



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

September 4, 1990

MEMORANDUM FOR: Chairman Carr
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick

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

SUBJECT: STATUS OF ISSUES IN THE 101ST CONGRESS

Attached for your information and use is the current status of issues relevant to the NRC and being monitored by the Office of Congressional Affairs.

Attachment:
As Stated

cc: OGC
SECY
EDO
GPA/Denton
GPA/Fouchard

A/24

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IN THE 101ST CONGRESS

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STATUS OF ISSUES IN THE 101ST CONGRESS

I. FY 1991 NRC BUDGET

A. Appropriations

The House and Senate have passed H.R. 5019, the Energy and Water Development Appropriations Bill of 1991. The total NRC request of \$475 million was approved by both bodies. The bill will require a conference which should meet when the Congress returns from the August recess in September. The Senate Report requires the NRC to submit a report to the Senate Committee on Appropriations by September 19, 1990, detailing resource requirements necessary to comply with earlier advanced reactor schedules.

The FY 1991 Energy and Water Appropriations Bill is subject to an agreement between members involved with the FY 1991 Budget Summit. There is general agreement among all involved that the level of funding for the NRC will be reduced once an agreement is reached. If no agreement is reached then a 31% across-the-board sequester will occur effective October 1, 1990.

B. Budget Resolution

The House passed House Con. Res. 310, the Congressional Budget for the United States for Fiscal 1991, 1992, and 1993 on May 1, 1990. The bill assumed that Congress would enact legislation which would require the NRC to collect user fees totaling 100% of the NRC budget.

The Senate passed H. Con. Res. 210 on June 14, 1990. NRC user fees were not addressed in the bill.

Conferees have been named but no meetings have taken place.

C. FY 1990-91 Authorization

The Authorization Bill submitted by the Commission was introduced in the House as H.R. 1549 but has not been introduced in the Senate. Both House authorizing committees reported out a bill and appeared before the Rules Committee for approval to bring the bill to the floor.

Interior and Insular Affairs (Udall) adopted an amendment in the nature of a substitute to H.R. 1549. The amendment incorporates the NRC requested authorization levels and provides:

1. Authorization of a direct appropriation of the Nuclear Waste Fund to the NRC for FY 1990 and FY 1991.

2. 100% user fee authority and makes the user fee provision a permanent amendment to the Atomic Energy Act.

Energy and Commerce (Dingell) marked up H.R. 1549 and reported the bill with two additional amendments:

1. The Ritter amendment prohibiting the use of NRC funds relating to the transfer of Shoreham to the Long Island Power Authority.
2. The Markey amendment prohibiting the production of tritium in NRC-licensed facilities for nuclear weapons purposes.

The Rules Committee determined that the Udall version of H.R. 1549 would be the vehicle used on the floor. An open rule was granted which provides for one hour of general debate and opens the bill to amendment.

It is unclear whether the House will consider H.R. 1549 this session.

No Senate action is anticipated during the second session.

II. NRC ORGANIZATION

A. Single Administrator

Legislation to change the Commission format to a Single Administrator, S. 946, is not expected to receive further consideration from the Senate Environment and Public Works Committee in this Congress due both to the lack of interest in the House as well as the change in priorities resulting from the transfer of the Nuclear Regulation Subcommittee chairmanship from Senator Breaux to Senator Graham. The Subcommittee held one day of hearings on S. 946 last summer. Senator Graham is considering holding a roundtable/discussion format hearing early in the next Congress which would focus on the issues of NRC organization--including Single Administrator--and fiscal accountability. The latter issue results from Senator Graham's interest as chairman of the HUD Investigation Subcommittee in preventing "HUD-type" scandals from occurring at other agencies.

III. NRC-RELATED LEGISLATION

A. NRC Legislative Proposals

No action is expected on NRC's legislative proposals which were introduced as an omnibus bill by Representative Udall. One of these proposals, which would remove the requirement to have the express

approval of the Attorney General to prosecute certain violations of the Atomic Energy Act, was included in the Senate Crime Bill. Should the House pass such legislation and the conferees produce an acceptable agreement, this provision should survive.

B. Advanced Reactors

Interest in this area will increasingly focus on two areas:

- the level of detail required for a certified design under Part 52, and
- the schedules for the completion of NRC activities resulting in design certifications for each reactor type.

DOE, the vendors, utilities, and trade groups have been steadily lobbying both Houses about their concerns that NRC will require a level of detail far beyond that which is actually required by Part 52 and that NRC's schedules are slipping because there are insufficient resources and management focus on the effort within NRC.

