



AAG-2 PDR

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555
SEP 29 1983

*Tom Dorian
Let's discuss
WFO*

MEMORANDUM FOR: **William J. Olmstead**, Director
and Chief Counsel
Regulations Division, OELD

FROM: Darrell G. Eisenhut, Director
Division of Licensing, NRR

SUBJECT: COMMENTS ON INTERIM FINAL "SHOLLY" RULE

We are aware that Mr. T. Dorian of your staff is now working on the final "Sholly" rule. The interim final rule was published on April 6, 1983 for a 30-day public comment period.

Our comments are attached. We request that they be considered in preparing the final rule. We also request that this office have an opportunity to review the drafts and final version of the final rule.

Darrell G. Eisenhut
Darrell G. Eisenhut, Director
Office of Nuclear Reactor Regulation

Attachment: Comments

cc: H. Denton
E. Case
T. Novak
G. Lainas
T. Dorian
F. Miraglia
C. Trammell
R. Purple

Contact: C. Trammell, NRR (X27389)

COMMENTS ON INTERIM FINAL

SHOLLY RULE

1. Remove the term "emergency" from the rule. This term here has already caused confusion with the "emergency" of 50.54 (x) where it has an entirely different meaning. The circumstances for expedited licensing action can be described and defined without using the term "emergency." This comment is the same as that provided by Northeast Utilities in its letter of May 10, 1983. No
2. Explicitly clarify (add) that the NRC may dispense with prior notice (of amendments involving NSHC) if extending a shutdown or extending a derating is involved. The first would accord with current practice; the second would alleviate the problems we have experienced in issuing prompt license amendments to plants with 5% power licenses. Licensees in the low power testing phase frequently need fast amendments to avoid prolonging the test program due to errors or other changes needed in the newly - issued license. ?
3. State in the rule that the NRC need not respond to comments regarding NSHC if an amendment has been fully noticed for 30 days and no hearing has been requested. This will avoid an unnecessary exercise since, if no hearing has been requested, the rule already states that no final NSHC determination will be made. Therefore, comments cannot make a difference. This clarification would be helpful to the NRR staff. low
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4. Remove the press release. With the invention of the short FRN, the press release is not needed. Experience has shown that our press releases are misunderstood and have been completely re-written by the press (e.g., Crystal River 3). Paid public announcements ("legal notices") are also unnecessary for the same reason. Discussion
of staff
considered
5. Consistent with 4. above, explicitly recognize the short FRN in the rule, stating when it will be used and what it is. It should be used for all notices where less than 30 days notice is available. Same
6. Under State consultation, modify the sentence "nonetheless, before it (NRC) issues the amendment it will telephone that official for the purposes of consultation". This phrase is too broad. Clarify that such a call will be made if a hearing has been requested or if less than a 30-day notice has been issued. See DLOP-228. This call is not made (nor would it serve any purpose) for proposed amendments noticed for 30 days for which no hearing has been requested. No
7. Add to the list of "not likely" amendments those that involve a change to non-radiological environmental technical specifications. needs to
be more
specific

Basis: Such changes do not involve safety-related matters related to the operation of a facility. Since no operational limitations are involved, such an amendment is not likely to involve a significant increase in the probability or consequences of an accident previously evaluated, or

create the possibility of a new or different accident from any accident previously evaluated, or involve a significant reduction in a margin of safety.



AA61-2 PDR

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555
SEP 29 1983

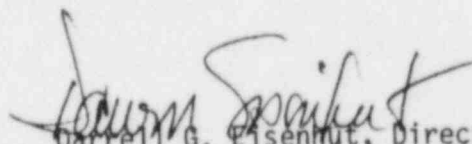
MEMORANDUM FOR: William J. Olmstead, Director
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Regulations Division, OELD

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Darrell G. Eisenhut, Director
Office of Nuclear Reactor Regulation

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7. Add to the list of "not likely" amendments those that involve a change to non-radiological environmental technical specifications.

Basis: Such changes do not involve safety-related matters related to the operation of a facility. Since no operational limitations are involved, such an amendment is not likely to involve a significant increase in the probability or consequences of an accident previously evaluated, or

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PDR

DIST:
Document Control (50-445)
NRC PDR
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JUL 15 1983

Docket No.: 50-445

LB#1 Rdg.
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Mr. R. J. Gary
Executive Vice President
and General Manager
Texas Utilities Generating Company
2001 Bryan Tower
Dallas, Texas 75201

Dear Mr. Gary:

Subject: Comanche Peak Steam Electric Station - Independent Assessment Program

By a letter dated June 10, 1983, Mr. H. C. Schmidt of Texas Utilities Services Inc. (TUSI), transmitted a proposed plan for an Independent Assessment Program (IAP) for Comanche Peak to be performed by CYGNA. Mr. Schmidt's letter requested our concurrence in this proposal.

The NRC staff has reviewed the proposed IAP developed by CYGNA and TUSI. We believe that the scope and content of all independent assessment or verification programs, including the IAP should be structured such that the results may be considered a representative statement about the overall quality of the design of the plant. To that objective, we are providing the following comments for your consideration:

1. The proposed IAP identifies train A of the spent fuel pool cooling system as the selected system to be reviewed. An optimum system for selection might be some other system which includes a design and material (e.g., instrumentation, control and electrical) interface with Westinghouse and Gibbs & Hill, which includes demanding (e.g., high pressure, high temperature) design parameters, and which has an active role in the operation and/or protection of the reactor.
2. The proposed IAP does not include any technical design review.
3. The proposed IAP restricts its implementation evaluation to only the design and interface control elements of the design control program.

We recognize that the fifth criterion for selection of the system to be evaluated (pages 4 and 14) placed a severe limitation on the systems available for consideration at this time. However, we understand that shortly there will be portions of other safety-related systems completed, and we believe that an acceptable "significant portion" of another system can be selected for evaluation.

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DATE						

Mr. R. J. Gary

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JUL 15 1983

While your selected contractor, CYGNA, appears acceptable, our evaluation of your contractor will remain open pending the final scope and content of the program.

After you have considered the matters identified above, we believe you should meet with the NRC staff to discuss these and other minor comments prior to submitting modifications to your IAP. Therefore, we request that you arrange a meeting at your earliest convenience with the project manager to be held at our offices in Bethesda, Maryland. We recommend that representatives of both your staff and your independent contractor attend this meeting.

Sincerely,

Darrell G. Eisenhut, Director
Division of Licensing

cc: See next page

*SEE PREVIOUS ORC FOR CONCURRENCES

Handwritten signature and date:
Eisenhut
7/14

OFFICE	DL:BB#1	DL:BB#1 *	DL:AD/L *	REG:IV *	OIE *	OELD *	DL:BB#1
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DATE	07/11/83	07/ /83	07/ /83	07/ /83	07/ /83	07/ /83	07/14/83

Mr. R. J. Gary
Executive Vice President and
General Manager
Texas Utilities Generating Company
2001 Bryan Tower
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Mr. Larry Alan Sinkin
838 East Magnolia Avenue
San Antonio, Texas 78212

AA61-2

PDR

50-287

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES
Post Office Box 2063
Harrisburg, Pennsylvania 17120



June 30, 1983

717-787-2480

Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Attention: Docketing and Service Branch

Gentlemen:



The Commonwealth of Pennsylvania appreciates the opportunity to comment on the NRC Staff's preliminary finding of no significant safety hazard on a request for an amendment to the license for TMI-1 submitted by GPU Nuclear and as noticed in the Federal Register dated May 31, 1983.

The Federal Register notice identifies two separate items that need to be decided by the NRC -- the pending technical specification change request, and the approval of the steam generator ("OTSG") repair. The OTSG repair and reuse approval is a separate issue from the technical specification change request and is obviously much more complex. Because of the difference in importance and complexity between the two issues, it is necessary to separate the decision making process into two distinct steps, both of which would be subject to the State consultation process.

As you are aware, the NRC Staff is required to make a good faith effort to consult with the Commonwealth on its finding of no significant safety hazard. It is our opinion that the consultation process should always include the opportunity to review the Staff's safety evaluation report ("SER") and discuss the report or reports for the Licensee's proposed amendments. We therefore request that the safety evaluation reports for these amendments be provided for our review prior to a final decision on safety hazards consideration, to ensure that all of our concerns have been fully identified and satisfied. In addition, the results of any preliminary leakage tests which have been conducted should be presented and evaluated to provide additional assurances that the repairs have been satisfactory. Only if this opportunity for full review of the safety evaluations is offered can we be assured that the repaired OTSGs can be reused without posing a significant safety hazard and that a hearing on repair and reuse of the OTSGs is not necessary.

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June 30, 1983

Although we cannot make a determination on the absence of significant safety hazards without copies of the SERs, the Commonwealth has been reviewing the various safety evaluations that have been submitted by GPU Nuclear Corporation to the NRC for the OTSG repair and subsequent reuse. We have also requested additional information from GPU Nuclear on issues that are of particular concern to us, such as additional details on all possible release paths and methods for detecting increased OTSG tube leakage and operator response to that leakage.

In conclusion, this amendment and all future amendments for facilities in Pennsylvania should include the opportunity to review the NRC safety evaluation reports as a necessary step in a good faith consultation process. We await receipt of these reports from the NRC before making any conclusion on the existence of a safety hazard in connection with the two pending amendments.

Sincerely,

Thomas M. Gerusky
 Thomas M. Gerusky, Director
 Bureau of Radiation Protection

NUCLEAR REGULATORY COMMISSION AUTHORIZATIONS
FOR FISCAL YEARS 1984 AND 1985

JUNE 24, 1983.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. DINGELL, from the Committee on Energy and Commerce,
submitted the following

REPORT

Together with

ADDITIONAL VIEWS

[To accompany H.R. 2510]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 2510) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954 and section 305 of the Energy Reorganization Act of 1974, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment (stated in terms of the page and line numbers of the bill as reported by the Committee on Interior and Insular Affairs) is as follows:

Page 12, after line 20, insert the following:

SEC. 9. Of the amounts authorized to be appropriated pursuant to section 1, during the fiscal years 1984 and 1985, the Nuclear Regulatory Commission may use such sums as may be necessary to issue temporary operating licenses for utilization facilities required to be licensed under section 103 or 104 of the Atomic Energy Act of 1954. Such temporary operating licenses shall be issued in the same manner and subject to the same requirements as provided in section 192 of the Atomic Energy Act of 1954,

except that such licenses may be issued without regard to subsection e. of such section 192.

PURPOSE AND SUMMARY

The purpose of H.R. 2510 is to authorize appropriations to the Nuclear Regulatory Commission (NRC) in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended. Accordingly, H.R. 2510 authorizes a total appropriation of \$466,800,000 for NRC salaries and expenses during fiscal year 1984, and it authorizes a total appropriation of \$460,000,000 for the agency's salaries and expenses during fiscal year 1985.

The total amounts authorized by the Committee are identical to those requested by the Commission on March 1, 1983 (Executive Communication No. 485).

The Committee kept H.R. 2510 free of nuclear policy provisions not germane to an authorization bill. The Committee will continue to carry out oversight and legislative activities on a broad variety of national nuclear policy issues throughout the 98th Congress, and the Committee believes that the authorization process is not the appropriate context within which to consider policy changes to the Atomic Energy Act of 1954, the Energy Reorganization Act of 1974 or other substantive laws.

