Public Law 97-415
97th Congress

An Act

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

Jan. 4, 1983
[H.R. 2330]

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

Nuclear Regulatory Commission. Appropriations authorization.

AUTHORIZATION OF APPROPRIATIONS

SECTION 1. (a) There are hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017) and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal years 1982 and 1983 to remain available until expended, $485,200,000 for fiscal year 1982 and $513,100,000 for fiscal year 1983 to be allocated as follows:

(1) Not more than $80,700,000 for fiscal year 1982 and $77,000,000 for fiscal year 1983 may be used for "Nuclear Reactor Regulation", of which an amount not to exceed $1,000,000 is authorized each such fiscal year to be used to accelerate the effort in gas-cooled thermal reactor preapplication review, and an amount not to exceed $6,000,000 is authorized each such fiscal year to be used for licensing review work for a fast breeder reactor plant project. In the event of a termination of such breeder reactor project, any unused amount appropriated pursuant to this paragraph for licensing review work for such project may be used only for safety technology activities.

(2) Not more than $62,900,000 for fiscal year 1982 and $69,850,000 for fiscal year 1983 may be used for "Inspection and Enforcement".

(3) Not more than $42,000,000 for fiscal year 1982 and $47,059,600 for fiscal year 1983 may be used for "Nuclear Material Safety and Safeguards".

(4) Not more than $240,300,000 for fiscal year 1982 and $257,195,600 for fiscal year 1983 may be used for "Nuclear Regulatory Research", of which—

(A) an amount not to exceed $3,500,000 for fiscal year 1982 and $4,500,000 for fiscal year 1983 is authorized to be used to accelerate the effort in gas-cooled thermal reactor safety research;

(B) an amount not to exceed $18,000,000 is authorized each such fiscal year to be used for fast breeder reactor safety research; and

(C) an amount not to exceed $57,000,000 is authorized for such two fiscal year period to be used for the Loss-of-Fluid Test Facility research program.

In the event of a termination of the fast breeder reactor plant project, any unused amount appropriated pursuant to this para-

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graph for fast breeder reactor safety research may be used generally for "Nuclear Regulatory Research".

(5) Not more than $21,900,000 for fiscal year 1982 and $20,197,800 for fiscal year 1983 may be used for "Program Technical Support".

(6) Not more than $37,400,000 for fiscal year 1982 and $41,797,000 for fiscal year 1983 may be used for "Program Direction and Administration".

Grants and cooperative agreements.

(b) The Nuclear Regulatory Commission may use not more than 1 percent of the amounts authorized to be appropriated under subsection (a)(4) to exercise its authority under section 31 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2051(a)) to enter into grants and cooperative agreements with universities pursuant to such section. Grants made by the Commission shall be made in accordance with the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) and other applicable law. In making such grants and entering into such cooperative agreements, the Commission shall endeavor to provide appropriate opportunities for universities in which the student body has historically been predominately comprised of minority groups.

Reallocated funds.

(c) Any amount appropriated for a fiscal year to the Nuclear Regulatory Commission pursuant to any paragraph of subsection (a) for purposes of the program office referred to in such paragraph, or any activity that is within such program office and is specified in such paragraph, may be reallocated by the Commission for use in a program office referred to in any other paragraph of such subsection, or for use in any other activity within a program office, except that the amount available from appropriations for such fiscal year for use in any program office or specified activity may not, as a result of reallocations made under this subsection, be increased or reduced by more than $500,000 unless—

Notification of congressional committees.

(1) a period of 30 calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) passes after the receipt, by the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate, of notice submitted by the Commission containing a full and complete statement of the reallocation proposed to be made and the facts and circumstances relied upon in support of such proposed reallocation; or

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

AUTHORITY TO RETAIN CERTAIN AMOUNTS RECEIVED

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

Ante, p. 948.
31 USC 3302.

AUTHORITY TO TRANSFER CERTAIN AMOUNTS TO OTHER AGENCIES

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

LIMITATION ON SPENDING AUTHORITY

SEC. 4. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

AUTHORITY TO ISSUE LICENSES IN ABSENCE OF EMERGENCY PREPAREDNESS PLANS

SEC. 5. Of the amounts authorized to be appropriated under section 1, the Nuclear Regulatory Commission may use such sums as may be necessary, in the absence of a State or local emergency preparedness plan which has been approved by the Federal Emergency Management Agency, to issue an operating license (including a temporary operating license under section 192 of the Atomic Energy Act of 1954, as amended by section 11 of this Act) for a nuclear power reactor, if it determines that there exists a State, local, or utility plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned.