Their efforts have resulted in the report language of the Senate Appropriations Committee which requires the NRC to report to them by mid-September on resources needed to get current schedules expedited. We have been asked, informally, to brief the Senate Energy Committee staff as soon as the Commission decided the level of detail issue and schedules are appropriately adjusted. We can assume that this issue could be addressed in the report of the Appropriations Conferees. House Space, Science and Technology staff could become more involved in this issue as the session goes on. We will also have markedly increased attention to this effort due to conditions in the Mideast and the prices of petroleum energy products.

C. License Renewal

An increasing amount of scrutiny is likely toward our proposals and efforts on license renewal. The amount will be proportional to the volume and content of opposition to the program on plant specific or generic grounds. The issue of deferring to industry has the potential to arise again via this issue.

D. Pilgrim

Representative Studts has already asked Representative Kostmayer to look into the NRC's response to the recent Inspector General's report regarding emergency planning at Pilgrim. A hearing at some point in

October is possible. Some Senate initiative on this issue can be expected although we have not yet heard from anyone.

E. Seabrook

Attention to a number of issues concerning Seabrook will continue. We can expect that interest in the weld issues will continue, although at a lesser pace. As the Inspector General and the GAO finish their respective efforts, look for another round of questions and correspondence. Hearing prospects depend upon the findings.

F. TVA

Resolution of questions about Sequoyah cables will receive attention. Browns Ferry restart and Watts Bar licensing will receive lesser attention. We will continue to keep our oversight Committees and TVA Caucus informed of our activities.

G. International

1. China

Congress passed and the President signed legislation that would impose sanctions on China. Included in these sanctions are restrictions on nuclear cooperation with China. NRC is barred from issuing any export licenses pursuant to the Agreement of Cooperation between the United States and China unless the President certifies to Congress that China has not and will not assist in the development of nuclear explosive devices or materials and components for such devices by non-nuclear weapons countries. This bill became Public Law 101-246.

2. East European Democracy

On July 31, 1990, Senator Pell introduced a comprehensive bill (S. 2944) to help support former East Bloc countries through political and economic transition. There is a provision in the bill that would establish an "International Nuclear Safety Board" to assess the operations and safety of existing nuclear power plants in East Bloc countries. The Senate Foreign Relations Committee has reported the bill to the Senate, but there will probably not be any further activity before adjournment.

H. Emergency Planning

Two weeks before the Commission granted the Seabrook Nuclear Station a full power license, Representative Douglas (R-NH) introduced a bill (H.R. 4153) amending the Atomic Energy Act that would require that all nuclear power plant emergency planning and preparedness issues be

resolved before an applicant is issued a construction permit, operating license, early site permit, or combined license. The bill was referred to the House Committees on Interior and Insular Affairs and Energy and Commerce. No hearings have been held and no activity on the legislation is expected this Congress.

I. High-Level Waste

The Senate Committee on Environment and Public Works' Subcommittee on Nuclear Regulation (Graham) plans to hold a hearing in "roundtable" format on October 2 to discuss the high-level radioactive waste management program. Specifically, interest will be in DOE progress toward characterizing a site for a deep geologic repository, the recent National Academy of Sciences' National Research Service report, and other matters of interest to those invited to testify. Invites include NRC staff; DOE; Nuclear Waste Technical Review Board; EPA; Dr. Frank Parker, Chairman, National Research Council; an industry and an environmental group representative.

No other hearings or action on bills is expected until the Ninth Circuit Court of Appeals decides the DOE and Nevada consolidated cases regarding characterization of Yucca Mountain.

J. Low-Level Waste - BRC

No hearings are presently scheduled in either the House or the Senate.

Although Michigan Governor Blanchard promised to submit draft legislation and a number of other States (e.g., New York, North Carolina, Nebraska) are falling behind in their site search schedules, it appears that Committee Chairmen with jurisdiction continue to view LLW as a State problem and are unwilling to reopen the 1985 Act.

Representatives Miller and Rahall have introduced anti-BRC bills in the House. It is unlikely that markups will be held in the House Energy and Commerce and Interior and Insular Affairs Committees before the end of the session. Senator Mitchell's BRC bill, S. 2979, would allow States to impose standards more stringent than NRC's for LLW disposal in LLW disposal facilities. The little remaining time in the session and the fact that the Environment and Public Works Committee has not scheduled a hearing or markup would work against passage of a bill. However, members opposed to BRC might seek to attach an anti-BRC amendment to an appropriate legislative vehicle which would require immediate House and Senate attention.

