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APPROVED
AUG 9 - 1975

ACTION

THE WHITE HOUSE

Last Day: August 14

WASHINGTON
August 8, 1975

Posted
8/11

To Archive
8/12

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON
SUBJECT: S. 1716 - Nuclear Regulatory Commission
Appropriation Authorization

Attached for your consideration is S. 1716, sponsored by Senators Pastore and Baker, which authorizes appropriations of \$222,935,000 for fiscal year 1976 and \$52,750,000 for the transition quarter ending September 30, 1976 for the Nuclear Regulatory Commission.

In addition to providing appropriations authorization for the NRC, the enrolled bill defines certain functions of the Commission Chairman and provides certain details relating to the terms of office of Commission members. It also contains a provision which would prohibit the NRC from licensing shipments by air of plutonium, except for medical purposes.

Additional background information and agency comments are provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus), Bill Seidman, NSC and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign S. 1716 at Tab B.



APPROVED
AUG 9 - 1975

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 8 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1716 - Nuclear Regulatory
Commission appropriation authorization
Sponsors - Sen. Pastore (D) Rhode Island and
Sen. Baker (R) Tennessee

Last Day for Action

August 14, 1975 - Thursday

Purpose

To authorize appropriations for the Nuclear Regulatory
Commission (NRC) for fiscal year 1976 and for the transi-
tion quarter ending September 30, 1976.

Agency Recommendations

Office of Management and Budget	Approval
Nuclear Regulatory Commission	Approval
Council on Environmental Quality	No objection
Department of Transportation	Defers to NRC
Department of State	Would not recommend veto
Environmental Protection Agency	No comment

Discussion

Your budget for fiscal year 1976 included \$219,935,000 for salaries and expenses of the NRC. On February 3, 1975, the NRC transmitted to the Congress proposed legislation to authorize such appropriations, plus \$52,000,000 for the transition quarter July 1 through September 30, 1976 and \$217,000,000 for fiscal year 1977 in accordance with the Congressional Budget Act.

The enrolled bill provides \$222,935,000 for 1976 and \$52,750,000 for the transition quarter but does not include a 1977 authorization. The additions to the Administration's

request are intended to provide additional personnel for nuclear safety inspection and enforcement.

S. 1716 would also:

- vest in the Chairman of the Commission most executive and administrative functions, subject to the general policies of the Commission and its regulatory decisions and findings, and
- prohibit NRC from licensing any shipment of plutonium by air except for medical purposes until the Commission certifies to the Joint Committee on Atomic Energy that a safe container has been developed to withstand a force equivalent to a crash and explosion of a high-flying aircraft.

These provisions were not requested by the Administration.

Two other provisions of the enrolled bill were proposed by NRC as technical amendments to their pending authorizing legislation. They would:

- limit the term of a member appointed to replace a Commissioner leaving office before expiration of his term to the remainder of the term, and
- clarify the date on which the present Commissioners begin their terms from "July 1" to "July 1, 1975."

In his views letter on the enrolled bill, Chairman Anders of the NRC explains that while three of the present Commissioners have reservations as to the necessity and advisability of the provisions defining the role and authorities of the Chairman, he and Commissioner Rowden feel the provisions are necessary "as a means for more efficiently and effectively conducting the internal business of the Commission." On the other hand, on July 7, Commissioner Gilinsky sent a letter to Senator Pastore objecting to the amendment. He stated:

"My own concern is that granting to the Chairman virtually all administrative and executive functions goes to the heart of the Commission concept; greater 'efficiency' may thus be bought at the expense of majority decisions arrived at in joint action. Even the appearance of one-man control over the policy-making machinery of the Commission can undermine

public confidence in the independence and judgment of the NRC and cast a shadow over the public acceptability of nuclear energy, currently so much at issue."

Chairman Anders' views letter on the enrolled bill concludes his discussion of the Commissioners' views with respect to these provisions, by stating:

"Commissioners Mason, Gilinsky, and Kennedy accordingly believe that the functioning of the Nuclear Regulatory Commission, under the proposed amendment to Section 201(a), should be subject to careful, continuing reviews."

In this connection, we should note that similar "strong chairman" provisions are applicable to some other regular commissions in the interest of efficient administration and the conduct of internal business; they do not apply to the regulatory or other substantive functions of the Commission.

With respect to the provisions concerning air transport of plutonium, NRC believes it is unnecessary but sufficiently flexible that it will not create problems. However, in its letter on the enrolled bill, DOT expresses serious concern with these provisions. DOT feels the moratorium on plutonium air shipment will be incompatible with international regulations which "provide for the air transport of plutonium when properly packaged in accordance with extremely stringent standards." It also feels the moratorium will cause plutonium to be shipped by surface no more safely and less securely. DOT also points out that international shipments are not subject to NRC control so the moratorium will not eliminate all air shipment of plutonium over the U.S.

The State Department believes that the moratorium would provoke some criticism and cause some inconvenience. However, it states that "as a practical matter, the restriction is expected to have relatively limited impact for the next few years since only a small number of imports or exports of plutonium are expected during this period," after which NRC will probably be able to certify safe containers.

Although the concerned agencies believe the plutonium air transport licensing moratorium is objectionable, they feel it is manageable and plutonium can still be shipped by surface until the NRC certifies that a "safe" container has been developed.

Although the provisions on air transport of plutonium are a matter of concern, we agree that they are not sufficiently objectionable to warrant disapproval of the bill, and, therefore, recommend its approval.

James M. Frey
Assistant Director for
Legislative Reference

Enclosures

UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D. C. 20555

OFFICE OF THE COMMISSIONER

July 7, 1975

The Honorable John O. Pastore
Chairman
Joint Committee on Atomic Energy
Washington, D.C. 20510

Dear Mr. Chairman:

I am writing to you with some reluctance about a matter which may be beyond recall. It concerns an amendment to the charter of the Nuclear Regulatory Commission which has already been adopted, although action on the Authorization Bill to which it is attached has not yet been completed. The amendment (Title II, Sec. 201(a)(2) of the Energy Reorganization Act of 1974) raises serious problems in my mind. Its stated purpose is to promote efficient operation of the Commission through centralization in the Chairman of virtually all executive and administrative authority, including "the use and expenditure of funds" and the selection and assignment of duties to the Commission staff, functions previously shared among five Commissioners.

It is very late in the game to be raising questions about this amendment, and I am of course aware of your support for it. In explanation, however, I should like to bring to your attention the fact that so far as I have been able to determine there has been no consultation on it between the Congress and any of the Commissioners, except for the Chairman himself. I personally did not learn of it until it was an accomplished fact, after it had passed through both houses of the Congress. On June 17, when it was adopted in the Senate, I was out of the city, returning on June 23 at which time Chairman Anders was away. It was not until this past Wednesday afternoon that the Commission, as a body, was given an opportunity to discuss the matter with the Chairman. The very fact that the amendment was adopted by the Senate before the Commissioners knew about its existence is disturbing, because it tends to legitimize the practice of unilateral action for the future, leaving



the majority of the Commission without any appropriate and correct recourse on matters of vital interest to them and to the NRC.

