

TITLE 42—THE PUBLIC HEALTH AND WELFARE

Chapter 23—DEVELOPMENT AND CONTROL OF ATOMIC ENERGY

387 § 2153. Cooperation with other nations

No cooperation with any nation, group of nations or regional defense organization pursuant to sections 2073, 2074(a), 2077, 2094, 2112, 2121, 2133, 2134, or 2164 of this title shall be undertaken until—

(a) Terms, conditions, duration, nature, scope, and other requirements of proposed agreements for cooperation; Presidential exemptions; negotiations; Nuclear Proliferation Assessment Statement

the proposed agreement for cooperation has been submitted to the President, which proposed agreement shall include the terms, conditions, duration, nature, and scope of the cooperation; and shall include the following requirements * * *

* * * * *

(b) Presidential approval and authorization for execution of proposed agreements for cooperation

the President has submitted text of the proposed agreement for cooperation (except an agreement arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title), together with the accompanying unclassified Nuclear Proliferation Assessment Statement, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, the President has consulted with such Committees for a period of not less than thirty days of continuous session (as defined in section 2159(g) of this title) concerning the consistency of the terms of the proposed agreement with all the requirements of this chapter, and the President has approved and authorized the execution of the proposed agreement for cooperation and has made a determination in writing that the performance of the proposed agreement will promote, and will not constitute an unreasonable risk to, the common defense and security;

(c) Submittal of proposed agreements for cooperation to Congressional committees

the proposed agreement for cooperation (if not an agreement subject to subsection (d)), together with the approval and determination of the President, has been submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of thirty days of continuous session (as defined in section 2159(g) of this title): Provided, however, That these committees, after having received such agreement for cooperation, may by resolution in writing waive the conditions of all or any portion of such thirty-day period; and

(d) Congressional action

the proposed agreement for cooperation (if arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title, or if entailing implementation of section 2073, 2074(a), 2133, or 2134 of this title in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith) has been submitted to the Congress, together with the approval and determination of the President, for a period of sixty days of continuous session (as defined in section 2159(g) of this title) and referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, and in addition, in the case of a proposed agreement for cooperation arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title, the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, but such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress adopts, and there is enacted, a joint resolution stating in substance that the Congress does not favor the proposed agreement for cooperation: Provided, That the sixty-day period shall not begin until a Nuclear Proliferation Assessment Statement prepared by the Secretary of State, and any annexes thereto, when required by subsection (a), have been submitted to the Congress: Provided further, That an agreement for cooperation exempted by the President pursuant to subsection (a) from any requirement contained in that subsection, or an agreement exempted pursuant to section 8003(a)(1) of title 22, shall not become effective unless the Congress adopts, and there is enacted, a joint resolution stating that the Congress does favor such agreement. During the sixty-day period the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall each hold hearings on the proposed agreement for cooperation and submit a report to their respective bodies recommending whether it should be approved or disapproved. Any such proposed agreement for cooperation shall be considered pursuant to the procedures set forth in section 2159(i) of this title.

Following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title) to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, the Nuclear Regulatory Commission, the Department of State, the Department of Energy, and the Department of Defense shall, upon the request of either of those committees, promptly furnish to those committees their views as to whether the safeguards and other controls contained therein provide an adequate framework to ensure that any exports as contemplated by such agreement will not be inimical to or constitute an unreasonable risk to the common defense and security. If, after March 10, 1978, the Congress fails to disapprove a proposed agreement for cooperation which exempts the recipient nation from the requirement set forth in subsection (a)(2), such failure to act shall constitute a failure to adopt a resolution of disapproval pursuant to section 2157(b)(3) of this title for purposes of the Commission's consideration of applications and requests under sec-

tion 2155(a)(2) of this title and there shall be no congressional review pursuant to section 2157 of this title of any subsequent license or authorization with respect to that state until the first such license or authorization which is issued after twelve months from the elapse of the sixty-day period in which the agreement for cooperation in question is reviewed by the Congress. (Aug. 1, 1946, ch. 724, Title I, § 123, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 940; amended Pub. L. 85–479, §§ 3, 4, July 2, 1958, 72 Stat. 277; Pub. L. 85–681, § 4, Aug. 19, 1958, 72 Stat. 632; Pub. L. 88–489, § 15, Aug. 26, 1964, 78 Stat. 606; Pub. L. 93–377, § 5, Aug. 17, 1974, 88 Stat. 475; Pub. L. 93–485, § 1, Oct. 26, 1974, 88 Stat. 1460; Pub. L. 95–242, Title IV, § 401, Mar. 10, 1978, 92 Stat. 142; Pub. L. 99–64, Title III, § 301(a), (b), July 12, 1985, 99 Stat. 159, 160; renumbered Title I, Pub. L. 102–486, Title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103–337, div. C, Title XXXI, § 3155(c)(1), Oct. 5, 1994, 108 Stat. 3092; Pub. L. 103–437, § 15(f)(5), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 104–106, div. A, Title XV, § 1505(g), Feb. 10, 1996, 110 Stat. 515; Pub. L. 105–277, div. G, Title XII, § 1225(d)(4), Oct. 21, 1998, 112 Stat. 2681–774; Pub. L. 109–401, Title I, § 104(e), Dec. 18, 2006, 120 Stat. 2734; Pub. L. 110–369, Title II, § 202, Oct. 8, 2008, 122 Stat. 4033.)

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388 § 2153c. Renegotiation of agreements for cooperation

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(b) Presidential review of export agreement conditions and policy goals

The President shall annually review each of requirements (1) through (9) set forth for inclusion in agreements for cooperation under section 123 a. of the 1954 Act [42 U.S.C. 2153(a)] and the export policy goals set forth in section 2153b of this title to determine whether it is in the interest of United States non-proliferation objectives for any such requirements or export policies which are not already being applied as export criteria to be enacted as additional export criteria.

(c) Presidential proposals for additional export criteria

If the President proposes enactment of any such requirements or export policies as additional export criteria or to take any other action with respect to such requirements or export policy goals for the purpose of encouraging adherence by nations and groups of nations to such requirements and policies, he shall submit such a proposal together with an explanation thereof to the Congress.

(d) Congressional action

If the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, after reviewing the President's annual report or any proposed legislation, determines that it is in the interest of United States non-proliferation objectives to take any action with respect to such requirements or export policy goals, it shall report a joint resolution to implement such determination. Any joint resolution so reported shall be considered in the Senate and the House of Representatives, respectively, under applicable procedures provided for the consideration of resolutions pursuant to subsection 130 b. through g. of the 1954 Act [42 U.S.C. 2159(b) through (g)]. (Pub.

L. 95–242, Title IV, § 404, Mar. 10, 1978, 92 Stat. 147; Pub. L. 103–437, § 15(g), Nov. 2, 1994, 108 Stat. 4593.)

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§ 2155. Export licensing procedures

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(a) Executive branch judgment on export applications; criteria governing United States nuclear exports

No license may be issued by the Nuclear Regulatory Commission (the “Commission”) for the export of any production or utilization facility, or any source material or special nuclear material, including distributions of any material by the Department of Energy under section 2074, 2094, or 2112 of this title, for which a license is required or requested, and no exemption from any requirement for such an export license may be granted by the Commission, as the case may be, until—

* * * * *

Provided, That continued cooperation under an agreement for cooperation as authorized in accordance with section 2154 of this title shall not be prevented by failure to meet the provisions of paragraph (4) or (5) of section 2156 of this title for a period of thirty days after March 10, 1978, and for a period of twenty-three months thereafter if the Secretary of State notifies the Commission that the nation or group of nations bound by the relevant agreement has agreed to negotiations as called for in section 2153c(a) of this title; however, nothing in this subsection shall be deemed to relinquish any rights which the United States may have under agreements for cooperation in force on March 10, 1978: *Provided further*, That if, upon the expiration of such twenty-four month period, the President determines that failure to continue cooperation with any group of nations which has been exempted pursuant to the above proviso from the provisions of paragraph (4) or (5) of section 2156 of this title, but which has not yet agreed to comply with those provisions would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, he may, after notifying the Congress of his determination, extend by Executive order the duration of the above proviso for a period of twelve months, and may further extend the duration of such proviso by one year increments annually thereafter if he again makes such determination and so notifies the Congress. In the event that the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate reports a joint resolution to take any action with respect to any such extension, such joint resolution will be considered in the House or Senate, as the case may be, under procedures identical to those provided for the consideration of resolutions pursuant to section 2159 of this title * * *

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(b) Requests to be given timely consideration; Presidential review if Commission is unable to make required statutory determinations; Commission review

(1) Timely consideration shall be given by the Commission to requests for export licenses and exemptions and such requests shall be granted

upon a determination that all applicable statutory requirements have been met.

(2) If, after receiving the executive branch judgment that the issuance of a proposed export license will not be inimical to the common defense and security, the Commission does not issue the proposed license on a timely basis because it is unable to make the statutory determinations required under this chapter, the Commission shall publicly issue its decision to that effect, and shall submit the license application to the President. The Commission's decision shall include an explanation of the basis for the decision and any dissenting or separate views. If, after receiving the proposed license application and reviewing the Commission's decision, the President determines that withholding the proposed export would be seriously prejudicial to the achievement of United States non-proliferation objectives, or would otherwise jeopardize the common defense and security, the proposed export may be authorized by Executive order: *Provided*, That prior to any such export, the President shall submit the Executive order, together with his explanation of why, in light of the Commission's decision, the export should nonetheless be made, to the Congress for a period of sixty days of continuous session (as defined in section 2159(g) of this title) and shall be referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such proposed export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the proposed export. Any such Executive order shall be considered pursuant to the procedures set forth in section 2159 of this title for the consideration of Presidential submissions * * *

* * * * *

(c) Additional export criteria

In the event that the House of Representatives or the Senate passes a joint resolution which would adopt one or more additional export criteria, or would modify any existing export criteria under this chapter, any such joint resolution shall be referred in the other House to the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, as the case may be, and shall be considered by the other House under applicable procedures provided for the consideration of resolutions pursuant to section 2159 of this title. (Aug. 1, 1946, ch. 724, Title I, § 126, as added Pub. L. 95-242, Title III, § 304(a), Mar. 10, 1978, 92 Stat. 131; renumbered title I, Pub. L. 102-486, Title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103-437, § 15(f)(5), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 105-277, div. G, Title XII, § 1225(d)(5), Oct. 21, 1998, 112 Stat. 2681-774.)

