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

December 22, 1999

MEMORANDUM TO: Chairman Merserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

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

SUBJECT: STATUS OF ISSUES IN THE 106TH CONGRESS

During the first session of the 106th Congress, the NRC provided testimony for twelve hearings on a variety of issues. The Office of Congressional Affairs monitored those issues for which we provided testimony and other significant issues that were relevant to the NRC. Attached for your information is the latest status report.

The Congress will next convene on January 24 for the second session of the 106th Congress. The President's annual State of the Union address before Congress is tentatively scheduled for January 25.

Attachment: As Stated

cc: EDO
OGC/Cyr
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IN THE 106TH CONGRESS**

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STATUS OF ISSUES

I. BUDGET

A. NRC FY 2000 APPROPRIATIONS

On June 16, 1999, the Senate approved the FY 2000 Energy and Water Development Appropriations Bill, S. 1186, by a roll call vote of 97-2. The Senate approved the NRC's Salaries and Expenses of \$465.4 million and the Inspector General received \$5 million, for a total NRC appropriation of \$470.4 million.

The Senate Report 106-58 included language that was favorable to the NRC. The Report also states that "In previous years, the Committee directed a review of the benefits of external regulation of the Department's (DOE) facilities and funded pilot programs to explore such arrangements in detail. The Committee has determined that the Department's unique responsibilities and facilities too rarely have non-federal analogs with existing, appropriate regulatory schemes. As a result, the Committee no longer contemplates external regulation of the Department's facilities."

On July 27, 1999, the House of Representatives passed H.R. 2605, the FY 2000 Energy and Water Development Appropriations Bill, by a roll call vote of 420 yeas, 8 nays, and 6 not voting. The House approved the NRC's Salaries and Expenses of \$455.4 million, \$10 million less than NRC's request and what was provided in the Senate bill. The House provided \$6 million for the Inspector General, one million more than the Senate. The total NRC appropriation from the House is \$461.4 million.

The House Report 106-253 differs from the Senate's with regard to external regulation of DOE. The House would provide continued funding for the pilot program on external regulation. Also, the House report urges the Commission to consider submitting legislation to repeal statutory organizational requirements; requests a report on lessons learned from initial license renewal reviews and the actions being taken to ensure that the two-year timetable will be sustained and improved upon; and directs the Commission to examine regulatory reform measures underway and complete several activities by specific dates.

The Energy and Water legislation proceeded to passage after the House gave Energy and Water conferees an extra \$1.1 billion. Until that occurred, Senate Energy and Water Appropriations Chairman Pete V. Domenici (R-NM) had warned that an agreement would be impossible because the House-passed bill was \$1.1 billion less than the Senate version -- and Senator Domenici thought the Senate Energy and Water Development allocation was too lean. The President signed the bill into law (PL. 106-60) on September 29, 1999. OCA distributed a copy of the Conference Report (106-336) on September 30, 1999. The Conference Report stated that the conferees have resolved all differences between the two bodies related to funding and where specific direction or requirements are provided. However, the conferees have not attempted to reconcile those portions of the [House and Senate] reports that express the opinion of either body.

B. NRC AUTHORIZATION - LEGISLATIVE PROPOSALS - USER FEES

The House Commerce Committee Energy and Power Subcommittee's Chairman, Joe Barton (R-TX) and Ranking Minority, Ralph Hall (D-TX), introduced H.R. 2531, The Nuclear Regulatory Commission Authorization Act for Fiscal Year 2000. Title I of the bill is NRC's authorization -- which extends NRC's authority to collect approximately 100% of its budget through user fees to September 30, 2004, and provides for cost recovery from Government agencies. Title II of the bill consists of NRC's legislative proposals. The legislative proposals would accomplish the following objectives:

