

March 17, 2005

The Honorable Richard B. Cheney
President of the United States Senate
Washington, DC 20510

Dear Mr. President:

In accordance with the provisions of Section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017), Section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and Section 108 of the Inspector General Act of 1988 (31 U.S.C. 1105(a)(25)), the Nuclear Regulatory Commission (NRC) is submitting proposed legislation which authorizes appropriations for fiscal year 2006. The legislation requests authorization for fiscal year 2006 for "Salaries and Expenses" of \$693,376,000; and for the "Office of Inspector General" of \$8,316,000.

The Omnibus Budget Reconciliation Act of 1990 as amended, requires the NRC to collect fees from its licensees for approximately 90 percent of its FY 2006 budget less appropriations from the Nuclear Waste Fund. The 90 percent fee recovery requirement will revert to 33 percent in FY 2006. At the request of the Office of Management and Budget, Section 5 was added to the authorization legislation to renew the 90 percent fee recovery requirement.

The Office of Management and Budget advises that the transmission of this legislation to Congress is in accord with the program of the President.

Sincerely,

/RA/

Jeffrey S. Merrifield
Acting Chairman

Enclosure: Legislation Authorizing
Appropriations for FY 2006

Identical letter sent to:

The Honorable Richard B. Cheney
President of the United States Senate
Washington, D.C. 20510

The Honorable J. Dennis Hastert
Speaker of the United States House
of Representatives
Washington, D.C. 20515

The Honorable George V. Voinovich, Chairman
Subcommittee on Clean Air, Climate Change,
and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510
cc: Senator Thomas Carper

The Honorable Joe Barton, Chairman
Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515
cc: Representative John Dingell

The Honorable Pete V. Domenici, Chairman
Subcommittee on Energy and Water Development
Committee on Appropriations
United States Senate
Washington, D.C. 20510
cc: Senator Harry Reid

The Honorable David L. Hobson, Chairman
Subcommittee on Energy and Water Development
Committee on Appropriations
United States House of Representatives
Washington, D.C. 20515
cc: Representative Peter J. Visclosky

The Honorable James M. Inhofe, Chairman
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510
cc: Senator James M. Jeffords

The Honorable Ralph M. Hall, Chairman
Subcommittee on Energy and Air Quality
Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515
cc: Representative Rick Boucher

The Honorable Judd Gregg, Chairman
Committee on the Budget
United States Senate
Washington, D.C. 20510
cc: Senator Kent Conrad

The Honorable Jim Nussle, Chairman
Committee on the Budget
United States House of Representatives
Washington, D.C. 20515
cc: Representative John M. Spratt, Jr.

U. S. NUCLEAR REGULATORY COMMISSION
PROPOSED BILL FOR AUTHORIZATION OF APPROPRIATIONS
FISCAL YEAR 2006

To authorize appropriations for the Nuclear Regulatory Commission for fiscal year 2006.

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

Section 1. This Act may be cited as the “Nuclear Regulatory Commission Authorization Act for Fiscal Year 2006.”

Section 2. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2006.

(a) SALARIES AND EXPENSES.--There are authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017) and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), \$693,376,000 for fiscal year 2006 to remain available until expended, of which \$69,050,000 is authorized to be appropriated from the Nuclear Waste Fund.

(b) OFFICE OF INSPECTOR GENERAL.--There are authorized to be appropriated to the Nuclear Regulatory Commission's Office of Inspector General in accordance with the provisions of 31 U.S.C. 1105(a)(25), \$8,316,000 for fiscal year 2006 to remain available until expended.

Section 3. ALLOCATION OF AMOUNTS AUTHORIZED.

(a) IN GENERAL.--The amounts authorized to be appropriated under Section 2 (a) for fiscal year 2006 shall be allocated as follows:

(1) NUCLEAR REACTOR SAFETY.-- \$469,148,000 may be used for the “Nuclear

Reactor Safety Program”.

(2)NUCLEAR MATERIALS AND WASTE SAFETY.-- \$224,228,000 may be used for the “Nuclear Materials and Waste Safety Program”.

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

(c)REALLOCATION.--

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

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

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

Section 4. LIMITATION.

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

Section 5. NRC USER FEES AND ANNUAL CHARGES.

