



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 8, 1993

MEMORANDUM FOR: The Chairman
Commissioner Rogers
Commissioner Remick
Commissioner de Planque

FROM: Dennis K. Rathbun, Director
Office of Congressional Affairs. *DR*

SUBJECT: STATUS OF ISSUES IN THE 103RD CONGRESS

Attached for your information and use is the status of issues relevant to the NRC and being monitored by the Office of Congressional Affairs.

Attachment:
As Stated

cc: EDO
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I. NRC BUDGET

A. NRC FY 1994 Appropriations

The House of Representatives approved H.R. 2445, the FY 1994 Energy and Water Development Appropriations Act, on June 24, 1993. The Act provides \$547.7 million to the NRC and the Inspector General, which includes \$22 million from the Nuclear Waste Fund. The Senate appropriations subcommittee will begin consideration of H.R. 2445 in mid-September.

B. NRC FYs 1994-1995 Authorization

H.R. 2743, a bill to authorize appropriations for the NRC for FYs 1994-1995 was introduced, by request, by Representative Richard Lehman on May 18, 1993. A hearing regarding this legislation was held on May 27, 1993, before the Subcommittee on Energy and Mineral Resources, House Committee on Natural Resources. The Subcommittee will consider further action when comparable legislation clears the Senate.

S. 2143, a bill to authorize appropriations for the NRC for FYs 1994-1995 was introduced by Senators Max Baucus (D-MT) and Joseph Lieberman (D-CT). A hearing was held on June 30, 1993, before the Subcommittee on Clean Air and Nuclear Regulation, Senate Committee on Environment and Public Works. The Subcommittee is planning to schedule a markup of this legislation sometime in late September or early October.

C. NRC Budget - Omnibus Budget Reconciliation Act

On August 5th and 6th the House of Representatives and the Senate agreed to the conference report accompanying H.R. 2264, the Omnibus Budget Reconciliation Act of 1993. The President signed the bill into law on August 10, 1993.

The law extends NRC's 100% user fee authority an additional three years -- through FY 1998. The three-year extension is expected to provide approximately \$1.2 billion in budget savings.

II. NRC-RELATED ISSUES AND LEGISLATION

A. Advanced Reactors

The NRC's appropriations and authorizing committees continue to be interested in the progress we make on certifying the reactor designs under staff review. At this point there is general satisfaction with our progress. No congressional action is likely unless there are significant slips in current schedules.

The Senate will be making its decision regarding funding for DOE's Integral Fast Reactor/Actinide Burn research program. The House removed funds for this program from its Energy & Water Development appropriation. Senator Johnston has made no public commitment on this project. If it is included in the Senate appropriation, it will become part of the conference negotiation. The Idaho delegation will continue to round up as much supporting data and opinion as it possibly can (the research takes place at Idaho National Lab). The NRC staff has already provided Congressional staff with the limited documentation we have on the basic technology (*i.e.*, our draft preapplication report on the PRISM reactor).

B. BWR Water Level Indicators

Interest is waning since issuance of the bulletin requiring a fix at the next cold shutdown.

C. Clean Air

Enactment of the Clean Air Act amendments last year settled many of the outstanding issues. Interest this year has been in EPA implementation of the Clean Air Act initiatives. Representatives Synar (D-OK), Sharp (D-IN), and Waxman (D-CA) have asked the EPA Administrator not to rescind the Clean Air Act standards in Subpart I of 10 CFR Part 61 for NRC and Agreement State licensed nuclear facilities other than power reactors. Senators Johnston (D-LA) and Simpson (R-Wy) have urged EPA to rescind Subpart I.

Also with regard to EPA, the Senate Committee on Environment and Public Works has tentatively scheduled a confirmation hearing for September 22 on the nomination of Mary Nichols to become EPA Assistant Administrator for Air and Radiation.

D. Clean Water

The reauthorization of the Clean Water Act is a priority of the Senate Committee on Environment and Public Works. A number of bills have been introduced and OGC is completing a review of them to ascertain whether or not NRC has an interest. Hearings could

begin in the Senate after the August recess. The House is taking a slower approach; no comprehensive water bills having been introduced and no hearings have been held.