Post, p. 2071.

NUCLEAR SAFETY GOALS

SEC. 6. Funds authorized to be appropriated under this Act shall be used by the Nuclear Regulatory Commission to expedite the establishment of safety goals for nuclear reactor regulation. The development of such safety goals, and any accompanying methodologies for the application of such safety goals, should be expedited to the maximum extent practicable to permit establishment of a safety goal by the Commission not later than December 31, 1982.

LOSS-OF-FLUID TEST FACILITY

SEC. 7. Of the amounts authorized to be used for the Loss-of-Fluid Test Facility in accordance with section 1(a)(4) for fiscal years 1982 and 1983, the Commission shall provide funding through contract with the organization responsible for the Loss-of-Fluid Test operations for a detailed technical review and analysis of research results obtained from the Loss-of-Fluid Test Facility research program. The contract shall provide funding for not more than twenty man-years in each of fiscal years 1982 and 1983 to conduct the technical review and analysis.

NUCLEAR DATA LINK

SEC. 8. (a) Of the amounts authorized to be appropriated under this Act for the fiscal years 1982 and 1983, not more than $200,000 is authorized to be used by the Nuclear Regulatory Commission for—

(1) the acquisition (by purchase, lease, or otherwise) and installation of equipment to be used for the "small test prototype nuclear data link" program or for any other program for the collection and transmission to the Commission of data from licensed nuclear reactors during abnormal conditions at such reactors; and

Study and analysis.

(2) the conduct of a full and complete study and analysis of—

(A) the appropriate role of the Commission during abnormal conditions at a nuclear reactor licensed by the Commission;

(B) the information which should be available to the Commission to enable the Commission to fulfill such role and to carry out other related functions;

(C) various alternative means of assuring that such information is available to the Commission in a timely manner; and

(D) any changes in existing Commission authority necessary to enhance the Commission response to abnormal conditions at a nuclear reactor licensed by the Commission.

The small test prototype referred to in paragraph (1) may be used by the Commission in carrying out the study and analysis under paragraph (2). Such analysis shall include a cost-benefit analysis of each alternative examined under subparagraph (C).

Report to Congress.

(b)(1) Upon completion of the study and analysis required under subsection (a)(2), the Commission shall submit to Congress a detailed report setting forth the results of such study and analysis.

Commission action; notification of congressional committees.

(2) The Commission may not take any action with respect to any alternative described in subsection (a)(2)(C), unless a period of 60 calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) passes after the receipt, by the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate, of notice submitted by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

INTERIM CONSOLIDATION OF OFFICES

SEC. 9. (a) Of the amounts authorized to be appropriated pursuant to paragraph 6 of section 1(a), such sums as may be necessary shall be available for interim consolidation of Nuclear Regulatory Commission headquarters staff offices.

(b) No amount authorized to be appropriated under this Act may be used, in connection with the interim consolidation of Nuclear Regulatory Commission offices, to relocate the offices of members of the Commission outside the District of Columbia.

THREE MILE ISLAND

SEC. 10. (a) No part of the funds authorized to be appropriated under this Act may be used to provide assistance to the General Public Utilities Corporation for purposes of the decontamination, cleanup, repair, or rehabilitation of facilities at Three Mile Island Unit 2.

(b) The prohibition contained in subsection (a) shall not relate to the responsibilities of the Nuclear Regulatory Commission for monitoring or inspection of the decontamination, cleanup, repair, or rehabilitation activities at Three Mile Island and such prohibition shall not apply to the use of funds by the Nuclear Regulatory Commission to carry out regulatory functions of the Commission under the Atomic Energy Act of 1954 with respect to the facilities at Three Mile Island.

42 USC 2011 note.

(c) The Nuclear Regulatory Commission shall include in its annual report to the Congress under section 307(c) of the Energy Reorganization Act of 1974 (42 U.S.C. 5877(c)) as a separate chapter a description of the collaborative efforts undertaken, or proposed to be undertaken, by the Commission and the Department of Energy with respect to the decontamination, cleanup, repair, or rehabilitation of facilities at Three Mile Island Unit 2.

42 USC 5877 note.

(d) No funds authorized to be appropriated under this Act may be used by the Commission to approve any willful release of "accident-generated water", as defined by the Commission in NUREG-0683 ("Final Programmatic Environmental Impact Statement" p. 1-23), from Three Mile Island Unit 2 into the Susquehanna River or its watershed.