K. Mixed Waste

Although the House Committee on Energy and Commerce's Subcommittee on Transportation and Hazardous Materials (Rep. Thomas Luken) completed

markup of H.R. 3735 before the recess, other committees with jurisdiction in both the House and Senate have indicated that the Resource Conservation and Recovery Act will not be considered seriously until the next Congress. Senate bills S. 1112 and S. 1113 are presently pending before the Environment and Public Works Committee. Hearings before the Subcommittee on Toxic Substances were held in June but there has been no further action primarily because of the Subcommittee Chairman's (Senator Max Baucus) involvement with Clean Air.

L. Price-Anderson

The President's Commission on Catastrophic Accidents, established by the Price-Anderson legislation passed in the last Congress, has submitted its report with some suggestions for future legislation. There does not appear to be any pressing urgency to the recommendations nor any interest in revisiting Price-Anderson at this time.

M. Uranium Enrichment

The comprehensive uranium enrichment bill, S. 83, which includes transfer of DOE's enrichment program to a new Corporation and federal money for remediation of active uranium and thorium processing sites, has passed the Senate. The House Committees with jurisdiction (Energy and Commerce, Interior and Insular Affairs, and Science, Space and Technology) have held hearings on the Smith-Barney financial report. A Subcommittee of Science, Space, and Technology has marked up the bill, H.R. 2480. The full Committee had planned to mark up the bill before the recent recess, but 12 members of the Committee asked for additional time and possibly a hearing. Neither of the other two Committees plan additional hearings at this time.

Passage of a bill before the elections is not anticipated. More likely would be an attempt in the Senate during a possible lame duck session to add S. 83 as an amendment to a House passed bill and try to work out a compromise in Conference.

The Senate also earlier passed an amendment to a Minnesota lands bill, H.R. 2783, that would outline the licensing requirements for private enrichment facilities such as the one contemplated by the Louisiana Energy Services. House and Senate staff appear to be close to agreement on the requirements. Passage of the bill is expected although, again, during a lame duck session.

N. Licensing Reform/Standardization

The Senate Nuclear Regulation Subcommittee has scheduled a hearing on the licensing process and design standardization for September 18. Bill Parler and Jim Taylor will be testifying, as will be DOE, Union for Concerned Scientists, Electricite de France, and someone from industry. This hearing is the second in a series of briefing hearings planned by Senator Graham since he assumed the chair of the Subcommittee. In July a hearing focussed on the role of nuclear power in the nation's electricity supply. Future hearings will be on high level waste and on NRC organization/financial accountability.

IV. GOVERNMENT-WIDE LEGISLATION

A. Fasteners

The House passed H.R. 3000, the Fastener Quality Act, on September 19, 1989. The bill requires that manufacturers provide for the inspection and testing of a sample from each lot of fasteners produced to determine whether they conform to the standards and specifications to which the manufacturer represents they have been manufactured.

In the Senate, H.R. 3000 was the subject of a hearing held by the Committee on Commerce, Science, and Transportation. The Committee has reported out the bill (Report 101-381). The Senate is expected to pass H.R. 3000 before the second session ends. There are differences between the House and Senate versions. The House is expected to agree to the Senate-passed version.

B. Hazardous Materials Transportation Act Reauthorization

The Hazardous Materials Transportation Act expired in 1986. The Congress is actively considering the reauthorization of this legislation. H.R. 3520 is the legislative vehicle in the House of Representatives. The Committees on Energy and Commerce and Public Works share jurisdiction.

H.R. 3520 was approved and reported from the Energy and Commerce Committee by voice vote on March 13, 1990. The bill requires the Secretary of Transportation to issue regulations regarding nuclear waste transportation, require dedicated vehicles for transport, and develop regulations regarding the mode and route of nuclear waste transportation.

On August 2, 1990, the Public Works Subcommittee approved an amended version of H.R. 3520 and added a provision regarding the inspections of vehicles transporting specified radioactive materials. Full Committee action will be scheduled for September. After that the Energy and Commerce and Public Works Committees will meet to resolve outstanding issues before the bill is sent to the floor.

In the Senate, the legislative vehicle is S. 2936. The bill was approved and reported out of the Commerce, Science and Transportation Committee on July 31, 1990. The bill requires use of dedicated trains for nuclear shipments and mode and route selection by the Secretary of Transportation. S. 2936 also requires that shipments of high-level nuclear waste and spent fuel only occur in NRC certified containers and that the NRC require containers be subject to actual testing.

