



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

May 2, 1995

MEMORANDUM TO: The Chairman
 Commissioner Rogers
 Commissioner de Planque
 Commissioner Jackson

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

SUBJECT: STATUS OF ISSUES IN THE 104TH CONGRESS

Attached for your information and use is the status of issues in the 104th Congress that are relevant to the NRC and being monitored by the Office of Congressional Affairs.

The Congress has just returned from their Spring recess. We will keep you apprised of progress on these issues and other significant new issues that may arise.

Attachment:
As stated

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

A/12

May 2, 1995

I. NRC BUDGET

A. NRC FISCAL YEAR 1996 APPROPRIATIONS:

The Nuclear Regulatory Commission's fiscal year 1996 budget requests \$525.8 million, to be funded by two appropriations -- one is NRC's Salaries and Expenses appropriation for \$520.3 million and the other is NRC's Office of the Inspector General appropriation for \$5.5 million. The House Appropriations Subcommittee on Energy and Water Development had a hearing to review the NRC budget on March 3, 1995. No further action in the House has occurred. The Senate Committee on Appropriations is not expected to hold a hearing this year.

B. NRC FISCAL YEARS 1996-1997 AUTHORIZATION:

Draft NRC authorization language was sent to Congress in March. A bill has not been introduced in the Senate or House of Representatives and no authorization hearings are scheduled at this time.

C. BUDGET RESOLUTION/NRC USER FEES:

On May 8, the Senate Budget Committee is scheduled to meet to consider a seven year budget that includes the entire Federal government. The committee is expected to lay out a process to balance the Federal budget by 2002.

The House Budget Committee is scheduled to meet on May 11 to agree on a budget reduction strategy. A recommendation to extend NRC user fee authority could be a part of this legislation.

II. NRC NOMINATIONS

Dr. Shirley A. Jackson was confirmed by the Senate on April 6 to serve as a Commissioner at the NRC for a term expiring on June 30, 1999. She was sworn in on May 2. This action followed her confirmation hearing before the Senate Environment and Public Works Committee on February 16 and approval by that Committee on April 4. The White House announced that Dr. Jackson has been designated to become Chairman upon Dr. Selin's departure on July 1.

The nomination of Mr. Dan Berkovitz is still pending before the Senate Environment and Public Works Committee. Following his confirmation hearing on February 16, eight of the nine Republicans on the Committee signed a letter urging that a different person be nominated. The future of his nomination is uncertain.

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

A. CLEAN AIR

A number of acrimonious hearings have been held by the House Commerce Committee focusing on EPA emission requirements. More hearings will be held on other parts of the Clean Air Act but no mention has been made of radionuclide emissions.

B. CLEAN WATER

The House Transportation and Infrastructure Committee chaired by Representative Bud Shuster (R-PA) has marked up and reported out H.R. 961, a bill which would significantly alter the 1972 Clean Water Act. Section 404 of the bill would ease the restrictions on developing wetlands and is the most controversial part of the bill. Section 316 would exempt NRC licensees but would not exempt NRC certificate holders such as the United States Enrichment Corporation for its gaseous diffusion facilities.

The Senate committee with jurisdiction, the Environment and Public Works Committee, has made no plans to take up reauthorization of the Clean Water Act.

C. FEDERAL PENSION BENEFITS

On April 5, the House approved H. R. 1215, the Tax Fairness and Deficit Reduction Act, which contains two provisions that would reduce federal pension benefits. First, determination of average salary for retirement would be based on the average of a worker's highest three years of salary through CY 1995, highest four in CY 1996, and highest five after CY 1996.

Second, the percentage of salary contributed for retirement would be increased by 2½% in the following manner for CSRS: 7% in CY 1995, 8½% in CY 1996, 9% in CY 1997, and 9½% after CY 1997. The same 2½% increase occurs for FERS, from .8% to 3.3%.

The next step for this legislation is consideration by the Senate. The Senate Finance Committee has yet to develop its tax legislation; however, the Chairman of the Committee, Senator Packwood (R-OR), has said that he intends to address deficit reduction before considering tax cuts. Conversely, Majority Leader Dole (R-KS) has committed to Senate consideration of a tax cut bill this year. It is uncertain whether the federal pension provisions would be included in a Senate bill.

