



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

February 4, 1983

MARK-UP
VERSIONS
DELETED

MEMORANDUM FOR: Chairman Palladino
Commissioner Gilinsky
Commissioner Ahearne
Commissioner Roberts
Commissioner Asselstine

FROM: James R. Tourtellotte, Chairman ~~RTF~~
Regulatory Reform Task Force

SUBJECT: THE NUCLEAR POWERPLANT LICENSING REFORM ACT OF 1983

Attached are copies of the Draft Bill, the Comparative Draft Bill, a letter of transmittal to Vice President Bush, the Section-By-Section Analysis and a letter of transmittal to OMB. Each one of these documents is followed by a mark up version except for the Comparative Draft Bill.

These are the documents of which should be the subject of the next Commission meeting on licensing legislation.

Enclosure:

1. Draft Bill
2. Comparative Draft Bill
3. Letter of Transmittal (Bush)
4. Section-By-Section Analysis
5. Letter of Transmittal (OMB)

Contact:
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X-43300

DRAFT BILL

DRAFT BILL

To amend the Atomic Energy Act of 1954, as amended, to improve the nuclear powerplant siting and licensing process, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Powerplant Licensing Reform Act of 1983".

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FINDINGS AND PURPOSES

Sec. 2. (a) The Congress, recognizing that a clear and coordinated energy policy consistent with public health and safety must include an effective and efficient licensing process for siting, construction, and operation of nuclear power plants which meet applicable criteria, finds and declares that:

(1) interstate commerce is substantially affected by the siting, construction, and operation of nuclear power plants;

(2) opportunity for public participation in siting and licensing of nuclear power plants should be assured;

(3) it is efficient and in the public interest for the Nuclear Regulatory Commission, for purposes required by the National Environmental Policy Act of 1969 or other provisions of Federal law applicable to its licensing, to rely upon determinations respecting the need for, and alternative sources of, new electric generating facilities made by competent Federal, State or regional authorities;

(4) the licensing and construction of nuclear power plants would be facilitated and the public health and safety enhanced by the use of pre-approved nuclear power plant designs, particularly standardized designs;

(5) there is a need to encourage the development and use of standardized nuclear power plant designs because such designs can benefit public health and safety by concentrating the resources of designers, engineers, and vendors on particular approaches, by stimulating standardized programs of construction practice and quality

assurance, by improving the training of personnel and by fostering more effective maintenance and improved operations, and because the use of such designs can permit a more effective and efficient licensing and inspection process;

(6) the licensing process would be facilitated by procedures for the selection and approval of a site for a nuclear power plant to be accomplished in advance of a commitment to construct a particular facility of a specific design at that site;

(7) the licensing process would be facilitated if licensing decisions are made at the earliest feasible phase of the process and if, once decided, licensing issues are not subject to further adjudication in the absence of a substantial evidentiary showing called for by this Act and the regulations of the Commission;

(8) all phases of the licensing process should be handled in a timely manner under procedures which, consistent with this Act and the regulations of the Commission, assure that adjudicatory procedures are only invoked where a relevant dispute can only be resolved with sufficient accuracy through such procedures;

(9) consistent with the adequate protection of the public health and safety, the common defense and security, and with the appropriate consideration of the environment, the regulatory process should provide greater stability in licensing standards and criteria for approved designs of nuclear power plants;

(10) consistent with the Commission's paramount responsibility to protect the public health and safety, and recognizing that elimination of all risk is an unattainable goal for any energy source, it is appropriate and in the public interest for the Commission to

consider the economic consequences of its regulatory practices including, but not limited to the cost of safety requirements; and

(11) the purpose of the hearings provided for in section 189 of the Atomic Energy Act of 1954 is to resolve issues of fact in dispute between the parties to the proceeding.

(b) The purposes of this Act are:

(1) to facilitate the use of pre-approved sites and designs for nuclear power plants and to facilitate the development and use of standardized designs;

(2) to provide for the issuance of a combined license to construct and to operate a nuclear power plant under conditions which assure the continued protection of the public health and safety, which will be in accord with the common defense and security, and which assure appropriate consideration of the environment;

(3) to improve the stability of licensing standards and criteria for nuclear power plants and thus the finality of prior Commission licensing approvals; and

(4) to assure that adjudicatory procedures are invoked where a relevant dispute only can be resolved with sufficient accuracy through such procedures.

TITLE I -- SITING AND LICENSING

CONSTRUCTION PERMITS AND OPERATING LICENSES

Sec. 101. Section 185 of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"Sec. 185. CONSTRUCTION PERMITS AND OPERATING LICENSES. --

"a. All applicants for licenses to construct or modify production or utilization facilities shall be initially granted a construction permit after the Commission has provided an opportunity for public hearing pursuant to section 189 of this Act and if the application is otherwise acceptable to the Commission. Upon the completion of the construction or modification of the facility, upon the filing of any additional information needed to bring the original application up to date, after providing an opportunity for public hearing pursuant to section 189 of this Act, and upon finding that the facility authorized has been constructed and will operate in conformity with the application as amended and in conformity with the provisions of this Act and of the regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of an operating license would not be in accordance with the provisions of this Act, the Commission shall thereupon issue an operating license for the applicant. For all other purposes of this Act, a construction permit is a 'license'.

"b. Notwithstanding any other provision of this section, the Commission shall issue to the applicant a combined construction permit and operating license for a thermal neutron power generation facility after providing an opportunity for public hearing pursuant to section 189 of this Act, if the application contains sufficient information to support the issuance of both a construction permit and an operating license in accordance with the regulations of the Commission and to enable the Commission to make the determinations relating to the common defense and security and the public health and safety required by this Act. After issuance of a combined construction permit and operating license for a thermal neutron power generation facility, the Commission shall assure that construction is completed in conformity with the combined construction permit and operating license, consistent with the regulations of the Commission. Prior to the commencement of operation, the Commission shall publish notice of intended operation as required by section 189 a.(1)(C), and shall find that the facility has been constructed and will operate in conformity with the combined construction permit and operating license, the provisions of this Act, and the regulations of the Commission. Prior to the commencement of operation, the Commission shall also conduct a supplemental review of any issues that were not considered in prior review of the facility.

"c. In making a determination on the issuance of any permit or license under this section, the Commission shall rely upon a certification of need for the facility and of the alternative sources of generating capacity upon a verification by the certifying authority: (i) that the certification is made by a Federal, regional or state organization that is authorized by law to do so; (ii) that in arriving

at its determination, the certifying authority and has used procedures substantially equivalent to those used by the Commission and described in its regulations has provided an opportunity for public participation and (iii) that the certifying organization has considered alternative energy sources as appropriate. The validity of a certification and verification shall be conclusive for the purpose of any applicable provision of Federal law related to the issuance of a license or permit under this Act, shall not be the subject of a Commission proceeding and shall not be subject to Federal judicial review. Nothing in this section shall preclude judicial review by a state of its own actions.

"d. The Commission shall not modify any final determination on an issue that has been considered and decided in any proceeding for the issuance of a permit or license for that facility, facility site or approval of design for that facility under Section 194, unless the proponent of the request for such action makes a substantial evidentiary showing as defined in subsection 11 bb. of this Act and in accordance with procedures established by the Commission that such action is required to comply with this Act, other provisions of Federal law, or the Commission's regulations.

"e. Nothing in this section shall affect State authority over the regulation of radiological hazards.

Sec. 102. Section 189 of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"Sec. 189. HEARINGS AND JUDICIAL REVIEW.--

"a. (1) In any proceeding under this Act, for the granting, suspending, revoking, renewing or amending of any license or construction permit, site permit, facility design approval, combined construction permit and operating license, or application to transfer control, and in any proceeding for the issuance or modification of regulations dealing with the activities of licensees, and in any proceeding for the payment of compensation, an award, or royalties under sections 153, 157, 186c., or 188, the Commission shall grant a hearing in accordance with subparagraph (D) below upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding.

"(A) The Commission shall publish notice in the Federal Register within thirty days after the docketing of any application: (1) under section 103 or 104b. for a construction permit or operating license for a facility, or for a license to manufacture a facility; under section 193 for a site permit or a renewal thereof; under section 194 for a facility design approval or a renewal thereof, and under section 185 for a combined construction permit and operating license; (2) under section 104c. for a construction permit or operating license; and (3) for an amendment to any of the foregoing, except as otherwise provided in subsection 189a.(2).

"(B) Within thirty days after the docketing of any application under section 194 for the approval of a facility design, or for an

amendment or renewal of an approved design, the Commission shall give public notice by publishing notice twice in major newspapers having national circulation. At least sixty days prior to the granting of any application the Commission shall also give such public notice which advises that the Commission is considering granting the application.

"(C) The Commission shall also publish in the Federal Register at least one year prior to commencement of operation of any facility for which a combined construction permit and operating license has been issued, a notice that commencement of operation is expected to take place and that the Commission will grant a hearing in accordance with subparagraph (D) below upon the request of any person whose interest may be affected by such operation. The Commission shall grant a hearing upon such request, and shall admit any such person as a party to the proceeding.

