



UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

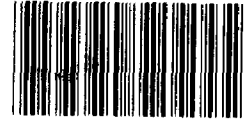
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GENERAL GOVERNMENT  
DIVISION

B-180225

JULY 8, 1981

The Honorable Nunzio J. Palladino  
Chairman, Nuclear Regulatory  
Commission



115722

Dear Dr. Palladino:

Subject: Need for Better Policy and Control over Public  
Information Requests (GGD-81-70).

Prior to April 1, 1981, the Comptroller General was required by the Federal Reports Act, as amended, to review independent regulatory agencies' plans and forms for the collection of information from the public. The purpose of this review was to ensure that the information requested did not duplicate information already available within the Federal Government and was obtained with a minimal burden on respondents. Agencies were required to submit each information request and related documentation to the Comptroller General for approval (clearance) in advance of adoption or revision. These responsibilities were transferred to the Office of Management and Budget (OMB) by the Paperwork Reduction Act of 1980 (Public Law 96-511, December 11, 1980).

In 1974, GAO, recognizing the Nuclear Regulatory Commission's (NRC's) responsibility for protecting the health and safety of the public and the quality of the environment, granted the Commission a special class exemption (generic) clearance which permitted NRC to make certain information collections without additional clearance. GAO intended that use of this clearance be limited to instances where a health or safety incident at one licensee's plant indicated an immediate potential for occurrence at other licensees' plants which had the same type of system or equipment. In 1977, GAO extended the clearance to July 31, 1980.

In July 1980, NRC requested that the clearance be extended to July 1983. Because of a dramatic increase in the estimated reporting burden--from 30,000 hours to 10,000,000 hours--we reviewed NRC's controls over information requests made under the generic clearance. We analyzed these as well as other information requests made by NRC program offices. In addition, we reviewed NRC policy related to the use of and control over

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information requests subject to the Federal Reports Act and also the procedures and practices followed by the NRC clearance and program offices in processing, issuing, and controlling information requests.

Our review disclosed that: (1) additional controls were needed before the generic clearance could be extended; (2) several information requests violated the Federal Reports Act; and (3) improved policy and controls were needed over the clearance process to ensure that the information requested does not duplicate information already available within the Federal Government and does not place an undue burden on respondents.

NRC has taken corrective actions which, if properly implemented, should ensure adequate controls for those information requests issued under the generic clearance. However, further action is required to establish similar safeguards over all other NRC information requests which are now subject to more stringent standards established by the Paperwork Reduction Act.

#### APPROVAL OF GENERIC CLEARANCE EXTENSION

Our review showed that NRC did not exercise adequate control over clearance requests under the generic clearance to ensure that the information requested neither duplicated information already available within the Federal Government nor imposed an undue burden on respondents. Accordingly, improved control was essential if GAO was to extend its approval of the generic clearance. We brought this situation to NRC's attention and, by close cooperation between NRC and GAO, a definitive agreement on the use and control of the generic clearance was completed in November 1980. This agreement provides NRC with the flexibility needed to meet its mandate of protecting the public health and safety and at the same time comply with the former Federal Reports Act and the new Paperwork Reduction Act.

Under the agreement, NRC was to develop internal policy to explain the conditions for use and control of the generic clearance. In addition, controls were to be set up at both the program and clearance office levels to ensure that data requested did not duplicate information already available within the Federal Government or unduly burden respondents. If properly implemented, this agreement should ensure adequate controls for information requests under the generic clearance. By letter of November 26, 1980, we approved an extension of the clearance through November 30, 1983 (see enc.).

It came to our attention in February 1981, however, that the terms of the generic clearance had been violated. Two information

requests were issued without the advance submission to the NRC clearance office for its review as required by our November 1980 approval letter. Further, no copy of either request was sent to GAO, as required by the clearance agreement, thereby precluding any action on our part.

On February 11, 1981, we brought this violation to the attention of NRC's Executive Director for Operations, who took immediate action to ensure future compliance with the generic clearance agreement.