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390 § 2157. Additional export criterion and procedures

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Provided, That no such export of any production or utilization facility or of any source or special nuclear material (intended for use as fuel in any production or utilization facility) which has been licensed or authorized pursuant to this subsection shall be made to any non-nuclear-weapon state which has failed to meet such criterion until the first

such license or authorization with respect to such state is submitted to the Congress (together with a detailed assessment of the reasons underlying the President's determination, the judgment of the executive branch required under section 2155 of this title, and any Commission opinion and views) for a period of sixty days of continuous session (as defined in section 2159(g) of this title) and referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, but such export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that the Congress does not favor the proposed export. Any such license or authorization shall be considered pursuant to the procedures set forth in section 2159 of this title for the consideration of Presidential submissions.

(2) If the Congress adopts a resolution of disapproval pursuant to paragraph (1), no further export of materials, facilities, or technology specified in subsection (a) shall be permitted for the remainder of that Congress, unless such state meets the criterion or the President notifies the Congress that he has determined that significant progress has been made in achieving adherence to such criterion by such state or that United States foreign policy interests dictate reconsideration and the Congress, pursuant to the procedure of paragraph (1), does not adopt a concurrent resolution stating in substance that it disagrees with the President's determination.

(3) If the Congress does not adopt a resolution of disapproval with respect to a license or authorization submitted pursuant to paragraph (1), the criterion set forth in subsection (a) shall not be applied as an export criterion with respect to exports of materials, facilities and technology specified in subsection (a) to that state: *Provided*, That the first license or authorization with respect to that state which is issued pursuant to this paragraph after twelve months from the elapse of the sixty-day period specified in paragraph (1), and the first such license or authorization which is issued after each twelve-month period thereafter, shall be submitted to the Congress for review pursuant to the procedures specified in paragraph (1): *Provided further*, That if the Congress adopts a resolution of disapproval during any review period provided for by this paragraph, the provisions of paragraph (2) shall apply with respect to further exports to such state. (Aug. 1, 1946, ch. 724, Title I, § 128, as added Pub. L. 95-242, Title III, § 306, Mar. 10, 1978, 92 Stat. 137; renumbered Title I, Pub. L. 102-486, Title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103-437, § 15(f)(5), Nov. 2, 1994, 108 Stat. 4592.)

§ 2158. Conduct resulting in termination of nuclear exports

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(a) No nuclear materials and equipment or sensitive nuclear technology shall be exported to—

(1) any non-nuclear-weapon state that is found by the President to have, at any time after March 10, 1978 * * *

* * * * *

unless the President determines that cessation of such exports would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security: *Provided*, That prior to the effective date of any such determination, the President's determination, together with a report con-

taining the reasons for his determination, shall be submitted to the Congress and referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of sixty days of continuous session (as defined in section 2159(g) of this title), but any such determination shall not become effective if during such sixty-day period the Congress adopts, and there is enacted, a joint resolution stating in substance that it does not favor the determination. Any such determination shall be considered pursuant to the procedures set forth in section 2159 of this title for the consideration of Presidential submissions. (Aug. 1, 1946, ch. 724, Title I, § 129, as added Pub. L. 95–242, Title III, § 307, Mar. 10, 1978, 92 Stat. 138; renumbered Title I, Pub. L. 102–486, Title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103–437, § 15(f)(5), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 109–58, Title VI, § 632(a), Aug. 8, 2005, 119 Stat. 788; Pub. L. 110–369, Title II, § 203, Oct. 8, 2008, 122 Stat. 4033.)

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392 § 2159. Congressional review procedures

(a) Committee consideration of Presidential submissions; reports

Not later than forty-five days of continuous session of Congress after the date of transmittal to the Congress of any submission of the President required by section 2155(a)(2), 2155(b)(2), 2157(b), 2158, 2160(a)(3), or 2160(f)(1)(A) of this title, the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives shall each submit a report to its respective House on its views and recommendations respecting such Presidential submission together with a resolution, as defined in subsection (f), stating in substance that the Congress approves or disapproves such submission, as the case may be: Provided, That if any such committee has not reported such a resolution at the end of such forty-five day period, such committee shall be deemed to be discharged from further consideration of such submission. If no such resolution has been reported at the end of such period, the first resolution, as defined in subsection (f), which is introduced within five days thereafter within such House shall be placed on the appropriate calendar of such House.

(b) Consideration of resolution by respective Houses of Congress

When the relevant committee or committees have reported such a resolution (or have been discharged from further consideration of such a resolution pursuant to subsection (a)) or when a resolution has been introduced and placed on the appropriate calendar pursuant to subsection (a), as the case may be, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(c) Debate

Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to a motion to postpone, or a motion to recommit the resolution, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order. No amendment to any concurrent resolution pursuant to the procedures of this section is in order except as provided in subsection (d).

(d) Vote on final approval

Immediately following (1) the conclusion of the debate on such concurrent resolution, (2) a single quorum call at the conclusion of debate if requested in accordance with the rules of the appropriate House, and (3) the consideration of an amendment introduced by the Majority Leader or his designee to insert the phrase, “does not” in lieu of the word “does” if the resolution under consideration is a concurrent resolution of approval, the vote on final approval of the resolution shall occur.

(e) Appeals from decisions of Chair

Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such a resolution shall be decided without debate.

(f) Resolution

For the purposes of subsections (a) through (e) of this section, the term “resolution” means a concurrent resolution of the Congress, the matter after the resolving clause of which is as follows: “That the Congress (does or does not) favor the _____ transmitted to the Congress by the President on _____, ____.”, the blank spaces therein to be appropriately filled, and the affirmative or negative phrase within the parenthetical to be appropriately selected.

(g) Continuity of Congressional sessions; computation of time

(1) Except as provided in paragraph (2), for the purposes of this section—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(2) For purposes of this section insofar as it applies to section 2153 of this title—

(A) continuity of session is broken only by an adjournment of Congress sine die at the end of a Congress; and

(B) the days on which either House is not in session because of an adjournment of more than three days are excluded in the computation of any period of time in which Congress is in continuous session.

(h) Supersedure or change in rules

This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (f) of this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(i) Joint resolutions

(1) For the purposes of this subsection, the term “joint resolution” means—

(A) for an agreement for cooperation pursuant to section 2153 of this title, a joint resolution, the matter after the resolving clause of which is as follows: “That the Congress (does or does not) favor the proposed agreement for cooperation transmitted to the Congress by the President on _____.”,

(B) for a determination under section 2158 of this title, a joint resolution, the matter after the resolving clause of which is as follows: “That the Congress does not favor the determination transmitted to the Congress by the President on _____.”, or

(C) for a subsequent arrangement under section 201 of the United States—India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, a joint resolution, the matter after the resolving clause of which is as follows: “That the Congress does not favor the subsequent arrangement to the Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy that was transmitted to Congress by the President on September 10, 2008.”,

with the date of the transmission of the proposed agreement for cooperation inserted in the blank, and the affirmative or negative phrase within the parenthetical appropriately selected.

(2) On the day on which a proposed agreement for cooperation is submitted to the House of Representatives and the Senate under section 2153(d) of this title, a joint resolution with respect to such agreement for cooperation shall be introduced (by request) in the House by the chairman of the Committee on Foreign Affairs, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement for cooperation is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

(3) All joint resolutions introduced in the House of Representatives shall be referred to the appropriate committee or committees, and all joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations and in addition, in the case of a proposed agreement for cooperation arranged pursuant to section 2121(c), 2164(b), or 2164(c) of this title, the Committee on Armed Services.

(4) If the committee of either House to which a joint resolution has been referred has not reported it at the end of 45 days after its introduction (or in the case of a joint resolution related to a subsequent arrangement under section 201 of the United States—India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, 15 days after its introduction), the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter; except that, in the case of a joint resolution which has been referred to more than one committee, if before the end of that 45-day period (or in the case of a joint resolution related to a subsequent arrangement under section 201 of the United States—India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, 15-day period) one such committee has reported the joint resolution, any other committee to which the joint resolution was referred shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

(5) A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

(6) In the case of a joint resolution described in paragraph (1), if prior to the passage by one House of a joint resolution of that House, that House receives a joint resolution with respect to the same matter from the other House, then—

(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(B) the vote on final passage shall be on the joint resolution of the other House. (Aug. 1, 1946, ch. 724, Title I, § 130, as added Pub. L. 95–242, Title III, § 308, Mar. 10, 1978, 92 Stat. 139; amended Pub. L. 99–64, Title III, § 301(c), July 12, 1985, 99 Stat. 160; renumbered Title I, Pub. L. 102–486, Title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103–437, § 15(f)(5), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 110–369, Title II, § 205, Oct. 8, 2008, 122 Stat. 4033.)