TEMPORARY OPERATING LICENSES

SEC. 11. Section 192 of the Atomic Energy Act of 1954 (42 U.S.C. 2242) is amended to read as follows:

"SEC. 192. TEMPORARY OPERATING LICENSE.—

"a. In any proceeding upon an application for an operating license for a utilization facility required to be licensed under section 103 or 104 b. of this Act, in which a hearing is otherwise required pursuant to section 189 a., the applicant may petition the Commission for a temporary operating license for such facility authorizing fuel loading, testing, and operation at a specific power level to be determined by the Commission, pending final action by the Commission on the application. The initial petition for a temporary operating license for each such facility, and any temporary operating license issued for such facility based upon the initial petition, shall be limited to power levels not to exceed 5 percent of rated full thermal power. Following issuance by the Commission of the temporary operating license for each such facility, the licensee may file petitions with the Commission to amend the license to allow facility operation in staged increases at specific power levels, to be determined by the Commission, exceeding 5 percent of rated full thermal power. The initial petition for a temporary operating license for each such facility may be filed at any time after the filing of: (1) the report of the Advisory Committee on Reactor Safeguards required by section 182 b.; (2) the filing of the initial Safety Evaluation Report by the Nuclear Regulatory Commission staff and the Nuclear Regulatory Commission staff's first supplement to the report prepared in response to the report of the Advisory Committee on Reactor Safeguards for the facility; (3) the Nuclear Regulatory Commission staff's final detailed statement on the environmental impact of the facility prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and (4) a State, local, or utility emergency preparedness plan for the facility. Petitions for the issuance of a temporary operating license, or for an amendment to such a license allowing operation at a specific power level greater than that authorized in the initial temporary operating

42 USC 2133, 2134.

Post, p. 2073.

Initial petition.

Affidavits.

license, shall be accompanied by an affidavit or affidavits setting forth the specific facts upon which the petitioner relies to justify issuance of the temporary operating license or the amendment thereto. The Commission shall publish notice of each such petition in the Federal Register and in such trade or news publications as the Commission deems appropriate to give reasonable notice to persons who might have a potential interest in the grant of such temporary operating license or amendment thereto. Any person may file affidavits or statements in support of, or in opposition to, the petition within thirty days after the publication of such notice in the Federal Register.

Publication in Federal Register.

"b. With respect to any petition filed pursuant to subsection a. of this section, the Commission may issue a temporary operating license, or amend the license to authorize temporary operation at each specific power level greater than that authorized in the initial temporary operating license, as determined by the Commission, upon finding that—

"(1) in all respects other than the conduct or completion of any required hearing, the requirements of law are met;

"(2) in accordance with such requirements, there is reasonable assurance that operation of the facility during the period of the temporary operating license in accordance with its terms and conditions will provide adequate protection to the public health and safety and the environment during the period of temporary operation; and

"(3) denial of such temporary operating license will result in delay between the date on which construction of the facility is sufficiently completed, in the judgment of the Commission, to permit issuance of the temporary operating license, and the date when such facility would otherwise receive a final operating license pursuant to this Act.

The temporary operating license shall become effective upon issuance and shall contain such terms and conditions as the Commission may deem necessary, including the duration of the license and any provision for the extension thereof. Any final order authorizing the issuance or amendment of any temporary operating license pursuant to this section shall recite with specificity the facts and reasons justifying the findings under this subsection, and shall be transmitted upon such issuance to the Committees on Interior and Insular Affairs and Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate. The final order of the Commission with respect to the issuance or amendment of a temporary operating license shall be subject to judicial review pursuant to chapter 158 of title 28, United States Code. The requirements of section 189 a. of this Act with respect to the issuance or amendment of facility licenses shall not apply to the issuance or amendment of a temporary operating license under this section.

Final order, transmittal to congressional committees.

Judicial review.

28 USC 2341 *et seq.*

Post, p. 2073.

"c. Any hearing on the application for the final operating license for a facility required pursuant to section 189 a. shall be concluded as promptly as practicable. The Commission shall suspend the temporary operating license if it finds that the applicant is not prosecuting the application for the final operating license with due diligence. Issuance of a temporary operating license under subsection b. of this section shall be without prejudice to the right of any party to raise any issue in a hearing required pursuant to section 189 a.; and failure to assert any ground for denial or limitation of a

Hearing.

temporary operating license shall not bar the assertion of such ground in connection with the issuance of a subsequent final operating license. Any party to a hearing required pursuant to section 189 a. on the final operating license for a facility for which a temporary operating license has been issued under subsection b., and any member of the Atomic Safety and Licensing Board conducting such hearing, shall promptly notify the Commission of any information indicating that the terms and conditions of the temporary operating license are not being met, or that such terms and conditions are not sufficient to comply with the provisions of paragraph (2) of subsection b. *Infra.*

"d. The Commission is authorized and directed to adopt such administrative remedies as the Commission deems appropriate to minimize the need for issuance of temporary operating licenses pursuant to this section.