In presenting the amendment to the Senate, Senator Baker argued that the statute made no provision for a chief executive officer, creating a situation which might lead to weakened leadership and conflict among responsible officials. The Senator may well be correct in his judgment that the failure of our charter to provide for a chief executive officer is indeed a deficiency; I would not wish to frustrate in any way an effort to administrative improvement. But as one of five Commissioners, I should have preferred that we examine our organizational frailties together, which we have not done, and to share with those responsible for fashioning the Energy Reorganization Act into law any problems which may dictate its amendment. In this particular instance I suspect the remedy is worse than the disease.

The import of this measure goes beyond efficiency. My own concern is that granting to the Chairman virtually all administrative and executive functions goes to the heart of the Commission concept; greater "efficiency" may thus be bought at the expense of majority decisions arrived at in joint action. Even the appearance of one-man control over the policymaking machinery of the Commission can undermine public confidence in the independence and judgment of the NRC and cast a shadow over the public acceptability of nuclear energy, currently so much at issue.

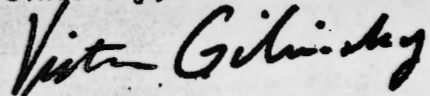
It is particularly surprising that this amendment should appear at a time when the regulatory agencies are undergoing severe criticism for having become the playground of interested industries and the source of cynical political patronage. To suggest that this amendment would bring NRC more into line with the practices of other regulatory agencies is not persuasive, and in the current atmosphere imitation of these agencies by NRC would be a dubious recommendation to the American public. It is difficult, in any case, to compare NRC with any other regulatory agency. Its responsibility for the public health and safety, the size of its budget, and its economic impact on the industry it regulates are unique in the history of government regulation.

The argument has been made that this amendment will promote greater responsiveness to Administration direction so that overall energy policy can be more effectively integrated. In relation to the role of NRC this strikes me as an idea that is questionable at best and dangerous at worst; it is surely not intended that regulation by an independent agency of an emerging, potentially dangerous energy source should become the creature of any Administration.

I should like to plead a postponement of the enactment of any amendment to allow time for the Commission and the Congress to assess these problems together; five months is a very short time in which to conclude our charter is unworkable. The five Commissioners are still feeling their way into a complex and important responsibility. Lacking a postponement, I continue to hope that you may see fit to provide an airing in the Committee of so important an amendment to the Energy Reorganization Act before final action is taken on the Authorization Bill.

I should be grateful for an opportunity to discuss this matter further with you. I shall, of course, provide Senator Baker and my fellow Commissioners with copies of this letter.

Sincerely,

A handwritten signature in cursive script that reads "Victor Gilinsky". The signature is written in dark ink and is positioned above the typed name.

Victor Gilinsky
Commissioner



OFFICE OF THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

AUG 4 1975

GENERAL COUNSEL

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

This is in response to your request for the views of this Department with respect to S. 1716, an enrolled 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, and for other purposes."

In addition to providing appropriations authorization for the Nuclear Regulatory Commission, the enrolled bill defines certain functions of the Commission Chairman and provides certain details relating to the terms of office of Commission members. Also, the enrolled bill contains a provision in the second paragraph of section 201(a)(5) which, with one exception, would prohibit the Nuclear Regulatory Commission from licensing shipments by air transport of plutonium in any form. This restriction would remain in force until the Nuclear Regulatory Commission has certified to the Joint Committee on Atomic Energy of the Congress that a safe container has been developed and tested which will not rupture under crash and blast-testing equivalent to the crash and explosion of a high-flying aircraft.

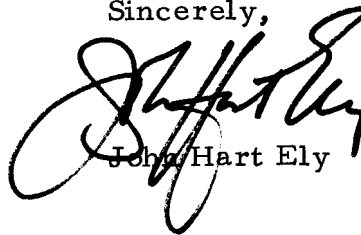
This Department has serious concern about the prohibition in section 201(a)(5). One of the difficulties raised by this prohibition will be the incompatibility of the U.S. regulations with those accepted internationally. This Department with the cooperation of the U.S. Atomic Energy Commission participated in the development of International Atomic Energy Agency regulations which are widely accepted and which provide for the air transport of plutonium when properly packaged in accordance with extremely stringent standards.

Additionally, this prohibition will cause shipments of plutonium now being made by air to be transferred to surface transport. It is our opinion that while such a change will not change the level of safety attributable to the integrity of individual packages or the actual movement of plutonium, it will significantly increase the security risks associated with such shipments.

It is worthy of note that while this restriction on air transport will substantially reduce the number of shipments of plutonium moving by air, it will not eliminate all such shipments. International shipments moving through or over the U.S. are not subject to Nuclear Regulatory Commission licensing control and, consequently, will continue.

Although we have the foregoing reservations regarding the prohibition in section 201(a)(5), we defer to the views of the Nuclear Regulatory Commission on the question of whether the President should sign the enrolled bill.

Sincerely,

A handwritten signature in black ink, appearing to read "John Hart Ely", written in a cursive style. The signature is positioned above the printed name.

John Hart Ely

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

AUG 4 1975

Dear Mr. Frey:

Thank you for your letter of August 1, 1975, inviting the Council on Environmental Quality to comment on S. 1716 Enrolled, 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, and for other purposes." We appreciate the opportunity to review the proposed legislation. The Council has no comment and no objection to the enrolled bill.

Sincerely,



David B. Cook
Acting General Counsel

Mr. James M. Frey
Assistant Director
for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503
Attn: Ms. Ramsey



DEPARTMENT OF STATE

Washington, D.C. 20520

AUG 5 - 1975

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

This is in response to the request dated August 1, 1975, of Mr. James M. Frey, Assistant Director for Legislative Reference, OMB, for the Department of State's views and recommendations on enrolled bill S. 1716. The specific portion of the bill in question is included in Title II Sec. 201 as it relates to a prohibition on the licensing of air shipments of plutonium, whether exports, imports or domestic, except for medical devices for individual application. This restriction would be recinded when the Nuclear Regulatory Commission (NRC) certifies to the Joint Committee on Atomic Energy that a safe container has been developed and tested which will not rupture under crash and blast-testing equivalent to the crash and explosion of a high-flying aircraft.


At present, there is no equivalent restriction in U.S. law, although any import of plutonium by air (or other form of transport) must meet the licensing criteria established by the NRC which include, inter alia, packaging standards as set forth in the Code of Federal Regulations. In general, these NRC standards are identical with or closely similar to those recommended by the International Atomic Energy Agency and, in the case of air shipments, the International Air Transport Association (IATA). The Administration had not proposed any legislation covering this subject matter of the bill, as it believed that existing law and regulations adequately protected the public health and safety.

If the bill becomes law, foreign organizations -- general commercial firms, although governmental agencies could be involved in some instances -- will be inconvenienced and some criticism may be anticipated. Insofar as the Department of State is aware, no other major nuclear nation has restrictive legislation of this type and it could be viewed as unwarranted restraint of foreign

commerce. (However, it would apply to U.S. domestic air shipments as well as to exports and imports.) As a practical matter, the restriction is expected to have relatively limited impact for the next few years since only a small number of imports or exports of plutonium are expected during this period. Thereafter, we believe it is likely that the NRC will be able to make the certification that a safe container exists for air shipment, enabling the restriction to be lifted. In the meantime, to the extent that such shipments are required, they may either be made by sea transport or be flown into Canada from abroad or out of Canada to the country involved, with transport by truck or rail within the United States to or from the Canadian port of entry or export.