393 § 2160. Subsequent arrangements

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(f) Subsequent arrangements involving direct or indirect commitment of United States for storage or other disposition of foreign spent nuclear fuel in United States

(1) With regard to any subsequent arrangement under subsection (a)(2)(E) (for the storage or disposition of irradiated fuel elements), where such arrangement involves a direct or indirect commitment of the United States for the storage or other disposition, interim or permanent, of any foreign spent nuclear fuel in the United States, the Secretary of Energy may not enter into any such subsequent arrangement, unless:

(A)(i) Such commitment of the United States has been submitted to the Congress for a period of sixty days of continuous session (as defined in section 2159(g) of this title) and has been referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such commitment shall not become effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the commitment, any such commitment to be considered pursuant to the procedures set forth in section 2159 of this title for the consideration of Presidential submissions; or (ii) if the President has submitted a detailed generic plan for such disposition or storage in the United States to the Congress for a period of sixty days of continuous session (as defined in section 2159(g) of this title), which plan has been referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate and has not been disapproved during such sixty-day period by the adoption of a concurrent resolution stating in substance that Congress does not favor the plan; and the commitment is subject to the terms of an effective plan. Any such plan shall be considered pursuant to the procedures set forth in section 2159 of this title for the consideration of Presidential submissions. (Aug. 1, 1946, ch. 724, Title I, § 131, as added Pub. L. 95–242, Title III, § 303(a), Mar. 10, 1978, 92 Stat. 127; renumbered Title I, Pub. L. 102–486, Title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103–437, § 15(f)(6), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 105–277, div. G, Title XII, § 1225(d)(6), (7), Oct. 21, 1998, 112 Stat. 2681–774.)

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394 § 2160e. Congressional review and oversight of agreements with Iran

(a) Transmission to Congress of nuclear agreements with Iran and verification assessment with respect to such agreements

(1) Transmission of agreements

Not later than 5 calendar days after reaching an agreement with Iran relating to the nuclear program of Iran, the President shall transmit to the appropriate congressional committees and leadership—

(A) the agreement, as defined in subsection (h)(1), including all related materials and annexes * * *

* * * * *

(b) Period for review by Congress of nuclear agreements with Iran

(1) In general

During the 30-calendar day period following transmittal by the President of an agreement pursuant to subsection (a), the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives shall, as appropriate, hold hearings and briefings and otherwise obtain information in order to fully review such agreement.

(2) Exception

The period for congressional review under paragraph (1) shall be 60 calendar days if an agreement, including all materials required to be transmitted to Congress pursuant to subsection (a)(1), is transmitted pursuant to subsection (a) between July 10, 2015, and September 7, 2015.

(3) Limitation on actions during initial congressional review period

Notwithstanding any other provision of law, except as provided in paragraph (6), prior to and during the period for transmission of an agreement in subsection (a)(1) and during the period for congressional review provided in paragraph (1), including any additional period as applicable under the exception provided in paragraph (2), the President may not waive, suspend, reduce, provide relief from, or otherwise limit the application of statutory sanctions with respect to Iran under any provision of law or refrain from applying any such sanctions pursuant to an agreement described in subsection (a).

(4) Limitation on actions during presidential consideration of a joint resolution of disapproval

Notwithstanding any other provision of law, except as provided in paragraph (6), if a joint resolution of disapproval described in subsection (c)(2)(B) passes both Houses of Congress, the President may not waive, suspend, reduce, provide relief from, or otherwise limit the application of statutory sanctions with respect to Iran under any provision of law or refrain from applying any such sanctions pursuant to an agreement described in subsection (a) for a period of 12 calendar days following the date of such passage.

(5) Limitation on actions during congressional reconsideration of a joint resolution of disapproval

Notwithstanding any other provision of law, except as provided in paragraph (6), if a joint resolution of disapproval described in subsection (c)(2)(B) passes both Houses of Congress, and the President vetoes such joint resolution, the President may not waive, suspend, reduce, provide relief from, or otherwise limit the application of statutory sanctions with respect to Iran under any provision of law or refrain from applying any such sanctions pursuant to an agreement described in subsection (a) for a period of 10 calendar days following the date of the President's veto.

(6) Exception

The prohibitions under paragraphs (3) through (5) do not apply to any new deferral, waiver, or other suspension of statutory sanctions pursuant to the Joint Plan of Action if that deferral, waiver, or other suspension is made—

(A) consistent with the law in effect on May 22, 2015; and

(B) not later than 45 calendar days before the transmission by the President of an agreement, assessment report, and certification under subsection (a).

(7) Definition

In the House of Representatives, for purposes of this subsection, the terms “transmittal,” “transmitted,” and “transmission” mean transmittal, transmitted, and transmission, respectively, to the Speaker of the House of Representatives.

(c) Effect of congressional action with respect to nuclear agreements with Iran**(1) Sense of Congress**

It is the sense of Congress that—

(A) the sanctions regime imposed on Iran by Congress is primarily responsible for bringing Iran to the table to negotiate on its nuclear program;

(B) these negotiations are a critically important matter of national security and foreign policy for the United States and its closest allies;

(C) this section does not require a vote by Congress for the agreement to commence;

(D) this section provides for congressional review, including, as appropriate, for approval, disapproval, or no action on statutory sanctions relief under an agreement; and

(E) even though the agreement may commence, because the sanctions regime was imposed by Congress and only Congress can permanently modify or eliminate that regime, it is critically important that Congress have the opportunity, in an orderly and deliberative manner, to consider and, as appropriate, take action affecting the statutory sanctions regime imposed by Congress.

(2) In general

Notwithstanding any other provision of law, action involving any measure of statutory sanctions relief by the United States pursuant to an agreement subject to subsection (a) or the Joint Plan of Action—

(A) may be taken, consistent with existing statutory requirements for such action, if, during the period for review provided in subsection (b), there is enacted a joint resolution stating in substance that the Congress does favor the agreement;

(B) may not be taken if, during the period for review provided in subsection (b), there is enacted a joint resolution stating in substance that the Congress does not favor the agreement; or

(C) may be taken, consistent with existing statutory requirements for such action, if, following the period for review provided in subsection (b), there is not enacted any such joint resolution.

(3) Definition

For the purposes of this subsection, the phrase “action involving any measure of statutory sanctions relief by the United States” shall include waiver, suspension, reduction, or other effort to provide relief from, or otherwise limit the application of statutory sanctions with respect to, Iran under any provision of law or any other effort to refrain from applying any such sanctions.

(d) Congressional oversight of Iranian compliance with nuclear agreements**(1) In general**

The President shall keep the appropriate congressional committees and leadership fully and currently informed of all aspects of Iranian compliance with respect to an agreement subject to subsection (a).

(2) Potentially significant breaches and compliance incidents

The President shall, within 10 calendar days of receiving credible and accurate information relating to a potentially significant breach or compliance incident by Iran with respect to an agreement subject to subsection (a), submit such information to the appropriate congressional committees and leadership.

(3) Material breach report

Not later than 30 calendar days after submitting information about a potentially significant breach or compliance incident pursuant to paragraph (2), the President shall make a determination whether such potentially significant breach or compliance issue constitutes a material breach and, if there is such a material breach, whether Iran has cured such material breach, and shall submit to the appropriate congressional committees and leadership such determination, accompanied by, as appropriate, a report on the action or failure to act by Iran that led to the material breach, actions necessary for Iran to cure the breach, and the status of Iran’s efforts to cure the breach * * *

* * * * *

(6) Compliance certification

After the review period provided in subsection (b), the President shall, not less than every 90 calendar days—

(A) determine whether the President is able to certify that—

(i) Iran is transparently, verifiably, and fully implementing the agreement, including all related technical or additional agreements;

(ii) Iran has not committed a material breach with respect to the agreement or, if Iran has committed a material breach, Iran has cured the material breach;

(iii) Iran has not taken any action, including covert activities, that could significantly advance its nuclear weapons program; and

(iv) suspension of sanctions related to Iran pursuant to the agreement is—

(I) appropriate and proportionate to the specific and verifiable measures taken by Iran with respect to terminating its illicit nuclear program; and

(II) vital to the national security interests of the United States; and

(B) if the President determines he is able to make the certification described in subparagraph (A), make such certification to the appropriate congressional committees and leadership.

* * * * *

(e) Expedited consideration of legislation

(1) Initiation

(A) In general

In the event the President does not submit a certification pursuant to subsection (d)(6) during each 90-day period following the review period provided in subsection (b), or submits a determination pursuant to subsection (d)(3) that Iran has materially breached an agreement subject to subsection (a) and the material breach has not been cured, qualifying legislation introduced within 60 calendar days of such event shall be entitled to expedited consideration pursuant to this subsection.

(B) Definition

In the House of Representatives, for purposes of this paragraph, the terms “submit” and “submits” mean submit and submits, respectively, to the Speaker of the House of Representatives.

(2) Qualifying legislation defined

For purposes of this subsection, the term “qualifying legislation” means only a bill of either House of Congress—

(A) the title of which is as follows: “A bill reinstating statutory sanctions imposed with respect to Iran.”; and

(B) the matter after the enacting clause of which is: “Any statutory sanctions imposed with respect to Iran pursuant to _____ that were waived, suspended, reduced, or otherwise relieved pursuant to an agreement submitted pursuant to section 135(a) of the Atomic Energy Act of 1954 are hereby reinstated and any action by the United States Government to facilitate the release of funds or assets to Iran pursuant to such agreement, or provide any further waiver, suspension, reduction, or other relief pursuant to such agreement is hereby prohibited.”, with the blank space being filled in with the law or laws under which sanctions are to be reinstated.

(3) Introduction

During the 60-calendar day period provided for in paragraph (1), qualifying legislation may be introduced—

(A) in the House of Representatives, by the majority leader or the minority leader; and

(B) in the Senate, by the majority leader (or the majority leader’s designee) or the minority leader (or the minority leader’s designee).