1. Authorize guards to carry firearms at certain NRC-licensed or certified facilities.
2. Make unauthorized introduction of weapons at facilities subject to licensing or certification by the NRC a Federal crime.
3. Make it a Federal crime to sabotage a production, utilization, waste storage, waste treatment or waste disposal, uranium enrichment or nuclear fuel fabrication facility during its construction, if the action could jeopardize public health and safety, or to sabotage a uranium enrichment or nuclear fuel fabrication facility during its operation.
4. Make clear that in the case of a combined construction and operating license the initial duration and the commencement of the licensing period are consistent with the period provided for situations where there are separate construction and operating licenses.
5. Elimination of the restriction on foreign ownership of power reactors and research reactors.
6. Elimination of the Commission's antitrust review authority with respect to pending or future initial applications for a license to construct or operate a utilization or production facility.
7. Make clear that, with very limited exception, the standards issued by the Commission and Agreement States govern cleanup of Atomic Energy Act material at facilities licensed by them.
8. Elimination of the requirement that the hearing process associated with the NRC licensing of uranium enrichment facilities must be "on the record."
9. Allow a Commissioner whose term has expired to continue in office for a limited period of time if a successor has not been confirmed.
10. Provide the NRC with general gift acceptance authority.
11. Elimination of the requirement that the NRC maintain an office for the service of process and papers within the District of Columbia.

On July 21, 1999, the Subcommittee held a hearing on the NRC's reauthorization and H.R. 2531 at which NRC testified along with EPA, NEI, and NRDC.

During the 106th Congress, the NRC has provided the House and Senate with four lengthy briefings specifically addressing authorization/legislative proposals and fee issues. During these briefings, and during the July 21 hearing, concerns were expressed with regard to proposals 5, 7, and 8. Although it did not come up during our briefings, we understood that the Senate objected to proposal 9 (extension of Commissioner terms).

On July 22, 1999, NRC staff met with the Senate Environment and Public Works Majority and Minority staffs to discuss proposed legislation to extend the authority of NRC to collect fees. They asked for our comments on S. 2090, which was introduced last year. The Committee staff was considering whether to include the fee proposals in an authorization bill or to introduce a fee bill such as S. 2090.

On September 29, 1999, the House Commerce Committee approved and reported H.R. 2531, the Nuclear Regulatory Commission Authorization Bill for Fiscal Year 2000. The had been approved by the Energy and Power Subcommittee on September 23, 1999. Title I of H.R. 2531 extends the NRC's authority to collect 100% of its budget from user fees and annual charges through September 30, 2004. It also allows NRC to recover costs from other government agencies. Title II of the bill includes only five of the eleven legislative proposals submitted to Congress; however, Rep. Markey (D-MA) offered an amendment on Commission meetings that would prohibit NRC's current implementation of the Sunshine Act. The amendment was accepted in Subcommittee and is included in the Committee's version of the bill. Additionally, Rep. Markey offered, and at the request of Chairmen Bliley (R-VA) and Barton (R-TX) later withdrew, an amendment concerning NRC regulation of the sale or transfer of contaminated material or equipment.

On September 29, 1999, the Senate Environment and Public Works Committee approved, without discussion, S. 1627, which included Senator Inhofe's (R-OK) version of the NRC fee reauthorization and elements of NRC's legislative package. Included are the elimination of NRC's requirement to have a D.C. office location, elimination of the NRC antitrust reviews, gift acceptance authority, carrying of firearms provisions, sabotage of nuclear facilities or fuel facilities provisions, and provisions making the unauthorized introduction of dangerous weapons into NRC facilities a Federal crime. The fee reauthorization that the Senate passed is intended to phase a 12% amount off the fee base over a five-year period. OCA distributed both authorization bills and associated reports. Both chambers could take up the NRC authorization bills during the second session of the 106th Congress.

Taxpayers Defense Act

On July 29, 1999, the Nuclear Energy Institute testified before the House Judiciary Committee's Subcommittee on Commercial and Administrative Law in favor of the Taxpayers Defense Act. The NEI testimony focused on the industry's payments for the Nuclear Waste Fund and NRC's user fees. They believe that while the Act may not solve all the industry's problems in this regard, it would provide a degree of protection against arbitrary fee increases. The Act would require the Congress, each year, to enact into law at least a portion of NRC's Part 171 annual fee rule. The bill has been introduced in both Houses, but has not been approved by the subcommittees.

C. TWO-YEAR BUDGET CYCLE

The Senate Budget Committee and Senate Governmental Affairs Committee held a joint hearing to review budget process reform legislation. Senators Domenici (R-NM), Thompson (R-TN), and Lieberman (D-CT) introduced S. 92, the Biennial Budgeting and Appropriations Act. The bill would convert the annual budget cycle, appropriations and authorization process to a two-year cycle.