The amendment as adopted by the Committee, section 901 of the bill, extends until September 30, 1985 the authority of the Commission to issue temporary operating licenses.

BACKGROUND AND NEED FOR THE LEGISLATION

Introduction

On March 1, 1983, the Nuclear Regulatory Commission (NRC) submitted to Congress proposed legislation authorizing appropriations for fiscal years 1984 and 1985. On April 12, 1983, Congressman Morris K. Udall, Chairman of the Committee on Interior and Insular Affairs introduced the bill (H.R. 2510) which was referred to the Committee on Interior and Insular Affairs. The bill, with an amendment in the nature of a substitute, was ordered reported by that Committee on April 27, 1983. On May 11, 1983, H.R. 2510 and the amendment were sequentially referred to the Committee on Energy and Commerce.

The Nuclear Regulatory Commission authorization request for fiscal years 1984 and 1985, as submitted to the Committee on March 1, 1983, requested authorization of \$466,800,000 for fiscal year 1984, and \$460,000,000 for fiscal year 1985, for salaries and expenses. The Committee on Energy and Commerce has recommended a total authorization for the NRC equal to the amount requested by the Commission for each of the two fiscal years.

H.R. 2510 as reported, while recommending a level of authorizations equal to that requested by NRC, specifies that certain funds are to be used for purposes that differ from, or were not contemplated by, the agency's budget request. Namely, the bill as reported allocated certain funds to be used for gas-cooled thermal reactor activities; places conditions on the use of funds requested for phase

III of the systematic evaluation program; places conditions on the use of funds requested to implement the agency's regionalization plan; authorizes the availability of funds for interim consolidation of the NRC headquarters staff; and authorizes the use of funds to issue temporary operating licenses.

The bill as reported by the Committee specifies a total authorization for each of the two fiscal years, and also allocates specific amounts from the total authorization for each year into six distinct line items corresponding to the agency's major program areas.

H.R. 2510 as reported authorizes the use of up to \$1,000,000 in each year for gas-cooled thermal reactor preapplication review and earmarks \$2,600,000 in each year for gas-cooled thermal reactor regulatory research.

The bill as reported requires NRC, in the event of termination or deferral of the Clinch River breeder reactor project (CRBR), to re-dedicate certain funds to be used only for safety technology activities. Also, the bill as reported authorizes NRC, if the CRBR is terminated or deferred, to reprogram funds requested for CRBR regulatory research.

H.R. 2510 as reported by the Committee requires the Commission to report to the Congress on the justification of expenditure of new funds for the systematic evaluation program phase III (SEP phase III). The bill specifies several matters to be addressed in the report to Congress, and requires that the report be provided to Congress before the Commission is authorized to use any funds requested by NRC to carry out SEP phase III.

The bill as reported extends the expiration date of existing law on emergency planning at commercial nuclear powerplant sites. The provisions requires the Commission to determine prior to the issuance of an operating license for a power reactor that there exists a State, local or utility offsite emergency plan which provides reasonable assurance that public health and safety will not be endangered in the event of an accident at the facility. The provision extends the authority in section 5 of Public Law 97-45, the NRC Authorization for fiscal years 1982 and 1983.

The reported bill authorizes funds for interim consolidation of NRC headquarters staff, except that no funds may be utilized to move the Commissioners' offices outside the District of Columbia.

H.R. 2510 as reported would preclude the NRC from transferring nuclear power reactor licensing activities to regional offices until after the Commission submits a report to Congress on the possible effect of such a regionalization program on reactor safety.

The bill as reported by the Committee extends through the end of fiscal year 1985 existing law granting the Commission the authority to issue temporary operating licenses prior to the conduct or completion of any hearing required by law. This provision extends the authority contained in section 11 of Public Law 97-415, which amended section 192 of the Atomic Energy Act. This provision would otherwise expire on December 31, 1983.

The following table summarizes the NRC's request for budget authority along with the Energy and Commerce recommendations.

AUTHORIZATION REQUEST

Program	NRC request ¹	Subcommittee recommendation	Committee amendment	Change
Fiscal year 1984:				
Nuclear reactor regulation	\$91,490,000	¹ \$91,490,000	¹ \$91,490,000	0
Inspection and enforcement	70,910,000	70,910,000	70,910,000	0
Nuclear materials safety and safeguards	36,280,000	36,280,000	36,280,000	0
Nuclear regulatory research	199,740,000	² 199,740,000	² 199,740,000	0
Program technical support	27,520,000	27,520,000	27,520,000	0
Program direction and administration	40,860,000	40,860,000	40,860,000	0
Total	466,800,000	² 466,800,000	² 466,800,000	0
Fiscal year 1985:				
Nuclear reactor regulation	87,140,000	¹ 87,140,000	¹ 87,140,000	0
Inspection and enforcement	74,770,000	74,770,000	74,770,000	0
Nuclear materials safety and safeguards	35,710,000	35,710,000	35,710,000	0
Nuclear regulatory research	193,290,000	² 193,290,000	² 193,290,000	0
Program technical support	27,470,000	27,470,000	27,470,000	0
Program direction and administration	41,620,000	41,620,000	41,620,000	0
Total	460,000,000	² 460,000,000	² 460,000,000	0

¹ \$1 million each year is available for gas-cooled thermal reactor preapplication review; funds for CRBR licensing are to be reappropriated if the Clinch River Breeder Reactor project is cancelled or deferred.

² \$2,600,000 each year available for HTGR regulatory research; specific authority to reprogram CRBR regulatory research funds if project is terminated or deferred.

³ Funds authorized for interim consolidation of NRC headquarters staff; conditions placed on use of funds requested for systematic evaluation program—Phase III and implementation of agency regionalization plan.

Two-year authorization

As it did in authorizing appropriations for the Nuclear Regulatory Commission for the period fiscal year 1982-83 (Public Law 97-415), the Committee authorized appropriations for each of the next two fiscal years, that is, 1984 and 1985. For each of these two fiscal years, the Committee bill authorizes a total appropriation for NRC's salaries and expenses, and disaggregates the total amount into six distinct line items corresponding to the Commission's major program areas.

Enactment of Public Law 97-415 marked the first time the Congress had considered and approved a two-year authorization for the NRC. The Committee believes that the two-year authorization cycle has inherent advantages and, therefore, should be continued. Specifically, the Committee believes that the two-year cycle allows for significant reduction in the congressional legislative workload without impairing the ability of the Committee to fulfill its congressional responsibility to oversee the activities of the Nuclear Regulatory Commission and the functioning of the nuclear regulatory process. Moreover, the Committee believes that the two-year authorization period will facilitate coherent budgetary planning and program and policy continuity at the NRC.

The Commission had described the process through which the authorization request for both fiscal years 1984 and 1985 evolved:

The budgets for fiscal year 1984 and fiscal year 1985 were developed by each NRC office during April-May 1982. This process included the final review by each Office Director before submission to the Controller. During late May, the Division of Budget and Analysis staff presented

its analysis of the budget to the Budget Review Group, chaired by the Deputy Executive Director for Operations. The recommendations of the Budget Review Group were reviewed by the Executive Director for Operations who made final decisions on the budget to be submitted to the Chairman. The Chairman presented his budget to the Commissioners in July for Commission approval. The final Commission budget was submitted to the OMB on September 1, 1982.

With this deliberate budget development process in mind, the Committee believes that the NRC authorization levels for fiscal year 1984 and fiscal year 1985 contained in H.R. 2510 as reported by the Committee are based upon reasonable projections of the Commission funding needs. The Committee will, however, consider the request of the Commission, by letter dated June 17, 1983, for additional resources for compliance with the requirements of the Nuclear Waste Policy Act of 1982 (P.L. 97-425), signed into law on January 7, 1983.

The Committee expects the Commission in early 1984 to submit to the Congress a statement regarding the continued adequacy, or lack thereof, of those authorization levels for fiscal year 1985 which were contained in the NRC's budget request of March 1, 1983.

Authorization for program offices

Nuclear reactor regulation.—The NRC requested a total fiscal year 1984 authorization of \$91,490,000, and a fiscal year 1985 authorization of \$87,140,000 for salaries and expenses of the Office of Nuclear Reactor Regulation (NRR).

A comparative summary of NRR's estimated budget requirements by function for fiscal years 1982, 1983, 1984, and 1985 appears in the table below.

SUMMARY OF NUCLEAR REACTOR REGULATION PROGRAMS

ESTIMATES BY FUNCTION

	Estimate, fiscal year—			
	1982	1983	1984	1985
Salaries and benefits	\$33,510	\$37,230	\$35,970	\$35,830
Program support	41,107	41,220	38,390	24,680
Travel	1,347	1,650	1,785	1,760
Administrative support	11,579	14,280	15,345	15,870
Total obligations	87,543	94,380	91,490	87,140
People	738	748	730	709

The NRR personnel requirements and program support funding requirements have been allocated to major programmatic functions as shown below.

	Actual fiscal year 1982		Estimate fiscal year 1983		Estimate fiscal year 1984		Estimate fiscal year 1985	
	Dollars	People	Dollars	People	Dollars	People	Dollars	People
Operating reactors	10,808	218	11,341	290	9,034	306	9,021	312
Systematic safety evaluation of operating reactors	2,035	42	1,599	36	4,766	34	5,166	42
Operating licensing	4,434	16	4,736	33	4,841	43	3,863	44
Casework	15,011	297	11,739	207	8,745	178	6,895	146
Safety technology	8,507	106	11,490	116	11,005	112	9,735	112
TMI-2 cleanup	230	17	315	17	0	7	0	7
Management direction and support	82	42	0	49	0	49	0	46
Total	41,107	738	41,220	748	38,390	730	34,680	709

The programs conducted under the Nuclear Reactor Regulation function are the review of applications for construction permits, operating licenses and license amendments. The Office of Nuclear Reactor Regulation is also responsible for resolution of unresolved safety issues, generic issues and the implementation of the human factors program.

The Committee notes that human factors research is essential to maintain and improve the safe operation of nuclear power plants, and it commends the NRC on its attention to this important area. However, adequate resources have yet to be devoted to developing criteria for measuring changes in nuclear power plant operator performance and vigilance as a function of work schedule, time of day, or other environmental conditions. Prior recommendations have been made to the NRC by outside experts regarding the high priority need for research on these problems (see report NUREG/CR-2833), and testimony at recent hearings before another Committee established that scientific studies are badly needed on the relationship between rotating shift work schedules and deterioration in operator performance. The Committee strongly urges the NRC to conduct research as a part of its human factors program on the effects of work schedules and other environmental factors on operator performance and alertness as measured under real or realistically simulated nuclear power plant control room conditions.

The bill as reported by the Committee approves the NRR funding level requested by the Commission for fiscal years 1984 and 1985. The bill provides specific instructions, however, with regard to the use of funds authorized for gas-cooled thermal reactors, the Clinch River breeder reactor project, phase III of the systematic evaluation program, and implementation of the Commission's regionalization plan and the issuance of temporary operating licenses. The conditions imposed by the Committee are discussed elsewhere in this report.

Office of Inspection and Enforcement.—The NRC has requested a total authorization of \$70,910,000 for fiscal year 1984 and \$74,770,000 for fiscal year 1985 for the salaries and expenses of the Office of Inspection and Enforcement [I&E].