S. 2936 is scheduled to be considered by the Senate in September.

C. Ethics Reform

One provision of the Ethics Reform Act of 1989 delayed implementation of amendments to the Office of Federal Procurement Policy Act regarding post-employment restrictions for procurement officers until December 1, 1990. During this delay, the Administration was to submit a procurement ethics reform package. Since the Administration's proposal, S. 2775, was not received until June, and Congress has yet to act on it, the Senate added an amendment to the Defense Authorization bill before passing that legislation to delay the effective date of these restrictions until May 31, 1991; the House version of the Defense Authorization Bill does not contain such a provision. Senator Levin intends to hold hearings on procurement ethics reform in the early part of the 102nd Congress which convenes in January.

For an update regarding the senior executive pay raise included in the Ethics Reform Act, see Pay Reform.

D. Pay Reform

Three items:

1. After holding numerous hearings this year, House and Senate committees reported out pay reform legislation, H.R. 3979 and S. 2774, in July.

Both bills, to varying degrees, provide for locality pay increases, automatic annual adjustments of GS salary rates based on the Employment Cost Index, and recruitment and retention bonuses. While the House bill provides critical pay authority for up to 400 positions Government-wide, payable up to the rate for Executive Level I, Senator Glenn separately added an amendment to provide such authority for 800 positions to the Senate version of the Defense Authorization Act. Senator Glenn also added an amendment to the same Act authorizing pay-for-performance demonstration projects at federal laboratories (the DOD bill had included both actions, applicable just to DOD, so Senator Glenn's amendments broadened their applicability to government-wide).

The Congressional Committees are expected to issue their reports on the bills shortly after Congress reconvenes in September, with Floor action soon thereafter. Senator DeConcini (D-AZ) is considering

offering an amendment to the Treasury/Postal Service Appropriations bill (the first bill scheduled to be considered by the Senate in September) which would provide pay increases to law enforcement officers. If such an amendment were to be offered, Senator Glenn might offer S. 2274, the entire package of pay reform, as an amendment to the appropriations bill.

The Administration remains concerned about two issues: 1) the cost of pay reform, and 2) preservation of the President's flexibility to determine the size of pay increases. Both Committees have great optimism that these concerns can be addressed and that pay reform legislation can be enacted this year.

2. Separately, the President has recommended a 3.5 percent pay increase for federal civilian employees, effective January 1.

3. As a result of the Ethics Reform Act of 1989, a 25% pay raise for Presidential appointees is scheduled to take effect in 1991. Similarly, the President is expected to sign an Executive Order before January which would provide SES members with pay raises of 18-25%. While the SES raise is not authorized by the aforementioned Act, the SES recertification provisions it contains were included in the Administration's request with the understanding that the Executive Order for pay increases would be signed. In the words of the Senate Governmental Affairs Committee, there will be a "hue and cry" if the Administration reneges on this agreement, and the Executive Order is expected to be signed.

E. Appeal Rights for the Excepted Service

In August, the President signed into law P.L. 101-376, the Civil Service Due Process Amendments Act. This Act provides significant new rights to NRC employees. All NRC employees who are not in the SES are in the excepted service. Formerly, if major adverse personnel action or performance-based action was taken against these employees, there were no appeal rights to the Merit Systems Protection Board (MSPB) unless the employee had veteran's preference. Employees in the competitive service have MSPB appeal rights. This legislation would extend competitive service appeal rights to those in the excepted service, unless the agency head determined that employees who hold confidential, policy making, or policy advocating positions should not be given such rights. A memorandum discussing this legislation in greater detail is now being prepared by the staff and OGC.

F. Hatch Act

In late Spring, Congress passed by large margins amendments to the Hatch Act allowing Federal employees to participate in political activities (the votes were 297-90 in the House and 67-30 in the

Senate). The President subsequently vetoed the legislation, and the Senate failed by two votes to override.

Senator Glenn (D-OH) is uncertain whether he will continue to pursue Hatch Act reform legislation, preferring to determine whether there will be sufficient votes to override a veto in the next Congress.