Senator Domenici sponsored S. 93, a comprehensive budget process reform bill, The Budget Enforcement Act of 1999, which incorporates the biennial bill, but also includes provisions which: (1) curb the abuses of emergency spending; (2) set aside and protect the Social Security surplus; (3) make way for tax relief that does not tap Social Security surpluses; and (4) provide that we never again incur a government shutdown because of failure to enact appropriations (establishes an automatic continuing resolution.) Both of these bills were referred jointly to the Budget and Governmental Affairs Committees. On March 10, 1999, S. 92 was reported to the Senate from the Committee on Governmental Affairs; no further action was taken on S. 93.

The House budget process bill, H.R. 853, did not contain the biennial budgeting provision. However, a provision to establish an automatic continuing resolution to keep the government running after the end of the fiscal year proved to be very controversial and the bill stalled after it was approved by the Budget Committee on June 17, 1999. The House Appropriations Committee recommended by voice vote on June 22 that the House reject the bill. Since there is significant opposition in both chambers it is very unlikely that a budget process overhaul will pass in the 106th Congress.

D. NOMINATION OF SALLY KATZEN AS OMB DEPUTY DIRECTOR

In November, the Senate Governmental Affairs Committee considered the nomination of Sally Katzen to be Deputy Director of OMB. Senator Voinovich (R-OH) voiced his strong opposition to her nomination, which he first stated at her confirmation hearing, due to his view that she lacks a commitment to federalism. Chairman Thompson stated that it was "not an easy call," but because the position works so closely with the Committee, it was better "to have someone over there." Senator Lieberman related his positive experiences in dealing with her and stated that Ms. Katzen acknowledged she had made some mistakes. On a voice vote, her nomination was approved, but the Senate did not act on her nomination before the end of the first session.

II. PERFORMANCE PLAN, FINANCIAL STATEMENT, AND PERFORMANCE BUDGETING

In April, the House Government Reform Committee evaluated agencies' FY2000 performance plans; the NRC received a score of 65 out of 100, which placed the NRC in the second tier of agencies. Last year, the NRC received a score of 55, but at the time that score placed the agency in the first tier. The Commerce Department was referenced as having a particularly outstanding plan; its plan has been obtained by the NRC staff for format review. Although Congressional staff noted that the NRC is implementing changes that are not reflected in the plan, they also commented that more detail was needed on the relevance of "risk informed" and "performance based" regulation to the agency's day-to-day operations. Congressional staff also questioned how the NRC validates the quality of incoming data from the industry.

The House Government Reform Committee's Subcommittee on Government Management, Information, and Technology held a hearing in March to announce Chairman Horn's (R-CA) report card on audits of agencies' **financial statements**. The audits are required by the Government Management Reform Act of 1994; this report card was based on FY 1998 audits. The NRC received a D+; previous grades were B- for FY 1997 and A for FY 1996. Eleven of the 17 agencies graded received D's or F's. Agencies were graded on three criteria: reliable financial information, effective internal control, and compliance with laws and regulations. The NRC received a "yes" for the first criterion but a "no" for the others.

Interestingly, the same Subcommittee held a hearing in July 1, 1999, at which NRC's **performance budgeting** process was highlighted as being among the government's finest. CFO Jesse Funches testified along with other outstanding agencies, EPA and HHS/Administration for Children and Families; GAO and OMB also were on the panel. During the hearing, GAO commended the NRC for changing its budget structure to align with its strategic goals, for clearly indicating the estimated cost of a given level of performance, and for showing which goals would be primarily affected by changing the level of program activity funding.

The Government Performance and Results Act required OMB to select agencies in FY 1998 to conduct pilot programs developing budgets that show how performance would change if they received more or less allocations than requested. At the time of the hearing, OMB had no definite plans for proceeding with the performance budgeting pilot programs, which concerned the Subcommittee greatly. In October, OMB selected DOD, FDA, HUD, State & SSA for the pilot program.

III. NRC COMMISSION NOMINATION/CONFIRMATION

Upon the expiration of Chairman Shirley Ann Jackson's term on June 30, 1999, Commissioner Dicus served as Chairman from July 1 until October 29. Dr. Richard A. Meserve was nominated on August 5, had a confirmation hearing on September 23, and was sworn in as Chairman on October 29, for a term ending June 30, 2004.