E. Emergency Preparedness

On May 20, 1993, Senator Mikulski (D-MD) introduced S. 995, the "Federal Disaster Preparedness and Response Act of 1993." The bill directs the President to develop a Presidential Response Plan to provide federal assistance to states when needed. This bill would also restructure the Federal Emergency Management Agency. The bill was referred to the Committee on Governmental Affairs and Senator Glenn, Chairman of the Committee, has scheduled a hearing for September 30. The Committee will probably vote it out by the end of this session of Congress. In the House, Representative Deutsch (D-FL) introduced H.R. 2548, the companion bill to S. 995. A similar bill (H.R. 2692) was introduced by Representative Peterson (D-FL) and was referred to the Committees on Armed Services, and Public Works and Transportation.

F. High-Level Waste

The Energy Policy Act of 1992 dealt with many of the most pressing high-level waste issues facing Congress. However, a remaining legislative issue is whether to take the high-level waste fund off budget. Senator J. Bennett Johnston (D-LA) attempted to take the fund off budget in his Senate Energy Committee but was prevented from doing so primarily because of last minute opposition from the Office of Management and Budget. There is still wide-spread support in both Houses. Senator Johnston may make another attempt through his position on the Senate Appropriations Committee.

The Sharp and Lehman Subcommittees in the House (Committee on Energy and Commerce's Subcommittee on Energy and Power and Committee on Natural Resources' Subcommittee on Energy and Mineral Resources) held a joint oversight hearing on DOE's civilian high-level waste program. Chairmen Philip Sharp (D-IN) and Richard Lehman (D-CA) called on DOE to support an independent study of the program but cautioned against stopping work at Yucca Mountain pending completion of the study. Senator Johnston scheduled but cancelled a hearing on the high-level waste program. The Senate Committee on Energy and Natural Resources plans to hold a hearing this year. The NRC is not expected to be called as a witness.

Representative Mike Synar's (D-OK) Subcommittee on Environment, Energy, and Natural Resources, House Committee on Government Operations, plans to hold a hearing on the Waste Isolation Pilot Project (WIPP) early next year.

G. International

During the 102nd Congress, legislation was passed authorizing \$410 million in bilateral assistance which includes civilian nuclear reactor safety in the Newly Independent States. Representative Sharp (D-IN), Chairman of the Subcommittee on Energy and Power, House Committee on Energy and Commerce, is planning to have a hearing, possibly in October, to learn how the money is being spent and what safety improvements have been and are being implemented at nuclear reactors in the Newly Independent States.

Senator Lieberman (D-CT), Chairman of the Subcommittee on Clean Air and Nuclear Regulation, Senate Committee on Environment and Public Works, also intends to have a hearing sometime in the fall on the proposed international nuclear safety convention and U.S. assistance to improve the safety of Soviet-designed reactors.

H. Low-Level Waste

Despite all of the press and public interest in the siting of new low-level radioactive waste disposal facilities, Congress has remained conspicuously silent. No legislation has been introduced and no hearings have been held or scheduled although Senator Lieberman's (D-CT) staff has indicated that he may hold a hearing on LLW in his Subcommittee on Clean Air and Nuclear Regulation, Senate Committee on Environment and Public Works. No action has been taken on Senator Robert Kerrey's (D-NE) "Sense of the Senate" language which passed as an amendment to last Congress' Energy Policy Act of 1992. That amendment contemplated a Senate review in this Congress of the progress of the states in forming compacts and siting new facilities and whether there are too many proposed sites.

I. Mixed Waste - RCRA Reauthorization

The legislative vehicle for dealing with issues related to the disposal of mixed waste could be the reauthorization of the Resource Conservation and Recovery Act (RCRA). Neither the Senate nor the House held hearings and comprehensive RCRA bills have not been introduced. Hearings and efforts to formulate a comprehensive bill will probably not occur until next year.

