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

REVISION NO. 2 TO NUREG-0980
NUCLEAR REGULATORY LEGISLATION

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FOREWORD

This compilation of statutes and material pertaining to nuclear regulatory legislation through the 98th Congress, 2nd Session, has been prepared by the Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, with the assistance of staff, for use as an internal resource document. Persons using this document are placed on notice that it may not be used as an authoritative citation in lieu of the primary legislative sources. Furthermore, while every effort has been made to ensure the completeness and accuracy of this material, neither the United States Government, the Nuclear Regulatory Commission, nor any of their employees makes any expressed or implied warranty or assumes liability for the accuracy or completeness of the material presented in this compilation.

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authorized to administer oaths and affirmations, and by subpena to require any person to appear and testify or appear and produce documents, or both, at any designated place. Witnesses subpenaed under this subsection shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States;[121] 27 Stat. 443. 49 U.S.C. 46.

"d. appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Commission. Such officers and employees shall be appointed in accordance with the civil-service laws and their compensation fixed in accordance with the Classification Act of 1949, as amended, except that, to the extent the Commission deems such action necessary to the discharge of its responsibilities, personnel may be employed and their compensation fixed without regard to such laws: *Provided, however,* That no officer or employee (except such officers and employees whose compensation is fixed by law, and scientific and technical personnel up to a limit of the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended)[122] whose position would be subject to the Classification Act of 1949, as amended, if such Act were applicable to such position, shall be paid a salary at a rate in excess of the rate payable under such Act for positions of equivalent difficulty or responsibility. Such rates of compensation may be adopted by the Commission as may be authorized by the Classification Act of 1949, as amended, as of the same date such rates are authorized for positions subject to such Act.[123] The Commission shall make adequate provision for administrative review of any determination to dismiss any employee; 80 Stat. 443. 5 U.S.C. 5101.

"e. acquire such material, property, equipment, and facilities, establish or construct such buildings and facilities, and modify such buildings and facilities from time to time, as it may deem necessary, and construct, acquire, provide, or arrange for such facilities and services (at project sites where such facilities and services are not available) for the housing, health, safety, welfare, and recreation of personnel employed by the Commission as it may deem necessary, subject to the provisions of section 174: *Provided, however,* That in the communities owned by the Commission, the Commission is authorized to grant privileges, leases and permits upon adjusted terms which (at the time of the initial grant of any privilege, grant, lease, or permit, or renewal thereof, or in order to avoid

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[121] Public Law 91-452 (84 Stat. 922) (1970), sec. 237. The Organized Crime Control Act of 1970, deleted the following sentence from subsec. 161 c. "No person shall be excused from complying with any requirements under this paragraph because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893, shall apply with respect to any individual who specifically claims such privilege."

[122] Public Law 87-793 (76 Stat. 832) (1962), sec. 1001(g), added the words "up to a limit of the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended". Prior to this amendment a limitation of $19,000 had been imposed by Public Law 85-287 (71 Stat. 612) (1957), sec. 4.

[123] Public Law 85-681 (72 Stat. 633) (1968), sec. -- amended subsec. 161 d. by inserting this sentence.

inequities or undue hardship prior to the sale by the United States of property affected by such grant)[124] are fair and reasonable to responsible persons to operate commercial businesses without advertising and without advertising (sic) and without securing competitive bids, but taking into consideration, in addition to the price, and among other things (1) the quality and type of services required by the residents of the community, (2) the experience of each concession applicant in the community and its surrounding area, (3) the ability of the concession applicant to meet the needs of the community, and (4) the contribution the concession applicant has made or will make to the other activities and general welfare of the community;[125]

"f. with the consent of the agency concerned, utilize or employ the services of personnel of any Government agency or any State or local government, or voluntary or uncompensated personnel, to perform such functions on its behalf as may appear desirable;

"g. acquire, purchase, lease, and hold real and personal property, including patents, as agent of and on behalf of the United States,[126] subject to the provisions of section 174, and to sell, lease, grant, and dispose of such real and personal property as provided in this Act;

"h. consider in a single application one or more of the activities for which a license is required by this Act, combine in a single license one or more of such activities, and permit the applicant or licensee to incorporate by reference pertinent information already filed with the Commission;

"i. prescribe such regulations or orders as it may deem necessary (1) to protect Restricted Data received by any person in connection with any activity authorized pursuant to this Act, (2) to guard against the loss or diversion of any special nuclear material acquired by any person pursuant to section 53 or produced by any person in connection with any activity authorized pursuant to this Act, to prevent any use or disposition thereof which the Commission may determine to be inimical to the common defense and security, including regulations or orders designating activities, involving quantities of special nuclear material which in the opinion of the Commission are important to the common defense and security, that may be conducted only by persons whose character, associations, and loyalty shall have been investigated under standards and specifications established by the

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[124] Public Law 85-162 (71 Stat. 403) (1957), sec. 201, added the clause "(at the time of the initial grant of any privilege grant, lease, or permit, or renewal thereof, or in order to avoid inequities or undue hardship prior to the sale by the United States of property affected by such grant."

[125] Public Law 84-722 (70 Stat. 553) (1956), amended sec. 161 e. by adding the proviso clause.

[126] The text of Executive Order 9816, providing for the transfer of properties and personnel of the Manhattan Engineer District to the Atomic Energy Commission on January 1, 1947, will be found in appendix 8, *infra*.

terms of private insurance, (2) the type, size, and location of the licensed activity and other factors pertaining to the hazard, and (3) the nature and purpose of the licensed activity: *Provided,* That for facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the amount of financial protection required shall be the maximum amount available at reasonable cost and on reasonable terms from private sources. Such financial protection may include private insurance, private contractual indemnities, self insurance, other proof of financial responsibility, or a combination of such measures and shall be subject to such terms and conditions as the Commission may, by rule, regulation, or order, prescribe. In prescribing such terms and conditions for licensees required to have and maintain financial protection equal to the maximum amount of liability insurance available from private sources, the Commission shall, by rule initially prescribed not later than twelve months from the date of enactment of this Act, include, in determining such maximum amount, private liability insurance available under an industry retrospective rating plan providing for premium charges deferred in whole or major part until public liability from a nuclear incident exceeds or appears likely to exceed the level of the primary financial protection required of the licensee involved in the nuclear incident: *Provided,* That such insurance is available to, and required of, all of the licensees of such facilities without regard to the manner in which they obtain other types or amounts of such financial protection: *And provided further,* That the standard deferred premium which may be charged following any nuclear incident under such a plan shall be not less than $2,000,000 nor more than $5,000,000 for each facility required to maintain the maximum amount of financial protection: *And provided further,* That the amount which may be charged a licensee following any nuclear incident shall not exceed the licensee's pro rata share of the aggregate public liability claims and costs arising out of the nuclear incident. Payment of any State premium taxes which may be applicable to any deferred premium provided for in this Act shall be the responsibility of the licensee and shall not be included in the retrospective premium established by the Commission. The Commission is authorized to establish a maximum amount which the aggregate deferred premiums charged for each facility within one calendar year may not exceed. The Commission may establish amounts less than the standard premium for individual facilities taking into account such factors as the facility's size, location, and other factors pertaining to the hazard. The Commission shall establish such requirements as are necessary to assure availability of funds to meet any assessment of deferred premiums within a reasonable time when due, and may provide reinsurance or shall otherwise guarantee the payment of such premiums in the event it appears that the amount of such premiums will not be available on a timely basis through the resources

of private industry and insurance. Any agreement by the Commission with a licensee or indemnitor to guarantee the payment of deferred premiums may contain such terms as the Commission deems appropriate to carry out the purposes of this section and to assure reimbursement to the Commission for its payments made due to the failure of such licensee or indemnitor to meet any of its obligations arising under or in connection with financial protection required under this subsection including without limitation terms creating liens upon the licensed facility and the revenues derived therefrom or any other property or revenues of such licensee to secure such reimbursement and consent to the automatic revocation of any license.[149]

"c. The Commission shall, with respect to licenses issued between August 30, 1954, and August 1, 1987, for which it requires financial protection of less than $560,000,000, agree to indemnify and hold harmless the licensee and other persons indemnified, as their interest may appear, from public liability arising from nuclear incidents which is in excess of the level of financial protection required of the licensee. The aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed $500,000,000 excluding costs of investigating and settling claims and defending suits for damage: *Provided, however,* That this amount of indemnity shall be reduced by the amount that the financial protection required shall exceed $60,000,000. Such a contract of indemnification shall cover public liability arising out of or in connection with the licensed activity with respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, 1987.[150]

Aggregate indemnity.

"d. In addition to any other authority the Commission may have, the Commission is authorized until August 1, 1987, to enter into agreements of indemnification with its

Indemnification agreements.

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[149] Public Law 94-197 (89 Stat. 1111) (1975), sec. 3, amended subsection 170 b. Prior to amendment, subsection 170 b. read as follows:

"b. The amount of financial protection required shall be in the amount of liability insurance available from private sources, except that the Commission may establish a lesser amount on the basis of criteria set forth in writing, which it may revise from time to time, taking into consideration such factors as the following: (1) the cost and terms of private insurance, (2) the type, size, and location of the licensed activity and other factors pertaining to the hazard, and (3) the nature and purpose of the licensed activity: *Provided,* That for facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the amount of financial protection required shall be the maximum amount available from private sources. Such financial protection may include private insurance, private contractual indemnities, self insurance, other proof of financial responsibility, or a combination of such measures."

[150] Public Law 94-197 (89 Stat. 1111) (1975), sec. 5 (a) and (b), amended subsection 170 c. by adding the phrase "of less than $560,000,000." by substituting the word "excluding" for the words "including the reasonable," and by substituting the date "August 1, 1987" for the date "August 1, 1977" wherever it appeared.

Public Law 89-210 (79 Stat. 855) (1965), sec. 1, had previously amended subsec. 170 c. Prior to amendment this subsection read as follows:

"c. The Commission shall, with respect to licenses issued between August 30, 1954, and August 1, 1967, for which it requires financial protection, agree to indemnify and hold harmless the licensee and other persons indemnified, as their interest may appear, from public liability arising from nuclear incidents which is in excess of the level of financial protection required of the license. The aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed $500,000,000 including the reasonable costs of investigating and settling claims and defending suits for damage. Such a contract of indemnification shall cover public liability arising out of or in connection with the licensed activity. With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, 1967, the requirements of this subsection shall apply to any license issued for such facility subsequent to August 1, 1967."

Public Law 88-394 (78 Stat. 376) (1964), sec. 2, had previously amended subsec. 170 c. by adding the last sentence.

"b. (1) As soon as practicable, but not later than October 31, 1982, the Administrator shall, by rule, propose and within 11 months thereafter promulgate in final form,[221] standards, general application for the protection of the public health, safety, and the environment from radiological and non-radiological hazards associated with the processing and with the possession, transfer, and disposal of byproduct material, as defined in section 11 e. (2) of this Act, at sites at which ores are processed primarily for their source material content or which are used for the disposal of such byproduct material. 42 U.S.C. 6901 note. 42 U.S.C. 2014.

"If the Administrator fails to promulgate standards in final form under this subsection by October 1, 1983, the authority of the Administrator to promulgate such standards shall terminate, and the Commission may take actions under this Act without regard to any provision of this Act requiring such actions to comply with, or be taken in accordance with, standards promulgated by the Administrator. In any such case, the Commission shall promulgate, and from time to time revise, any such standards of general application which the Commission deems necessary to carry out its responsibilities in the conduct of its licensing activities under this Act. Requirements established by the Commission under this Act with respect to byproduct material as defined in section 11 e. (2) shall confirm to such standards. Any requirements adopted by the Commission respecting such byproduct material before promulgation by the Commission of such standards shall be amended as the Commission deems necessary to conform to such standards in the same manner as provided in subsection f. (3). Nothing in this subsection shall be construed to prohibit or suspend the implementation or enforcement by the Commission of any requirement of the Commission respecting byproduct material as defined in section 11 e. (2) pending promulgation by the Commission of any such standard of general application.[222] In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate."[223] Promulgation authority. 42 U.S.C. 2014.

"(2) Such generally applicable standards promulgated pursuant to this subsection for nonradiological hazards shall provide for the protection of human health and the environment consistent with the standards required under subtitle C of the Solid Waste Disposal Act, as amended, which are applicable to such hazards: *Provided, however,* That no permit issued by the Administrator is required under this Act or the Solid Waste Disposal Act, as amended, for the processing, possession, transfer, or disposal of byproduct material, as defined in section 11 e.(2) of this Act. The Administration may periodically revise any standard promulgated pursuant to this subsection.

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[221] Public Law 97-415 (96 Stat. 2067) (1983), sec. 22 added this language to sec. 275b(1).
[222] Public Law 97-415 (96 Stat. 2067) (1983), sec. 18 changed subsec. b from "eighteen months after enactment of this section" to current language.
[223] Public Law 97-415 (96 Stat. 2067) (1983), sec. 22 added this language at end of subsec. b.

Within three years after such revision of any such standard, the Commission and any State permitted to exercise authority under section 274 b. (2) shall apply such revised standard in the case of any license for byproduct material as defined in section 11 e. (2) or any revision thereof.

42 U.S.C. 2021.

"c. (1) Before the promulgation of any rule pursuant to this section, the Administrator shall publish the proposed rule in the Federal Register, together with a statement of the research, analysis, and other available information in support of such proposed rule, and provide a period of public comment of at least thirty days for written comments thereon and an opportunity, after such comment period and after public notice, for any interested person to present oral data, views, and arguments at a public hearing. There shall be a transcript of any such hearing. The Administrator shall consult with the Commission and the Secretary of Energy before promulgation of any such rule.

Publication in Federal Register. Notice, hearing opportunity.

Consultation.

"(2) Judicial review of any rule promulgated under this section may be obtained by any interested person only upon such person filing a petition for review within sixty days after such promulgation in the United States court of appeals for the Federal judicial circuit in which such person resides or has his principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator. The Administrator thereupon shall file in the court the written submission to, and transcript of, the written or oral proceedings on which such rule was based as provided in section 2112 of title 28, United States Code. The court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. The judgment of the court affirming, modifying, or setting aside, in whole or in part, any such rule shall be final, subject to judicial review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

Judicial review.

5 U.S.C. *et seq.*

"(3) Any rule promulgated under this section shall not take effect earlier than sixty calendar days after such promulgation.

"d. Implementation and enforcement of the standards promulgated pursuant to subsection b. of this section shall be the responsibility of the Commission in the conduct of its licensing activities under this Act. States exercising authority pursuant to section 274 b. (2) of this Act shall implement and enforce such standards in accordance with subsection o. of such section.

42 U.S.C. 2021.

"e. Nothing in this Act applicable to byproduct material, as defined in section 11 e. (2) of this Act, shall affect the authority of the Administrator under the Clean Air Act of 1970, as amended, or the Federal Water Pollution Control Act, as amended.[224]

42 U.S.C. 2014. 42 U.S.C. 7401 note.

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[224] Public Law 95-604 (92 Stat. 3039) (1978), sec. 206(a), added sec. 275.

APPENDIX I

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[1] 2d sec. 210 added to act.

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APPENDIX 3

INDEX TO LEGISLATIVE HISTORY OF THE ATOMIC ENERGY ACT OF 1954 AND AMENDMENTS

Public Law 83-703—H.R. 9757

To amend the Atomic Energy Act of 1946, as amended, and for other purposes

(Page references are to the daily editions of the Congressional Record, 83d Cong., 2d sess.)

Mr. Cole of New York; Joint Committee on Atomic Energy, 9414.
Reported (H. Rept. 2181), 10303.
Made special order (H. Res. 630), 11438.
Debated, 11655.
Passed House, 12024.
Amended and passed Senate (in lieu of S. 3690), 12242.
House disagrees to Senate amendments and asks for a conference, 12438.
Conferees appointed, 12438.
Senate insists on its amendments and agrees to a conference, 12380.
Conferees appointed, 12380.
Conference report (No. 2639) submitted in House and agreed to, 13056.
Conference report submitted in Senate and rejected, 14338.
Senate insists upon its amendments and asks a further conference, 14364.
Conferees appointed, 14364.
House agrees to further conference, 14628.
Conferees appointed, 14628.
Conference report (No. 2666) submitted in House and agreed to, 14852.
Conference report submitted in Senate and agreed to, 14603.
Examined and signed, 15097, 15305.
Presented to the President, 15558.
Approved (Public Law 703), 15564.

Companion bill—S. 3690

Mr. Hickenlooper, from Joint Committee on Atomic Energy (S. Rept. 1699), 9260.
Ordered placed on the calendar, 9160.
Objected to, 9737.
Debated, 10364, 10368, 10465, 10478, 10479, 10480, 10513, 10552, 10568, 10589, 10594, 10606, 10674, 10685, 10691, 10700, 10722, 10725, 10746, 10766, 10792, 10838, 10842, 10883, 10891, 11011, 11021, 11028, 11044, 11157, 11165, 11184, 11208, 11319, 11362, 11373, 11385, 11404, 11417, 11509, 11527, 11547, 11552, 11577, 11778, 11818, 11860, 11877, 11881, 11899, 11913, 11932, 11934, 11938, 11945, 11948, 11953, 11970, 11977, 12001, 12132, 12193, 12204.
Indefinitely postponed (H.R. 9757 passed in lieu), 12242.

Prior bill—H.R. 8862

Mr. Cole of New York; Joint Committee on Atomic Energy, 5251.

Prior bill—S. 3323

Mr. Hickenlooper; Joint Committee on Atomic Energy, 5258.

Public Law 84-337—H.R. 7684

To authorize the Atomic Energy Commission to pay the salary of a Commissioner during the recess of the Senate, and for other purposes

(Page references are to the daily editions of the Congressional Record, 84th Cong., 1st sess.)

Mr. Durham; Joint Committee on Atomic Energy, 11942
Reported (H. Rept. 1552), 11940.
Passed House, 12147.
Passed Senate (in lieu of S. 2671), 12253.
Examined and signed, 12591, 12745.
Presented to the President, 13076.
President returns bill pursuant to House Concurrent Resolution 196, 13072.
Examined and signed, 12963, 13077.
Presented to the President, 13079.
Approved (Public Law 337), 13081.

Companion bill—S. 2761

Mr. Anderson; from Joint Committee on Atomic Energy (S. Rept. 1198), 11753.
Ordered placed on the calendar, 11753.
Passed Senate, 12231.
Vote reconsidered, 12231.
Indefinitely postponed (H.R. 7684 passed in lieu), 12253.

Public Law 84-722—H.R. 11926

To amend the Atomic Energy Act of 1954, to permit the negotiation of commercial leases at atomic energy communities, and for other purposes

(Page references are to the daily editions of the Congressional Record, 84th Cong., 2d sess.)

Mr. Dempsey; referred to Joint Committee on Atomic Energy, 9883.
Reported (H. Rept. 2431), 9882.
Passed House, 9937.
Received in Senate and referred to Joint Committee on Atomic Energy, 9989.
Reported (S. Rept. 2384), 10118.
Objected to, 10453.
Passed Senate, 10606.
Examined and signed, 10857, 10930.
Presented to President, 11064.
Approved (Public Law 722), 11745.

Public Law 84-1006—S. 4203

To amend the Atomic Energy Act of 1954, as amended, and for other purposes

Amends sections 11a, 31, 161 of the Atomic Energy Act of 1954, as amended, adds new sections 229, 230, and 231, and adds perfecting amendment to several sections of the Atomic Energy Act.

(Page references are to the daily editions of the Congressional Record, 84th Cong., 2d sess.)

Mr. Anderson; reported from Joint Committee on Atomic Energy (S. Rept. 2530), 11091.
Objected to, 11624.
Passed Senate, 12062.
Passed House (in lieu of H.R. 12215), 13599.
Examined and signed, A6459.
Presented to President, A6460.
Approved (Public Law 1006), A6462.

Companion bill—H.R. 12215

Mr. Durham: referred to Joint Committee on Atomic Energy, 11424.
Reported (H. Rept. 2695), 11424.
Laid on table and S. 4203 passed in lieu, 13599.

Public Law 85-14—H.R. 5866 (71 Stat. 11)

To amend the Atomic Energy Act of 1954, as amended, and for other purposes

Provides that the President may authorize the Atomic Energy Commission to enter into an agreement for cooperation with the Federal Republic of Germany on behalf of Berlin.

(Page references are to the daily editions of the Congressional Record, 85th Cong., 1st sess.)

Mr. Cole; Joint Committee on Atomic Energy, 3535.
Reported (H. Rept. 228), 4444.
Passed House, 4434.
Referred to Joint Committee on Atomic Energy, 4461.
Committee discharged and passed Senate, 4750.
Examined and signed, 4829, 4951.
Presented to the President, 5002.
Approved (Public Law 85-14), 6125.

Companion bill—S. 1549

Mr. Pastore; Joint Committee on Atomic Energy, 3434.
Reported (S. Rept. 191), 4464.
Indefinitely postponed, 4750.

Public Law 85-79—S. 2243 (71 Stat. 274)

To amend the Atomic Energy Act of 1954, as amended, and for other purposes

Amends section 261 with respect to authorization of appropriations.

(Page references are to the daily editions of the Congressional Record, 85th Cong., 1st sess.)

Mr. Anderson; Joint Committee on Atomic Energy, 8573.
Reported with amendments (S. Rept. 437), 9071.
Amended and passed Senate, 9635.
Rules suspended, passed House, 10150.
Examined and signed, 10308, 10402.
Presented to the President, 10370.
Approved (Public Law 85-79), 10931.

Companion bill—H.R. 7992

Mr. Durham of North Carolina; Joint Committee on Atomic Energy, 8564.
Reported with amendments (H. Rept. 571), 9225.
Laid on the table, 10150.

Public Law 85-162—H.R. 8996 (71 Stat. 403)

To authorize appropriations for the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes

Amends section 161 of Atomic Energy Act of 1954.

(Page references are to the daily editions of the Congressional Record, 85th Cong., 1st sess.)

Mr. Durham; Joint Committee on Atomic Energy, 13221.
Reported (H. Rept. 978), 13533.
Made special order, 14102.
Debated,
Amended and passed House, 14261.
Ordered placed on Senate Calendar, 14315.
Objected to, 14389.
Amended and passed Senate, 15057.
Senate insists on its amendment and asks for conference, 15057.
Conferees appointed, 15057.
House disagrees to Senate amendment and agrees to a conference, 15182.
Conferees appointed, 15182.
Conference report submitted in Senate and agreed to, 15310, 15314.
Conference report submitted in House and agreed to, 15387.
Examined and signed, 15367, 15503.
Presented to the President, 15544.
Approved (Public Law 85-162), 16511.

Companion bill—S. 2674

Mr. Anderson; Joint Committee on Atomic Energy, 13091.
Reported (S. Rept. 791), 13424.

Objected to, 13587, 14377.
Debated, 14913, 15002, 15032.
Indefinitely postponed, 15057.

Public Law 85-177—H.R. 8992 (71 Stat. 453)

To provide for the appointment of representatives of the United States in the organs of the International Atomic Energy Agency, and to make other provisions with respect to the participation of the United States in that Agency, and for other purposes

Amends section 54 of the Atomic Energy Act of 1954.

(Page references are to the daily editions of the Congressional Record, 85th Cong., 1st sess.)

Mr. Price, of Illinois; Joint Committee on Atomic Energy, 13220.
Reported (H. Rept. 960); 13220.
Made special order (H. Res. 390), 14102.
Debated, amended, and passed House, 14106.
Ordered placed on Senate Calendar, 14171.
Amended and passed Senate, 14228.
House disagrees to Senate amendment and asks for conference, 14617.
Conferees appointed, 13272.
Senate insists upon its amendments and agrees to conference, 14710.
Conferees appointed, 14710.
Conference report submitted in Senate and agreed to, 15178.
Conference report submitted in House and agreed to, 15369.
Examined and signed, 15367, 15503.
Presented to the President, 15544.
Approved (Public Law 85-177), 16512.

Companion bill—S. 2673

Mr. Pastore; Joint Committee on Atomic Energy, 13091.
Introduced and reported (S. Rept. 778), 13091.
Ordered placed on the Calendar, 13091.
Objected to, 13584.
Indefinitely postponed, 14229.

Public Law 85-256—H.R. 7383 (71 Stat. 576)

To amend the Atomic Energy Act of 1954, as amended, and for other purposes

Provides for a program of Government indemnification and limitation of liability, and establishes an Advisory Committee on Reactor Safeguards.

(Page references are to the daily editions of the Congressional Record, 85th Cong., 1st sess.)