"(D) Any hearing required by this section for a production or utilization facility shall be limited to issues that were not and could not have been considered and decided in a prior proceeding before the Commission for that facility, facility site, or approval of a design for that facility under section 194, unless the proponent of the hearing request makes a substantial evidentiary showing as defined in subsection 11 bb. of this Act and in accordance with procedures established by the Commission that significant new information relevant to the issue has been discovered since the prior proceeding and that as a result thereof it is likely that the facility will not comply with this Act, other provisions of Federal law, or the Commission's regulations.

"(2)(A) The Commission may issue and make immediately effective any amendment to an operating license, a combined construction permit

and operating license, a construction permit, a design approval or a site permit 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.

"(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.

"b. The Commission may conduct hybrid hearings consistent with paragraphs c. and d. of this section.

"c. In any Commission hybrid hearing pursuant to this section on an application for a license to construct or to operate a production or utilization facility, for the issuance of a site permit, for the approval of a facility design, or for the issuance of a combined construction permit and operating license, or for an amendment to or the renewal of any such license or approval filed after the date of enactment of this subsection, the Commission shall first provide the parties to the proceeding an opportunity to submit for the record written data, views, or arguments as the Commission may specify. At the request of any party, the Commission shall provide an opportunity for oral argument with respect to any matter identified in the written submissions which it determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each moving party to submit in written form, at the time of oral argument all the evidence upon which that party proposes to rely that is known at such time to that party.

"d.(1) At the conclusion of any oral argument under subsection c. of this section, the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it is determined that--

"(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of

reliable and specifically identified evidence in an adjudicatory hearing; and

"(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

"(2) In making a determination under this subsection, the Commission shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is necessary to resolve the dispute.

"e. Any final order entered in any proceeding of the kind specified in this section shall be subject to judicial review in the manner prescribed in the Act of December 29, 1950, as amended (ch. 1189, 64 Stat. 1129), and to the provisions of section 10 of the Administrative Procedure Act, as amended.

EARLY SITE REVIEW

Sec. 103 The Atomic Energy Act of 1954, as amended is amended by adding a new section 193 to read as follows:

"Sec. 193 EARLY SITE REVIEW.--

"a. The Commission is authorized to issue a site permit for approval of a site or sites for one or more production or utilization facilities for a period of ten years upon the application of any person or entity notwithstanding the fact that no application for a construction permit or a combined construction permit and operating license for such facility or facilities has been filed. The Commission may issue a site permit with respect to limited aspects of the suitability of the site for its intended purpose, under relevant regulations of the Commission. For all purposes of this Act, a site permit is a 'license'.

"b. Notwithstanding section 161 w. of this Act or the Independent Offices Appropriation Act of 1952, no application filing or issuance fees shall be required for an application for a site permit, an amendment, or a renewal of a site permit under this section. The Commission is authorized to allocate the costs that would otherwise have been defrayed by fees required of applicants under this section among applicants for permits or licenses which propose to use the approved site in a manner that will assure full cost recovery by the Commission. If no application for construction of a production or utilization facility is filed within the initial ten year approval period, the fee shall become immediately due and payable by the applicant for the site permit.

"c. After considering all information submitted in the application and after providing an opportunity for hearing pursuant to section 189 of this Act, the Commission shall issue a site permit if it determines that such approval will not be inimical to the common defense and security or to the health and safety of the public.

"d. (1) A site permit issued by the Commission under this section may be referenced in an application for a construction permit or a combined construction permit and operating license which meets the conditions of the site permit and is filed within the period during which the site permit remains valid.

"(2) No less than twelve or more than thirty-six months prior to the expiration of the ten year period, the holder of the site permit may apply for a renewal of the site permit. The Commission shall renew the site permit for an additional period of time of not less than five nor more than ten years from the date of renewal unless it finds that the site will not comply with this Act or the Commission's regulations. If no application for a production or utilization facility is filed within the period of renewal, any outstanding fee shall become due and payable by the applicant for the site permit.

"e. Approval of a site under this section shall not preclude its use as a site for an alternate or modified type of energy facility or for any other purpose. Other uses not considered in the approval may, however, affect the validity of the site permit or the conditions of its use for production or utilization facility siting as the Commission may determine.

"f. Following the issuance of a site permit under this section, and in any subsequent Commission proceeding involving a site for which a

site permit has been granted under this section, the Commission shall not modify any final determination on an issue that has been considered and decided in the site permit proceeding unless the proponent of the request for such action makes a substantial evidentiary showing as defined in subsection 11 bb. of this Act and in accordance with procedures established by the Commission that such action is required to comply with this Act, other provisions of Federal law, or the Commission's regulations.

APPROVAL OF DESIGNS

Sec. 104. The Atomic Energy Act of 1954, as amended, is amended by adding a new section 194 to read as follows:

"Sec. 194. APPROVAL OF DESIGNS.--

"a. The Commission is authorized and directed to establish procedures permitting the approval of standardized facility designs for thermal neutron power generation facilities for a period of ten years, notwithstanding the fact that no application for a construction permit or combined construction permit and operating license for such facility has been filed. The Commission may also consider, in accordance with its regulations, requests under this section for the approval of the design for any major subsystem which represents a discrete element of a thermal neutron power generation facility. For all purposes of this Act, a design approval is a 'license'.

"b. Notwithstanding section 161 w. of this Act or the Independent Offices Appropriation Act of 1952, no application filing or issuance fees shall be required for an application for a design approval, an amendment, or a renewal of an approval of a facility design under this section. The Commission is authorized to allocate the costs that would otherwise have been defrayed by fees required of applicants under this section among applicants for permits or licenses which propose to use the approved standardized plant design in a manner that will assure full cost recovery by the Commission. If no application for construction of a facility is filed within the initial ten year approval period, the fee

shall become immediately due and payable by the applicant for the design approval.

"c. After considering all information submitted in the application, and after providing an opportunity for hearing pursuant to section 189 of this Act, the Commission shall issue an approval if it determines that such approval will not be inimical to the common defense and security or to the health and safety of the public.

"d. (1) Any approval issued by the Commission under this section may be referenced in an application for construction permit or a combined construction permit and operating license which meets the conditions of the approval and is filed within the period during which the approval remains valid.

"(2) No less than twelve or more than thirty-six months prior to the expiration of the ten year period, the holder of the approval may apply for a renewal of the approval. The Commission shall renew the approval for an additional period of time of not less than five nor more than ten years from the date of renewal unless it finds that the design will not comply with this Act or the Commission's regulations. If no application for construction of a facility is filed within the renewal period, any outstanding fee shall become due and payable by the applicant for the design approval.

"e. Following the issuance of a design approval under this section, and in any subsequent Commission proceeding involving a facility design for which a design approval has been granted under this section, the Commission shall not modify any final determination on an issue that has been considered and decided in the design approval proceeding unless the proponent of the request for such action makes a substantial

evidentiary showing in accordance with procedures established by the Commission that such action is required to comply with this Act, other provisions of Federal law, or the Commission's regulations.

"f. (1) The Commission shall approve an amendment to a design approval issued under this section upon application by the holder of the design approval if, after providing an opportunity for hearing pursuant to section 189 of this Act, the Commission determines that the amendment will comply with this Act and the Commission's regulations.

(2) Any amendment approved by the Commission under paragraph (1) shall apply to any application for a construction permit or combined construction permit and operating license referencing the design approval for which the amendment has been granted that is filed after the effective date of such amendment.

(3) Any amendment approved by the Commission under paragraph (1) shall not apply to an application for a construction permit or combined construction permit and operating license referencing the design approval for which the amendment has been granted that is filed before the effective date of each amendment unless (A) the applicant requests that such amendment apply to the application, or (B) the requirements of subsection (f) are satisfied with respect to the amendment.

"g. Any application for a construction permit, an operating license or a combined construction permit and operating license referencing a design approval issued under this section may include a request for a variance from one or more elements of the design approval. Such requests for a variance shall be granted if the Commission determines that the variance will comply with this Act and the

Commission's regulations. Any variance issued under this section shall be limited to the permit or license for which such variance has been requested.

TITLE II -- MISCELLANEOUS PROVISIONS

THERMAL NEUTRON POWER GENERATION FACILITY

Sec. 201. Section 11 of the Atomic Energy Act of 1954, as amended, is amended by relettering existing subsections bb. and cc. as subsections dd. and ee. respectively and by adding new subsections bb. and cc. as follows:

"bb. A substantial evidentiary showing is a showing of evidence by the proponent that is sufficient to justify the conclusion that the proposed modification of the final determination is required to comply with this Act, other provisions of Federal law or the Commission's regulations. In determining the sufficiency of such a showing, the Commission shall consider only the evidence and all reasonable inferences therefrom.