A comparative summary of I&E's estimated budget requirements for fiscal years 1982, 1983, 1984, and 1985 appears in the table below.

SUMMARY OF INSPECTION AND ENFORCEMENT PROGRAMS ESTIMATES BY FUNCTION

Total program	Actual fiscal year 1982	Estimate, fiscal year—		
		1983	1984	1985
Salaries and benefits	\$38,245	\$41,500	\$42,390	\$42,350
Program support	9,518	14,490	14,650	18,130
Administrative support	7,311	8,600	9,000	9,410
Travel	4,470	4,690	4,870	4,880
Total obligations	59,544	69,280	70,910	74,770
People	959	966	996	990

The I&E personnel requirements and program support funding requirements have been allocated to major program elements as shown below.

	Actual fiscal year 1982		Estimate fiscal year 1983		Estimate fiscal year 1984		Estimate fiscal year 1985	
	Dollars	People	Dollars	People	Dollars	People	Dollars	People
Reactors under construction	1,589	212	3,472	246	3,225	212	3,597	191
Reactors in operation	2,771	470	4,754	452	4,593	517	4,646	533
Fuel facilities and materials licensees	855	126	1,334	113	1,125	111	885	108
Emergency preparedness	2,736	79	3,630	67	3,350	68	7,150	68
Specialized technical training	1,567	19	1,300	17	2,309	17	1,802	17
Management direction and support	0	53	0	71	50	71	50	73
Total	9,518	959	14,490	966	14,650	996	18,130	990

The Office of Inspection and Enforcement inspects licensees and their contractors to ascertain compliance with Commission regulations, rules and orders, and license provisions to ensure that the licensees are taking required and appropriate actions to protect nuclear materials and facilities, the environment and the health and safety of the public. The Office also investigates incidents, accidents, allegations and other problems that arise.

The Office also inspects manufacturers who supply equipment used in the construction and operation of nuclear power plants and is responsible for the safe transportation of nuclear materials and its safe use in medical operations. Under the fiscal year 1984-85 request, this Office would show a net increase of 30 staff, primarily for inspection activities associated with the increased number of reactors in operation.

The bill as reported by the Committee approves the authorization request submitted by the Commission for inspection and enforcement activities.

Office of Nuclear Materials Safety and Safeguards.—The NRC requested that \$36,280,000 be authorized for fiscal year 1984, and that \$35,710,000 be authorized for fiscal year 1985 for the salaries and expenses of the Office of Nuclear Materials Safety and Safeguards [NMSS].

A comparative summary of the NMSS estimated budget requirements for fiscal years 1982, 1983, and 1985 is presented in the following table.

SUMMARY OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS PROGRAMS—ESTIMATES BY FUNCTION

Total program	Actual fiscal year 1982	Estimate, fiscal year—		
		1983	1984	1985
Salaries and benefits	\$12,635	\$13,230	\$12,840	\$12,850
Program support	26,256	17,020	17,080	16,330
Travel	447	630	850	860
Administrative support	4,009	4,770	5,510	5,670
Total obligations	37,347	35,650	36,280	35,710
People	326	314	306	304

The NMSS personnel requirements and program support funding requirements have been allocated to major programmatic functions as shown below.

	Actual fiscal year 1982		Estimate fiscal year 1983		Estimate fiscal year 1984		Estimate fiscal year 1985	
	Dollars	People	Dollars	People	Dollars	People	Dollars	People
Fuel cycle and material safety:								
Fuel cycle licensing	\$2,631	37	\$2,048	38	\$2,160	36	\$2,100	38
Transportation	380	15	450	17	500	17	500	17
Materials licensing	1,008	47	1,000	49	400	47	500	48
Subtotal	4,019	99	3,498	104	3,060	100	3,100	103
Safeguards:								
Reactor safeguards licensing	1,516	41	922	35	1,076	35	1,255	37
Fuel cycle facilities safeguards licensing	2,708	36	2,685	32	2,657	30	2,517	28
Safeguards transportation and export licensing	310	20	133	18	163	16	163	16
Subtotal	4,534	97	3,740	85	3,890	81	3,935	81

The Office of Nuclear Materials Safety and Safeguards (NMSS) licenses and regulates all facilities and materials, except reactors, associated with the processing, transport and handling of nuclear materials, including safeguards programs. NMSS also reviews safety and safeguards programs of all such facilities and materials, including monitoring, testing and upgrading internal accounting systems and developing plans for dealing with threats, thefts and sabotage at both domestic and international levels.

NMSS fuel cycle regulatory responsibilities encompass uranium mills, uranium conversion facilities, fuel fabrication plants, spent fuel storage facilities, and waste disposal sites.

In a letter received on June 20, 1983, the Commission informed the Committee of the need for additional resources in order for it to meet the requirements of the Nuclear Waste Policy Act of 1982, which imposed substantial new burdens on the Commission for review of waste disposal activities. Most of the additional resources requested would be directed to the NMSS program. Although time did not allow for consideration of the request prior to Committee

action, the Committee is cognizant of the NRC's need have adequate resources to carry out its new responsibilities in the nuclear waste area.

The bill as reported by the Committee supports the authorization level requested by the Commission for NMSS during fiscal years 1984 and 1985.

Office of Nuclear Regulatory Research.—The NRC has requested an authorization of \$199,740,000 for fiscal year 1984 and \$193,290,000 during fiscal year 1985 for salaries and expenses of the Office of Nuclear Regulatory Research [RES].

A comparative summary of the RES estimated budget requirements by function for fiscal years 1982 through 1985 are presented in the following table.

SUMMARY OF NUCLEAR REGULATORY RESEARCH—ESTIMATES BY FUNCTION

	Actual fiscal year 1982	Estimate fiscal year 1983	Estimate fiscal year 1984	Estimate fiscal year 1985
Salaries and benefits	\$12,560	\$13,360	\$12,130	\$11,890
Program support	203,365	190,940	182,400	175,800
Administrative support	3,702	4,475	4,485	4,875
Travel	660	725	725	725
Total obligations	220,287	209,500	199,740	193,290
People	276	275	250	245

The RES personnel and program support fund² requirements have been allocated to major programmatic functions as shown below.

	Actual fiscal year 1982		Estimate fiscal year 1983		Estimate fiscal year 1984		Estimate fiscal year 1985	
	Dollars	People	Dollars	People	Dollars	People	Dollars	People
Reactor/facility safety:								
Reactor and Fac. Eng.	\$35,403	54	\$37,177	55	\$39,800	56	\$41,800	56
Facility operations	12,289	52	12,257	50	14,500	42	16,500	41
Thermal hydraulic transients	18,591	8	22,034	9	27,700	10	22,900	10
Siting and health	10,044	27	8,231	27	8,600	21	9,100	20
Risk analysts	15,620	53	14,070	54	17,700	47	16,700	46
Subtotal	91,947	194	93,769	195	108,300	176	107,000	173
Reactor accidents:								
Accident evaluation and mitigation	35,592	21	47,692	21	43,900	21	39,700	21
Loss-of-coolant accidents	13,029	7	12,854	7	11,000	7	9,700	5
LOFT	42,900	3	15,000	3	0	1	0	1
Subtotal	91,521	31	75,546	31	54,900	29	49,400	27
Advanced reactors:								
Waste management	7,648	2	9,125	2	9,900	2	9,000	2
Management direction and support	12,249	24	12,500	23	9,300	21	10,400	21
	0	25	0	24	0	22	0	22
Total	203,365	276	190,940	275	182,400	250	175,800	245

The Office of Nuclear Regulatory Research (RES) conducts research to support the licensing and regulatory process. It constitutes the largest program of the Commission and consumes almost 50 percent of the Commission funds.

Under the provisions of the Energy Reorganization Act of 1974, which established the Commission as an independent regulatory body, the Commission is prohibited from conducting original research which may be viewed as promoting nuclear energy and thereby compromise the Agency's regulatory integrity. The Commission is confined to performing research which independently verifies safety data and analytical methods which are used in the formulation of regulatory standards and licensing criteria. The Commission informed the Committee that no funding in either fiscal year 1984 or fiscal year 1985 is specifically requested pursuant to the authority of Subsection 205(f) of the Energy Reorganization Act of 1974.

H.R. 2510 as reported by the Committee approves the level of RES funding requested by the Commission for fiscal years 1984 and 1985. The Committee has imposed several conditions on the use of funds authorized for RES which were not included in the NRC request. These conditions affect the availability of funds for gas-cooled thermal reactors and the Clinch River breeder reactor project, which are discussed elsewhere in this report.

Program technical support

The NRC has requested \$27,500 for fiscal year 1984 and \$27,470,000 for fiscal year 1985 for program technical support (PTS). The NRC's estimates for the program technical support budget requirements by function for fiscal years 1984 and 1985 are shown in the following comparison with similar requirements for fiscal years 1982 and 1983.

SUMMARY OF PROGRAM TECHNICAL SUPPORT PROGRAMS—ESTIMATES BY FUNCTION

	Actual fiscal year 1982	Estimate fiscal year 1983	Estimate fiscal year 1984	Estimate fiscal year 1985
Salaries and benefits	\$15,340	\$17,300	\$16,270	\$15,850
Program support	3,206	3,240	3,940	4,040
Administrative support	4,616	5,190	5,760	6,025
Travel	1,043	1,320	1,550	1,555
Total obligations	24,205	27,050	27,520	27,470
People	379	389	367	357

The Commission provided the Committee with the following information pertaining to the fiscal year 1984-85 authorization request for program technical support [PTS].

The Program Technical Support offices are integral to the agency's process of licensing and regulating nuclear facilities and materials for the protection of public health, safety and environment. These programs are the Advisory Committee on Reactor Safeguards [ACRS], the Atomic Safety and Licensing Board Panel [ASLBP], the Atomic

Safety and Licensing Appeal Panel [ASLAP], Investigations [OI], Executive Legal Director [ELD], International Programs [OIP], State Programs [SP], and Analysis and Evaluation of Operational Data [AEOD]. These programs will continue the conduct of and the legal representation at hearings to license the operation of nuclear power plants. Post-OL activities and assessment of potentially significant nuclear related operational events are emphasized. Staffing decreases from fiscal year 1983 reflect the decreasing number of Operating Licenses to be granted each year. The following addresses the individual programs that provide Program Technical Support.

	Actual fiscal year 1982		Estimate fiscal year 1983		Estimate fiscal year 1984		Estimate fiscal year 1985	
	Dollars	People	Dollars	People	Dollars	People	Dollars	People
ACRS	\$313	60	\$220	58	\$250	56	\$250	55
ASLBP		64	100	61	100	53	80	46
ASLAP		20	40	19	40	17	40	16
OI		21		42		38		38
ELD	60	113	60	111	60	106	60	106
OIP	2	31	100	29	150	28	150	27
SP	721	38	720	34	730	34	730	34
AEOD	2,110	32	2,000	35	2,610	35	2,730	35
Totals	3,206	379	3,240	389	3,940	367	4,040	357

The bill as reported by the Committee authorizes funds for PTS during fiscal years 1984 and 1985 at the levels requested by the Commission.

Program Direction and Administration

The NRC has requested an authorization of \$40,880,000 for fiscal year 1984 and \$41,620,000 for fiscal year 1985 for program direction and administration [PDA]. A comparative summary of the PDA estimated budget requirements by function for the period fiscal years 1982-85 appears in the table below.

