

U. S. NUCLEAR REGULATORY COMMISSION
PROPOSED BILL FOR AUTHORIZATION OF APPROPRIATIONS
FISCAL YEAR 2003

To authorize appropriations for the Nuclear Regulatory Commission for fiscal year 2003.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

Section 1. This Act may be cited as the "Nuclear Regulatory Commission Authorization Act for Fiscal Year 2003."

Section 2. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2003.

(a)SALARIES AND EXPENSES.--There are authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017) and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), \$598,405,000 for fiscal year 2003 to remain available until expended, of which \$24,900,000 is authorized to be appropriated from the Nuclear Waste Fund. Provided further that \$29,300,000 of the funds herein authorized shall be excluded from licensee fee revenue, notwithstanding 42 U.S.C. 2214.

(b)OFFICE OF INSPECTOR GENERAL.--There are authorized to be appropriated to the Nuclear Regulatory Commission's Office of Inspector General in accordance with the provisions of 31 U.S.C. 1105(a)(25), \$7,152,000 for fiscal year 2003 to remain available until expended.

Section 3. ALLOCATION OF AMOUNTS AUTHORIZED.

(a)IN GENERAL.--The amounts authorized to be appropriated under Section 2 (a) for fiscal year 2003 shall be allocated as follows:

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(1)NUCLEAR REACTOR SAFETY.-- \$285,951,000 may be used for the "Nuclear Reactor Safety Program".

(2)NUCLEAR MATERIALS SAFETY.-- \$64,150,000 may be used for the "Nuclear Materials Safety Program".

(3)NUCLEAR WASTE SAFETY.-- \$71,941,000 may be used for the "Nuclear Waste Safety Program".

(4)INTERNATIONAL NUCLEAR SAFETY SUPPORT PROGRAM. -- \$5,405,000 may be used for the "International Nuclear Safety Support Program".

(5)MANAGEMENT AND SUPPORT PROGRAM.-- \$170,958,000 may be used for the "Management and Support Program".

(b)LIMITATIONS.--The Nuclear Regulatory Commission may use not more than 1 percent of the amounts allocated under section 3(a) to exercise its authority under section 31a. of the Atomic Energy Act of 1954 (42 U.S.C. 2051(a)) to make grants and enter into cooperative agreements with organizations such as universities, State and local governments, and not-for-profit institutions. Grants made by the Commission shall be made in accordance with 31 U.S.C. chapter 63, and other applicable law.

(c)REALLOCATION.--

(1)IN GENERAL.--Except as provided in paragraphs (2) and (3), any amount allocated for a fiscal year pursuant to any paragraph of Section 3(a) for purposes of the program referred to in the paragraph may be reallocated by the Nuclear Regulatory Commission for use in a program referred to in any other paragraph of section 3(a).

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(2)LIMITATION.--The amount available from appropriations for use in any program specified in any paragraph of section 3(a) may not, as a result of reallocations made under paragraph (1), be increased or reduced by more than \$1,000,000 in a quarter, unless the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate are notified in advance by the Commission. The notification shall contain a full and complete statement of the reallocation to be made and the facts and circumstances relied upon in support of the reallocation.

(3)USE OF CERTAIN FUNDS.--Funds authorized to be appropriated from the Nuclear Waste Fund may be used only for the high-level nuclear waste activities of the Commission and may not be reallocated for other Commission activities.

Section 4. LIMITATION.

Notwithstanding any other provision of this Act, no authority to make payments or collect any user fee or annual charge under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

Section 5. NRC USER FEES AND ANNUAL CHARGES.

(1) Section 6101 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214) is amended --

(a) by replacing the language in subsection (a)(1) to read:

‘ (1) IN GENERAL. -- The Nuclear Regulatory Commission (in this section referred to as the "Commission") shall annually assess and collect such fees and charges as are described in subsections (b) and (c).’

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(b) by striking subsection (a)(3).

(c) by striking subsection (c)(2)(B)(v) and inserting the following:

‘(v) 90 percent for fiscal year 2005 and thereafter.’

(2) Section 7601 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (42 U.S.C. 2213) is repealed.

Section 6. COST RECOVERY FROM GOVERNMENT AGENCIES.

Section 161 w. of the Atomic Energy Act of 1954, as amended, is revised by--

(a) striking "or which operates any facility regulated or certified under section 1701 or 1702,";

(b) striking "483a" and inserting "9701"; and

(c) inserting the following : after such licenses or certificates:

"; and commencing on October 1, 2002, prescribe and collect from any other Government agency, any fee, charge, or price which it may require, in accordance with the provisions of section 9701 of title 31 of the United States Code or any other law".

Section 7. ASSISTANCE TO STATES FOR REMEDIATION OF SITES FORMERLY LICENSED BY THE NRC.

Section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021) is amended by adding the following subsection after subsection o.:

"p. The Commission is authorized to make grants to, and enter into cooperative agreements with, States that have entered into an agreement under subsection b. to assist such States in remediation of sites containing materials covered by the agreement, where the ownership or possession of the material or activities involving such material was licensed by, and the license was terminated by,

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the Commission before the agreement became effective. Such a grant or cooperative agreement may include reimbursement of State costs incurred in connection with remediation of a site where the costs were incurred for work completed before the Commission approved the grant or cooperative agreement."

Section 8. PROMOTIONAL ITEMS.

