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

August 22, 1996

MEMORANDUM TO: Chairman Jackson  
Commissioner Rogers  
Commissioner Dicus

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

SUBJECT: STATUS OF ISSUES IN THE 104TH CONGRESS

Attached for your information is an update of issues that are relevant to the NRC and being monitored by the Office of Congressional Affairs. We will keep you apprised of progress on these issues and any other significant new issues that may arise.

Attachment:  
As Stated

cc: EDO  
OGC/Cyr  
OGC  
SECY  
OPA  
OIP  
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ACRS  
ACNW  
ASLBP  
OCAA

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## I. BUDGET

### A. NRC APPROPRIATION

The House and Senate passed differing versions of the FY 1997 Energy and Water Development Appropriations Act. The House passed H.R. 3816 on July 25, 1996, and the Senate passed S. 1959 on July 30, 1996. Both bills provide \$471 million for NRC Salaries and Expenses, which includes \$11 million from the Nuclear Waste Fund. Both bills provide an additional \$5 million for the Inspector General. In the House bill, the \$11 million from the Nuclear Waste Fund is subject to authorization (such as the high-level waste legislation) as are the funds appropriated to DOE's high-level waste program. The same legislative language for NRC remains in the Senate bill. However, the authorization requirement refers to other sections in the Senate bill which have been removed and thus read literally, under the Senate bill we do not believe that the NRC's high-level waste appropriation would require enactment of authorizing legislation. Senate staff indicated that the requirement for authorizing legislation will be removed during the conference.

In S. 1959, an amendment offered by Senator Mitch McConnell (R-KY) that "would amend the Atomic Energy Act and provide for the presence of an adequate number of security guards carrying side arms at all times to ensure maintenance of security at the gaseous diffusion plants" was adopted. Under current NRC regulations, armed guards would not be required at the gaseous diffusion facilities once NRC assumes jurisdiction over those facilities.

A conference committee meeting has not been scheduled but it should occur in September.

### B. NRC AUTHORIZATION

Draft NRC authorization language was sent to Congress in March 1995 which would have authorized appropriations for Fiscal Years 1996-1997. An authorization bill has not been introduced.

### C. BUDGET RECONCILIATION--NRC USER FEES

FY 1996 budget reconciliation legislation passed the House and Senate but was vetoed by the President. The bill would have extended NRC 100% user fees through FY 2002. FY 1997 budget reconciliation legislation has not passed the House or Senate. If such legislation is enacted, it will likely contain the NRC's user fee provision. NRC's authority to collect approximately 100% of its budget through user fees currently expires on September 30, 1998.

#### **D. BUDGET RESOLUTION**

The House and Senate passed the Conference Report accompanying House Concurrent Resolution 178 which sets forth the congressional budget plan for Fiscal Years 1997-2002. The resolution is not sent to the President for signature but is used as a blueprint by the Congress in plotting a path to a balanced budget in six years. The resolution sets spending caps for the 13 appropriations bills and recommends extension of NRC user fees through 2002. The budget resolution also addresses federal pensions (see page 4) and training (see page 7).

### **II. NOMINATIONS**

#### **A. COMMISSIONER NOMINEES**

On August 2, the Senate confirmed the nominations of Edward McGaffigan and Nils Diaz as NRC Commissioners to terms expiring June 30, 2000 and 2001, respectively. The Senate Environment and Public Works Committee held a hearing on their nominations on July 24. The Commissioners-designee are expected to be sworn in by late August.

### **III. NRC-RELATED AND GOVERNMENT-WIDE ISSUES AND LEGISLATION**

#### **A. ADMINISTRATIVE DISPUTE RESOLUTION**

The House and Senate approved differing versions of H.R. 2977 in June. Conferees were subsequently appointed, but no further action has occurred. The bill would permanently authorize the use of alternative methods for resolving disputes out of court between federal agencies and between federal agencies and their employees.

#### **B. AFFIRMATIVE ACTION, H.R. 2128**

The House Judiciary Committee scheduled a markup of H.R. 2128, which would prevent federal officials from considering race or gender when awarding federal contracts or hiring employees; however, the markup was postponed. The original measure had applied to all federal programs, but that provision was dropped in recognition of floor time constraints, the controversial nature of the original approach to end all federal government affirmative action plans, and the resignation of the Senate sponsor of the bill, Robert Dole.

### **C. BUYOUT/SOFT LANDINGS LEGISLATION**

An Administration bill, H.R. 3532, to provide for government-wide buyouts is dead, although some agencies (not the NRC) may pursue individual buyout authority. Rep. Mica (R-FL) questioned the cost-effectiveness of buyouts in two hearings held by his Subcommittee in May, stating that downsizing was disproportionately focussed at DOD rather than civilian agencies, that rightsizing did not occur, and that buyouts went mainly to retirement-eligible people. Provisions of bills introduced by Reps. Morella (R-MD) and Wolf (R-VA) to ease the transition of federal workers to the private sector were included in H.R. 3841, Omnibus Civil Service Reform Act (see Omnibus Civil Service Reform Act paragraph on page 6).