IV. ISSUES AND LEGISLATION

A. CIVIL SERVICE BILLS

A variety of civil service bills were considered during the first session. In September, the President signed H.R. 457 (P.L. 106-56), which provides federal employees with 7 days paid leave for bone marrow donations and 30 days for organ donations. Both the House and Senate have approved bills to correct retirement coverage errors caused during the initial change from CSRS to FERS. They differ, however, regarding who is responsible for payments to retirement funds to compensate for the errors: the Government (H.R. 416) versus employees (S. 1232). Congressional staff has had informal discussions -- which will continue over the break -- but there has been no resolution to date.

Pay Raise

The overall average pay adjustment for GS employees, effective in January 2000, will be 4.8%. Information is not yet available regarding how much of this increase will be allocated between locality pay and a general pay raise. The FY 2000 Treasury, Postal Service and General Government appropriations bill included the pay raise, and it also contains a provision increasing the pay of Members of Congress by \$4,600, to \$141,273. Since civil service pay is capped at the congressional level (currently \$136,673) this pay raise would thereby raise the cap.

B. DECOMMISSIONING AND DECONTAMINATION

FUSRAP

The House and Senate passed Energy and Water Development Appropriations bills that would appropriate funds to the Army Corps of Engineers to clean up FUSRAP sites. The Senate appropriations report stated that the Committee intended to transfer only the responsibility for administration of cleanup activities; it did not intend to transfer ownership of and accountability for real property interests, which remain with DOE. In explaining its provisions, the House Committee in its report stated that it did not intend the NRC to license the Corps for FUSRAP cleanups. Senators Robert Bennett (R-UT) and Barbara Boxer (D-CA) were offered a hearing by the late Chairman of the Senate Environment and Public Works Committee, John Chafee (R-RI) on whether pre-1978 11 e(2) byproduct material should be licensed by the NRC after they decided not to offer an amendment to the NRC authorization bill, S. 1627. An amendment similar to this could be offered if the House Commerce Committee takes up H.R. 2641, a bill to make technical corrections to Title X of the Energy Policy Act of 1992.

Superfund Reauthorization

The Senate Environment and Public Works (EPW) Committee has been unable to craft a comprehensive bill that a coalition of Republicans and Democrats can accept. S. 1090, "The Superfund Program Completion Act of 1999," went to markup but no vote was held. The new EPW Chairman, Robert Smith (R-NH) is expected to introduce his own bill. It is considered unlikely that a comprehensive bill will have much chance of success. More narrowly focused bills to amend Superfund have a greater chance of moving. One such bill in the first session of the 106th was S. 1528, introduced by Majority Leader Trent Lott (R-MS) and Minority Leader Tom Daschle (D-SD), which exempts certain recyclers from Superfund liability. This bill was attached to the omnibus appropriations bill, H.R. 3194, and became law, P.L. 106-113. Senator Lott has promised to seek a technical correction in the next session to specify that recycled AEA material from DOD, DOE, and NRC and Agreement State licensees would not be entitled to this exemption.

In the House, Representative Sherwood Boehlert's (R-NY) comprehensive Superfund reauthorization bill, H.R. 1300, gathered bipartisan support and the bill passed the House Transportation and Infrastructure Committee on August 5; however, the Administration opposes the bill. The House Commerce Committee, which has primary jurisdiction over superfund, also marked up a bill, H.R. 2580, primarily along party lines on October 13. Neither bill includes language that would assert NRC/Agreement State primacy of NRC/Agreement State-licensed sites.

EPA House Appropriations Report Language on Radiologically Contaminated Sites

The FY 2000 House Appropriations Committee Report, H. Rept. 106-286, for the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies (including EPA) contains language stating that EPA should defer to the NRC for cleanup of NRC-licensed sites. This year, however, the report acknowledges the EPA may have special expertise that may be of use to NRC for site cleanups. The report directs NRC and EPA to enter into a Memorandum of Understanding (MOU) that clarifies EPA's involvement when it is requested by NRC. The NRC and EPA are further directed to report to the Appropriations Committee, no later than May 1, 2000, on the development of the MOU.

The VA/HUD/Independent Agency Appropriations bill, H.R. 2684, became law on October 20 as P.L. 106-74.

C. ELECTRICITY RESTRUCTURING

Congress continues its lengthy consideration of electricity restructuring issues, with the debate remaining focused on whether Congress needs to act in the face of states moving ahead on their own to advance competition in the electricity sector. Some believe that just a narrow bill is needed to enhance competition by repealing PURPA and PUHCA and to promote reliability, while others believe that federal language is needed to protect residential and low income ratepayers and to promote alternative energy sources.