J. Nonproliferation/Export Issues

Congress passed H.R. 705, to extend the Export Administration Act of 1979 and to authorize appropriations for fiscal years 1993 and 1994. The bill was signed into law on March 27, 1993 (P.L. 103-10). The House Committee on Foreign Affairs is currently drafting legislation that would replace the current Export Administration Act. The Committee has held several hearings and plans to introduce legislation sometime this fall.

Senator Glenn (D-OH) and Representative Lantos (D-CA) have introduced identical bills, S. 1054 and H.R. 2358 respectively, that are similar to the nonproliferation bill Senator Glenn introduced last year. These bills would impose sanctions against persons and firms (domestic and foreign) that materially contribute through the export of goods or technology to any non-nuclear weapon state's effort to acquire unsafeguarded weapons-grade uranium or plutonium, or to use, develop, or otherwise acquire a nuclear explosive device. Also, these bills would require that NRC submit for the President's annual report a description of each component licensed for export by the NRC during the previous year. The bills have been referred to the Committees on Foreign Relations and Foreign Affairs, and they are expected to have hearings this fall.

Senator Glenn also introduced S. 1055, the "Nuclear Export Reorganization Act of 1993." This bill will allow NRC to obtain access to all of Commerce Department's data on nuclear dual-use export cases, give NRC the authority to request additional information beyond the dual-use cases, and require NRC concurrence on the issuance of all dual-use export licenses. The bill was referred to the Senate Committee on Foreign Relations, and they are expected to have hearings this fall. Representative Lantos introduced the companion bill in the House.

K. Nuclear Enforcement Accountability Act - S. 1165

Senator Lieberman (D-CT) introduced S. 1165, Nuclear Enforcement Accountability Act, this spring. S. 1165 would provide for judicial review of NRC's decisions on 2.206 petitions. The Commission testified against S. 1165, asserting that it would restrict the agency's discretionary authority and that NRC's enforcement actions should not be singled out for judicial review.

L. NRC Legislative Proposals

On March 3, 1993, the Commission sent legislative proposals to Congress. The legislation would (1) help ensure that defects in components and regulatory violations will be reported to the NRC, (2) confirm the Commission's authority to impose civil monetary penalties, (3) modify a Congressional reporting requirement applicable to the NRC's Advisory Committee on Reactor Safeguards, (4) authorize guards at NRC licensed facilities to use deadly force in certain circumstances, (5) make unauthorized introduction of weapons at certain NRC licensed facilities a federal crime, (6) make sabotage of a production, utilization or waste storage facility during its construction a federal crime if action jeopardizes public health and safety during construction, and (7) authorize the NRC to obtain administrative search warrants.

In the House of Representatives, Representative Richard Lehman introduced H.R. 2170, The Omnibus Nuclear Power Safety and Security Enhancement Act of 1993. The bill is similar to the NRC package; there were only minor editorial revisions. H.R. 2170 was discussed at the May 27, 1993 hearing before the House Committee on Natural Resources' Subcommittee on Energy and Mineral Resources. As with the NRC authorization bill, the Subcommittee will wait until the Senate has completed action on this proposal before further consideration.

In the Senate, Senators Max Baucus (D-MT) and Joseph Lieberman (D-CT) introduced S. 1166. The bill is identical to the package submitted by the NRC. The Senate Committee on Environment and Public Works' Subcommittee on Clean Air and Nuclear Regulation held a hearing on June 30, 1993, to consider the NRC FYs 1994-1995 authorization bill and the legislative proposals. The Subcommittee is planning to mark up S. 1166 and S. 2143 in late September or early October.

Separately, the agency submitted a legislative proposal which would provide the NRC with the authority to repay student loans' as a means to enhance employee recruitment. While the NRC's proposal has not been introduced in Congress, Representative Gilman (R-NY) introduced H.R. 511, the Public Service Scholarship Act, which addresses this concern. This bill would provide federal agencies with the authority to award scholarships to outstanding students who agree to work for them for a certain period of time. Additionally, it includes a section authorizing student loan repayment for those agencies, such as the NRC, who do not currently have such authority. No action has occurred on H.R. 511.