"cc. 'Thermal nuclear power generation facility' means a utilization facility which is designed to produce electrical energy and in which core power is designed to be produced predominantly by thermal neutron fission.

STANDARDIZED DESIGN

Sec. 202. For the purposes of this Act the term 'standardized design' means a design which the Commission determines is sufficiently detailed and complete to support licensing of a commercial production or

utilization facility or approval of a major portion of such a facility when referenced in an application for a construction permit or an operating license or a combined construction permit and operating license or a design approval and which is usable for a multiple number of units and/or at a multiple number of sites without reopening or repeating the review.

IMPLEMENTATION

Sec. 203. "a. The Commission shall, within 180 days following the effective date of this section, propose regulations establishing procedures and criteria for implementing the provisions of sections 185d, 193h and 194f of this Act and for the control of the application of new requirements to any thermal neutron power generation facility licensed for construction or operation under this Act.

"b. No license, permit or approval granted under this Act for a thermal neutron power generation facility shall be modified except pursuant to the regulations promulgated under subsection a. of this section following promulgation of the regulations in paragraph (a).

"c. Prior to the issuance of a site permit under section 193 of the Atomic Energy Act of 1954, as amended, the Commission shall prepare an environmental impact statement pursuant to section 102 (2)(C) of the National Environmental Policy Act of 1969. Pursuant to such Act, the impact statement shall consider to the extent practical all environmental impacts associated with construction and operation of the facility or facilities proposed to be constructed on the site for which the site permit is sought: provided, however, that such impact

statement need not contain an assessment of the need for power to be generated by the proposed facility or facilities, or of alternative generating sources.

"d. The issuance of a design approval under section 194 of the Atomic Energy Act of 1954, as amended, shall not require any review pursuant to the National Environmental Policy Act of 1969.

TITLE III -- CONFORMING AMENDMENTS
ANTITRUST PROVISIONS

Sec. 301. Subsection 105 c. of the Atomic Energy Act of 1954, as amended, is amended in the first sentence of paragraph (2) by inserting "and/" after the word "construct".

GENERAL PROVISIONS

Sec. 302. Section 161 o. of the Atomic Energy Act of 1954, as amended, is amended by inserting the words "or approvals authorized by sections 193 and 194" after the number "104".

LICENSE APPLICATIONS

Sec. 303. Subsection 182 b. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"b. The Advisory Committee on Reactor Safeguards shall review each application under section 103 or section 104 b. for a construction permit and/or an operating license for a facility; any application under section 104 c. for a construction permit and/or operating license for a testing facility; any application under section 104 a. or c. specifically referred to it by the Commission; any application for a site permit under section 193; any proposed approval for a facility design under section 194; and any application for an amendment to a construction permit or to an operating license under section 103 or 104

a., b., or c. or an amendment or renewal of a site permit under section 193 or an amendment or renewal of an approval for a facility design under section 194 specifically referred to it by the Commission, and shall submit a report thereon which shall be made a part of the record of the application and available to the public except to the extent that security classification prevents disclosure.

REVOCATION

Sec. 304. Section 186 a. of the Atomic Energy Act of 1954, as amended, is amended by inserting the words "sections 182, 185, 193 and 194" after the words "required under".

TABLE OF CONTENTS

Sec. 305. The table of contents for the Atomic Energy Act of 1954, as amended, is amended by changing the title of Section 185 to read "Construction Permits and Operating Licenses" and by adding the following after Section 192:

"Sec. 193. EARLY SITE REVIEW.

"Sec. 194. APPROVAL OF DESIGNS.

TITLE IV -- EFFECTIVE DATE

Sec. 401. All sections of this Act shall take effect as of the date of enactment, and shall apply to all proceedings pending as of the date of enactment or commenced on or after the date of enactment.

COMPARATIVE DRAFT BILL

COMPARATIVE DRAFT BILL
ATOMIC ENERGY ACT OF 1954, AS AMENDED

"SEC. 105. ANTITRUST PROVISIONS. -

* * *

"C. ***

"(2) Paragraph (1) of this subsection shall apply to an application for a license to construct and/ or operate a utilization or production facility under section 103: Provided, however, That paragraph (1) shall not apply to an application for a license to operate a utilization or production facility for which a construction permit was issued under section 103 unless the Commission determines such review is advisable on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous review by the Attorney General and the Commission under this subsection in connection with the construction permit for the facility".

SEC. 161. GENERAL PROVISIONS. - In the performance of its functions the Commission is authorized to -

* * *

"o. Require by rule, regulation, or order, such reports, and the keeping of such records with respect to, and to provide for such inspections of, activities and studies of types specified in section 31 and of activities under licenses issued pursuant to sections 53, 63, 81, 103, and 104, or approvals authorized by sections 193 and 194, as may be necessary to effectuate the purposes of this Act, including section 105; and"

"Sec. 182. LICENSE APPLICATIONS.--

* * * * *

"b. The Advisory Committee on Reactor Safeguards shall review each application under section 103 or section 104b. for a construction permit and/ or an operating license for a facility, any application under section 104c. for a construction permit and/ or an operating license for a testing facility, any application under section 104a. or c. specifically referred to it by the Commission, any application for a site permit under section 193, any proposed approval for a facility design under section 194, and any application for an amendment to a construction permit or an amendment to an operating license under section 103 or 104a., b., or c. or an amendment or renewal of a site permit under section 193 or a proposed amendment or renewal of an approval for a facility design under section 194 specifically referred to it by the Commission, and shall submit a report; which shall be made a part of the record of the application and available to the public except to the extent the security classification prevents disclosure.

"Sec. 185. CONSTRUCTION PERMITS AND OPERATING LICENSES. --

"a. All applicants for licenses to construct or modify production or utilization facilities shall be initially granted a construction permit after the Commission has provided an opportunity for public hearing pursuant to section 189 of this Act and if the application is otherwise acceptable to the Commission. Upon the completion of the construction or modification of the facility, upon the filing of any additional information needed to bring the original application up to date, after providing an opportunity for public hearing pursuant to section 189 of this Act, and upon finding that the facility authorized has been constructed and will operate in conformity with the application as amended and in conformity with the provisions of this Act and of the [rules and] regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of [a] an operating license would not be in accordance with the provisions of this Act, the Commission shall thereupon issue [a] an operating license to the applicant. For all other purposes of this Act, a construction permit is [deemed to be] a 'license'.

"b. Notwithstanding any other provision of this section, the Commission shall issue to the applicant a combined construction permit and operating license for a thermal neutron power generation facility after providing an opportunity for public hearing pursuant to section 189 of this Act, if the application contains sufficient information to support the issuance of both a construction permit and an operating license in accordance with the regulations of the Commission and to

enable the Commission to make the determinations relating to the common defense and security and the public health and safety required by this Act. After issuance of a combined construction permit and operating license for a thermal neutron power generation facility, the Commission shall assure that construction is completed in conformity with the combined construction permit and operating license, consistent with the regulations of the Commission. Prior to the commencement of operation, the Commission shall publish notice of intended operation as required by section 189 a.(1)(C), and shall find that the facility has been constructed and will operate in conformity with the combined construction permit and operating license, the provisions of this Act, and the regulations of the Commission. Prior to the commencement of operation, the Commission shall also conduct a supplemental review of any issues that were not considered in prior review of the facility.

"c. In making a determination on the issuance of any permit or license under this section, the Commission shall rely upon a certification of need for the facility and of the alternative sources of generating capacity upon a verification by the certifying authority: (i) that the certification is made by a Federal, regional or state organization that is authorized by law to do so; (ii) that in arriving at its determination, the certifying authority has used procedures substantially equivalent to those used by the Commission and described in its regulations and has provided an opportunity for public participation and (iii) that the certifying organization has considered alternative energy sources as appropriate. The validity of a certification and verification shall be conclusive for the purpose of any applicable

provision of Federal law related to the issuance of a license or permit under this Act, shall not be the subject of a Commission proceeding and shall not be subject to Federal judicial review. Nothing in this section shall preclude judicial review by a state of its own actions.

"d. The Commission shall not modify any final determination on an issue that has been considered and decided in any proceeding for the issuance of a permit or license for that facility, facility site or approval of design for that facility under Section 194, unless the proponent of the request for such action makes a substantial evidentiary showing as defined in subsection 11 bb. of this Act and in accordance with procedures established by the Commission that such action is required to comply with this Act, other provisions of Federal law, or the Commission's regulations.

"e. Nothing in this section shall affect State authority over the regulation of radiological hazards.

"Sec. 186. REVOCATION.--

"a. Any license may be revoked for any material false statement in the application or any statement of fact required under sections 182, 185, 193 or 194, or because of conditions revealed by such application or statement of fact or any report, record, or inspection or other means which would warrant the Commission to refuse to grant a license on an original application, or for failure to construct or operate a facility in accordance with the terms of the construction permit or license or the technical specifications in the application, or for violation of, or failure to observe any of the terms and provisions of this Act or of any regulation of the Commission".

