

April 29, 2002

MEMORANDUM TO: Trip Rothchild, Assistant General Counsel
Assistant General Counsel for Legal, Legislation,
and Special Projects
Office of General Counsel

FROM: Farouk Eltawila, Director **/RA/**
Division of Systems Analysis and Regulatory Effectiveness
Office of Nuclear Regulatory Research

SUBJECT: REVIEW AND COMMENTS ON OFFICE OF MANAGEMENT AND
BUDGET "DRAFT REPORT TO CONGRESS ON THE COSTS AND
BENEFITS OF FEDERAL REGULATIONS AND ON QUALITY OF
REGULATORY ANALYSES"

As noted in your cover memo and discussed in the NRC's Regulatory Analysis Guidelines, the Nuclear Regulatory Commission (NRC), as an independent agency, is neither required to prepare regulatory analyses nor submit regulatory analyses to the Office of Management and Budget (OMB) for its review. Nevertheless, the NRC independently prepares such analyses based on the Commission's belief that they enhance the effectiveness of NRC regulatory actions.

Based on this review, no formal comments to OMB appear warranted. This is particularly the case given the very limited interface between the NRC and OMB on these matters. However, for informational purposes, I have identified several items that should be of interest to the NRC.

1. Currently, aside from being self generated, many NRC regulatory initiatives are the result of formal submissions in the form of petitions from NRC stakeholders and the general public. It appears that OMB is interested in interjecting itself into this process. OMB is encouraging the public to propose specific changes to existing regulations as well as identify problematic regulations and guidance documents and submit their findings to OMB. OMB is then prepared to consider these nominations, assign priorities, and submit them to the appropriate agency for its consideration. In addition, on its own initiative, OMB is taking a pro-active role by sending agencies "prompt " letters suggesting regulatory priorities.

There is no indication whether or not independent agencies such as the NRC would be exempt from these activities, but if we are not, it clearly opens up another mechanism for the identification and prioritization of new regulatory initiatives.

2. The report indicates that OMB has initiated a process to review and refine its guidance concerning the quality of regulatory analyses. Since the NRC makes every effort to conform to OMB guidance, changes in their guidance could impact the NRC's Regulatory Analysis Guidelines (NUREG/BR-0058, Rev. 3). A number of specific issues raised by OMB have clear implications to the NRC. These include: the continued use of a real 7% discount rate; methods

used to account for latency periods between exposure and health effects; methods to evaluate the risk of premature death; and the need for methods of risk assessment that supply central as well as upper and lower bound estimates on risk. There is no indication when OMB will complete this effort and formally revise their guidance.

3. The report indicates that by October 1, 2002, each federal agency, **including the independent agencies**, must issue information-quality guidelines that are compatible with OMB's general guidelines. This has clear implications for the NRC.

4. The report contains a compilation of significant (in terms of economic impact) rules reviewed by OMB between April 1999 and September 2001. In addition, at the end of the table there are a number of significant rules issued by independent agencies that although not reviewed, appear for informational purposes. Three of these rules were issued by the NRC and were included based on data supplied to the General Accounting Office (GAO) under the Congressional Review Act. One of these rules involved emergency core cooling evaluation models, and the other two pertained to NRC's fee recovery program.

cc:

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Ashok Thadani, RES

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