G. Paperwork Reduction Act

An acrimonious dispute between the White House and Congress regarding a supposed agreement with OMB on the review of federal regulations threatened reauthorization of the Paperwork Reduction Act, which expired on September 30, 1989. The House Government Operations Committee approved streamlined reauthorization legislation this Spring, thinking it had an informal agreement with OMB regarding the imposition of deadlines and increased openness on regulatory reviews. Subsequently, OMB denied that any deal had been made, which led to: 1) the Committee attempting to strip OMB of its regulatory review funding and 2) the Senate Governmental Affairs Committee reporting out a bill incorporating all the provisions which had allegedly been agreed to earlier by OMB. To reduce the tension and avoid the Senate's statutory language, OMB offered a proposal under which President Bush would sign an Executive Order addressing many of Congress' concerns. Due to the congressional recess, further discussions of this issue have not occurred, and Governmental Affairs is still considering bringing its bill to the Floor.

H. Health Insurance Reform

Stating that the current system is too costly and confusing for federal workers, Representative Ackerman (D-NY) introduced H.R. 4958, legislation to reform the Federal Employees Health Benefits Program (FEHBP). This bill would replace the numerous fee-for-service plans with a single two-option plan (standard and high option, for either self or family); enrollment in health maintenance organizations would still be allowed. The \$3.34 billion price tag of the bill is a concern. OPM has its own proposal, but there is fear that federal employees would end up paying more for fewer benefits. The bill was the subject of three hearings this summer and is currently being "refined."

The Senate Governmental Affairs Committee held a hearing in April on federal health insurance reform; it does not plan any more hearings, but "certainly" intends to act on this issue in the 102nd Congress.

I. Contracting Out

Following a number of hearings last year on contracting out of certain federal functions and its effect on the federal workplace, in June the

House Post Office and Civil Service Committee ordered to be reported H.R. 4049. The Committee anticipates that Representative Kanjorski's (D-PA) bill will be considered by the House before adjourning. The Senate Governmental Affairs Committee may have a hearing on contracting out and the use of consultants in late September or October.

H.R. 4049 would require that risk/benefit studies be conducted before contracting out could occur, direct OMB to establish uniform, Government-wide accounting and management procedures when conducting cost comparison studies, require economic impact statements on the effect of contracting out on local communities and federal employees, and provide priority placement and retraining programs for employees displaced from conversions.

J. Security Clearances

Having held numerous joint hearings earlier this year on the revocation or denial of security clearances as a means of retaliation for employees' political beliefs, sexual orientation, or whistleblowing activities, the House Judiciary and Post Office and Civil Service Committees will release a staff report soon after the August recess. No further action on this issue is anticipated for this Congress, but the report has the "potential" to be used to push a bill in the next Congress.

K. Family and Medical Leave Act

In late Spring, Congress approved the Family and Medical Leave Act, which would provide 12 weeks of unpaid leave for the birth or adoption of a child or for the serious illness of an immediate family member, including one's self, applicable to employers of more than 50 people. President Bush vetoed the legislation, and by a vote of 232-195, the House failed to override. Senator Dodd (D-CT) has already reintroduced his legislation and has stated his intention "to do everything possible to put this bill back on the President's desk..." if not this year, then, "early next year."

L. Equal Employment Opportunity Process

Two House Committees held a series of hearings this year on the effectiveness of the federal equal employment opportunity process. The EEOC proposed changes in its regulations to address concerns regarding delays in the resolution of complaints and the "fox guarding the chicken coop" nature of agencies investigating complaints against themselves, but the Committee deemed those efforts inadequate. Representatives Martinez (D-CA) and Sikorski (D-MN) are drafting legislation to be introduced after the August recess which could include the following actions: 1) remove the EEO function from

agencies; 2) impose sanctions against individual offenders, including maintaining findings of discrimination of the perpetrator's personnel records; 3) eliminate federal taxes on back pay awards; and, 4) impose deadlines for the resolution of allegations.

The Senate Governmental Affairs Committee does not plan to consider this issue until the House legislation has passed.

M. SES Improvements Act

Representatives Sikorski (D-MN) and Morella (R-MD) introduced H.R. 5322 in July and plan hearings on it in late September. This legislation would increase the number and size of SES bonuses, establish minimum requirements for continuing education, allow the MSPB to mitigate unreasonable penalties against SES employees, and prohibit SES members from being forced to accept a reduced grade or pay level in order to fill a different position or to participate in sabbaticals. Since a similar bill has not been introduced in the Senate and there are few legislative days remaining in this Congress, most action on this initiative would be deferred until next year.