Mr. Price, of Illinois; Joint Committee on Atomic Energy, 6722.
Reported (H. Rept. 435), 6721.
Made special order, 10704.
Passed House (debate started), 10710.
Ordered placed on Senate Calendar, 10757.
Objected to, 10979, 13553, 14376.
Amended and passed Senate, 15057.
House concurs, 15182.
Examined and signed, 15271, 15406.
Presented to the President, 15678.
Approved (Public Law 85-256), 16783.

Companion bill—S. 2051

Mr. Anderson; Joint Committee on Atomic Energy, 6655.
Reported (S. Rept. 296), 6655.
Ordered placed on Senate Calendar, 6655.
Objected to, 7379, 10975, 13553.
Indefinitely postponed, 15057.

Public Law 85-287—H.R. 8994 (71 Stat. 612)

To amend the Atomic Energy Act of 1954, as amended, to increase the salaries of certain executives of the Atomic Energy Commission, and for other purposes

Increases the salaries of certain executives of the Atomic Energy Commission and authorize the Commission to establish certain additional executive positions and advisory committees.

(Page references are to the daily editions of the Congressional Record, 85th Cong., 1st sess.)

Mr. Durham, of North Carolina: Joint Committee on Atomic Energy, 13220.
Reported (H. Rept. 977), 13533.
Passed House, 15969.
Ordered placed on Calendar, 16000.
Passed Senate, 16496.
Examined and signed, 16659, 16779.
Presented to the President, 16782.
Approved (Public Law 85-287), 16784.

Companion bill—S. 2672

Mr. Anderson: Joint Committee on Atomic Energy, 13091.
Reported (S. Rept. 790), 13424.
Objected to, 13587, 14377, 15290.
Debated, 15624.

Public Law 85-479—H.R. 12716

Amends sections 91, 92, 123, and 144 of the Atomic Energy Act of 1954, as amended, to provide for greater exchange of military information and material with allies.

(Page references are to the daily editions of the Congressional Record, 85th Cong., 2d sess.)

H.R. 10348 introduced by Mr. Durham (by request), January 29, 1958. Referred to Joint Committee on Atomic Energy, 1305.
H.R. 11426 introduced by Mr. Durham (by request), March 13, 1958. Referred to Joint Committee on Atomic Energy, 4369.
H.R. 12716 introduced by Mr. Durham as "clean bill," May 28, 1958. Referred to Joint Committee on Atomic Energy, 9768.
Reported (H. Rept. 1849) on June 5, 1958, 10344.
Made special order (H. Res. 596, H. Rept. 1893). June 17, 1958, 11777.
Passed House, June 19, 1958, 11788.
Amended and passed Senate, June 23, 1958, 11940.
Senate insists on amendments, requests conference, and conferees appointed June 23, 1958, 11941.
House disagrees to Senate amendments, agrees to conference and appointed conferees, June 24, 1958, 12108.
Conference Report 2051 filed in House and agreed to, June 27, 1958, 12559.
Conference report agreed to in Senate, June 30, 1958, 12586.
Examined and signed, 12746, 12870.
Presented to the President, 12993.
Approved as Public Law 85-479, July 2, 1958, 13014.

Companion bill—S. 3912

S. 3165 introduced by Senator Pastore (by request), January 27, 1958. Referred to Joint Committee on Atomic Energy, 1149.
S. 3474 introduced by Senator Pastore (by request), March 13, 1958. Referred to Joint Committee on Atomic Energy, 4308.
S. 3912 introduced as "clean bill" by Senator Pastore (for himself and Senator Hickenlooper), May 27, 1958. Referred to Joint Committee on Atomic Energy, 9537.
Reported (S. Rept. 1654), June 5, 1958, 10233.
Amendments intended to be offered by Senator Anderson, June 19, 1958, 11674.
Passed over, 11906.
Debated, 11926.
Indefinitely postponed. H.R. 12716 passed in lieu, June 23, 1958, 11941.

Public L[illegible]

Amends subsection 11 o. and adds a [illegible]ection 170 l. pertaining to indemnity agreement for the NS *Savannah*.

(Page references are to the daily editions of the Congressional Record, 85th Cong., 2d sess.)

S. 3106 introduced by Senator Magnuson (for himself and Senator Bricker), July 23, 1958. Referred to the Senate Committee on Interstate and Foreign Commerce, 774.
Reported (S. Rept. 1341) without amendment and with the recommendation that bill be re-referred to the Joint Committee on Atomic Energy, March 3, 1958, 3185.
S. 3106 re-referred to the Joint Committee on Atomic Energy, March 3, 1958, 3185.
S. 4165 introduced by Senator Anderson, July 21, 1958. Referred to the Joint Committee on Atomic Energy, 14336.
Reported (S. Rept. 1883), July 22, 1958, 14537.
Passed Senate, July 28, 1958, 15233.
Rules suspended, passed House, July 29, 1958, 15458.
Examined and signed, 15609, 15661.
Presented to the President, 15728.
Approved as Public Law 85-602, August 8, 1958.

Companion bill—H.R. 13456

H.R. 13309 introduced by Mr. Price, July 7, 1958. Referred to the Joint Committee on Atomic Energy, 13105.
H.R. 13456 introduced by Mr. Price, July 18, 1958. Referred to the Joint Committee on Atomic Energy, 14322.
Reported (H. Rept. 2253), July 22, 1958, 14668
Indefinitely postponed (S. 4165 passed in lieu), July 28-29, 1958, 15458.

Public Law 85-681—H.R. 13482

Amends sections 53, 68, 123, 145, 161, and 166 of the Atomic Energy Act of 1954, as amended (AEC "Omnibus Bill" of 1958).

(Page references are to the daily editions of the Congressional Record, 85th Cong., 2d sess.)

H.R. 12603 introduced by Mr. Holifield (amends sec. 68; incorporated as sec. 3 of Public Law 85-681), May 21, 1958. Referred to Joint Committee on Atomic Energy, 9246
H.R. 13120 introduced by Mr. Durham (by request), June 25, 1958. Referred to Joint Committee on Atomic Energy, 12264.
H.R. 13482 introduced by Mr. Durham as a "clean bill," July 21, 1958. Referred to Joint Committee on Atomic Energy, 14524.
Reported (H. Rept. 2272), July 24, 1958, 15026.
Rules suspended, passed House, July 29, 1958, 15486.
Ordered placed on Senate Calendar, July 30, 1958, 15564.
Passed Senate, August 5, 1958, 16188.
Examined and signed, 16479, 16487.
Presented to the President, 16766.
Approved as Public Law 85-681, August 19, 1958, 16933.

Companion bill—S. 4166

S. 3881 introduced by Senator Anderson, May 22, 1958. Referred to Joint Committee on Atomic Energy, 9265.
S. 4048 introduced by Senator Anderson (by request), June 24, 1958. Referred to Joint Committee on Atomic Energy, 12061.
S. 4166 introduced by Senator Anderson as "clean bill," July 21, 1958. Referred to Joint Committee on Atomic Energy, 14366.
Reported (S Rept. 1944), July 24, 1958, 14855.
Indefinitely postponed (H.R. 13482 passed in lieu), August 5, 1958, 16189.

Public Law 85-744—H.R. 13455

Amends section 170 of the Atomic Energy Act of 1954, as amended, by adding new subsection k with respect to indemnity agreements for nonprofit educational activities.

(Page references are to the daily editions of the Congressional Record, 85th Cong., 2d sess.)

H.R. 13190 introduced by Mr. Price, June 27, 1958, Referred to Joint Committee on Atomic Energy, 12567.
H.R. 13455 introduced by Mr. Price as "clean bill," July 18, 1958. Referred to Joint Committee on Atomic Energy, 14322.
Reported (H. Rept. 2250), July 22, 1958, 14668.
Rules suspended, passed House, July 29, 1958, 15457.
Amended and passed Senate, August 5, 1958, 16187.
Senate insists on amendments, requests conference and conferees appointed, 16188.
House disagrees to Senate amendments, agrees to conference, and conferees appointed, August 6, 1958, 16398.
Conference Report 2585 filed in House, August 13, 1958, 17479.
Conference Report 2585 agreed to in House, August 14, 1958, 17640.
Conference Report 2585 agreed to in Senate, August 14, 1958, 17569.
Examined and signed, 17750.
Presented to the President, 18378.
Approved as Public Law 85-744, August 23, 1958, 17569.

Companion bill—S. 4164

S. 4069 introduced by Senator Anderson. Referred to Joint Committee on Atomic Energy, June 27, 1958, 11263.
S. 4164 introduced by Senator Anderson. Referred to Joint Committee on Atomic Energy, July 21, 1958, 13063.
Reported (S. Rept. 1882), July 22, 1958, 13261
Indefinitely postponed (H.R. 13455 passed in lieu), August 5, 1958, 14834.

Public Law 86-43—S. 1197

Amends section 251 of the Atomic Energy Act of 1954, as amended, to provide for the submission by the Atomic Energy Commission of an annual rather than a semiannual report to Congress. Report to be submitted in January of each year.

(Page references are to the daily editions of the Congressional Record, 86th Cong., 1st sess.)

S. 1197 introduced by Senator Anderson and referred to the Joint Committee on Atomic Energy, February 26, 1959, 2978.
Reported (S. Rept. 230), April 27, 1959, 6752.
Passed Senate, April 29, 1959, 6982.
Passed House, June 2, 1959, 9587.
Examined and signed, June 3, 1959, 9671, 9755.
Presented to the President, June 3, 1959, 9695.
Approved (Public Law 86-43), June 11, 1959, 10617.

Companion bill—H.R. 5104

Introduced by Mr. Durham and referred to the Joint Committee on Atomic Energy, March 2, 1959, 3177.
Reported (H. Rept. 327), April 29, 1959, 7106.
Identical bill (S. 1197) passed in lieu of, June 2, 1959, 9587.

Public Law 86-300—S. 2569 (AEC Omnibus Bill of 1959)

Amends section 161 m. of the Atomic Energy Act of 1954, as amended, to authorize the AEC to enter into agreements for the performance by the Commission of certain services, including the reprocessing of irradiated fuel elements for material licensees (reactor manufacturers and fuel suppliers) as well as with facility licensees (reactor operators and utilities) as previously authorized.

Amends section 163 of the Atomic Energy Act of 1954, as amended, to provide, in substance, that members of the General Advisory Committee and other AEC advisory committees will not be subject to certain conflict-of-interest statutes solely because of compensation received from nonprofit educational institutions.

(Page references are to the daily editions of the Congressional Record, 86th Cong., 1st sess.)

S. 2569 introduced by Senator Anderson and referred to the Joint Committee on Atomic Energy. August 19, 1959, 16306.

Hearings: Full committee, August 26, 1959. Published under title of "Bills to Amend Sections 91, 161 and 163 of the Atomic Energy Act and Authorization of the Stanford Accelerator Project."
Reported with amendments (S. Rept. 871), September 1, 1959, 17469.
Passed Senate, September 9, 1959, 18732.
Passed House, September 11, 1959, 19168.
Examined and signed, September 12, 1959, 19443
Examined and signed by the Speaker, September 14, 1959, 19748.
Presented to the President, September 14, 1959, 19668.
Approved (Public Law 86-300), September 21, 1959, 19689.

Companion bill—H.R. 8754

H.R. 8754 introduced by Mr. Durham and referred to the Joint Committee on Atomic Energy. August 20, 1959, 16621.
Reported with amendments (H. Rept. 1124), September 2, 1959, 17799.
S. 2469 passed in lieu of H.R. 8754, September 11, 1959, 19168. (H.R. 8754 not considered.)

Public Law 86-373—S. 2568

To amend the Atomic Energy Act of 1954, as amended, by adding a new section 274 with respect to cooperation with States

(Page references are to the daily editions of the Congressional Record, 86th Cong., 1st sess.)

S. 1987 introduced by Senator Anderson (by request) and referred to JCAE, May 19, 1959, 8379.
Hearings: Full committee, May 19, 20, 21, and 22, 1959. Published under title of "Federal-State Relationships in the Atomic Energy Field."
Also: Joint Committee Print, "Selected Materials on Federal-State Relationships in the Atomic Energy Field."
S. 2568 introduced by Senator Anderson and referred to JCAE. "Clean bill" superseding S. 1987, August 18, 1959, 16306.
Reported in Senate (with amendments) (S. Rept. 870), September 1, 1959, 17469.
Passed over in Senate on call of calendar as not properly calendar business, September 9, 1959, 18732.
Considered in Senate, September 10, 1959, 18965, 18966.
Passed Senate by voice vote, September 11, 1959, 19042.
Passed House, September 11, 1959, 19169.
Examined and signed by President of Senate, September 12, 1959, 19443.
Examined and signed by Speaker; presented to President, September 14, 1959, 19748, 19668.
Approved by the President (Public Law 86-373), September 23, 1959, 19690.

Companion bill—H.R. 8755

H.R. 7214 introduced by Mr. Durham (by request) and referred to JCAE, May 18, 1959, 8365.
H.R. 8755 introduced by Mr. Durham as "clean bill" and referred to JCAE, August 20, 1959, 16621.
Reported (with amendments) in the House (H. Rept. 1125). Committed to the Committee of the Whole House on the State of the Union, September 2, 1959, 17799.
Identical bill (S. 2568) passed in lieu of H.R. 8755, September 11, 1959.

Public Law 87-205—H.R. 8599

To amend various sections of the Atomic Energy Act of 1954, as amended, and the Euratom Cooperation Act of 1958, and for other purposes

(Page references are to the daily editions of the Congressional Record, 87th Cong., 1st sess.)

H.R. 7798 introduced by Mr. Holifield on June 21, 1961, 10166.
Hearings: Subcommittee on Legislation, June 27 and 29, 1961.
Hearings published under the title "AEC Omnibus Bill, 1961, and an Amendment to Section 170 of the Atomic Energy Act."
H.R. 8599 introduced on August 9, 1961, by Mr. Holifield as a clean bill superseding H.R. 7798, 14260.

Reported with amendment August 16, 1961 (H. Rept. No. 963), 15016.
Rule suspended and H.R. 8599 passed House, August 22, 1961, 15512-16.
Passed Senate in lieu of S. 2391, August 24, 1961, 15853-57.
Examined and signed by Speaker of the House, August 28, 1961, 16187.
Examined and signed by Acting President pro tempore of the Senate August 28, 1961.
Presented to the President August 29, 1961, 16332.
Approved by the President September 6, 1961 (Public Law 87-206).

Companion bill—S. 2391

S. 2117 introduced by Senator Pastore and referred to Joint Committee on Atomic Energy June 21, 1961.
Hearings: Listed above.
S. 2391 introduced by Senator Pastore on August 9, 1961 as clean bill superseding S. 2117.
Reported in Senate on August 16, 1961, S. Rept. 722.
S. 2191 postponed indefinitely and H.R. 8599 passed in lieu thereof on August 24, 1961, 15853-57.

Public Law 87-456—H.R. 10607

To amend the Tariff Act of 1930 and certain related laws to provide for the restatement of the tariff classification provisions, and for other purposes

H.R. 10607 introduced by Mr. Mills (per Executive order) March 8, 1962.
Reported from Ways and Means Committee March 10, 1962 (H. Rept. No. 1415).
Passed the House March 14, 1962.
Referred in the Senate to Committee on Commerce.
Reported from Commerce Committee April 2, 1962.
Passed the Senate with amendments April 10, 1962.
House agrees to Senate amendments May 9, 1962.
Approved by the President May 24, 1962, as Public Law 87-456.

Public Law 87-615—S. 3491

To amend the Atomic Energy Act of 1954, as amended, and for other purposes. (AEC Omnibus bill of 1962)

(Page references are to the daily editions of the Congressional Record, 87th Cong., 2d sess.)

S. 3491 introduced by Senator Pastore on June 29, 1962, 11377.
Hearings: Subcommittee on Research, Development and Radiation, April 10 and 11, 1962, published under title of "Indemnity and Reactor Safety." Subcommittee on Legislation, April 17, 1962, published under title of "AEC Regulatory Problems."
S. 3491 reported in Senate July 5, 1962 (S. Rept. No. 1677), 11851.
S. 3491 considered by Senate on August 7, 1962, 14727-28. Passed as amended by voice vote.
S. 3491 considered by House on August 15, 1962. Passed House in lieu of H.R. 12336, 15513-17.
Examined and signed by Speaker, August 16, 1962, 15670.
Examined and signed by President of Senate, August 16, 1962, 15683.
Presented to the President, August 17, 1962, 15894.
Approved by the President on August 29, 1962, Public Law 87-615.

Companion bill—H.R. 12336

H.R. 12336 introduced June 27, 1962, by Mr Holifield, 11137.
Hearings: As listed above.
H.R. 12336 reported in House July 5, 1962 (H. Rept. No. 1966), 11851.

Public Law 88-72—S. 1745

To authorize appropriations for the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes

(Page references are to the daily editions of the Congressional Record, 88th Cong., 1st sess.)

S. 1159, introduced March 21, 1963, by Senator Pastore (by request), 4389.
Hearings: Subcommittee on Legislation, April 9, 10, and May 2, 1963. Published under title "AEC Authorizing Legislation Fiscal Year 1964."
S. 1745, introduced June 19 by Senator Pastore as a "clean bill," superseding S. 1159, 10460.
H.R. 7139 (companion bill), reported in House, June 21, 1963 (H. Rept. 446), 10809.
S. 1745, reported in Senate, June 21, 1963 (S. Rept. 303), 10673.
S. 1745, considered and passed in Senate by voice vote, 10929-32.
S. 1745, considered and passed in House by voice vote, 11500-511.
Examined and signed by President pro tempore of Senate, July 11, 11739.
Examined and signed by Speaker of House, July 11, 11811.
Presented to the President, July 11, 11741.
S. 1745, approved by the President, July 22, as Public Law 88-72.

Companion bill—H.R. 7139

H.R. 5036, introduced March 21, 1963, by Mr. Holifield (by request), 4384.
Hearings: As listed above.
H.R. 7139, introduced June 19 as "clean bill" by Mr. Holifield, 10604.

Public Law 88-294—S. 2448

To amend the Atomic Energy Act of 1954. (Amends sec. 202)

(Page references are to the daily editions of the Congressional Record, 88th Cong., 2d sess.)

S. 2448 introduced by Senator Pastore on January 22, 1964, 767.
H.R. 9711 (companion bill) introduced by Mr. Holifield on January 22, 1964, 929.
Senate Report filed (S. Rept. No. 377) February 25, 1964, 3310.
House Report filed (H. Rept. No. 1151) February 25, 1964, 3495.
S. 2448 considered and passed in Senate February 26, 1964, 3550-51.
H.R. 9711 passed over in House March 2, 1964, 3867; again on March 16, 1964, 5113.
S. 2448 considered (in lieu of H.R. 9711) and passed in House under Suspension of the Rules on March 16, 1964, 5115-17.
Examined and signed by Speaker of the House, March 17, 1964, 5235.
Examined and signed by President pro tempore of the Senate, March 17, 1964, 5235.
Presented to the President March 18, 1964, 5396.
S. 2448 approved by the President March 26, 1964 as Public Law 88-294.

Companion Bill—H.R. 9711

H.R. 9711 introduced by Mr. Holifield on January 22, 1964, 929.
H.R. 9711 passed over in House March 2, 1964, 3867; again on March 16, 1964, 5113.
H.R. 9711 laid on table March 16, 1964, 5113.

Public Law 88-394—S. 2963

To amend the Atomic Energy Act of 1954, as amended, the Atomic Energy Community Act of 1955, as amended, and the EURATOM Cooperation Act of 1958, as amended (AEC omnibus bill of 1964)

(Page references are to the daily editions of the Congressional Record, 88th Cong., 2d sess.)

S. 1795 introduced by Senator Pastore (by request) June 26, 1963, 11005.
H.R. 7300 (companion bill) introduced by Mr. Holifield (by request) June 26, 1963, 11152.
Hearings: July 17, 1963, before Subcommittee on Legislation.
S. 2816 introduced by Senator Pastore (by request) May 7, 1964, 10000.
H.R. 11180 (companion bill) introduced by Mr. Holifield (by request) May 7, 1964, 9997
Hearings: May 19, 1964, before Subcommittee on Legislation.
S. 2963 introduced by Senator Pastore as "clean bill" to supersede S. 2816, June 29, 1964, 14884.
H.R. 11832 (companion bill) introduced by Mr. Holifield as "clean bill" to supersede H.R. 11180, June 29, 1964, 14884.
Senate Report filed (S. Rept. No. 1128), June 29, 1964, 14884.
House Report filed (H. Rept. No. 1525), June 29, 1964, 14884.

S. 2963 considered and passed in Senate July 8, 1964, 15554-6.
S. 2963 considered and passed in House under Suspension of the Rules July 21, 1964, 15933-8.
Examined and signed by President pro tempore of the Senate July 23, 1964, 16115.
Examined and signed by the Speaker of the House, July 22, 1964, 16016.
Presented to the President, July 23, 1964, 16256.
S. 2963 approved by the President August 1, 1964, as Public Law 88-394.

Companion bill—H.R. 11832

H.R. 7300 introduced by Mr. Holifield (by request) June 26, 1963, 11152.
H.R. 11180 introduced by Mr. Holifield (by request) May 7, 1964, 9997.
H.R. 11832 introduced by Mr. Holifield as "clean bill" to supersede H.R. 11180, June 29, 1964, 14884.
Hearings: As listed above.

Public Law 88-426—H.R. 11049

To adjust the rates of basic compensation of certain officers and employees in the Federal Government, and for other purposes

(Page references are to the daily editions of the Congressional Record, 88th Cong., 2d sess.)

H.R. 11049 introduced by Mr. Morrison and referred to House Post Office and Civil Service Committee.
Reported in the House May 11, 1964 (H. Rept. No. 1388).
Passed House June 11, 1964.
Referred in Senate to Post Office and Civil Service Committee.
Reported in the Senate June 26, 1964 (S. Rept. No. 1121).
Passed Senate with amendment July 2, 1964.
Senate asks for conference July 2, 1964.
House agrees to conference July 30, 1964 (H. Res. 803).
Conference report filed August 3, 1964 (Rept. No. 1647).
House agrees to conference report August 4, 1964.
Senate agrees to conference report August 4, 1964.
Approved by the President August 14, 1964 (Public Law 88-426).

Public Law 88-489 (S. 3074)

To amend the Atomic Energy Act of 1954, as amended, and for other purposes (Private Ownership of Special Nuclear Materials Act)

(Page references are to the daily editions of the Congressional Record, 88th Cong., 2d sess.)

S. 1160 introduced by Senator Pastore (by request) March 21, 1963, 4389.
H.R. 5035 (companion bill) introduced by Mr. Holifield (by request) March 21, 1963, 4384.
1963 Hearings held July 30, 31, and August 1, 1963 before Subcommittee on Legislation.
1964 Hearings held June 9-11, 15, 25, 1964 before Subcommittee on Legislation.
S. 3075 introduced by Senator Pastore as "clean bill" to supersede S. 1160, August 4, 1964, 17374.
H.R. 12228 (companion bill) introduced by Mr. Holifield as "clean bill" to supersede H.R. 5035, August 4, 1964, 17370-1.
Senate Report filed (S. Rept. No. 1325) August 5, 1964, 17374.
House Report filed (H. Rept. No. 1702) August 5, 1964, 17370-1.
S. 3075 considered and passed in Senate August 6, 1964, 17851-53.
S. 3075 considered and passed in House under Suspension of the Rules August 18, 1964, 19514-19.
Examined and signed by Speaker of the House August 19, 1964, 19736.
Examined and signed by President pro tempore of the Senate August 20, 1964, 19905.
Presented to the President, August 21, 1964, 20281.
Approved by the President August 26, 1964, as Public Law 88-489.

Companion bill—H.R. 12228

H.R. 5035 introduced by Mr. Holifield (by request) March 21, 1963.

H.R. 12228 introduced by Mr. Holifield as "clean bill" to supersede H.R. 5035, August 4, 1964, 17370-1.
Hearings: As listed above.

Public Law 89-135—H.R. 8856

To amend section 271 of the Atomic Energy Act of 1954, as amended

(Page references are to the daily editions of the Congressional Record, 89th Cong., 1st sess.)

H.R. 8843 introduced by Mr. Holifield and referred to JCAE, May 25, 1965, 11197.
H.R. 8844 introduced by Mr. Hosmer and referred to JCAE, May 25, 1965, 11197.
Hearings: May 27 and June 2, 1965, before Subcommittee on Legislation.
H.R. 8856 introduced by Mr. Holifield as a "clean bill" and referred to JCAE, June 8, 1965, 12428.
H.R. 8857 introduced by Mr. Hosmer as a "clean bill" and referred to JCAE, June 8, 1965, 12428.
H.R. 8856 reported (H. Rept. 567), June 30, 1965, 14764.
Motion to suspend House rules defeated, July 12, 1965, 15761.
Passed House, July 29, 1965, 17992.
Passed Senate, August 10, 1965, 19087.
Examined and signed by the Speaker of the House August 11, 1965, 19252.
Examined and signed by the President pro tempore of the Senate, August 12, 1965, 19399.
Presented to the President August 12, 1965, 19635.
Approved as Public Law 89-135, August 24, 1965.

