

PDR



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

February 6, 1990

CHAIRMAN

The Honorable Thomas S. Foley
Speaker of the United States
House of Representatives
Washington, D. C. 20515

Dear Mr. Speaker:

In accordance with the provisions of Section 261 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2017); Section 305 of the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5875); and Section 1105 (a)(25) of Title 31, United States Code, we submitted on February 23, 1989, proposed legislation which would authorize appropriations for fiscal years 1990 and 1991. The proposed legislation requested authorization for "Salaries and Expenses" of \$472,100,000 for fiscal year 1990 and \$485,840,000 for fiscal year 1991 and authorization for "Office of the Inspector General" of \$2,900,000 for fiscal year 1990 and \$2,950,000 for fiscal year 1991. It also proposed raising Nuclear Regulatory Commission user fees to approximately 100 percent of the NRC's Salaries and Expenses budget. The proposed legislation is currently pending in Congress (H.R. 1549).

The President is requesting a fiscal year 1991 budget of \$475,000,000 for the Nuclear Regulatory Commission--\$471,320,000 for "Salaries and Expenses" and \$3,680,000 for "Office of the Inspector General." This is a decrease of \$13,790,000 below the \$488,790,000 contained in the proposed legislation to authorize appropriations that was provided to you last year. Consistent with the President's request, we are submitting proposed amended legislation which would authorize appropriations for fiscal year 1991.

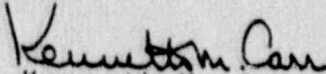
Under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), the Nuclear Regulatory Commission collected user fees that totalled approximately 33 percent of the agency's budget. The Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239) amended Public Law 99-272 to require NRC to collect user fees for a maximum amount estimated to be equal to 45 percent of the agency's budget in FY 1990. Absent legislation, beginning in FY 1991, the agency would again collect user fees that total approximately 33 percent of its budget. In accordance with the President's request, Section 6 of the proposed legislation would increase user fees to a level corresponding to approximately 100 percent of the NRC budget for FY 1991 and all years thereafter.

9002220572 900206
PDR COMMS NRCC
CORRESPONDENCE PNU

JF02
1/1

The Office of Management and Budget advises that there is no objection to the submission of this proposal to Congress and that enactment of this proposal would be in accord with the program of the President.

Sincerely,


Kenneth M. Carr

Enclosure:
Proposed Legislation Authorizing
Appropriations for FY 1991

Identical letters sent to those
on the attached list

Identical Letters with Enclosures sent to:

The Honorable J. Danforth Quayle
President of the United States Senate
Washington, DC 20510

The Honorable Morris K. Udall, Chairman
Subcommittee on Energy and the Environment
Committee on Interior and Insular Affairs
United States House of Representatives
Washington, DC 20515

cc: Rep. James V. Hansen

The Honorable Philip R. Sharp, Chairman
Subcommittee on Energy and Power
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

cc: Rep. Carlos J. Moorhead

The Honorable John B. Breaux, Chairman
Subcommittee on Nuclear Regulation
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

cc: Senator Alan K. Simpson

U.S. NUCLEAR REGULATORY COMMISSION
PROPOSED AMENDED BILL FOR AUTHORIZATION OF APPROPRIATIONS
FISCAL YEAR 1991

To authorize appropriations for the Nuclear Regulatory Commission for fiscal year 1991 and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Nuclear Regulatory Commission Authorization Act for fiscal year 1991."

Section 1. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1991.

(a) SALARIES AND EXPENSES. --There are hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of Section 261 of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2017) and Section 305 of the Energy Reorganization Act of 1974, as amended, (42 U.S.C. 5875) \$471,320,000 for fiscal year 1991 to remain available until expended, of which \$19,650,000 shall be authorized from the Nuclear Waste Fund.

(b) OFFICE OF THE INSPECTOR GENERAL. --There are hereby authorized to be appropriated to the Nuclear Regulatory Commission's Office of the Inspector General in accordance with the provisions of Section 1105(a)(25) of Title 31, United States Code, \$3,680,000 for fiscal year 1991 to remain available until expended.