In October, the House Commerce Committee's Subcommittee on Energy and Power marked up H.R. 2944, Chairman Barton's (R-TX) bill, by a vote of 17-1. Of interest: the bill eliminates the NRC's antitrust review and allows the deductibility of nuclear decommissioning costs. Special provisions for decommissioning funds in bankruptcy were not included due to jurisdictional concerns of the Judiciary Committee; decisions regarding stranded costs recovery are left to the states. The full Committee is expected to mark up H.R. 2944 in the spring.

The Administration's bill, introduced as S. 1047 and S. 1048 in the Senate and H.R. 1828 in the House, contains the provisions requested by the NRC pertaining to antitrust authority and the special treatment of decommissioning funds in bankruptcy. The Administration opposes the Barton bill due to its lack of enhanced regulatory authority for FERC in market power and jurisdiction over transmission, and weaker public benefits programs regarding such items as renewables and low-income energy assistance. Chairman Murkowski (R-AK) of the Senate Energy and Natural Resources Committee is considering moving a bill next year, which may focus just on PUHCA and PURPA repeal.

D. EXTERNAL REGULATION OF DOE FACILITIES

The Senate Armed Services Committee report on the FY 2000 Defense Authorization Bill, S. 1059, echoed the Senate Appropriations Committee regarding external regulation of DOE facilities. The Senate Armed Services Committee praised the Defense Nuclear Facilities Safety Board for the work they have been doing regarding DOE defense nuclear facilities. The Committee added that they do not support any move toward external regulation of DOE defense nuclear facilities. They also noted that the Secretary of Energy has put the external

regulation effort on hold. In the House, H.R. 1401, the National Defense Authorization Act of FY 2000, was silent on the future of external regulation for DOE facilities.

The House Report 106-301 was agreed to in the House on September 15, 1999, by a vote of 375-45 and in the Senate on September 22, 1999, by unanimous consent. The differences between the House and Senate on external regulation were not addressed in the Conference Report. The President signed the FY 2000 Department of Defense Authorization on October 4, 1999, becoming P.L. 106-65.

H.R. 1656, the DOE Commercial Application of Energy Technology Authorization Act of 1999, was approved by the House Committee on Science on May 26, 1999. The bill provides regulatory authority to the NRC regarding federally owned or occupied non-military energy laboratories, including responsibilities with respect to accelerator-produced radioactive material and ionizing radiation generating machines. After reporting the bill, the Science Committee's Subcommittee on Energy and Environment held a hearing on the subject on July 22, 1999. The NRC Chairman, DOE, OSHA, and GAO testified at the hearing. H.R. 1656 has also been referred to the House Committees on Commerce and Education and the Workforce.

No further action occurred on H.R. 1656 during the first session of the 106th Congress. It is unclear at this time whether any consideration of the bill will occur during the second session. There is no comparable bill in the Senate.

Additionally, the Senate Committee on Appropriations included explicit report language (Senate Report 106-58) that would halt any further action for external regulation of DOE facilities; however, the House Appropriations Committee included funding to continue with the pilot effort. The Conference Report stated that the conferees have resolved all differences between the two bodies related to funding and where specific direction or requirements are provided. However, the conferees have not attempted to reconcile those portions of the House and Senate reports that express the opinion of either body.

Finally, during the last week of the first session, the House Committee on Commerce's Subcommittee on Energy and Power released a discussion draft on the external regulation of DOE facilities. The draft provides for NRC and OSHA regulation the entire DOE complex. This concept will be discussed in the second session by the Subcommittee.

E. GASEOUS DIFFUSION PLANTS (GDP)

The Oversight and Investigations Subcommittee of the House Commerce Committee has been conducting an investigation into allegations of radiological contamination and unsafe conditions at the Paducah, KY, GDP facility. The allegations center on past practices at the facility by DOE prior to privatization and certification of the U. S. Enrichment Corporation. These issues have been identified in articles in the *Washington Post* and elsewhere.

The Subcommittee held a hearing on these issues on September 22 at which NRC testified about current conditions at both the Paducah and Portsmouth, OH, facilities. NRC staff has briefed this Subcommittee's staff as well as staff of Senator Mitch McConnell (R-KY) on a number of occasions and has pointed out that the allegations being raised are "legacy" issues which stem from DOE oversight of the facilities. NRC staff has maintained that in its areas of

responsibility the facilities are now being operated in a manner that adequately protects public health and safety and the environment.