On balance, it is the opinion of the Department of State that while it would be preferable if this portion of the bill were not to become law, our objections are not sufficiently strong to recommend that the President veto the bill for this reason.

Sincerely,


Robert J. McCloskey
Assistant Secretary for
Congressional Relations

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

August 6, 1975

CHAIRMAN

Mr. James H. Frey
Assistant Director for Legislative
Reference
Executive Office of the President
Office of Management and Budget

Dear Mr. Frey:

On behalf of myself and my colleagues on the Nuclear Regulatory Commission, I am pleased to respond to your request for its views and recommendations on Enrolled Bill S.1716, a bill "(t)o 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, and for other purposes."

The bill would authorize to be appropriated to the Nuclear Regulatory Commission to carry out the provisions of section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974: \$222,935,000 for fiscal year 1976 and \$52,750,000 for the period from July 1, 1976 through September 30, 1976.

The bill would also amend section 201 of the Energy Reorganization Act of 1974 in two respects:

Subsection 201(a) would be amended to add new subsections (2) through (5) to provide that the Chairman of the Commission shall be the principal executive officer of the Commission, and shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (a) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman, and except as otherwise provided in the Energy Reorganization Act of 1974), (b) the distribution of business among such personnel and among administrative units of the Commission,



and (c) the use and expenditure of funds. In carrying out such functions, the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make. The appointment by the Chairman of heads of major administrative units under the Commission shall be subject to the approval of the Commission. There are reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

Subsection 201(c) would be amended to provide that any member of the Commission appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of the predecessor's term. It would also provide that for the purpose of determining the expiration date of the terms of office of the five members first appointed to the Nuclear Regulatory Commission, each such term shall be deemed to have begun July 1, 1975.

S. 1716 also contains a provision somewhat extraneous to an authorization bill, to the effect that the Commission shall not license any shipments by air transport of plutonium in any form, whether exports, imports or domestic shipments except for plutonium in any form contained in a medical device designed for individual human application. This restriction shall be in force until the Nuclear Regulatory Commission has certified to the Joint Committee on Atomic Energy of the Congress that a safe container has been developed and tested which will not rupture under crash and blast-testing equivalent to the crash and explosion of a high-flying aircraft.

The funds authorized to be appropriated are necessary for the operation of the Commission for fiscal year 1976 and for the period from July 1, 1976 through September 30, 1976.

The amendments to section 201(a) provide the Chairman of the Commission with administrative authority that does not go beyond that exercised by the Chairmen of some other major independent regulatory agencies. The amendments to section 201(c) are needed to clarify the length of

the terms of office of the present Commissioners and of persons appointed to fill unexpired terms of Commissioners who resign before the end of their terms.

Commissioners Mason, Gilinsky, and Kennedy, have reservations as to the necessity and advisability of the administrative power granted to the Chairman under the amendment to section 901(a) inasmuch as the Atomic Energy Commission operated during its life with provisions governing the responsibilities of its Chairman and the other Commissioners which were identical to the unamended provisions now in effect for the Nuclear Regulatory Commission, and the three Commissioners are unaware of any circumstances in which those powers of the AEC Chairman were insufficient for the effective functioning of the Atomic Energy Commission. The comparison with most other regulatory commissions is not particularly apt because those commissioners are primarily concerned with economic regulation, whereas the principal responsibility of the Nuclear Regulatory Commission concerns regulation to protect the health and safety of the public. As the Ash Report (A New Regulatory Framework, The President's Advisory Council on Executive Organization, January 1971) recognized, collective governance is preferable to one-man leadership where, like the Nuclear Regulatory Commission, an agency is charged with protection of the public with respect to matters where public confidence is essential and "there is no satisfactory remedy for undoing the harm" arising from improper regulation (see pp. 25-26, 117-118). Conveyance of these additional powers to the Chairman will inevitably alter the relationships and avenues of communication between the NRC staff and the Commission. At some point in the future this could adversely affect the Commission's decision-making and thus the public's health and safety. Commissioners Mason, Gilinsky, and Kennedy accordingly believe that the functioning of the Nuclear Regulatory Commission, under the proposed amendment to section 201(a), should be subject to careful, continuing review.

Commissioner Gilinsky's views are set forth in more detail in an attached letter of July 7 to Senator Pastore.

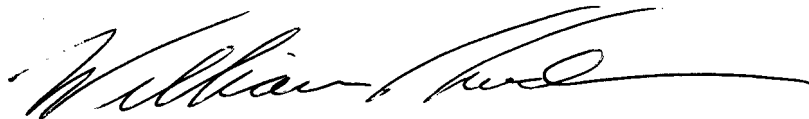
Commissioner Rowden endorses this grant of administrative authority to the NRC Chairman as a means for more efficiently and effectively conducting the internal business of the Commission. He notes that

this authority parallels that vested in the Chairmen of the Civil Aeronautics Board, Federal Trade Commission, Securities and Exchange Commission, and Federal Power Commission; and he believes it to be a reasonable accommodation of the policy and decisionmaking responsibilities of all of the Commissioners, on the one hand, and the companion need for centralized responsibility in agency administrative matters on the other hand. I concur in this view; and would add that my experience as a member of the former Atomic Energy Commission reinforces the desirability of having a clear definition of responsibility and authority.

The Commission considers the provision of S.1716 prohibiting the licensing of shipments of plutonium by air until the Commission certifies to the Joint Committee on Atomic Energy that a safe container has been developed and tested which will not rupture under crash and blast-testing equivalent to the crash and explosion of a high-flying aircraft to be unnecessary, in view of the integrity of containers used to transport plutonium by air designed to meet the current standards of the Commission and the Department of Transportation. However, we note that Congressman Scheuer, who introduced this provision in an amendment to the House bill, H.R. 7001, stated on the floor of the House on July 24, 1975, that the provision was not intended to, and does not, impose an absolute standard on the Commission and, indeed, legislates flexibility and discretion on the part of the Commission and the Joint Committee on Atomic Energy (121 Cong. Rec. H.7498).

Commissioner Rowden and I recommend the President sign the Enrolled Bill. Considering the impact of all of the contained provisions on the Nuclear Regulatory Commission, Commissioners Mason and Kennedy also recommend that the President sign the Enrolled Bill.

Sincerely,

A handwritten signature in black ink, appearing to read "William A. Anders", with a long horizontal flourish extending to the right.