SUMMARY OF PROGRAM DIRECTION AND ADMINISTRATION PROGRAMS—ESTIMATES BY FUNCTION

	Actual fiscal year 1982	Estimate fiscal year 1983	Estimate fiscal year 1984	Estimate fiscal year 1985
Salaries and benefits	\$26,729	\$26,580	\$26,200	\$26,130
Program support	939	2,990	3,040	3,040
Administrative support	9,346	9,175	10,850	11,680
Travel	537	665	770	770
Total obligations	37,551	39,410	40,860	41,620
People	790	731	722	720

The Commission provided the following information to the committee in support of the authorization request for PDA:

Program direction and administration [PDA] offices collectively provide overall policy direction, resource manage-

ment, administration and logistic support for the agency. These functions undergo a continual management review for improvement in efficiency and effectiveness. The program reductions are in keeping with the administration's efforts to reduce staffing costs. The following staff offices of the Commission and the Executive Director for Operations [EDO] are included:

The Commission:

Commission [OCM]
 Secretary [SECY]
 Inspector and
 Auditor [OIA]
 General Counsel
 [OGC]
 Public Affairs [OPA]
 Policy Evaluation
 [OPE]
 Congressional
 Affairs [OCA]

EDO:

Executive Director for Operations
 [EDO]
 Small and Disadvantaged Business
 Utilization and Civil Rights [SDBU/
 CR]
 Resource Management [RM]
 Administration [ADM]

	Actual fiscal year 1982		Estimate fiscal year 1983		Estimate fiscal year 1984		Estimate fiscal year 1985	
	Dollars	People	Dollars	People	Dollars	People	Dollars	People
OCM	\$2	32	\$10	32	\$100	32	\$100	32
SECY	659	39	1,020	36	1,000	36	1,000	36
OIA		27		29		28		28
OGC	14	26	25	29	5	29	5	28
OPA	2	17	4	18	4	17	4	17
OPE	45	16	195	18	215	18	215	18
OCA		8	1	9	1	9	1	9
EDO	50	18	100	21	90	21	100	21
SDBU/CR	6	8	90	9	90	8	90	8
RM	153	146	1,545	137	1,525	132	1,525	132
ADM		453		393		392		391
Totals	931	790	2,990	731	3,040	722	3,040	720

The committee approved an authorization for NRC's program direction and administration function that is equivalent to the amount requested by the Commission for these purposes during fiscal year 1984 and fiscal year 1985.

Gas-cooled reactors

The Committee expresses its support for Commission activities related to high-temperature gas-cooled reactors [HTGR's]. We believe that these reactors have potential advantages vis-a-vis light water reactors with respect to safety, efficiency use of fuel resources, cooling water requirements, and a proliferation-resistant fuel cycle. Accordingly, the Committee has designated specific amounts for the Office of Nuclear Regulation (\$1 million in fiscal

year 1984 and \$1 million in fiscal year 1985) and for the Office of Nuclear Regulatory Research (\$2,600,000 in fiscal year 1984 and \$2,600,00 in fiscal year 1985).

Clinch River breeder reactor

The NRC authorization request includes 22 staff and \$8,200,000 for fiscal year 1984, and 14 staff and \$7,800,000 for fiscal year 1985 for work related to the Clinch River breeder reactor project.

Subsection 1(a)(1) of H.R. 2510 as reported requires that, in the event of termination or deferral of the Clinch River breeder reactor project, funds requested during fiscal year 1984 and fiscal year 1985 for the Office of Nuclear Reactor Regulation's CRBR licensing activities be rededicated and used only for safety technology activities. These safety technology activities include work in the following areas: unresolved generic safety issues, risk assessment, research and standards coordination, operating experience evaluation, regulatory requirements, and code analysis and maintenance. This provision is identical to subsection 1(a)(1) of Public Law 97-415.

Similarly, subsection 1(a)(4) allows NRC, in the event of termination or deferral of the Clinch River breeder reactor project, to reallocate funds authorized by this legislation to other uses which had been requested for CRBR regulatory research. This provision in H.R. 2510 as reported reiterates the intent of Congress as expressed in subsection 1(a)(4) of Public Law 97-415.

Systematic evaluation program

Section 5 of H.R. 2510 as reported by the Committee requires the Commission to use authorized funds to report to Congress on the systematic evaluation program (SEP). The provision specifies that the report shall contain at a minimum: A summary of the findings of the Commission under phase I and phase II of the SEP, together with a statement of the regulatory action taken as a result of those findings; a statement of the cost to date of the SEP; and, an explanation of Commission policy regarding the need (if any) to carry out phase III of the program. If the Commission decides to undertake phase III, the report to Congress under subsection 5(a) must contain a projected schedule for completion of phase III and an estimate of the costs involved.

Subsection 5(b) prohibits the Commission from using funds authorized by this legislation to carry out phase III of the SEP until 60 calendar days have passed following the submittal to Congress of the report required under subsection (a) of section 5.

The Commission states that the SEP was initiated in fiscal year 1977 for the purpose of assessing the adequacy of the design and operation of reactors, and to compare older reactors to current safety criteria, thereby providing (in theory) the basis for "integrated and balanced backfit decisions." Phase I of the program, which established guidelines, techniques, and safety topics for conducting the assessments, is complete. Phase II, the actual review of 10 older operating plants, was started in 1977 and is nearing completion according to NRC.

NRC has not provided the Committee with a clear and concise statement of the significant findings of phase I and phase II. In

particular, the Committee does not know whether the Commission believes plants in the SEP are more or less safe than was thought before the program was begun six years ago, and the Committee does not know whether the Commission is satisfied that SEP is a timely and cost-effective way to determine that older plants are sufficiently safe.

The NRC has requested nearly \$10 million for SEP During the fiscal year 1984-85 authorization period (\$4,800,000 in fiscal year 1984 and \$5,200,000 in fiscal year 1985). The Committee believes the Commission should better justify this request before it is approved by the Committee.

The Committee wishes to emphasize its intent that in reporting to the Congress pursuant to subsection 5(a) it is expected that the Commission will concisely summarize the benefits of phases I and II of the SEP; identify the economic and other costs of the program to date; and provide sufficient explanation of the basis for that determination to enable the Congress to better determine whether further action on its part is warranted.

The Committee understands the SEP program may be combined with other Commission programs such as the Interim Reliability Evaluation Program (IREP) and the National Reliability Evaluation Program (NREP) into a program to provide integrated safety assessments of operating power reactors and reactors near to receiving operating licenses.

The Committee understands that the safety assessments program will be conducted using traditional methods employing good engineering judgement as well as a relatively new methodology known as probabilistic risk assessment (PRA). The Committee takes note of the testimony of the Advisory Committee on Reactor Safeguards (ACRS) before the Subcommittee on June 8, 1983 in which the ACRS noted that "while PRA methodology can be of much use to reactor safety, . . . PRA must be used judiciously with full recognition of its pitfalls and potentials for abuse." The Committee shares many of the views expressed by the ACRS in its testimony in that the use of PRA has the potential to focus licensee and regulatory attention on identified weaknesses of specific reactors, but is susceptible to such ranges of uncertainties, that regulatory decisions at this time should not be based in large part upon the results of a probabilistic risk assessment. The Committee agrees with the ACRS that much of the "potential for abuse" of PRA resides in the results relating to consequences, the third level of analysis, rather than in the plant systems analysis (Level 1) or the containment analysis (Level 2). [For a complete description of PRA and the levels of analysis, please refer to the Report of the General Accounting Office: Response to Specific Questions on the Indian Point Probabilistic Safety Study. GAO/RCED-83-158, May 24, 1983.]

For this reason the Committee recommends that, until the uncertainty associated with the use of PRA can be resolved, the Commission limit PRAs to be performed under the SEP Phase III program, or any program which incorporates the previously proposed Phase III program, to a thorough analysis of accident sequences and of the physical processes which may occur following core damage or meltdown and release categories.

The Committee anticipates that the requirements of Section 5 will apply to any successor program which incorporates the SEP Phase III program in whole or in part.

Emergency planning

As reported by the Committee, section 6 of H.R. 2510 authorizes the Commission to use such funds as may be necessary during fiscal years 1984 and 1985 to issue an operating license for a nuclear power reactor only if it determines that there exists a State, local or utility plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned. The provision carries forward the authority under section 5 of Public Law 97-415.

This provision is identical to the amendment added by the Committee in 1981, which became section 5 of Public Law 97-415. The provision expressly extended the Commission's authority, granted under section 109 of the fiscal year 1980 Authorization Act, Public Law 96-295, to use such authorized funds as may be necessary to issue an operating license in the absence of a state or local plan approved by the Federal Emergency Management Agency (FEMA), on the basis of a state, local or utility emergency response plan which provides pursuant to a Commission determination, reasonable assurance that the public health and safety will not be endangered by the operation of the facility.

The Committee reiterates the intent (previously expressed with regard to section 109 of P.L. 96-295 and section 5 of P.L. 97-415) that, ultimately, every nuclear plant will have applicable to it an approved state emergency preparedness plan which provides reasonable assurance that the public health and safety will not be endangered in the event of an emergency at such plant requiring protective action. The Committee does not intend in any way to alter the requirements of Section 109 of Public Law 96-295 or Section 5 of Public Law 97-415.

The Committee recognizes that the Commission has adopted regulations (10 CFR 50, Appendix E) which require preliminary consideration of emergency planning issues prior to the issuance of a construction permit. However, since these regulations were not promulgated prior to the issuance of the great majority of construction permits now in effect, the public has not received the benefit of these regulations. It is probable that the problems experienced this year with a plant substantially complete, but adjudicating off-site emergency preparedness issues for the first time, will be repeated unless the Commission acts to resolve such issues in a timely manner. The Committee urges the Commission to resolve issues relating to emergency preparedness as soon as practicable at reactors under construction.

The Committee is concerned that emergency planning be undertaken as efficiently as possible. Two areas of uncertainty in current procedures were discussed by several witnesses at the hearings.

One area of uncertainty is caused by the separation of expertise and authority into two distinct agencies. Currently, the NRC has the authority to determine the adequacy of the state of preparedness. The NRC considers the advice received from the expert agency, FEMA, to make this determination. However, there was no

consensus among witnesses on the need to transfer all authority and expertise to a single agency.

The other area of uncertainty arises from the belief by some that much of the problem in both plants considered in the hearings relates to problems inherent in plants located in densely populated areas and unusual geographic locations. The Committee therefore encourages the Commission to raise and resolve issues pertinent to emergency planning relative to location as early as possible in its review process.

interim consolidation of NRC headquarters staff

The Committee continues to be very concerned by the serious problem confronting the NRC as a result of the agency's being housed in nine buildings at dispersed locations in Washington, D.C., and suburban Maryland.

With respect to the prospects for a final consolidation of the Commission and headquarters staff in a single building in the Washington, D.C. metropolitan area, the Commission stated that a new building probably would not be available until the 1990's. Section 7 is intended to help bring about an interim remedy to the unacceptable situation that now exists.

Section 7 extends the authority and the intent of Congress that was contained in section 9 of the NRC Authorization Act for fiscal years 1982 and 1983 (Public Law 97-415). Section 7 of the bill as reported authorizes the use of such sums as may be necessary during fiscal years 1984 and 1985 for an interim consolidation of NRC's headquarters staff. The provision also prohibits the use of any authorized funds to relocate the offices of the Commissioners outside of the District of Columbia. This provision applies only to interim consolidation of the NRC, and does not foreclose from further consideration any proposal for the long-term solution to the agency's building situation.