Companion bill—S. 2103

S. 2035 introduced by Senator Pastore (for himself and Senator Hickenlooper) and referred to JCAE, May 25, 1965, 11083.
Hearings: As listed above.
S. 2103 introduced by Senator Pastore (for himself and Senator Hickenlooper) and referred to JCAE, June 8, 1965, 12338.
Reported (S. Rept. 390), July 30, 1965, 14790.
Indefinitely postponed (identical bill H.R. 8856 passed in lieu of), August 10, 1965, 19087.

Public Law 89-210—S. 2042

To amend section 170 of the Atomic Energy Act of 1954, as amended

(Page references are to the daily editions of the Congressional Record, 89th Cong., 1st sess.)

S. 2042 introduced by Senator Anderson and referred to JCAE, May 26, 1965, 11392.
Hearings: June 22-24, 1965, before Subcommittee on Legislation.
Reported (S. Rept. 650), August 26, 1965, 21165.
Passed Senate with technical amendments, August 31, 1965, 21461.
Passed House as amended by Senate, September 16, 1965, 23179.
Examined and signed by Vice President* and Speaker, 23429.
Presented to the President, 23526.
Approved as Public Law 89-210, September 29, 1965, D 982.

Companion bill—H.R. 8496

H.R. 8496 introduced by Mr. Price and referred to JCAE, May 26, 1965, 11300.
Hearings: As listed above.
Reported (H. Rept. 883), August 26, 1965, 21161.
Indefinitely postponed (identical bill S. 2042 passed in lieu of), September 16, 1965, 23180.

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*S. 2042 was inadvertently omitted in the Congressional Record on the list of bills signed by the Vice President on September 17, 1965, p. 23349. This omission was corrected in the permanent Congressional Record.

Public Law 89-645—S. 3830

To amend the Atomic Energy Act of 1954, as amended

(Page references are to the daily editions of the Congressional Record, 89th Cong., 2d sess.)

S. 3548 introduced by Senator Anderson and referred to JCAE, June 23, 1966, 13423, 13427.
Hearings: July 19, 20, 21, 1966, before full Joint Committee on Atomic Energy. Published under title of "Proposed Amendments to Price-Anderson Act Relating to Waiver of Defenses."
S. 3830 introduced by Senator Anderson as a "clean bill" and referred to JCAE, September 14, 1966, 21622.
Reported (S. Rept. No. 1605) September 16, 1966, 21851.
Amended and passed Senate, September 22, 1966, 22691-22693.
Passed House, September 30, 1966, 23662-23665 (in lieu of H.R. 17685).
Examined and signed by the Speaker of the House October 3, 1966, 23974.
Examined and signed by the President pro tempore of the Senate, October 4, 1966, 24077.
Presented to the President October 4, 1966, 24083.
Approved as Public Law 89-645, October 13, 1966, 26235.

Companion bill—H.R. 17685

H.R. 15913 introduced by Mr. Price and referred to JCAE, June 23, 1966, 13367, 13404.
Hearings: As listed above.
H.R. 17685 introduced by Mr. Price as a "clean bill" and referred to JCAE, September 13, 1966, 21564.
Reported (H. Rept. No. 2043) September 15, 1966, 21619.
Indefinitely postponed (identical bill S. 3830 passed in lieu of), September 30, 1966, 23665.

Public Law 90-190—S. 2644

To amend the Atomic Energy Community Act of 1955, as amended, the Atomic Energy Act of 1954, as amended, and the EURATOM Cooperation Act of 1958, as amended (AEC omnibus bill of 1967)

(Page references are to the daily editions of the Congressional Record, 90th Cong., 1st sess.)

S. 2644 introduced as "clean bill" by Senator Pastore and referred to JCAE, November 9, 1967, S16147.
Hearings on predecessor bills: August 11, 15, and 24, 1967, before the Subcommittees on Communities and Legislation.
Published under title of "AEC Omnibus Legislation—1967."
Reported (S. Rept. 743) November 13, 1967.
Considered and passed in Senate, November 15, 1967, S16493.
Considered and passed in House, November 30, 1967, H16077-83; H16088 (in lieu of H.R. 13934).
Examined and signed by the Speaker of the House, December 4, 1967, H16287.
Examined and signed by the Vice President, December 5, 1967, S17854.
Presented to the President, December 6, 1967, S17984.
Approved as Public Law 90-190, December 14, 1967, D1134.

Companion bill—H.R. 13934

H.R. 13934 introduced as "clean bill" by Mr. Holifield and referred to JCAE, November 9, 1967, H15055.
Hearings: As listed above.
Reported (H. Rept. 911) November 9, 1967, H15055.
Indefinitely postponed (identical bill S. 2644 passed in lieu of), November 30, 1967, H16077-83; H16088.

Public Law 91-161—S. 3169

To amend the Atomic Energy Act of 1954, as amended, and for other purposes

(Page references are to the daily editions of the Congressional Record, 91st Cong., 1st sess.)

S. 3169 introduced as "clean bill" by Senator Pastore and referred to JCAE, November 21, 1969, S14825.
Hearings: September 12, 1969, before full Joint Committee on Atomic Energy. Published under title of "AEC Omnibus Legislation—1969."
Reported (S. Rept. 91-533), November 24, 1969, S14903.
Considered and passed in Senate, December 1, 1969, S15157.
Considered and passed in House (Suspension of Rules), December 15, 1969, H12434 (in lieu of H.R. 14925).
Examined and signed by the Speaker of the House, December 17, 1969, H12686.
Examined and signed by the Vice President, December 17, 1969, S16967.
Presented to the President, December 19, 1969, S17333.
Approved as Public Law 91-161, December 24, 1969.

Companion Bill—H.R. 14925

H.R. 14925 introduced by Mr. Holifield (for himself, Mr. Price, and Mr. Hosmer), and referred to JCAE, November 20, 1969, H11273.
Hearings: As listed above.
Reported (H. Rept. No. 91-691), November 24, 1969, H11355.
Indefinitely postponed (identical bill S. 3169 passed in lieu of), December 15, 1969, H12434.

Public Law 91-452—S. 30

Relating to the control of organized crime in the United States

(Page references are to the daily editions of the Congressional Record, 91st Cong., 2d sess.)

S. 30 introduced January 15, 1969, and referred to Committee on the Judiciary.
Hearings: March 18, 19, 25, 26; June 3, 4, 1969, before Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary.
Reported (S. Rept. 91-617), January 23, 1970, with amendment.
Considered and passed in Senate, January 23, 1970, S481; October 30, 1970, S17776.
Hearings: May 20, 21, 27; June 10, 11, 17; July 23; August 5, 1970, before Subcommittee No. 5, House Committee on the Judiciary.
Reported (H. Rept. 91-1549), September 30, 1970, with amendment.
Considered and passed in House, October 7, 1970, H9779.
Approved by the President as Public Law 91-452, October 15, 1970.

Public Law 91-560—H.R. 18679

To amend the Atomic Energy Act of 1954, as amended, to eliminate the requirement for a finding of practical value, and for other purposes

(Page references are to the daily editions of the Congressional Record, 91st Cong., 2d sess.)

H.R. 18679 introduced as "clean bill" by Mr. Holifield (for himself, Mr. Price and Mr. Hosmer) and referred to JCAE July 28, 1970, H7330.
Hearings: November 18-20, 1969; April 14-16 and June 16-17, 1970, before Full Joint Committee on Atomic Energy published under titles of "Prelicensing Antitrust Review of Nuclear Power Plants," Part 1, 1969, Part 2, 1970, and "Uranium Enrichment Pricing Criteria," 1970.
Reported (H. Rept. No. 91-1470), September 24, 1970, H9259.
Considered and passed in House, September 30, 1970, H9452; December 3, 1970, Senate amendment concurred in, H11087.
Considered and passed in Senate with amendment, December 2, 1970, S19257.
Examined and signed by the Speaker of the House, December 7, 1970, H11297.
Examined and signed by the Vice President, December 8, 1970, S19577.
Presented to the President, December 8, 1970, H11472 [December 9].
Approved as Public Law 91-560, December 19, 1970.

Companion Bill—S.4141

S. 4141 introduced by Senator Pastore and referred to JCAE, July 29, 1970, S12283.
Hearings: As listed above.

Reported (S. Rept. No. 91-1247), September 29, 1970, S16679.
Identical bill H.R. 18679 passed in lieu thereof, with amendment, December 2, 1970, S19257.

Public Law 92-307—H.R. 14655

To amend the Atomic Energy Act of 1954, as amended, to authorize the Commission to issue temporary operating business for nuclear power reactors under certain circumstances, and for other purposes.

(Page references are to the daily edition of the Congressional Record, 92d Cong., 2d sess.)

H.R. 13731 introduced by Vice-Chairman Price, for himself, Mr. Holifield, Mr. Hosmer, Mr. Aspinall, and Mr. Hansen (by request), on March 9, 1972, and referred to the JCAE, H1954.
H.R. 13732 introduced by Mr. Hosmer on March 9, 1972, and referred to the JCAE, H1954.
Hearings: March 16 and 17, 1972, before the Full Joint Committee on Atomic Energy. Published in two volumes under title "H.R. 13731 and H.R. 13732, to Amend the Atomic Energy Act of 1954 Regarding the Licensing of Nuclear Facilities."
H.R. 14065 introduced by Mr. Holifield, for himself and others, on March 23, 1972, H2472.
H.R. 14655 introduced as "clean bill" by Mr. Holifield, for himself and all other House Members of the Joint Committee, on April 26, 1972, H3695.
House Report (H. Rept. No. 92-1027) filed on April 27, 1972, H3748.
Considered and passed in House without amendment, May 3, 1972, H4048.
Considered and passed in Senate without amendment, May 17, 1972, S8064.
Examined and signed by Speaker of the House, May 19, 1972, H4745.
Examined and signed by the President Pro Tempore, May 24, 1972, S8314.
Presented to the President, May 30, 1972, H5099.
Approved as Public Law 92-307, June 2, 1972, H5315.

Companion Bill—S. 3543

S. 3543 introduced by Senator Anderson, for himself and Senator Aiken, on April 27, 1972, S6732.
Hearings: As listed above.
Senate Report (S. Rept. No. 92-787) filed on May 9, 1972, S7461.
Identical bill H.R. 14655 passed in lieu of S. 3543, as indicated above.

Public Law 93-377—S. 3669

To amend the Atomic Energy Act of 1954, as amended, and the Atomic Weapons Rewards Act of 1955, and for other purposes.

(Page references are to the daily editions of the Congressional Record 93d Cong., 2d sess.)

S. 3669 introduced by Vice-Chairman Pastore on June 19, 1974, S10867.
Hearings: Full Joint Committee on Atomic Energy, June 18, 1974. Related hearing by the Subcommittee on Agreements for Cooperation, April 30, 1974.
Reported (S. Rept. No. 93-989), July 9, 1974, S11923.
Considered and passed in Senate, with a Committee amendment, July 11, 1974, S12272-74.
Considered and passed in House, with the Committee amendment, August 1, 1974, H7505-16.
Examined and signed by the Speaker of the House, August 5, 1974, H7694.
Examined and signed by the President pro tempore of the Senate, August 5, 1974, S14313.
Presented to the President, August 6, 1974, S14424.
Approved as Public Law 93-377, August 17, 1974, S15421.

Companion Bill—H.R. 15416

H.R. 15416 introduced by Chairman Price on June 17, 1974, H5167.
Hearings: As listed above.
Reported (H. Rept. No. 93-1155), June 26, 1974, H5833.
Identical bill, S. 3669, passed in lieu thereof, as indicated above.

Public Law 93-485 (S. 3698)

To amend the Atomic Energy Act of 1954, as amended, to enable Congress to concur in or disapprove international agreements for cooperation in regard to certain nuclear technology.

(Page references are to the daily editions of the Congressional Record, 93d Cong., 2d sess.)

S. 3698 introduced by Vice-Chairman Pastore (for himself and Senators Aiken, Jackson, Bennett, Symington, Dominick, Bible, Baker, Montoya) on June 25, 1974, S11405.
Reported (S. Rept. 93-964), June 25, 1974, S11404.
Considered and passed by Senate, with an amendment, July 10, 1974, S12112-128.
Considered and passed by the House, with differing amendment, July 31, 1974, H7432-50.
Senate conferees appointed August 7, 1974, S14544.
House conferees appointed August 8, 1974, H7967.
Conference Report (H. Rept. No. 93-1299) filed in House, August 19, 1974, H8599.
Conference Report considered and agreed to by the House, October 10, 1974, H10357-64.
Conference Report considered and agreed to by the Senate, October 10, 1974, S18927.
Examined and signed by the Speaker of the House, October 11, 1974, S18963.
Examined and signed by the President pro tempore of the Senate, October 16, 1974, S19186.
Presented to the President, October 17, 1974, S19377.
Approved as Public Law 93-485, October 26, 1974.

Companion bill—H.R. 15582

H.R. 15582 introduced by Chairman Price (for himself and Reps. Holifield, Hosmer and Young), June 25, 1974, H5733.
Reported (H. Rept. No. 93-1149), June 25, 1974, H5733.
Subsequent history is that of identical bill, S. 3698, as indicated above.

Public Law 93-514 (S. 3802)

To provide available nuclear information to committees and Members of Congress.

(Page references are to the daily editions of the Congressional Record, 93d Cong., 2d sess.)

S. 3728 introduced by Senator Symington on July 8, 1974, S11834.
S. 3802 introduced by Senator Symington as clean bill on July 24, 1974, following full Joint Committee consideration of S. 3728 on July 22, 1974. (S13300)
Reported (S. Rept. No. 93-1228), October 4, 1974, S18274.
Considered and passed by Senate without amendment, October 9, 1974, S18558.
Considered and passed by the House, without amendment, November 25, 1974, H11023.
Examined and signed by the President pro tempore of the Senate, November 25, 1974, S19931.
Examined and signed by the Speaker of the House, November 26, 1974, H11161.
Presented to the President, November 26, 1974, S20098.
Approved as Public Law 93-514, December 6, 1974, S20749.

Companion bill—H.R. 16074

H.R. 15891 introduced by Chairman Price, July 11, 1974, H6461.
H.R. 16074 introduced as clean bill by Chairman Price, July 23, 1974, H6985.
Reported (H. Rept. No. 93-1414), October 2, 1974, H9883.
Identical bill, S. 3802 passed in lieu of H.R. 16074, as indicated above.

Public Law 94-197 (H.R. 8631)

To amend the Atomic Energy Act of 1954, as amended, to provide for the phase out of governmental indemnity as a source of funds for public remuneration in the event of a nuclear incident, and for other purposes.

(Page references are to the daily editions of the Congressional Record, 94th Congress, 1st Session)

H.R. 8631 introduced by Mr. Price (for himself and Mr. Anderson of Illinois) (by request) on July 14, 1975, H6817.
Hearings: Full Joint Committee on Atomic Energy, September 23 and 24, 1975. Published under the title of "H.R. 8631: To Amend and Extend the Price-Anderson Act"
Markup: Full Joint Committee on Atomic Energy, October 31 and November 6, 1975. Published under the title of "Open Markup on H.R. 8631 and S. 2568: Price-Anderson Act Amendments".
Reported with six technical amendments (H. Rept. No. 94-648) November 10, 1975, H10908.
Considered and passed by the House with one amendment December 8, 1975, H11926—57.
Considered and passed by the Senate after striking all after the enacting clause and inserting in lieu thereof the language of Senate companion measure S. 2568, as amended, December 16, 1975, S22328-75.
Senate amendment considered and agreed to by the House December 17, 1975, H12750-51.
Examined and signed by the Speaker of the House December 18, 1975, H13049.
Examined and signed by the President pro tempore of the Senate December 18, 1975, S22680.
Presented to the President December 19, 1975, H13203.
Approved as Public Law 94-197 December 31, 1975.

Companion bill—S. 2568

S. 2568 introduced by Mr. Pastore (for himself and Mr. Baker) (by request) October 28, 1975, S18711.
Hearings: As listed above.
Markup: As listed above.
Reported with six technical amendments (S. Rept. No. 94-454) November 13, 1975, S19879.
Considered by the Senate; three amendments accepted and further consideration indefinitely postponed, December 16, 1975, S22328-76.

Public Law 95-91—S. 826

To establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

(Page references are to the daily editions of the Congressional Record, 95th Congress, 1st Sess.)

S. 826 introduced by Mr. Ribicoff, et al., on March 1, 1977 and referred to Committee on Governmental Affairs, S3155.
Reported (S. Rept. 95-164), May 14, 1977, with amendment, S7663.
Considered and passed in Senate, amended, May 18, 1977, S7959.
Considered and passed in House, amended, June 3, 1977, H5406 (in lieu of H.R. 6804).
Conference scheduled in Senate, June 9, 1977, S9255.
Conference scheduled in House, June 21, 1977, H6234.
Conference report (H. Rept. 95-539) submitted in House, July 26, 1977, H7831, and agreed to, August 2, 1977, H8252.
Conference report (S. Rept. 95-367) submitted in Senate, July 27, 1977, S13554, and agreed to, August 2, 1977, S13290.
Approved by the President as Public Law 95-91, August 4, 1977, S13554.

Companion bill—H.R. 6804

H.R. 6804 introduced by Mr. Brooke, et al., on May 2, 1977 and referred to Committee on Government Operations, H3904.
Reported (H. Rept. 95-346, Pt. 1), with amendment, May 24, 1977, H5009.
Reported (H. Rept. 95-346, Pt. 2), May 24, 1977.
Indefinitely postponed (identical bill S. 826 passed in lieu of) June 3, 1977, H5416.

Public Law 95-110—S. 1153

To abolish the Joint Committee on Atomic Energy and to reassign certain functions and authorities thereof, and for other purposes.

(Page references are to the daily editions of the Congressional Record, 95th Congress, 1st Sess.)

S. 1153 introduced by Mr. Jackson (for himself; Senators Baker, Randolph, Stafford and McClure) on March 29, 1977, S4028.
Considered and passed in Senate, March 31, 1977, S5222.
Considered and passed in House, amended, August 5, 1977, H8756-59.
Senate agreed to House amendments, August 5, 1977, S13907.
Approved by the President as Public Law 95-110, September 20, 1977.

Public Law 95-209—S. 1131

To authorize appropriations for Nuclear Regulatory Commission for the fiscal year 1978, and for other purposes.

(Page references are to the daily editions of the Congressional Record, 95th Congress, 1st Sess.)

S. 1131 introduced by Mr. Hart and Mr. Randolph on March 25, 1977, and referred to Committee on Environment and Public Works, S4889.
Reported (S. Rept. 95-196) May 16, 1977, with amendment, S7664.
Considered and passed in Senate, May 25, 1977, with amendment, S7664.
Considered and passed in House, September 12, 1977, title amended, H9262 (in lieu of H.R. 3455).
Conference scheduled in Senate, October 28, 1977, S18062.
Conference scheduled in House, October 31, 1977, H11805.
Conference report (H. Rept. 95-788) submitted in the House, November 1, 1977, H12004, and agreed to, November 3, 1977, H12176.
Conference report submitted in the Senate and agreed to, November 29, 1977, S19235.
Approved by the President as Public Law 95-209, December 13, 1977.

Companion bill—H.R. 3455

H.R. 3455 introduced by Mr. Udall on February 9, 1977 and referred to the Committee on Interior and Insular Affairs, H1078.
Reported (H. Rept. 95-289) May 11, 1977, with amendment, H4337.
Indefinitely postponed (identical bill S. 1131 passed in lieu of), September 12, 1977, H9262.

Public Law 95-238—S. 1340

To amend Title I of the Energy Reorganization Act of 1974 and for other purposes.

(Page references are to the daily editions of the Congressional Record, 95th Congress, 1st and 2d Sess.)

S. 1340 introduced by Mr. Jackson on April 21, 1977 and referred to Committee on Energy and Natural Resources.
Reported (S. Rept. 95-179), May 16, 1977, S7663.
Considered and passed in Senate, June 13, 1977, S9559.
Considered and passed in House, amended, December 7, 1977, H12778.
Senate agreed to House amendment, February 8, 1978, S1487.
Approved by the President as Public Law 95-238, February 25, 1978.

Public Law 95-242—H.R. 8638

To provide for more efficient and effective control over the proliferation of nuclear explosive capability, and to amend various sections in the Atomic Energy Act of 1954.

(Page references are to the daily editions of the Congressional Record, 95th Congress, 1st and 2d Sess.)

H.R. 8638 introduced by Mr. Bingham (for himself; Representatives Zablocki, Findley, Whalen, Studds, Fowler, Cavanaugh, Beilenson, and Winn) referred to Committee on International Relations, July 29, 1977, H8165.
Markup: Full Committee on International Relations, August 1 and 2, 1977, D1175, D1187.
Reported (H. Rept. 95-587) August 5, 1977, H8775.
Considered and passed in House, amended, September 28, 1977, H10274.
Considered and passed in Senate, amended, February 7, 1978, S1341 (in lieu of S. 897).
House agreed to Senate amendments, February 9, 1978, H908-19.
Approved by the President as Public Law 95-242, March 10, 1978.

Companion bill—S. 897

S. 897 introduced by Mr. Percy (for himself; Senators Glenn, Ribicoff, Javits, and Cranston) referred to Committee on Foreign Relations and Governmental Affairs, March 3, 1977, S3381-89.
Reported (S. Rept. 95-467) with amendments, October 3, 1977, S16171.
Indefinitely postponed (identical bill H.R. 8638 passed in lieu of), February 7, 1978, S1341.

Public Law 95-601—S. 2584

To authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes.

Feb. 6, 1978—Introduced.
Feb. 6, 1978—Subcommittee hearing.
Feb. 9, 1978—Subcommittee hearing.
Feb. 15, 1978—Subcommittee hearing.
Mar. 20, 1978—Reported to Full Committee, amended.
Apr. 19, 1978—Full Committee ordered reported, amended.
Apr. 26, 1978—Full Committee action of Apr. 19, 1978, vacated and H.R. 12355 order reported in lieu.
(See H.R. 12355.) (Tabled.)
Apr. 25, 1978—Introduced.
(See H.R. 10785 for earlier action).
Apr. 26, 1978—Full Committee ordered reported.
Apr. 26, 1978—Reported to House, H. Rept. 95-1089 (Part I)
Apr. 27, 1978—Sequentially referred to House Interstate and Foreign Commerce Committee.
May 15, 1978—Reported from Interstate and Foreign Commerce Committee, H. Rept. 95-1089 (Part II).
May 22, 1978—Rule requested.
Sept. 14, 1978—Rule granted. (H. Res. 1373, H. Rept. 95-1610).
Oct. 4, 1978—S. 2584, amended, passed House in lieu of H.R. 12355, (Suspension).
Oct. 5, 1978—Rule (H. Res. 1373) laid on the table.
(See S. 2584).
May 15, 1978—Reported in Senate, S. Rept. 95-848.
Sept. 18, 1978—Passed Senate.
(See H.R. 12355 for additional action).
Oct. 4, 1978—Passed House, amended, in lieu of H.R. 12355, (Suspension).
Oct. 10, 1978—Senate asked for Conference. (Conferees: Mr. Hart, Mr. Randolph, and Mr. Domenici).
Oct. 13, 1978—House agreed to Conference. (Conferees: Mr. Udall, Mr. Bingham, Mr. Sharp, Mr. Staggers, Mr. Dingell, Mr. Bauman, and Mr. Brown of Ohio).
Oct. 14, 1978—Conference report filed, H. Rept. 95-1796.
Oct. 14, 1978—Passed House.
Oct. 14, 1978—Passed Senate.
Nov. 6, 1978—Approved P.L. 95-601.

Public Law 95-604—H.R. 13650

To amend the Atomic Energy Act of 1954, as amended, to provide for regulation of uranium mill tailings, and for other purposes. (Uranium Mill Tailings Licensing Act of 1978). (Also referred to Committee on Interstate and Foreign Commerce).

June 29, 1978—Introduced.
July 10, 1978—Subcommittee hearing.
July 13, 1978—EPA, Favorable, if amended.
July 17, 1978—Subcommittee hearing.
July 20, 1978—Subcommittee markup.
July 27, 1978—Subcommittee markup. Reported to Full Committee, amended. Clean bill to be introduced.
(See H.R. 13650. Tabled.)
H.R. 13650 (S. 3078).

To authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill tailings under the Atomic Energy Act of 1954, and for other purposes. (Uranium Mill Tailings Control Act of 1978). (Also referred to Committee on Interstate and Foreign Commerce).

