

circumstances, the information cannot be obtained under the Freedom of Information Act (FOIA) (Pub.L. 108–23) because it does not constitute “agency records” as defined in the Paperwork Reduction Act of 1995 (PRA) (Pub.L. 104–13). The Petitioner asserts that this trend in the NRC’s regulatory practice reduces the amount of information to which the public has access. The Petitioner believes that when NRC proposes to reduce the number of licensee reports required to be submitted to NRC or retained by licensees, NRC should take into consideration that while NRC may have access to these reports or information based on its status as the regulator of the licensee, the public does not because these reports and information will not be placed in the PDR. As a result, the Petitioner contends the public will not be able to participate fully in the regulatory process since the public will not be able to evaluate potential health and safety problems contained in these documents. The Petitioner is concerned that this result will undermine the public’s effective participation in NRC’s regulatory process. The Petitioner is also concerned that this will restrict the public’s effective participation in the NRC’s hearing process as provided for under the Atomic Energy Act of 1954, as amended (AEA). In addition, the Petitioner argues that this result will promote an atmosphere where public distrust of nuclear energy will grow, eroding the public’s confidence in NRC’s regulatory program and fostering a perception of coziness with the regulated industry.

The Petitioner acknowledged that the primary reason for this petition for rulemaking is not directly to protect or enhance the public health and safety; rather, it has been designed to ensure effective public participation by extending public access to information in the possession of licensees. To accomplish this, the Petitioner proposes to amend 10 CFR part 9 to require licensees to provide “any record relevant to NRC-licensed or regulated activities” subject to exemptions necessary to protect certain sensitive information such as personal information, proprietary information, safeguards information, identity of confidential sources, and classified information.

Legislative and Executive Branch directives, *e.g.*, the PRA (revising and strengthening earlier requirements) and the Clinton Administration’s 1993 National Partnership for Reinventing Government (NPR), were initiated at approximately the same time that OCRE submitted its petition to NRC for

consideration. These initiatives required federal agencies, including NRC, to move toward a less expensive and more efficient Federal Government. Phase 2 of NPR included a directive requiring agencies to focus on core mission competencies and service requirements and to review their current programs to identify areas that could be eliminated, including, among other things, areas that are particularly relevant to OCRE’s petition, *i.e.*, deleting obsolete regulations and improving government management of communications technology which included a review of the need for, and use of, various information collections. The objectives of the PRA include reducing Government-required recordkeeping and reporting requirements, a greater use of electronic technology for operational efficiency and information dissemination, and a concerted effort, using information technology, to improve government management of information collections.<sup>1</sup>

In addition to these external initiatives, there were ongoing internal agency initiatives such as the establishment of NRC’s Regulatory Review Group which, in 1993, provided a report to the Commission focusing on key areas in which changes in the way the NRC conducted business could significantly reduce stakeholder and NRC costs without adversely affecting the level of safety at operating nuclear power plants. The report recommended moving toward more performance-based requirements and proposed efficiencies in the area of reporting requirements. Based on those recommendations, NRC assessed reporting and recording requirements in order to identify those requirements which could be reduced in scope or eliminated without impacting NRC’s ability to fulfill its mission regarding the protection of the public health and safety.

In cases where NRC has made a determination to reduce or eliminate a requirement, NRC first considered the impact on public health and safety. If there would be no direct impact on public health and safety, NRC next considered the reduced administrative burden on licensees and the extent to which the proposed elimination will

deprive the public of health and safety information. In all cases, an existing requirement cannot be reduced or eliminated arbitrarily. Before regulations containing reporting requirements which NRC determines to be obsolete, unnecessarily burdensome, too prescriptive or to overlap or duplicate other regulations, can be removed, NRC must follow the administrative process for rulemaking which provides an opportunity for comment by members of the public. In this way, NRC seeks to maintain a balance between elimination of recordkeeping and reporting requirements which are burdensome and do not substantially contribute to providing a basis for its licensing and regulatory actions, and making the basis for its decisions transparent to stakeholders.

The PRA requires federal agencies to, among other things, ensure that information technology is acquired, used, and managed to improve performance of agency missions, including the reduction of information collection burdens on the public. This includes evaluating whether proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information has practical utility. Recently, in conformance with the objectives of this Act, NRC amended its “Reporting Requirements for Nuclear Power Reactors and Independent Spent Fuel Storage Installations at Power Reactor Sites,” (65 FR 63769 (October 25, 2000)), to better align the reporting requirements with NRC’s needs for information to carry out its safety mission (*e.g.*, extending the required initial reporting times for some events, consistent with the time at which the reports are needed for NRC action) and to reduce unnecessary reporting burden, consistent with NRC’s needs (*e.g.*, eliminating the reporting design and analysis defects and deviations with little or no risk or safety significance (65 FR 63778–9)).

Subject to the need to protect safeguards and national security-related information, commercial nuclear facility licensing and regulation should be transacted publicly. In that regard, the NRC had made available substantial amounts of information for public review on its website, which since 2000 and the development of its Agency-wide Document Access and Management System (ADAMS) has provided this information in a more searchable form at NRC’s Public Electronic Reading Room, *i.e.*, <http://www.nrc.gov/reading-rm.html>. These documents, which include substantial amounts of

<sup>1</sup> This initiative has more recently evolved into the development of E-GOV which uses improved internet-based technology to make it easy for citizens and business to interact with the government, saving the taxpayer dollars while streamlining citizen-to-government communications. In 1998, the Government Paperwork Elimination Act (GPEA) (Pub. L. 105–277) was enacted to, among other things, help citizens gain one-stop access to existing Government information and services and increase Government accountability to citizens.