(4) Floor consideration in House of Representatives

(A) Reporting and discharge

If a committee of the House to which qualifying legislation has been referred has not reported such qualifying legislation within 10 legislative days after the date of referral, that committee shall be discharged from further consideration thereof.

(B) Proceeding to consideration

Beginning on the third legislative day after each committee to which qualifying legislation has been referred reports it to the House or has been discharged from further consideration thereof, it shall be in order to move to proceed to consider the qualifying legislation in the House. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on the qualifying legislation with regard to the same agreement. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(C) Consideration

The qualifying legislation shall be considered as read. All points of order against the qualifying legislation and against its consideration are waived. The previous question shall be considered as ordered on the qualifying legislation to final passage without intervening motion except two hours of debate equally divided and controlled by the sponsor of the qualifying legislation (or a designee) and an opponent. A motion to reconsider the vote on passage of the qualifying legislation shall not be in order.

(5) Consideration in the Senate**(A) Committee referral**

Qualifying legislation introduced in the Senate shall be referred to the Committee on Foreign Relations.

(B) Reporting and discharge

If the Committee on Foreign Relations has not reported such qualifying legislation within 10 session days after the date of referral of such legislation, that committee shall be discharged from further consideration of such legislation and the qualifying legislation shall be placed on the appropriate calendar.

(C) Proceeding to consideration

Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order at any time after the committee authorized to consider qualifying legislation reports it to the Senate or has been discharged from its consideration (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of qualifying legislation, and all points of order against qualifying legislation (and against consideration of the qualifying legislation) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the qualifying legislation is agreed to, the qualifying legislation shall remain the unfinished business until disposed of.

(D) Debate

Debate on qualifying legislation, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority leaders or their designees. A motion

to further limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the qualifying legislation is not in order.

(E) Vote on passage

The vote on passage shall occur immediately following the conclusion of the debate on the qualifying legislation and a single quorum call at the conclusion of the debate, if requested in accordance with the rules of the Senate.

(F) Rulings of the Chair on procedure

Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to qualifying legislation shall be decided without debate.

(G) Consideration of veto messages

Debate in the Senate of any veto message with respect to qualifying legislation, including all debatable motions and appeals in connection with such qualifying legislation, shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(6) Rules relating to Senate and House of Representatives

(A) Coordination with action by other House

If, before the passage by one House of qualifying legislation of that House, that House receives qualifying legislation from the other House, then the following procedures shall apply:

(i) The qualifying legislation of the other House shall not be referred to a committee.

(ii) With respect to qualifying legislation of the House receiving the legislation—

(I) the procedure in that House shall be the same as if no qualifying legislation had been received from the other House; but

(II) the vote on passage shall be on the qualifying legislation of the other House.

(B) Treatment of a bill of other House

If one House fails to introduce qualifying legislation under this section, the qualifying legislation of the other House shall be entitled to expedited floor procedures under this section.

(C) Treatment of companion measures

If, following passage of the qualifying legislation in the Senate, the Senate then receives a companion measure from the House of Representatives, the companion measure shall not be debatable.

(D) Application to revenue measures

The provisions of this paragraph shall not apply in the House of Representatives to qualifying legislation which is a revenue measure.

(f) Rules of House of Representatives and Senate

Subsection (e) is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such are deemed a part of the rules of each House, respectively, but applicable only

with respect to the procedure to be followed in that House in the case of legislation described in those sections, and supersede other rules only to the extent that they are inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

* * * * *

(h) Definitions

In this section:

(1) Agreement

The term “agreement” means an agreement related to the nuclear program of Iran that includes the United States, commits the United States to take action, or pursuant to which the United States commits or otherwise agrees to take action, regardless of the form it takes, whether a political commitment or otherwise, and regardless of whether it is legally binding or not, including any joint comprehensive plan of action entered into or made between Iran and any other parties, and any additional materials related thereto, including annexes, appendices, codicils, side agreements, implementing materials, documents, and guidance, technical or other understandings, and any related agreements, whether entered into or implemented prior to the agreement or to be entered into or implemented in the future.

(2) Appropriate congressional committees

The term “appropriate congressional committees” means the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, the Select Committee on Intelligence, and the Committee on Foreign Relations of the Senate and the Committee on Ways and Means, the Committee on Financial Services, the Permanent Select Committee on Intelligence, and the Committee on Foreign Affairs of the House of Representatives.

(3) Appropriate congressional committees and leadership

The term “appropriate congressional committees and leadership” means the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, the Select Committee on Intelligence, and the Committee on Foreign Relations, and the Majority and Minority Leaders of the Senate and the Committee on Ways and Means, the Committee on Financial Services, the Permanent Select Committee on Intelligence, and the Committee on Foreign Affairs, and the Speaker, Majority Leader, and Minority Leader of the House of Representatives. (Aug.

1, 1946, ch. 724, Title I, § 135, as added Pub. L. 114–17, § 2, May 22, 2015, 129 Stat. 201.)

* * * * *

395 § 2210. Indemnification and limitation of liability

* * * * *

(e) Limitation on aggregate public liability

(1) The aggregate public liability for a single nuclear incident of persons indemnified, including such legal costs as are authorized to be paid under subsection (o)(1)(D), shall not exceed—

(A) in the case of facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the maximum amount of financial protection required of such facilities under subsection (b) (plus any surcharge assessed under subsection (o)(1)(E));

(B) in the case of contractors with whom the Secretary has entered into an agreement of indemnification under subsection (d), the amount of indemnity and financial protection that may be required under paragraph (2) of subsection (d); and

(C) in the case of all other licensees of the Commission required to maintain financial protection under this section—

(i) \$500,000,000, together with the amount of financial protection required of the licensee; or

(ii) if the amount of financial protection required of the licensee exceeds \$60,000,000, \$560,000,000 or the amount of financial protection required of the licensee, whichever amount is more.

(2) In the event of a nuclear incident involving damages in excess of the amount of aggregate public liability under paragraph (1), the Congress will thoroughly review the particular incident in accordance with the procedures set forth in subsection (i) and will in accordance with such procedures, take whatever action is determined to be necessary (including approval of appropriate compensation plans and appropriation of funds) to provide full and prompt compensation to the public for all public liability claims resulting from a disaster of such magnitude.

(3) No provision of paragraph (1) may be construed to preclude the Congress from enacting a revenue measure, applicable to licensees of the Commission required to maintain financial protection pursuant to subsection (b), to fund any action undertaken pursuant to paragraph (2).

(4) With respect to any nuclear incident occurring outside of the United States to which an agreement of indemnification entered into under the provisions of subsection (d) is applicable, such aggregate public liability shall not exceed the amount of \$500,000,000, together with the amount of financial protection required of the contractor.

* * * * *

(2) Not later than 90 days after any determination by a court, pursuant to subsection (o), that the public liability from a single nuclear incident may exceed the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection (e)(1) the President shall submit to the Congress—

(A) an estimate of the aggregate dollar value of personal injuries and property damage that arises from the nuclear incident and exceeds the amount of aggregate public liability under subsection (e)(1);

(B) recommendations for additional sources of funds to pay claims exceeding the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection (e)(1), which recommendations shall consider a broad range of possible sources of funds (including possible revenue measures on the sector of the economy, or on any other class, to which such revenue measures might be applied);

(C) 1 or more compensation plans, that either individually or collectively shall provide for full and prompt compensation for all valid claims and contain a recommendation or recommendations as to the relief to be provided, including any recommendations that funds be allocated or set aside for the payment of claims that may arise as a result of latent injuries that may not be discovered until a later date; and

(D) any additional legislative authorities necessary to implement such compensation plan or plans.

(3)(A) Any compensation plan transmitted to the Congress pursuant to paragraph (2) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

(B) The provisions of paragraphs (4) through (6) shall apply with respect to consideration in the Senate of any compensation plan transmitted to the Senate pursuant to paragraph (2).

(4) No such compensation plan may be considered approved for purposes of subsection (e)(2) unless between the date of transmittal and the end of the first period of sixty calendar days of continuous session of Congress after the date on which such action is transmitted to the Senate, the Senate passes a resolution described in paragraph 6 of this subsection.

(5) For the purpose of paragraph (4) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day calendar period.

(6)(A) This paragraph is enacted—

(i) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions described by subparagraph (B) and it supersedes other rules only to the extent that it is inconsistent therewith; and

(ii) with full recognition of the constitutional right of the Senate to change the rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(B) For purposes of this paragraph, the term “resolution” means only a joint resolution of the Congress the matter after the resolving clause of which is as follows: “That the _____ approves the compensation plan numbered _____ submitted to the Congress on _____, 19____.”

the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one compensation plan.

(C) A resolution once introduced with respect to a compensation plan shall immediately be referred to a committee (and all resolutions with respect to the same compensation plan shall be referred to the same committee) by the President of the Senate.

(D)(i) If the committee of the Senate to which a resolution with respect to a compensation plan has been referred has not reported it at the end of twenty calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration with respect to such compensation plan which has been referred to the committee.

(ii) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same compensation plan), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(iii) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same compensation plan.

(E)(i) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(ii) Debate on the resolution referred to in clause (i) of this subparagraph shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(F)(i) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution or motions to proceed to the consideration of other business, shall be decided without debate.

(ii) Appeals from the decision of the Chair relating to the application of the rules of the Senate to the procedures relating to a resolution shall be decided without debate.

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Chapter 77—ENERGY CONSERVATION

§ 6249c. Contracts for which implementing legislation is needed 396

(a) In general

(1) In the case of contracts entered into under this part, and amendments to such contracts, for which implementing legislation will be needed, the Secretary may transmit an implementing bill to both Houses of the Congress.

(2) In the Senate, any such bill shall be considered in accordance with the provisions of this section.