Additional hearings were held by Senator Jim Bunning (R-KY) from the Senate Energy and Natural Resources Committee and Senator McConnell from the Senate Energy and Water Development Appropriations Subcommittee. More hearings are anticipated in the second session, particularly by the Commerce Committee's Oversight and Investigation Subcommittee and a field hearing in Portsmouth by Senator George Voinovich (R-OH) of the Senate Governmental Affairs Committee.

F. HIGH-LEVEL WASTE

The House Commerce Committee approved the comprehensive high-level waste bill, H.R. 45, The Nuclear Waste Policy Act of 1999, on April 21, 1999. The bill is now ready for consideration by the full House.

The Senate Energy and Natural Resources Committee passed a substitute version of its comprehensive high-level waste bill, S. 608, The Nuclear Waste Policy Amendments Act of 1999. The new bill is S. 1287. It is ready for consideration by the full Senate.

Consideration of high level waste legislation is anticipated during the second session of the 106th Congress.

Also, on November 19, 1999, the Senate confirmed the nomination of Ivan Itkin of Pennsylvania to be the new Director of the Office of Civilian Radioactive Waste Management at the Department of Energy.

On-Site Storage of Spent Nuclear Fuel

Rep. Merrill Cook (R-UT) introduced H.R. 1309, The Nuclear Waste Protection and Responsible Compensation Act. This bill would, among other things, prohibit spent nuclear fuel from being transported offsite for away-from-reactor storage until a permanent disposition program is issued by the NRC. The bill was referred to the Commerce Committee's Energy and Power Subcommittee. No further action is anticipated.

G. INSPECTORS GENERAL

Senator Collins (R-ME) introduced S. 870 which would create 9-year, renewable terms for Inspectors General, authorize a pay raise for IG's in exchange for a prohibition on acceptance of bonuses, and provide for an external review of IG's every 3 years. No action has occurred on the bill. However, during the Senate Governmental Affairs Committee's markup in November of S. 1707, a bill dealing with TVA's Inspector General (IG) and establishing a forensics laboratory for the IG community, Senator Collins (R-ME) discussed S. 870. Senator Collins considered offering S. 870 as an amendment to S. 1707; instead, she withdrew her amendment in exchange for a commitment from Chairman Thompson to move the bill early in the second session. Senators Durbin (D-IL), Cleland (D-GA), and Stevens echoed her request for early consideration. The Chairman did not commit to a timetable, but acknowledged that there were many issues in the bill with which he agreed with Senator Collins, and they would address them in the second session.

H. INTERNATIONAL ISSUES

Export Administration Act

The Export Administration Act expired in 1994; thereafter, the President has regulated exports through executive orders and individual waivers. On September 23, 1999, the Senate Banking, Housing and Urban Affairs Committee approved S. 1712, reauthorizing the Export Administration Act. The bill would reduce export controls for those items that do not have security implications and it would tighten controls for those items that do. The Senate is expected to begin discussions on this legislation early in the second session.

Withholding U.S. Funds for IAEA Programs in Iran

On July 19, 1999, the House passed H.R. 1477, a bill introduced by Representative Robert Menendez (D-NJ) which will prohibit the IAEA from using U.S. funds for Iran's nuclear power program unless the State Department determines that such programs and projects are consistent with U.S. nuclear nonproliferation and safety goals.

The Senate Foreign Relations Committee approved H.R. 1477 on November 3, 1999. The bill will take steps toward cutting U.S. contributions to the International Atomic Energy Agency (IAEA) if it continues to aid development of the civilian Bushehr nuclear power plant in Iran. The first session of the 106th Congress adjourned before the full Senate acted on this bill.

State Department Authorization Bill

Both the House and Senate have passed their version of the State Department Authorization bill. S. 886 was passed on June 22 and H.R. 2415 was passed on July 21. The Senate bill contains a provision that prohibits an executive branch agency from imposing any new reporting obligation on the U.S. nuclear industry to meet implementation needs of the Convention on Nuclear Safety. In addition, there is a provision that urges the State Department in consultation with the NRC to ensure that the International Nuclear Regulators Association (INRA) functions are to the maximum practical extent implemented in connection with the Nuclear Safety Convention. It also directs the President to submit a report to Congress justifying continuing activities which in any way duplicate an activity pursuant to the Convention on Nuclear Safety. These provisions are not included in the House bill.