Regionalization

The bill as reported contains an amendment which would prevent the expenditure of funds authorized to be appropriated by this Act to transfer licensing authority for operating power reactors to NRC regional offices until after the Commission has submitted a complete report to the Congress on the possible effect such transfers may have on reactor safety.

The amendment would not affect activities assigned to regional office personnel prior to April 26, 1983, or activities such as operator licensing, uranium recovery licensing, and certain licensing activities transferred for technical review and safety evaluation, and the limited licensing activities for the Fort St. Vrain reactor which have been delegated to Region IV.

The concern about extending any authority regarding nuclear reactor licensing is that the transfer of licensing authority for operating power reactors may have a negative impact on the ability of the NRC to fulfill its regulatory responsibility for reactor safety and may have an adverse effect on reactor safety.

In a letter to the NRC of February 15, 1983, the Advisory Committee for Reactor Safety (ACRS) raised a series of specific questions about the regionalization proposal, and raised serious con-

cerns about the impact that decentralization may have on the safety of nuclear facilities. In a letter dated April 19, 1983, the acting chairman of the ACRS stated:

If there is one among us who fully supports the present program and pace for regionalization, he has not made himself known. Our concerns are several, but all have to do with the potential negative impact on reactor safety.

In addition, two NRC Commissioners and more than half of the project directors and licensing assistants at the NRC expressed similar concerns about the potential negative effects of regionalizing licensing activities which are critical to the safe operation of nuclear reactors.

The restrictions in this provision shall not be construed as applying to nonpower reactors.

The Committee intends that either decentralization be stopped or deferred until its impact on safety is clearly understood, and it is for this reason that the report to the Congress is required.

Temporary operating licenses

By amendment adding Section 9, the Committee extends the discretionary authority of the Commission to issue temporary operating licenses (TOLs) due to projections of possible delay in the licensing process for reactors for which construction will be complete by September 30, 1985.

The Committee cautions that in no way should the extension of this authority be interpreted as a determination by the Congress that any particular facility is presumptively ready to operate, or has a valid legal claim to begin operations once construction is completed. The Committee intends that a TOL not be issued before all significant safety issues specific or applicable to the facility in question have been resolved to the Commission's satisfaction. Section 9 provides that the requirements and procedures contained in Section 192 of the Atomic Energy Act of 1954 will apply. Specifically, the Commission must find that the facility meets all requirements of law other than the conduct or completion of any hearing required by the Atomic Energy Act necessary for the issuance of the final operating license; that there is reasonable assurance that operation of the facility during the period of the TOL will provide adequate protection to the public health and safety and the environment; and that denial of the TOL will result in delay between the date on which construction is complete and the date when the facility would otherwise receive a final operating license.

The Committee expects compliance with the requirement for published notice and a period for affidavits or statements to be filed with the Commission in support of, or in opposition to, the petition for issuance of a TOL. The Committee expects that a temporary operating license will be a last resort remedy, to be employed only when no other alternative is available, and that the applicant and the Commission take all possible actions to avoid the necessity to exercise this authority. The Commission is expected to recognize the extraordinary relief represented by this authority and to exercise its discretion in considering the invocation of this authority.

The Committee does not intend in any way to alter the procedures established in Section 11 of the Public Law 97-415.

Access to information by commissioners

The Committee is concerned about the assertion made by the majority of the Commissioners in a letter dated April 19, 1983 to Chairman Ottinger and reiterated at the hearings on June 8, 1983, that it possesses the right and authority to nullify a request for information made by a Commissioner to a Commission level staff office. Since NRC staff under the direction of the Executive Director for Operations are party to the Commission's adjudicatory proceedings, it is barred from discussing the facts of cases pending before the Commission for decision with the Commissioners. The so-called "Commission-level" staff, the Office of General Counsel, the Office of Policy Evaluation, perform the Commission's staff work for such adjudications. Each Commissioner in addition, has three professional assistants. The exercise of the asserted authority by a Commission majority can thereby deny a Commissioner information which in his judgment is necessary to fulfill his adjudicatory responsibilities. The assertion of such authority is thus a serious matter which could affect the full deliberation of issues and cases before the Commission.

To the Committee's knowledge, there has been no prior assertion or exercise of this authority and there are no precedents to guide the Commission in the exercise of such authority.

The Commission argues that Reorganization Plan I of 1980 provides the Commission majority the authority to resolve disputes regarding staff resources. This reading of the Reorganization Plan ignores the distinction between Commission-level staff and staff under the direction of the Executive Director for Operations.

Since Commission-level staff perform the critical function of ensuring that each Commissioner is adequately informed, it is reasonable that a percentage of Commission-level staff resources (perhaps 10 to 15 percent) be available to respond to request for information from each Commissioner, without the approval of the other Commissioners.

Although the Committee does not expect such occasions to arise with any frequency, the Committee suggests that the Commission develop procedures and regulations which will govern its consideration of Commissioner requests for information from Commission-level staff so that if such a request is denied in the future, the Commission will be able to justify its determination by a clear showing that performance of the request would have been unreasonably disruptive of ongoing staff activities.

The Committee would urge the Commissioners to be guided by the rule of reason in making requests to Commission-level offices, and would urge the Commission to honor such a request if at all possible.

"Sholly Amendment" implementation

Section 12 of Public Law 97-415, the Nuclear Regulatory Commission Authorization Act for Fiscal Years 1982 and 1983 authorized the Commission to hold any required hearing on license amendments after the date of effectiveness of the amendment only

in those situations where the license amendment required no consideration of a significant safety hazard. The Statement of Managers accompanying the Conference Report on H.R. 2330 made it explicit that the Commission was to invoke the authority only in those cases where the Commission's standards distinguishing amendments which involve significant hazards consideration from those that do not, can be applied with ease and certainty. The Statement also intended that the Commission or its staff "would not resolve doubtful or borderline cases with a finding of no significant hazards consideration." This stricture was to be applied with special rigor in cases involving irreversible consequences.

The Commission receives and processes approximately 2,000 license applications per year. The authority of Section 12 is intended to apply only to those license amendments which clearly pose no significant hazards.

During the June 8, 1983 hearings the Committee questioned the Commission regarding the application of the authority in Section 12 in a specific case which was, according to the Commission, a "close case." The Committee reminds the Commission of the directions contained in the Statement of Managers that "close cases" are not to be resolved with a finding that no consideration of significant hazards is required. The Commission's regulations implementing Section 12 should be reviewed and amended, if necessary, to ensure that this authority can and will be applied only in cases which clearly involve no significant hazards and where the operation of the reactor would be adversely affected.

HEARINGS

The Subcommittee on Energy Conservation and Power held two days of hearings on the Commission's fiscal years 1984 and 1985 budget request on March 22, 1983 and on June 8, 1983. The Commission appeared on both days to testify and to respond to questions from the Subcommittee. The Subcommittee explored alleged problems in the procedures currently used to determine the adequacy of the state of emergency preparedness at a nuclear site for operating reactors and for reactors undergoing operating license review. The Committee considered the adequacy of the Commission budget request in light of the additional requirements imposed on the Commission by the passage of the Nuclear Waste Policy Act of 1982 (Public Law 97-425), signed in to law on January 7, 1983.

In addition, the Committee addressed the implementation of authority granted by the previous authorization act to the Commission to issue amendments to operating licenses involving significant hazards considerations prior to the conduct of the hearings required by section 189(a) of the Atomic Energy Act of 1954. The Subcommittee questioned the Commission on the propriety of an action it took which created the impression that information had been denied a Commissioner that was relevant to his deliberation in a case before the Commission. Finally, the Subcommittee reviewed the status of the quality assurance program at reactors under construction and in operation.

On June 8, 1983, the Subcommittee received testimony from approximately 15 witnesses on the subject of the emergency prepared-

ness procedures, particularly as it relates to two power plants in or near highly populated areas—the Indian point and Shoreham plants in New York. The Subcommittee heard first from Senator Moynihan, who explained the provisions of a bill he had introduced, S. 1395, which would (1) provide a mechanism in the NRC funding emergency preparedness activities through appropriated moneys received from of fees imposed on nuclear utilities; (2) allow the state to request assistance from available Federal personnel, including the Armed Services in the event of a radiological emergency; and (3) require the Federal Emergency Management Agency to perform a survey to identify all such available personnel.

The Subcommittee also heard from Jeffrey Bragg, Chief Executive Deputy Director of the Federal Emergency Management Agency, which has responsibility under Section 109 of Public Law 96-295, to advise the Commission on the state of emergency preparedness at nuclear reactor sites. Mr. Bragg testified that the current approach "has proven to be satisfactory." Mr. Bragg informed the Subcommittee that FEMA had approved 19 state and 53 local plans for 17 facilities. "Reviews are expected for the remaining 69 facilities by the end of fiscal year 1988."

A panel of local government officials responsible for emergency planning for nuclear reactors in highly populated areas discussed the problems they had encountered in performance of their duties.

The County Executive from Suffolk County, New York (Long Island) stated that after a substantial expenditure of time and resources, the Suffolk County legislature determined that no emergency plan would allow evacuation of a sufficient number of county residents in time to merit the investment of additional resources in trying to implement such a plan. The Chairman of the Rockland County Legislature New York testified that its inability to prepare an emergency plan and to participate in the testing of that plan was due in part to the lack of assistance provided to the County by the licensees. His comments were endorsed by the Chairman of the committee of the Rockland County Legislature which reviewed the plan submitted by the licensees. A Councilwoman from New York City expressed concern about the result of an evacuation from Suffolk County which would involve many people passing through the city of New York.

A panel of technical experts testified regarding the reasons for, and the implementation of, an emergency plan. A witness from the General Accounting Office testified on the preliminary results of the study the Office is conducting regarding the interaction of the Nuclear Regulatory Commission and the Federal Emergency Management Agency in radiological emergency planning. The GAO testified that their preliminary review indicated that there are not major deficiencies in the interaction between the agencies, but recommended some fine-tuning of the procedures. The GAO had found that although there has been progress since the review conducted in 1979, "many states and communities with nuclear power plants were still not adequately prepared to respond to an emergency."

Another panel was composed of intervenors in the licensing cases regarding the two plants which were before the Subcommittee as case studies. One of the intervenors opposed the extension of Section 6 "insofar as it can be interpreted to permit licensing and op-

eration of a nuclear power plant on the basis of emergency plans prepared only by utilities or implemented by utilities in circumstances where a local or state government has judged emergency planning to be inadequate." Another witness testified as to serious concern about "recent suggestions to bring Federal troops into our communities as part of the emergency planning effort."

Utility executive responsible for developing and achieving approval for emergency response plans for facilities operated by the company testified that state or local government should not have an "absolute veto" over the operation of nuclear power plants located within their jurisdiction and requested an extension of section 6 of H.R. 2510, as amended. One executive recommended withholding Federal disaster assistance from communities which refuse to participate in all forms of emergency planning.

COMMITTEE CONSIDERATION

On May 11, 1983, H.R. 2510 and the amendment adopted by the Committee on Interior and Insular Affairs, was, pursuant to the Rules of the House, sequentially referred to the Committee on Energy and Commerce. On Tuesday, June 21, 1983, the Committee on Energy and Commerce met in open session and by a voice vote ordered the bill reported to the House with one amendment.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been made by the Committee. The Committee held numerous oversight hearings and made findings that are reflected in the legislative report.