Section 5852 (a) of title 42 of the United States Code, is amended by inserting the following:

(9) purchase of promotional items of nominal value for use in the recruitment of individuals for employment.

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ANALYSIS OF PROPOSED BILL FOR AUTHORIZATION OF APPROPRIATIONS

FISCAL YEAR 2003

Section 2.(a)--The Nuclear Regulatory Commission (NRC) is responsible for assuring that the possession, use and disposal of radioactive materials, and the construction and operation of reactors and other nuclear facilities are conducted in a manner consistent with public health and safety and the common defense and security, with proper regard for environmental quality, and in conformance with antitrust statutes. The Commission's program is comprised of nuclear facilities and material licensing, inspection and enforcement and related regulatory functions, nuclear safety research, rulemaking, and technical and administrative support activities.

The Nuclear Waste Policy Act, as amended, provides for the establishment of a Nuclear Waste Fund to ensure that the costs of carrying out activities relating to the disposal of high-level radioactive waste and spent nuclear fuel will be borne by the generators of such waste and spent fuel and provides that the amounts paid by generators and owners of these materials into the fund is reviewed annually to determine if any adjustment is needed to ensure full cost recovery. The Nuclear Regulatory Commission is required by the Nuclear Waste Policy Act, as amended, to license a repository for the disposal of high-level radioactive waste and spent nuclear fuel and a monitored retrievable storage facility. The Commission is assigned specific review responsibilities in the steps leading to submission of the license applications. Thus, the Act establishes NRC's responsibility throughout the repository and monitored retrievable storage siting processes, culminating in the

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requirement for NRC licensing as a prerequisite to construction and operation of the facilities. The Nuclear Waste Policy Act, as amended, also specifies that expenditures from the Nuclear Waste Fund shall only be used for activities relating to spent fuel and high-level radioactive waste disposal (including identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any repository or monitored retrievable storage facility constructed under the Act) and administrative costs of the high-level radioactive waste disposal program.

Consistent with the President's budget, \$29,300,000 has been authorized to be appropriated for homeland security. This amount is not subject to fee recovery.

The budget request for the Commission is stated in terms of obligational authority requested to carry out the responsibilities of the Commission.

Section 2.(b)--The Inspector General Act Amendments of 1988 amended the Inspector General Act of 1978, established the Office of Inspector General within the Nuclear Regulatory Commission effective April 17, 1989, and required the establishment of a separate appropriation account to fund the Office of Inspector General.

The budget request for the Office of Inspector General is stated in terms of obligational authority requested to carry out the responsibilities of the Office of Inspector General.

Section 3.(a)--The requested authorization for appropriations under Section 2.(a) is

\$598,405,000 for fiscal year 2003 and is allocated as follows:

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<u>Program</u>	<u>FY 2003</u>
Nuclear Reactor Safety	\$285,951,000
Nuclear Materials Safety	\$64,150,000
Nuclear Waste Safety	\$71,941,000
International Nuclear Safety Support	\$5,405,000
Management and Support	\$170,958,000

For Fiscal Year 2003, the request is broken into five program activity categories corresponding to the major strategic arenas and programs identified in the NRC Strategic Plan.

Section 3.(b)--This section provides a limitation on the amount of funds that may be utilized by the Commission for grants and cooperative agreements with organizations such as universities, State and local governments, and not-for-profit institutions.

Section 3.(c)--This section provides the Commission with the authority to reallocate funds among the program activities specified in Section 3.(a) with certain specified constraints. Funds authorized to be appropriated from the Nuclear Waste Fund will be used only for NRC's high-level nuclear waste activities and will not be reallocated for other NRC activities.

Section 4.--This section provides language required by section 401(a) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344).

Section 5.-- This section will make permanent the NRC's 90 percent fee recovery requirement beginning in Fiscal Year 2006. Absent this legislation the NRC would only be able to collect 33 percent of its budget authority in fees after fiscal year 2005. Section 7601 of the Consolidated Omnibus Budget Reconciliation Act of 1985, 42 U.S.C. § 2213, would be repealed as it would no longer be needed if NRC's fee collection authority is permanently set at the 90 percent level.

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Section 6.--Under the Independent Offices Appropriation Act of 1952 (31 U.S.C. 9701), the NRC is not authorized to charge fees to other Federal agencies for licensing and inspection services. Beginning in FY 2003, this amendment will permit the NRC to assess and collect fees from other Federal agencies for these services rather than recovering the costs through annual fees assessed to all licensees. The reference to sections 1701 and 1702 of the Atomic Energy Act was deleted as obsolete because of the privatization of the United States Enrichment Corporation.

Section 7.--This section provides the Commission with the authority to make grants to or enter into cooperative agreements with States for remediation of sites formerly licensed by the NRC, where the license was terminated by the Commission before the State became an agreement State. These grants or cooperative agreements may include reimbursement of agreement State remediation costs incurred prior to the award of the grant or cooperative agreement, including costs for reviewing documentation and conducting site surveys related to the need for remediation. A statutory limitation contained in this or any other legislation on the amount available from funds authorized or appropriated for use by the NRC for grants to and cooperative agreements with States, such as that in section 3.(b), would not be applicable to assistance provided by NRC to States for the purposes authorized by this section.

Section 8. -- This section will authorize the NRC to use appropriated funds to purchase items of nominal value that can be given to attract potential employees as part of NRC's recruitment effort.