Section 2. ALLOCATION OF AMOUNTS AUTHORIZED.

(a) IN GENERAL. --The sums authorized to be appropriated under section 1(a) for fiscal year 1991 shall be allocated as follows:

(1) not more than \$185,835,000 may be used for "Reactor Safety and Safeguards Regulation";

(2) not more than \$111,431,000 may be used for "Nuclear Safety Research";

(3) not more than \$45,759,000 may be used for "Nuclear Material and Low-Level Waste Safety and Safeguards Regulation";

(4) not more than \$19,650,000 from the Nuclear Waste Fund, may be used for "High-Level Nuclear Waste Regulation";

(5) not more than \$36,063,000 may be used for "Special and Independent Reviews, Investigations, and Enforcement"; and

(6) not more than \$72,582,000 may be used for "Nuclear Safety Management and Support".

(b) LIMITATIONS. --The Nuclear Regulatory Commission may not use more than 1 per centum of the amounts authorized to be appropriated under section 2(a)(2)

to exercise its authority under Section 31(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2051(a)) to enter into grants and cooperative agreements pursuant to such paragraph. Grants made by the Commission shall be made in accordance with Chapter 63 of title 31, United States Code and other applicable law.

(c) REALLOCATION. --Except as specified below, any amounts authorized for a fiscal year to the Nuclear Regulatory Commission pursuant to any paragraph of section 2(a) for purposes of the program referred to in such paragraph may be reallocated by the Commission for use in a program referred to in any other paragraph of such section, or for use in any other activity within a program, except that the amount available from appropriations for such fiscal year for use in any program or specified activity may not, as a result of reallocations made under this section, be increased or reduced by more than \$500,000 unless the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate are notified in advance by the Commission. Such notification will contain a full and complete statement of the reallocation to be made and the facts and circumstances relied upon in support of such reallocation. Funds authorized to be appropriated from the Nuclear Waste Fund may be used only for the Commission's high-level nuclear waste activities and may not be reprogrammed for other Commission activities.

Section 3. RETENTION OF FUNDS.

Money received by the Nuclear Regulatory Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used, subject to appropriations, for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended.

Section 4. TRANSFER OF CERTAIN FUNDS.

From amounts appropriated to the Nuclear Regulatory Commission pursuant to Section 1(a) of this Act, except for appropriations from the Nuclear Waste Fund, the Commission may transfer sums to its Office of the Inspector General, provided that the total transfer during any fiscal year may not exceed 5 per cent of the amount authorized under Section 1(b) of this Act for that fiscal year.

Section 5. LIMITATION.

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

Section 6. USER FEES AND ANNUAL CHARGES.

(a) AMENDMENT TO ATOMIC ENERGY ACT--Chapter 19 of the Atomic Energy Act of 1954 (42 U.S.C. 2015 et seq.) is amended by adding at the end the following new section:

SEC. 292. USER FEES AND ANNUAL CHARGES.

"(a) ANNUAL ASSESSMENT.--

(1) AMOUNT.--The Nuclear Regulatory Commission (hereafter in this section referred to as the Commission) shall annually assess and collect such fees and charges as are described in subsections (b) and (c) in an amount that approximates 100 percent of the budget authority for NRC Salaries and Expenses in the fiscal year in which such assessment is made, less any amount appropriated to the Commission from the Nuclear Waste Fund in such fiscal year.

"(2) FIRST ASSESSMENT.--The first such assessment shall be made not later than September 30, 1991, and shall be based on the NRC's Salaries and Expenses budget authority for fiscal year 1991.

"(b) FEES FOR SERVICE OR THING OF VALUE.--Pursuant to section 9701 of title 31, United States Code, any person who receives a service or thing of value from the Commission shall pay fees to cover the Commission's costs in providing any such service or thing of value.

"(c) ANNUAL CHARGES.--

"(1) PERSONS SUBJECT TO CHARGE.--Any person who holds a license issued under section 103 and 104 b. that authorizes such person to operate a utilization facility with a rated thermal capacity in excess of 50,000,000 watts shall pay, in addition to the fees set forth in subsection (b), an annual charge.