M. NRC Materials and Agreement States Programs

The interest of Representative Mike Synar (D-OK), Chairman of the Subcommittee on Environment, Energy, and Natural Resources, House Committee on Government Operations, remains high. The Subcommittee plans to hold a hearing on the NRC materials program in November as a followup to their August hearing on the Agreement States Program.

N. Nuclear Whistleblowers

On July 15th, the Senate Clean Air and Nuclear Regulation Subcommittee (Lieberman/Simpson) held a hearing on the process for handling allegations of harassment and intimidation (H&I) raised by nuclear industry employees. Testimony was received from the Commission, Inspector General, whistleblowers, and the industry.

Discussion focused on the following areas: the process' timeliness, treatment of whistleblowers, creation of an

environment among licensees that encourages the raising of safety concerns, steps the NRC has taken and is continuing to take to improve the process, and whether the NRC should assume some of the responsibilities currently assigned to the Department of Labor (DOL) in investigating H&I and providing a remedy to whistleblowers.

The Subcommittee plans to hold another hearing sometime this fall at which DOL will testify about its process. The NRC has convened the special Review Team for Reassessment of the NRC Program for Protecting Allegers Against Retaliation which is conducting public meetings this fall to gather views and will present a report to the Commission in January.

O. Oversight of DOE Cleanup Efforts

House oversight subcommittees are studying options for independent oversight of DOE's cleanup efforts. One option has a role for NRC. There is the prospect of a hearing on this issue this fall and also the possibility that some legislation will be developed and introduced this session.

P. Regulatory Review Group Report

Oversight subcommittee staffs will likely desire a briefing on specific impacts of proposed changes resulting from the group's efforts. We expect them to be particularly interested in proposed revised regulations for safeguards, Appendix B, emergency planning, and fire protection.

Q. TVA/Watts Bar

As TVA gets closer to fuel load, there will be increasing questions concerning the construction of these plants and of the methods by which NRC and TVA have handled and are handling allegations. We expect allegers to contact our oversight subcommittees who, in turn, will ask us about specific allegations.

R. Thermo-Lag

There is still oversight interest in this issue; we will continue to keep appropriate staffs informed of NRC's efforts to resolve fire protection issues.

S. University/Research Reactors

The Energy Subcommittee of the House Committee on Science, Space, and Technology plans to hold a hearing this fall on the current uses and roles of these reactors and explore future programs. We have provided Subcommittee staff an overview of NRC's licensing and inspection program for these reactors. We may not be asked

to testify at this hearing because of concerns that the user fee issue could come up and distract participants from the focus of the hearing.

III. GOVERNMENT-WIDE LEGISLATION

A. Civil Service Provisions of Omnibus Budget Reconciliation Act

The Civil Service title of the Omnibus Budget Reconciliation Act, P.L. 103-66, contains provisions that 1) delay the effective date of federal retirees' COLA's from December 1 to March 1 for fiscal years 1994-6; 2) eliminate the lump-sum retirement option on October 1, 1994 except for those with a life-threatening or critical medical condition; and 3) extend the current method of determining the federal government's contribution to the Federal Employees Health Benefits Program.

Also significant is what P.L. 103-66 does not do. Despite earlier proposals to eliminate the FY 1994 COLA, delay implementation of locality pay until July 1994, reduce the amount of survivor annuity benefits, and cap the amount of SES leave that can be accumulated, none of those proposals survived final passage.

Currently, federal employees are scheduled to receive a 2.2% COLA in January along with a yet-to-be determined locality increase for those employed in certain areas (including Washington). Because of the cost implications of these pay increases, however, Congress may act to delay, reduce, or eliminate one or both of the raises when they return from the August recess.

B. Department of the Environment (DEP)

The Senate, on May 4, passed Senator John Glenn's bill, S. 171, elevating EPA to Cabinet-level status. The bill would abolish the Council on Environmental Quality and transfer most of its functions to DEP. It would also create an Office of Environmental Justice to ensure equality in environmental protection.