"e. The authority to issue new temporary operating licenses under this section shall expire on December 31, 1983.". Expiration date.

OPERATING LICENSE AMENDMENT HEARINGS

SEC. 12. (a) Section 189 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) The Commission may issue and make immediately effective any amendment to an operating license, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. Such amendment may be issued and made immediately effective in advance of the holding and completion of any required hearing. In determining under this section whether such amendment involves no significant hazards consideration, the Commission shall consult with the State in which the facility involved is located. In all other respects such amendment shall meet the requirements of this Act.

"(B) The Commission shall periodically (but not less frequently than once every thirty days) publish notice of any amendments issued, or proposed to be issued, as provided in subparagraph (A). Each such notice shall include all amendments issued, or proposed to be issued, since the date of publication of the last such periodic notice. Such notice shall, with respect to each amendment or proposed amendment (i) identify the facility involved; and (ii) provide a brief description of such amendment. Nothing in this subsection shall be construed to delay the effective date of any amendment. Notice of publication.

"(C) The Commission shall, during the ninety-day period following the effective date of this paragraph, promulgate regulations establishing (i) standards for determining whether any amendment to an operating license involves no significant hazards consideration; (ii) criteria for providing or, in emergency situations, dispensing with prior notice and reasonable opportunity for public comment on any such determination, which criteria shall take into account the exigency of the need for the amendment involved; and (iii) procedures for consultation on any such determination with the State in which the facility involved is located.". Regulations establishing standards, criteria, and procedures.

(b) The authority of the Nuclear Regulatory Commission, under the provisions of the amendment made by subsection (a), to issue and to make immediately effective any amendment to an operating 42 USC 2239 note.

license shall take effect upon the promulgation by the Commission of the regulations required in such provisions.

QUALITY ASSURANCE

Resident inspector program. 42 USC 5841 note.

SEC. 13. (a) The Nuclear Regulatory Commission is authorized and directed to implement and accelerate the resident inspector program so as to assure the assignment of at least one resident inspector by the end of fiscal year 1982 at each site at which a commercial nuclear powerplant is under construction and construction is more than 15 percent complete. At each such site at which construction is not more than 15 percent complete, the Commission shall provide that such inspection personnel as the Commission deems appropriate shall be physically present at the site at such times following issuance of the construction permit as may be necessary in the judgment of the Commission.

Commercial nuclear powerplant construction, study.

(b) The Commission shall conduct a study of existing and alternative programs for improving quality assurance and quality control in the construction of commercial nuclear powerplants. In conducting the study, the Commission shall obtain the comments of the public, licensees of nuclear powerplants, the Advisory Committee on Reactor Safeguards, and organizations comprised of professionals having expertise in appropriate fields. The study shall include an analysis of the following:

(1) providing a basis for quality assurance and quality control, inspection, and enforcement actions through the adoption of an approach which is more prescriptive than that currently in practice for defining principal architectural and engineering criteria for the construction of commercial nuclear powerplants;

(2) conditioning the issuance of construction permits for commercial nuclear powerplants on a demonstration by the licensee that the licensee is capable of independently managing the effective performance of all quality assurance and quality control responsibilities for the powerplant;

(3) evaluations, inspections, or audits of commercial nuclear powerplant construction by organizations comprised of professionals having expertise in appropriate fields which evaluations, inspections, or audits are more effective than those under current practice;

(4) improvement of the Commission's organization, methods, and programs for quality assurance development, review, and inspection; and

(5) conditioning the issuance of construction permits for commercial nuclear powerplants on the permittee entering into contracts or other arrangements with an independent inspector to audit the quality assurance program to verify quality assurance performance.

"Independent inspector."

For purposes of paragraph (5), the term "independent inspector" means a person or other entity having no responsibility for the design or construction of the plant involved. The study shall also include an analysis of quality assurance and quality control programs at representative sites at which such programs are operating satisfactorily and an assessment of the reasons therefor.