#### VIOLATIONS OF THE FEDERAL REPORTS ACT

Both the Office of Nuclear Reactor Regulation (NRR) and the Office of Nuclear Material Safety and Safeguards (NMSS) have issued requests for information from, or imposed recordkeeping requirements on, 10 or more respondents without advance clearance by GAO, thus violating the Federal Reports Act. As a result, there was no opportunity to identify and eliminate duplicate collections of information or undue burden on respondents as intended by the act.

During the period January 1978 through July 1980, NRR issued 29 information requests which were neither sent to GAO for advance clearance nor cited any GAO clearance authority. Also, in one instance, NMSS imposed recordkeeping requirements on medical licensees without obtaining advance clearance from GAO as required. These cases were clearly in violation of the Federal Reports Act.

#### NEED TO IMPROVE POLICY AND CONTROL FOR THE CLEARANCE PROCESS

NRC needs to improve its policy and control over its reports clearance activities. Neither the Division of Technical Information and Document Control (TIDC), which is currently the designated NRC clearance office, nor the Division of Rules and Records, the clearance office prior to April 14, 1980, exercised sufficient control over the clearance process to accomplish the objectives of the Federal Reports Act. Strong controls are essential if NRC is to comply with its responsibilities under the Paperwork Reduction Act.

Although a formalized policy which required that the NRC clearance office process all information requests had been in effect since at least July 1977, neither TIDC, nor the Division of Rules and Records effectively carried out that policy or took the necessary actions to ensure compliance with the act.

We found that during the period January 1, 1979, to July 30, 1980, at least 73 information requests were issued by program

offices without being processed through the NRC clearance office as required by formalized policy. Of the 73 requests, 48 were issued by the Office of Inspection and Enforcement in the form of Bulletins citing the generic clearance, 24 were issued by NRR without citing any clearance authority, and 1 was issued by NMSS without citing any clearance authority.

NRC Manual Bulletin No. 0210-9, SUBJECT: GAO CLEARANCE REQUIREMENTS, dated July 6, 1977, provides that one of its objectives is to ensure that the policies, requirements, and procedures required by GAO under the Federal Reports Act are adhered to. The Bulletin requires the clearance office to ensure that all requirements for the collection of information are properly cleared with GAO in a timely manner. Also, draft policy proposed by the Office of Administration in July 1980 to reflect the transfer of responsibilities to TIDC states the same policy.

However, neither of these policy statements specifically establishes authority in the NRC clearance office to ensure that all information requests issued by NRC are submitted to the clearance office for appropriate clearance actions. In addition, we were advised by officials of both the Division of Rules and Records and TIDC that the role of the clearance office was viewed to be an advisory one rather than one of management controls. The TIDC official further stated that he had no plans to oversee the information requests issued by other NRC officials.

As further evidence of the need to establish better controls over the reports clearance activities, two information requests under the 1980 generic clearance extension (discussed earlier) were issued without advance submission to and clearance review by the NRC clearance office. Further, we found no documentation that, after receipt of the requests, the clearance office performed the necessary review and coordination with the issuing office to ensure that required clearance procedures were followed before the requests were issued. In fact, specific action by the Executive Director of Operations was required to improve compliance by the NRC offices with the generic agreement.

A more definitive policy and improved control over the clearance process is also essential to ensure compliance with the requirements of the Paperwork Reduction Act which became effective April 1, 1981. Even though GAO no longer has clearance authority over NRC information collections, both OMB and the agencies have been given greater responsibilities by the new law. It provides, as a prerequisite for OMB to issue a clearance, that an agency (1) eliminate information collections which seek information already available within the Federal Government; (2) reduce, to the extent practicable and appropriate, the burden on respondents; and (3) formulate plans to tabulate information which will enhance its usefulness to other agencies and the public.

Agencies must also systematically inventory their major information systems and periodically review all information management activities involving the collection, use, and dissemination of information. The law provides that, if information requests after December 31, 1981, do not bear an OMB control number or exempt statement, no one shall be subject to any penalty for failing to maintain or provide information to any agency. The law also requires each agency to designate a senior official who reports directly to the agency head to carry out the responsibilities of the agency under the new law.

