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

April 17, 1996

MEMORANDUM TO: Chairman Jackson
Commissioner Rogers
Commissioner Dicus

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

SUBJECT: STATUS OF ISSUES IN THE 104TH CONGRESS

Congress has just returned from a two week recess. 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 apprised of progress on these issues and any other significant new issues that may arise.

Attachment:
As Stated

cc: EDO
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STATUS OF ISSUES
IN THE 104TH CONGRESS

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I. BUDGET

A. GOVERNMENT-WIDE

There are three noteworthy activities under way, and some of these could impact NRC's finances. First, Congressional leaders hope to conclude work on a FY 1997 Budget Resolution (i.e., reconciliation) before the Memorial Day recess. The draft bill could establish spending targets through 2002 and include extension of NRC's 100% user fees. It could also address the budget scoring issue (mandatory/discretionary). Second, the Congress will continue to work on individual FY 1997 appropriation bills (see discussion below). Third, although NRC's FY 1996 appropriation bill has been signed into law, the Congress is continuing to work on the five remaining FY 1996 appropriation bills.

B. NRC APPROPRIATION

On March 27, 1996, the Commission appeared before the House Appropriations Energy and Water Development Subcommittee. The NRC requested $480.3 million for FY 1997, which is only a $7 million increase over FY 1996 and is less than the expected rate of inflation. Chairman Jackson said that the NRC is sensitive to the need to contain costs and felt the resources requested in the FY 1997 budget were necessary to achieve our stated objectives. The Subcommittee has not acted on our budget request, but should do so shortly.

C. NRC FISCAL YEARS 1996-1997 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 and no authorization hearings have been held. However, the House Commerce Committee's Subcommittee on Energy and Power and the Senate Environment and Public Works Committee's Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety have indicated they are interested in holding authorization/oversight hearings during this session.

D. FISCAL YEAR 1996 BUDGET RECONCILIATION -- NRC USER FEES

Budget Reconciliation passed the House and Senate but was vetoed by the President on December 6, 1995. The bill would have extended NRC 100% user fees for five years through Fiscal Year 2002. The Congress and the President have suspended negotiations on this legislation and it is still unclear when they will resume. NRC's authority to collect approximately 100% of its budget through user fees currently expires September 30, 1998.

II. NOMINATIONS

A. INSPECTOR GENERAL NOMINEE

On April 4, the President announced his intention to nominate Hubert T. Bell, Jr. as Inspector General of the U.S. Nuclear Regulatory Commission. A confirmation hearing before the Senate Environment and Public Works Committee has yet to be scheduled.

B. COMMISSION NOMINEES

There have been no new developments to report for filling Commission vacancies for terms ending in 2000 and 1996/2001.

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

A. ADMINISTRATIVE DISPUTE RESOLUTION ACT

In November, the NRC submitted written testimony on S. 1224, reauthorization of the Administrative Dispute Resolution Act, for a hearing by the Senate Governmental Affairs Committee's Subcommittee on Oversight of Government Management. On March 27, the full Committee reported out S. 1224. The next step will be consideration by the Senate. In its testimony, the NRC supported reauthorization and commented on how ADR had been used.

Representative Gekas (R-PA) introduced an ADR Reauthorization bill, H.R. 2977, in February. The House Judiciary Committee reported the bill on March 12.

B. CLEAN AIR

Hearings have been held in both the House Commerce and Senate Environment and Public Works Committees. The primary issue remains implementation of automobile emission standards. Radionuclide emission has not been discussed.

C. CLEAN WATER

In May 1995, the House passed H.R. 961, a bill which would significantly alter the 1972 Clean Water Act. The most controversial part of the bill is Section 104 which would ease the restrictions on developing wetlands. Of interest to the NRC is Section 316 which would exempt NRC licensees' radiological activities (but not NRC certificate holders such as the U.S. Enrichment Corporation for its gaseous diffusion facilities) from being regulated by the Environmental Protection Agency or otherwise treated as a Federal facility.

In the Senate, the Environment and Public Works Committee's Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety held hearings which focused on reclassification of wetlands. A Committee bill seems unlikely.

D. DOD AUTHORIZATION: Federal Information Technology Reform and Procurement Reform

The President signed P.L. 104-106 in February. The bill includes two divisions of interest to the NRC: Procurement Reform and Federal Information Technology Reform. These two divisions streamline procurement practices, modify the Procurement Integrity Act, and create the position of Executive Level IV Chief Information Officers at agencies to oversee improvements in the technology acquisition process. OGC prepared detailed analyses of these two divisions.