(c) For purposes of—

(1) determining the best means of assuring that commercial nuclear powerplants are constructed in accordance with the

applicable safety requirements in effect pursuant to the Atomic Energy Act of 1954; and

42 USC 2011 note.

(2) assessing the feasibility and benefits of the various means listed in subsection (b);

Pilot program.

the Commission shall undertake a pilot program to review and evaluate programs that include one or more of the alternative concepts identified in subsection (b) for the purposes of assessing the feasibility and benefits of their implementation. The pilot program shall include programs that use independent inspectors for auditing quality assurance responsibilities of the licensee for the construction of commercial nuclear powerplants, as described in paragraph (5) of subsection (b). The pilot program shall include at least three sites at which commercial nuclear powerplants are under construction. The Commission shall select at least one site at which quality assurance and quality control programs have operated satisfactorily, and at least two sites with remedial programs underway at which major construction, quality assurance, or quality control deficiencies (or any combination thereof) have been identified in the past. The Commission may require any changes in existing quality assurance and quality control organizations and relationships that may be necessary at the selected sites to implement the pilot program.

Study results, submittal to Congress.

(d) Not later than fifteen months after the date of the enactment of this Act, the Commission shall complete the study required under subsection (b) and submit to the United States Senate and House of Representatives a report setting forth the results of the study. The report shall include a brief summary of the information received from the public and from other persons referred to in subsection (b) and a statement of the Commission's response to the significant comments received. The report shall also set forth an analysis of the results of the pilot program required under subsection (c). The report shall be accompanied by the recommendations of the Commission, including any legislative recommendations, and a description of any administrative actions that the Commission has undertaken or intends to undertake, for improving quality assurance and quality control programs that are applicable during the construction of nuclear powerplants.

LIMITATION ON USE OF SPECIAL NUCLEAR MATERIAL

SEC. 14. Section 57 of the Atomic Energy Act of 1954 (42 U.S.C. 2077) is amended by adding at the end thereof the following new subsection:

"e. Special nuclear material, as defined in section 11, produced in facilities licensed under section 103 or 104 may not be transferred, reprocessed, used, or otherwise made available by any instrumentality of the United States or any other person for nuclear explosive purposes.".

42 USC 2014. 42 USC 2133, 2134.

RESIDENT INSPECTORS

SEC. 15. Of the amounts authorized to be appropriated under section 1, the Nuclear Regulatory Commission shall use such sums as may be necessary to conduct a study of the financial hardships incurred by resident inspectors as a result of (1) regulations of the Commission requiring resident inspectors to relocate periodically from one duty station to another; and (2) the requirements of the Commission respecting the domicile of resident inspectors and

Report to Congress.

respecting travel between their domicile and duty station in such manner as to avoid the appearance of a conflict of interest. Not later than 90 days after the date of the enactment of this Act, the Commission shall submit to the Congress a report setting forth the findings of the Commission as a result of such study, together with a legislative proposal (including any supporting data or information) relating to any assistance for resident inspectors determined by the Commission to be appropriate.

SABOTAGE OF NUCLEAR FACILITIES OR FUEL

SEC. 16. Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) is amended to read as follows:

"SEC. 236. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—

"a. Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to—

"(1) any production facility or utilization facility licensed under this Act;

"(2) any nuclear waste storage facility licensed under this Act; or

"(3) any nuclear fuel for such a utilization facility, or any spent nuclear fuel from such a facility;

shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.

Penalties.

"b. Any person who intentionally and willfully causes or attempts to cause an interruption of normal operation of any such facility through the unauthorized use of or tampering with the machinery, components, or controls of any such facility, shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.".

DEPARTMENT OF ENERGY INFORMATION

SEC. 17. (a) Section 148 a. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2168(a)(1)) is amended by inserting after " 'Secretary')" the following: ", with respect to atomic energy defense programs,".

95 Stat. 1169.

(b) Section 148 of the Atomic Energy Act of 1954 (42 U.S.C. 2168) is amended by adding at the end thereof the following new subsections:

Judicial review.

"d. Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5, United States Code.

Quarterly report.

"e. The Secretary shall prepare on a quarterly basis a report to be made available upon the request of any interested person, detailing the Secretary's application during that period of each regulation or order prescribed or issued under this section. In particular, such report shall—

"(1) identify any information protected from disclosure pursuant to such regulation or order;

"(2) specifically state the Secretary's justification for determining that unauthorized dissemination of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of illegal production of nuclear weapons, or theft, diversion, or sabotage

of nuclear materials, equipment, or facilities, as specified under subsection a.; and

"(3) provide justification that the Secretary has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the health and safety of the public or the common defense and security.".