"Sec. 189. HEARINGS AND JUDICIAL REVIEW.--

"a. (1) In any proceeding under this Act, for the granting, suspending, revoking, renewing or amending of any license or construction permit, site permit, facility design approval, combined construction permit and operating license, or application to transfer control, and in any proceeding for the issuance or modification of [rules and] regulations dealing with the activities of licensees, and in any proceeding for the payment of compensation, an award, or royalties under sections 153, 157, 186c., or 188, the Commission shall grant a hearing in accordance with subparagraph (D) below upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding. [The Commission shall hold a hearing after thirty days' notice and publication once in the Federal Register, on each application under section 103 or 104 b. for a construction permit for a facility, and on any application under section 104 c. for a construction permit for a testing facility. In cases where such a construction permit has been issued following the holding of such a hearing, the Commission may, in the absence of a request therefor by any person whose interest may be affected, issue an operating license or an amendment to a construction permit or an amendment to an operating license without a hearing, but upon thirty days' notice and publication once in the Federal Register of its intent to do so. The Commission may dispense with such thirty days' notice and publication with respect to any application for an amendment to a construction permit or an amendment to an operating license upon a

determination by the Commission that the amendment involves no significant hazards consideration.]

"(A) The Commission shall publish notice in the Federal Register within thirty days after the docketing of any application: (1) under section 103 or 104b. for a construction permit or operating license for a facility, or for a license to manufacture a facility; under section 193 for a site permit or a renewal thereof; under section 194 for a facility design approval or a renewal thereof, and under section 185 for a combined construction permit and operating license; (2) under section 104c. for a construction permit or operating license; and (3) for an amendment to any of the foregoing, except as otherwise provided in subsection 189a.(2).

"(B) Within thirty days after the docketing of any application under section 194 for the approval of a facility design, or for an amendment or renewal of an approved design, the Commission shall give public notice by publishing notice twice in major newspapers having national circulation. At least sixty days prior to the granting of any application the Commission shall also give such public notice which advises that the Commission is considering granting the application.

"(C) The Commission shall also publish in the Federal Register at least one year prior to commencement of operation of any facility for which a combined construction permit and operating license has been issued, a notice that commencement of operation is expected to take place and that the Commission will grant a hearing in accordance with subparagraph (D) below upon the request of any person whose interest may be affected by such operation. The Commission shall grant a hearing

upon such request, and shall admit any such person as a party to the proceeding.

"(D) Any hearing required by this section for a production or utilization facility shall be limited to issues that were not and could not have been considered and decided in a prior proceeding before the Commission for that facility, facility site, or approval of a design for that facility under section 194, unless the proponent of the hearing request makes a substantial evidentiary showing as defined in subsection 11 bb. of this Act and in accordance with procedures established by the Commission that significant new information relevant to the issue has been discovered since the prior proceeding and that as a result thereof it is likely that the facility will not comply with this Act, other provisions of Federal law, or the Commission's regulations.

"(2)(A) The Commission may issue and make immediately effective any amendment to an operating license, a combined construction permit and operating license, a construction permit, a design approval or a site permit 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.

"(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.

"b. The Commission may conduct hybrid hearings consistent with paragraphs c. and d. of this section.

"c. In any Commission hybrid hearing pursuant to this section on an application for a license to construct or to operate a production or utilization facility, for the issuance of a site permit, for the approval of a facility design, or for the issuance of a combined construction permit and operating license, or for an amendment to or the

renewal of any such license or approval filed after the date of enactment of this subsection, the Commission shall first provide the parties to the proceeding an opportunity to submit for the record written data, views, or arguments as the Commission may specify. At the request of any party, the Commission shall provide an opportunity for oral argument with respect to any matter identified in the written submissions which it determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each moving party to submit in written form, at the time of oral argument all the evidence upon which that party proposes to rely that is known at such time to that party.

"d.(1) At the conclusion of any oral argument under subsection c. of this section, the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it is determined that--

"(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of reliable and specifically identified evidence in an adjudicatory hearing; and

"(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

"(2) In making a determination under this subsection, the Commission shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is

likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is necessary to resolve the dispute.

"e. Any final order entered in any proceeding of the kind specified in [subsection a. above] this section shall be subject to judicial review in the manner prescribed in the Act of December 29, 1950, as amended (ch. 1189, 64 Stat. 1129), and to the provisions of section 10 of the Administrative Procedure Act, as amended.

"Sec. 193 EARLY SITE REVIEW.--

"a. The Commission is authorized to issue a site permit for approval of a site or sites for one or more production or utilization facilities for a period of ten years upon the application of any person or entity notwithstanding the fact that no application for a construction permit or a combined construction permit and operating license for such facility or facilities has been filed. The Commission may issue a site permit with respect to limited aspects of the suitability of the site for its intended purpose, under relevant regulations of the Commission. For all purposes of this Act, a site permit is a 'license'.

"b. Notwithstanding section 161 w. of this Act or the Independent Offices Appropriation Act of 1952, no application filing or issuance fees shall be required for an application for a site permit, an amendment, or a renewal of a site permit under this section. The Commission is authorized to allocate the costs that would otherwise have been defrayed by fees required of applicants under this section among applicants for permits or licenses which propose to use the approved site in a manner that will assure full cost recovery by the Commission. If no application for construction of a production or utilization facility is filed within the initial ten year approval period, the fee shall become immediately due and payable by the applicant for the site permit.

"c. After considering all information submitted in the application and after providing an opportunity for hearing pursuant to section 189 of this Act, the Commission shall issue a site permit if it determines

that such approval will not be inimical to the common defense and security or to the health and safety of the public.

"d. (1) A site permit issued by the Commission under this section may be referenced in an application for a construction permit or a combined construction permit and operating license which meets the conditions of the site permit and is filed within the period during which the site permit remains valid.

"(2) No less than twelve or more than thirty-six months prior to the expiration of the ten year period, the holder of the site permit may apply for a renewal of the site permit. The Commission shall renew the site permit for an additional period of time of not less than five nor more than ten years from the date of renewal unless it finds that the site will not comply with this Act or the Commission's regulations. If no application for a production or utilization facility is filed within the period of renewal, any outstanding fee shall become due and payable by the applicant for the site permit.

"e. Approval of a site under this section shall not preclude its use as a site for an alternate or modified type of energy facility or for any other purpose. Other uses not considered in the approval may, however, affect the validity of the site permit or the conditions of its use for production or utilization facility siting as the Commission may determine.

"f. Following the issuance of a site permit under this section, and in any subsequent Commission proceeding involving a site for which a site permit has been granted under this section, the Commission shall not modify any final determination on an issue that has been considered

and decided in the site permit proceeding unless the proponent of the request for such action makes a substantial evidentiary showing as defined in subsection 11 bb. of this Act and in accordance with procedures established by the Commission that such action is required to comply with this Act, other provisions of Federal law, or the Commission's regulations.

"Sec. 194. APPROVAL OF DESIGNS.--

"a. The Commission is authorized and directed to establish procedures permitting the approval of standardized facility designs for thermal neutron power generation facilities for a period of ten years, notwithstanding the fact that no application for a construction permit or combined construction permit and operating license for such facility has been filed. The Commission may also consider, in accordance with its regulations, requests under this section for the approval of the design for any major subsystem which represents a discrete element of a thermal neutron power generation facility. For all purposes of this Act, a design approval is a 'license'.

"b. Notwithstanding section 161 w. of this Act or the Independent Offices Appropriation Act of 1952, no application filing or issuance fees shall be required for an application for a design approval, an amendment, or a renewal of an approval of a facility design under this section. The Commission is authorized to allocate the costs that would otherwise have been defrayed by fees required of applicants under this section among applicants for permits or licenses which propose to use the approved standardized plant design in a manner that will assure full cost recovery by the Commission. If no application for construction of a facility is filed within the initial ten year approval period, the fee shall become immediately due and payable by the applicant for the design approval.

"c. After considering all information submitted in the application, and after providing an opportunity for hearing pursuant to

section 189 of this Act, the Commission shall issue an approval if it determines that such approval will not be inimical to the common defense and security or to the health and safety of the public.

"d. (1) Any approval issued by the Commission under this section may be referenced in an application for construction permit or a combined construction permit and operating license which meets the conditions of the approval and is filed within the period during which the approval remains valid.

"(2) No less than twelve or more than thirty-six months prior to the expiration of the ten year period, the holder of the approval may apply for a renewal of the approval. The Commission shall renew the approval for an additional period of time of not less than five nor more than ten years from the date of renewal unless it finds that the design will not comply with this Act or the Commission's regulations. If no application for construction of a facility is filed within the renewal period, any outstanding fee shall become due and payable by the applicant for the design approval.

"e. Following the issuance of a design approval under this section, and in any subsequent Commission proceeding involving a facility design for which a design approval has been granted under this section, the Commission shall not modify any final determination on an issue that has been considered and decided in the design approval proceeding unless the proponent of the request for such action makes a substantial evidentiary showing in accordance with procedures established by the Commission that such action is required to comply with this Act, other provisions of Federal law, or the Commission's regulations.