E. ELECTRIC POWER INDUSTRY COMPETITION

Congress has held hearings this winter to examine the effects of increased competition in the electric power industry. The various hearings have focussed on state legislatures' and public utility commissions' efforts to enhance competition while reducing ratepayers' bills, concerns about promotion of non-economic goals (low-income rate protection, renewable energy, pollution prevention), and on Senator Johnston's S. 1526, the Electricity Competition Act, which would encourage competition while mandating certain actions such as full recovery of stranded costs, including nuclear decommissioning costs.

The House Commerce Committee's Subcommittee on Energy and Power is planning additional hearings, and Chairman Schaefer (R-CO) is drafting comprehensive legislation. Chairman Murkowski (R-AK), of the Senate Energy and Natural Resources Committee, stated that "several more" hearings are planned before he determines whether comprehensive legislation is necessary.

F. ENRICHMENT

Both the House and the Senate have passed versions of legislation that would privatize the United States Enrichment Corporation. The House passed enrichment language (H.R. 1216) within the context of H.R. 1215, The Tax Fairness and Deficit Reduction Act, but the bill has been bogged down in the Senate Finance Committee. The House also passed the same enrichment language in H.R. 2491, the Budget Reconciliation package. The Senate version (S. 755) was also passed with its Budget Reconciliation package (S. 1357). The differences between the House and Senate versions have been largely worked out and efforts are being made to attach it to any continuing resolution.

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

Last summer, the House Judiciary Committee's Subcommittee on Commercial and Administrative Law held a hearing on H.R. 1802, the Administrative Law Judge Corps Act. This bill purports to eliminate agency influence on the findings of ALJs by creating a central ALJ office which would assign ALJs to cases, rather than agencies assigning them. The NRC submitted a letter to 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. The Subcommittee approved H.R. 1802 last September, but at the request of the full

Committee chair, Representative Hyde (R-IL), held another hearing on March 28. The next step is for the bill to be marked up by the full Committee. Senator Heflin (D-AL) introduced a companion measure, S. 486; no action has occurred.

H. FEDERAL PENSIONS/PAY

The President vetoed last year's Budget Reconciliation which would have increased employees' pension contributions by .25% in 1996, .15% in 1997, and .10% in 1998. Although the veto prevented enactment of Reconciliation, the President included the same pension changes in his FY 1997 budget proposal, beginning in April 1996. Agency contributions for CSRS employees would also increase beginning in 1999, moving from the current 7% to 9.8% of affected payroll. This percentage would increase each year through 2002 when it would reach 17.6 percent.

Interest remains in adjusting the federal retirement system in some fashion; however, the shortened election-year legislative session may delay consideration of changes until the next Congress.

The President's FY 1997 budget also assumed a 3% pay raise in January 1997.

I. FEDERAL REPORTS ELIMINATION AND SUNSET ACT

P.L. 104-66 eliminated some statutorily-required congressional reports (and changed the NRC's quarterly abnormal occurrences report to an annual report). In four years, most remaining reporting requirements will terminate unless Congress acts. In his FY 1997 budget proposal, however, President Clinton proposed that 400 of the reports to be phased out four years hence instead be phased out in FY 1997. Congressional action is needed to implement this proposal.

J. FEDERAL THRIFT SAVINGS PLAN

On April 18, the Senate Governmental Affairs Committee approved Senator Stevens' (R-AK) bill, S. 1080. This legislation would broaden the options for Thrift Savings Plan participants by allowing them to invest in international and small capitalization funds as well as the current G, C, and F funds. In the House, Representative Morella (R-MD) introduced a companion bill, H.R. 2306, in September; no further action has occurred.

K. HEALTH INSURANCE

The President's FY 1997 budget proposal includes a provision changing the formula which determines the federal government's coverage of federal health insurance premiums; employee premiums would be likely to increase as a result. Currently, the formula is based upon the average of premiums charged by the largest health plans and by a phantom plan. The President's proposal would reduce the influence of the phantom plan. No congressional action has occurred to date.

L. HIGH-LEVEL WASTE

Despite a flurry of activity at the end of the first session, the House has not acted further on H.R. 1020. It has cleared the Commerce Committee, but not the House. An issue that must be resolved involves financing the HLW program. The Nuclear Waste Fund currently has assets that exceed $6 billion. This money is viewed as part of the General Fund and is counted when considering deficit reduction. Thus, taking the Fund off budget increases the Federal deficit by $6 billion. Proponents of taking the Fund off budget argue that utility ratepayers are being selectively taxed by Congress since the enabling legislation (Nuclear Waste Policy Act) set up a separate account to fund the program. H.R. 1020 would take the Waste Fund off budget. Resolution of this issue has been the proximate cause for delay in full House consideration of the bill.