In the House, both the Committee on Energy and Commerce and the Committee on Government Operations have held a number of hearings but have not reported a bill. Energy Chairman John Dingell (D-MI) has stated his support for DEP. Government Operations Chairman John Conyers (D-MI), however, refused to move the bill in the last Congress and has not made it a priority in this one. Hearings are expected to resume after the August recess.

C. Family and Medical Leave Act

The Family and Medical Leave Act, P.L. 103-3, was enacted in February. The provisions of this law entitle federal employees to up to 12 weeks of job-protected leave without pay in a 12-month period due to: the birth or placement for adoption or foster care of a child; the serious health condition of a child, spouse, or parent; or the serious health condition of the employee.

D. Federal Employee Fairness Act

Senator Glenn's S. 404, the Federal Employee Fairness Act, would 1) transfer authority for investigating and adjudicating complaints of discrimination from individual agencies to the Equal Employment Opportunity Commission (EEOC); 2) retain with the agencies the authority for counseling complainants and attempting to resolve claims; 3) transfer principal fact-gathering responsibility from the agencies to the parties under the supervision of an Administrative Judge; 4) impose strict time limits on complainants, agencies, and the EEOC; 5) give federal employees who prevail interest on their awards of back pay; and 6) subject discriminating officials to investigation by the Office of Special Counsel with a possible result of disciplinary action.

The Senate Committee on Governmental Affairs held a hearing on S. 404 in May and ordered the bill to be reported in June. On the House side, Rep. Martinez (D-CA) introduced a related measure, H.R. 2721, in July.

E. Federal Employees Leave Sharing Act

Senator Pryor's (D-AS) S. 1130, the Federal Employees Leave Sharing Act, would permanently authorize the donation of annual leave to fellow federal employees experiencing an extended personal or family medical crisis; current authorization expires on October 31. The Senate approved S. 1130 in July, and the bill was then referred to the House Post Office and Civil Service Committee. That Committee ordered S. 1130 to be reported on August 4.

F. Government Performance and Results Act

The President signed the Government Performance and Results Act, P.L. 103-62, on August 3. This Act requires federal agencies to develop strategic plans, set programmatic performance goals, and report annually on their progress in meeting those goals. Initially, there would be a minimum of ten agencies participating in a pilot program before expansion government-wide. OMB is currently evaluating which agencies should be selected for inclusion in the pilot program.

G. Hatch Act Reform

In March, the House approved H.R. 20, Hatch Act Reform Amendments. The Senate approved a slightly different bill, S. 185, in July. Normally, the next step is to have conferees appointed, but Senator Roth (R-DE), ranking minority on the Senate Committee on Governmental Affairs, strongly opposes Hatch Act reform and was able to prevent their appointment before the recess. Without stating a preference for the House or Senate bill, the Administration has said that President Clinton will sign Hatch Act reform.

The House bill would allow federal employees to participate in political activities on their own time, run for non-federal political office, and permit employees to solicit political contributions. It would prohibit on-the-job political activity, bar employees from using official influence or information for partisan political purposes, and prohibit federal employees from wearing campaign buttons while in government buildings and on duty.

In contrast to the House bill, the Senate bill would restrict fundraising and bar employees from running for certain political offices. The Senate bill maintains current Hatch Act restrictions for those in the SES and certain agencies such as the CIA and FBI. Additionally, the bill includes the provisions of S. 253, the Garnishment Equalization Act, which authorizes the garnishment of federal wages for repayment of debts, a practice currently prohibited except for child support, alimony, and student loans.

H. Paperwork Reduction Act

Senators Glenn (D-OH) and Nunn (D-GA) each introduced bills (S. 681 and S. 560, respectively) to revise the Paperwork Reduction Act and reauthorize the OMB Office of Information and Regulatory Affairs (OIRA). In August, Rep. Sisisky (D-VA) introduced H.R. 2995, which is identical to Senator Nunn's bill. Hearings have not been held on any of these bills, although Senators Glenn and Nunn earlier expressed their intent to reauthorize the Act this Congress.

The Senate confirmed the nomination of Sally Katzen as Administrator of OIRA this summer. At her confirmation hearing, the two Senators elicited her agreement to meet with them to hammer out a consensus reauthorization bill.