COMMITTEE ON GOVERNMENT OPERATIONS

Pursuant to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Operations.

COMMITTEE COST ESTIMATE

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill authorizes \$466.8 million for fiscal year 1984 and \$460.0 million for fiscal year 1985.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 2510.
2. Bill title: A bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954 and section 305 of the Energy Reorganization Act of 1974, and for other purposes.
3. Bill status: As ordered reported by the House Committee on Energy and Commerce, June 21, 1983.
4. Bill purpose: This bill authorizes the appropriation of \$466.8 million and \$460 million for the Nuclear Regulatory Commission (NRC) for fiscal years 1984 and 1985, respectively. These amounts

are identical to the President's request for those years. The bill also imposes several conditions on the NRC's expenditures, including a prohibition on using funds to decentralize licensing authority until an evaluation of the issue is submitted to the Congress.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1984	1985	1986	1987	1988
Authorization level	466.8	460.0			
Estimated outlays	284.7	409.0	180.7	52.9	

The costs of this bill fall within budget function 270.

Basis of estimate: For the purposes of this estimate, it is assumed that this bill will be enacted and that the entire amounts authorized will be appropriated prior to the beginning of each fiscal year. The estimated annual outlays are based on the historical spending patterns for the NRC's programs. Any funds collected for cooperative research or access authorizations are expected to recover the costs incurred for those activities, thereby resulting in no net budget impact.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 3, 1983, the Congressional Budget Office prepared a cost estimate for H.R. 2510, as ordered reported by the House Committee on Interior and Insular Affairs. A cost estimate for S. 1291, a similar bill ordered reported by the Senate Committee on Environment and Public Works, was transmitted on May 13, 1983. The estimated budget impact of the three bills is identical.

9. Estimate prepared by: Kathleen Gramp.

10. Estimate approved by: C. G. Nuckols for James L. Blum, Assistant Director for Budget Analysis).

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee makes the following statement with regard to the inflationary impact of the reported bill:

The Committee is unaware that an inflationary impact on the economy will result from the passage of H.R. 2510.

SECTION-BY-SECTION ANALYSIS

Section-by-section analysis, H.R. 2510, as amended.

Section 1. authorizes appropriations for the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended.

Subsection (a) authorizes a total appropriation of \$466,800,000 for the Nuclear Regulatory Commission in fiscal year 1984, and \$460,000,000 in fiscal year 1985. It allocates parts of the total Commission authorization to the following six items:

(1) Not more than \$91,490,000 for fiscal year 1984 and \$87,140,000 for fiscal year 1985 for the office of Nuclear Reactor Regulation of the amounts authorized each year, \$1 million is authorized for gas-cooled thermal preapplication and, if the Clinch River Breeder Reactor is deactivated, certain funds are to be used for safety technological activities.

(2) Not more than \$70,910,000 for fiscal year 1984 and \$74,770,000 for fiscal year 1985 for the Office of Inspection and Enforcement.

(3) Not more than \$36,280,000 for fiscal year 1984 and \$35,710,000 for fiscal year 1985 for the Office of Nuclear Material Safety and Safeguards.

(4) Not more than \$199,740,000 for fiscal year 1984 and \$193,290,000 for fiscal year 1985 for the Office of Nuclear Regulatory Research, of the amounts authorized each year, \$2.6 million is to be available for gas-cooled reactor regulator research and, if the Clinch River Breeder Reactor is deactivated, the Nuclear Regulatory Commission is authorized to reallocate the funds to other uses.

(5) No more than \$27,520,000 for fiscal year 1984 and \$27,470,000 for fiscal year 1985 for Program Technical Support;

(6) Not more than \$40,860,000 for fiscal year 1984 and \$41,620,000 for fiscal year 1985 for Program Direction and Administration.

Subsection (b) provides authorization for monies received by the Commission to be utilized for grants and cooperatives agreements. Although the language of this section specifically addresses universities, other eligible recipients, such as state and local governments and not-for-profit institutions, may be included in the Commission's assistance program.

Subsection (c) authorizes the Commission to reallocate authorized funds among programs provided certain specified conditions are fulfilled. The subsection requires the Commission to notify the authorizing committees of any intended action to reprogram more than \$500,000. Under the subsection, the authorizing committees would have thirty legislative days to review the Commission's proposed action. Finally, under the provision, the proposed reallocation of \$500,000 could go forward before the expiration of the 30-day period (following submission to the authorizing committees of the Commission's "full and complete statement" of the proposed action to be taken) if each authorizing committee transmits to the Commission a written notification that the committee does not object to the proposed action.

Section 2 authorizes the Commission to use funds received for the cooperative nuclear research program for salaries and expenses associated with that program. The provision also authorizes use of funds received for the material access authorization program for salaries and expenses associated with that program.

Section 3 provides authorization during fiscal year 1984 and fiscal year 1985 for the transfer of amounts from the Commission's salaries and expenses appropriated to other agencies of the government for the performance of work for which the Commission's appropriation is made.

Section 4 makes clear that the amounts authorized for fiscal year 1984 and fiscal year 1985 may only be spent when appropriated in advance.

Section 5 requires the Commission to use authorized funds to report to Congress on the Systematic Evaluation Program. The amendment specifies that the report shall contain at a minimum: a summary of the findings of the Commission under Phase I and Phase II of the Systematic Evaluation Program, together with a statement of the regulatory action as a result of those findings; a statement of the cost to date, of the SEP; and, an explanation of Commission policy regarding the need (if any) to carry out Phase III of the program. If the Commission decides to undertake Phase III, the report to Congress under this section must contain a projected schedule for completion of Phase III and estimate of the costs involved.

Subsection (b) of the new section 5 prohibits the Commission from using funds authorized by this legislation to carry out Phase III of the SEP until 60 calendar days have passed following the submittal to Congress of the report required under subsection (a) of section 5.

Section 6 authorizes the Commission to use such funds as may be necessary to issue an operating license for a nuclear power reactor only if it determines that there exists a State, local, or utility plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned. The amendment re-enacts an identical provision to that which was contained in section 5 of Public Law 97-415.

Section 7 authorizes funds for the interim consolidation of NRC's headquarter's staff, except that no funds are authorized to move the offices of the Commissioners outside the District of Columbia. The amendment is identical to section 9 of Public Law 97-415.

Section 8, as previously explained, prohibits the use of funds to carry out regionalization plans of the Commission as they pertain to licensing nuclear power reactors until 60 days after submitting a report on the safety implications of such plan to Congress.

Section 9: Temporary operating license authority.—The Committee amendment extends authority granted to the Commission in the previous Authorization Act (Public Law 97-415) to issue a temporary operating license until September 30, 1985. This Act amended the Atomic Energy Act to authorize the Commission to issue a temporary operating license, in its discretion, prior to the conduct or completion of any required hearing, so long as the following reports are filed with the Licensing Board:

1. NRC Safety Evaluation Report
2. NRC final Environmental Impact Statement
3. ACRS Review Report
4. Staff Supplemental Safety Evaluation Report Responding to the ACRS Report
5. State, local or utility emergency preparedness plan

In addition, construction must be complete and the Licensing Board's initial decision must not have been rendered. The provision provides that statutory requirements for hearings shall not apply to the issuance or amendment of any temporary license, but the

Commission is required to provide public notice of the application, and may receive written comments.

AGENCY VIEWS

U.S. NUCLEAR REGULATORY COMMISSION,
Washington, D.C., March 1, 1983.

HON. RICHARD L. OTTINGER,
Chairman, Subcommittee on Energy Conservation and Power, Committee on Energy and Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: 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), we are submitting proposed legislation which would authorize appropriations for fiscal year 1984 and fiscal year 1985.

The proposed legislation requests authorization for "Salaries and Expenses" of \$466,800,000 for fiscal year 1984 and of \$460,000,000 for fiscal year 1985. With the resources provided by this authorization, NEC will, as its first priority, continue to place emphasis on operating reactor safety. The resolution of reactor safety issues will continue to be pursued and implemented promptly on the basis of careful analysis of the costs and benefits of the solutions. We will maintain the resident inspector program so that all sites with operating reactors will have at least one resident inspector. To bring the regulations close to licensees and the public most affected by licensed facilities, the NRC will continue to transfer certain licensing and enforcement functions to its regional offices. Resources are also included for the licensing of the Clinch River Breeder Reactor according to the schedule outlined by the Administration. Our budget request is discussed in more detail in the section-by-section analysis which accompanies the attached bill and in the NRC's more detailed budget justification transmitted separately.

The Office of Management and Budget has advised that the enactment of this legislative proposal would be in accord with the program of the President.

Sincerely,

NUNZIO J. PALLADINO,
Chairman.

Enclosure: NRC Proposed Bill for Authorization of Appropriations.

NUCLEAR REGULATORY COMMISSION PROPOSED BILL FOR AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1984 AND FISCAL YEAR 1985

A BILL To authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes

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

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1984 AND 1985

SECTION 1. (a) 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 (42 U.S.C. 2017) and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal years 1984 and 1985 to remain available until expended, \$466,800,000 for fiscal year 1984 and \$460,000,000 for fiscal year 1985 to be allocated as follows:

(1) not more than \$91,490,000 for fiscal year 1984 and \$87,140,000 for fiscal year 1985, may be used for "Nuclear Reactor Regulation;"

(2) not more than \$70,910,000 for fiscal year 1984 and \$74,770,000 for fiscal year 1985, may be used for "Inspection and Enforcement;"

(3) not more than \$36,280,000 for fiscal year 1984 and \$35,710,000 for fiscal year 1985, may be used for "Nuclear Material Safety and Safeguards;"

(4) not more than \$199,740,000 for fiscal year 1984 and \$193,290,000 for fiscal year 1985, may be used for "Nuclear Regulatory Research;"

(5) not more than \$27,520,000 for fiscal year 1984 and \$27,470,000 for fiscal year 1985, may be used for "Program Technical Support;"

(6) not more than \$40,860,000 for fiscal year 1984 and \$41,620,000 for fiscal year 1985, may be used for "Program Direction and Administration."

(b) The Nuclear Regulatory Commission may use not more than 1 percent of the amounts authorized to be appropriated under subsection (a)(4) 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 with universities pursuant to such section. Grants made by the Commission shall be made in accordance with the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) and other applicable law.

(c) Any amount appropriated for a fiscal year to the Nuclear Regulatory Commission pursuant to any paragraph of subsection (a) for purposes of the program referred to in such paragraph, or any activity that is within such program and is specified in such paragraph, may be reallocated by the Commission for use in a program referred to in any other paragraph of such subsection, 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 subsection, be increased or reduced by more than \$500,000 unless—

(1) a period of 30 calendar days (excluding any day in which either House or Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) passes after the receipt, by 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, of notice submitted by the Commission containing a full and com-

plete statement of the reallocation proposed to be made and the facts and circumstances relied upon in support of such proposed reallocation; or

(2) each such committee, before the expiration of such period, transmits to the Commission a written notification that such committee does not object to such proposed reallocation.

