

## **Changes to the Evaluation Criteria for the Retrospective Review of Administrative Regulations as a Result of Public Comments**

### ***Changes to Draft Criterion 2***

Draft Criterion 2 stated:

2. Reports or records that contain information reasonably accessible to the agency from alternative resources or routine reporting requirements where less frequent reporting would meet programmatic needs.

Public commenters recommended that Draft Criterion 2 be split into two discrete items addressing (a) reasonably accessible information and (b) reporting frequency, because each item considered alone likely would produce a different result. The staff agreed with the comment, as clear separation of the individual requirements would result in more efficient binning. The staff revised the criterion to divide it into two parts. The first part remains numbered as Criterion 2 in the final proposed criteria:

2. Requirements for reports or records that contain information reasonably accessible to the agency from alternative resources. As a result, these requirements may be candidates for elimination through a potential rulemaking.

The second part of Draft Criterion 2 was added to the list of criteria as a new Criterion 3. This criterion focuses on administrative regulations that may be modified, rather than eliminated. The intent of this criterion is to capture situations where the agency still needs a certain piece of information to accomplish its mission, but the requirement could be modified so that the process used to provide the information is less burdensome. The new Criterion 3 in the final proposed criteria is:

3. Requirements for reports or records that could be modified to result in reduced burden without impacting programmatic needs, regulatory efficiency, or transparency, through: (a) less frequent reporting, (b) shortening record retention periods, (c) requiring entities to maintain a record rather than submit a report, or (d) implementing another mechanism that reduces burden for collecting or retaining information.

### ***Clarifying Information about Criterion 4***

The original Criterion 3 from the May 3, 2018 *Federal Register* notice has been re-designated as Criterion 4. The staff intends to identify opportunities to reduce administrative burden without impacting the mission of the agency. In its recommendations to the Commission for potential regulatory changes, the staff plans to assess benefits and costs for each potential change, including the cost to conduct rulemaking to implement the potential change. The staff intends to assess each potential regulatory change on a case-by-case basis. The request for comment published on May 3, 2018, provided an example in the original Criterion 3 of a potential regulatory change resulting in \$100,000 of averted burden over a 3-year period. The staff's intent with the quantitative example was to communicate the type of potential regulatory change that might be recommended to the Commission. The quantitative example was not intended as a quantitative cut-off value to exclude potential regulatory changes. Changing a regulation entails a significant amount of staff time, as well as time from the public to participate in the rulemaking process. Some potential regulatory changes would have very little impact on the

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overall administrative burden of regulated entities and, therefore, the cost of pursuing the change would exceed the potential benefit. A benefit valued at \$100,000 is roughly on the same order of magnitude as the cost to conduct and implement a simple rulemaking, as might be possible for administrative changes. Ultimately, the staff recommends no change to Criterion 4.

The staff considered an option to establish quantitative thresholds for different types of regulated entities. There are many different ways to categorize regulated entities (e.g., fee class, small business size standards). The economic circumstances for the different types of regulated entities vary widely. Rather than attempt to restrict the review of potential regulatory changes, the staff plans to consider each potential change on a case-by-case basis. In that way, the staff can evaluate the cumulative impact of potential benefits and costs of regulatory changes that affect multiple types of regulated entities that impact several administrative burdens, or both. The term “significant” in the criterion will be used to focus the U.S. Nuclear Regulatory Commission’s (NRC) staff efforts on the potential regulatory changes that offer the greatest potential benefit to regulated entities and to the NRC.

The staff intends to include this clarification about quantitative thresholds when it publishes the final criteria.

#### ***Clarifying Information about Criteria 1 and 5***

Based on public comments, the NRC staff does not recommend changes to Criteria 1 and 5 (originally designated as Criterion 4 in the May 3, 2018 *Federal Register* notice). Criterion 1 would be used to screen in for further review those periodic reports received by the NRC which the NRC may consider eliminating. With respect to Criterion 5, some NRC regulations require regulated entities to conduct information collections that are used by the NRC, by the public, by other organizations (i.e., Federal agencies, State and local governments, or Federally recognized Tribes), or by all three. Criterion 5 would screen out only potential changes to regulations involving information that is used by the other organizations, as listed. The purpose of Criterion 5 is to screen out potential regulatory changes that would have an unintended consequence on the regulatory objective of those other organizations.