STANDARDS AND REQUIREMENTS UNDER SECTION 275

SEC. 18. (a) Section 275 of the Atomic Energy Act of 1954 is amended— 42 USC 2022.

(1) by striking in subsection a. "one year after the date of enactment of this section" and substituting "October 1, 1982" and by adding the following at the end thereof: "After October 1, 1982, if the Administrator has not promulgated standards in final form under this subsection, any action of the Secretary of Energy under title I of the Uranium Mill Tailings Radiation Control Act of 1978 which is required to comply with, or be taken in accordance with, standards of the Administrator shall comply with, or be taken in accordance with, the standards proposed by the Administrator under this subsection until such time as the Administrator promulgates such standards in final form."; 42 USC 7911.

(2) by striking in subsection b. (1) "eighteen months after the enactment of this section, the Administrator shall, by rule, promulgate" and inserting in lieu thereof the following: "October 31, 1982, the Administrator shall, by rule, propose, and within 11 months thereafter promulgate in final form,";

(3) by adding the following at the end of subsection b. (1): "If the Administrator fails to promulgate standards in final form under this subsection by October 1, 1983, the authority of the Administrator to promulgate such standards shall terminate, and the Commission may take actions under this Act without regard to any provision of this Act requiring such actions to comply with, or be taken in accordance with, standards promulgated by the Administrator. In any such case, the Commission shall promulgate, and from time to time revise, any such standards of general application which the Commission deems necessary to carry out its responsibilities in the conduct of its licensing activities under this Act. Requirements established by the Commission under this Act with respect to byproduct material as defined in section 11 e. (2) shall conform to such standards. Any requirements adopted by the Commission respecting such byproduct material before promulgation by the Commission of such standards shall be amended as the Commission deems necessary to conform to such standards in the same manner as provided in subsection f. (3). Nothing in this subsection shall be construed to prohibit or suspend the implementation or enforcement by the Commission of any requirement of the Commission respecting byproduct material as defined in section 11 e. (2) pending promulgation by the Commission of any such standard of general application."; Promulgation authority. 42 USC 2014.

(4) by adding the following new subsection at the end thereof: "f. (1) Prior to January 1, 1983, the Commission shall not implement or enforce the provisions of the Uranium Mill Licensing Requirements published as final rules at 45 Federal Register 65521 Uranium mill licensing requirement regulations.

Implementation and enforcement.

to 65538 on October 3, 1980 (hereinafter in this subsection referred to as the 'October 3 regulations'). After December 31, 1982, the Commission is authorized to implement and enforce the provisions of such October 3 regulations (and any subsequent modifications or additions to such regulations which may be adopted by the Commission), except as otherwise provided in paragraphs (2) and (3) of this subsection.

Review, public comment, and suspension.

"(2) Following the proposal by the Administrator of standards under subsection b., the Commission shall review the October 3 regulations, and, not later than 90 days after the date of such proposal, suspend implementation and enforcement of any provision of such regulations which the Commission determines after notice and opportunity for public comment to require a major action or major commitment by licensees which would be unnecessary if—

"(A) the standards proposed by the Administrator are promulgated in final form without modification, and

"(B) the Commission's requirements are modified to conform to such standards.

Such suspension shall terminate on the earlier of April 1, 1984 or the date on which the Commission amends the October 3 regulations to conform to final standards promulgated by the Administrator under subsection b. During the period of such suspension, the Commission shall continue to regulate byproduct material (as defined in section 11 e. (2)) under this Act on a licensee-by-licensee basis as the Commission deems necessary to protect public health, safety, and the environment.

"(3) Not later than 6 months after the date on which the Administrator promulgates final standards pursuant to subsection b. of this section, the Commission shall, after notice and opportunity for public comment, amend the October 3 regulations, and adopt such modifications, as the Commission deems necessary to conform to such final standards of the Administrator.

"(4) Nothing in this subsection may be construed as affecting the authority or responsibility of the Commission under section 84 to promulgate regulations to protect the public health and safety and the environment.".

42 USC 2114.

Remedial action.

(b)(1) Section 108(a) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding the following new paragraph at the end thereof:

42 USC 7918.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, after October 31, 1982, if the Administrator has not promulgated standards under section 275 a. of the Atomic Energy Act of 1954 in final form by such date, remedial action taken by the Secretary under this title shall comply with the standards proposed by the Administrator under such section 275 a. until such time as the Administrator promulgates the standards in final form.".

Ante, p. 2077; *post*, p. 2080.

(2) The second sentence of section 108(a)(2) of the Uranium Mill Tailings Radiation Control Act of 1978 is repealed.