SEC. 2. Moneys received by the Nuclear Regulatory Commission for the cooperative nuclear research program, and the material access authorization program may be retained and used for salaries and expenses associated with such programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

SEC. 3. From amounts appropriated to the Nuclear Regulatory Commission pursuant to section 1(a), the Commission may transfer to other agencies of the Federal Government sums for salaries and expenses for the performance by such agencies of activities for which such appropriations of the Commission are made. Any sums so transferred may be merged with the appropriation of the agency to which such sums are transferred.

SEC. 4. Notwithstanding any other provisions 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.

U.S. NUCLEAR REGULATORY COMMISSION ANALYSIS OF PROPOSED BILL FOR AUTHORIZATION OF APPROPRIATIONS UNDER SECTION 261 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED SECTION 305 OF THE ENERGY REORGANIZATION ACT OF 1974, AS AMENDED, FISCAL YEAR 1984 AND FISCAL YEAR 1985.

Authorization of appropriations for fiscal years 1984 and 1985

Section 1. (a) Salaries and expenses.—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 Commission's program is comprised of nuclear facilities and materials licensing and related regulatory functions, inspection and enforcement, reactor safety research, nuclear materials safety and safeguards 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.

Public Law 93-344, Congressional Budget and Impoundment Control Act of 1974, Title VI, section 607, states that ". . . any request for the enactment of legislation authorizing the enactment of new budget authority to continue a program or activity for a fiscal year (beginning with the fiscal year commencing October 1, 1976) shall be submitted to the Congress not later than May 15 of the year preceding the year in which such fiscal year begins . . ." Accord-

ingly, this section also requires authorization of appropriations for fiscal year 1985.

For fiscal year 1984, the requested total authorization for appropriations is \$466,800,000 and for fiscal year 1985, \$460,000,000.

Section 1. (b).—This section provides authorization for moneys received by the Commission to be utilized for grants and cooperative agreements. Although the language of this section specifically addresses universities, other eligible recipients, such as state and local governments and not-for-profit institutions, may be included in the Commission's assistance program.

Section 1. (c).—This section provides the Commission with the authority to reprogram funding among the program activities specified in Section 1. (a) with the following constraint:

Any reprogramming of an amount in excess of \$500,000 will be reported to the appropriate Congressional committees.

Section 2.—This section provides authorization for moneys received by the Commission for cooperative nuclear safety research programs and for costs of certain licensee security investigations to be used as salaries and expenses and for such moneys to remain available until expended notwithstanding the provisions of section 3617 of the revised statutes.

The NRC, in consonance with the Department of State, has entered into cooperative nuclear safety research agreements with foreign governments to participate in U.S. reactor safety research experiments. These funds will pay for any cost incurred incidental to their participation.

The NRC, has approved the Material Access Authorization Program (MAAP) which requires that certain employees of Fuel Cycle and Transportation Facilities which use, process or store formula quantities of special nuclear material (SNM) must be processed for access authorizations. Licensees affected will be charged for the cost of associated security investigations. Each request for a security investigation should be accompanied by the licensees' remittance payable to NRC in accordance with fee schedule. NRC will establish a Deposit Fund account to receive the monies for licensees, and from this fund pay the agency performing the security investigations.

Section 3.—This section provides authorization for the transfer of amounts from the Commission's Salaries and Expenses appropriation to other agencies of the Government for the performance of the work or services rendered by such agencies on behalf of the Commission.

Section 4.—This section provides language required by the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344), sec. 401(a).

U.S. NUCLEAR REGULATORY COMMISSION,
Washington, D.C., June 17, 1983.

Hon. RICHARD L. OTTINGER,
Chairman, Subcommittee on Energy Conservation and Power, Com-
mittee on Energy and Commerce, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: In my letter of June 16, 1983 I provided you the staff's estimate (copy attached) of the additional resources which the agency needs to fulfill the requirements of the Nuclear Waste Management Policy Act of 1982.

At a meeting today the Commission, with four members approving and one abstaining, approved the staff's estimate. In addition, the Commission noted the following:

Of the total amount of additional resources, approximately 46 percent is needed for new work required by the NWPA.

Approximately 22 percent is needed if the NRC's schedule is to match schedule changes made by DOE; i.e., it is dependent upon DOE meeting their new schedules, in particular, doing sites in parallel rather than sequentially.

Approximately 32 percent is for waste management work that had been foreseen but for which the required resources were underestimated in our previous budget requests.

The resources are to be used only for purposes indicated in the staff's justification.

The Executive Director for Operations is to give careful attention both to the recruitment of highly qualified staff for the specialized skills needed and to their allocation to specific programs.

The Commission has concluded that it must have additional resources for this high priority program. It cannot be accommodated within existing resources. The fiscal year 1984/fiscal year 1985 has no room for reprogramming on this scale; in fact, it has very little flexibility for contingencies of any sort.

I am grateful for your interest in seeing that the agency gets the resources it needs.

Sincerely,

NUNZIO J. PALLADINO.

Enclosure: As stated.

U.S. NUCLEAR REGULATORY COMMISSION—INCREASED RESOURCES TO IMPLEMENT THE NUCLEAR
WASTE POLICY ACT

Fiscal year	Funds (mil- lions)	FTE
1983		
Program support	\$0.2	3,423
Salaries	.2	+ 20
Total 1983	0.4	3,443
1984		
Program support	4.0	3,371
Salaries	3.8	+ 90
Total 1984	7.8	3,461

U.S. NUCLEAR REGULATORY COMMISSION—INCREASED RESOURCES TO IMPLEMENT THE NUCLEAR
WASTE POLICY ACT—Continued

Fiscal year	Funds (mil- lions)	FTE
1985:		
Program support	5.0	3,325
Salaries	3.8	+ 90
Total 1985	8.8	3,415

¹ Can reprogram funds in fiscal year 1983 to accommodate increase. Must have additional funds in fiscal year 1984 and fiscal year 1985 to support the Nuclear Waste Policy Act.

ADDITIONAL VIEWS OF REPRESENTATIVES MIKE SYNAR,
RICHARD L. OTTINGER, EDWARD J. MARKEY, TIMOTHY E.
WIRTH, GERRY SIKORSKI, JIM BATES, AND JAMES H.
SCHEUER

TEMPORARY OPERATING LICENSES—AN EXTRAORDINARY CURE FOR AN
UNPROVEN CONDITION

The Committee extended until September 30, 1985 an authority granted in the previous Authorization Act for the Nuclear Regulatory Commission, (Public Law 97-415) which allowed the Commission to issue temporary operating licenses (TOL), prior to the conduct or completion of the hearings required by the Atomic Energy Act of 1954. Under this provision, the reactor could achieve full power levels prior to the hearings.

The fundamental premise behind this provision is that the required public hearings are a superfluous and unproductive impediment to the established nuclear regulatory scheme.

Previously, the industry argued that not only were the hearings unnecessary to the assurance of the safe operation of the reactor, but that requiring hearings for plants caught in the licensing moratorium resulting from the accident at Three Mile Island would result in additional costs to ratepayers of more than \$3 billion dollars. This was attributable to completed plants remaining unproductive during the hearing process prior to receipt of a license to operate.

Although there were many who warned of the sand-like quality of these projections the authority was included and became section 11 of Public Law 97-415.

This year, the industry returned with projections on June 1, 1983 of "possible" delays at 24 plants. Five days later, a "revised" list was circulated projecting possible delays at only 16 plants. Two days after that, and industry representative testified before the Subcommittee on Energy Conservation and Power that 12 plants might be affected by delay. Within one week, the industry had produced three lists and a reduction in projections of possible delay of 50 percent. Although the basis for selection of plants on the lists was not identified, any operating license proceeding which is contested apparently qualifies as a reactor potentially affected by "delay."

The Commission could only come up with "at least two cases, and perhaps in as many as five (in which) situations *might* arise, in which (the) authority *might* be invoked." "June 15, 1983 letter to Chairman Ottinger".

We believe that events occurring in the two years since the Committee adopted the TOL provision have made a convincing case that delays in the operation of nuclear reactors are not attributable to an "unnecessary" hearing process:

Despite projections of up to 110 months of "delay", *no* delay actually materialized because "not one of these plants was ready to operate by the applicant's completion date." (NRC letter to Chairman Ottinger, March 2, 1983)

"Since October, 1980, no administrative delays have occurred in the licensing of plants." (March 2, 1983 letter from NRC to Chairman Ottinger.)

Nine of the eleven plants which received operating licenses between January 1, 1981 and March 2, 1983, experienced delays of between 2 months and one and one-half years to 2 years in achieving full power operation due to an assortment of industry-related problems. (Improper designs, hardware malfunctions, etc.) (March 2, 1983 letter from the NRC to Chairman Ottinger.)

Diablo Canyon (California): Safety portions of Unit 2 were constructed on the basis of improper designs. The NRC suspended the low power license it had issued one month earlier.

South Texas (Texas): The NRC and utility were convinced—based on information uncovered by whistleblowers and intervenors—that the architect-engineer for the reactor was incompetent. The utility took the then unprecedented step of firing the architect-engineer. The plant has been delayed several years.

Zimmer (Ohio): Whistle blowers and intervenors brought such serious violations of safety-related regulations to NRC attention that NRC ordered a complete "Quality Confirmation Program" to determine whether the plant had been built as designed and whether it met NRC safety regulations. The Commission has issued a stop work order for safety-related construction.

Midland (Michigan): Due in part to the confirmation of allegations made by intervenors, the NRC ordered a halt to all safety-related work at Midland until the utility could demonstrate compliance with the Commission's safety regulations.

In its letter of March 18, 1981 requesting legislative authority to issue a much more limited scope temporary operating license than was eventually adopted, the Commission stated that the authority "represents an extraordinary and temporary cure of an extraordinary and temporary situation," although Section 9 extends the previous provision, Section 9 is even more extraordinary and even less temporary than the cure requested in 1981, since the extension is based simply on "ifs" and "maybes" with even less attempt to demonstrate a need for the authority. It is less temporary because it has doubled its longevity.

Fundamentally, the TOL authority is extraordinary because preemption of safety issues from state or local regulation is based on the assurance that state and local concerns could be raised and examined in depth in federal hearings. Without the opportunity to raise safety issues prior to the operation and irradiation of a nuclear reactor, federal preemption of state and local safety regulation fulfills only half of the bargain, and is substantially harder to justify, with a potential adverse effect on safety.

In addition, the reactors which may qualify for a TOL received construction permits based on a design review of approximately fifteen percent of the plant. Other issues are deferred to the operating license stage. The remaining eighty-five percent of the plant is designed during construction.

NRC staff are able to review in detail, a maximum of 20 percent of the reactor's design which usually occurs after construction. The only opportunity which exists for a comprehensive safety review of the design (not of the reactor as constructed) is at the operating license stage. And even here, as the NRC Special Inquiry Group into the accident at Three Mile Island (the Rogovin Report) explained:

The (adjudicatory hearing) boards do not . . . conduct an extensive review or audit of the quality of the NRC staff safety review. Almost without exception, the issues before a board are raised by interested members of the public who have intervened as parties. . .