July 28, 1978—Introduced.
(See H.R. 13382 for earlier action).
Aug. 2, 1978—Full Committee markup.
Aug. 3, 1978—Energy. Unfavorable report.
Aug. 4, 1978—Full Committee markup.
Aug. 9, 1978—Full Committee ordered reported, amended.
Aug. 11, 1978—Reported to House, H.Rept. 95-1480 (Part I).
Sept. 30, 1978—Reported from Interstate and Foreign Commerce Committee, H.Rept. 95-1490 (Part II).
Oct. 3, 1978—Passed House. (Suspension).
Oct. 13, 1978—Passed Senate, amended.
Oct. 14, 1978—House agreed to the Senate amendment, with an amendment.
Oct. 14, 1978—Senate agreed to the House amendment to the Senate amendment.
Nov. 8, 1978—Approved, P.L. 95-604.

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93 STAT. 796 PUBLIC LAW 96-106—NOV. 9, 1979

Public Law 96-106
96th Congress

An Act

Nov. 9, 1979
[H.R. 4249]

To amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes.

LEGISLATIVE HISTORY:
HOUSE REPORT No. 96-288 (Comm. on Public Works and Transportation).
SENATE REPORT No. 96-333 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 125 (1979):
July 9, considered and passed House.
Oct. 24, considered and passed Senate, amended.
Oct. 26, House concurred in certain Senate amendments, and in Senate amendment No. 7 with an amendment.
Oct. 29, Senate agreed to House amendment.

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94 STAT. 780 PUBLIC LAW 96-295—JUNE. 30, 1980

Public Law 96-295
96th Congress

An Act

June 30, 1980
[S. 562]

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

LEGISLATIVE HISTORY:
HOUSE REPORT: No. 96-194, pt. 1 (Comm. on Interior and Insular Affairs), No. 96-194, pt. 2 (Comm. on Interstate and Foreign Commerce), both accompanying H.R. 2608, and No. 96-1070 (Comm. of Conference).
SENATE REPORT No. 96-176 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 125 (1979): July 16, 17, considered and passed Senate.
Nov. 29, Dec. 4, H.R. 2608 considered and passed House; passage vacated and S. 562, amended, passed in lieu.
Vol. 126 (1980): June 10, House agreed to conference report.
June 16, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 27 (1980): June 30, Presidential statement.

PUBLIC LAW 97-90—DEC. 4, 1981 95 STAT. 1163

Public Law 97-90
97th Congress

An Act

To authorize appropriations for the Department of Energy for national security programs for fiscal year 1982, and for other purposes. Dec. 4, 1981 [H.R. 3413]

LEGISLATIVE HISTORY: H.R. 3413 (S. 1549):
HOUSE REPORTS: No. 97-45 (Comm. on Armed Services) and No. 97-342 (Comm. of Conference).
SENATE REPORT No. 97-173 accompanying S. 1549 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 127 (1981):
June 11, considered and passed House.
Nov. 3, considered and passed Senate, amended, in lieu of S. 1549.
Nov. 19, House and Senate agreed to conference report.

PUBLIC LAW 97-415—JAN. 4, 1983 94 STAT. 2067

Public Law 97-415
97th Congress

An Act

To authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes. Jan. 4, 1983 [H.R. 2330]

LEGISLATIVE HISTORY: H.R. 2330 (S. 1207):
HOUSE REPORTS: No. 97-22, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Energy and Commerce), No. 97-884 (Comm. of Conference).
SENATE REPORT No. 97-113 accompanying S. 1207 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 127 (1981): Nov. 5, considered and passed House.
Vol. 128 (1982): Mar. 22, 30, S. 1207 considered in Senate.
Mar. 30, H.R. 2330 considered and passed Senate, amended.
Oct. 1, Senate agreed to conference report.
Dec. 2, House rejected conference report; receded and concurred in Senate amendment with an amendment.
Dec. 16, Senate agreed to House amendment.

Public Law 98–553
98th Congress

An Act

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

Oct. 30, 1984
[S. 1291]

LEGISLATIVE HISTORY–S. 1291 (S. 2846) (H.R. 2510):

HOUSE REPORTS: No. 98–103, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Energy and Commerce) both accompanying H.R. 2510.

SENATE REPORTS: No. 98–118 (Comm. on Environment and Public Works); No. 98-546 (Comm. on Environment and Public Works); No. 98–579 (Comm. on Energy and Natural Resources) both accompanying S. 2846.

CONGRESSIONAL RECORD, Vol. 130 (1984):
Oct. 10, considered and passed Senate.
Oct. 11, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 44 (1984):
Oct. 30, Presidential statement.

APPENDIX 4

THE ATOMIC ENERGY ACT OF 1946[1]

WITH AMENDMENTS THROUGH THE EIGHTY-THIRD CONGRESS
(1ST SESS.)

AN ACT For the development and control of atomic energy

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

DECLARATION OF POLICY

SECTION 1. (a) FINDINGS AND DECLARATION.—Research and experimentation in the field of nuclear chain reaction have attained the stage at which the release of atomic energy on a large scale is practical. The significance of the atomic bomb for military purposes is evident. The effect of the use of atomic energy for civilian purposes upon the social, economic, and political structures of today cannot now be determined. It is a field in which unknown factors are involved. Therefore, any legislation will necessarily be subject to revision from time to time. It is reasonable to anticipate, however, that tapping this new source of energy will cause profound changes in our present way of life. Accordingly, it is hereby declared to be the policy of the people of the United States that, subject at all times to the paramount objective of assuring the common defense and security, the development and utilization of atomic energy shall, so far as practicable, be directed toward improving the public welfare, increasing the standard of living, strengthening free competition in private enterprise, and promoting world peace.

(b) PURPOSE OF ACT.—It is the purpose of this Act to effectuate the policies set out in section 1 (a) by providing, among others, for the following major programs relating to atomic energy:

(1) A program of assisting and fostering private research and development to encourage maximum scientific progress;

(2) A program for the control of scientific and technical information which will permit the dissemination of such information to encourage scientific progress, and for the sharing on a reciprocal basis of information concerning the practical industrial application of atomic energy as soon as effective and enforceable safeguards against its use for destructive purposes can be devised;

(3) A program of federally conducted research and development to assure the Government of adequate scientific and technical accomplishment;

(4) A program for Government control of the production, ownership, and use of fissionable material to assure the common defense and security and to insure the broadest possible exploitation of the fields; and

(5) A program of administration which will be consistent with the foregoing policies and with international arrangements made by the United States, and which will enable the Congress to be currently informed so as to take further legislative action as may hereafter be appropriate.

ORGANIZATION

SEC. 2. (a) ATOMIC ENERGY COMMISSION.—

(1) There is hereby established an Atomic Energy Commission (herein called the Commission), which shall be composed of five members. Three members shall constitute a quorum of the Commission. The President shall designate one member as Chairman of the Commission.

(2) Members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate. In submitting any nomination to the Senate, the President shall set forth the experience and the qualifications of the nominee. The term of office of each member of the Commission taking office prior to *June 30, 1950, shall expire at midnight on June 30, 1950.* The term of office of each member of the Commission taking office after *June 30, 1950,* shall be five years, except that (A) the terms of office of the members first taking office after *June 30, 1950,* shall expire, as designated by the President at the time of the appointment, one at the end of *one year,* one at the end of *two* years, one at the end of *three* years, one at the end of *four* years, and one at the end of *five* years, after *June 30, 1950;* and (B) any member appointed to fill a

[1]The Atomic Energy Act of 1946 (Public Law 585, 79th Cong., 60 Stat. 755-75, 42 U.S.C. 1801-19). (For legislative history index to Public Law 585, 79th Cong., see index to S. 1717 in appendix 5.)

vacancy, occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Each member, except the Chairman, shall receive compensation at the rate of *$18,000* per annum; and the Chairman shall receive compensation at the rate of *$20,000* per annum. No member of the Commission shall engage in any other business, vocation, or employment that of serving as a member of the Commission.[2]

(3) The principal office of the Commission shall be in the District of Columbia, but the Commission or any duly authorized representative may exercise any or all of its powers in any place. The Commission shall hold such meetings, conduct such hearings, and receive such reports as may be necessary to enable it to carry out the provisions of this Act.

(4) There are hereby established within the Commission—

(A) a General Manager, who shall discharge such of the administrative and executive functions of the Commission as the Commission may direct. The General Manager shall be appointed by the *Commission, shall serve at the pleasure of the Commission, shall be removable by the Commission, and shall receive compensation at a rate fixed in the Commission's discretion but not to exceed $20,000 per annum.*[3]

(B) *a Division of Military Application and such other program divisions (not to exceed ten in number) as the Commission may determine to be necessary to the discharge of its responsibilities.* Each division shall be under the direction of a Director who shall be appointed by the Commission and shall be *compensated at a rate determined by the Commission, but not in excess of $16,000 per annum.* The Director of the Division of Military Application shall be a member of the Armed Forces. The Commission shall require each such division to exercise such of the Commission's powers as the Commission may determine.[4]

(b) GENERAL ADVISORY COMMITTEE.—There shall be a General Advisory Committee to advise the Commission on scientific and technical matters relating to

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[1]The provision of sec. 2 (a)(2) (42 U.S.C. 1802) was amended on July 3, 1948, by Public Law 898, 80th Cong. (62 Stat. 1259) to read as shown above in italics. (*See* S. 2589 (Apr. 30, 1948) and S. Rept. 1342 (May 17, 1948) and minority views (May 24, 1948); *see also* H.R. 6402 (Apr. 30, 1948) and H. Rept. 1973 (May 18, 1949) and minority views (May 24, 1948).) (For legislative history index to Public Law 898, 80th Cong., see index to H.R. 6402 in appendix 5.)

The provision of sec. 2 (a) (2) (42 U.S.C. 1802) was amended on Sept. 23, 1950, by Public Law 820, 81st Cong. (64 Stat. 979) to read as shown above in italics. (*See* S. 3437 (Apr. 17, 1950) and C. Rept. 2493 (Aug. 30, 1950); *see also* H.R. 8103 (Apr. 19, 1950).) (For legislative history index to Public Law 820, 81st Cong., see index to S. 3437, in appendix 5.)

In the basic Atomic Energy Act (Public Law 585, 79th Cong., 60 Stat. 755-775; 42 U.S.C. 1801-1819) sec. 2 (a) (2), read as shown below. The language subsequently changed by Public Law 898 and Public Law 820 is shown in italics.

"(2) Members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate. In submitting any nomination to the Senate, the President shall set forth the experience and the qualifications of the nominee. The term of office of each member of the Commission taking office prior to the *expiration of two years after the date of enactment of this* Act shall expire upon the expiration of such two years. The term of office of each member of the Commission taking office after *the expiration of two years from the date of enactment of this Act* shall be five years, except that (A) the terms of office of the members first taking office after *the expiration of two years from the date of enactment of this Act* shall expire, as designated by the President at the time of appointment, one at the end of *three years*, one at the end of *four* years, one at the end of *five* years, one at the end of *six* years, and one at the end of *seven* years, after *the date of enactment of this Act;* and (B) any member appointed to fill a vacancy occurring prior to expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Each member, except the Chairman, shall receive compensation at the rate of *$15,000* per annum; and the Chairman shall receive compensation at the rate of *$17,500* per annum. No member of the Commission shall engage in any other business, vocation, or employment that of serving as a member of the Commission."

[3]The language of sec. 2(a) (4) (A) (42 U.S.C. 1802) which was amended on September 23, 1950, by Public Law 820, 81st Cong. (64 Stat. 979) is shown above in italics. (*See* S. 3437 (Apr. 17, 1950) and S. Rept. 2493 (Aug. 30, 1950); *see also* H.R. 8103 (Apr. 19, 1950.) (For legislative history index to Public Law 820, 81st Cong., see index to S. 3437 in appendix 5.)

In the basic Atomic Energy Act (Public Law 585, 79th Cong., 60 Stat. 755-775, 42 U.S.C. 1801-1819) sec. 2(a)(4)(A) read as shown below. The language subsequently changed or omitted by Public Law 820 is shown in italics.

"(4) There are hereby established within the Commission—

"(A) a General Manager, who shall discharge such of the administrative and executive functions of the Commission as the Commission may direct. The General Manager shall be appointed by the *President by and with the advice and consent of the Senate, and shall receive compensation at the rate of $15,000 per annum. The Commission may make recommendations to the President with respect to the appointment or removal of the General Manager.*"

[4]The language of sec. 2 (a) (4) (B) (42 U.S.C. 1802) which was amended on July 31, 1953, by Public Law 164, 83d Cong. (67 Stat. 240), is shown above in italics. (*See* S. 2399 (July 15, 1953) and S. Rept. 603 (July 18, 1953); *see also* H.R. 6305 (July 15, 1953).) (For legislative history index to Public Law 164, 83d Cong., see index to S. 2399 in appendix 5.)

In the basic Atomic Energy Act (Public Law 585, 79th Cong., 60 Stat. 755-775, 32 U.S.C. 1801-1819) sec. 2 (a) (4) (B) read as shown below. The language subsequently changed or omitted by Public Law 164 is shown in italics.

"(B) *a Division of Research, a Division of Production, a Division of Engineering,* and a Division of Military Application. Each division shall be under the direction of a Director who shall be appointed by the Commission, and shall receive compensation at the rate of *$14,000 per annum.* The Director of the Division of Military Application shall be a member of the armed forces. The Commission shall require each such division to exercise such of the Commission's powers under this Act as the Commission may determine, *except that the authority granted under section 3 (a) of this Act shall not be exercised by the Division of Research.*"

The pay of the directors had been authorized to be increased to $14,800 per annum by Public Law 375, 82d Cong. (65 Stat. 101).

materials, production, and research and development, to be composed of nine members, who shall be appointed from civilian life by the President. Each member shall hold office for a term of six years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term; and (2) the terms of office of the members first taking office after the date of the enactment of this Act shall expire, as designated by the President at the time of appointment, three at the end of two years, three at the end of four years, and three at the end of six years, after the date of the enactment of this Act. The Committee shall designate one of its own members as Chairman. The Committee shall meet at least four times in every calendar year. The members of the Committee shall receive a per diem compensation of $50 for each day spent in meetings or conferences, and all members shall receive their necessary traveling or other expenses while engaged in the work of the Committee.

(c) MILITARY LIAISON COMMITTEE.—There shall be a Military Liaison Committee consisting of *a Chairman, who shall be the head thereof, and of a representative or* representatives of the Departments of the *Army, Navy, and Air Force*, detailed or assigned thereto, without additional compensation, in such number as *the Secretary of Defense* may determine. *Representatives from each of the three Departments shall be designated by the respective Secretaries of the Army, Navy, and Air Force. The Committee Chairman shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at a rate prescribed by law for the Chairman of the Munitions Board.*[3] The Commission shall advise and consult with the Committee on all atomic-energy matters which the *Committee* deems to relate to military applications, including the development, manufacture, use and storage of bombs, the allocation of fissionable material for military research, and the control of information relating to the manufacture or utilization of atomic weapons. The Commission shall keep the Committee fully informed of all such matters before it and the Committee shall keep the Commission fully informed of all atomic energy activities of the *Department of Defense*. The Committee shall have authority to make written recommendations to the Commission on matters relating to military applications from time to time as it may deem appropriate. If the Committee at any time concludes that any action, proposed action, or failure to act of the Commission on such matters is adverse to the responsibilities of the *Department of Defense*, derived from the Constitution, laws, and treaties, the Committee may refer such action, proposed action, or failure to act to the *Secretary of Defense*. If *the* Secretary concurs, he may refer the matter to the President, whose decision shall be final.[4]

"(d) APPOINTMENT OF ARMY, NAVY, OR AIR FORCE OFFICERS.—Notwithstanding the provisions of section 1222 of the Revised Statutes (U.S.C., 1940 edition, title 10, sec. 576), section 212 of the Act entitled 'An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes', approved June 30, 1932, as amended (U.S.C., 1940 edition, title 5, sec. 59a), section 2 of the Act entitled 'An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes', approved July 31, 1894, as amended (U.S.C., 1940 edition, title 5, sec. 62), or any other law, any active or retired officer of the *Army, Navy, or Air Force* may serve as Director of the Division of Military Application established by subsection (a) (4) (B) of this section, without prejudice to his commissioned status as such officer. Any such officer serving as Director of the Division of Military Application shall receive, in addition to his pay from the United States as such officer, an amount equal to the difference between such pay and the compensation prescribed in subsection (a) (4) (B) of this section." *Likewise, notwithstanding the provisions of any other law, any active or retired officer of the Army, Navy, or Air Force may serve as Chairman of the Military Liaison Committee established by subsection (c) of this section, without prejudice to his commissioned status as such*

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[3] Pursuant to Reorganization Plan No. 6, H. [illegible], 18 Fed. Reg. 3743, an Assistant Secretary of Defense is now assigned the responsibility for [illegible] informed by the Munitions Board.

[4] The language of sec. 2 (c) (42 U.S.C. 1802) [illegible] on October 11, 1949 by Public Law 347, 81st Cong. (63 Stat. 762) is shown in italics. (*See* S. 2, [illegible] Aug. [illegible] and S. Rept. 934 (Aug. 18, 1949); *see also* H.R. 5884 (Aug. 4, 1949) and H. Rept. 1282 (Aug. 18, 1949).) (For legislative history index to Public Law 347, 81st Cong., see index to S. 2372 in appendix 5.)

In the basic Atomic Energy Act (Public Law 585, 79th Cong., 60 Stat. 755-775, 42 U.S.C. 1801-1819) sec. 2 (c) read as shown below. The language subsequently changed or omitted by Public Law 347 is shown in italics.

"(c) MILITARY LIAISON COMMITTEE.—There shall be a Military Liaison Committee consisting of representatives of the Departments of *War and Navy*, detailed or assigned thereto without additional compensation, *by the Secretaries of War and Navy* in such number as *they* may determine. The Commission shall advise and consult with the Committee on all atomic energy matters which the *Committees* [sic] deems to relate to military applications including the development, manufacture, use, and storage of bombs, the allocation of fissionable material for military research, and the control of information relating to the manufacture or utilization of atomic weapons. The Commission shall keep the Committee fully informed of all such matters before it and the Committee shall keep the Commission fully informed of all atomic energy activities of the *War and Navy Departments*. The Committee shall have authority to make written recommendations to the Commission on matters relating to military applications from time to time as it may deem appropriate. If the Committee at any time concludes that any action, proposed action, or failure to act of the Commission on such matters is adverse to the responsibilities of the *Departments of War and Navy*, derived from the Constitution, laws, and treaties, the Committee may refer such action, proposed action, or failure to act to the *Secretaries of War and Navy*. If *either* Secretary concurs, he may refer the matter to the President, whose decision shall be final."

officer. Any such officer serving as Chairman of the Military Liaison Committee shall receive, in addition to his pay from the United States as such officer, an amount equal to the difference between such pay and the compensation prescribed in subsection (c) of this section.[1]

RESEARCH

SEC. 3. (a) RESEARCH ASSISTANCE.—The Commission is directed to exercise its powers in such manner as to insure the continued conduct of research and development activities in the fields specified below by private or public institutions or persons and to assist in the acquisition of an ever-expanding fund of theoretical and practical knowledge in such fields. To this end the Commission is authorized and directed to make arrangements (including contracts, agreements, and loans) for the conduct of research and development activities relating to)

(1) nuclear processes;

(2) the theory and production of atomic energy, including processes, materials, and devices related to such production;

(3) utilization of fissionable and radioactive materials for medical, biological, health, or military purposes;

(4) utilization of fissionable and radioactive materials and processes entailed in the production of such materials for all other purposes, including industrial uses; and

(5) the protection of health during research and production activities.

The Commission may make such arrangements without regard to the provisions of section 3709 of the Revised Statutes (U.S.C., title 41, sec. 5) upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing that advertising is not reasonably practicable, and may make partial and advance payments under such arrangements, and may make available for use in connection therewith such of its equipment and facilities as it may deem desirable. Such arrangements shall contain such provisions to protect health, to minimize danger from explosion and other hazards to life or property, and to require the reporting and to permit the inspection of work performed thereunder, as the Commission may determine; but shall not contain any provisions or conditions which prevent the dissemination of scientific or technical information, except to the extent such dissemination is prohibited by law.

(b) RESEARCH BY THE COMMISSION.—The Commission is authorized and directed to conduct, through its own facilities, activities and studies of the types specified in subsection (a) above.

PRODUCTION OF FISSIONABLE MATERIAL

SEC. 4. (a) DEFINITION.—As used in this Act, the term "produce", when used in relation to fissionable material, means to manufacture, produce, or refine fissionable material, as distinguished from source materials as defined in section 5(b)(1), or to separate fissionable material from other substances in which such material may be contained or to produce new fissionable material.

(b) PROHIBITION.—It shall be unlawful for any person to own any facilities for the production of fissionable material or for any person to produce fissionable material, except to the extent authorized by subsection (c).

(c) OWNERSHIP AND OPERATION OF PRODUCTION FACILITIES.—

(1) OWNERSHIP OF PRODUCTION FACILITIES.—The Commission, as agent of and on behalf of the United States, shall be the exclusive owner of all facilities for the production of fissionable material other than facilities which (A) are useful in the conduct of research and development activities in the fields specified in section 3, and (B) do not, in the opinion of the Commission, have a potential production rate adequate to enable the operator of such facilities to produce within a reasonable period of time a sufficient quantity of fissionable material to produce an atomic bomb or any other atomic weapon.

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[1] The language of sec. 2 (d) (42 U.S.C. 1802), which was amended on October 11, 1949, by Public Law 347, 81st Cong. (63 Stat. 762), is shown in italics. (*See* S. 2372 (Aug. 3, 1949) and S. Rept. 934 (Aug. 18, 1949); *see also* H.R. 5884 (Aug. 4, 1949) and H. Rept. 1282 (Aug. 18, 1949).) (For legislative history index to Public Law 347, 81st Cong., see index to S. 2372 in appendix 5.)

In the basic Atomic Energy Act (Public Law 585, 79th Cong., 60 Stat. 755-775, 42 U.S.C. 1801-1819), sec. 2 (d), read as shown below. The language subsequently changed by Public Law 347 is shown in italics.

"(d) Appointment of ARMY AND NAVY OFFICERS.—Notwithstanding the provisions of section 1222 of the Revised Statutes (U.S.C. 1940 edition, title 10, sec. 576), section 212 of the Act entitled 'An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes', approved June 30, 1932, as amended (U.S.C., 1940 edition, title 5, sec. 59a), section 2 of the Act entitled 'An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes', approved July 31, 1894, as amended (U.S.C., 1940 edition, title 5, sec. 62), or any other law, any active or retired officer of the *Army or the Navy* may serve as Director of the Division of Military Application established by subsection (a) (4) (B) of this section, without prejudice to his commissioned status as such officer. Any such officer serving as Director of the Division of Military Application shall receive, in addition to his pay from the United States as such officer, an amount equal to the difference between such pay and the compensation prescribed in subsection (a) (4) (B) of this section."

(2) OPERATION OF THE COMMISSION'S PRODUCTION FACILITIES.—The Commission is authorized and directed to produce or to provide for the production of fissionable material in its own facilities. To the extent deemed necessary, the Commission is authorized to make, or to continue in effect, contracts with persons obligating them to produce fissionable material in facilities owned by the Commission. The Commission is also authorized to enter into research and development contracts authorizing the contractor to produce fissionable material in facilities owned by the Commission to the extent that the production of such fissionable material may be incident to the conduct of research and development activities under such contracts. Any contract entered into under this section shall contain provisions (A) prohibiting the contractor with the Commission from subcontracting any part of the work he is obligated to perform under the contract, except as authorized by the Commission, and (B) obligating the contractor to make such reports to the Commission as it may deem appropriate with respect to his activities under the contract, to submit to frequent inspection by employees of the Commission of all such activities, and to comply with all safety and security regulations which may be prescribed by the Commission. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes (U.S.C., title 41, sec. 5) upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing that advertising is not reasonably practicable, and partial and advance payments may be made under such contracts. The President shall determine at least once each year the quantities of fissionable material to be produced under this paragraph.

(3) OPERATION OF OTHER PRODUCTION FACILITIES.—Fissionable material may be produced in the conduct of research and development activities in facilities which, under paragraph (1) above, are not required to be owned by the Commission.

(d) IRRADIATION OF MATERIALS.—For the purpose of increasing the supply of radioactive materials, the Commission and persons lawfully producing or utilizing fissionable material are authorized to expose materials of any kind to the radiation incident to the processes of producing or utilizing fissionable material.