William A. Anders

Enclosure

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 8

Time: 500pm

FOR ACTION:

Mike Duval *MD*
Max Friedersdorf *MF*
Ken Lazarus *KL*

cc (for information):

Jim Cavanaugh
Jack Marsh

*NSC/5th Bill Seidman *BS**

FROM THE STAFF SECRETARY

DUE: Date: August 9

Time: 1100

SUBJECT:

H. 1716 - NRC Appropriation Authorization

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 8

Time: 500pm

FOR ACTION: Mike Duval
Max Friedersdorf
Ken Lazarus

cc (for information): Jim Cavanaugh
Jack Marsh

*NSC/5
Bill Seidman ✓*

FROM THE STAFF SECRETARY

DUE: Date: August 9

Time: 1100

SUBJECT:

S. 1716 - NRC Appropriation Authorization

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

*approval
pws*


PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

John M. ...
For the President

NATIONAL SECURITY COUNCIL

August 9, 1975

MEMORANDUM FOR: JAMES CAVANAUGH
FROM:  Jeanne W. Davis ^{nmh}
SUBJECT: S. 1716 - NRC Appropriation Authorization

The NSC Staff concurs in the proposed Enrolled Bill S. 1716 - NRC Appropriation Authorization.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 8

Time: 500pm

FOR ACTION: Mike Duval
Max Friedersdorf
Ken Lazarus
NSCIS

cc (for information): Jim Cavanaugh
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: August 9

Time: 1100

SUBJECT:

S. 1716 - NRC Appropriation Authorization

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection

Ken Lazarus

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cavanaugh
For the President

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 8 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1716 - Nuclear Regulatory
Commission appropriation authorization
Sponsors - Sen. Pastore (D) Rhode Island and
Sen. Baker (R) Tennessee

Last Day for Action

August 14, 1975 - Thursday

Purpose

To authorize appropriations for the Nuclear Regulatory Commission (NRC) for fiscal year 1976 and for the transition quarter ending September 30, 1976.

Agency Recommendations

Office of Management and Budget	Approval
Nuclear Regulatory Commission	Approval
Council on Environmental Quality	No objection
Department of Transportation	Defers to NRC
Department of State	Would not recommend veto
Environmental Protection Agency	No comment

Discussion

Your budget for fiscal year 1976 included \$219,935,000 for salaries and expenses of the NRC. On February 3, 1975, the NRC transmitted to the Congress proposed legislation to authorize such appropriations, plus \$52,000,000 for the transition quarter July 1 through September 30, 1976 and \$217,000,000 for fiscal year 1977 in accordance with the Congressional Budget Act.

The enrolled bill provides \$222,935,000 for 1976 and \$52,750,000 for the transition quarter but does not include a 1977 authorization. The additions to the Administration's

10
J. Casanovi
8-8-75
3:30 p.m.



request are intended to provide additional personnel for nuclear safety inspection and enforcement.

S. 1716 would also:

- vest in the Chairman of the Commission most executive and administrative functions, subject to the general policies of the Commission and its regulatory decisions and findings, and
- prohibit NRC from licensing any shipment of plutonium by air except for medical purposes until the Commission certifies to the Joint Committee on Atomic Energy that a safe container has been developed to withstand a force equivalent to a crash and explosion of a high-flying aircraft.

These provisions were not requested by the Administration.

Two other provisions of the enrolled bill were proposed by NRC as technical amendments to their pending authorizing legislation. They would:

- limit the term of a member appointed to replace a Commissioner leaving office before expiration of his term to the remainder of the term, and
- clarify the date on which the present Commissioners begin their terms from "July 1" to "July 1, 1975."

In his views letter on the enrolled bill, Chairman Anders of the NRC explains that while three of the present Commissioners have reservations as to the necessity and advisability of the provisions defining the role and authorities of the Chairman, he and Commissioner Rowden feel the provisions are necessary "as a means for more efficiently and effectively conducting the internal business of the Commission." On the other hand, on July 7, Commissioner Gilinsky sent a letter to Senator Pastore objecting to the amendment. He stated:

"My own concern is that granting to the Chairman virtually all administrative and executive functions goes to the heart of the Commission concept; greater 'efficiency' may thus be bought at the expense of majority decisions arrived at in joint action. Even the appearance of one-man control over the policy-making machinery of the Commission can undermine

public confidence in the independence and judgment of the NRC and cast a shadow over the public acceptability of nuclear energy, currently so much at issue."

Chairman Anders' views letter on the enrolled bill concludes his discussion of the Commissioners' views with respect to these provisions, by stating:

"Commissioners Mason, Gilinsky, and Kennedy accordingly believe that the functioning of the Nuclear Regulatory Commission, under the proposed amendment to Section 201(a), should be subject to careful, continuing reviews."

In this connection, we should note that similar "strong chairman" provisions are applicable to some other regular commissions in the interest of efficient administration and the conduct of internal business; they do not apply to the regulatory or other substantive functions of the Commission.

With respect to the provisions concerning air transport of plutonium, NRC believes it is unnecessary but sufficiently flexible that it will not create problems. However, in its letter on the enrolled bill, DOT expresses serious concern with these provisions. DOT feels the moratorium on plutonium air shipment will be incompatible with international regulations which "provide for the air transport of plutonium when properly packaged in accordance with extremely stringent standards." It also feels the moratorium will cause plutonium to be shipped by surface no more safely and less securely. DOT also points out that international shipments are not subject to NRC control so the moratorium will not eliminate all air shipment of plutonium over the U.S.

The State Department believes that the moratorium would provoke some criticism and cause some inconvenience. However, it states that "as a practical matter, the restriction is expected to have relatively limited impact for the next few years since only a small number of imports or exports of plutonium are expected during this period," after which NRC will probably be able to certify safe containers.

Although the concerned agencies believe the plutonium air transport licensing moratorium is objectionable, they feel it is manageable and plutonium can still be shipped by surface until the NRC certifies that a "safe" container has been developed.

Although the provisions on air transport of plutonium are a matter of concern, we agree that they are not sufficiently objectionable to warrant disapproval of the bill, and, therefore, recommend its approval.

(Signed) James M. Frey

Assistant Director for
Legislative Reference

Enclosures

THE WHITE HOUSE

WASHINGTON

August 12, 1975

MEMORANDUM FOR:

JIM CAVANAUGH

FROM:

MAX L. FRIEDERSDORF 

SUBJECT:

S.1716 - NRC Appropriation Authorization

The Office of Legislative Affairs concurs with the agencies that the subject bill be signed.

Attachments

94TH CONGRESS }
1st Session }

SENATE

} REPORT
No. 94-174

AUTHORIZING APPROPRIATIONS FOR THE
NUCLEAR REGULATORY COMMISSION FOR
FISCAL YEAR 1976 AND FOR THE
TRANSITION QUARTER ENDING
SEPTEMBER 30, 1976

REPORT

BY THE

JOINT COMMITTEE ON ATOMIC ENERGY

[To accompany S. 1716]



JUNE 4, 1975.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1975

AUTHORIZING APPROPRIATIONS FOR THE NUCLEAR REGULATORY COMMISSION FOR FISCAL YEAR 1976 AND FOR THE TRANSITION QUARTER ENDING SEPTEMBER 30, 1976

JUNE 4, 1975.—Ordered to be printed

Mr. PASTORE, from the Joint Committee on Atomic Energy, submitted the following

REPORT

[To accompany S. 1716]

The Joint Committee on Atomic Energy having considered S. 1716, 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, and other purposes, hereby reports favorably thereon and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of this bill is to authorize appropriations for the Nuclear Regulatory Commission for fiscal year 1976 and for the transition quarter ending September 30, 1976, as follows:

Salaries and expenses for fiscal year 1976; \$219,935,000; for the transition quarter: \$52,000,000.

AUTHORIZATION REQUEST

The Nuclear Regulatory Commission's authorization request for fiscal year 1976, as submitted to the Congress on February 3, 1975, called for authorization of \$219,935,000 for salaries and expenses. Although the Commission request did not include an authorization amount for the transition quarter, the supplemental supporting data furnished to the committee by the Commission indicated that an authorization of \$52,000,000 for salaries and expenses for the transition quarter would be needed.