#### CONCLUSIONS AND RECOMMENDATIONS

While NRC has established controls over the use of the generic clearance, it has not established similar controls over other information requests from 10 or more respondents. Further, although the procedures agreed to under the generic clearance should improve control over that special clearance, a more definitive policy and improved control of the clearance process are needed to ensure that: (1) the clearance office receives all information requests issued by NRC offices--a procedure necessary to determine whether the information being requested is already available from other Federal agencies; (2) the information is needed; and (3) the reporting burden on respondents has been minimized.

We recommend that the Commissioners establish or require to be established

- a clearance office which is given an active role and established at an appropriate level within NRC to ensure compliance with the Paperwork Reduction Act of 1980, and
- a definitive NRC policy which requires improved control by its clearance office to ensure that all requests for information from or the imposition of recordkeeping requirements on 10 or more respondents by NRC offices are processed through the NRC clearance office.

#### AGENCY COMMENTS AND OUR EVALUATION

In commenting on our review, NRC expressed general agreement with our conclusions and recommendations. NRC stated that its experience with implementing the generic clearance had demonstrated the need to assign an active role and more oversight authority to its reports clearance office under the Paperwork Reduction Act.

In this regard, on April 24, 1981, the NRC Executive Director for Operations issued a memorandum addressed to all office

directors on the implementation of the Paperwork Reduction Act. This memorandum delineated the requirements of the act and provided interim procedures for NRC's implementation of the act. Permanent procedures are to be issued in an NRC management directive after it is circulated for comment and/or concurrence.

We recommended that NRC establish a definitive policy which requires improved oversight by the clearance office to ensure that all requests for information subject to the Paperwork Reduction Act are processed through the clearance office. We also recommended that the clearance office be given an active role and be established at an appropriate level within NRC. Although NRC generally agreed with our recommendations, we believe these matters are not adequately addressed in the interim procedures.

In regard to our recommendation for establishing a clearance office which is given a more active role and is at an appropriate level in the agency, the NRC April 24, 1981, memorandum addressed this subject but did not provide for adequate action. The memorandum met the stipulation of the Paperwork Reduction Act which requires the head of each agency to designate a senior official to carry out the agency's responsibilities under the act. The memorandum designates the Director, Office of Administration, as the NRC senior official. The same official had similar responsibilities under the Federal Reports Act. However, as with the designation under the Federal Reports Act, the senior official is not provided specific authority to compel office directors to comply with the act. And, as noted in our report, it took action by the Executive Director, rather than the senior official, to prompt the office directors to make changes under the Federal Reports Act. Further, the interim procedures do not give the NRC clearance office the final authority over the information collection requests.

In regard to our recommendation for improved control authority, the interim procedures provide some additional controls over the reports clearance process. For instance, the interim procedures enumerate the requirements of both the originating and clearance office for compiling and processing a clearance package. However, the interim procedures lack a specific statement of authority for the clearance office to (1) determine what NRC information collections must be cleared or (2) make the final determination over the matters that are covered by the Paperwork Reduction Act. As a consequence, the clearance office has no way of ensuring that all information requests subject to the Paperwork Reduction Act are submitted to it for processing or that each request complies with the act.

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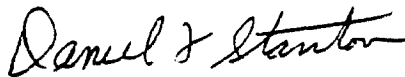
Accordingly, we believe that our recommendations are still valid and should be considered by NRC in establishing permanent procedures for complying with the Paperwork Reduction Act.

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As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this report to the Chairmen of the House Committee on Government Operations, the House Committee on Energy and Commerce, the House Committee on Interior and Insular Affairs, the Senate Committee on Governmental Affairs, and the Senate Committee on Energy and Natural Resources. A copy is also being sent to the Director, Office of Management and Budget.