(3) For purposes of this section—

(A) the term “implementing bill” means a bill introduced in either House of Congress with respect to one or more contracts or amendments to contracts submitted to the House of Representatives and the Senate under this section and which contains—

(i) a provision approving such contracts or amendments, or both; and

(ii) legislative provisions that are necessary or appropriate for the implementation of such contracts or amendments, or both; and

(B) the term “implementing revenue bill” means an implementing bill which contains one or more revenue measures by reason of which it must originate in the House of Representatives.

(b) Consultation

The Secretary shall consult, at the earliest possible time and on a continuing basis, with each committee of the House and the Senate that has jurisdiction over all matters expected to be affected by legislation needed to implement any such contract.

(c) Effective date

Each contract and each amendment to a contract for which an implementing bill is necessary may become effective only if—

(1) the Secretary, not less than 30 days before the day on which such contract is entered into, notifies the House of Representatives and the Senate of the intention to enter into such a contract and promptly thereafter publishes notice of such intention in the Federal Register;

(2) after entering into the contract, the Secretary transmits a report to the House of Representatives and to the Senate containing a copy of the final text of such contract together with—

(A) the implementing bill, and an explanation of how the implementing bill changes or affects existing law; and

(B) a statement of the reasons why the contract serves the interests of the United States and why the implementing bill is required or appropriate to implement the contract; and

(3) the implementing bill is enacted into law.

(d) Rules of Senate

Subsections (e) through (h) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate but applicable only with respect to the procedure to be followed in the Senate in the case of implementing bills and implementing revenue bills described in subsection (a), and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(e) Introduction and referral in Senate

(1) On the day on which an implementing bill is transmitted to the Senate under this section, the implementing bill shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself or herself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate.

(2) If the Senate is not in session on the day on which such an agreement is submitted, the implementing bill shall be introduced in the Senate, as provided in the paragraph (1), on the first day thereafter on which the Senate is in session.

(3) Such bills shall be referred by the presiding officer of the Senate to the appropriate committee, or, in the case of a bill containing provisions within the jurisdiction of two or more committees, jointly to such committees for consideration of those provisions within their respective jurisdictions.

(f) Consideration of amendments to implementing bill prohibited in Senate

(1) No amendments to an implementing bill shall be in order in the Senate, and it shall not be in order in the Senate to consider an implementing bill that originated in the House if such bill passed the House containing any amendment to the introduced bill.

(2) No motion to suspend the application of this subsection shall be in order in the Senate; nor shall it be in order in the Senate for the Presiding Officer to entertain a request to suspend the application of this subsection by unanimous consent.

(g) Discharge in Senate

(1) Except as provided in paragraph (3), if the committee or committees of the Senate to which an implementing bill has been referred have not reported it at the close of the 30th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the bill, and it shall be placed on the appropriate calendar.

(2) A vote on final passage of the bill shall be taken in the Senate on or before the close of the 15th day after the bill is reported by the committee or committees to which it was referred or after such committee or committees have been discharged from further consideration of the bill.

(3) The provisions of paragraphs (1) and (2) shall not apply in the Senate to an implementing revenue bill. An implementing revenue bill received from the House shall be, subject to subsection (f)(1), referred to the appropriate committee or committees of the Senate. If such committee or committees have not reported such bill at the close of the 15th day after its receipt by the Senate, such committee or committees shall be automatically discharged from further consideration of such bill and it shall be placed on the calendar. A vote on final passage of such bill shall be taken in the Senate on or before the close of the 15th day after such bill is reported by the committee or committees of the Senate to which it was referred, or after such committee or committees have been discharged from further consideration of such bill.

(4) For purposes of this subsection, in computing a number of days in the Senate, there shall be excluded any day on which the Senate is not in session.

(h) Floor consideration in Senate

(1) A motion in the Senate to proceed to the consideration of an implementing bill shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate in the Senate on an implementing bill, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motion or appeal in connection with an implementing bill shall be limited to not more than one hour to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of an implementing bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion in the Senate to further limit debate is not debatable. A motion to recommit an implementing bill is not in order. (Pub. L. 94-163, Title I, § 174, as added Pub. L. 101-383, § 6(a)(4), Sept. 15, 1990, 104 Stat. 731.)

§ 6272. International voluntary agreements

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* * * * *

(m) Limitation on new plans of action

(1) With respect to any plan of action approved by the Attorney General after July 2, 1985—

(A) the defenses under subsection (f) and (j) shall be applicable to Type 1 activities (as that term is defined in the International Energy Agency Emergency Management Manual, dated December 1982) only if—

(i) the Secretary has transmitted such plan of action to the Congress; and

(ii)(I) 90 calendar days of continuous session have elapsed since receipt by the Congress of such transmittal; or

(II) within 90 calendar days of continuous session after receipt of such transmittal, either House of the Congress has disapproved a joint resolution of disapproval pursuant to subsection (n); and

(B) such defenses shall not be applicable to Type 1 activities if there has been enacted, in accordance with subsection (n), a joint resolution of disapproval.

(2) The Secretary may withdraw the plan of action at any time prior to adoption of a joint resolution described in subsection (n)(3) by either House of Congress.

(3) For the purpose of this subsection—

(A) continuity of session is broken only by an adjournment of the Congress sine die at the end of the second session of Congress; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the calendar-day period involved.

(n) Joint resolution of disapproval

(1)(A) The application of defenses under subsections (f) and (j) for Type 1 activities with respect to any plan of action transmitted to Congress as described in subsection (m)(1)(A)(i) shall be disapproved if a joint resolution of disapproval has been enacted into law during the 90-day period of continuous session after which such transmission was received by the Congress. For the purpose of this subsection, the term “joint resolution” means only a joint resolution of either House of the Congress as described in paragraph (3).

(B) After receipt by the Congress of such plan of action, a joint resolution of disapproval may be introduced in either House of the Congress. Upon introduction in the Senate, the joint resolution shall be referred in the Senate immediately to the Committee on Energy and Natural Resources of the Senate.

(2) This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions described by paragraph (3); it supersedes other rules only to the extent that is inconsistent therewith; and

(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(3) The joint resolution disapproving the transmission under subsection (m) shall read as follows after the resolving clause: “That the Congress of the United States disapproves the availability of the defenses pursuant to section 252 (f) and (j) of the Energy Policy and Conservation Act with respect to Type 1 activities under the plan of action submitted to the Congress by the Secretary of Energy on _____”, the blank space therein being filled with the date and year of receipt by the Congress of the plan of action transmitted as described in subsection (m).

(4)(A) If the Committee on Energy and Natural Resources of the Senate has not reported a joint resolution referred to it under this subsection at the end of 20 calendar days of continuous session after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other joint resolution which has been referred to the committee with respect to such plan of action.

(B) A motion to discharge shall be highly privileged (except that it may not be made after the Committee on Energy and Natural Resources has reported a joint resolution with respect to the plan of action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the joint resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other joint resolution with respect to the same transmission.

(5)(A) When the Committee on Energy and Natural Resources of the Senate has reported or has been discharged from further consideration of a joint resolution, it shall be in order at any time thereafter within the 90-day period following receipt by the Congress of the plan of action (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such joint resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider a vote by which the motion was agreed to or disagreed to.

(B) Debate on the joint resolution shall be limited to not more than 10 hours and final action on the joint resolution shall occur immediately following conclusion of such debate. A motion further to limit debate shall not be debatable. A motion to recommit such a joint resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such a joint resolution was agreed to or disagreed to.

(6)(A) Motions to postpone made with respect to the discharge from committee or consideration of a joint resolution, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of rules of the Senate to the procedures relating to a joint resolution shall be decided without debate. (Pub. L. 94-163, Title II, § 252, Dec. 22, 1975, 89 Stat. 894; Pub. L. 95-619, Title VI, § 691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 96-30, June 30, 1979, 93 Stat. 80; Pub. L. 96-94, Oct. 31, 1979, 93 Stat. 720; Pub. L. 96-133, §§ 1, 2, Nov. 30, 1979, 93 Stat. 1053; Pub. L. 97-5, Mar. 13, 1981, 95 Stat. 7; Pub. L. 97-50, Sept. 30, 1981, 95 Stat. 957; Pub. L. 97-163, Apr. 1, 1982, 96 Stat. 24; Pub. L. 97-190, June 1, 1982, 96 Stat. 106; Pub. L. 97-217, July 19, 1982, 96 Stat. 196; Pub. L. 97-229, § 2(a), (b)(2), Aug. 3, 1982, 96 Stat. 248; Pub. L. 98-239, Mar. 20, 1984, 98 Stat. 93; Pub. L. 99-58, Title I, §§ 104(c)(2), (4), 105, July 2, 1985, 99 Stat. 105; Pub. L. 104-66, Title I, § 1091(g), Dec. 21, 1995, 109 Stat. 722; Pub. L. 105-177, § 1(4), June 1, 1998, 112 Stat. 105.)

398 § 6421. Procedure for Congressional review of Presidential requests to implement certain authorities**(a) “Energy action” defined**

For purposes of this section, the term “energy action” means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

(b) Transmittal of energy action to Congress

The President shall transmit any energy action (bearing an identification number) to both Houses of Congress on the same day. If both Houses are not in session on the day any energy action is received by the appropriate officers of each House, for purposes of this section such energy action shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(c) Effective date of energy action

(1) Except as provided in paragraph (2) of this subsection, if energy action is transmitted to the Houses of Congress, such action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such action is transmitted to such Houses, unless between the date of transmittal and the end of such 15-day period, either House passes a resolution stating in substance that such House does not favor such action.

(2) An energy action described in paragraph (1) may take effect prior to the expiration of the 15-calendar-day period after the date on which such action is transmitted, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such action.

(d) Computation of period

For the purpose of subsection (c) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-calendar-day period.