(e) MANUFACTURE OF PRODUCTION FACILITIES.—Unless authorized by a license issued by the Commission, no person may manufacture, produce, transfer, or acquire any facilities for the production of fissionable material. Licenses shall be issued in accordance with such procedures as the Commission may by regulation establish and shall be issued in accordance with such standards and upon such conditions as will restrict the production and distribution of such facilities to effectuate the policies and purposes of this Act. Nothing in this section shall be deemed to require a license for such manufacture, production, transfer, or acquisition incident to or for the conduct of research or development activities in the United States of the types specified in section 3, or to prohibit the Commission from manufacturing or producing such facilities for its own use.

CONTROL OF MATERIALS

SEC. 5. (a) FISSIONABLE MATERIALS.—

(1) DEFINITION.—As used in this Act, the term "fissionable material" means plutonium, uranium enriched in the isotope 235, any other material which the Commission determines to be capable of releasing substantial quantities of energy through nuclear chain reaction of the material, or any material artificially enriched by any of the foregoing; but does not include source materials, as defined in section 5(b)(1).

(2) GOVERNMENT OWNERSHIP OF ALL FISSIONABLE MATERIAL.—All right, title, and interest within or under the jurisdiction of the United States, in or to any fissionable material, now or hereafter produced, shall be the property of the Commission, and shall be deemed to be vested in the Commission by virtue of this Act. Any person owning any interest in any fissionable material at the time of the enactment of this Act, or owning any interest in any material at the time when such material is hereafter determined to be a fissionable material, or who lawfully produces any fissionable material incident to privately financed research or development activities, shall be paid just compensation therefor. The Commission may, by action consistent with the provisions of paragraph (4) below, authorize any such person to retain possession of such fissionable material, but no person shall have any title in or to any fissionable material.

(3) PROHIBITION.—It shall be unlawful for any person to (A) possess or transfer any fissionable material, except as authorized by the Commission; or (B) export from or import into the United States any fissionable material; or (C) directly or indirectly engage in the production of any fissionable material outside of the United States, *except, subject to the limitations and conditions contained in section (10)(a)(3), as authorized by*

the Commission upon a determination by the President that the common defense and security will not be adversely affected thereby.[5]

(4) DISTRIBUTION OF FISSIONABLE MATERIAL.—Without prejudice to its continued ownership thereof, the Commission is authorized to distribute fissionable material owned by it, with or without charge, to applicants requesting such material (A) for the conduct of research or development activities either independently or under contract or other arrangement with the Commission, (B) for use in medical therapy, or (C) for use pursuant to a license issued under the authority of section 7. Such material shall be distributed in such quantities and on such terms that no applicant will be enabled to obtain an amount sufficient to construct a bomb or other military weapon. The Commission is directed to distribute sufficient fissionable material to permit the conduct of widespread independent research and development activity, to the maximum extent practicable. In determining the quantities of fissionable material to be distributed, the Commission shall make such provisions for its own needs and for the conservation of fissionable material as it may determine to be necessary in the national interest for the future development of atomic energy. The Commission shall not distribute any material to any applicant, and shall recall any distributed material from any applicant, who is not equipped to observe or who fails to observe such safety standards to protect health and to minimize danger from explosion or other hazard to life or property as may be established by the Commission, or who uses such material in violation of law or regulation of the Commission or in a manner other than as disclosed in the application therefor.

(5) The Commission is authorized to purchase or otherwise acquire any fissionable material or any interest therein outside the United States, or any interest in facilities for the production of fissionable material, or in real property on which such facilities are located, without regard to the provisions of section 3709 of the Revised Statutes (U.S.C. title 41, sec. 5) upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing that advertising is not reasonably practicable, and partial and advance payments may be made under contracts for such purposes. The Commission is further authorized to take, requisition, or condemn, or otherwise acquire any interest in such facilities or real property, and just compensation shall be made therefor.

(b) SOURCE MATERIALS.—

(1) DEFINITION.—As used in this Act, the term "source material" means uranium, thorium, or any other material which is determined by the Commission, with the approval of the President, to be peculiarly essential to the production of fissionable materials; but includes ores only if they contain one or more of the foregoing materials in such concentration as the Commission may by regulation determine from time to time.

(2) LICENSE FOR TRANSFERS REQUIRED.—Unless authorized by a license issued by the Commission, no person may transfer or deliver, receive possession of or title to, or export from the United States any source material after removal from its place of deposit in nature, except that licenses shall not be required for quantities of source materials which, in the opinion of the Commission, are unimportant.

(3) ISSUANCE OF LICENSES.—The Commission shall establish such standards for the issuance, refusal, or revocation of licenses as it may deem necessary to assure adequate source materials for production, research, or development activities pursuant to this Act or to prevent the use of such materials in a manner inconsistent with the national welfare. Licenses shall be issued in accordance with such procedures as the Commission may by regulation establish.

(4) REPORTING.—The Commission is authorized to issue such regulations or orders requiring reports of ownership, possession, extraction, refining, shipment, or other handling of source matrials as it may deem necessary, except that such reports shall not be required with respect to (A) any source material prior to removal from its place of deposit in nature, or (B) quantities of source materials which in the opinion of the Commission are unimportant or the reporting of which will discourage independent prospecting for new deposits.

(5) ACQUISITION.—The Commission is authorized to the extent it deems necessary to effectuate the provisions of this Act—

(A) to purchase, take, requisition, condemn, or otherwise acquire supplies of fissionable source materials or any interest in real property containing deposits of fissionable source materials; and

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[5]The language of sec. 5 (a) (3) (42 U.S.C. 1805), which was amended on Oct. 30, 1951, by Public Law 235, 82d Cong. (65 Stat. 692), is shown in italics. (*See* S. 2233 (Oct. 8, 1951) and S. Rept. 894 (Oct. 8, 1951); *see also* H.R. 5646 (Oct. 8, 1951) and H. Rept. 1104 (Oct. 8, 1951).) (For legislative history index to Public Law 235, 82d Cong., see index to S. 2233 in appendix 5.)

In the basic Atomic Energy Act (Public Law 585, 79th Cong., 60 Stat. 755-775, 42 U.S.C. 1801-1819, sec. 5 (a) (3)) read as shown below. The language subsequently changed or omitted by Public Law 235 is shown in italics.

"(3) PROHIBITION.—It shall be unlawful for any person, *after sixty days from the effective date of this Act* to (A) possess or transfer any fissionable material, except as authorized by the Commission, or (B) export from or import into the United States any fissionable material, or (C) directly or indirectly engage in the production of any fissionable material outside of the United States."

(B) to purchase, take, requisition, condemn, or otherwise acquire rights to enter upon any real property deemed by it to have possibilities of containing deposits of fissionable source materials and to conduct prospecting and exploratory operations for such deposits.

Any purchase made under this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes (U.S.C., title 41, sec. 5) upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing that advertising is not reasonably practicable, and partial and advance payments may be made thereunder. The Commission may establish guaranteed prices for all fissionable source materials delivered to it within a specified time. Just compensation shall be made for any property or interest in property purchased, taken, requisitioned, condemned, or otherwise acquired under this paragraph.[9]

(6) OPERATIONS ON LANDS BELONGING TO THE UNITED STATES.—The Commission is authorized, to the extent it deems necessary to effectuate the provisions of this Act, to issue leases or permits for prospecting for, exploration for, mining, or removal of deposits of fissionable source materials (or for any or all of these purposes) in lands belonging to the United States: *Provided*, That, notwithstanding any other provisions of law, such leases or permits may be issued for lands administered for national park, monument, and wildlife purposes only when the President, by Executive order, finds and declares that such action is necessary in the interests of national defense.[10]

(7) PUBLIC LANDS.—No individual, corporation, partnership, or association, which had any part, directly or indirectly, in the development of the atomic energy program, may benefit by any location, entry, or settlement upon the public domain made after such individual, corporation, partnership, or association took part in such program, if such individual, corporation, partnership, or association, by such program, if such individual, corporation, partnership, or association, by reason of having had such part in the development of the atomic energy program, acquired confidential official information as to the existence of deposits of such uranium, thorium, or other fissionable source materials in the specific lands upon which such location, entry, or settlement is made, and subsequent to the date of the enactment of this Act made such location, entry, or settlement or cause the same to be made for his, or its, or their benefit. In cases where any patent, conveyance, lease, permit, or other authorization has been issued, which reserved to the United States fissionable source materials and the right to enter upon the land and prospect for, mine, and remove the same, the head of the department or agency which issued the patent, conveyance, lease, permit, or other authorization shall, on application of the holder thereof, issue a new or supplemental patent, conveyance, lease, permit, or other authorization without such reservation.[11]

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[9]The language of sec. 5 (b) (5) (42 U.S.C. 1805) was amended on August 13, 1954, by Public Law 585, 83d Cong., (68 Stat. 708). For legislative history index to Public Law 585, 83d Cong., see index to S. 3344 in appendix 5.

In the basic Atomic Energy Act (Public Law 585, 79th Cong., 60 Stat. 755-775, 42 U.S.C. 1801-1819), sec. 5 (b) (5) read as shown below:

"(5) ACQUISITION.—The Commission is authorized and directed to purchase, take, requisition, condemn, or otherwise acquire, supplies of source materials or any interest in real property containing deposits of source materials to the extent it deems necessary to effectuate the provisions of this Act. Any purchase made under this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes (U.S.C., title 41, sec. 5) upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing that advertising is not reasonably practicable, and partial and advance payments may be made thereunder. The Commission may establish guaranteed prices for all source materials delivered to it within a specified time. Just compensation shall be made for any property taken, requisitioned, or condemned under this paragraph."

[10]The language of sec. 5 (b) (6) (42 U.S.C. 1805) was amended on August 13, 1954, by Public Law 585, 83d Cong. (68 Stat. 708). For legislative history index to Public Law 585, 83d Cong., see index to S. 3344 in appendix 5.

In the basic Atomic Energy Act (Public Law 585, 79th Cong., 60 Stat. 755-775, 42 U.S.C. 1801-1819) sec. 5 (b) (6) read as shown below:

"(6) EXPLORATION.—The Commission is authorized to conduct and enter into contracts for the conduct of exploratory operations, investigations, and inspections to determine the location, extent, mode of occurrence, use, or conditions of deposits or supplies of source materials, making just compensation for any damage or injury occasioned thereby. Such exploratory operations may be conducted only with the consent of the owner, but such investigations and inspections may be conducted with or without such consent."

[11]The language of sec. 5 (b) (7) (42 U.S.C. 1805) was amended on August 13, 1954, by Public Law 585, 83d Cong. (68 Stat. 708). For legislative history index to Public Law 585, 83d Cong., see index to S. 3344 in appendix 5.

In the basic Atomic Energy Act (Public Law 585, 79th Cong., 60 Stat. 755-775, 42 U.S.C. 1801-1819), sec. 5 (b) (7) read as shown below:

"(7) PUBLIC LANDS.—All uranium, thorium, and all other materials determined pursuant to paragraph (1) of this subsection to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in the public lands are hereby reserved for the use of the United States subject to valid claims, rights, or privileges, existing on the date of the enactment of this Act: *Provided, however*, That no individual, corporation, partnership, or association, which had any part, directly or indirectly, in the development of the atomic bomb project, may benefit by any location, entry, or settlement upon the public domain made after such individual, corporation, partnership, or association took part in such project, if such individual, corporation, partnership, or association, by reason of having had such part in the development of the atomic bomb project, acquired confidential official information as to the existence of deposits of such uranium, thorium, or other materials in the specific lands upon which such location, entry, or settlement is made, and subsequent to the date of the enactment of this Act made such location, entry, or settlement or caused the same to be made for his, its, or their benefit. The Secretary of the Interior shall cause to be inserted in every patent, conveyance, lease, permit, or other authorization hereafter granted to use the public lands or their mineral resources, under any of which there might result the extraction of any materials so reserved, a reservation to the United States of all such materials,

(Continued)

(c) BYPRODUCT MATERIALS.—

(1) DEFINITION.—As used in this Act, the term "byproduct material" means any radioactive material (except fissionable material) yielded in or made radioactive by exposure to the radiation incident to the processes of producing or utilizing fissionable material.

(2) DISTRIBUTION.—The Commission is authorized to distribute, with or without charge, byproduct materials to applicants seeking such materials for research or development activity, medical therapy, industrial uses, or such other useful applications as may be developed. In distributing such materials, the Commission shall give preference to applicants proposing to use such materials in the conduct of research and development activity or medical therapy. The Commission shall not distribute any byproduct materials to any applicant, and shall recall any distributed materials from any applicant, who is not equipped to observe or who fails to observe such safety standards to protect health as may be established by the Commission or who uses such materials in violation of law or regulation of the Commission or in a manner other than as disclosed in the application therefor.

(d) GENERAL PROVISIONS.—The Commission shall not—

(1) distribute any fissionable material to (A) any person for a use which is not under or within the jurisdiction of the United States, (B) any foreign government, or (C) any person within the United States if, in the opinion of the Commission, the distribution of such fissionable material to such person would be inimical to the common defense and security.

(2) license any person to transfer or deliver, receive possession of or title to, or export from the United States any source material if, in the opinion of the Commission, the issuance of a license to such person for such purpose would be inimical to the common defense and security.

MILITARY APPLICATIONS OF ATOMIC ENERGY

SEC. 6. (a) AUTHORITY.—The Commission is authorized to—

(1) conduct experiments and do research and development work in the military application of atomic energy; and

(2) engage in the production of atomic bombs, atomic bomb parts, or other military weapons utilizing fissionable materials; except that such activities shall be carried on only to the extent that the express consent and direction of the President of the United States has been obtained, which consent and direction shall be obtained at least once each year.

The President from time to time may direct the Commission (1) to deliver such quantities of fissionable materials or weapons to the armed forces for such use as he deems necessary in the interest of national defense or (2) to authorize the armed forces to manufacture, produce, or acquire any equipment or device utilizing fissionable material or atomic energy as a military weapon.

(b) PROHIBITION.—It shall be unlawful for any person to manufacture, produce, transfer, or acquire any equipment or device utilizing fissionable material or atomic energy as a military weapon, except as may be authorized by the Commission. Nothing in this subsection shall be deemed to modify the provisions of section 4 of this Act, or to prohibit research activities in respect of military weapons, or to permit the export of any such equipment or device.

UTILIZATION OF ATOMIC ENERGY

SEC. 7. (a) LICENSE REQUIRED.—It shall be unlawful, except as provided in sections 5 (a) (4) (A) or (B) or 6 (a), for any person to manufacture, produce, or export any equipment or device utilizing fissionable material or atomic energy or to utilize fissionable material or atomic energy with or without such equipment or device, except under and in accordance with a license issued by the Commission authorizing such manufacture, production, export, or utilization. No license may permit any such activity if fissionable material is produced incident to such activity, except as provided in sections 3

(Continued)
whether or not of commercial value, together with the right of the United States through its authorized agents or representatives at any time to enter upon the land and prospect for, mine, and remove the same, making just compensation for any damage or injury occasioned thereby. Any lands so patented, conveyed, leased, or otherwise disposed of may be used, and any rights under any such permit or authorization may be exercised, as if no reservation of such materials had been made under this subsection: except that, when such use results in the extraction of any such material from the land in quantities which may not be transferred or delivered without a license under this subsection, such material shall be the property of the Commission and the Commission may require delivery of such material to it by any possessor thereof after such material has been separated as such from the ores in which it was contained. If the Commission requires the delivery of such material to it, it shall pay to the person mining or extracting the same, or to such other person as the Commission determines to be entitled thereto, such sums, including profits, as the Commission deems fair and reasonable for the discovery, mining, development, production, extraction, and other services performed with respect to such material prior to such delivery, but such payment shall not include any amount on account of the value of such material before removal from its place of deposit in nature. If the Commission does not require delivery of such material to it, the reservation made pursuant to this paragraph shall be of no further force or effect."

and 4. Nothing in this section shall be deemed to require a license for the conduct of research or development activities relating to the manufacture of such equipment or devices or the utilization of fissionable material or atomic energy, or for the manufacture or use of equipment or devices for medical therapy.

(b) REPORT TO CONGRESS.—Whenever in its opinion any industrial, commercial, or other nonmilitary use of fissionable material or atomic energy has been sufficiently developed to be of practical value, the Commission shall prepare a report to the President stating all the facts with respect to such use, the Commission's estimate of the social, political, economic, and international effects of such use and the Commission's recommendations for necessary or desirable supplemental legislation. The President shall then transmit this report to the Congress together with his recommendations. No license for any manufacture, production, export, or use shall be issued by the Commission under this section until after (1) a report with respect to such manufacture, production, export, or use has been filed with the Congress; and (2) a period of ninety days in which the Congress was in session has elapsed after the report has been so filed. In computing such period of ninety days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days.

(c) ISSUANCE OF LICENSES.—After such ninety-day period, unless hereafter prohibited by law, the Commission may license such manufacture, production, export, or use in accordance with such procedures and subject to such conditions as it may by regulation establish to effectuate the provisions of this Act. The Commission is authorized and directed to issue licenses on a nonexclusive basis and to supply to the extent available appropriate quantities of fissionable material to licensees (1) whose proposed activities will serve some useful purpose proportionate to the quantities of fissionable material to be consumed; (2) who are equipped to observe such safety standards to protect health and to minimize danger from explosion or other hazard to life or property as the Commission may establish; and (3) who agree to make available to the Commission such technical information and data concerning their activities pursuant to such licenses as the Commission may determine necessary to encourage similar activities by as many licensees as possible. Each such license shall be issued for a specified period, shall be revocable at any time by the Commission in accordance with such procedures as the Commission may establish, and may be renewed upon the expiration of such period. Where activities under any license might serve to maintain or to foster the growth of monopoly, restraint of trade, unlawful competition, or other trade position inimical to the entry of new, freely competitive enterprises in the field, the Commission is authorized and directed to refuse to issue such license or to establish such conditions to prevent these results as the Commission, in consultation with the Attorney General, may determine. The Commission shall report promptly to the Attorney General any information it may have with respect to any utilization of fissionable material or atomic energy which appears to have these results. No license may be given to any person for activities which are not under or within the jurisdiction of the United States, to any foreign government, or to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security.

(d) BYPRODUCT POWER.—If energy which may be utilized is produced in the production of fissionable material, such energy may be used by the Commission, transferred to other Government agencies, or sold to public or private utilities under contracts providing for reasonable resale prices.

INTERNATIONAL ARRANGEMENTS

SEC. 8. (a) DEFINITION.—As used in this Act, the term "international arrangement" shall mean any treaty approved by the Senate or international agreement hereafter approved by the Congress, during the time such treaty or agreement is in full force and effect.

(b) EFFECT OF INTERNATIONAL ARRANGEMENTS.—Any provision of this Act or any action of the Commission to the extent that it conflicts with the provisions of any international arrangement made after the date of enactment of this Act shall be deemed to be of no further force or effect.

(c) POLICIES CONTAINED IN INTERNATIONAL ARRANGEMENTS.—In the performance of its functions under this Act, the Commission shall give maximum effect to the policies contained in any such international arrangement.

PROPERTY OF THE COMMISSION

SEC. 9. (a) The President shall direct the transfer to the Commission of all interests owned by the United States or any Government agency in the following property:

(1) All fissionable material; all atomic weapons and parts thereof; all facilities, equipment, and materials for the processing, production, or utilization of fissionable material or atomic energy; all processes and technical information of any kind, and the source thereof (including data, drawings, specifications, patents, patent applications,

and other sources (sic) relating to the processing, production, or utilization of fissionable material or atomic energy; and all contracts, agreements, leases, patents, applications for patents, inventions and discoveries (whether patented or unpatented), and other rights of any kind concerning any such items;

(2) All facilities, equipment, and materials, devoted primarily to atomic energy research and development; and

(3) Such other property owned by or in the custody or control of the Manhattan Engineer District or other Government agencies as the President may determine.

(b) In order to render financial assistance to those States and localities in which the activities of the Commission are carried on and in which the Commission has acquired property previously subject to State and local taxation, the Commission is authorized to make payments to State and local governments in lieu of property taxes. Such payments may be in the amounts, at the times, and upon the terms the Commission deems appropriate, but the Commission shall be guided by the policy of not making payments in excess of the taxes which would have been payable for such property in the condition in which it was acquired, except in cases where special burdens have been cast upon the State or local government by activities of the Commission, the Manhattan Engineer District or their agents. In any such case, any benefit accruing to the State or local government by reason of such activities shall be considered in determining the amount of the payment.[12]

CONTROL OF INFORMATION

SEC. 10. (a) POLICY.—It shall be the policy of the Commission to control the dissemination of restricted data in such a manner as to assure the common defense and security. Consistent with such policy, the Commission shall be guided by the following principles:

(1) That until Congress declares by joint resolution that effective and enforceable international safeguards against the use of atomic energy for destructive purposes have been established, there shall be no exchange of information with other nations with respect to the use of atomic energy for industrial purposes; and

(2) That the dissemination of scientific and technical information relating to atomic energy should be permitted and encouraged so as to provide that free interchange of ideas and criticisms which is essential to scientific progress.

(3) Nothing contained in this section shall prohibit the Commission, when in its unanimous judgment the common defense and security would be substantially promoted and would not be endangered, subject to the limitations hereinafter set out, from entering into specific arrangements involving the communication to another nation of restricted data on refining, purification, and subsequent treatment of source materials; reactor development; production of fissionable materials; and research and development relating to the foregoing: Provided,

(1) that no such arrangement shall involve the communication of restricted data on design and fabrication of atomic weapons;

(2) that no such arrangement shall be entered into with any nation threatening the security of the United States;

(3) that the restricted data involved shall be limited and circumscribed to the maximum degree consistent with the common defense and security objective in view, and that in the judgment of the Commission the recipient nation's security standards applicable to such data are adequate;

(4) that the President after securing the written recommendations of the National Security Council, has determined in writing (incorporating the National Security Council recommendation) that the arrangement would substantially promote and would not endanger the common defense and security of the United States, giving specific consideration to the security sensitivity of the restricted data involved and the adequacy and sufficiency at the security safeguards undertaken to be maintained by the recipient nation; and

(5) that before the arrangement is consummated by the Commission the Joint Committee on Atomic Energy has been fully informed for a period of thirty days in which the Congress was in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days).[13]

(b) RESTRICTIONS.—

(1) The term "restricted data" as used in this section means all data concerning the manufacture or utilization of atomic weapons, the production of fissionable material, or

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[12] Sec. 9 (b) (42 U.S.C. 1809) was amended on August 13, 1953, by Public Law 262, 83d Cong. (67 Stat. 575) by dropping the last sentence of the section. (See S. 671 (Jan. 27, 1953) and S. Rept. 694 (July 28, 1953). For legislative history index to Public Law 262, 83d Cong., see index to S. 671 in appendix 5. This amendment is effective October 1, 1953.

In the basic Atomic Energy Act (Public Law 585, 79th Cong., 60 Stat. 755-775, 42 U.S.C. 1801-1819) the following last sentence was included in sec. 9 (b): "The Commission, and the property, activities, and income of the Commission, are hereby expressly exempted from taxation in any manner or form by any State, county, municipality, or any subdivision thereof."

[13] The language of sec. 10(a)(3) (42 U.S.C. 1810) which was added on October 30, 1951, by Public Law 235, 82d Cong. (65 Stat. 692) is shown above in italics. (See S. 2233 H. Rept. 1104 (Oct. 8, 1951).) (For legislative history index in Public Law 235, 82d Cong., see index to S. 2233 in appendix 5.)

the use of fissionable material in the production of power, but shall not include any data which the Commission from time to time determines may be published without adversely affecting the common defense and security.

(2) Whoever, lawfully or unlawfully, having possession of, access to, control over, or being entrusted with, any document, writing, sketch, photograph, plan, model, instrument, appliance, note or information involving or incorporating restricted data—

(A) communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with intent to injure the United States or with intent to secure an advantage to any foreign nation, upon conviction thereof, shall be punished by death or imprisonment for life (but the penalty of death or imprisonment for life may be imposed only upon recommendation of the jury and only in cases where the offense was committed with intent to injure the United States); or by a fine of not more than $20,000 or imprisonment for not more than twenty years, or both;

(B) communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with reason to believe such data will be utilized to injure the United States or to secure an advantage to any foreign nation, shall, upon conviction, be punished by a fine of not more than $10,000 or imprisonment for not more than ten years, or both.

(3) Whoever, with intent to injure the United States or with intent to secure an advantage to any foreign nation, acquires, or attempts or conspires to acquire any document, writing, sketch, photograph, plan, model, instrument, appliance, note or information involving or incorporating restricted data shall, upon conviction thereof, be punished by death or imprisonment for life (but the penalty of death or imprisonment for life may be imposed only upon recommendation of the jury and only in cases where the offense was committed with intent to injure the United States); or by a fine of not more than $20,000 or imprisonment for not more than twenty years, or both.