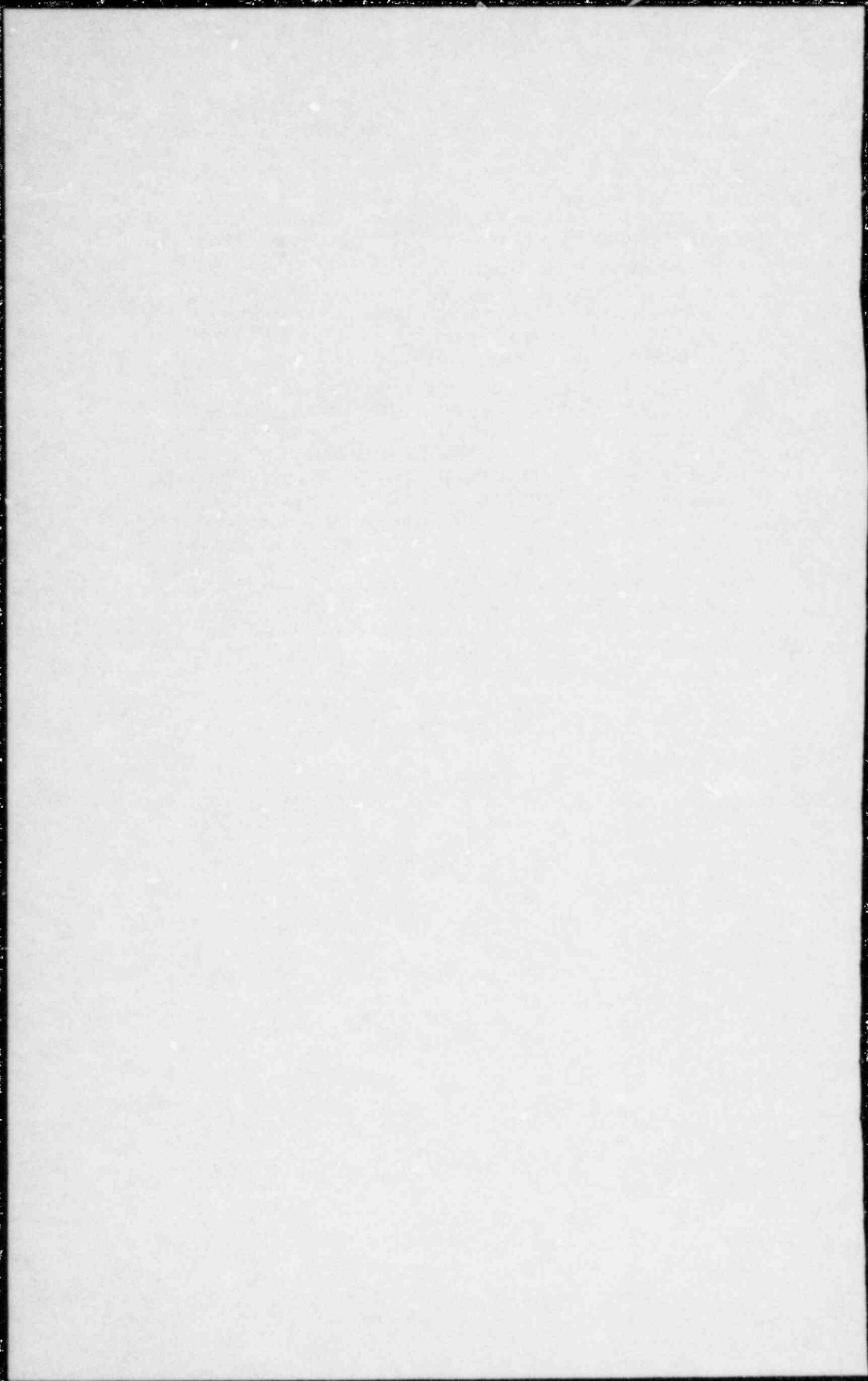
The grant of a TOL would effectively preclude the safety review of the staff review which occurs over a period of approximately eight years that it takes to construct the plant.

We believe that the grant of this extraordinary relief should come only after a clear demonstration of compelling circumstances. We do not believe such a demonstration has been made.

We would note that the public confidence level in nuclear power is not raised by the industry's all-too willing search for scapegoats for its problems. As discussed, the intervenors were not responsible for the year and a half that Diablo Canyon has had its operating license suspended, or for any of the other delays which have actually occurred. Increased attention to quality assurance and continued safe operation of the existing plants will do more for the nuclear industry than all licensing reforms, including TOLS.

MIKE SYNAR.
RICHARD L. OTTINGER.
EDWARD J. MARKEY.
TIM WIRTH.
GERRY SIKORSKI.
JIM BATES.
JAMES H. SCHEUER.

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to create an additional lengthening of the hearing process, as well as to add further confusion to the process. The Committee intends to monitor the Commission's efforts to further expedite the licensing process by administrative means to assure that this statutory requirement is carried out.

SHOLLY AMENDMENT (SECTION 202)

SUMMARY

The bill amends section 189 a. of the Atomic Energy Act of 1954, as amended, to authorize the NRC to issue and to make immediately effective an amendment to a license upon a determination by the Commission that the amendment involves no significant hazards consideration, notwithstanding the pendency before it of a request for a hearing.

DISCUSSION

The NRC, on March 11, 1981, submitted to the Committee proposed legislation that would expressly authorize the NRC to issue a license amendment involving no significant hazards consideration prior to holding a requested public hearing. The legislation was introduced by request as S. 912.

On November 19, 1980, the United States Court of Appeals for the District of Columbia Circuit, in *Sholly v. NRC*, * * * F.2d * * * held that the NRC may not issue a license amendment, even if it involves no significant hazards consideration, prior to holding a hearing requested by an interested person under section 189 a. of the Atomic Energy Act of 1954, as amended.

The case arose out of a determination by the NRC that a license amendment permitting the venting of krypton gas from the containment building at the Three Mile Island Unit 2 facility into the atmosphere involved no significant hazards consideration and therefore that the venting could take place notwithstanding a pending request for a hearing on the proposed order. Rejecting the NRC's interpretation of its authority under section 189 a., the U.S. Court of Appeals held that section 189 a. entitles a person who so requests to a hearing before a license amendment becomes effective, irrespective of whether the amendment involves no significant hazards consideration. The Committee provision, in effect, overrules the decision in *Sholly v. NRC*.

By including this provision, the Committee seeks to address the concern expressed by the Commission that a requirement that the NRC grant a requested hearing prior to making effective a license amendment involving no significant hazards consideration could result in unnecessary disruption or delay in the operation of a nuclear power plant and could impose unnecessary regulatory burdens upon the NRC that are not related to significant safety benefits. At the same time, the Committee expects the NRC to exercise its authority under this section only in the case of amendments not involving significant safety questions. Moreover, the Committee stresses its strong desire to preserve for the public a meaningful right to participate in decisions regarding the commercial use of nuclear power. Thus, the provision does not dispense with the requirement for a hearing, and the NRC, if requested, must conduct a hearing after the license amendment takes effect.

This provision should be read in conjunction with section 302 of the bill directing the NRC, within 90 days after enactment, to promulgate regulations establishing standards for determining whether an amendment to a license involves no significant hazards consideration, criteria for providing or dispensing with prior notice and public comment on such determination, and procedures for consultation on such determination with the State in which the facility is located. The authority granted the Commission under section 202 of the bill does not take effect until the Commission has promulgated the standards required by section 301 for determining whether a license amendment involves no significant hazards consideration.

The Committee recognizes that reasonable persons may differ on whether a license amendment involves a significant hazards consideration. Therefore, the Committee expects the Commission to develop and promulgate standards that, to the maximum extent practicable draw a clear distinction between license amendments that involve a significant hazards consideration and those that involve no significant hazards consideration. The Committee anticipates, for example, that, consistent with prior practice, the Commission's standards would not permit a "no significant hazards consideration" determination for license amendments to permit reracking of spent fuel pools. Moreover, it expects that the Commission, to the extent practicable, will develop and promulgate standards that can be applied with ease and certainty. In addition, the determination of "no significant hazards consideration" should represent a judgment on the nature of the issues raised by the license amendment rather than a conclusion about the merits of those issues.

Recognizing that the rulemaking process often can take a significant period of time, the Committee encourages the Commission to begin preparing its proposed standards as soon as possible, even prior to enactment of this provision. In that regard, the Committee notes that the Commission has already issued for public comment rules including standards for determining whether an amendment involves no significant hazards consideration. The Committee believes that the Commission should be able to build upon this past effort, and it expects the Commission to act expeditiously in promulgating the required standards within the time specified in section 301.

The requirement in section 301 that the Commission promulgate criteria for providing or dispensing with prior notice and public comment on a proposed determination that a license amendment involves no significant hazards consideration reflects the intent of the Committee that, wherever practicable, the Commission should publish notice of, and provide for public comment on, such a proposed determination. (The Commission has advised the Committee that in some cases the need to issue the proposed amendment will arise quickly, and failure to act on the amendment may result in the shut-down or derating of the plant. The Committee recognizes that the need to act promptly in such situations may foreclose the opportunity for prior public notice and comment. However, in all other cases, the Committee expects the Commission to exercise its authority in a manner that will provide for prior public notice and comment.)

Section 301 of the bill also requires the Commission to promulgate procedures for consulting with a State in which the relevant facility

hearing process, as well as
The Committee intends to
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SECTION 202)

Atomic Energy Act of 1954,
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Committee seeks to address the
that a requirement that the
to making effective a license
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ulatory burdens upon the NRC
benefits. At the same time, the
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not involving significant safety
stresses its strong desire to pre-
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after the license amendment

is located on a determination that an amendment to the facility license involves no significant hazards consideration. The requirement complements the directive in section 202 that the Commission, in determining whether an amendment involves no significant hazards consideration, shall consult with the situs State. The Committee expects that the procedures for State consultation will include the following elements:

- (1) The State would be notified of a licensee's request for an amendment;
- (2) The State would be advised of the NRC's evaluation of the amendment request;
- (3) The NRC's proposed determination on whether the license amendment involves no significant hazards consideration would be discussed with the State and the NRC's reasons for making that determination would be explained to the State;
- (4) The NRC would listen to and consider any comments provided by the State official designated to consult with the NRC; and
- (5) The NRC would make a good faith attempt to consult with the State prior to issuing the license amendment.

At the same time, however, the procedures for State consultation would not:

- (1) Give the State a right to veto the proposed NRC determination;
- (2) Give the State a right to a hearing on the NRC determination before the amendment becomes effective;
- (3) Give the State the right to insist upon a postponement of the NRC determination or issuance of the amendment; or
- (4) Alter present provisions of law that reserve to the NRC exclusive responsibility for setting and enforcing radiological health and safety requirements for nuclear power plants.

In requiring the NRC to exercise good faith in consulting with a state in determining whether a license amendment involves no significant hazards consideration, the Committee recognizes that a limited number of cases may arise when the NRC, despite its good faith efforts, cannot contact a responsible State official for purposes of prior consultation. Inability to consult with a responsible State official following good faith attempts should not prevent the NRC from making effective a license amendment involving no significant hazards consideration, if the NRC deems it necessary to avoid the shut-down of a power plant.

The Committee directs that the NRC report to it monthly on its determinations under section 202 of the bill.

SABOTAGE AMENDMENT (SECTION 203)

SUMMARY

The bill amends section 236 of the Atomic Energy Act of 1954, as amended, by adding a new subsection b. that subjects to criminal penalties any person who intentionally and willfully causes or attempts to cause an interruption of the normal operation of any facility specified in subsection a. through the unauthorized use of, or tampering with, the machinery, components, or controls of such facility.