As shown in the table which follows, the committee has recommended authorization for fiscal year 1976 of \$219,935,000 which is the same as the amount requested. The recommended authorization for the

REPORT
No. 94-174

SENATE

AUTHORIZING APPROPRIATIONS FOR THE
NUCLEAR REGULATORY COMMISSION FOR
FISCAL YEAR 1976 AND FOR THE


JOINT COMMITTEE ON ATOMIC ENERGY

JOHN O. PASTORE, Rhode Island, *Chairman*
MELVIN PRICE, Illinois, *Vice Chairman*

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WILLIAM C. PARLER, *Committee Counsel*
RANDALL C. STEPHENS, *Assistant Counsel*
COL. SEYMOUR SEWILLER, USAF (Ret.), *Technical Consultant*
NORMAN P. KLUG, *Technical Consultant*
LAWRENCE F. ZENKER, *GAO Consultant*
CHRISTOPHER C. O'MALLEY, *Printing Editor*

(ii)



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON: 1975

transition quarter is \$52,000,000, which is also the same as the amount requested.

With respect to appropriations, the Joint Committee estimates that NRC's fiscal year 1976 and transition quarter budget requests will call for new appropriations of \$219,935,000 and \$52,000,000 respectively, the same amounts as were requested for authorization. The following table summarizes the NRC's request for authorization under its major programs and the Joint Committee's action thereon:

AUTHORIZATION OF SALARIES AND EXPENSES

(In thousands of dollars)

Program	NRC authorization request		Committee recommendations		Change		Page No.
	1976	Transition quarter	1976	Transition quarter	1976	Transition quarter	
Nuclear reactor regulation:							
Powerplant licensing.....	33,849	8,600	33,849	8,600	0	0	8
Standards development.....	11,142	2,801	11,142	2,801	0	0	9
Inspection and enforcement.....	20,788	5,500	20,788	5,500	0	0	9
Total, nuclear reactor regulation.....	65,779	16,901	65,779	16,901	0	0	9
Nuclear materials safety and safeguards.....	10,955	2,707	10,955	2,707	0	0	9
Nuclear regulatory research.....	97,223	25,171	97,223	25,171	0	0	11
Program direction and administration.....	24,015	6,221	24,015	6,221	0	0	12
Changes in selected resources.....	21,963	1,000	21,963	1,000	0	0	12
Total authorization.....	219,935	52,000	219,935	52,000	0	0	

BACKGROUND

On February 3, 1975, the Nuclear Regulatory Commission forwarded to the Congress proposed legislation authorizing appropriations to the Commission for fiscal year 1976 and 1977. On February 12, 1975, Chairman Pastore introduced the proposed legislation by request as S. 675. On February 19, 1975, Vice Chairman Melvin Price introduced an identical bill, by request as H.R. 3274.

On March 19, 1975, the Joint Committee conducted open hearings for the purpose of taking testimony on the proposed authorization for fiscal year 1976 and the transition period (July 1, 1976 through September 30, 1976) as described in the next section of this report.

On May 12, 1975, Chairman Pastore introduced S. 1716, authorizing appropriations for fiscal year 1976 and for the transition period. On May 14, 1975, Vice Chairman Price introduced an identical bill, H.R. 7001. The Joint Committee met in open session on June 4, 1975, and voted to report these two bills favorably without amendment and to approve this committee report. This action was taken by unanimous vote of the members present.

HEARING

The Subcommittee on Legislation of the Joint Committee on Atomic Energy, chaired by Senator Joseph M. Montoya, considered the proposed legislation authorizing appropriations to the NRC for fiscal year 1976 and the transition quarter at a public hearing on March 19,

1975. At this hearing the Honorable William A. Anders, Chairman of the NRC, and Lee V. Gossick, Executive Director for Operations, testified concerning the NRC budget request. Subsequently, NRC provided additional statements for the hearing record which provided detailed information on the budget requests of each of the component organizations of NRC.

COMMITTEE COMMENTS

INTRODUCTION

Origin of NRC. The regulatory function of the Atomic Energy Commission was assigned to a separate and independent organization within AEC in 1961, under the administration of a Director of Regulation. The regulatory organization was even separated physically from the remainder of AEC, with its own facilities, and since 1971 its operating expenses have been handled as a separate item in the overall AEC budget.

In 1974, Congress completed the process of establishing a completely separate and independent regulatory function by enacting the Energy Reorganization Act of 1974. The purpose of this Act was twofold: first, to consolidate certain federal energy research and development functions into a single agency, the Energy Research and Development Administration; and second, to assign the regulation of nuclear energy to an independent regulatory agency, so that there would be no possibility or suggestion by reason of organizational responsibilities that regulation of nuclear energy was influenced by promotional interests. The existence of the AEC was brought to an end.

The Energy Reorganization Act transferred to the NRC "all the licensing and related regulatory functions of the Atomic Energy Commission." These functions remain subject to all relevant provisions of the Atomic Energy Act of 1954, as amended, including section 1, which declares it to be the policy of the United States that "the development, use and control of atomic energy shall be directed so as to make the maximum contribution to the general welfare . . ." This means that NRC's regulation must be in the overall public interest, including public health and safety, the environment, and relevant social, economic, and common defense and security factors.

Safety record of nuclear power. Although the NRC has been in existence for a comparatively short time, the Federal regulation of commercial nuclear power began over two decades ago when the Atomic Energy Commission received the application for the construction of the first commercial nuclear plant. The health and safety record of commercial nuclear power since that time has been impeccable. Overall, the Nation's power systems have accumulated over 225 reactor years of commercial nuclear power operations without a single radiation accident which in any meaningful way jeopardized the public or the environment.

The safety record of nuclear power was discussed in an April 28, 1975, report to the American Physical Society, entitled "Report to the American Physical Society by the Study Group on Light Water Reactor Safety."

The Report was the work of twelve highly respected physical scientists. Its conclusions and major recommendations are as follows:

SUMMARY OF CONCLUSIONS AND MAJOR RECOMMENDATIONS

A central issue in the operation of light-water reactors is the prevention of a major release and widespread dispersal of radioactivity, which could have serious consequences to the public. The safety record of light-water reactors to date has been excellent, in that there has been no major release of radioactivity. These reactors have been designed with numerous safety features, engineered to prevent foreseeable accidents. These safety features are backed up by other safety features intended to prevent major release of radioactivity in the event of an accident. Moreover, very conscientious efforts have been made in developing the procedures and practices involved in licensing, quality assurance, operation, and inspection of these reactors to insure sound construction and operation within specified safety limits.

In the course of this study, we have not uncovered reasons for substantial short-range concern regarding risk of accidents to light-water reactors. While at present a complete quantitative assessment of all important aspects of reactor safety and behavior under unusual circumstances cannot be made, we are confident that a much better quantitative evaluation and consequent improvements of the safety situation can be achieved over the next decade if certain aspects of the safety research program are substantially improved and the results of the research are implemented. Because of the serious potential consequences of a major release of radioactivity and in view of existing safety-related technological opportunities, we believe that there should be a continuing major effort to improve light-water reactor safety as well as to understand and mitigate the consequences of possible accidents. Our recommendations are directed toward these objectives.