AGREEMENT STATES

42 USC 2021.

SEC. 19. (a) Section 274 o. of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof: "In adopting requirements pursuant to paragraph (2) of this subsection with respect to sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11 e. (2), the State may

42 USC 2014.

adopt alternatives (including, where appropriate, site-specific alternatives) to the requirements adopted and enforced by the Commission for the same purpose if, after notice and opportunity for public hearing, the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275. Such alternative State requirements may take into account local or regional conditions, including geology, topography, hydrology and meteorology.". 42 USC 2022.

(b) Section 204(h)(3) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by inserting the following before the period at the end thereof: ": *Provided, however,* That, in the case of a State which has exercised any authority under State law pursuant to an agreement entered into under section 274 of the Atomic Energy Act of 1954, the State authority over such byproduct material may be terminated, and the Commission authority over such material may be exercised, only after compliance by the Commission with the same procedures as are applicable in the case of termination of agreements under section 274 j. of the Atomic Energy Act of 1954.". 42 USC 2021 note. 42 USC 2021.

AMENDMENT TO SECTION 84

SEC. 20. Section 84 of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof: Alternative proposals by licensees. 42 USC 2114.

"c. In the case of sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11 e. (2), a licensee may propose alternatives to specific requirements adopted and enforced by the Commission under this Act. Such alternative proposals may take into account local or regional conditions, including geology, topography, hydrology and meteorology. The Commission may treat such alternatives as satisfying Commission requirements if the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275.". 42 USC 2014. 42 USC 2022.

EDGEMONT

SEC. 21. Section 102(e) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding the following at the end thereof: 42 USC 7912.

"(3) The Secretary shall designate as a processing site within the meaning of section 101(6) any real property, or improvements thereon, in Edgemont, South Dakota, that— 42 USC 7911.

"(A) is in the vicinity of the Tennessee Valley Authority uranium mill site at Edgemont (but not including such site), and

"(B) is determined by the Secretary to be contaminated with residual radioactive materials.

In making the designation under this paragraph, the Secretary shall consult with the Administrator, the Commission and the State of South Dakota. The provisions of this title shall apply to the site so designated in the same manner and to the same extent as to the sites designated under subsection (a) except that, in applying such provisions to such site, any reference in this title to the date of the enactment of this Act shall be treated as a reference to the date of the enactment of this paragraph and in determining the State share under section 107 of the costs of remedial action, there shall be credited to the State, expenditures made by the State prior to the date of the enactment of this paragraph which the Secretary determines would have been made by the State or the United States in carrying out the requirements of this title.".

42 USC 7917.

ADDITIONAL AMENDMENTS TO SECTIONS 84 AND 275

42 USC 2114.

SEC. 22. (a) Section 84 a. (1) of the Atomic Energy Act of 1954 is amended by inserting before the comma at the end thereof the following: ", taking into account the risk to the public health, safety, and the environment, with due consideration of the economic costs and such other factors as the Commission determines to be appropriate,".

Ante, p. 2077.

(b) Section 275 of the Atomic Energy Act of 1954 is amended—

(1) in subsection a., by inserting after the second sentence thereof the following new sentence: "In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate."; and

(2) by adding at the end of subsection b. (1) the following new sentence: "In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate.".

URANIUM SUPPLY

Comprehensive industry review, submittal to Congress.
42 USC 2210b note.

SEC. 23. (a)(1) Not later than 12 months after the date of enactment of this section, the President shall prepare and submit to the Congress a comprehensive review of the status of the domestic uranium mining and milling industry. This review shall be made available to the appropriate committees of the United States Senate and the House of Representatives.

(2) The Comprehensive review prepared for submission under paragraph (1) shall include—

(A) projections of uranium requirements and inventories of domestic utilities;

(B) present and future projected uranium production by the domestic mining and milling industry;

(C) the present and future probable penetration of the domestic market by foreign imports;

(D) the size of domestic and foreign ore reserves;

(E) present and projected domestic uranium exploration expenditures and plans;

(F) present and projected employment and capital investment in the uranium industry;

(G) an estimate of the level of domestic uranium production necessary to ensure the viable existence of a domestic uranium industry and protection of national security interests;

(H) an estimate of the percentage of domestic uranium demand which must be met by domestic uranium production through the year 2000 in order to ensure the level of domestic production estimated to be necessary under subparagraph (G);

(I) a projection of domestic uranium production and uranium price levels which will be in effect both under current policy and in the event that foreign import restrictions were enacted by Congress in order to guarantee domestic production at the level estimated to be necessary under subparagraph (G);

(J) the anticipated effect of spent nuclear fuel reprocessing on the demand for uranium; and

(K) other information relevant to the consideration of restrictions on the importation of source material and special nuclear material from foreign sources.