(4) Whoever, with intent to injure the United States or with intent to secure an advantage to any foreign nation, removes, conceals, tampers with, alters, mutilates, or destroys any document, writing, sketch, photograph, plan, model, instrument, appliance, or note involving or incorporating restricted data and used by any individual or person in connection with the production of fissionable material, or research or development relating to atomic energy, conducted by the United States, or financed in whole or in part by Federal funds, or conducted with the aid of fissionable material, shall be punished by death or imprisonment for life (but the penalty of death or imprisonment for life may be imposed only upon recommendation of the jury and only in cases where the offense was committed with intent to injure the United States); or by a fine of not more than $20,000 or imprisonment for not more than twenty years or both.

(5) (A) No person shall be prosecuted for any violation under this section unless and until the Attorney General of the United States has advised the Commission with respect to such prosecution and no such prosecution shall be commenced except upon the express direction of the Attorney General of the United States.

(B) (i) No arrangement shall be made under section 3, no contract shall be made or continued in effect under section 4, and no license shall be issued under section 4 (e) or 7, unless the person with whom such arrangement is made, the contractor or prospective contractor, or the prospective licensee agrees in writing not to permit any individual to have access to restricted data until the *Civil Service Commission* shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual and the Commission shall have determined that permitting such person to have access to restricted data will not endanger the common defense or security.[14]

(ii) Except as authorized by the Commission in case of emergency, no individual shall be employed by the Commission until the *Civil Service Commission* shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual.[14]

(iii) Notwithstanding the provisions of subparagraphs (i) and (ii), during such period of time after the enactment of this Act, as may be necessary to make the investigation, report, and determination required by such paragraphs, (a) any individual who was permitted access to restricted data by the Manhattan Engineer District may be permitted access to restricted data and (b) the Commission may employ any individual who was employed by the Manhattan Engineer District.

(iv) *In the event an investigation made pursuant to sections 10(b)(5)(B)(i) and (ii) develops any data reflecting that the individual who is the subject of the investigation is of questionable loyalty, the Civil Service Commission shall refer the matter to the*

[14]Public Law 298, 82d Cong. (66 Stat. 44, ch. 159) amended 11 acts, including sections 10 (b)(5)(i) and (B) (ii) of the Atomic Energy Act of 1946, by "striking therefrom, whenever they appear, the words 'Federal Bureau of Investigation' and inserting in lieu thereof the words 'Civil Service Commission'." For legislative history index to Public Law 137, 83d Cong., see index to H.R. 4905 in appendix 5.

Federal Bureau of Investigation for the conduct of a full field investigation, the results of which shall be furnished to the Civil Service Commission for its information and appropriate action.[15]

(v) *If the President deems it to be in the national interest, he may from time to time cause investigations of any group or class which are required by sections 10(b)(5)(i) and (ii) to be made by the Federal Bureau of Investigation rather than the Civil Service Commission.*[15]

(vi) *Notwithstanding the provisions of sections 10(b)(5)(i) and (ii) above, a majority of the members of the Commission shall certify these specific positions which are of a high degree of importance or sensitivity and upon such certification the investigation and reports required by such provisions shall be made by the Federal Bureau of Investigation rather than by the Civil Service Commission.*[15]

(vii) To protect against the unlawful dissemination of restricted data and to safeguard facilities, equipment, materials, and other property of the Commission, the President shall have authority to utilize the services of any Government agency to the extent he may deem necessary or desirable.[15]

(C) All violations of this Act shall be investigated by the Federal Bureau of Investigation of the Department of Justice.

(6) This section shall not exclude the applicable provisions of any other laws, except that no Government agency shall take any action under such other laws inconsistent with the provisions of this section.

(c) INSPECTIONS, RECORDS, AND REPORTS.—The Commission is—

(1) authorized by regulation or order to require 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 3 and of activities under licenses issued pursuant to section 7 as may be necessary to effectuate the purposes of this Act;

(2) authorized and directed by regulation or order to require regular reports and records with respect to, and to provide for frequent inspections of, the production of fissionable material in the conduct of research and development activities.

PATENTS AND INVENTIONS

SEC. 11. (a) PRODUCTION AND MILITARY UTILIZATION.

(1) No patent shall hereafter be granted for any invention or discovery which is useful solely in the production of fissionable material or in the utilization of fissionable material or atomic energy for a military weapon. Any patent granted for any such invention or discovery is hereby revoked, and just compensation shall be made therefor.

(2) No patent hereafter granted shall confer any rights with respect to any invention or discovery to the extent that such invention or discovery is used in the production of fissionable material or in the utilization of fissionable material or atomic energy for a military weapon. Any rights conferred by any patent heretofore granted for any invention or discovery are hereby revoked to the extent that such invention or discovery is so used, and just compensation shall be made therefor.

(3) Any person who has made or hereafter makes any invention or discovery useful in the production of fissionable material or in the utilization of fissionable material or atomic energy for a military weapon shall file with the Commission a report containing a complete description thereof, unless such invention or discovery is described in an application for a patent filed in the Patent Office by such person within the time required for the filing of such report. The report covering any such invention or discovery shall be filed on or before whichever of the following is the latest: (A) The sixtieth day after the date of enactment of this Act; (B) the sixtieth day after the completion of such invention or discovery; or (C) the sixtieth day after such person first discovers or first has reason to believe that such invention or discovery is useful in such production or utilization.

(b) USE OF INVENTIONS FOR RESEARCH.—No patent hereafter granted shall confer any rights with respect to any invention or discovery to the extent that such invention or discovery is used in the conduct of research or development activities in the fields specified in section 3. Any rights conferred by any patent heretofore granted for any invention or discovery are hereby revoked to the extent that such invention or discovery is so used, and just compensation shall be made therefor.

(c) NONMILITARY UTILIZATION.—

(1) It shall be the duty of the Commission to declare any patent to be affected with the public interest if (A) the invention or discovery covered by the patent utilizes or is essential in the utilization of fissionable material or atomic energy; and (B) the licensing of such invention or discovery under this subsection is necessary to effectuate the policies and purposes of this Act.

(2) Whenever any patent has been declared, pursuant to paragraph (1), to be affected with the public interest—

[15] Former sec. 10(b)(5)(B)(iv) (42 U.S.C. 1810) was renumbered as sec. 10(b)(5)(B)(vii) and new secs. 10(b)(5)(B)(iv), 10(b)(5)(B)(v) and 10(b)(5)(B)(vi) were brought into the Atomic Energy Act of 1946 by Public Law 164, 83d Cong. (67 Stat. 240) (on July 31, 1953). (See S. 2399 (July 15, 1953), and S. Rept. 603 (July 18, 1953); see also H.R. 6305 (July 15, 1953).) For legislative history index to Public Law 164, 83d Cong., see index to S. 2399 in appendix 5.

(A) The Commission is hereby licensed to use the invention or discovery covered by such patent in performing any of its powers under this Act; and

(B) Any person to whom a license has been issued under section 7 is hereby licensed to use the invention or discovery covered by such patent to the extent such invention or discovery is used by him in carrying on the activities authorized by his license under section 7.

The owner of the patent shall be entitled to a reasonable royalty fee for any use of an invention or discovery licensed by this subsection. Such royalty fee may be agreed upon by such owner and the licensee, or in the absence of such agreement shall be determined by the Commission.

(3) No court shall have jurisdiction or power to stay, restrain, or otherwise enjoin the use of any invention or discovery by a licensee, to the extent that such use is licensed by paragraph (2) above, on the ground of infringement of any patent. If in any action for infringement against such licensee the court shall determine that the defendant is exercising such license, the measure of damages shall be the royalty fee determined pursuant to this section, together with such costs, interest, and reasonable attorney's fees as may be fixed by the court. If no royalty fee has been determined, the court shall stay the proceeding until the royalty fee is determined pursuant to this section. If any such licensee shall fail to pay such royalty fee, the patentee may bring an action in any court of competent jurisdiction for such royalty fee, together with such costs, interest, and reasonable attorneys' fees as may be fixed by the court.

(d) ACQUISITION OF PATENTS.—The Commission is authorized to purchase, or to take, requisition, or condemn, and make just compensation for, (1) any invention or discovery which is useful in the production of fissionable material or in the utilization of fissionable material or atomic energy for a military weapon, or which utilizes or is essential in the utilization of fissionable material or atomic energy, or (2) any patent or patent application covering any such invention or discovery. The Commission of Patents shall notify the Commission of all applications for patents heretofore or hereafter filed which in his opinion disclose such inventions or discoveries and shall provide the Commission access to all such applications.

(e) COMPENSATION AWARDS, AND ROYALTIES.—

(1) PATENT COMPENSATION BOARD.—The Commission shall designate a Patent Compensation Board, consisting of two or more employees of the Commission, to consider applications under this subsection.

(2) ELIGIBILITY.—

(A) Any owner of a patent licensed under subsection (c) (2) or any licensee thereunder may make application to the Commission for the determination of a reasonable royalty fee in accordance with such procedures as it by regulation may establish.

(B) Any person seeking to obtain the just compensation provided in subsections (a), (b), or (d) shall make application therefor to the Commission in accordance with such procedures as it may by regulation establish.

(C) Any person making any invention or discovery useful in the production of fissionable material or in the utilization of fissionable material or atomic energy for a military weapon who is not entitled to compensation therefor under subsection (a) and who has complied with subsection (a) (3) above may make application to the Commission for, and the Commission may grant, an award.

(D) Any person making application under this subsection shall have the right to be represented by counsel.

(3) STANDARDS.—

(A) In determining such reasonable royalty fee, the Commission shall take into consideration any defense, general or special, that might be pleaded by a defendant in an action for infringement, the extent to which, if any, such patent was developed through federally financed research, the degree of utility, novelty, and importance of the invention or discovery, and may consider the cost to the owner of the patent of developing such invention or discovery or acquiring such patent.

(B) In determining what constitutes just compensation under subsection (a), (b), or (d) above, and the actual use of such invention or discovery, and may determine that such compensation be paid in periodic payments or in a lump sum.

(C) In determining the amount of any award under paragraph (2) (C) of this subsection, the Commission shall take into account the considerations set forth in paragraph (A) above, and the actual use of such invention or discovery. Awards so made may be paid by the Commission in periodic payments or in a lump sum.

(4) JUDICIAL REVIEW.—Any person aggrieved by any determination of the Commission of an award or of a reasonable royalty fee may obtain a review of such determination in the Court of Appeals for the District of Columbia by filing in such court, within thirty days after notice of such determination, a written petition praying that such determination be set aside. A copy of such petition shall be forthwith served upon the Commission and thereupon the Commission shall file with the court a certified transcript of the entire record in the proceeding, including the findings and conclusions upon which the determination was based. Upon the filing of such transcript the court shall

have exclusive jurisdiction upon the record certified to it to affirm the determination in its entirety or set it aside and remand it to the Commission for further proceedings. The findings of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. The court's judgment shall be final, subject, however, to review by the Supreme Court of the United States upon writ of certiorari on petition therefor under section 240 of the Judicial Code (U.S.C., title 28, sec. 347), by the Commission or any party to the court proceeding.

GENERAL AUTHORITY

SEC. 12. (a) In the performance of its functions the Commission is authorized to—

(1) establish advisory boards to advise with and make recommendations to the Commission on legislation, policies, administration, research, and other matters;

(2) establish by regulation or order such standards and instructions to govern the possession and use of fissionable and byproduct materials as the Commission may deem necessary or desirable to protect health or to minimize danger from explosions and other hazards to life or property;

(3) make such studies and investigations, obtain such information, and hold such hearings as the Commission may deem necessary or proper to assist it in exercising any authority provided in this Act, or in the administration or enforcement of this Act, or any regulations or orders issued thereunder. For such purposes the Commission is authorized to administer oaths and affirmations, and by subpena to require any person to appear and testify, or to appear and produce documents, or both, at any designated place. No person shall be excused from complying with any requirements under this paragraph because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (U.S.C., title 49, sec. 46), shall apply with respect to any individual who specifically claims such privilege. Witnesses subpenaed under this subsection shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States;

(4) appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Commission. Such officers and employees shall be appointed in accordance with the civil-service laws and their compensation fixed in accordance with the Classification Act of 1923, as amended, except that to the extent the Commission deems such action necessary to the discharge of its responsibilities, personnel may be employed and their compensation fixed without regard to such laws. The Commission shall make adequate provisions for administrative review of any determination to dismiss any employee;

(5) acquire such materials, property, equipment, and facilities, establish or construct such buildings and facilities, and modify such buildings and facilities from time to time as it may deem necessary, and construct, acquire, provide, or arrange for such facilities and services (at project sites where such facilities and services are not available) for the housing, health, safety, welfare, and recreation of personnel employed by the Commission as it may deem necessary;

(6) with the consent of the agency concerned, utilize or employ the services or personnel of any Government agency or any State or local government, or voluntary or uncompensated personnel, to perform such functions on its behalf as may appear desirable;

(7) acquire, purchase, lease, and hold real and personal property as agent of and on behalf of the United States and to sell, lease, grant, and dispose of such real and personal property as provided in this Act; and

(8) without regard to the provisions of the Surplus Property Act of 1944 or any other law, make such disposition as it may deem desirable of (A) radioactive materials, and (B) any other property the special disposition of which is, in the opinion of the Commission, in the interest of the national security.

(9) authorize such of its members, officers and employees as it deems necessary in the interest of the common defense and security to carry firearms while in the discharge of their official duties. The Commission may also authorize such of those employees of its contractors engaged in guard duties at facilities owned by the United States as it deems necessary in the interest of the common defense and security to carry firearms while in the discharge of their official duties.[16]

(10) make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this Act.[16]

(b) SECURITY.—The President may, in advance, exempt any specific action of the Commission in a particular matter from the provisions of law relating to contracts whenever he determines that such action is essential in the interest of the common defense and security.

(c) ADVISORY COMMITTEES.—The members of the General Advisory Committee established pursuant to section 2(b) and the members of advisory boards established

[16]Secs. 12 (a) (9) and (10) (42 U.S.C. 1812) were added on July 31, 1953, by Public Law 164, 83d Cong. (67 Stat. 240). (See S. 2399 (July 15, 1953) and S. Rept. 603 (July 15, 1953); see also H.R. 6305 (July 15, 1953).) For legislative history index to Public Law 164, 83d Cong., see index to S. 2399 in appendix 5.

pursuant to subsection (a)(1) of this section may serve as such without regard to the provisions of sections 109 and 113 of the Criminal Code (18 U.S.C., secs. 198 and 203) or section 19(e) of the Contract Settlement Act of 1944, except insofar as such sections may prohibit any such member from receiving compensation in respect of any particular matter which directly involves the Commission or in which the Commission is directly interested.

(d) *The Atomic Energy Commission is authorized in connection with the construction or operation of the Oak Ridge, Paducah, and Portsmouth installations of the Commission, without regard to section 3679 of the Revised Statutes, as amended, to enter into new contracts or modify or confirm existing contracts to provide for electric-utility services for periods not exceeding twenty-five years, and such contracts shall be subject to termination by the Commission upon payment of cancellation costs as provided in such contracts, and any appropriation presently or hereafter made available to the Commission shall be available for the payment of such cancellation costs. Any such cancellation payments shall be taken into consideration in determination of the rate to be charged in the event the Commission or any other agency of the Federal Government shall purchase electric-utility services from the contractor subsequent to the cancellation and during the life of the original contract.*[17]

COMPENSATION FOR PRIVATE PROPERTY ACQUIRED

SEC. 13. (a) The United States shall make just compensation for any property or interests therein taken or requisitioned pursuant to sections 5 and 11. The Commission shall determine such compensation. If the compensation so determined is unsatisfactory to the person entitled thereto, such person shall be paid 50 per centum of the amount so determined, and shall be entitled to sue the United States in the Court of Claims or in any district court of the United States in the manner provided by sections 24 (20) and 145 of the Judicial Code to recover such further sum as added to said 50 per centum will make up such amount as will be just compensation.

(b) In the exercise of the rights of eminent domain and condemnation, proceedings may be instituted under the Act of August 1, 1888 (U.S.C., title 40, sec. 257), or any other applicable Federal statute. Upon or after the filing of the condemnation petition, immediate possession may be taken and the property may be occupied, used, and improved for the purposes of this Act, notwithstanding any other law. Real property acquired by purchase, donation, or other means of transfer may also be occupied, used, and improved for the purposes of this Act, prior to approval of title by the Attorney General.

JUDICIAL REVIEW AND ADMINISTRATIVE PROCEDURE

SEC. 14. (a) Notwithstanding the provisions of section 12 of the Administrative Procedure Act (Public Law 404, Seventy-ninth Congress, approved June 11, 1946) which provide when such Act shall take effect, section 10 of such act (relating to judicial review) shall be applicable, upon the enactment of the Act to any agency action under the authority of this Act or by any agency created by or under the provisions of this Act.

(b) Except as provided in subsection (a), no provision of this Act shall be held to supersede or modify the provisions of the Administrative Procedure Act.

(c) As used in this section the terms "agency action" and "agency" shall have the same meaning as is assigned to such terms in the Administrative Procedure Act.

JOINT COMMITTEE ON ATOMIC ENERGY

SEC. 15 (a) There is hereby established a Joint Committee on Atomic Energy to be composed of nine Members of the Senate to be appointed by the President of the Senate, and nine Members of Representatives. In each instance not more than five members shall be members of the same political party.

(b) The joint committee shall make continuing studies of the activities of the Atomic Energy Commission and of problems relating to the development, use, and control of atomic energy. The Commission shall keep the joint committee fully and currently informed with respect to the Commission's activities. All bills, resolutions, and other matters in the Senate or the House of Representatives relating primarily to the Commission or to the development, use or control of atomic energy shall be referred to the joint committee. The members of the joint committee who are Members of the Senate shall from time to time report to the Senate, and the members of the joint committee who are Members of the House of Representatives shall from time to time report to the House, by bill or otherwise, their recommendations with respect to matters within the jurisdiction of their respective Houses which are (1) referred to the joint committee or (2) otherwise within the jurisdiction of the joint committee.

[17] Sec. 12 (d) (42 U.S.C. 1812) was added on July 17, 1953, by Public Law 137, 83d Cong. (67 Stat. 181). (See H.R. 4905 (Apr. 28, 1953) and H. Rept. 676 (June 26, 1953); see also S. 2239 (June 29, 1953) and S. Rept. 477 (June 29, 1953).) For legislative history index to Public Law 137, 83d Cong., see index to H.R. 4905 in appendix 5.

(c) Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as in the case of the original selection. The joint committee shall select a chairman and a vice chairman from among its members.

(d) The joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The provisions of sections 102 to 104, inclusive, of the Revised Statutes shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section.

(e) The joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistants as it deems necessary and advisable, but the compensation so fixed shall not exceed the compensation prescribed under the Classification Act of 1923, as amended, for comparable duties. The committee is authorized to utilize the services, information, facilities, and personnel of the departments and establishments of the Government. *The committee is authorized to permit such of its members, employees and consultants as it deems necessary in the interest of common defense and security to carry firearms while in the discharge of their official duties for the committee.*[18]

ENFORCEMENT

SEC. 16. (a) Whoever willfully violates, attempts to violate, or conspires to violate, any provision of sections 4(b), 4(e), 5(a)(3), or 6(b) shall, upon conviction thereof, be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both, except that whoever commits such an offense with intent to injure the United States or with intent to secure an advantage to any foreign nation shall, upon conviction thereof, be punished by death or imprisonment for life (but the penalty of death or imprisonment for life may be imposed only upon recommendation of the jury and only in cases where the offense was committed with intent to injure the United States); or by a fine of not more than $20,000 or by imprisonment for not more than twenty years, or both.

(b) Whoever willfully violates, attempts to violate, or conspires to violate, any provision of this Act other than those specified in subsection (a) and other than section 10(b), or of any regulation or order prescribed or issued under sections 5(b)(4), 10(c), or 12(a)(2), shall, upon conviction thereof, be punished by a fine of not more than $5,000 or by imprisonment for not more than two years, or both, except that whoever commits such an offense with intent to injure the United States or with intent to secure an advantage to any foreign nation shall, upon conviction thereof, be punished by a fine of not more than $20,000 or by imprisonment for not more than twenty years, or both.

(c) Whenever in the judgment of the Commission any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act, or any regulation or order issued thereunder, it may make application to the appropriate court for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, and upon a showing by the Commission that such person has engaged or is about to engage in any such acts or practices a permanent or temporary injunction, restraining order, or other order may be granted.

(d) In case of failure or refusal to obey a subpena served upon any person pursuant to section 12(a)(3), the district court for any district in which such person is found or resides or transacts business, upon application by the Commission, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, or both, in accordance with the subpena; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

REPORTS

SEC. 17. The Commission shall submit to the Congress, in January and July of each year, a report concerning the activities of the Commission. The Commission shall include in such report, and shall at such other times as it deems desirable submit to the Congress, such recommendations for additional legislation as the Commission deems necessary or desirable.

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[18] Last sentence to sec. 15 (e) added by Public Law 164, 83d Cong., on July 31, 1953 (67 Stat. 240). (See S. 2399 (July 15, 1953) and S. Rept. 603 (July 18, 1953); see also H.R. 6305 (July 15, 1953).) For legislative history to Public Law 164, 83d Cong., see index to S. 2399 in appendix 5.

DEFINITIONS

SEC. 18. As used in this Act—

(a) The term "atomic energy" shall be construed to mean all forms of energy released in the course of or as a result of nuclear fission or nuclear transformation.

(b) The term "Government agency" means any executive department, commission, independent establishment, corporation wholly or partly owned by the United States which is an instrumentality of the United States, board, bureau, division, service, office, officer, authority, administration, or other establishment, in the executive branch of the Government.

(c) The term "person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, the United States or any agency thereof, any government other than the United States, any political subdivision of any such government, and any legal successor, representative, agent, or agency of the foregoing, or other entity, but shall not include the Commission or officers or employees of the Commission in the exercise of duly authorized functions.

(d) The term "United States," when used in a geographical sense, includes all Territories and possessions of the United States and the Canal Zone.

(e) The term "research and development" means theoretical analysis, exploration, and experimentation, and the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(f) The term "equipment or device utilizing fissionable material or atomic energy" shall be construed to mean any equipment or device capable of making use of fissionable material or peculiarly adapted for making use of atomic energy and any important component part especially designed for such equipment or devices, as determined by the Commission.

(g) The term "facilities for the production of fissionable material" shall be construed to mean any equipment or device capable of such production and any important component part especially designed for such equipment or devices, as determined by the Commission.

APPROPRIATIONS

SEC. 19. There are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act. The Acts appropriating such sums may appropriate specified portions thereof to be accounted for upon the certification of the Commission only. Funds appropriated to the Commission shall, if obligated by contract during the fiscal year for which appropriated, remain available for expenditure for four years following the expiration of the fiscal year for which appropriated. After such four-year period, the unexpended balances of appropriations shall be carried to the surplus fund and covered into the Treasury.

SEPARABILITY OF PROVISIONS

SEC. 20. If any provision of this Act, or the application of such provision to any person or circumstances, is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SHORT TITLE

SEC. 21. This Act may be cited as the "Atomic Energy Act of 1946".

Approved August 1, 1946.

APPENDIX 5

INDEX TO LEGISLATIVE HISTORY OF THE ATOMIC ENERGY ACT OF 1946 AND AMENDMENTS

On August 6, 1945, President Truman announced the first military use of an atomic bomb. Congress was not in session on that date. The House of Representatives pursuant to House Concurrent Resolution 68 had adjourned on July 21 until October 8, 1945. The Senate, on August 1, 1945, adjourned until October 8, 1945, under the terms of the same resolution. On September 1, 1945, "legislative expediency" warranted "reassembly of Congress" on September 5, 1945.

On September 5, 1945, the day the Congress reassembled, the first bill regarding the control of the atomic bomb was introduced by Congressman Bender in the House. It was H.R. 3912, a bill making it a capital offense to disclose information or impart knowledge with respect to the atomic bomb. On the same day, Congressman Ludlow introduced House Resolution 336 which was a "resolution urging action by the United Nations to ban the atomic bomb as an instrument of war."

The first bill introduced in the Senate was introduced on September 6, 1945, by Senator McMahon. It was S. 1359, "a bill to conserve and restrict the use of atomic energy for the national defense, to prohibit its private exploitation, and to preserve the secret and confidential character of information concerning the use and application of atomic energy." On the same day, Senator Vandenberg introduced Senate Concurrent Resolution 28 which had as its purpose " creating a joint committee to investigate the matter of the development, control, and use of atomic energy."

Subsequently a variety of legislation regarding atomic energy consisting of bills and resolutions was introduced in both Houses of Congress. They are listed in the tables below.

NUMBERS OF BILLS AND RESOLUTIONS INTRODUCED IN THE HOUSE OF REPRESENTATIVES DURING THE 79th CONG.