"f. (1) The Commission shall approve an amendment to a design approval issued under this section upon application by the holder of the design approval if, after providing an opportunity for hearing pursuant to section 189 of this Act, the Commission determines that the amendment will comply with this Act and the Commission's regulations.

(2) Any amendment approved by the Commission under paragraph (1) shall apply to any application for a construction permit or combined construction permit and operating license referencing the design approval for which the amendment has been granted that is filed after the effective date of such amendment.

(3) Any amendment approved by the Commission under paragraph (1) shall not apply to an application for a construction permit or combined construction permit and operating license referencing the design approval for which the amendment has been granted that is filed before the effective date of each amendment unless (A) the applicant requests that such amendment apply to the application, or (B) the requirements of subsection (f) are satisfied with respect to the amendment.

"g. Any application for a construction permit, an operating license or a combined construction permit and operating license referencing a design approval issued under this section may include a request for a variance from one or more elements of the design approval. Such requests for a variance shall be granted if the Commission determines that the variance will comply with this Act and the Commission's regulations. Any variance issued under this section shall

be limited to the permit or license for which such variance has been requested.

BUSH LETTER

Document: Ltr to Bush
Diskette: BLACK1

The Honorable George H. Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed is a Nuclear Regulatory Commission legislative proposal in the form of a draft bill to amend the Atomic Energy Act of 1954. The draft bill is entitled the "Nuclear Power Plant Licensing Reform Act of 1983." Its goals are to provide an accurate, efficient, and more effective licensing process for the design, siting, construction, and operation of nuclear power plants and other nuclear facilities consistent with public health and safety. A draft bill is in Enclosure 1. A section-by-section analysis is in Enclosure 2. A comparative text is in Enclosure 3.

The current NRC licensing process has not changed substantially since it was originally enacted 29 years ago in the Atomic Energy Act. That licensing process was a prudent course to follow when the nuclear power industry was in its early conceptual and development years. In the early years there were many first-time nuclear plant applicants, designers and constructors, and many novel design concepts. Accordingly, the process was structured to allow licensing decisions to be made while design work was still in progress and to focus on case-specific reviews of individual plant-site considerations. This type of review process is no longer needed. With the maturation of the industry, it is now possible to describe and evaluate standardized plant designs on a generic basis, essentially complete designs prior to plant construction, and proposed plant sites without plant design details.

Accordingly, the Commission decided that the licensing process must be reformed to reflect these and other developments concerning the licensing review of nuclear facilities. At the same time, since the early 1950's and 1960's the NRC's safety reviews have become increasingly time consuming and complex, and NRC review obligations have been expanded to cover a wide range of non-safety issues under the National Environmental Policy Act of 1969.

In November 1981, the Nuclear Regulatory Commission established a Regulatory Reform Task Force to review the NRC's licensing process. Chairman Palladino set forth four objectives for the Task Force:

- . to create a more effective efficient vehicle for raising and resolving legitimate public safety and environmental issues regarding the applications under review,
- . to develop means for more effective future use of NRC resources in the licensing of new plants,
- . to avoid regulatory uncertainty and placing unjust able economic burdens on utilities that may wish to build nuclear plant (and their ratepayers),
- . to accomplish the above without impairing public health and safety.

The Task Force was requested to make its recommendations to the Commission in four forms: (1) legislative proposals, (2) regulation changes, (3) policy papers, and (4) administrative remedies.

A Senior Advisory Group consisting of the General Counsel, the Director of the Office of Policy Evaluation, the Chairman of the Atomic Safety and Licensing Appeal Board, the Executive Director for Operations, and the Chairman of the Regulatory Reform Task Force, was formed to assist the Chairman of the Commission in the review of the Task Force proposals. In addition, in March 1982, the Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals was formed. This committee was made up of representatives from industry, public interest groups, and state governments. It provided the Commission with two reports on the legislative proposals developed by the Task Force. A comprehensive legislative proposal was placed in the Federal Register for public comment in June 1982. After a review of the public comments and the reports of the Ad Hoc Committee, the Commission developed the final draft bill.

The proposed legislation, if adopted, would amend existing sections 185 and 189 of the Atomic Energy Act, and add new sections 193 and 194. The most important changes to Section 185, Construction Permits and Operating Licenses, would permit the issuance of a combined construction permit and operating license (CP/OL) and thereby facilitate NRC review of essentially complete designs prior to construction, and authorize the Commission to rely on certifications of need for a facility and on

findings regarding alternative sources of generating capacity that are made by competent Federal regional, or state organizations.

Section 189, Hearing and Judicial Review, has been amended to delete the requirement for a mandatory construction permit hearing even when no hearing has been requested. It has also been amended to include site permits, design approvals, and combined CP/OLs as types of proceedings for which the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding. This section would also authorize the Commission to adopt hybrid-type hearing procedures on a case-by-case basis instead of the formal adjudicatory hearings which have been used in the past. Finally, a provision has been added to limit hearings on applications to matters that were not or could not have been considered and decided in prior proceedings involving that facility, including site permit and design approval proceedings.

Section 193, Early Site Review, and section 194, Approval of Designs, are new sections which authorize the Commission to issue a site permit or a facility design approval even though no application for a construction permit or a combined CP/OL has been filed. These sections have been proposed to facilitate early identification and resolution of site and design issues after giving an opportunity for public participation. These sections would also allow subsequent facility applications to reference a site permit or design approval and have

those final determination be made binding unless there is a substantial reason not to do so.

The provisions of the draft bill do provide a vehicle by which the Commission can improve the quality, effectiveness, and efficiency of the licensing process without impairing public health and safety or detracting from the public's ability to participate in that process on disputed issues. Accordingly, the Commission believes that the provisions in this draft will accomplish our above-stated objectives. Therefore, we urge your approval of this proposed legislation.

Sincerely,

Nunzio J. Palladino

Enclosures:

1. Draft Bill
2. Section-by-Section Analysis
3. Comparative Text

SECTION-BY-SECTION ANALYSIS

Document: Section-by-Section
Diskette: LEGIS2

SECTION-BY-SECTION ANALYSIS

Section 2. Findings and Purposes

This section supplements sections 1, 2 and 3 of the Atomic Energy Act which set forth the declaration, findings and purpose of the Act. This section highlights the major provisions of this bill which are being enacted for the general purpose of improving the quality, effectiveness, and efficiency of the licensing process for siting, construction and operation of nuclear facilities.

Section 101. Construction Permits and Operating Licenses.

This amends section 185 of the Atomic Energy Act, a section which establishes the procedures to be followed by the Commission in authorizing construction permits and operating licenses for nuclear facilities.

Subsection a. of section 185 as it would be amended authorizes the Commission to grant a construction permit for a production or utilization facility and, upon the completion of construction to grant an operating license. This subsection restates existing authority with two exceptions. This legislation would delete the requirement for specification of the earliest and latest completion dates for construction permits. The existing provision has produced unnecessary paperwork and expenditure of resources

without assuring that construction is diligently pursued. Moreover, the provision in current section 185 for earliest and latest completions dates made sense when it was included in the Act in 1954 because the Federal Government would be owning the fuel and would need to allocate special nuclear material between the civilian nuclear power and defense programs. It was important for AEC to predict completion dates (and hence operation commencement dates) with accuracy so that civilian requirements for special nuclear material could be predicted accurately and planned for properly. The Federal Government no longer allocates fuel and has a much lesser need to predict completion dates accurately. Thus, the provision is no longer needed to serve the purpose for which it was adopted.

Although the requirement for the specification of the earliest and latest construction completion dates is deleted, the Commission will still issue a construction permit or a combined construction permit/operating license for a fixed period not to exceed forty years pursuant to sections 103(c) and 183 of this Act. The legislation would also provide specifically for an opportunity for a public hearing. This is consistent with section 189 as it is proposed to be amended by section 102 of the bill to delete the current requirement that hearings be held on construction permits for certain large facilities even in the absence of a hearing request.

In addition, consistent with present regulatory practice, an application to modify a production or utilization facility will only require a construction permit if the modification is defined as a material alteration of that facility pursuant to 10 CFR § 50.91.

Subsection b. of section 185 as it would be amended permits issuance of a combined construction permit and operating license (CP/OL) for a thermal neutron power generation facility. This definition would include all current commercial nuclear power reactors (including the gas-cooled reactor), but exclude facilities such as breeder reactors and fuel reprocessing plants. A combined CP/OL could be issued for thermal neutron power generation facilities only if the application contains sufficient information to support the issuance of both the construction permit and operating license. In short, the application must include an essentially complete design. After issuance of the CP/OL and prior to commencement of operation (fuel loading), the Commission must find that the facility has been constructed and will operate in conformity with the CP/OL and the requirements of the Commission implementing this Act and the National Environmental Policy Act of 1969 (NEPA). An opportunity for public hearing will be provided prior to the issuance of the CP/OL and prior to the commencement of operation as prescribed in section 189 of this Act. In addition, prior to commencement of operation the Commission

will conduct a supplemental review of any safety and environmental issues that are required to be considered and were not considered in any prior review of that facility, facility site, or design approval for that facility. The preoperational review would be documented and result in issuance of an operation authorization that would be considered a license for purposes of post-operational inspection and enforcement, and for purposes of fixing the period of the operating license pursuant to sections 103(c) and 183 of this Act.