(b)(1) Chapter 14 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

"SEC. 170B. URANIUM SUPPLY.—

Report to Congress and President. 42 USC 2210b.

"a. The Secretary of Energy shall monitor and for the years 1983 to 1992 report annually to the Congress and to the President a determination of the viability of the domestic uranium mining and milling industry and shall establish by rule, after public notice and in accordance with the requirements of section 181 of this Act, within 9 months of enactment of this section, specific criteria which shall be assessed in the annual reports on the domestic uranium industry's viability. The Secretary of Energy is authorized to issue regulations providing for the collection of such information as the Secretary of Energy deems necessary to carry out the monitoring and reporting requirements of this section.

42 USC 2231.

Regulations.

"b. Upon a satisfactory showing to the Secretary of Energy by any person that any information, or portion thereof obtained under this section, would, if made public, divulge proprietary information of such person, the Secretary shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code.

Proprietary information, disclosure.

"c. The criteria referred to in subsection a. shall also include, but not be limited to—

Criteria.

"(1) an assessment of whether executed contracts or options for source material or special nuclear material will result in greater than 37½ percent of actual or projected domestic uranium requirements for any two-consecutive-year period being supplied by source material or special nuclear material from foreign sources;

"(2) projections of uranium requirements and inventories of domestic utilities for a 10 year period;

"(3) present and probable future use of the domestic market by foreign imports;

"(4) whether domestic economic reserves can supply all future needs for a future 10 year period;

"(5) present and projected domestic uranium exploration expenditures and plans;

"(6) present and projected employment and capital investment in the uranium industry;

"(7) the level of domestic uranium production capacity sufficient to meet projected domestic nuclear power needs for a 10 year period; and

"(8) a projection of domestic uranium production and uranium price levels which will be in effect under various assumptions with respect to imports.

Imported material, impact on domestic industry and national security.

"d. The Secretary or Energy, at any time, may determine on the basis of the monitoring and annual reports required under this section that source material or special nuclear material from foreign sources is being imported in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the United States uranium mining and milling industry. Based on that determination, the United States Trade Representative shall request that the United States International Trade Commission initiate an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. 2251).

"e. (1) If, during the period 1982 to 1992, the Secretary of Energy determines that executed contracts or options for source material or special nuclear material from foreign sources for use in utilization facilities within or under the jurisdiction of the United States represent greater than 37½ percent of actual or projected domestic uranium requirements for any two-consecutive-year period, or if the Secretary of Energy determines the level of contracts or options involving source material and special nuclear material from foreign sources may threaten to impair the national security, the Secretary of Energy shall request the Secretary of Commerce to initiate under section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) an investigation to determine the effects on the national security of imports of source material and special nuclear material. The Secretary of Energy shall cooperate fully with the Secretary of Commerce in carrying out such an investigation and shall make available to the Secretary of Commerce the findings that lead to this request and such other information that will assist the Secretary of Commerce in the conduct of the investigation.

Investigations.

"(2) The Secretary of Commerce shall, in the conduct of any investigation requested by the Secretary of Energy pursuant to this section, take into account any information made available by the Secretary of Energy, including information regarding the impact on national security of projected or executed contracts or options for source material or special nuclear material from foreign sources or whether domestic production capacity is sufficient to supply projected national security requirements.

"(3) No sooner than 3 years following completion of any investigation by the Secretary of Commerce under paragraph (1), if no recommendation has been made pursuant to such study for trade adjustments to assist or protect domestic uranium production, the Secretary of Energy may initiate a request for another such investigation by the Secretary of Commerce.".

Approved January 4, 1983.

LEGISLATIVE HISTORY–H.R. 2330 (S. 1207):

HOUSE REPORTS: No. 97-22, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Energy and Commerce), No. 97-884 (Comm. of Conference).

SENATE REPORT No. 97-113 accompanying S. 1207 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD:

Vol. 127 (1981): Oct. 19, Nov. 5, considered and passed House.

Vol. 128 (1982): Mar. 22, 30, S. 1207 considered in Senate.
Mar. 30, H.R. 2330 considered and passed Senate, amended.
Oct. 1, Senate agreed to conference report.
Dec. 2, House rejected conference report; receded and concurred in Senate amendment with an amendment.
Dec. 16, Senate agreed to House amendment.