Bill or resolution No.	Author	Congress and session
H.R. 3912	Bender (Ohio)	79th, 1st.
H.R. 3997	Sumners (Texas)	
H.R. 4014	Voorhis (California)	
H.R. 4015	do	
H.R. 4152	Arends (Illinois)	
H.R. 4280	May (Kentucky)	
H.R. 4566	do	
H. Res. 336	Ludlow (Indiana)	
H. Res. 345	O'Toole (New York)	
H. Res. 381	Durham (North Carolina)	
H. Res. 404	Douglas (California)	
H. Con. Res. 83	Harris (Arkansas)	
H. Con. Res. 115	Douglas (California)	
H. Con. Res. 117	Voorhis (California)	
H.J. Res. 292	do	
H.J. Res. 296	Sabath (Illinois)	
H.R. 5230	Celler (New York)	79th, 2d.
H.R. 5364	Douglas (California)	
H.R. 5365	Holifield (California)	
H.R. 6197	Biemiller (Wisconsin	
H. Res. 505	Vinson (Georgia)	
H. Res. 592	Voorhis (California)	
H. Res. 593	Holifield (California)	
H. Res. 594	Woodhouse (Michigan)	
H. Res. 595	Douglas (California)	
H. Res. 596	Biemiller (Wisconsin)	
H. Res. 688	Luce (Connecticut)	
H. Res. 697	Douglas (California)	
H. Res. 708	Sabath (Illinois)	
H. Con. Res. 124	Burgin (North Carolina)	
H. Con. Res. 146	Ludlow (Indiana)	
H.J. Res. 307	Vinson (Georgia)	
H.J. Res. 326	Havenner (California)	

NUMBERS OF BILLS AND RESOLUTIONS RELATING TO ATOMIC ENERGY INTRODUCED IN THE SENATE DURING THE 79TH CONG.

Bill or resolution No.	Author	Congress and session
S. 1359	McMahon (Connecticut)	79th, 1st.
S. 1463	Johnson (Colorado)	
S. 1557	Ball (Minnesota)	
S. 1717	McMahon (Connecticut)	
S. Res. 179	do	
S. Res. 183	Taylor (Idaho)	
S. Res. 186	McKellar (Tennessee)	
S. Res. 206	Hoey (North Carolina)	
S. Con. Res. 28	Vandenberg (Michigan)	
S. Con. Res. 38	Thomas (Utah)	
S.J. Res. 93	Thomas (Utah)	
S.J. Res. 103	Hill (Alabama)	
S. 1824	Johnson (Colorado)	79th, 2d.
S. 2054	Hatch (New Mexico)	
S. Res. 232	McMahon (Connecticut)	
S. Res. 237	do	
	Fulbright (Arkansas)	
S. Res. 255	Kilgore (West Virginia)	
	Mitchell (Washington)	
	Morse (Oregon)	

On October 9, 1945, Senator McMahon introduced Senate Resolution 179, which had as its purpose "creating a special committee to investigate problems relating to the development, use, and control of atomic energy." The resolution was agreed to on October 22, 1945. The resolution, as agreed to, and legislative history index are:

Senate Resolution 179

Resolved, That a special committee on atomic energy to be composed of eleven Members of the Senate appointed by the President pro tempore of the Senate, of whom one shall be desig.ated as chairman by the President pro tempore, is authorized and directed to make a full, complete, and continuing study and investigation with respect to problems relating to the development, use, and control of atomic energy. All bills and resolutions introduced in the Senate, and all bills and resolutions from the House of Representatives proposing legislation relating to the development, use, and control of atomic energy shall be referred to the special committee. The special committee is authorized to report to the Senate at the earliest practicable date by bill or otherwise with recommendations upon any matters covered by this resolution. The existence of this committee shall terminate at the end of the Seventy-ninth Congress.

For the purposes of this resolution the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate in the Seventy-ninth Congress, to employ such experts, and such clerical, stenographic, and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures, as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed $25,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

Legislative history index to Senate Resolution 179
(Page numbers refer to Congressional Record, 79th Cong., 1st sess.)

Introduced and referred to Committee on Interstate Commerce, 9472.
Reported with amendments and referred to the Committee to Audit and Control the Contingent Expenses of the Senate, 9644.
Reported back, 9759.
Debated in Senate 9785-9788, 9888-9894, 9895-9898.
Passed Senate, 9898.

On November 27, 1945, the Senate Special Committee on Atomic Energy began "public hearings on the entire question of the atomic bomb and atomic energy." The public hearings, entitled "Atomic Energy," were published in five parts. They were—

Part 1, November 27, 28, 29, and 30, 1945; December 3, 1945.
Part 2, December 5, 6, 10, and 12, 1945.
Part 3, December 13, 14, 19, and 20, 1945.
Part 4, January 24, 1946.
Part 5, February 15, 1946.

Included in legislation referred to the Senate Special Committee on Atomic Energy was S. 1717, introduced by Senator McMahon on December 20, 1945. S. 1717 (companion bill, H.R. 5364) was ultimately passed by the Congress and became Public Law 585, Seventy-ninth Congress, cited as the Atomic Energy Act of 1946. The legislative history index of S. 1717 is printed below.

Public Law 585, 79th Cong.—S. 1717

For the development and control of atomic energy

(Page references are to Congressional Record, 79th Cong., 2d sess., unless otherwise indicated)

Introduced December 20, 1945.
Mr. McMahon, from the Special Committee on Atomic Energy, 12406. (79th Cong., 1st sess.)
Reported with amendment (S. Rept. 1211), 4031.
Debated, amended, and passed Senate, 6076-6098.
Referred to House Committee on Military Affairs, 6351.
Reported with amendment (H. Rept. 2478), 8602.
Made special order (H. Res. 708), 9135-9144.
Debated in House, 9249-9275, 9340-9386, 9463-9477, 9478-9493, 9495-9562.
Passed House, 9563.
Senate disagrees to House amendments and asks for a conference, 9611.
Conferees appointed, 9663, 10020.
Conference report submitted in Senate and agreed to, 10167.
Conference report (No. 2670) submitted in House and agreed to, 10189-10199.
Examined and signed, 10329, 10411.
Presented to the President, 10412.
Approved [Public Law 585,] 10619.

(*See* hearings entitled "Atomic Energy Act of 1946." before Senate Special Committee on Atomic Energy, Hearings on S. 1717, a bill for the development and control of atomic energy, pts. 1 to 5, dated as follows:
Pt. 1, Jan 22 and 23, 1946;
Pt. 2, January 25, 28, 29, 30, 31, and February 1, 1946;
Pt. 3, February 7, 8, 11, 13, and 14, 1946;
Pt. 4, February 18, 19, and 27, 1946; and
Pt. 5, April 4 and 5, 1946.)

Public Law 898, 80th Cong.—H.R. 6402

Relating to the terms of office of members of the Atomic Energy Commission

(Page references are to Congressional Record, 80th Cong., 2d sess.)

(Introduced April 30, 1948.)
Mr. Cole of New York; Joint Committee on Atomic Energy, 5166.
Reported back (H. Rept. 1973), 6050.
Minority views (H. Rept. 1973, pt. 2), 6348, 6373.
Passed House, 8953.
Debated in Senate (in lieu of S. 2589), 9034, 9067, 9070.
Passed Senate (in lieu of S. 2589), 9073.
Examined and signed, 9354, 9363.
Presented to the President, 9365.
Approved [Public Law 898], 9368.

Public Law 347, 81st Cong.—S. 2372

Relating to the Military Liaison Committee on the Division of Military Application

(Page references are to Congressional Record, 81st Cong., 1st sess.)

(Introduced August 3, 1949.)
Mr. McMahon; Joint Committee on Atomic Energy, 10650.
Reported with amendment (S. Rept. 934), 11732.
Objected to, 12376.
Amended and passed Senate, 12386.
Passed House (in lieu of H.R. 5884), 13557.
Examined and signed, 13638, 13735.
Presented to the President, 13647.
Approved [Public Law 347], 14490.

Public Law 820, 81st Cong.—S. 3437

Relating to the Office of General Manager and to the compensation to be paid members of the Commission

(Page references are to Congressional Record, 81st Cong., 2d sess.)

(Introduced April 17, 1950.)
Mr. McMahon; Joint Committee on Atomic Energy, 5234.
Reported with amendments (S. Rept. 2493), 23803.
Amended and passed Senate, 14664.
Referred to Joint Committee on Atomic Energy, 14872.
Committee discharged, passed House, 15329.
Examined and signed, 15458, 15646.
Presented to the President, 15459.
Approved [Public Law 820], 15771.

Public Law 235, 82d Cong.—S. 2233

Relating to prohibition on production of fissionable materials outside the United States and to communication of restricted data to other nations

(Page references are to Congressional Record, 82d Cong., 1st sess.)

(Introduced October 8, 1951.)
Mr. McMahon, from the Joint Committee on Atomic Energy (S. Rept. 894), 12737.
Ordered placed on Senate Calendar, 12737.
Debated, 12853, 12937, 12938.
Passed Senate, 12941.
Passed House (in lieu of H.R. 5646), 13311.
Examined and signed, 13351, 13405.
Presented to the President, 13409.
Approved [Public Law 235], 13732.

Public Law 298, 82d Cong.—S. 2077

Relating to security clearance investigations being made by the Civil Service Commission in lieu of the FBI

(Page references are to Congressional Record, 82d Cong., 2d sess., except where otherwise indicated)

(Introduced August 30, 1951).
Mr. Johnston (South Carolina), Committee on Post Office and Civil Service 10794 (82d Cong., 1st sess.).
Reported with amendments, 13113 (S. Rept. 950, 82d Cong., 1st sess.).
Objected to, 13535 (82d Cong., 1st sess.).
Amended and passed Senate, 485.
Referred to House Committee on Post Office and Civil Service, 558.
Reported back (H. Rept. 1449), 1658.
Made special order (H. Res. 555), 2140.
Debated, 2143.
Amended and passed House, 2158.
Senate disagrees to House amendment and asks for a conference, 2348.
Conferees appointed, 2348.
House agrees to a conference asked by the Senate, 2437.
Conferees appointed, 2437.
Conference report (No. 1635) submitted in House, 2880.
Conference report submitted in Senate and agreed to, 2934.
House agrees to conference report, 2980.
Examined and signed, 3031, 3134.
Presented to the President, 3034.
Approved, April 5, 1952 [Public Law 298] (omitted in Record).

See hearings entitled "Transfer of Responsibility for Conducting Certain Personnel Investigations" before House Post Office and Civil Service Committee. Hearings on S. 2077 and H.R. 5549 (introduced October 1, 1951, as companion bill to S. 2077), dated Feb. 5, 1952.).

Public Law 262, 83d Cong.—S. 671

Relating to State and local taxation of Atomic Energy Commission property and activities

(Page references are to the Congressional Record, 83d Cong., 1st sess.)

(Introduced January 27, 1953.)
Mr. Kuchel and Mr. Knowland; Joint Committee on Atomic Energy, p. 586.
Reported with amendment (S. Rept. 694), 10056.
Amended and passed Senate, 10506.
Referred to Joint Committee on Atomic Energy, 10742.
Committee discharged; passed House, 10915.
Examined and signed, 10957, 11156.
Presented to the President, 11023.
Approved [Public Law 262], 11102.

Public Law 164, 83d Cong.—S. 2399

Relating to divisions within the AEC; compensation of directors; carrying of firearms; FBI investigations; rule-making

(Page references are to the Congressional Record, 83d Cong., 1st sess.)

(Introduced July 15, 1953.)
Mr. Hickenlooper, from Joint Committee on Atomic Energy (S. Rept. 603), 8846, 9122.
Ordered placed on the calendar, 8846.
Debated, 8985, 9156.
Amended and passed Senate, 9156, 9225.
Passed House, 9438.
Examined and signed, 9499, 9571.
Presented to the President, 9572.
Approved [Public Law 164], 10624.

H.R. 6305—Companion Bill

(Introduced July 15, 1953.)
Mr. Cole of New York; Committee on Atomic Energy, 8932.

Public Law 94, 83d Cong.—H.R. 233

To release all the right, title, and interest of the United States in and to all fissionable materials in certain land in Marion County, Ind.

(Page references are to the Congressional Record, 83d Cong., 1st sess.)

(Introduced January 6, 1953.)
Mr. Brownson; Committee on Interior and Insular Affairs, 57.
Reported back (H. Rept. 177), 2132.
Passed House, 3016.
Referred to Senate Committee on Interior and Insular Affairs, 3055.
Reported back (S. Rept. 524), 8704.
Passed Senate, 9153.
Examined and signed, 9177, 9302.
Presented to the President, 9302.
Approved [Public Law 94], 9950.

Public Law 137, 83d Cong.—H.R. 4905

Relating to purchase of electric services at certain AEC facilities without regard for Section 3679 of the Revised Statutes

(Page references are to the Congressional Record, 83d Cong., 1st sess.)

(Introduced April 28, 1953.)
Mr. Cole of New York; Joint Committee on Atomic Energy, 4154.
Reported with amendment (H. Rept. 676), 7402.
Amended and passed House, 8124.
Ordered placed on the Senate Calendar, 8174.
Passed Senate (in lieu of S. 2239), 8338.
Examined and signed, 8726, 8537, 8418.
Presented to the President, 8537.
Approved [Public Law 137], 9950.

S. 2239—Companion Bill

(Introduced June 29, 1953.)
Mr. Hickenlooper, from Joint Committee on Atomic Energy (S. Rept. 477), 7546.
Ordered placed on the calendar, 7546, 7550.
Objected to, 8002.
Indefinitely postponed (H.R. 4905 passed in lieu), 8338.

Public Law 585, 83d Cong.—S. 3344

Relating to acquisition of source materials by AEC and exploration for and mining of said materials on public lands

(Page references are to Congressional Record, 83d Cong., 2d sess.)

Mr. Millikin and others; referred to Committee on Interior and Insular Affairs, 5464.
Reported with amendments (S. Rept. 1610), 8311.
Ordered placed on the calendar, 8311.
Objected to, 8578.
Debated, 10015, 10019.
Amended and passed Senate, title amended, 10030.
Amended and passed House (in lieu of H.R. 8896), 10945.
Senate disagrees to House amendment and asks for a conference, 11024.
Conferees appointed, 11027.
House insists on its amendment and agrees to a conference, 11285.
Conference appointed, 11285.
Conference report (No. 2552) submitted in House and agreed to, 12562.
Conference report submitted in Senate and agreed to, 12668.
Examined and signed, 13053, 13176.
Presented to the President, 13053.
Approved [Public Law 585], 15095.

H.R. 8896—Companion bill

Mr. Dawson; referred to Committee on Interior and Insular Affairs, 5606.
Reported with amendment (H. Rept. 2028), 9874.
Made special order (H. Res. 639), 10938.
Amended and passed House, 10941.
Proceedings vacated, laid on the table (S. 3344 passed in lieu), 10951.

APPENDIX 6

CROSS REFERENCE CHARTS—ATOMIC ENERGY ACTS OF 1946 AND 1954

New		*Old*
DECLARATION, FINDINGS AND PURPOSE		
Sec.		
1	Declaration	1(a).
2	Findings	
3	Purpose	1(b).
DEFINITIONS		
11a	Agency of the United States	
11b	Agreement for cooperation	
11c	Atomic energy	18(a).
11d	Atomic weapon	
11e	Byproduct material	5(c)(1).
11f	Commission	2(a)(1).
11g	Common defense and security	
11h	Defense information	
11i	Design	
11j	Extraordinary nuclear occurrence	
11k	Financial protection	
11l	Government agency	18(b).
11m	Indemnitor	
11n	International arrangement	8(a).
11o	Joint Committee	
11p	Licensed activity	
11q	Nuclear incident	
11r	Operator	
11s	Person	18(c).
11t	Person indemnified	
11u	Produce	4(a).
11v	Production facility	18(g).
11w	Public liability	
11x	Research and development	18(e).
11y	Restricted data	10(b)(1).
11z	Source material	5(b)(1).
11aa	Special nuclear material	5(a)(1).
11bb	United States	18(d).
11cc	Utilization facility	18f.
ORGANIZATION		
21	Atomic Energy Commission	2(a)(1).
22	Members	2(a)(2).
23	Office	2(a)(3).
24	General Manager, deputy and assistant general managers.	2(a)(4).
25	Divisions, offices and positions	2(a)(4).
26	General Advisory Committee	2(b).
27	Military Liaison Committee	2(c).
28	Appointment of Army, Navy, or Air Force officers.	2(d).
29	Advisory Committee on Reactor Safeguards.	
RESEARCH		
31	Research assistance	3(a).
32	Research by the Commission	3(b).
33	Research for others	

CROSS REFERENCE CHARTS—ATOMIC ENERGY ACTS OF 1946 AND 1954—Continued

New Sec.		*Old*
PRODUCTION OF SPECIAL NUCLEAR MATERIAL		
41	Ownership and operation of production facilities.	4(c).
42	Irradiation of materials	4(d).
43	Acquisition of production facilities	5(a)(5).
44	Disposition of energy	7(d).
SPECIAL NUCLEAR MATERIAL		
51	Special nuclear material	5(a)(1).
53	Domestic distribution of special nuclear material.	5(a)(4).
54	Foreign distribution of special nuclear material.	
55	Acquisition	5(a)(5).
56	Guaranteed purchase prices	
57	Prohibition	5(a)(3) and 5(d).
58	Review	
SOURCE MATERIAL		
61	Source material	5(b)(1).
62	License for transfers required	5(b)(2).
63	Domestic distribution of source material.	5(b)(3).
64	Foreign distribution of source material	
65	Reporting	5(b)(4).
66	Acquisition	5(b)(5)-(6).
67	Operations on lands belonging to the United States.	5(b)(7).
68	Public and acquired lands	5(b)(7).
69	Prohibition	5(d)(2).
BYPRODUCT MATERIAL		
81	Domestic distribution	5(c)(2).
82	Foreign distribution of byproduct material.	
MILITARY APPLICATIONS OF ATOMIC ENERGY		
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APPENDIX 7

List of Amendments to the Atomic Energy Acts, 1946-1982

Public Law 585, 79th Congress (60 Stat. 755)—The Atomic Energy Act of 1946. Approved August 1, 1946.

Public Law 898, 80th Congress (62 Stat. 1259)—To provide for the extension of the terms of office of the present members of the Atomic Energy Commission. Approved July 3, 1948.

Public Law 14, 81st Congress (63 Stat. 11)—To retrocede to the State of New Mexico exclusive jurisdiction held by the United States over lands within the boundaries of the Los Alamos Project of the United States Atomic Energy Commission. Approved March 4, 1949.

Public Law 347, 81st Congress (63 Stat. 762)—To amend the Atomic Energy Act of 1946 (providing for changes in the Military Liaison Committee). Approved October 11, 1949.

Public Law 820, 81st Congress (64 Stat. 979)—To amend the Atomic Energy Act of 1946 (changing compensation to be received by members of the Atomic Energy Commission). Approved September 23, 1950.

Public Law 235, 82d Congress (65 Stat. 692)—To amend the Atomic Energy Act of 1946, as amended (relating to the control of atomic information). Approved October 30, 1951.

Public Law 298, 82d Congress (66 Stat. 44)—To provide for certain investigations by the Civil Service Commission in lieu of the Federal Bureau of Investigation, and for other purposes. Approved April 5, 1952.

Public Law 137, 83d Congress (67 Stat. 181)—To amend the Atomic Energy Act of 1946, as amended (providing for entering into long-term contracts for electric-utility services). Approved July 17, 1953.

Public Law 164, 83d Congress (67 Stat. 757)—To amend the Atomic Energy Act of 1946, as amended (relating to the control of information, FBI investigations, carrying of firearms, etc.). Approved July 31, 1953.

Public Law 262, 83d Congress (67 Stat. 575)—To amend section 9(b) of the Atomic Energy Act of 1946 (relating to the exemption of activities of the Atomic Energy Act from State and local taxation). Approved August 13, 1953.

Public Law 703, 83d Congress (68 Stat. 919)—Atomic Energy Act of 1954 (this act superseded the Atomic Energy Act of 1946). Approved August 30, 1954.

Public Law 31, 84th Congress (69 Stat. 47)—Authorizes the Atomic Energy Commission to construct a principal office building in or near the District of Columbia from funds now available or to be appropriated. Approved May 6, 1955.

Public Law 141, 84th Congress (69 Stat. 366)—To authorize appropriations for the AEC for the acquisition or condemnation of real property or any facility, or for plant or facility acquisition, construction, or expansion, and for other purposes. Approved July 11, 1955.

Public Law 165, 84th Congress (69 Stat. 47)—The Atomic Weapons Rewards Act of 1955—To provide rewards for information concerning the illegal introduction into the United States, or the illegal manufacture or acquisition in the United States of special nuclear materials and atomiland, Wash., and provides for the disposal of federally owned properties of such communities). Approved August 4, 1955.

Public Law 337, 84th Congress (69 Stat. 630)—Authorizes the payment of the salary of a member of the Atomic Energy Commission who is appointed during the recess of Congress, and amends section 21 of the Atomic Energy Act of 1954 relating to the equal authority and responsibility of all AEC Commissioners. Approved August 9, 1955.

Public Law 506, 84th Congress (60 Stat. 127)—To authorize appropriations for the Atomic Energy Commission for acquisition or condemnation of real property or

any facilities, or for plant or facility acquisition, construction, or expansion, and for other purposes. Approved May 3, 1956.

Public Law 722, 84th Congress (70 Stat. 553)—To amend the Atomic Energy Act of 1954, to permit the negotiation of commercial leases at atomic energy communities, and for other purposes. Approved July 14, 1956.

Public Law 802, 84th Congress (70 Stat. 653)—To amend the Atomic Energy Community Act of 1955, and for other purposes. Approved July 25, 1956.

Public Law 981, 84th Congress (70 Stat. 1035)—To amend Public Law 506, 84th Congress, 2d session, to increase the authorization for appropriations to the Atomic Energy Commission for acquisition or condemnation of real property, or any facilities, or for plant or facility acquisition, construction, or expansion, and for other purposes. Approved August 6, 1956.

Public Law 1006, 84th Congress (70 Stat. 1069)—To amend the Atomic Energy Act of 1954, as amended, and for other purposes. Approved August 6, 1956.

Public Law 85-14, 85th Congress (71 Stat. 11)—To amend the Atomic Energy Act of 1954, as amended, and for other purposes (providing that the President may authorize the Atomic Energy Commission to enter into an agreement with the Federal Republic of Germany on behalf of Berlin). Approved April 12, 1957.

Public Law 85-79, 85th Congress (71 Stat. 274)—To amend the Atomic Energy Act of 1954, as amended, and for other purposes (amends section 261—Appropriations—To increase the authorization requirements for appropriations, etc.). Approved July 3, 1957.

Public Law 85-162, 85th Congress (71 Stat. 403)—To authorize appropriations for the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved August 21, 1957.

Public Law 85-177, 85th Congress (71 Stat. 453)—To provide for the appointment of representatives of the United States in the organs of the International Atomic Energy Agency, and to make other provisions with respect to the participation of the United States in that Agency, and for other purposes. Approved August 28, 1957.

Public Law 85-256, 85th Congress (71 Stat. 576)—To amend the Atomic Energy Act of 1954, as amended, and for other purposes (providing for a program of Government indemnification and limitation of liability and establishes an Advisory Committee on Reactor Safeguards). Approved September 2, 1957.

Public Law 85-287, 85th Congress (71 Stat. 612)—To amend the Atomic Energy Act of 1954, as amended, to increase the salaries of certain executives of the Atomic Energy Commission, and for other purposes. Approved September 4, 1957.

Public Law 85-412, 85th Congress (72 Stat. 117)—To amend Public Law 85-162, to increase the authorization for appropriations to the Atomic Energy Commission in accordance with sectin 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved May 16, 1958.

Public Law 85-479, 85th Congress (72 Stat. 276)—To amend the Atomic Energy Act of 1954, as amended, to provide for greater exchange of military information and material with allies. Approved July 2, 1958.

Public Law 85-519, 85th Congress (72 Stat. 358)—To further amend Public Law 85-162, to increase authorization for appropriation for the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purpopses. Approved July 15, 1958.

Public Law 85-590, 85th Congress (72 Stat. 490)—To authorize appropriations for the Atomic Energy Commission for fiscal year 1959 in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved August 4, 1958.

Public Law 85-602, 85th Congress (72 Stat. 525)—To amend the Atomic Energy Act of 1954, as amended, with respect to indemnity agreements for the NS *Savannah*. Approved August 8, 1958.

Public Law 85-681, 85th Congress (72 Stat. 632)—To amend the Atomic Energy Act of 1954, as amended, for various purposes (AEC omnibus bill). Approved August 19, 1958.