N. Federal Financial Management Improvement Act

Legislative activity is brewing on reforming federal financial management processes. In July, Senator Glenn (D-OH) introduced S. 2840, the Federal Financial Management Improvements Act, and in August, Representative Horton (R-NY) introduced a similar bill, H.R. 5492. Representative Conyers (D-MI), chair of the House Government Operations Committee, is circulating his own draft legislation on this topic (NRC has been asked to comment on it) and plans two days of hearings on September 17 and 18. The Senate Governmental Affairs Committee has scheduled a hearing on S. 2840 for September 19. The bills would create Presidentially-appointed chief financial officers in the departments and major agencies, including the NRC, with the requirement that each produce annual, audited financial statements; OMB strongly supports such action. The driving force behind legislation is the concern that lack of financial accountability could create scandals similar to that at HUD.

O. Employee Health and Safety Whistleblower Protection Act

The Senate Labor and Human Resources Committee reported out Sen. Metzenbaum's whistleblower bill, S. 436, in June. This legislation would strengthen protections which are available to private sector employees who blow the whistle on threats to public health and safety by extending protection to those employees who are not currently protected by the patchwork of whistleblower laws (a bill in the House would wipe the slate clean and replace existing laws with a single federal whistleblower statute). The Committee, while acknowledging the short legislative timeframe, said that S. 436 is a "high priority" and Senate Floor action in September is anticipated.

P. Groundwater Research

The Senate Environment and Public Works Committee marked up a comprehensive groundwater bill, S. 203, prior to the recess. Passage of the bill is not anticipated since Senate and House staffers have yet to work out their disagreements. The Senate passed a similar bill in the last Congress. In addition, the Administration opposes S. 203.

Q. CEQ Authorization

H.R. 1113, the reauthorization bill for the Council on Environmental Quality for FY 1989-1993, was passed by the House. It would require Federal agencies to analyze the environmental impacts within the territory of a foreign nation resulting from a major Federal action. CEQ would also be given the authority to issue regulations binding on independent regulatory agencies. Federal agencies would also be required to reassess a number of previously issued environmental impact statements. These provisions were also added to the Department of Environmental Protection legislation, H.R. 3847, before the House passed that bill.

The Senate Environment and Public Works Committee passed a companion bill, S. 1089, on April 24. A number of holds were placed on the bill by Senators opposed to some of its provisions. Unless the concerns of these Senators are resolved, the full Senate will not consider it. In addition, many Executive Agencies oppose the bill. The Administration's position is being formulated in OMB.

R. Clean Air

Both Houses have passed differing Clean Air bills (S. 1630). Conferees led by Senator Max Baucus first met on July 13. The overall conference has gone slowly and will continue to do so although resolution of the remaining issues is expected to go smoothly. The Senate Conferees have apparently agreed to retain the Simpson radionuclide amendment but have chosen not to pursue Federal preemption of setting more stringent standards. The House Conferees have not made known their position on the radionuclide issue.

Passage of the bill is expected.

S. Thrift Savings Plan Amendments

The President signed P.L. 101-335 in July which broadens the investment options available to civil servants through the tax-deferred thrift savings plan (TSP). Workers covered by CSRS will be able to contribute up to 5% of their pay into the TSP's G-fund (Treasury), C-fund (Stocks), or F-fund (bonds) options. Before, they could only invest in the G-fund. Workers covered by the FERS will be

able to invest (up to 10% of pay plus the 5% match they get from the government) any way they want. Previously, the match and some of their pay had to go to the G-fund. Open season for changes in current investment options begins in November, with changes effective next year.

T. Negotiated Rulemaking Act

The House and Senate have passed differing versions of S.303, the Negotiated Rulemaking Act. This legislation would amend the Administrative Procedures Act and establish a framework for the conduct of negotiated rulemaking by federal agencies. The Senate is willing to accept the minor differences contained in S. 303 as passed by the House, so a conference will not occur. The problem will be in getting Floor time for this low-priority bill on the crowded legislative schedule awaiting Congress upon its return from August recess. The Senate Governmental Affairs Committee anticipates that the bill will be approved, but perhaps as one of the last items of business before adjournment.

U. Americans with Disabilities Act

The President signed the Americans with Disabilities Act, Public Law 101-336, in July. Under the law, non-federal persons abusing drugs or alcohol would not be considered disabled; federal employees abusing drugs would no longer be considered disabled. The law apparently does not address alcohol use in federal employment. Section 104 provides that nothing in the law is intended to modify NRC's fitness for duty rule.

V. Administrative Dispute Resolution Act

The House has passed H.R. 2497, the Administrative Dispute Resolution Act, which would authorize and encourage federal agencies to use mediation, conciliation, arbitration, and other techniques to promptly and informally resolve disputes. The Senate Governmental Affairs Committee may mark up the House-passed bill on September 27.