The major recommendations of the study group are for the most part in accord with the long-range safety research programs of NRC and ERDA. To the extent that these programs do not already include specific efforts recommended in the report, the committee expects that NRC and ERDA will carefully review the need for and feasibility of changes to their programs.

Regulatory challenges

This is not to say, however, that there have not been problems. There has been some lack of public confidence in and understanding of the regulation of nuclear power, charges of suppressed reports, industry complaints of vague and shifting regulatory requirements, and expensive delays in the regulatory process. NRC faces the challenge of continuing the impressive safety record of nuclear power, while promptly resolving these chronic problems.

Public confidence in nuclear safety has not been commensurate with the degree of safety indicated by the commercial operating record of

nuclear plants nor with the experience of the industry in handling nuclear materials. It is not enough just to be assured that commercial nuclear power is safe if the public does not understand the degree of safety and the risks.

The Commission must do a better job of explaining, in terms the layman can understand, the risk of public harm from such occurrences when it announces nuclear occurrences or accidents and its own actions in investigating and requiring corrective measures. The abnormal occurrence reports required by the Energy Reorganization Act may also be easily susceptible to misinterpretation if great care is not exercised along these lines. The following comment of the American Physical Society Study is an excellent example of what is needed to ensure that such occurrences are viewed in context:

The well-known cases of cracks in pipes and failures of valves in reactor operation, on the one hand, reflect deficiencies in fabrication or design; but, on the other hand, they are a demonstration of the success of the overall safety system and procedures which identified their existence early enough to prevent more serious consequences.

The problems of excessive delay in the regulatory process have been of concern to the Joint Committee and the subject of frequent comments for some time. During the early years of nuclear powerplant licensing, only a few plants were proposed in any given year and each design was unique. There was a continuing evolution of nuclear technology, which has been accompanied in recent years by the emergence of an array of environmental requirements. These factors have hindered the stabilization of the regulatory process until recently. A point has now been reached, however, where consistency and predictability in the regulatory process can and must be established.

Regrettably, little improvement in the time required for regulatory review has occurred. It is to be hoped that the new Commission will take a fresh look at the process and make a committed effort to apply innovative techniques to improve its efficiency without sacrificing its quality or depth. If regulatory improvements are not made, nuclear plants, which already take longer to build than conventional plants, will probably continue to suffer and be sacrificed for a more expedient route—fossil fuels. This result can only exacerbate the electricity shortages which are already predicted for five to ten years ahead.

Similarly, attempts have been made, with limited or no success, to reduce the uncertainties stemming from vague or continually changing regulatory requirements, the latter having been labelled "ratcheting" by the industry, with some justification. This remains a problem requiring the critical attention of the new Commission.

Plutonium recycle proceeding. The Joint Committee notes that on May 8, 1975, the NRC announced that before making a decision in the rulemaking proceeding which it had under consideration on the question as to whether recycled plutonium may be used widely in fuel for light water nuclear reactors, it will ask for public comment regarding possible courses of action for evaluating the safeguards necessary for this application.

The NRC indicated that its "provisional view," subject to consideration of comments which may be received, is that in order to meet the requirements of the National Environmental Policy Act, a cost-

benefit analysis of alternative safeguards programs should be prepared, published, and publicly considered before the Commission makes its decision. The Commission further stated in its announcement that if the provisional view is adopted, a final Commission decision on plutonium recycle would be reached in about early to mid-1978, depending upon the timing and outcome of various safeguards studies underway and the time required to complete any necessary public proceedings.

The Joint Committee fully appreciates that the questions of the acceptability of the large scale use of recycled plutonium in light water reactors and of providing adequate safeguards for the recycling process are of the utmost importance, and that NRC must fully meet the requirements of NEPA. On the other hand, the Commission's decision in this matter is essential for industry and Government planning and action to take the steps necessary in providing the needed facilities to help in meeting the Nation's future energy requirements. Undue delay will inevitably result in expensive inefficiencies and postponements of related decisions, such as the timing of new uranium mines and mills, new uranium enrichment facilities, reprocessing facilities, breeder reactors, and alternative energy source research, development, and installation. The Commission is urged to expedite its decisions on plutonium recycling and safeguards to the maximum extent without reducing the necessary scope and depth of its inquiry, regardless of its decision as to the separability of these two issues.

The responsibility for the administrative rulemaking decision on this question is, of course, the Commission's. The Joint Committee's comments here are for the sole purpose of emphasizing the importance of the earliest possible rulemaking decision, one way or the other, on this matter. If the administrative decision happens to be favorable, the nuclear industry can continue to move ahead to meet the electricity load growth which is expected. If, on the other hand, the administrative decision is that plutonium recycle should not be permitted, major readjustments will have to be made in industry and Government planning to meet our Nation's mid- and long-term energy needs. This is a fundamental fact which no one can ignore. But none of these vitally important decisions can be made until the Nuclear Regulatory Commission renders its administrative decision on plutonium recycling.

NRC studies. The new Commission is required under the Energy Reorganization Act to conduct a number of studies and to submit the results to Congress by specified dates. Inasmuch as these reports are essential to a number of major policy decisions, Congress should be kept informed of progress on the studies and of any problems as they might occur. The Joint Committee should be promptly informed if there are any problems which would cause a delay in the timely completion of these studies.

In regard to the overall functions of NRC, the Joint Committee urges the Commission to develop in-house expertise, in lieu of reliance on contracts with private organizations (other than the national laboratories), where regulatory needs can best be served over the long run, in terms of efficiency and independence, by the agency's own personnel. There will be a continuing need for NRC competence in a wide range of technical and other capabilities.

Nuclear power and energy supply. Nuclear power is already making substantial contributions to the Nation's energy supply. Consumers of electricity saved an estimated \$750,000,000 in 1974 alone because of the use of cheaper nuclear fuel in the Nation's 53 operating nuclear plants. Each large nuclear plant saves this Nation the need for one million barrels of oil each month when operating at 80 percent capacity. Power from the atom in 1974 is reported to have saved the equivalent of more than 247 million barrels of oil, which is a significant step toward lessening the Nation's dependency on oil imports.

The resources provided by this legislation should be prudently used by NRC to do everything feasible to assure that nuclear facilities continue to be constructed and operated safely and in a manner compatible with environmental values, and that these indispensable fundamental objectives are achieved under a licensing system which involves no more expense in terms of resources and time delays than is really required to do the job right.

II. NUCLEAR REACTOR REGULATION

A. NRC request

The NRC requested authorization of \$65,779,000 for fiscal year 1976 for its nuclear reactor regulation program, an increase of \$13,889,000 over estimated fiscal year 1975 costs. This request includes \$33,849,000 for powerplant licensing, \$11,142,000 for standards development, and \$20,788,000 for inspection and enforcement. Also, the requested increase would provide additional personnel positions of 38 for nuclear powerplant licensing, 48 for standards development, and 125 for inspection and enforcement. For the transition quarter NRC requested authorization of \$16,901,000, including \$8,600,000 for powerplant licensing, \$2,801,000 for standards development, and \$5,500,000 for inspection and enforcement.