Sincerely yours,



for William J. Anderson  
Director

Enclosure

ENCLOSURE

ENCLOSURE



UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

GENERAL GOVERNMENT  
DIVISION

B-180225

NOV 26 1980

Mr. William J. Besaw, Director  
Division of Technical Information  
Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Mr. Besaw:

On July 28, 1980, we received your agency's request for review and clearance--pursuant to section 409 of Public Law 93-153--of an extension of GAO's Class Exemption for Reports Concerning Possible Generic Problems (B-180225, R0072). On September 12, 1980, we granted an interim continuation of the previous generic clearance through November 30, 1980, to provide time for GAO and the Nuclear Regulatory Commission (NRC) to arrive at a mutually satisfactory resolution regarding the need for continuing a generic clearance.

We have reached agreement on the need for and use of the generic clearance. This agreement is set forth below.

The generic clearance is to be used only in those instances where the Director, Offices of Inspection and Enforcement, Nuclear Material Safety and Safeguards, or Nuclear Reactor Regulation determines that there is a non-routine generic problem which requires prompt action by both NRC and licensees to preclude a threat to the public health and safety. This clearance will cover occasions where licensees must take immediate action to begin developing information even though submission to NRC may not be made until the licensees complete action under the bulletin, order, or letter.

NRC is to establish an internal policy statement which explains the use and control of the clearance, and recognizes that GAO retains the right of review of each information request issued under the clearance. The following controls for the use and processing of information requests under the generic clearance are to be established and maintained.



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### 1. NRC Program Offices

The program offices should develop written procedures that include the following controls.

- Establish a designated control point for coordination of the clearance requests with the NRC clearance office.
- Before issuance of each information request, verify through the NRC clearance office that the data requested is not already available. Where this procedure would delay a bulletin, order, or letter that must go out immediately because of a generic health or safety problem, the Office Director may make this determination provided the NRC clearance office verifies the accuracy of the determination upon receipt of the issued bulletin, order, or letter.
- Include in each information request the clearance statement prescribed by GAO.
- Furnish a copy of each information request, when issued, to the NRC clearance office and a copy without attachments to GAO.

### 2. NRC Clearance Office

The clearance office must maintain an information locator system adequate to determine whether information being requested duplicates information already available. For each query from a program office for use of the generic clearance, the clearance office will:

- Search the information locator system promptly and advise the program office as to whether the information is already available.
- Maintain a file of each information request including a copy of all respondent comments on burden and duplication.
- Periodically review and assess each request under the generic clearance for conformance with authorized use, discuss questionable uses with the appropriate program office, and document the resolution of these cases.

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- Submit to GAO a copy of any comments concerning burden and duplication received from licensees.
- Submit semi-annually and at other times as requested, to the GAO a listing by date of the individual information requests by program office, listing the number of licensees by type to whom each request was sent and the estimated reporting burden under each request.

3. GAO clearance Office

GAO's Regulatory Reports Review Office will monitor the use of this generic clearance as follows.

- Periodically review each information request issued under the generic clearance for conformity with its authorized use, and discuss questionable uses with the NRC clearance office and appropriate program office. This review may require additional NRC documentation.
- Any cases judged by GAO to be outside the scope of the generic clearance after discussion with the NRC clearance and program offices must be submitted promptly by NRC for specific review by GAO.
- Should NRC not submit such cases for review within a reasonable time, GAO will publish a Federal Register notice of Federal Reports Act violation.
- Publish in the Federal Register the semi-annual information on use of the generic clearance as furnished by NRC.
- Periodically review NRC's administration of the generic clearance.

The following clearance information must appear on each information request which is issued as a non-routine generic request.

"This request for information was approved by GAO under a blanket clearance number R0072 which expires November 30, 1983. Comments on burden and duplication may be directed to the U.S. General Accounting Office, Regulatory Reports Review, Room 5106, 441 G Street, N.W., Washington, D.C. 20548."

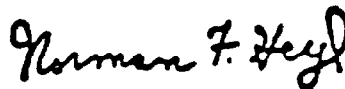
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We appreciate the cooperation of the NRC staff in resolving the issues associated with this clearance.

Sincerely yours,



Norman F. Heyl  
Regulatory Reports  
Review Officer

cc: T. Dorian, NRC  
S. Scott, NRC  
P. Woolley, NRC  
J. Lovelady, GGD  
N. Heyl, GGD-3  
W. Mace, GGD-2  
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