"(2) AGGREGATE AMOUNT OF CHARGES.--The aggregate amount of the annual charge collected from all persons described in paragraph (1) shall equal an amount that approximates 100 percent of the budget authority for NRC Salaries and Expenses in the fiscal year in which such charge is collected, less any amount appropriated to the Commission from the Nuclear Waste Fund and the amount of fees collected under subsection (b) in such fiscal year.

"(3) AMOUNT PER LICENSEE.--The Commission shall establish, by rule, a schedule of charges fairly and equitably allocating the aggregate amount of charges described in paragraph (2) among the licensees described in paragraph (1). The charges shall have a reasonable relationship to the cost of providing regulatory services and may be based on the allocation of the Commission's resources among licensees or classes of licensees described in paragraph (1).

"(d) DEFINITION.--As used in this section, 'Nuclear Waste Fund' means the fund established pursuant to section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c))."

(b) REPEAL.--Title VII of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), as amended, is amended by striking subtitle G. This repeal shall become effective upon promulgation of the Nuclear Regulatory Commission's final rule implementing section 292 of the Atomic Energy Act of 1954.

(c) TABLE OF CONTENTS.--The table of contents of the Atomic Energy Act of 1954 is amended by adding after the term relating to section 291 the following new item:

"Sec. 292. User fees and annual charges."

U.S. NUCLEAR REGULATORY COMMISSION
ANALYSIS OF PROPOSED AMENDED FY 1991
AUTHORIZATION OF APPROPRIATIONS LEGISLATION

Section 1(a) --The Nuclear Regulatory Commission 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 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 persons responsible for generating 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 license a repository for the disposal of high-level radioactive waste and spent nuclear fuel and is assigned specific review responsibilities in the steps leading to submission of the license application. Thus, the Act establishes NRC's responsibility throughout the repository siting process, culminating in the requirement for NRC licensing as a prerequisite to construction and operation of the repository. The Nuclear Waste Policy Act, as amended, also specifies that expenditures from the Nuclear Waste Fund shall only be used for purposes of spent fuel and high-level radioactive waste disposal activities, including identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any repository constructed under the Act and administrative costs of the radioactive waste disposal program.

The Commission's program is composed of nuclear facilities and material licensing, inspection and enforcement, and related regulatory functions, nuclear safety research, rulemaking, and technical and administrative support activities.

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

Section 1(b) --The Inspector General Act Amendments of 1988 amended the Inspector General Act of 1978 by establishing the Office of the Inspector General within the Nuclear Regulatory Commission effective on April 17, 1989, and by requiring the establishment of a separate appropriation account to fund the Office of the Inspector General.

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

Section 2(a) -- For fiscal year 1991, the requested authorization for appropriations under Section 1(a) is \$471,320,000, allocated as follows:

	<u>FY 1991</u>
Reactor Safety and Safeguards Regulation	\$185,835,000
Nuclear Safety Research	\$111,431,000
Nuclear Material and Low-Level Waste Safety and Safeguards Regulation	\$45,759,000
High-Level Nuclear Waste Regulation	\$19,650,000
Special and Independent Reviews, Investigations, and Enforcement	\$36,063,000
Nuclear Safety Management and Support	\$72,582,000

Section 2(b) --This section provides authorization for moneys received by the Commission to be utilized for grants and cooperative agreements. Eligible recipients, such as colleges and universities, state and local governments, and not-for-profit institutions, may be included in the Commission's assistance program.

Section 2(c) --This section provides the Commission with the authority to reprogram funds among the program activities specified in section 2(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 reprogrammed for other NRC activities.

Section 3. --This section provides authorization for moneys received by the Commission for the cooperative nuclear safety research program, for services rendered to foreign governments and international organizations, for costs of certain licensee security investigations, and for costs of fingerprint examinations and criminal history checks to be used as salaries and expenses, subject to appropriations, and for such moneys to remain available until expended notwithstanding the provisions of section 3302 of Title 31 of the United States Code.