In the Senate, Senator Larry Craig (R-ID), and 25 cosponsors, introduced S. 1271, which is very similar to H.R. 1020; however, it would not take the Waste Fund off budget. The Senate Energy Committee, Chaired by Senator Frank Murkowski (R-Alaska) approved it mostly along party lines with Senator Howell Heflin (D-Ala.) siding with the Republicans and Senators J. Bennett Johnston (D-LA) and Bill Bradley (D-NJ) abstaining. The Administration is opposing the bill because it would designate Nevada as the site of an interim nuclear waste storage facility before the viability of a permanent repository at Yucca Mt. has been determined. The Administration also opposes the removal of EPA from its traditional role in setting human health and environmental standards for the repository.

M. 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. 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. Despite these efforts and a letter of appeal by the State Department, Congressional reaction so far can be described as generally unenthusiastic.

N. LOW-LEVEL WASTE/WARD VALLEY

On March 13, 1996, the Senate Energy Committee reported out a bill (S. 1596) directing the transfer of 1,000 acres of desert land at the Ward Valley site from the Department of Interior to the State of California for use as a low-level radioactive waste facility. The bill was introduced by Chairman Frank Murkowski and Ranking Member J. Bennett Johnston. Senator Murkowski said that it's time to end this bureaucratic stalemate and allow the State of California to accept the responsibility that we gave them by legislation. In the House, Representative Brian Bilbray (R-CA) introduced a companion bill, H.R. 3083, where it has been referred to the Commerce Committee.

In the House, the Texas Compact (H.R. 558) between Texas, Maine and Vermont was approved by the Commerce Committee. However, an attempt to have the House pass it under a suspension of the rules failed because some members of the Texas delegation who oppose it would have been unable to offer amendments. A second attempt to bring the bill to the floor is being made with an opportunity for opponents to offer amendments. The Senate companion bill, S. 419, was approved by the Judiciary Committee. Negotiators are working to remove a hold placed on the bill by Senator Paul Wellstone (D-MN) by allowing the Senator to offer an amendment to address environmental justice concerns.

O. NONPROLIFERATION/EXPORT ISSUES

The Senate Governmental Affairs Committee held a hearing on February 28, 1996 on the U.S.-Euratom Agreement. The 90 day clock, which is the amount of time the Agreement had to sit before Congress, ran out on March 14. Since there was no objection, the Agreement went into effect automatically.

P. REGULATION OF THE DEPARTMENT OF ENERGY FACILITIES

The House Science Committee held a hearing on September 7, 1995, on proposed legislation to shift a portion of regulatory responsibilities for the National Laboratories away from DOE. The NRC submitted testimony for the record which provides views on H.R. 2142, the Department of Energy Laboratory Missions Act, and H.R. 1510, the Department of Energy Laboratories Efficiency Improvement Act. No subsequent action has occurred in the Committee and no comparable legislation has been introduced in the Senate.

The Federal Advisory Committee on External Regulation of DOE Nuclear Safety recently presented its Final Report to the Hill. The Secretary of Energy formed an interagency group, led by Thomas Grumbly, to respond to the Report's recommendations and develop a plan to move the Department to external regulation. Hugh Thompson is NRC's task force representative. While the original plan was to complete the DOE departmental review by late March, the schedule for the task force activities is uncertain.

No Congressional action is expected until the task for completes its review and recommendations. Even if the House Science Committee, which has oversight responsibilities for the National Laboratories, has additional hearings, the Congressional committees with jurisdiction of NRC have yet to express much interest in legislation in this area.

Q. SMALL BUSINESS REGULATORY FAIRNESS ACT

The President signed the Small Business Regulatory Fairness Act, P.L. 104-121, on March 29. This legislation was included in a package to extend the debt limit. After a major rule is promulgated, the law imposes a regulatory congressional review period for 60 days during which the rule cannot become effective. Congress can utilize this review period to consider legislation to modify or repeal the rule. The Office of General Counsel prepared a detailed analysis for the Commission.

In the absence of last year's broader regulatory reform which would have included regulatory review, cost-benefit analysis, and risk assessment, this modified version was enacted so that Congress can point to action in this area.

R. URANIUM MILL TAILINGS

Under Section 112 (a) of the Uranium Mill Tailings Radiation Control Act of 1978, the Department of Energy's authority to perform remedial action at Title I sites expires on September 30, 1996. Since DOE's (and NRC's) actions will not be completed by

this date, an extension is necessary. DOE believes an additional two years will be needed to complete the program. Senator Hank Brown (R-CO) introduced S. 341, to extend the program until September 30, 1998. No action has been taken on this bill in the Senate. In the House, the Commerce Committee passed Representative Dan Schaefer's bill, H. R. 2967, which would extend the program two years and increase the Federal share of the cleanups.