The House bill includes a section in which no license may be issued for export of any nuclear material, facilities, components, or other goods directly or indirectly to North Korea until the President reports to the House and Senate that certain conditions have been met. The Senate bill is silent on this issue. The House and Senate did not meet to conference this legislation.

When Congress passed H.R. 3194, the Consolidated Appropriation Act for FY 2000, this included the State Department Authorization bill "by reference" -- which means it was enacted when President Clinton signed H.R. 3194 on November 29, 1999 (Public Law 106-113). The provisions on the Convention on Nuclear Safety, which were in the original Senate bill, were dropped from the final legislation. However, the current bill included a provision regarding NRC notification to Congress of nonproliferation activities. The Chairman of NRC is to issue a directive to agency employees on keeping Congress informed of NRC's nonproliferation related activities. The bill also included the section on export licenses to North Korea. The President

will have to report to Congress that certain conditions have been met before export licenses of certain nuclear items can be issued.

Security Assistance Act of 1999

On July 28, 1999, the Senate Foreign Relations Committee approved legislation which would require Congress to be notified 14 days before a U.S. company receives an export license authorizing certain exports to nuclear weapons states that are not members of NATO. Senator Murkowski (R-AK), Chairman of the Senate Energy and Natural Resources Committee wrote to Senator Helms, Chairman of the Senate Foreign Relations Committee expressing his concerns about this legislation.

These provisions were excluded in the State Department's authorization bill discussed above.

I. PRICE-ANDERSON ACT RENEWAL

The Price-Anderson Act expires on August 1, 2002, although existing NRC coverage would continue in the absence of legislation. Congressional action is required for renewal. While Committee staff will begin drafting bills, no legislation or hearings are expected in the coming session of Congress. The DOE and the NRC have submitted separate reports to Congress with their views on renewal.

J. REGULATORY REFORM

A number of bills addressing various aspects of regulatory reform are pending before Congress. These bills are of interest to the NRC because they could add steps to the rulemaking process. In May, the Senate Governmental Affairs Committee reported out S. 746, **Regulatory Improvement Act**. This bill mandates risk assessment and cost benefit analyses of all major rules. The NRC wrote to the Committee this Spring, stating its opposition due to the possibility of OMB review of the substance of every proposed and final rule issued by the agency; the bill retains this objectionable provision. The report on S. 746 was issued in July; there is no companion bill in the House.

In September, the Senate Governmental Affairs Committee favorably reported S. 1214, the **Federalism Accountability Act**. Under S. 1214, agency rulemakings that extended to present state laws would have to explicitly say that federal preemption was intended and describe what alternatives to preemption were considered. If federal law or regulations are silent regarding preemption of state or local law, the assumption will be that no preemption has occurred. A companion House bill, H.R. 2245, was approved by Subcommittee in July, but the full Government Reform Committee has not acted; it postponed a scheduled markup in August because there were so many amendments to be offered.

The **Regulatory Right-to-Know Act** (H.R. 1074 and S. 59), requiring an annual assessment of the costs and benefits to the private sector of rulemaking requirements, has made uneven progress in Congress. The House approved H.R. 1074 in June. The Senate Governmental Affairs Committee postponed its planned August markup of S. 59 due to numerous concerns regarding the burden on agencies to perform such analyses. Again in November, that Committee began discussion of S. 59 at a markup, but did not vote. Since 1996, Senator

Stevens (R-AK) has placed a requirement in Treasury/Postal Service appropriations bills requiring a less-detailed report from OMB; if S. 59 does not pass, he intends to continue with this approach. Senator Voinovich (R-OH) suggested that consideration of S. 59 be postponed while the Committee focuses on obtaining passage of S. 746. No further action was taken on S. 59.

The **Truth in Regulating Act**, S. 1244, establishing a three year pilot program requiring GAO to report on economically significant rules, was also postponed at the August markup until consensus could be reached; it was not discussed at the November markup. The House does not have a companion bill to S. 1244.