Subsection c. of section 185 as it would be amended authorizes the Commission to rely upon a certification of need for the facility and the results of the consideration regarding alternative sources of generating capacity that are made by competent Federal, state or regional governmental entities upon an appropriate verification by the certifying organization. This subsection has been added to eliminate a duplicate review by the Commission of these environmental findings which are needed to support licensing decisions under applicable provisions of Federal law, and which have been made by other appropriate governmental organizations. If a proper certification is made, it shall be conclusive for determining compliance with applicable Federal law, and the findings shall not be reviewable in a Commission proceeding or in Federal Court involving its review of a Commission decision. However, determinations

regarding alternative energy sources made by governmental organizations cannot preempt the Commission's regulatory authority over radiological hazards. Accordingly, a state could not substitute its judgment for that of the Commission regarding the radiological hazards of a nuclear facility in determining a preference for energy options. The Commission will develop and provide to the states its assessment of the radiological hazards of the nuclear alternative which could then be used by the states in their respective considerations of energy alternatives.

Subsection d. has been added to ensure that the Commission shall not initiate efforts or commence a proceeding to consider modifications to final determinations made in any prior proceeding involving a particular facility, facility site, or design approval for that facility, unless there is a substantial reason to do so. For purposes of this subsection, the prior proceeding would include any informal NRC staff review of an application which has resulted in final determinations with respect to that application. Thus, the holding of a hearing under Section 189 in the prior proceeding would not be a condition for the application of subsection d. The person or entity requesting the modification must make a substantial evidentiary showing, as defined in this subsection, in accordance with procedures to be established by the Commission that the modification is required to comply with

Commission requirements relating to this Act or other pertinent Federal laws. The bill defines a substantial evidentiary showing, for purposes of this section, subsections 193f. and 194e., to be a showing of evidence by the proponent of the modification that is sufficient to justify the conclusion that the proposed modification of the previous NRC final determination is required to comply with the Atomic Energy Act of 1954, other provisions of Federal law or the Commission's regulations. The bill also specifies that, in reaching its conclusion on the sufficiency of the proponent's evidentiary showing, the Commission will consider only the evidence presented by the proponent of the proposed modification as well as any reasonable inferences that can be drawn from that evidence. For purposes of this subsection, a proponent would include the NRC staff. This requirement for a threshold evidentiary showing imposes the burden on the proponent of a proposed modification to a final Commission determination to present at the outset sufficient facts, reasoning and supporting technical analysis to demonstrate that there is a substantial basis for believing that the proposed modification is needed to comply with the Atomic Energy Act, other Federal law or the Commission's regulations. In determining the sufficiency of an evidentiary showing under this section, the Commission is not expected to conduct a detailed review of the merits of each element of the proponent's case, such as would normally occur after the

submission of evidence from parties favoring and opposing a proposed modification in a Commission licensing proceeding. However, the Commission, in assessing the sufficiency of the proponent's threshold evidentiary showing, may take official notice of any fact of which a court of the United States may take judicial notice and may apply its technical judgment based upon technical or scientific facts within the knowledge of the Commission as an expert body. For purposes of this subsection, and subsections 189a.(1)(D), 193f. and 194e. the term "Commission's regulations" is intended to refer to those regulations of the Commission in effect at the time the modification is proposed.

Section 102. Hearings and Judicial Review.

This section amends Section 189 of the Atomic Energy Act of 1954. Section 189 affords members of the public the opportunity to request and participate in hearings on proposed licensing actions relating to specific nuclear facilities and activities.

The amendments to Section 189 eliminate the present requirement for a mandatory hearing, even if no hearing is requested by a member of the public, for the issuance of a construction permit for commercial production and utilization facilities or testing facilities. The Commission would still be required to afford an opportunity for hearing and would hold a hearing at the request of any

person whose interest may be affected. This change reflects the judgment as provided in Section 2(a)(11) of the bill that adjudicatory hearings should not be held where there are no material issues of fact placed in dispute. This section also would permit the Commission at its discretion to use hybrid-type hearing procedures, as specified in subsections c. and d., instead of the formal adjudicatory procedures which have been used in the past.

Subsections 189a.(1)(A)-(C) would require that prior notice of various kinds be given and opportunity for public hearing afforded at key points in the licensing process for site approvals, design approvals, construction permits, operating licenses, combined CP/OLs and preoperational reviews for plants which have been previously issued a combined CP/OL. These provisions would not change existing law with respect to notice and opportunity for hearing for materials and export licenses.

Subsection 189a.(1)(B) requires that special notice by publication in major newspapers having national circulation be given on the receipt and prior to the granting of an application for the approval of a facility design under section 194. Members of the public throughout the nation may wish to participate in public proceedings on design approval requests and this is a special mechanism for providing them with appropriate notice. Design approvals

may be applied to any appropriate facility site location throughout the country and, hence, broad public notice should be provided for the design approval request.

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Subsection 189a.(1)(D) would limit hearings to matters that were not and could not have been considered and decided in prior proceedings involving that facility, facility site, or approval of a design for that facility under section 194. This subsection would preclude adjudication of a matter that had been previously litigated unless there has been a substantial evidentiary showing that the issue should be reconsidered based on significant new information which came to light after the prior proceeding. An issue which could not have been raised in a previous proceeding would be an appropriate issue for consideration in a subsequent adjudicatory hearing if it otherwise meets the requirements of this section. Present practice would not preclude issues decided in a prior proceeding (e.g. involving a construction permit), from being raised and relitigated in a subsequent proceeding involving that same facility (e.g. operating license) unless relitigation was barred by traditional concepts of res judicata or collateral estoppel. However, the application of these concepts in past Commission proceedings has not resulted in significant relitigation limitations because of the absence of identical parties and the introduction of new information on the issues. For the purposes of subparagraph (D), the bill defines a substantial

evidentiary showing sufficient to justify the conclusion that the facility will no longer comply with the Atomic Energy Act, other Federal law or the Commission's regulations (see discussion, P.6).

The provisions restricting modifications to specified final NRC decisions in revised sections 185d., 193f., and 194e. differ from the related provisions restricting relitigation of issues in revised section 189a.(1)(D). Both provide similar relief from the restriction if the proponent makes a defined substantial evidentiary showing in accordance with Commission procedures. However, Sections 185d., 193f., and 194e. provide generally for a substantial evidentiary showing of non-compliance with regulatory requirements, while Sections 189a.(1)(b) provides more narrowly for a substantial evidentiary showing of non-compliance with requirements based on new information. Moreover, the former provisions only restrict Commission modifications of matters that have been both considered and finally decided in the prior proceeding. The latter provision restricts relitigating matters that either were or could have been considered and finally decided in the prior proceeding. The former provisions allow more leeway than the latter because the former are intended for use in the formal licensing review and enforcement process. They are directed primarily at NRC staff initiated changes, although requests for enforcement action members of the public under 10 CFR 2.206

of NRC's regulations would also be implicated. Section 189a.(1)(D), on the other hand, applies only in the hearing process for agency adjudications. Here a more stringent limitation was considered appropriate in view of the fact that the hearing process is a more time consuming and expensive method of resolving disputes than the informal NRC staff review.

Subsection 189a.(2) is identical to the so-called "Sholly Amendment" language enacted by the Congress in Public Law 97-415 on January 4, 1983, except that the concept would be extended to include amendments to construction permits, CP/OLs, design approvals, and site permits.

Subsection 189b. substantially modifies the existing statute by giving the Commission discretion to use hybrid-type hearing procedures. Historically the hearing phase of the proceedings to license production and utilization facilities has been entirely on-the-record adjudicatory (i.e., formal, trial-type hearings) with no flexibility to substitute informal procedures. Studies of regulatory reform in administrative proceedings have suggested in recent years the use of hybrid-type hearings as a technique to introduce permissible informality while preserving formal adjudicatory procedures for the resolution of relevant facts which are in dispute. In addition, on January 7, 1983, Congress enacted the "Nuclear Waste Policy Act of 1982," which includes a

provision for hybrid hearing procedures for any hearings required on an application for reactor spent fuel storage expansion. Furthermore, the Commission has had some limited experience with hybrid hearing procedures in certain rulemaking proceedings. Thus, although hybrid hearing procedures have not been used in the licensing of nuclear power reactors and other production and utilization facilities, the format is not a novel one. Indeed its feature of using informal proceedings to identify any issues which must be adjudicated is not unlike the objectives of the prehearing procedures provided for in the Commission's Rules of Practice.