Under the cooperative nuclear safety research program, funds are received from domestic entities, foreign governments, and international organizations for their participation in NRC's reactor safety research experiments. The NRC would also be authorized to receive directly compensation from foreign governments and international organizations for providing safety assistance and other services related to promoting the public health and safety. Funds are also received in the form of fees from licensees for the cost of security investigations and related processing associated with access to formula quantities of special nuclear material. These funds will be used to pay the related NRC processing costs and the agency performing the security investigations. Funds will be received in the form of fees from licensees for the cost of fingerprint examinations and criminal history checks of each individual granted access to safeguards information or unescorted access to a nuclear power plant. These funds will be used to pay for processing and performing the fingerprint examinations and criminal history checks.

NRC will also use the money currently collected under 10 CFR Part 25 to pay the NRC processing costs and the Office of Personnel Management for conducting background investigations used as a basis for NRC security clearances for designated licensee representatives and other personnel requiring access to classified information.

Section 4. --This section provides for limited transfer authority from NRC's Salaries and Expenses appropriation, except for appropriations from the Nuclear Waste Fund, to its Office of the Inspector General appropriation. This will permit the NRC to augment the Inspector General appropriation on a limited basis, if it becomes necessary, without seeking additional appropriations for that fiscal year.

Section 5. --This section provides language required by the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344), section 401(a).

Section 6. --Under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), the NRC collected user fees that totalled approximately 33 percent of the agency's budget. The Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239) amended Public Law 99-272 to require NRC to collect user fees for a maximum amount estimated to be equal to 45 percent of the agency's budget in FY 1990. Absent legislation, beginning in FY 1991, the agency would again collect user fees that total approximately 33 percent of its budget.

Section 6(a) adds a new section 292 to the Atomic Energy Act of 1954 that authorizes the Commission to collect user fees and annual charges.

Subsection (a) of the new section 292 requires the Commission to annually collect fees and annual charges in an amount approximating 100 percent of the Commission's budget authority for Salaries and Expenses for that fiscal year, less any amount appropriated to the Commission from the Nuclear Waste Fund. The NRC shall not recover fees for the budget authority for its Office of the Inspector General.

Subsection (b) of the new section 292 provides that the Commission shall continue to collect fees under the Independent Offices Appropriation Act of 1952 (31 U.S.C. 9701). These fees are intended to recover the Commission's cost of providing any service or thing of value to a person seeking services from the Commission.

Subsection (c) of the new section 292 requires the Commission to collect, in addition to the Independent Offices Appropriations Act fees under subsection (b), an annual charge only on nuclear power plant licensees with a rated thermal capacity of more than 50 megawatts. This subsection provides that the aggregate amount of annual charges shall, when added to the Independent Offices Appropriation Act fees collected under subsection (b), equal approximately 100 percent of the Commission's budget authority for Salaries and Expenses for each fiscal year, less any amount appropriated to the Commission from the Nuclear Waste Fund. This subsection directs the Commission to establish a schedule of annual charges that fairly and equitably allocates the aggregate amount of

charges among licensees and reasonably reflects the cost of providing regulatory services to such licensees or classes of licensees. The schedule may assess different annual charges for different licensees or classes of licensees based on the allocation of the Commission's resources among licensees or classes of licensees so that the licensees who require the greatest expenditures of the Commission's resources will pay the greatest annual fee.

Subsection (d) of the new section 292 defines the Nuclear Waste Fund established by section 302(c) of the Nuclear Waste Policy Act of 1982.

Section 6(b) -- repeals subtitle G of Title VII (section 7601) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), as amended, which contains the authority for the Commission to collect user fees approximating 33 percent of its budget for FY 1991 and the years thereafter. The repeal will become effective when the Commission issues the final rule implementing this section.

Section 6(c) -- adds the heading of the new section 292 to the table of contents of the Atomic Energy Act of 1954.

It is estimated that the difference between NRC charges to be collected under the current law and charges to be collected under the proposed legislation is \$294,920,000 in FY 1991.