### **D. CHIEF INFORMATION OFFICER (CIO)**

The Senate Governmental Affairs Committee held a hearing in July on the implementation of the Information Technology Management Reform Act (ITMRA), which became effective on August 8. Many CIOs have not been designated, which OMB said signalled the respect being accorded selection. GAO testified that the FY 1999 budget cycle would indicate the seriousness with which ITMRA was being taken based on the quality of technology budget requests.

### **E. ELECTRICITY RESTRUCTURING**

Congressional committees have held hearings to examine electricity restructuring issues and the merits of federal legislation to guide restructuring. Senator Johnston (D-LA) introduced S. 1526 to encourage competition while mandating certain actions such as full recovery of stranded costs, including nuclear decommissioning costs. With many Senators believing that public utility commissions are the best qualified in each state to determine cost recovery, action on S. 1526 is unlikely. Rep. Schaefer's (R-CO) H.R. 3790, which leaves determination of stranded costs recovery to the states, is also unlikely to be acted on this year due to the limited floor time remaining. Rep. Markey has also introduced a bill on this subject, H.R. 3782.

### **F. ELECTRONIC FOIA/ELECTRONIC REPORTING**

Two bills dealing with electronic reporting are advancing. The House Government Reform and Oversight Committee ordered H.R. 3802, Electronic Freedom of Information Act, to be reported in July; the Senate Judiciary Committee approved a similar bill in April. H.R. 3802 would make computerized records subject to FOIA and require agencies to make a reasonable attempt to provide documents in the format requested. The House Government Reform

and Oversight Committee also approved H.R. 3869, the Electronic Reporting Streamlining Act, in July. This bill would initiate a negotiated rulemaking to establish standards for reporting electronic data to federal agencies by private individuals; there is not a companion bill in the Senate.

**G. FEDERAL ADMINISTRATIVE JUDICIARY REORGANIZATION, H.R. 1802**

A markup scheduled by the House Judiciary Committee on H.R. 1802 before the August recess was postponed. A companion bill, S. 486, has been introduced by Senator Heflin (D-AL). The bills aim to eliminate agency influence on ALJ findings by creating a central ALJ agency which would assign ALJs to cases, rather than have agencies employ them. The NRC submitted a letter for the record of this hearing stating that any ALJ legislation should not preclude or limit the NRC's use of ASLBs and the technical expertise of its administrative judges.

**H. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP)**

The House Government Reform and Oversight Committee's Subcommittee on Civil Service tentatively plans to hold an oversight hearing on the FEHBP in September. Possible issues could be Rep. Cardin's (D-MD) H.R. 3462, the Federal Health Benefit Change Accountability Act. This bill would require OPM to submit an annual report describing any significant changes in federal retiree health benefits and the OPM cost savings. Additionally, Rep. Stearns' H.R. 3699 would allow military retirees over 65 to enroll in the FEHBP. Finally, there may be a review of the formula by which health insurance premiums are determined.

**I. FEDERAL EMPLOYEES REPRESENTATION IMPROVEMENT ACT**

On August 7 the President signed P.L. 104-177, which will allow members of Federal employee associations to represent their views before the U.S. Government.

**J. FEDERAL PENSIONS**

The FY 1997 Budget Resolution assumes that retirement contributions by both employees and agencies will increase. CSRS and FERS employees would have their contributions increased by .5% in the following manner: .25% on 1/1/97, .15% on 1/1/98, and .1% on 1/1/99. On October 1, 1996, agencies' contributions for CSRS employees would increase by 1.51%. To become effective, these provisions must be contained in another bill, because the Budget Resolution is not binding.

## **K. HIGH-LEVEL WASTE**

The House Commerce Committee cleared H.R. 1020, but the full House has not acted on the high-level waste legislation. At this time, the bill is not scheduled to come up in September.

The Senate passed high-level waste legislation, S. 1936, over the objections of Nevada's two Democratic Senators, Harry Reid and Richard Bryan. Senators Reid and Bryan argued that transporting the waste from sites around the country would be risky and that the temporary site specified in the legislation would likely become permanent. Senators Reid and Bryan held up Senate action on the bill for several weeks, but finally agreed to hold the vote before recess. The bill passed 63-37; however, President Clinton has indicated he would veto the bill, and the 37 votes against the measure are enough to sustain his veto.

## **L. INTERNATIONAL/NUCLEAR SAFETY CONVENTION**

On May 11, 1995, the White House sent the Convention on Nuclear Safety to the Senate for ratification by a concurrence of two-thirds of the Senators present. Subsequently, enough countries have ratified the convention so it now enters into force on October 24. It is important that the U.S. ratifies the Convention before October 24 if we are going to be involved in its implementation. The Treaty (104-6) was referred to the Committee on Foreign Relations. No Committee action has occurred.

The NRC has briefed various Congressional staffers and is working with the State Department to encourage Congressional action on the Safety Convention. NRC and the State Department last met with the Committee on Foreign Relations staffers in June; the staffers were not optimistic that any action would occur this Congress due to other priorities of the Committee.