Generally, the purpose of the hybrid procedures established in subsections 189c. and d. and described below is to define with precision the issues, if any, that are in controversy and which must be resolved through adjudication. Discovery remains an essential part of this process, and discovery opportunities provided for in the Commission's regulations would be available to all parties.

Subsection 189c. would permit the Commission to use hybrid procedures in any hearing on an application for the granting, renewing or amending of a construction permit, operating license, combined construction permit and operating license, site permit, or approval of a design under section 194, after providing the parties to the

proceeding with an opportunity to present their views. The Commission shall at the request of any party provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument is to be preceded by such discovery procedures as the rules of the Commission shall provide, and each party, including the NRC staff, shall be required to submit to the Commission, in written form, at the time of the oral argument, a summary of the facts, data and arguments upon which such party proposes to rely that are at that time known to the party.

Subsection 189d. provides the procedures for determining the issues, if any, which must be adjudicated in formal proceedings. The subsection requires the Commission to designate any disputed question of fact for resolution in an adjudicatory hearing only if it determines that: there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of reliable and specifically identified evidence in an adjudicatory hearing; and the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute. The procedures in subsection 189d. for determining issues that must be adjudicated in formal proceedings are similar to the Commission's procedures for summary disposition in that the Commission must consider and weigh the evidence submitted by all parties on the issue to

determine whether there exists a genuine dispute of material fact. However, subsection 189d. adds three requirements not found in the Commission's summary disposition procedures (10 CFR section 2.749). First, subsection 189d. requires an affirmative Commission determination as a precondition to holding a formal hearing on an issue. Under the Commission's present procedures, a formal hearing is provided unless a party requests summary disposition and the Commission finds that the requirements for summary disposition have been met. Second, subsection 189d. requires a finding by the Commission that the preponderance of the evidence submitted indicates that the genuine dispute of material fact is also substantial -- that is, that the issue is likely to be significant to the outcome of the proceeding. No such finding is required by the Commission's summary disposition procedures. Third, subsection 189d. requires a finding by the Commission that the preponderance of the evidence submitted indicates that a formal adjudicatory hearing is needed to resolve the issue. Again, no such finding is required by the Commission's summary disposition procedures. After applying the criteria in subsection 189d., the Commission must designate in writing why the ultimate decision is likely to depend on the resolution of the specific dispute and why an adjudicatory hearing is necessary to resolve the dispute. In making its decision, the Commission may take official notice of any fact of which a court of the United States may

take judicial notice or of any technical or scientific fact within the knowledge of the Commission as an expert body.

Subsection 189e. maintains with only a conforming change the current provision for the judicial review of final orders of the Commission in any proceeding of the kind specified in Section 189.

Section 103. Early Site Approval.

This is a new section 193 to the Atomic Energy Act which authorizes the NRC to approve one or more sites for the location of production or utilization facilities prior to the filing of any application to construct and/or operate a facility on that site. The purpose of this provision is to permit the resolution of site-specific questions at an early stage in the licensing process. Public participation on this crucial aspect of the overall facility planning and construction process would also occur at an early point in time where such participation can be most effective. This provision is an integral part of the effort to promote the early, effective and efficient resolution of issues in the licensing process.

Subsection a. of section 193 provides that an application for early site approval may be filed by any person or entity and that the Commission is authorized to issue a site permit for a period of ten years even though no application for a construction permit or a combined CP/OL has been filed. It would also authorize limited aspects of the site (e.g. seismicity) to be considered and resolved prior to the filing of any application for a construction permit or combined CP/OL. This subsection permits an early and specific focus on the suitability of a site for production or utilization facility construction without requiring the development of a facility design. A site permit issued

under this section would be a final Commission order subject to judicial review.

Subsection b. of section 193 provides that notwithstanding section 161w. of this Act or the Independent Offices Appropriation Act of 1952, no application filing or issuance fees shall be required for an application for approval or for an amendment or renewal of a site permit. The Commission is authorized to allocate the costs ordinarily defrayed by fees collected among future applicants for permits or licenses which propose to use the site permit. This provision is added as an incentive to applicants to seek approval for site permits. However, if fees cannot be defrayed because a site is not used during the initial ten year approval, the holder of the site permit must pay the full amount notwithstanding the granting of a renewal. Any licensing fees resulting from the granting of a renewal may be defrayed and allocated among future applicants using the renewed site permit. Defrayed renewal fees must be collected at the end of the renewal period.

Subsection c. of section 193 authorizes the Commission to approve an application and issue a site permit with appropriate conditions if, after considering all the information in the application and providing an opportunity for a public hearing, the Commission determines that such approval will not be inimical to the common defense and

security or to the health and safety of the public. An opportunity for a prior public hearing on the application will be afforded under Section 189 of the Act. It is currently envisioned that for full site permits the application would set forth an envelope of parameters such as: (1) the number, type or types and thermal power level of the facilities with respect to which the application for site approval is made; (2) the site description and location, including site boundaries and exclusion area; (3) description of nearby industrial, military, and transportation facilities, including usage and routes; (4) the proposed maximum levels of radiological and thermal effluents that each such facility will produce; (5) the type or types of cooling systems, intake and outflow, that may be employed by each facility; (6) the physical characteristics of the site, including seismic, meteorological, hydrologic, and geologic characteristics as well as population density and use characteristics of the surrounding area; and (7) such other information as the Commission may by rule or order require. By describing the site in such a way the Commission could determine the site suitability for one or several generic designs that may be developed pursuant to section 194, the provision for standardized facility designs. However, nothing in this section would preclude the Commission from promulgating regulations which set forth standards and criteria for site approval consistent with

section 161(i) of this Act and section 553 of title 5 of the United States Code.

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Subsection d.(1) of section 193 provides that a site permit can be referenced in an application for a facility to be constructed on the site if the application has been filed within the period during which the site permit remains valid. The effect of this provision is that matters resolved in a site permit review or licensing action will not be modified or reexamined as part of the review of a construction permit or a combined CP/OL application which references the site permit, unless a substantial evidentiary showing is made pursuant to subsection h. After a site permit has been referenced, a request for renewal would be unnecessary to continue the effectiveness of the site permit for the application referencing the approved site.

Subsection d.(2) of section 193 authorizes the Commission to renew a site permit for not less than five or more than ten years from the date of renewal. Renewal would be based only upon the application of a permit holder. The minimum period of five years is set to assure that the resources used to review a renewal request are directed toward meaningful results. For example, allowing repeated renewals for only six months or a year could cumulatively tax the resources of the agency and industry alike. Moreover, it is contemplated

that information necessary to form a sound basis for the decision to renew for periods of five to ten years will be readily available and within the state-of-the-art. Renewals would be based on regulations in effect at the time the renewal is requested providing a means to update the earlier approval. Subsequent renewals of the site permit will not be entertained.

Subsection d.(2) of section 193 also sets out the criteria the Commission shall apply in deciding whether to renew a site permit. The Commission shall renew the site permit if it finds that the site will comply with this Act or NRC regulations.

Subsection e. of section 193 assures that a site approved under this section may be used for an alternative type of energy facility or any other purpose. However, the validity of the site permit for production or utilization facility siting may be affected by use of the site for a purpose not considered in its approval.

Subsection f. of section 193 specifies that the Commission shall not initiate efforts or commence a proceeding to modify any previous final determination involving a site permit unless a substantial evidentiary showing is made in accordance with procedures established by the Commission that the proposed modification is necessary to comply with

Commission requirements and other applicable provisions of Federal law. For purposes of this subsection, subsections 185d. and 194e., the bill defines a substantial evidentiary showing sufficient to justify the conclusion that the proposed modification is needed (see discussion, p.6). Additionally, a site permit proceeding under this subsection shall include any informal NRC staff review of the site permit application which has resulted in final determinations with respect to that application. This provision would not preclude a holder of a site permit from seeking an amendment to that permit. The Commission shall approve an amendment to a site permit issued under this section if, after providing an opportunity for hearing pursuant to section 189 of this Act, the Commission determines that the amendment will comply with this Act and the Commission's regulation. Any amendment approved would apply to any construction permit or combined CP/OL utilizing the site permit after the amendment becomes effective.

Section 104. Approval of Designs.

This is a new section 194 to the Atomic Energy Act of 1954, which provides for approval of thermal neutron power generation facility designs. As with early site approvals, this section is intended to facilitate early resolution of issues with full opportunity for participation by interested persons. Although the Commission currently has procedures for approving designs, this section gives explicit statutory

support to the concept and establishes requirements for Commission approval of facility designs. This section will encourage the development and use of standardized designs, will enhance safety, and will contribute to a better utilization of NRC resources.