B. Committee action

The NRC budget request for the Nuclear Reactor Regulation Program represents a more than 25% increase over the estimated fiscal year 1975 level. The Joint Committee concurs in the requested amounts. The careful regulation of nuclear power must not in any way be limited by lack of resources. The growth of the regulatory portion of the AEC over the past five years has been rapid, with the number of personnel doubling twice in that period. This budget continues that growth. It is anticipated that at some point a leveling off will be possible.

The Joint Committee approves the full requests of \$33,849,000 and \$8,600,000 for fiscal year 1976 and the transitional quarter, respectively for powerplant licensing. It is noted that the reductions in licensing review time that were projected during the fiscal year 1975 authorization hearings have not been achieved, although some improvement has been made. Further efforts will be made by NRC to reduce the lead times while maintaining the quality of the reviews. The use of Limited Work Authorizations and the exploratory efforts on separate site reviews are helping to alleviate the problem of regulatory delays. The

recommended increase in funds and personnel for licensing reviews should hopefully permit further reductions in the licensing lead time.

The more than 50% increase in funding for the standards development effort, from \$7,114,000 estimated for fiscal year 1975 to \$11,142,000 in fiscal year 1976, if properly applied, should lead to substantial improvements in the licensing process. The use of standards can reduce the number of issues that must be considered repetitively in licensing proceedings. This should contribute to expedition of reviews as well as enhancing the consistency and stability of the overall process. A large part of the increase will be applied to the development of standards for nuclear facility siting. Other major increases are planned for standards efforts for Light Water Reactors and for safeguards.

The fiscal year 1976 request for the Office of Inspection and Enforcement is for \$20,788,000, an increase of more than 20% over the estimated fiscal year 1975 level. Most of the funds will be used for an increase of 125 positions, almost all of which are field positions. This would bring the total of inspection and enforcement personnel to 544.

The NRC inspection program relies primarily on inspections by private industry, with a fairly extensive program of confirmatory inspections by NRC personnel to ensure that the inspections required of licensees are properly executed. The validity of this approach was demonstrated last year by the discovery through private industry inspections of hairline cracks in certain piping in a few reactors, substantially before any of the cracks developed into a potentially hazardous condition. Prompt action by the licensees in notifying the Nuclear Regulatory Commission of the discovery enabled the Commission to ascertain in a relatively short time that the cracks were not a widespread problem in that particular reactor type. Nevertheless, care must continue to be taken to assure that NRC has adequate capability to evaluate thoroughly the inspection procedures and the results of inspections conducted by other than NRC inspectors, as well the capability, as it may deem appropriate, to itself perform follow-up inspections. It is hoped that the other committees of the Congress which have the responsibility to recommend the appropriation of funds for NRC would consider the need for personnel, such as the 125 additional inspection personnel requested by NRC, to assure that this vitally important inspection capability is maintained.

The Commission conducted nearly 4,000 separate inspections in 1975, about half of which were reactor inspections. The industry itself conducted substantially more inspections, including those required by NRC rules and regulations, and other inspections on their own initiative. This massive inspection program is a key feature of the in-depth effort to prevent nuclear accidents.

III. NUCLEAR MATERIALS SAFETY AND SAFEGUARDS

A. NRC request

The NRC requested authorization of \$10,955,000 for fiscal year 1976 and \$2,707,000 for the transition quarter for its nuclear materials safety and safeguards program. The fiscal year 1976 request represents a \$3,494,000 increase over estimated fiscal year 1975 costs, and would provide for an additional 31 personnel positions.

B. Committee action

The funds being requested for this activity will permit NRC to carry out its responsibilities for materials and fuel cycle licensing; for conducting a nuclear energy center site survey; and for assessing the need for and feasibility of a security agency within NRC.

Under the materials and fuel cycle category, NRC licenses all types of non-reactor nuclear fuel facilities; transport container designs; by-product, source and special nuclear materials; and the export of nuclear materials and components. This activity also includes the administration of an Agreement State Program under which the States have assumed responsibility for the regulation of the use of certain nuclear materials.

Considerable attention has been recently focused on the several parts of the nuclear fuel cycle—notably fuel reprocessing, waste management, plutonium recycle, uranium enrichment and transportation. It is essential that operations in all parts of the fuel cycle be carried out in a safe, reliable and economic manner with great care to the environment. Aggressive actions and decisions are required—on the part of both industry and government—to assure that the present problems in the fuel cycle area are resolved and that major bottlenecks are not introduced which could severely inhibit the planned growth of the use of nuclear power.

With respect to safeguards, the NRC budget request calls for a major expansion. The purpose of this expanded program is twofold—(a) to continue assuring that adequate safeguards are provided for protection of the limited amounts of strategic nuclear materials presently in use, and (b) to develop the more comprehensive safeguards systems which will be needed as the amounts of strategic material in use substantially increase, assuming nuclear power achieves its projected growth pattern. The security agency study should provide useful information with respect to developing the comprehensive safeguards systems.

The committee notes that there are a number of organizational units within NRC which have responsibilities in the safeguards area. It is appreciated that NRC is in a transitional phase, and that these are interim organizational arrangements. However, the committee urges NRC to move expeditiously to assure that clean organizational lines are established in the safeguards area so that this important function can be carried out in the most effective manner possible.

Another major effort being conducted under this budget category is the Nuclear Energy Center Site Survey. This study is being done in response to Section 207 of the Energy Reorganization Act of 1974 which requires NRC to make a national survey to locate and identify possible nuclear energy center sites. Such sites would be large enough to support nuclear powerplants or other elements of the nuclear fuel cycle, or both, including as appropriate nuclear fuel reprocessing facilities, nuclear fuel fabrication plants, nuclear waste storage facilities, and uranium enrichment facilities. A number of studies on this general concept have been carried out in the past, and the committee recommends that NRC make maximum use of these previous efforts.

The Joint Committee has reviewed the NRC request for nuclear materials safety and safeguards, and believes that the activities to be carried out are essential. Accordingly, it recommends authorization of the total funds requested by NRC for this category.

IV. NUCLEAR REGULATORY RESEARCH

A. NRC request

The NRC's requested authorization of \$97,223,000 for this program for fiscal year 1976 represents a 58 percent increase over estimated fiscal year 1975 costs, and would provide for an additional 20 personnel positions. NRC also requested \$25,171,000 for this program for the transition quarter.

B. Committee action

The funds being requested for this program are required to permit NRC to conduct confirmatory assessment research in three primary areas: nuclear reactor safety; fuel cycle and environmental protection; and safeguards. Work in these areas is essential to provide NRC an independent capability to verify, as needed, the data and analyses provided by applicants for NRC permits and licenses.

The major portion of the requested funds is to be used to support reactor safety research. This request is for \$79.8 million for fiscal year 1976—a substantial increase of \$21.9 million over the fiscal year 1975 estimate of \$57.9 million. Well over half of the requested funds are to be devoted to research on light water reactors—the primary type in commercial operation today—but significant and growing efforts are to be devoted to gas cooled reactors and fast breeders.

The Loss of Fluid Test Program (LOFT) is the largest reactor safety research program, and is designed to provide an improved basis for analytically predicting the course of events in the highly unlikely case of a major loss of coolant accident in a commercial light water reactor plant. The LOFT program should serve to help verify the large conservatisms in safety margins in these plants, and thus the committee again urges that the LOFT facility be completed expeditiously and the experimental program be vigorously pursued.