## **M. LOW-LEVEL WASTE**

### **• Ward Valley**

Bills have been introduced in both the House (H.R. 3083) and Senate (S. 1596) which would legislatively mandate the transfer of federal land to the State of California for the Ward Valley low-level radioactive waste disposal facility.

While no action has been taken in the House, the Senate Energy Committee has reported out S. 1596. Attempts have been made to attach S. 1596 to another bill, such as budget reconciliation, that has a better chance of passage. It is also presumed that the President would veto a Ward Valley land transfer as a stand alone bill.

• Texas-Maine-Vermont Compact

The House Commerce Committee reported out H.R. 558, to approve the Texas-Maine-Vermont Low-Level Radioactive Waste Disposal Compact. An attempt was made to bring the bill to the floor but it was defeated and no further attempts have been made to bring the bill to the floor.

The Senate Judiciary Committee reported out S. 419, but a hold was placed on the bill by Senator Wellstone (D-MN) due to concerns over environmental justice issues.

**N. NONPROLIFERATION/EXPORT ISSUES**

On July 16 the House passed H.R. 361, the Omnibus Export Administration Act which controls exports of "dual use" items. The Export Administration Act expired in 1994 but executive orders enable certain exports to be controlled. It is not likely the Senate will take this measure up this session.

**O. OMNIBUS CIVIL SERVICE REFORM ACT, H.R. 3841**

The House Government Reform and Oversight Committee approved H.R. 3841 in July. Key provisions of H.R. 3841 would: add two funds to the Thrift Savings Plan (TSP), allow employees to make TSP contributions up to the IRS limit (currently \$9,500), liberalize TSP borrowing requirements, strengthen the weight given to exceptional performance in downsizing, prohibit employees from appealing to the Merit Systems Protection Board when denied a within-grade salary increase, streamline actions against poor performers, allow RIF'd employees to continue health insurance coverage for 18 months with the agency covering its share of costs, provide RIF'd employees with priority placement within agencies as well as outplacement services, assist with retraining and relocation expenses, and broaden authorization for agency demonstration projects. Although the Committee has been in frequent contact with the Senate Governmental Affairs Committee on these issues, that Committee has not made any commitment regarding its consideration of an omnibus bill.

**P. PAY RAISE**

H.R. 3756, Treasury/Postal Service Appropriations, agrees with the President's budget assumption of a 3% pay raise in January 1997. The House approved H.R. 3756 in July, and the Senate is expected to consider the bill soon after returning in September.

**Q. REGULATORY FAIR WARNING ACT**

In August, the House Judiciary Committee approved H.R. 3307, the Regulatory Fair Warning Act. This bill would prohibit agencies from fining individuals and businesses that violate regulations if they have not been given "fair warning" of the rules' existence. There is not a similar bill in the Senate.

**R. REGULATORY TERM LIMIT ACT**

Rep. Campbell (R-CA) introduced H.R. 3423 in May. This bill would limit appointees at independent regulatory agencies to two terms and allow them to continue in office for not more than one year after their term expires if a successor has not been confirmed. No action has occurred.

**S. THRIFT SAVINGS INVESTMENT FUNDS**

The Senate Governmental Affairs Committee approved S. 1080, the Thrift Savings Investment Funds Act, in May. This bill would add two funds (international and small capitalization) to the Thrift Savings Plan (TSP) and liberalize TSP borrowing requirements. In July, the House Government Reform and Oversight Committee approved TSP changes as part of H.R. 3841, Omnibus Civil Service Reform Act (see separate paragraph). The TSP provisions of H.R. 3841 are similar to S. 1080 while also allowing employees to make TSP contributions up to the IRS limit (currently \$9,500). This last provision may be struck because the Administration has expressed concern that the increased TSP contributions will cause significant revenue loss to the Treasury.

**T. TRAINING**

The Budget Resolution includes a nonbinding Sense of the Senate provision which assumes that federal agencies will not use federal funds for expenses incurred during training sessions or retreats held off of federal property, when Federal property is available.

**U. TRAVEL REFORM AND SAVINGS ACT**

The House Government Reform and Oversight Committee ordered a travel reform bill, H.R. 3637, to be reported in July. This bill would streamline travel voucher processing and modify relocation benefits. Instead of a stand-alone bill, the Senate attached a section (similar to the House bill) regarding federal employee travel reform to H.R. 3230, FY 1997 DOD Authorization. On August 1 the House approved the conference report to H.R. 3230 which includes the Senate language. The Senate plans to vote on the conference report in early September.

**V. URANIUM MILL TAILINGS**

The full House and the Senate Energy and Natural Resources Committee have passed H.R. 2967, to extend authorization of the Uranium Mill Tailings Radiation Control Act until September 30, 1998. The bill is awaiting a vote by the Senate.

**W. VETERANS EMPLOYMENT AND OPPORTUNITIES ACT**

The House approved H.R. 3586 in July which would strengthen veterans' ability to challenge denials of preference and allow them to make their case in court. Additionally, veterans would be provided with extra protection during a federal reduction in force.