The facility design should be described in such a way as to provide a reciprocal envelope of parameters for sites selected pursuant to section 193 to assure that the plant could be constructed on a site of given general characteristics. Typically, a facility design should be described in such a manner that it could be used at most sites with a minimum of adaptations because of specific site characteristics. The Commission contemplates and encourages development and use of substantially complete standardized designs as an effective means of increasing agency efficiency and augmenting the public health and safety.

The application requirements for approval of a facility design will be set out in the Commission's rules. After Commission review of the information in the application, and after providing the opportunity for a public hearing under Section 189 of the Act, the Commission determines that the design is suitable for construction and operation, it will issue an approval and the design may be banked for future use. An approval issued under this section will be

fees shall be required for an application for approval or for an amendment or renewal of an approval of a standardized facility. The Commission is authorized to allocate the costs ordinarily defrayed by fees collected among future applicants for permits or licenses which propose to use the approved design. This provision is added as an incentive to vendors and architect-engineer firms to develop and seek approval for standardized designs. However, if fees cannot be defrayed because a design is not used during the initial ten year approval, the applicant must pay the full amount notwithstanding the granting of a renewal. Any licensing fees resulting from the granting of a renewal may be defrayed and allocated among future applicants using the renewed design approval. Defrayed fees must be collected at the end of the renewal period.

Subsection c. of section 194 authorizes the Commission to approve an application and issue a design approval with appropriate conditions if, after considering all the information in the application and providing an opportunity for a public hearing, the Commission determines that such approval will not be inimical to the common defense and security or to the health and safety of the public. The opportunity for hearing and the hearing, if held, would be in accordance with section 189 of the Act.

Subsection d.(1) of section 194 provides that a design approval can be referenced for a facility to be constructed on the site if an application has been filed within the period during which the design approval remains valid. The effect of this provision is that all matters resolved in a design approval review or licensing action, including amendments to that approval, can be transferred without a need to re-review those matters in all applications for a construction permit, combined CP/OL, or operating license which reference that design approval, unless a substantial evidentiary showing is made pursuant to subsection ^e~~f~~. A request for renewal would not be necessary to continue the effectiveness of the design approval in these referenced applications.

Subsection d.(2) of section 194 authorizes the Commission to renew a design approval for not less than five or more than ten years from the date of renewal. Renewal would be based upon the application of a permit holder. The minimum period of five years is set to assure that the resources used to review renewal requests are directed toward meaningful results. For example, allowing renewals for only six months or a year could cumulatively tax the resources of the agency and industry alike. Moreover, it is contemplated that information necessary to form a sound basis for the decision to renew for periods of five to ten years will be readily available and well within the state-of-the-art. It also

sets out the criteria the Commission shall apply in deciding whether to renew a design approval. Renewal shall be granted unless it can be demonstrated that the design will not comply with the Atomic Energy Act or the Commission's applicable regulations in existence at the time that renewal is requested. This provision allows for updating designs at the time a request for renewal of an approval is made.

Subsection e. of section 194 specifies that the Commission shall not initiate efforts or commence a proceeding to consider modifications to final determinations made in a design approval proceeding unless a substantial evidentiary showing has been made in accordance with procedures to be established by the Commission. As in the case with subsections 185d. and 193f., the Bill defines a substantial evidentiary showing sufficient to justify the conclusions that the proposed modification is needed (see discussion, p. 6). A proceeding for purposes of this subsection shall include any informal NRC staff review of a design approval application which has resulted in final determinations with respect to that application.

Subsection f. of section 194 sets forth the criteria by which the Commission will approve an amendment to a design approval and how that amendment shall be applied to facilities which reference the design. These provisions ensure that approved amendments will apply to applications

for a construction permit or a combined CP/OL referencing the design approval that are filed after the effective date of the amendment. The amendment, however, will not apply to those applications referencing the design which are filed before the effective date of the amendment unless (1) the applicant requests that the amendment be applicable, or (2) the reopening standards of subsection 194e. are satisfied.

Subsection g. of section 194 provides that any facility permit or license which references a design approval may be granted a variance from the design approval if the Commission determines that the variance will comply with this Act and the Commission's regulations.

A variance granted by the Commission under this subsection will apply only to the facility for which the variance has been requested. Thus, the variance does not apply to other facilities referencing the standardized design approval and does not constitute an amendment to the design approval. The purpose of this provision is to allow a facility-specific deviation from the referenced standardized design if the Commission finds that the deviation from the design will comply with the Atomic Energy Act and the Commission's regulations. In considering and acting on requests for a variance from an approved standardized design, the Commission will follow procedures similar to those now used by the Commission in considering and acting

on license amendments, except that any request for a variance will be considered as part of the proceeding on the license application for the facility. A request for a variance may create an opportunity for a hearing on the aspect of the facility design affected by the variance in accordance with subparagraph (D) of section 189a.(1) of the Atomic Energy Act.

Title II -- Miscellaneous Provisions

The provisions contained in section 201 of the bill would add new subsections bb. and cc. to Section 11 of the Act. Section 11bb., as amended, would define a "substantial evidentiary showing" as used in subsections 185d. 189a.(1)(D), 193f., and 194e. of the Act. Section 11cc., as amended, would define "thermal nuclear generation facility" as used in sections 185 and 194 of the Act.

The provisions contained in section 203a. of the bill requires the Commission to propose regulations to implement the provisions of sections 185d., 193f. and 194e. within 180 days following the effective date of this section. It also requires the Commission to propose regulations for the control of the application of new requirements to any thermal neutron power generation facility licensed for construction or operation under this Act.

The provisions of section 203b. of the bill would prohibit the modification of any thermal neutron power generation facility except pursuant to the regulations promulgated under subsection a.

Subsection c. of section 203 of the bill assures that an appropriate environmental review will be conducted and an impact statement prepared for any site approval under section 193 of the Act. However, since need for power and alternative energy source issues probably cannot be assessed in the absence of a specific application for a facility, environmental reviews of these issues would not need to be done at the site approval stage. In addition, an environmental impact statement may not be appropriate and would not be required if the site is reviewed for a limited aspect. Such environmental considerations not assessed in the prior site reviews would be assessed in subsequent reviews of the facility to be located at the site. It is the intent of the Commission, however, to complete the full NEPA environmental review at the earliest possible stage in the approval of a site and a facility.

Subsection d. of section 203 of the bill would establish that no environmental review is required for the issuance of a design approval under section 194 of the Act. Any environmental review of a design would be conducted in

connection with the application for a site permit, or an application for a construction permit or a combined CP/OL.

Title III -- Conforming Amendments

These provisions would be necessary to conform other sections of the Atomic Energy Act of 1954 with the provisions contained in this bill.

Title IV -- Effective Date

This provisions ensures that all sections of the Atomic Energy Act, including those sections amended by this bill, shall take effect as of the date of enactment and shall apply to all pending and new proceedings.

OMB LETTER

Mr. Frederick N. Khedouri
Associate Director for Natural
Resources, Energy and Science
Executive Office of the President
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Khedouri:

I am pleased to send you the enclosed draft bill entitled the "Nuclear Powerplant Licensing Reform Act of 1983". This is not a money bill but is designed to improve the quality of the nuclear licensing process.

The proposed legislation amends sections 185 and 189 of the Atomic Energy Act and adds new sections 193 and 194. The amended section 185 would permit the issuance of a combined construction permit and operating license (185b.); would allow the Commission to rely on the certification of need for a facility and of the alternative sources of generating capacity upon verification by an appropriate governmental authority (185c.); and would stabilize determinations made on issues decided in licensing proceedings (185d.).

The proposed revision of section 189 provides: deletion of mandatory construction permit hearings where no hearing is requested (189a.); includes site permits, design approvals and combined CP/OLs as types of proceedings for which

hearings must be held (189a.); permits the use of hybrid hearings (189b., c.); and establishes requirements for conducting an adjudicatory hearing (185d.).

Section 193, Early Site Review, and Section 194, Approval of Design, are companion amendments which have been proposed to facilitate the early identification and resolution of both site and design issues. Both sections provide for ten year licenses, renewable for not less than five nor more than ten years; deferral of fees; referencibility of determinations made in site permit or design approval proceedings; special handling of NEPA matters; and stability of decisions made in site permit or design approval proceedings.

This proposed legislation is being transmitted simultaneously to Congress and OMB. I hope this information will prove useful to OMB.

Sincerely,

Nunzio J. Palladino

Enclosure:
"Nuclear Powerplant Licensing
Reform Act of 1983

12/82

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C&R (Natalie)

Attached are copies of a Commission meeting transcript(s) and related meeting document(s). They are being forwarded for entry on the Daily Accession List and placement in the Public Document Room. No other distribution is requested or required. Existing DCS identification numbers are listed on the individual documents wherever known.

Meeting Title: Dis/Pass Vote on Regulatory Reform
Task Force - Legislative Proposals

Meeting Date: 2/9/83 Open Closed

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4. <u>Memo Fourtelle to</u> <u>Com. dated 2/4/83</u> <u>w/mark-up revisions</u> <u>deleted</u>	1	*	—	1	—

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