In November, the Senate Governmental Affairs Committee approved S. 1198, the **Congressional Accountability for Regulatory Information Act**. This bill establishes a pilot program whereby Congressional committees can ask GAO to evaluate the way agencies did specified cost/benefit analyses for proposed rulemakings. GAO is not to do its own analyses, but rather critique the agency's analyses. Chairman Thompson (R-TN) emphasized that the bill would allow Congress to have input before a rule is final. There is no companion House bill.

K. TRITIUM PRODUCTION

The House version of H.R. 1401, the Department of Defense Authorization bill, included a provision that would direct the Secretary of Energy to designate particle accelerator technology as the primary technology for the production of tritium if NRC is not able to grant TVA license amendments to Watts Bar and Sequoyah nuclear facilities to produce tritium by December 31, 2002. The Senate bill, S. 1059, explicitly provided that DOE shall produce new tritium at the TVA Watts Bar or Sequoyah nuclear plants. It also directed the Secretary of Energy to complete preliminary design and engineering development of the particle accelerator technology to be used for backup tritium production. During conference, the Senate provision was agreed to.

The Conference Report to S. 1059, the Department of Defense Authorization bill, was agreed to by the House on September 21, 1999 and the Senate on September 22, 1999. S. 1059 was signed into law on October 5, 1999 and became Public Law 106-65.

L. URANIUM MILL TAILINGS

Uranium Mill Tailings Radiation Control Act (UMTRCA)

Representatives Barbara Cubin (R-WY) and Steve Largent (R-OK) introduced H.R. 2641, "To make technical corrections to Title X of the Energy Policy Act of 1992," for cleanup of radioactive contamination from the operation of uranium and thorium milling operations. The bill would extend authority for Title X cleanups from 2002 to 2007 and increase the reimbursement from \$6.25 per ton to \$10.00 per ton. This is similar to legislation that was considered but not acted upon in the last Congress. H.R. 2641 has been referred to the Commerce Committee. It is possible that this bill will be considered in the second session of the 106th Congress.

Atlas-Moab

Rep. George Miller (D-CA) circulated a "Dear Colleague" letter asking for cosponsors for a draft bill to transfer responsibility for cleanup and removal of the Atlas-Moab uranium mill tailings to the Department of Energy. Rep. Miller and others subsequently introduced H.R. 393 to accomplish this action. Rep. Chris Cannon (R-UT), who represents the Moab area, also introduced legislation, H.R. 1559, to have the Secretary of Energy clean up and remove the Atlas-Moab mill tailings to an alternate site. Both bills were referred to the Commerce Committee. While no action is anticipated on these bills, it is possible that they could form the basis for an amendment to the UMTRCA bill, H.R. 2641, discussed above.

Representatives Cannon and Grace Napolitano (D-CA) held a Resources Committee "briefing" on the two bills at which NRC, DOE, EPA, Grand Canyon Trust and the watchdog group POGO presented information pertaining to the Atlas-Moab tailings pile. The Committee has indicated additional briefings may be held.

M. Y2K CHALLENGE

The NRC completed its internal Y2K work in February, ahead of the OMB deadline. In June, Chairman Horn of the House Government Reform Committee's Subcommittee on Government Management, Information, and Technology issued his 8th report card on agencies' internal efforts; the NRC received an A. Overall, the federal government received a B-; these same grades were given in the 9th report card issued in September. The Congressman gave the NRC credit in all areas of effort. In his press release, he commended the Social Security Administration, NRC, and FEMA, and their managers, for a job well done. The final report card, issued in November, awarded the NRC an "A" and the Government a "B+."

Since the beginning of the 106th, NRC provided testimonies four times on the status of agency and industry Y2K programs and activities. In February 1999, EDO William Travers testified before the Senate Environment and Public Works Committee's Subcommittee on Clean Air, Wetlands, Private Property and Nuclear Safety on the NRC's internal and external Y2K efforts. In August, the agency submitted testimony to the Senate Special Committee on the Year 2000 Technology Problem regarding "Year 2000 Readiness of the Electric Power and Gas Industries." This was a "cyber hearing" where testimony was posted on the Internet but a hearing did not actually take place.

Frank Miraglia testified twice this Fall before Congressional committees. In September he testified before the Senate Energy and Natural Resources Committee regarding, "Y2K-Will the Lights Go Out?" In October, Mr. Miraglia testified before a joint hearing of subcommittees of the House Government Reform and Science Committees on "Y2K and Nuclear Power: Will Reactors React Responsibly?" At both hearings, Members appeared reassured by NRC's testimony.