defined in section 202 of the Energy Reorganization Act of 1974, 42 U.S.C. 2071-2112, 2131-2140), after the expiration of four years after the date of the transaction or event which is or is to be the subject of such record;

With regard to the four-year limitation which H.R. 7506 would place on the initiation of enforcement actions, the Commission notes that up to the present time the NRC has not imposed civil penalties nor issued orders modifying, suspending or revoking licenses for violations which occurred more than four years from the date of our enforcement action. In one case in which civil penalties were considered, the violations at issue occurred more than four years ago. Action on this case was delayed at the request of the Department of Justice, which prosecuted on the basis of criminal violations. If H.R. 7506 had been enacted in its present form at that time, the NRC would have been precluded from imposing a civil penalty in this particular case. More generally, the overall potential impact of a four-year "statute of limitations" on the NRC's enforcement activities is not at present entirely clear. The Commission believes, however, that there is some possibility that in a few cases significant violations could escape discovery for an extended period. Should such cases arise, the NRC's enforcement program should not be deprived of the flexibility needed to deal with them. Accordingly, the Commission believes the NRC should be exempted from limitations on the enforcement period such as H.R. 7506 would impose.

In sum, the Commission would oppose H.R. 7506 unless the bill was modified along the lines of the suggested clarification and exemption. We thank you for this opportunity to comment.

Sincerely,



John F. Ahearne