D. HIGH-LEVEL RADIOACTIVE WASTE

A number of bills have been introduced in both the Senate and the House; however, President Clinton in an April 4 letter to Nevada Governor Robert Miller stated that none of the bills have the support of the Administration. In the Senate, four bills have been introduced:

1. Senator J. Bennett Johnston's (D-LA) S. 167, which, among other things, would co-locate an interim storage facility at the Yucca Mountain site now being characterized as the site for the permanent repository, directs DOE to develop a multi-purpose canister system, and change some aspects of NRC licensing of a repository;
2. Senator Rod Gramms' (R-MN) S. 443, which would require DOE to accept commercial spent fuel by January 31, 1998;
3. Senator Richard Bryan's (D-NV) S. 429, which would allow utilities to use credits from their payments to the Nuclear Waste Fund to pay for on-site dry cask storage; and
4. Senator Paul Wellstone's (D-MN) S. 473, which would bar construction of new nuclear power plants until a permanent repository (or a second depending upon the capacity of the first) is licensed.

These bills were the subject of a Senate Energy Committee hearing on March 2. NRC submitted written testimony for that hearing. A second hearing is anticipated -- possibly in late May or June.

In the House, the principal bill is Representative Fred Upton's (R-NY) industry sponsored H. R. 1020, the Integrated Spent Fuel Management Act of 1995. This bill would go beyond the Johnston bill in directing DOE to meet its timetables for repository characterization and in establishing new repository performance standards. The Commerce Committee, which has jurisdiction, has not yet scheduled a hearing but, again, a late May or June hearing date is anticipated.

E. INTERNATIONAL

1. U.S.-North Korea Agreed Framework

Several resolutions have been introduced, both in the House and the Senate, expressing the sense of Congress with respect to the U.S.-North Korea Agreed Framework. Two bills that have made progress are: (1) S. J. Res. 29 introduced by Senator Murkowski (R-AK) on March 20, and (2) H. J. Res. 83 introduced by Representative Bereuter (R-NE) on March 30.

S. J. Res. 29 emphasizes the importance of the U.S. in promoting a dialogue between North and South Korea. This bill was reported out of the Foreign Relations Committee and placed on the Senate legislative calendar. H. J. Res. 83 deals with, among other aspects of the Agreement, South Korea being the only acceptable source for the light water reactors that are to be provided to North Korea. This resolution has been approved for action before the International Relations Committee.

Also, there have been several hearings on the Framework Agreement including one in which Dr. Selin testified before the Senate Energy Committee on January 19.

2. Aid to Russia and Newly Independent States

Several bills have been introduced on providing assistance to Russia and the Newly Independent States. H. R. 889, the Supplemental Appropriations and Rescissions Act which includes \$7.5 million for aid to the Newly Independent States, was passed on April 6 and signed into law on April 10, 1995 (P.L. 104-6).

3. Omnibus Counterterrorism Act of 1995

The Administration's bill was introduced both in the House and Senate, H. R. 896 and S. 390, respectively. These bills contain a nuclear materials title with the purpose to provide federal law enforcement the necessary tools to reach and combat international nuclear terrorism. The House Judiciary Committee held a hearing on April 6; another hearing is scheduled for May 3. The Senate Judiciary Committee held a hearing on April 27. At the hearing, Senator Hatch announced his intent to introduce a comprehensive bill that day (S. 735). The Senate is hoping to pass a bill before the Memorial Day recess.

F. LOW-LEVEL RADIOACTIVE WASTE

The only low-level waste issue on the Congressional agenda is ratification of the Texas Low-Level Radioactive Waste Disposal Compact. S. 419 has been introduced in the Senate and referred to the Judiciary Committee. H. R. 558 has been introduced in the House where the Commerce Committee has jurisdiction. With passage, Maine and Vermont would join with host-State Texas.

G. NONPROLIFERATION/EXPORT ISSUES

Senator Glenn (D-OH) has reintroduced this Congress the Nuclear Export Reorganization Act (S. 102), which would reauthorize the Export Administration Act. This bill would allow NRC to obtain access to all of the 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. There are no hearings scheduled at this time.

In the House, Representative Toby Roth (R-WI) has introduced H. R. 361, the Omnibus Export Administration Act of 1995 to reauthorize the Export Administration Act. No hearings have occurred and none are scheduled at this time.

H. PAPERWORK REDUCTION

Just before the April recess, Congress approved the conference report to S. 244, the Paperwork Reduction Act; the President has said he will sign the legislation. The current provision enabling independent agencies to override an OMB disapproval of information collection requirements was retained. The Senate version of the bill included a section which would eliminate virtually all statutorily-required reports to Congress. In the conference report, this provision was deleted because the House had not examined the proposal. Instead, Rep. Clinger (R-PA), Chair of the House Government Reform and Oversight Committee, stated his intention to introduce reports elimination legislation.