(e) Provision in energy action for later effective date

Under provisions contained in an energy action, a provision of such an action may take effect on a date later than the date on which such action otherwise takes effect pursuant to the provisions of this section.

(f) Resolutions with respect to energy action

(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that

House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) For purposes of this subsection, the term “resolution” means only a resolution of either House of Congress described in subparagraph (A) or (B) of this paragraph.

(A) A resolution the matter after the resolving clause of which is as follows: “That the _____ does not object to the energy action numbered _____ submitted to the Congress on _____, 19__.”, the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one energy action.

(B) A resolution the matter after the resolving clause of which is as follows: “That the _____ does not favor the energy action numbered _____ transmitted to Congress on _____, 19__.”, the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy action.

(3) A resolution once introduced with respect to an energy action shall immediately be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee to which a resolution with respect to an energy action has been referred has not reported it at the end of 5 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such energy action which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same energy action.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall

be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to; except that it shall be in order—

(i) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2)(A) of this subsection with respect to an energy action, for a resolution described in paragraph (2)(B) of this subsection with respect to the same such action, or

(ii) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2)(B) of this subsection with respect to an energy action, for a resolution described in paragraph (2)(A) of this subsection with respect to the same such action. The amendments described in clauses (i) and (ii) of this subparagraph shall not be amendable.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to an energy action, then it shall not be in order to consider in that House any other resolution with respect to the same such action. (Pub. L. 94-163, Title V, §551, Dec. 22, 1975, 89 Stat. 965.)

399 § 6422. Expedited procedure for Congressional consideration of certain authorities

(a) Contingency plan identification number; transmittal of plan to Congress

Any contingency plan transmitted to the Congress pursuant to section 6261(a)(1) of this title shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

(b) Necessity of Congressional resolution within certain period for plan to be considered approved

(1) No such energy conservation contingency plan may be considered approved for purposes of section 6261(b) of this title unless between the date of transmittal and the end of the first period of 60 calendar days of continuous session of Congress after the date on which such action is transmitted to such House, each House of Congress passes a resolution described in subsection (d)(2)(A).

(2)(A) Subject to subparagraph (B), any such rationing contingency plan shall be considered approved for purposes of section 6261(d) of this title only if such plan is not disapproved by a resolution described in subsection (d)(2)(B)(i) which passes each House of the Congress during the 30-calendar-day period of continuous session after the plan is transmitted to such Houses and which thereafter becomes law.

(B) A rationing contingency plan may be considered approved prior to the expiration of the 30-calendar-day period after such plan is transmitted if a resolution described in subsection (d)(2)(B)(ii) is passed by each House of the Congress and thereafter becomes law.

(c) Computation of period

For the purpose of subsection (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the calendar-day period involved.

(d) Resolution with respect to contingency plan

(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2)(A) For purposes of applying this section with respect to any energy conservation contingency plan, the term “resolution” means only a resolution of either House of Congress the matter after the resolving clauses of which is as follows: “That the _____ approves the energy conservation contingency plan numbered _____ submitted to the Congress on _____, 19____.”, the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one energy conservation contingency plan.

(B) For purposes of applying this subsection with respect to any rationing contingency plan (other than pursuant to section 6261(d)(2)(B) of this title), the term “resolution” means only a joint resolution described in clause (i) or (ii) of this subparagraph with respect to such plan.

(i) A joint resolution of either House of the Congress (I) which is entitled: “Joint resolution relating to a rationing contingency plan.”, (II) which does not contain a preamble, and (III) the matter after the resolving clause of which is: “That the Congress of the United States disapproves the rationing contingency plan transmitted to the Congress on _____, 19____.”, the blank spaces therein appropriately filled.

(ii) A joint resolution of either House of the Congress (I) which is entitled: “Joint resolution relating to a rationing contingency plan.”, (II) which does not contain a preamble, and (III) the matter after the resolving clause of which is: “That the Congress of the United States does not object to the rationing contingency plan transmitted to the Congress on _____, 19____.”, the blank spaces therein appropriately filled.

(3) A resolution once introduced with respect to a contingency plan shall immediately be referred to a committee (and all resolutions with respect to the same contingency plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee to which a resolution with respect to a contingency plan has been referred has not reported it at the end of 20 calendar days after its referral in the case of any energy conservation contingency plan or at the end of 10 calendar days after its referral in the case of any rationing contingency plan, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such contingency plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same contingency plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. Except to the extent provided in paragraph (7)(A), an amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same contingency plan.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. Except to the extent provided in paragraph (7)(B), an amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate.

(7) With respect to any rationing contingency plan—

(A) In the consideration of any motion to discharge any committee from further consideration of any resolution on any such plan, it

shall be in order after debate allowed for under paragraph (4)(B) to offer an amendment in the nature of a substitute for such motion—

(i) consisting of a motion to discharge such committee from further consideration of a resolution described in paragraph (2)(B)(i) with respect to any rationing contingency plan, if the discharge motion sought to be amended relates to a resolution described in paragraph (2)(B)(ii) with respect to the same such plan, or

(ii) consisting of a motion to discharge such committee from further consideration of a resolution described in paragraph (2)(B)(ii) with respect to any rationing contingency plan, if the discharge motion sought to be amended relates to a resolution described in paragraph (2)(B)(i) with respect to the same such plan.

An amendment described in this subparagraph shall not be amendable. Debate on such an amendment shall be limited to not more than 1 hour, which shall be divided equally between those favoring and those opposing the amendment.

(B) In the consideration of any resolution on any such plan which has been reported by a committee, it shall be in order at any time during the debate allowed for under paragraph (5)(B) to offer an amendment in the nature of a substitute for such resolution—

(i) consisting of the text of a resolution described in paragraph (2)(B)(i) with respect to any rationing contingency plan, if the resolution sought to be amended is a resolution described in paragraph (2)(B)(ii) with respect to the same such plan, or

(ii) consisting of the text of a resolution described in paragraph (2)(B)(ii) with respect to any rationing contingency plan, if the resolution sought to be amended is a resolution described in paragraph (2)(B)(i) with respect to the same such plan.

An amendment described in this subparagraph shall not be amendable.

(C) If one House receives from the other House a resolution with respect to a rationing contingency plan, then the following procedure applies:

(i) the resolution of the other House with respect to such plan shall not be referred to a committee;

(ii) in the case of a resolution of the first House with respect to such plan—

(I) the procedure with respect to that or other resolutions of such House with respect to such plan shall be the same as if no resolution from the other House with respect to such plan had been received; but

(II) on any vote on final passage of a resolution of the first House with respect to such plan a resolution from the other House with respect to such plan which has the same effect shall be automatically substituted for the resolution of the first House.

(D) Notwithstanding any of the preceding provisions of this subsection, if a House has approved a resolution with respect to a rationing contingency plan, then it shall not be in order to consider in that House any other resolution under this section with respect

to the approval of such plan. (Pub. L. 94–163, Title V, § 552, Dec. 22, 1975, 89 Stat. 967; Pub. L. 96–102, title I, §§ 103(b)(2), 105(a)(4), (b)(6), Nov. 5, 1979, 93 Stat. 753, 756; Pub. L. 105–388, § 5(a)(16), Nov. 13, 1998, 112 Stat. 3479.)

Chapter 92—POWERPLANT AND INDUSTRIAL FUEL USE

400 § 8374. Emergency authorities

(a) Coal allocation authority

(1) If the President—

(A) declares a severe energy supply interruption, as defined in section 6202(8) of this title, or

(B) finds, and publishes such finding, that a national or regional fuel supply shortage exists or may exist which the President determines—

(i) is, or is likely to be, of significant scope and duration, and of an emergency nature;

(ii) causes, or may cause, major adverse impact on public health, safety, or welfare or on the economy; and

(iii) results, or is likely to result, from an interruption in the supply of coal or from sabotage, or an act of God;

the President may, by order, allocate coal (and require the transportation thereof) for the use of any electric powerplant or major fuel-burning installation, in accordance with such terms and conditions as he may prescribe, to insure reliability of electric service or prevent unemployment, or protect public health, safety, or welfare.

(2) For purposes of this subsection, the term “coal” means anthracite and bituminous coal and lignite (but does not mean any fuel derivative thereof).

(b) Emergency prohibition on use of natural gas or petroleum

If the President declares a severe energy supply interruption, as defined in section 6202(8) of this title, the President may, by order, prohibit any electric powerplant or major fuel-burning installation from using natural gas or petroleum, or both, as a primary energy source for the duration of such interruption. Notwithstanding any other provision of this section, any suspension of emission limitations or other requirements of applicable implementation plans, as defined in section 7410(d) of this title, required by such prohibition shall be issued only in accordance with section 7410(f) of this title.

(c) Emergency stays

The President may, by order, stay the application of any provision of this chapter, or any rule or order thereunder, applicable to any new or existing electric powerplant, if the President finds, and publishes such finding, that an emergency exists, due to national, regional, or systemwide shortages of coal or other alternate fuels, or disruption of transportation facilities, which emergency is likely to affect reliability of service of any such electric powerplant.

(d) Duration of emergency orders

(1) Except as provided in paragraph (3), any order issued by the President under this section shall not be effective for longer than the

duration of the interruption or emergency, or 90 days, whichever is less.

(2) Any such order may be extended by a subsequent order which the President shall transmit to the Congress in accordance with section 6421 of this title. Such order shall be subject to congressional review pursuant to such section.

(3) Notwithstanding paragraph (1), the effectiveness of any order issued under this section shall not terminate under this subsection during the 15-calendar-day period during which any such subsequent order described in paragraph (2) is subject to congressional review under section 6421 of this title.