It is important to re-emphasize that the NRC supported research should not go beyond the need for confirmatory assessment, and that the burden of proving the safety of specific nuclear power plants must continue to reside in the first instant with the utility applicant. The committee urges NRC to be continually vigilant in this regard. NRC should also assure that there is no undue duplication of effort between NRC programs and those of ERDA—particularly for the gas cooled reactors and fast breeders where ERDA has substantial programs underway.

In addition to the reactor safety research programs, funds are being requested under this category to substantially step up NRC research in two new areas: fuel cycle and environmental research and safeguards research. The fuel cycle and environmental research fiscal year 1976 request is \$9.3 million—up \$8.4 million from the fiscal year 1975 estimate of \$0.9 million. The safeguards research fiscal year 1976 re-

quest is for \$8.1 million—up \$5.5 million from the fiscal year 1975 estimate of \$2.6 million.

It is important to appreciate that there have been, and continue to be, substantial research programs in these areas in ERDA as well as other Federal agencies—such as EPA. As with the reactor safety research program, NRC must assure that its programs are limited to those necessary for confirmatory assessment purposes, and that there is no undue duplication of work with respect to ERDA and other agencies.

Over the years, the Joint Committee has continually provided all the funding authorization that could be effectively utilized by the Executive Branch on reactor safety and related research programs. The committee believes that the efforts to be carried out by NRC under this category are desirable, and accordingly recommends authorization of the \$97,223,000 requested for fiscal year 1976 and the \$25,171,000 requested for the transition quarter.

V. PROGRAM DIRECTION AND ADMINISTRATION

A. NRC request

The NRC requested authorization of \$24,015,000 for fiscal year 1976 for program direction and administration, an increase of \$4,161,000 over estimated fiscal year 1975 costs. The requested increase would provide for an additional 21 personnel positions. NRC also requested authorization of \$6,221,000 for this program category for the transition quarter.

B. Committee action

This budget activity includes salaries and other costs for NRC staff engaged in support of the Commission's policy and executive direction functions; for NRC staff engaged in a variety of administrative and general management functions; for staff responsible for NRC legal services; and for the support of several committees and boards that provide advice to NRC. The committee recommends approval of the full amount requested by NRC for these activities.

From an overall standpoint, the committee again wants to emphasize the importance of NRC closely examining its operations to assure maximum utilization and productivity of its personnel. NRC has projected that, with the 283 additional positions proposed to be authorized for fiscal year 1976, the on-board personnel will total 2,339 by June 30, 1976. While the committee has consistently provided all the resources necessary for NRC to carry out its responsibilities for regulating the nuclear industry, it believes that aggressive actions are essential to assure the highest efficiency possible with respect to the utilization of these resources.

VI. CHANGES IN SELECTED RESOURCES

A. NRC request

The objective of this program category is to budget for the net increase or decrease in levels of resources required to support the

Commission programs discussed in the preceding parts of this report. Included in this category are contracts for materials and services to be delivered after fiscal year 1976 and the transition quarter, and financing of contractors, in accordance with Commission policy, beyond the end of each fiscal year, to insure continuity of operations. The levels of these selected resources are assets which may be applied to program costs of future years' operations.

The balance of selected resources expected to be available for future applications at the end of fiscal year 1976 is \$21,963,000 more than the balance expected at the end of fiscal year 1975, and the balance expected to be available at the end of the transition quarter is \$1.0 million more than the estimated balance at the end of fiscal year 1976.

B. Committee action

The NRC estimate of the increases in selected resources expected to be available at the end of fiscal year 1976 and the transition quarter appears reasonable. The committee, therefore, recommends that the amounts requested by NRC, \$21,963,000 for fiscal year 1976 and \$1.0 million for the transition quarter, be authorized for these increases in selected resources.

COMPARATIVE COST ESTIMATES

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510), the Joint Committee has prepared a 5-year projection of NRC's estimated costs. The committee's estimate of the net costs to be incurred in carrying out the NRC authorization bill as reported by the committee is, for fiscal year 1976, \$198 million, the same as NRC's estimate, and, for the transition quarter, \$51 million, also the same as NRC's estimate.

The amount authorized for the salaries and expenses of NRC is for "no year" appropriations, but the unobligated balance in any year will be used to reduce the request for new obligational authority in the succeeding year. Also NRC's salaries and expenses will be authorized annually. While it is contemplated that most programs will continue beyond fiscal year 1976, the number of programs to continue and their future level of funding are contingent upon many decisions which have not yet been made. Therefore, the committee has no information upon which to predict any future level of salaries and expenses different from those projected by the NRC. The Commission's estimate of future years' net costs is as follows:

Fiscal years:	<i>Net costs</i>	<i>Millions</i>
1977 -----		\$210
1978 -----		218
1979 -----		222
1980 -----		231

BILL ANALYSIS

This bill authorizes appropriations to the Nuclear Regulatory Commission to carry out the provisions of section 261 of the Atomic

Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, in the amount of \$219,935,000 for fiscal year 1976 and \$52,000,000 for the transition period July 1, 1976, to September 30, 1976.

CHANGES IN EXISTING LAW

This bill makes no change in existing law.

○

Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,
one thousand nine hundred and seventy-five*

An Act

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, and for other purposes.

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

TITLE I

SEC. 101. There is authorized to be appropriated to the Nuclear Regulatory Commission to carry out the provisions of section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974: \$222,935,000 for fiscal year 1976 and \$52,750,000 for the period from July 1, 1976 through September 30, 1976.

TITLE II

SEC. 201. Section 201(a) of the Energy Reorganization Act of 1974 is amended—

- (1) by inserting "(1)" immediately after "Sec. 201. (a)"; and
- (2) by adding at the end of such subsection the following:

"(2) The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (a) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman, and except as otherwise provided in the Energy Reorganization Act of 1974), (b) the distribution of business among such personnel and among administrative units of the Commission, and (c) the use and expenditure of funds.

"(3) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

"(4) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

"(5) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes."

The Nuclear Regulatory Commission shall not license any shipments by air transport of plutonium in any form, whether exports, imports or domestic shipments: *Provided, however,* That any plutonium in any form contained in a medical device designed for individual human application is not subject to this restriction. This restriction shall be in force until the Nuclear Regulatory Commission has certified to the Joint Committee on Atomic Energy of the Congress that a safe container has been developed and tested which will not

rupture under crash and blast-testing equivalent to the crash and explosion of a high-flying aircraft.

SEC. 202. Subsection 201(c) of the Energy Reorganization Act of 1974 is amended by deleting the period at the end of the subsection and adding the following text: “; and except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term.”.

SEC. 203. Section 201(c) is amended to include the following: “For the purpose of determining the expiration date of the terms of office of the five members first appointed to the Nuclear Regulatory Commission, each such term shall be deemed to have begun July 1, 1975.”.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

August 2, 1975

Dear Mr. Director:

The following bills were received at the White House on August 2nd:

H.R. 83 ✓	H.R. 7716 ✓✓
H.R. 1553 ✓	H.R. 9091 ✓✓
H.R. 4241 ✓	S. 409 ✓
H.R. 4723 ✓	S. 1531 ✓
H.R. 5405 ✓	S. 1716 ✓
H.R. 7710 ✓✓	S. 2073 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.