I. PROPERTY RIGHTS

On March 23, 1995, Senator Dole (R-KS) introduced S. 605, the Omnibus Property Rights Act of 1995. S. 605 would establish a new right to compensation for owners of private property whose property value is diminished as a result of Federal regulations and actions. Of special concern to the NRC is the lack of a

special exception for agency actions intended to protect public health and safety. On April 28, the NRC wrote to Senator Orrin Hatch (R-UT), Chairman of the Judiciary Committee, to express concerns regarding the potential application to this agency.

The Judiciary Committee held a hearing on S. 605 on April 6. The House has approved similar legislation.

J. REGULATORY MORATORIUM

In February, the House approved H. R. 450, which would impose a moratorium on agency rulemaking from November 20, 1994 through December 31, 1995. Many exemptions from the moratorium were attached to the bill.

An identical bill, S. 219, was introduced in the Senate. Due to opposition to the moratorium approach, the bill was amended on the Floor to provide instead for a Congressional review of "significant" regulations. Before a regulation could become final, Congress would have 45 days to review it.

Because the two bills are so different, it is uncertain how a conference could resolve them. Instead, the House might consider S. 219 as separate legislation.

K. REGULATORY REFORM

There are a number of bills pending that deal with regulatory reform; they would impose new risk assessment and cost-benefit analysis requirements. The House approved H. R. 9 in March. The NRC has numerous concerns about H. R. 9, including: (1) the requirement that benefits justify the costs, even for those rules that the Commission believes are necessary to establish adequate protection of the public health and safety; (2) the delay and increased resources added to the rulemaking process by the new procedural requirements; and, (3) reduction of NRC independence from OMB on regulatory matters.

In the Senate, three regulatory reform bills are pending. The Energy and Natural Resources Committee approved S. 333, Risk Management Act, on a party line vote in March. The minority had significant concerns that the judicial review section of the bill would cause numerous lawsuits. Also in March, the Governmental Affairs Committee unanimously ordered to be reported Senator Roth's (R-DE) regulatory reform legislation, S. 291. The Judiciary Committee completed markup of S. 343, the Dole (R-KS)/Grassley (R-IA) version of regulatory reform on April 27.

*Tom DeLoach (R-TX) May Whip
D. S. ... (R-Ind)*

*Mickles (R-OK)
Pend (D-NV)*

See separate legislation 2/7

The bills have different threshold levels for triggering risk assessment and cost-benefit analysis, and different restrictions placed on judicial review. The next step is for the Senate leadership to decide which version will be the vehicle for Floor consideration.

L. REGULATORY SUNSET AND REVIEW ACT

Representative Chapman (D-TX) and Senator Domenici (R-NM) have introduced H. R. 994, and S. 511. These bills require that all existing federal regulations be reviewed every seven years at which time they would be reauthorized or terminated. Regulations promulgated subsequent to enactment would be reviewed after three years. The House Government Reform and Oversight Committee's Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs held one day of hearings on H. R. 994 in March; another is scheduled for May 2. No action has occurred to date on S. 511.

The Commission sent a letter to the House Government Reform and Oversight Committee expressing concerns that H. R. 994 would create regulatory instability, impose additional costs upon Agreement States, force the expenditure of significant resources which would increase user fees, and be difficult to implement due to unclear drafting.

M. SUPERFUND

This controversial act is overdue for reauthorization. The Senate Environment and Public Works Committee's Subcommittee on Superfund, Waste Control and Risk Assessment, chaired by Senator Bob Smith (R-NH), has held several acrimonious hearings. The House Commerce Committee has not begun its deliberations.

N. URANIUM ENRICHMENT

While the Administration has not yet proposed legislation to privatize the United States Enrichment Corporation (USEC), House Commerce Committee Chairman Thomas Bliley (R-VA) held a hearing at which NRC testified on February 24. Subsequently, Chairman Bliley introduced and the Committee approved H. R. 1216, which would provide for USEC's privatization. On March 15, the full House passed H. R. 1215, the Tax Fairness and Deficit Reduction Act, which included the text of H. R. 1216 as Title II. No bills have been introduced in the Senate where the Energy and Natural Resources Committee would have jurisdiction.