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# United States Senate

COMMITTEE ON  
ENERGY AND NATURAL RESOURCES

WASHINGTON, DC 20510-8150

October 12, 1989

The Honorable Kenneth Carr  
Chairman  
Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Mr. Chairman:

As you know, S.83 contains a provision that would place the licensing of enrichment facilities under 10 CFR Parts 40 and 70, but not Part 50. In your letter of April 18, 1989, you indicated that 10 CFR Parts 40 and 70 would provide an adequate regulatory framework for licensing enrichment facilities.

I am enclosing proposed separate legislation that would amend the Atomic Energy Act of 1954 to provide that, except for export, enrichment and related facilities shall not be considered production or utilization facilities under the Act regulated under Part 50. The effect of this amendment would be to provide for licensing of enrichment facilities under Parts 40 and 70. This proposed language has the same effect as the language of the amendment that passed the Senate July 20, 1989 as section 114(d) of S.83.

My own view is that enrichment facilities should properly be licensed under Parts 40 and 70 of the Commission's regulations and not under Part 50 as the Act currently requires. The issues that arise in the licensing of a facility for the enrichment of uranium are primarily those that arise in considering a license proposal for a materials handling facility, not a nuclear power facility. Principally, these issues relate to physical security, nuclear nonproliferation, the handling of classified data and technology, and any safety hazard from contact with the materials. In the case of a uranium enrichment, the primary safety hazard is the chemical hazard posed by the fluorine from the uranium hexafluoride feed material for the facility. I understand that the Commission currently regulates uranium processing facilities, which also use uranium hexafluoride, under Parts 40 and 70.

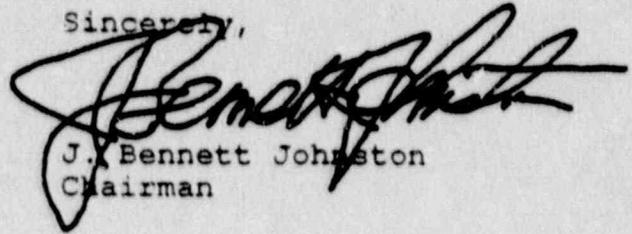
10/23...To OGC for Signature of Chairman...Date due: Nov. 6...OCA to Ack, EDO, RF...89-1149.

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PDR COMMS NRCC  
CORRESPONDENCE PDC

Accordingly, I am interested in the Commission's views as to whether the proposed legislation I enclose accomplishes my intent to provide for licensing under Parts 40 and 70, but not under Part 50. I would also like to request the Commission's views on this proposal.

I would very much appreciate your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Bennett Johnston". The signature is stylized and cursive, written over the printed name and title.

J. Bennett Johnston  
Chairman

JBj/bsc

AMENDMENT NO. \_\_\_\_\_ Ex. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To establish procedures for the licensing of uranium enrichment facilities by the Nuclear Regulatory Commission.

IN THE SENATE OF THE UNITED STATES      101st Cong., 1st Session  
S.

( ) Referred to the Committee on \_\_\_\_\_  
and ordered to be printed

( ) Ordered to lie on the table and to be printed

Intended to be proposed by Mr. Johnston

Viz:

Add the following at the end of the bill:

"SEC. \_\_\_\_\_. LICENSING OF URANIUM ENRICHMENT FACILITIES.

"The Atomic Energy Act of 1954, as amended, is further amended:

"(a) By adding before the period at the end of the definition of the term 'production facility' in section 11v. a colon and the following: 'Provided, however, That as the term is used in chapters 10 and 16 of this Act, other than with respect to export of a uranium enrichment production facility, it shall not include any equipment or device, or important component part especially designed therefor, capable of separating the isotopes of uranium or enriching uranium in the isotope 235';

"(b) By striking the period at the end of section 161b. and adding the following: '; in addition, the Commission shall prescribe such regulations or orders as may be necessary or desirable to promote the Nation's common defense and security with regard to control, ownership or possession of any equipment or device, or important component part especially designed therefor, capable of separating the isotopes of uranium or enriching uranium in the isotope 235;';

"(c) By striking the phrase 'section 103 or 104' in section 41a. (2) and inserting in lieu thereof 'this title'; and

"(d) In section 236 by striking the word 'or' following paragraph (2) and adding after paragraph (3) 'or (4) any uranium enrichment facility licensed by the Commission';

"(e) In section 274c. by adding the following before the semicolon

at the end of subparagraph (1) the following: 'or any uranium enrichment facility'".