(4) For purposes of this subsection, the provisions of this subsection supersede the provisions of subchapter II of chapter 34 of title 50.

(e) Delegation of authority prohibited

The authority of the President to issue any order under this section may not be delegated. This subsection shall not be construed to prevent the President from directing any Federal agency to issue rules or regulations or take such other action, consistent with this section, in the implementation of such order.

(f) Publication and reports to Congress of orders

Any order issued under this section shall be published in the Federal Register. To the greatest extent practicable, the President shall, before issuing any order under this section, but in no event later than 5 days after issuing such order, report to the Congress of his intention to issue such order and state his reasons therefor. (Pub. L. 95–620, Title IV, § 404, Nov. 9, 1978, 92 Stat. 3319; Pub. L. 100–42, § 1(c)(15), May 21, 1987, 101 Stat. 313.)

Chapter 108—NUCLEAR WASTE POLICY

§ 10135. Review of repository site selection

401

(a) “Resolution of repository siting approval” defined

For purposes of this section, the term “resolution of repository siting approval” means a joint resolution of the Congress, the matter after the resolving clause of which is as follows: “That there hereby is approved the site at _____ for a repository, with respect to which a notice of disapproval was submitted by _____ on _____”. The first blank space in such resolution shall be filled with the name of the geographic location of the proposed site of the repository to which such resolution pertains; the second blank space in such resolution shall be filled with the designation of the State Governor and legislature or Indian tribe governing body submitting the notice of disapproval to which such resolution pertains; and the last blank space in such resolution shall be filled with the date of such submission.

(b) State or Indian tribe petitions

The designation of a site as suitable for application for a construction authorization for a repository shall be effective at the end of the 60-day period beginning on the date that the President recommends such site to the Congress under section 10134 of this title, unless the Governor and legislature of the State in which such site is located, or the governing body of an Indian tribe on whose reservation such site

is located, as the case may be, has submitted to the Congress a notice of disapproval under section 10136 or 10138 of this title. If any such notice of disapproval has been submitted, the designation of such site shall not be effective except as provided under subsection (c).

(c) Congressional review of petitions

If any notice of disapproval of a repository site designation has been submitted to the Congress under section 10136 or 10138 of this title after a recommendation for approval of such site is made by the President under section 10134 of this title, such site shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress after the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution of repository siting approval in accordance with this subsection approving such site, and such resolution thereafter becomes law.

(d) Procedures applicable to Senate

(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions of repository siting approval, and such provisions supersede other rules of the Senate only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(2)(A) Not later than the first day of session following the day on which any notice of disapproval of a repository site selection is submitted to the Congress under section 10136 or 10138 of this title, a resolution of repository siting approval shall be introduced (by request) in the Senate by the chairman of the committee to which such notice of disapproval is referred, or by a Member or Members of the Senate designated by such chairman.

(B) Upon introduction, a resolution of repository siting approval shall be referred to the appropriate committee or committees of the Senate by the President of the Senate, and all such resolutions with respect to the same repository site shall be referred to the same committee or committees. Upon the expiration of 60 calendar days of continuous session after the introduction of the first resolution of repository siting approval with respect to any site, each committee to which such resolution was referred shall make its recommendations to the Senate.

(3) If any committee to which is referred a resolution of siting approval introduced under paragraph (2)(A), or, in the absence of such a resolution, any other resolution of siting approval introduced with respect to the site involved, has not reported such resolution at the end of 60 days of continuous session of Congress after introduction of such resolution, such committee shall be deemed to be discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the Senate.

(4)(A) When each committee to which a resolution of siting approval has been referred has reported, or has been deemed to be discharged from further consideration of, a resolution described in paragraph (3),

it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which such motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of such resolution is agreed to, such resolution shall remain the unfinished business of the Senate until disposed of.

(B) Debate on a resolution of siting approval, and on all debatable motions and appeals in connection with such resolution, shall be limited to not more than 10 hours, which shall be divided equally between Members favoring and Members opposing such resolution. A motion further to limit debate shall be in order and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business, and a motion to recommit such resolution shall not be in order. A motion to reconsider the vote by which such resolution is agreed to or disagreed to shall not be in order.

(C) Immediately following the conclusion of the debate on a resolution of siting approval, and a single quorum call at the conclusion of such debate if requested in accordance with the rules of the Senate, the vote on final approval of such resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution of siting approval shall be decided without debate.

(5) If the Senate receives from the House a resolution of repository siting approval with respect to any site, then the following procedure shall apply:

(A) The resolution of the House with respect to such site shall not be referred to a committee.

(B) With respect to the resolution of the Senate with respect to such site—

(i) the procedure with respect to that or other resolutions of the Senate with respect to such site shall be the same as if no resolution from the House with respect to such site had been received; but

(ii) on any vote on final passage of a resolution of the Senate with respect to such site, a resolution from the House with respect to such site where the text is identical shall be automatically substituted for the resolution of the Senate.

(e) Procedures applicable to House of Representatives

(1) The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such they are deemed a part of the rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of resolutions of repository siting approval, and such provisions supersede other rules of the House only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the House to change the rules (so far as relating to the procedure of the

House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) Resolutions of repository siting approval shall upon introduction, be immediately referred by the Speaker of the House to the appropriate committee or committees of the House. Any such resolution received from the Senate shall be held at the Speaker's table.

(3) Upon the expiration of 60 days of continuous session after the introduction of the first resolution of repository siting approval with respect to any site, each committee to which such resolution was referred shall be discharged from further consideration of such resolution, and such resolution shall be referred to the appropriate calendar, unless such resolution or an identical resolution was previously reported by each committee to which it was referred.

(4) It shall be in order for the Speaker to recognize a Member favoring a resolution to call up a resolution of repository siting approval after it has been on the appropriate calendar for 5 legislative days. When any such resolution is called up, the House shall proceed to its immediate consideration and the Speaker shall recognize the Member calling up such resolution and a Member opposed to such resolution for 2 hours of debate in the House, to be equally divided and controlled by such Members. When such time has expired, the previous question shall be considered as ordered on the resolution to adoption without intervening motion. No amendment to any such resolution shall be in order, nor shall it be in order to move to reconsider the vote by which such resolution is agreed to or disagreed to.

(5) If the House receives from the Senate a resolution of repository siting approval with respect to any site, then the following procedure shall apply:

(A) The resolution of the Senate with respect to such site shall not be referred to a committee.

(B) With respect to the resolution of the House with respect to such site—

(i) the procedure with respect to that or other resolutions of the House with respect to such site shall be the same as if no resolution from the Senate with respect to such site had been received; but

(ii) on any vote on final passage of a resolution of the House with respect to such site, a resolution from the Senate with respect to such site where the text is identical shall be automatically substituted for the resolution of the House.

(f) Computation of days

For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period referred to in subsection

(c) and the 60-day period referred to in subsections (d) and (e).
(Pub. L. 97-425, Title I, § 115, Jan. 7, 1983, 96 Stat. 2217.)

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§ 10155. Storage of spent nuclear fuel

402

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(6)(A) Upon deciding to provide an aggregate of 300 or more metric tons of storage capacity under subsection (a)(1) at any one site, the Secretary shall notify the Governor and legislature of the State where such site is located, or the governing body of the Indian tribe in whose reservation such site is located, as the case may be, of such decision. During the 60-day period following receipt of notification by the Secretary of his decision to provide an aggregate of 300 or more metric tons of storage capacity at any one site, the Governor or legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, may disapprove the provision of 300 or more metric tons of storage capacity at the site involved and submit to the Congress a notice of such disapproval. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the provision of such storage capacity at such site was disapproved by such Governor or legislature or the governing body of such Indian tribe.

(B) Unless otherwise provided by State law, the Governor or legislature of each State shall have authority to submit a notice of disapproval to the Congress under subparagraph (A). In any case in which State law provides for submission of any such notice of disapproval by any other person or entity, any reference in this part to the Governor or legislature of such State shall be considered to refer instead to such other person or entity.

(C) The authority of the Governor and legislature of each State under this paragraph shall not be applicable with respect to any site located on a reservation.

(D) If any notice of disapproval is submitted to the Congress under subparagraph (A), the proposed provision of 300 or more metric tons of storage capacity at the site involved shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress following the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution approving such proposed provision of storage capacity in accordance with the procedures established in this paragraph and subsections (d) through (f) of section 10135 of this title and such resolution thereafter becomes law. For purposes of this paragraph, the term “resolution” means a joint resolution of either House of the Congress, the matter after the resolving clause of which is as follows: “That there hereby is approved the provision of 300 or more metric tons of spent nuclear fuel storage capacity at the site located at _____, with respect to which a notice of disapproval was submitted by _____ on _____.”. The first blank space in such resolution shall be filled with the geographic location of the site involved; the second blank space in such resolution shall be filled with the designation of the State Governor and legislature

or affected Indian tribe governing body submitting the notice of disapproval involved; and the last blank space in such resolution shall be filled with the date of submission of such notice of disapproval.

(E) For purposes of the consideration of any resolution described in subparagraph (D), each reference in subsections (d) and (e) of section 10135 of this title to a resolution of repository siting approval shall be considered to refer to the resolution described in such subparagraph.

(7) As used in this section, the term “affected Tribal Council” means the governing body of any Indian tribe within whose reservation boundaries there is located a potentially acceptable site for interim storage capacity of spent nuclear fuel from civilian nuclear power reactors, or within whose boundaries a site for such capacity is selected by the Secretary, or whose federally defined possessory or usage rights to other lands outside of the reservation’s boundaries arising out of congressionally ratified treaties, as determined by the Secretary of the Interior pursuant to a petition filed with him by the appropriate governmental officials of such tribe, may be substantially and adversely affected by the establishment of any such storage capacity.