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

(1) striking paragraph (1) of subsection (a) and inserting the following:

“(1) IN GENERAL.-- The Nuclear Regulatory Commission shall annually assess and collect such fees and charges as are described in subsections (b) and (c).”;

(2) striking subsection (a)(3);

(3) striking "and" after the semicolon at the end of clause (i) in subsection (c)(2)(A);

(4) striking the period at the end of clause (ii) in subsection (c)(2)(A) and inserting "; and";

and

(5) adding the following clause at the end of subsection (c)(2)(A):

“(iii) amounts appropriated to the Commission for the fiscal year for implementation of section 3116 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005.”; and

(6) striking clause (v) of subsection (c)(2)(B) and inserting the following:

“(v) 90 percent for fiscal year 2005 and each fiscal year thereafter.”

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

Section 6. COST RECOVERY FROM GOVERNMENT AGENCIES.

Section 161 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(w)) is amended--

(1) by striking “for or is issued” and all that follows through “1702” and inserting “to the Commission for, or is issued by the Commission, a license or certificate”;

(2) by striking “483a” and inserting “9701”; and

(3) by striking “, of applicants for, or holders of, such licenses or certificates”.

Section 7. PROMOTIONAL ITEMS.

Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is **amended by** inserting the following section:

“Sec. 170C. Promotional Items.

“The Nuclear Regulatory Commission is authorized to purchase promotional items of nominal value for use in the recruitment of individuals for employment.”.

Section 8. HEALTH AND MEDICAL SERVICES FOR EMPLOYEES AND THEIR DEPENDENTS SERVING IN FOREIGN COUNTRIES.

Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.), as amended by section 7, is further amended by inserting the following section:

“Sec. 170D. Health And Medical Services For Employees And Their Dependents Serving In Foreign Countries.

“The **Nuclear Regulatory** Commission is authorized to pay the costs of health and medical services furnished, pursuant to an agreement between the Nuclear Regulatory Commission and the Department of State, to NRC employees and their dependents serving in foreign countries.”.

U. S. NUCLEAR REGULATORY COMMISSION
ANALYSIS OF PROPOSED BILL FOR AUTHORIZATION OF APPROPRIATIONS
FISCAL YEAR 2006

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

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

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

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

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

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

Section 3.(a)--The requested authorization for appropriations under Section 2.(a) is \$693,376,000 for fiscal year 2006 and is allocated as follows:

<u>Program</u>	<u>FY 2006</u>
Nuclear Reactor Safety	\$469,148,000
Nuclear Materials and Waste Safety	\$224,228,000

For Fiscal Year 2006, the request is divided into two program activity categories.

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

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

Section 4.-- This section includes language necessary for budget scoring purposes.

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

Commission from the Nuclear Waste Fund and for implementation of section 3116 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005.

Section 6.--Under 31 U.S.C. 9701 (originally codified as 31 U.S.C. 483a., a provision of the Independent Offices Appropriation Act of 1952 (Public Law 82-137)), the NRC is not authorized to charge fees to other Federal agencies for licensing and inspection services. This amendment will permit the NRC to assess and collect fees from other Federal agencies for these services rather than recovering the costs through annual fees assessed to all licensees. The reference to sections 1701 and 1702 in the current section 161w. of the Atomic Energy Act was deleted as obsolete because of the privatization of the United States Enrichment Corporation.

Section 7. -- This section will authorize the NRC to use appropriated funds to purchase items of nominal value that can be given to attract potential employees as part of NRC's recruitment efforts.

Section 8. --This provision is needed so that NRC staff and their dependents who are assigned overseas could receive health and medical services from the United States embassies in those countries. The NRC has, for many years, assigned an employee to the United States Mission in Vienna, Austria. United States embassies currently provide medical care and services to employees of other Federal agencies through interagency agreements. However, the NRC is unable to obtain these services under agreements with the Department of State unless it obtains statutory authority. The Comptroller General has consistently held that medical care and treatment are personal to a Federal employee and, therefore, payment may not be made from appropriated funds for such care and treatment unless authorized by statute. Congress has granted some agencies the authority to provide medical services to its staff and their dependents under agreement with the State Department. Enactment of this provision would extend the same authority to the NRC.