(e) Limitations

Any spent nuclear fuel stored under this section shall be removed from the storage site or facility involved as soon as practicable, but in any event not later than 3 years following the date on which a repository or monitored retrievable storage facility developed under this chapter is available for disposal of such spent nuclear fuel. (Pub. L. 97–425, Title I, § 135, Jan. 7, 1983, 96 Stat. 2232.)

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403 § 10161. Monitored retrievable storage

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(b) Submission of proposal by Secretary

(1) On or before June 1, 1985, the Secretary shall complete a detailed study of the need for and feasibility of, and shall submit to the Congress a proposal for, the construction of one or more monitored retrievable storage facilities for high-level radioactive waste and spent nuclear fuel. Each such facility shall be designed—

(A) to accommodate spent nuclear fuel and high-level radioactive waste resulting from civilian nuclear activities;

(B) to permit continuous monitoring, management, and maintenance of such spent fuel and waste for the foreseeable future;

(C) to provide for the ready retrieval of such spent fuel and waste for further processing or disposal; and

(D) to safely store such spent fuel and waste as long as may be necessary by maintaining such facility through appropriate means, including any required replacement of such facility.

(2) Such proposal shall include—

(A) the establishment of a Federal program for the siting, development, construction, and operation of facilities capable of safely storing high-level radioactive waste and spent nuclear fuel, which facilities are to be licensed by the Commission;

(B) a plan for the funding of the construction and operation of such facilities, which plan shall provide that the costs of such activities shall be borne by the generators and owners of the high-level

radioactive waste and spent nuclear fuel to be stored in such facilities;

(C) site-specific designs, specifications, and cost estimates sufficient to (i) solicit bids for the construction of the first such facility; (ii) support congressional authorization of the construction of such facility; and (iii) enable completion and operation of such facility as soon as practicable following congressional authorization of such facility; and

(D) a plan for integrating facilities constructed pursuant to this section with other storage and disposal facilities authorized in this chapter.

(3) In formulating such proposal, the Secretary shall consult with the Commission and the Administrator, and shall submit their comments on such proposal to the Congress at the time such proposal is submitted.

(4) The proposal shall include, for the first such facility, at least 3 alternative sites and at least 5 alternative combinations of such proposed sites and facility designs consistent with the criteria of paragraph (1). The Secretary shall recommend the combination among the alternatives that the Secretary deems preferable. The environmental assessment under subsection (c) shall include a full analysis of the relative advantages and disadvantages of all 5 such alternative combinations of proposed sites and proposed facility designs.

(c) Environmental impact statements

(1) Preparation and submission to the Congress of the proposal required in this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Secretary shall prepare, in accordance with regulations issued by the Secretary implementing such Act [42 U.S.C. 4321 et seq.], an environmental assessment with respect to such proposal. Such environmental assessment shall be based upon available information regarding alternative technologies for the storage of spent nuclear fuel and high-level radioactive waste. The Secretary shall submit such environmental assessment to the Congress at the time such proposal is submitted.

(2) If the Congress by law, after review of the proposal submitted by the Secretary under subsection (b), specifically authorizes construction of a monitored retrievable storage facility, the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply with respect to construction of such facility, except that any environmental impact statement prepared with respect to such facility shall not be required to consider the need for such facility or any alternative to the design criteria for such facility set forth in subsection (b)(1).

(d) Licensing

Any facility authorized pursuant to this section shall be subject to licensing under section 5842(3) of this title. In reviewing the application filed by the Secretary for licensing of the first such facility, the Commission may not consider the need for such facility or any alternative to the design criteria for such facility set forth in subsection (b)(1).

(e) Clarification

Nothing in this section limits the consideration of alternative facility designs consistent with the criteria of paragraph (b)(1) in any environ-

mental impact statement, or in any licensing procedure of the Commission, with respect to any monitored, retrievable facility authorized pursuant to this section.

(f) Impact assistance

(1) Upon receipt by the Secretary of congressional authorization to construct a facility described in subsection (b), the Secretary shall commence making annual impact aid payments to appropriate units of general local government in order to mitigate any social or economic impacts resulting from the construction and subsequent operation of any such facility within the jurisdictional boundaries of any such unit.

(2) Payments made available to units of general local government under this subsection shall be—

(A) allocated in a fair and equitable manner, with priority given to units of general local government determined by the Secretary to be most severely affected; and

(B) utilized by units of general local government only for planning, construction, maintenance, and provision of public services related to the siting of such facility.

(3) Such payments shall be subject to such terms and conditions as the Secretary determines are necessary to ensure achievement of the purposes of this subsection. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

(4) Such payments shall be made available entirely from funds held in the Nuclear Waste Fund established in section 10222(c) of this title and shall be available only to the extent provided in advance in appropriation Acts.

(5) The Secretary may consult with appropriate units of general local government in advance of commencement of construction of any such facility in an effort to determine the level of payments each such unit is eligible to receive under this subsection.

(g) Limitation

No monitored retrievable storage facility developed pursuant to this section may be constructed in any State in which there is located any site approved for site characterization under section 10132 of this title. The restriction in the preceding sentence shall only apply until such time as the Secretary decides that such candidate site is no longer a candidate site under consideration for development as a repository. Such restriction shall continue to apply to any site selected for construction as a repository.

(h) Participation of States and Indian tribes

Any facility authorized pursuant to this section shall be subject to the provisions of sections 10135, 10136(a), 10136(b), 10136(d), 10137, and 10138 of this title. For purposes of carrying out the provisions of this subsection, any reference in sections 10135 through 10138 of this title to a repository shall be considered to refer to a monitored retrievable storage facility. (Pub. L. 97-425, Title I, § 141, Jan. 7, 1983, 96 Stat. 2241.)

§ 10165. Site selection

404

(a) In general

The Secretary may select the site evaluated under section 10164 of this title that the Secretary determines on the basis of available information to be the most suitable for a monitored retrievable storage facility that is an integral part of the system for the disposal of spent nuclear fuel and high-level radioactive waste established under this chapter. (Pub. L. 97–425, Title I, § 145, as added Pub. L. 100–202, § 101(d) [Title III, § 300], Dec. 22, 1987, 101 Stat. 1329–104, 1329–121; Pub. L. 100–203, Title V, § 5021, Dec. 22, 1987, 101 Stat. 1330–234.)

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§ 10166. Notice of disapproval

405

(a) In general

The selection of a site under section 10165 of this title shall be effective at the end of the period of 60 calendar days beginning on the date of notification under such subsection, unless the governing body of the Indian tribe on whose reservation such site is located, or, if the site is not on a reservation, the Governor and the legislature of the State in which the site is located, has submitted to Congress a notice of disapproval with respect to such site. If any such notice of disapproval has been submitted under this subsection, the selection of the site under section 10165 of this title shall not be effective except as provided under section 10135(c) of this title.

(b) References

For purposes of carrying out the provisions of this subsection, references in section 10135(c) of this title to a repository shall be considered to refer to a monitored retrievable storage facility and references to a notice of disapproval of a repository site designation under section 10136(b) or 10138(a) of this title shall be considered to refer to a notice of disapproval under this section. (Pub. L. 97–425, Title I, § 146, as added Pub. L. 100–202, § 101(d) [Title III, § 300], Dec. 22, 1987, 101 Stat. 1329–104, 1329–121; Pub. L. 100–203, Title V, § 5021, Dec. 22, 1987, 101 Stat. 1330–235.)

§ 10222. Nuclear Waste Fund

406

(a) Contracts

(1) In the performance of his functions under this chapter, the Secretary is authorized to enter into contracts with any person who generates or holds title to high-level radioactive waste, or spent nuclear fuel, of domestic origin for the acceptance of title, subsequent transportation, and disposal of such waste or spent fuel. Such contracts shall provide for payment to the Secretary of fees pursuant to paragraphs (2) and (3) sufficient to offset expenditures described in subsection (d).

(2) For electricity generated by a civilian nuclear power reactor and sold on or after the date 90 days after January 7, 1983, the fee under paragraph (1) shall be equal to 1.0 mil per kilowatt-hour.

(3) For spent nuclear fuel, or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to the application of the fee under paragraph (2) to such reactor, the Secretary shall, not

later than 90 days after January 7, 1983, establish a 1 time fee per kilogram of heavy metal in spent nuclear fuel, or in solidified high-level radioactive waste. Such fee shall be in an amount equivalent to an average charge of 1.0 mil per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom, to be collected from any person delivering such spent nuclear fuel or high-level waste, pursuant to section 10143 of this title, to the Federal Government. Such fee shall be paid to the Treasury of the United States and shall be deposited in the separate fund established by subsection (c). In paying such a fee, the person delivering spent fuel, or solidified high-level radioactive wastes derived therefrom, to the Federal Government shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of such spent fuel, or the solidified high-level radioactive waste derived therefrom.

(4) Not later than 180 days after January 7, 1983, the Secretary shall establish procedures for the collection and payment of the fees established by paragraph (2) and paragraph (3). The Secretary shall annually review the amount of the fees established by paragraphs (2) and (3) above to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (d) herein. In the event the Secretary determines that either insufficient or excess revenues are being collected, in order to recover the costs incurred by the Federal Government that are specified in subsection (d), the Secretary shall propose an adjustment to the fee to insure full cost recovery. The Secretary shall immediately transmit this proposal for such an adjustment to Congress. The adjusted fee proposed by the Secretary shall be effective after a period of 90 days of continuous session have elapsed following the receipt of such transmittal unless during such 90-day period either House of Congress adopts a resolution disapproving the Secretary's proposed adjustment in accordance with the procedures set forth for congressional review of an energy action under section 6421 of this title. (Pub. L. 97-425, Title III, § 302, Jan. 7, 1983, 96 Stat. 2257.)

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