Public Law 85-744, 85th Congress (72 Stat. 837)—To amend the Atomic Energy Act of 1954, as amended with respect to indemnity agreements for nonprofit educational institutions. Approved August 23, 1958.

Public Law 85-846, 85th Congress (72 Stat. 1084)—To provide for cooperation with the European Atomic Energy Community. Approved August 28, 1958.

Senate Concurrent Resolution 116, 85th Congress, to approve agreements between the Government of the United States of America and the European Atomic Energy Community (Euratom) signed at Brussels on May 29, 1958, and at Washington on June 19, 1958, concerning cooperation for the advancement of the peaceful application of atomic energy. Passed both Houses of Congress August 20, 1958.

Public Law 86-43, 86th Congress (73 Stat. 73)—To amend section 251 of the Atomic Energy Act of 1954, as amended, to provide for the submission by the Atomic Energy Commission of an annual rather than a semiannual report to Congress. Report to be submitted in January of each year. Approved June 11, 1959.

Public Law 86-44, 86th Congress (73 Stat. 73)—To amend Public Law 85-590 to increase the authorization for appropriations to the Atomic Energy Commission for project 59-c-5, phermex installation, Los Alamos. Approved June 11, 1959.

Public Law 86-50, 86th Congress (73 Stat. 81)—To authorize appropriations for the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes (Authorization Act for fiscal year 1960). Approved June 23, 1959.

Public Law 86-300, 86th Congress (73 Stat. 574)—To amend subsection 161m of the Atomic Energy Act of 1954, as amended with respect to agreements for the reprocessing of irradiated fuel elements. and section 163 of the Atomic Energy Act of 1954, as amended with respect to Atomic Energy Commission advisory committees. Approved September 21, 1959.

Public Law 86-373, 86th Congress (73 Stat. 688)—To amend the Atomic Energy Act of 1954, as amended, by adding a new section 274 with respect to Cooperation with States. Approved September 23, 1959.

Public Law 86-457, 86th Congress (74 Stat. 120)—To authorize appropriations for the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended. Approved May 13, 1960.

Public Law 87-52, 87th Congress (75 Stat. 94)—To authorize construction of community support facilities at Los Alamos County, N. Mex. Approved June 16, 1961.

Public Law 87-174, 87th Congress (75 Stat. 409)—To amend section 53 c. of the Atomic Energy Community Act of 1958. Approved August 30, 1961.

Public Law 87-206, 87th Congress (75 Stat. 475)—To amend various sections of the Atomic Energy Act of 1954, as amended, and the Euratom Cooperation Act of 1958, and for other purposes. Approved September 6, 1961.

Public Law 87-315, 87th Congress (75 Stat. 676)—To authorize appropriations for the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved September 26, 1961.

Public Law 87-363, 87th Congress (75 Stat. 782)—To waive certain provisions of the Atomic Energy Act of 1954 so as to permit the agreement for cooperation between the United States and France to be made immediately effective. Approved October 4, 1961.

Public Law 87-615, 87th Congress (76 Stat. 409)—To amend the Atomic Energy Act of 1954, as amended, and for other purposes. Approved August 29, 1962.

Public Law 87-701, 87th Congress (76 Stat. 599)—To authorize appropriations for the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved September 26, 1962.

Public Law 87-719, 87th Congress (76 Stat. 664)—To amend the Atomic Energy Community Act of 1955, as amended, to provide for the disposal of federally owned properties at Los Alamos, N. Mex., and for other purposes. Approved September 28, 1962.

Public Law 88-72, 88th Congress (77 Stat. 84)—To authorize appropriations for The Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved July 22, 1963.

Public Law 88-189, 88th Congress (77 Stat. 343)—To amend Public Law 88-72 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved November 29, 1963.

Public Law 88-294, 88th Congress (78 Stat. 172)—To amend the Atomic Energy Act of 1954 (amends section 202). Approved March 26, 1964.

Public Law 88-332, 88th Congress (78 Stat. 227)—To authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved June 30, 1964.

Public Law 88-394, 88th Congress (78 Stat. 376)—To amend the Atomic Energy Act of 1954, as amended, the Atomic Energy Community Act of 1955, as amended, and the EURATOM Cooperation Act of 1958, as amended (AEC omnibus bill). Approved August 1, 1964.

Public Law 88-489, 88th Congress (78 Stat. 602)—To amend the Atomic Energy Act of 1954, as amended, and for other purposes (Private Ownership of Special Nuclear Materials Act). Approved August 26, 1964.

Public Law 89-32, 89th Congress (79 Stat. 120)—To authorize appropriations to the Atomic Energy Commission in accordance with Section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved June 2, 1965.

Public Law 89-135, 89th Congress (79 Stat. 551)—To amend section 271 of the Atomic Energy Act of 1954, as amended. Approved August 24, 1965.

Public Law 89-210, 89th Congress (79 Stat. 855)—To amend section 170 of the Atomic Energy Act of 1954, as amended. Approved September 29, 1965.

Public Law 89-428, 89th Congress (89 Stat. 162)—To authorize appropriations to the Atomic Energy Commission in accordance with Section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved May 21, 1966.

Public Law 89-645, 89th Congress (80 Stat. 891)—To amend section 170 of the Atomic Energy Act of 1954, as amended. Approved October 13, 1966.

Public Law 89-648, 89th Congress (80 Stat. 895)—To amend Public Law 89-428 to authorize the Atomic Energy Commission to enter into a cooperative arrangement for a large-scale combination nuclear power-desalting project. Approved October 13, 1966.

Public Law 90-56, 90th Congress (81 Stat. 124)—To authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved July 26, 1967.

Public Law 90-190, 90th Congress (81 Stat. 575)—To amend the Atomic Energy Community Act of 1955, as amended, the Atomic Energy Act of 1954, as amended, and the EURATOM Cooperation Act of 1958, as amended. Approved December 14, 1967.

Public Law 90-289, 90th Congress (82 Stat. 96)—To authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved April 19, 1968.

Public Law 91-44, 91st Congress (83 Stat. 46)—To authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved July 11, 1969.

Public Law 91-161, 91st Congress (83 Stat. 444)—To amend sections 153h, 221c, 222, 223, 224, 225, 226, and add section 234 to the Atomic Energy Act of 1954, as amended. Approved December 24, 1969.

Public Law 91-273, 91st Congress (84 Stat. 299)—To authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved June 2, 1970.

Public Law 91-560, 91st Congress (84 Stat. 1472)—To amend the Atomic Energy Act of 1954, as amended (secs. 31, 56, 196, 103, 104, 105, 161, 182, 191, and 274) to eliminate the requirement for a finding of practical value and for other purposes. Approved December 19, 1970.

Public Law 91-580, 91st Congress (84 Stat. 1565)—To amend Public Law 91-273 to increase authorization of appropriations for fiscal year 1971. Approved December 24, 1960.

Public Law 92-84, 92d Congress (85 Stat. 304)—To authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved August 11, 1971.

Public Law 92-307, 92d Congress (86 Stat. 191)—To authorize the AEC to issue temporary operating licenses for nuclear power reactors under certain circumstances. Approved June 2, 1972.

Public Law 92-314, 9d Congress (86 Stat. 222)—To authorize appropriations to the Atomic Energy Commission in accordance with section 61 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved June 16, 1972.

Public Law 93-60, 93d Congress (77 Stat. 88)—To authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved July 6, 1973.

Public Law 93-88, 93d Congress (81 Stat. 578)—To amend the Euratom Cooperation Act of 1958, as amended. Approved August 14, 1973.

Public Law 93-158, 93d Congress (87 Stat. 627)—To amend Public Law 93-60 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved November 26, 1973.

Public Law 93-276, 93d Congress (88 Stat. 115)—To authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved May 10, 1974.

Public Law 93-377, 93d Congress (88 Stat. 472)—To amend the Atomic Energy Act of 1954, as amended, and the Atomic Weapons Rewards Act of 1955, and for other purposes. Approved August 17, 1974.

Public Law 93-485, 93d Congress (88 Stat. 1460)—To amend the Atomic Energy Act of 1954, as amended, to enable Congress to concur in or disapprove international agreements for cooperation in regard to certain nuclear technology. Approved October 26, 1974.

Public Law 93-513, 93d Congress (88 Stat. 1610)—Assuring compensation for damages caused by nuclear incidents involving the nuclear reactor of a United States Warship. Approved December 6, 1974.

Public Law 93-514, 93d Congress (88 Stat. 1611)—To provide available nuclear information to committees and Members of Congress. Approved December 6, 1974.

Public Law 93-576, 93d Congress (88 Stat. 1878)—To amend Public Law 93-276 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Approved December 31, 1974.

Public Law 93-616, 93d Congress (88 Stat. 1977)—To designate a national laboratory as the "Holifield National Laboratory". Approved January 2, 1975.

Public Law 94-18, 94th Congress (89 Stat. 80)—To authorize supplemental appropriations to the Nuclear Regulatory Commission for fiscal year 1975.

Public Law 94-79, 94th Congress (89 Stat. 413)—To authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and section 305 of the Energy Reorganization Act of 1974, and for other purposes.

Public Law 94-187, 94th Congress (89 Stat. 1063)—To authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

Public Law 94-197, 94th Congress, (89 Stat. 1111)—To amend the Atomic Energy Act of 1954, as amended, to provide for the phaseout of governmental indemnity as a source of funds for public remuneration in the event of a nuclear incident, and for other purposes.

Public Law 94-269, 94th Congress (90 Stat. 371)—To amend Public Law 94-187 to increase the authorization for appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

Public Law 94-291, 94th Congress (90 Stat. 523)—To authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

Public Law 94-473, 94th Congress (90 Stat. 2065)—Joint resolution making continuing appropriations for the fiscal year 1977, and for other purposes.

Public Law 95-26, 95th Congress (91 Stat. 61)—To make supplemental appropriations for the fiscal year ending September 31, 1977, and for other purposes.

Public Law 95-91, 95th Congress (91 Stat. 565)—To establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

Public Law 95-96, 95th Congress (91 Stat. 797)—To make appropriations for public works, for water and power development, and energy research for the fiscal year ending September 30, 1978, and for other purposes.

Public Law 95-110, 95th Congress (91 Stat. 884)—To abolish the Joint Committee on Atomic Energy and to reassign certain functions and authorities thereof, and for other purposes.

Public Law 95-209, 95th Congress (91 Stat. 1481)—To authorize appropriations for the Nuclear Regulatory Commission for the fiscal year 1978, and for other purposes.

Public Law 95-238, 95th Congress (92 Stat. 47)—To authorize appropriations to the Department of Energy, for energy research, development, and demonstration, and related programs in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

Public Law 95-242, 95th Congress (92 Stat. 120)—To provide for more efficient and effective control over the proliferation of nuclear explosive capability.

Public Law 95-601, 95th Congress (92 Stat. 2947)—To authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes.

Public Law 95-604, 95th Congress (92 Stat. 3021)—To authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill tailings under the Atomic Energy Act of 1954, and for other purposes.

Public Law 96-106, 96th Congress (93 Stat. 800)—Surface Transportation Assistance Act of 1978, amendment.

Public Law 96-295, 96th Congress (94 Stat. 780)—To authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1980.

Public Law 97-88, 97th Congress (95 Stat. 1135)—Making appropriations for energy and water development for the fiscal year ending September 30, 1982, and for other purposes.

Public Law 97-90, 97th Congress (95 Stat. 1163)—To authorize appropriations for the Department of Energy for national security programs for fiscal year 1982, and for other purposes.

Public Law 97-377, 97th Congress (96 Stat. 1830)—Making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes.

Public Law 97-415, 97th Congress (96 Stat. 2067)—To authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

APPENDIX 8

EXECUTIVE ORDER 9816

PROVIDING FOR THE TRANSFER OF PROPERTIES AND PERSONNEL TO THE ATOMIC ENERGY COMMISSION

By virtue of the authority vested in me by the Constitution and the statutes, including the Atomic Energy Act of 1946, and as President of the United States and Commander in Chief of the Army and the Navy, it is hereby ordered and directed as follows:

1. There are transferred to the Atomic Energy Commission all interests owned by the United States or any Government agency in the following property:

(a) All fissionable material; all atomic weapons and parts thereof; all facilities, equipment, and materials for the processing, production, or utilization of fissionable material or atomic energy; all processes and technical information of any kind, and the source thereof (including data, drawings, specifications, patents, patent applications, and other sources) relating to the processing, production, or utilization of fissionable material or atomic energy; and all contracts, agreements, leases, patents, applications for patents, inventions and discoveries (whether patented or unpatented), and other rights of any kind concerning any such items.

(b) All facilities, equipment, and materials, devoted primarily to atomic energy research and development.

2. There also are transferred to the Atomic Energy Commission all property, real or personal, tangible or intangible, including records, owned by or in the possession, custody or control of the Manhattan Engineer District, War Department, in addition to the property described in paragraph 1 above. Specific items of such property, including records may be excepted from transfer to the Commission in the following manner:

(a) The Secretary of War shall notify the Commission in writing as to the specific items of property or records he wishes to except; and

(b) If after full examination of the facts by the Commission, it concurs in the exception, those specific items of property or records shall be excepted from transfer to the Commission; or

(c) If after full examination of the facts by the Commission, it does not concur in the exception, the matter shall be referred to the President for decision.

3. The Atomic Energy Commission shall exercise full jurisdiction over all interests and property transferred to the Commission in paragraphs 1 and 2 above, in accordance with the provisions of the Atomic Energy Act of 1946.

4. Any Government agency is authorized to transfer to the Atomic Energy Commission, at the request of the Commission, any property, real or personal, tangible or intangible, acquired or used by such Government agency in connection with any of the property or interests transferred to the Commission by paragraphs 1 and 2 above.

5. Each Government agency shall supply the Atomic Energy Commission with a report on, and an accounting and inventory of, all interests and property, described in paragraphs 1, 2 and 4 above, owned by or in the possession, custody, or control of such Government agency, the form and detail of such report, accounting and inventory, to be determined by mutual agreement, or, in case of nonagreement, by the Director of the Bureau of the Budget.

6. (a) There also are transferred to the Atomic Energy Commission, all civilian officers and employees of the Manhattan Engineer District, War Department, except that the Commission and the Secretary of War may by mutual agreement exclude any of such personnel from transfer to the Commission.

(b) The military and naval personnel heretofore assigned or detailed to the Manhattan Engineer District, War Department shall continue to be made available to the Commission, for military and naval duty, in similar manner, without prejudice to the military or naval status of such personnel, for such periods of time as may be agreed mutually by the Commission and the Secretary of War or the Secretary of the Navy.

7. The assistance and the services, personal or other, including the use of property, heretofore made available by any Government agency to the Manhattan Engineer District, War Department, shall be made available to the Atomic Energy Commission

for the same purposes as heretofore and under the arrangements now existing until terminated after 30 days notice given by the Commission or by the Government agency concerned in each case.

8. The Commission is authorized to exercise all of the powers and functions vested in the Secretary of War by Executive Order No. 9001, of December 27, 1941, as amended, insofar as they relate to contracts heretofore made by or hereby transferred to the Commission.

9. Such further measures and dispositions as may be determined by the Atomic Energy Commission and any Government agency concerned to be necessary to effectuate the transfers authorized or directed by this order shall be carried out in such manner as the Director of the Bureau of the Budget may direct and by such agencies as he may designate.

10. This order shall be effective as of midnight, December 31, 1946.

HARRY S. TRUMAN.

THE WHITE HOUSE.
December 31, 1946.

[F.R. Doc. 46-22112; Filed, Dec. 31, 1946; 5:05 p.m.]

APPENDIX 9

NRC APPROPRIATIONS

(89 STAT. 173)

[PUBLIC LAW 94-32]

[H.R. 5899]

[JUNE 12, 1975]

AN ACT Making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes

Second Supplemental Appropriations Act, 1975.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations (this Act may be cited as the "Second Supplemental Appropriations Act, 1975") for the fiscal year ending June 30, 1975, and for the other purposes, namely:

TITLE I

* * * * *

CHAPTER VIII

* * * * *

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Regulatory Commission as authorized by law, including services as authorized by 5 U.S.C. 3109, $44,400,000, to remain available until expended.

* * * * *

TITLE II

INCREASED PAY COSTS

For additional amounts for appropriations for the fiscal year 1975, for increased pay costs authorized by or pursuant to law, as follows:

* * * * *

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

"Operating expenses", $5,681,000, to remain available until expended;

* * * * *

"Salaries and expenses", $1,540,000, to remain available until expended;

• • • • •

TITLE III

GENERAL PROVISIONS

Fiscal year limitation.

SEC. 301. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 302. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during the fiscal year 1975, limiting the amounts which may be expended for personal services, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

GSA, space and services.

SEC. 303. No part of any appropriation, funds, or other authority contained in this Act shall be available for paying to the Administrator of the General Services Administration in excess of 90 per centum of the standard level user charge established pursuant to section 210 (j) of the Federal Property and Administrative Services Act of 1949, as amended, for space and services.

40 USC 490. Busing.

42 U.S.C. 2000c.

SEC. 304. No part of the funds contained in this Act may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment to any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

Busing.

42 U.S.C. 2000c.

SEC. 305. (a) No part of the funds contained in this Act shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district, or school.

School transportation funds.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school system.

U.S. Postal Service, reimbursement.

SEC. 306. Unobligated balances of operation and maintenance appropriations available to the Department of Defense—Military, in an amount not to exceed $18,950,000 in fiscal year 1973 and $23,891,000 in fiscal year 1974, shall be available to reimburse the United States Postal Service for service rendered to the Department of Defense during those fiscal years.

(89 STAT. 1035)

[PUBLIC LAW 94-180]

[H.R. 8122]

[DECEMBER 26, 1975]

AN ACT Making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the

Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

Public Works for Water and Power Development and Energy Research Appropriation Act, 1976.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions, and for other purposes, namely:

* * * * *

TITLE IV—INDEPENDENT OFFICES

* * * * *

NUCLEAR REGULATORY COMMISSION
SALARIES AND EXPENSES

42 U.S.C. 5801 note.

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, including the employment of aliens; services authorized by 5 U.S.C. 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official entertainment expenses (not to exceed $7,000); reimbursement of the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft; $215,423,000; *Provided,* That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

For "Salaries and expenses" in accordance with the above provisions for the period July 1, 1976, through September 30, 1976, $51,425,000.

* * * * *

TITLE V—GENERAL PROVISIONS

Fiscal year limitation.

* * * * *

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein, except as provided by section 204 of Public Law 93-554.

Space and service charges.

SEC. 502. No part of any appropriation contained in this Act shall be available for paying to the Administrator of the General Services Administration in excess of 90 per centum of the standard level user charge established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended, for space and services.

40 U.S.C. 490.

Short title.

This Act may be cited as the "Public Works for Water and Power Development and Energy Research Appropriation Act, 1976".

(90 Stat. 889)

[PUBLIC LAW 94-355]

[H.R. 14236]

[July 12, 1976]

AN ACT

Making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of

Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending September 30, 1977, and for other purposes.

Public Works for Water and Power Development and Energy Research Appropriation Act, 1977.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1977, for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions, and for other purposes, namely:

• • • • •

TITLE IV—INDEPENDENT OFFICES

• • • • •

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

42 U.S.C. 5801 note.

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, including the employment of aliens; services authorized by 5 U.S.C. 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official entertainment expenses (not to exceed $10,000); reimbursement of the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft; $244,430,000, to remain available until expended: *Provided,* That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* Moneys received by the Commission for the cooperative nuclear safety research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

• • • • •

TITLE V—GENERAL PROVISION

Fiscal year limitation.

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Short title.

This Act may be cited as the "Public Works for Water and Power Development and Energy Research Appropriation Act, 1977".

(91 Stat. 112)

[PUBLIC LAW 95-26]

[H.R. 4877]

Making supplemental appropriations for the fiscal year ending September 30, 1977, and for other purposes.

• • • • •

TITLE II—INCREASED PAY COSTS FOR THE FISCAL YEAR 1977

For additional amounts for appropriation for the fiscal year 1977, for increased pay costs authorized by or pursuant to law, as follows:

• • • • •

NUCLEAR REGULATORY COMMISSION

"Salaries and expenses", $4,350,000, to remain available until expended;

(91 Stat. 807)

[PUBLIC LAW 95-96]

[H.R. 7553]

Making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1978, and for other purposes.

• • • • •

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, including the employment of aliens; services authorized by 5 U.S.C. 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official entertainment expenses (not to exceed $10,000); reimbursement of the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft; $281,42[illegible],000, to remain available until expended: *Provided*, That from thi appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended. 42 U.S.C. 5801 note.

• • • • •

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein. Fiscal year limitation.

This Act may be cited as the "Public Works for Water and Power Development and Energy Research Appropriation Act, 1978". Short title.

Approved August 7, 1977.

(92 Stat. 538)

[PUBLIC LAW 95-355]

[H.R. 13467]

AN ACT Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations (this act may be cited as the "Second Supplemental Appropriations Act, 1978") for the fiscal year ending September 30, 1978, and for other purposes, namely: Second Supplemental Appropriations Act, 1978.

TITLE I

• • • • •

INDEPENDENT AGENCIES

• • • • •

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For an additional amount for "salaries and expenses", $3,600,000, to remain available until expended.

• • • • •

TITLE II—INCREASED PAY COSTS FOR THE FISCAL YEAR 1978

• • • • •

NUCLEAR REGULATORY COMMISSION

"Salaries and expenses", $5,000,000, to remain available until expended;

• • • • •

TITLE III—GENERAL PROVISIONS

Fiscal year limitation.

SEC. 301. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 302. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during the fiscal year 1978, limiting the amounts which may be expended for personal services, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

Approved September 8, 1978.

(92 Stat. 1603)

[PUBLIC LAW 95-482]

[H.J. RES. 1139]

JOINT RESOLUTION

Making continuing appropriations for the fiscal year 1979, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1979.

• • • • •

SEC. 101. (b) Such amounts as may be necessary, notwithstanding any other provision of this joint resolution, for the fiscal year ending September 30, 1979, for programs, projects, and activities to the

extent and in the manner provided for in the Energy and Water Development Appropriation Act, 1979 (H.R. 12928) as enacted by the Congress.[1]

• • • • •

Approved October 18, 1978.

(93 Stat. 449)

[PUBLIC LAW 96-69]

[H.R. 4388]

AN ACT Making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes.

Energy and Water Development Appropriation Act, 1980.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1980, for energy and water development, and for other purposes, namely:

• • • • •

TITLE IV—INDEPENDENT AGENCIES

• • • • •

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

42 USC 5801 note.

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, including the employment of aliens; services authorized by 5 U.S.C. 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official entertainment expenses (not to exceed $12,500); reimbursement of the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft; $363,340,000, to remain available until expended: *Provided*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of 31 U.S.C. 484, and shall remain available until expended: *Provided, further*, That 731 personnel positions shall be allocated exclusively to the Office of Nuclear Reactor Regulation to carry out those responsibilities authorized by law.

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[1] NRC's appropriation (provided for in H.R. 12928) as enacted by Congress is as follows:

"NUCLEAR REGULATORY COMMISSION

"SALARIES AND EXPENSES.—For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, including the employment of aliens; services authorized by 5 U.S.C. 2109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official entertainment expenses (not to exceed $15,000); reimbursement of the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft; $322,301,000, to remain available until expended: *Provided*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended."

* * * * *

TITLE V—GENERAL PROVISION

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Approved September 25, 1979.

(94 Stat. 872)

[PUBLIC LAW 96-304]

[H.R. 7542]

AN ACT Making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes.

Supplemental Appropriations and Rescission Act, 1980.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations (this Act may be cited as the "Supplemental Appropriations and Rescission Act, 1980") for the fiscal year ending September 30, 1980, that the following rescissions of budget authority are made, and for other purposes, namely:

TITLE I

* * * * *

INDEPENDENT AGENCIES

* * * * *

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $31,950,000, to remain available until expended.

* * * * *

TITLE II—INCREASED PAY COSTS FOR THE FISCAL YEAR 1980

* * * * *

NUCLEAR REGULATORY COMMISSION

"Salaries and expenses", $4,810,000;

* * * * *

TITLE III—GENERAL PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 301. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 302. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during the fiscal year 1980, limiting the amounts which may be expended for

personal services, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

Career appointees. 5 USC 5884 note.

SEC. 303. Notwithstanding any other provision of law, the number of career appointees in any agency paid performance awards during fiscal year 1980 under 5 U.S.C. 5384, or any comparable personnel system established on or after October 13, 1978, may not exceed 25 percent of the number of Senior Executive Service or comparable personnel system positions in any such agency.

41 USC 46-48b.

SEC. 304. (a) Out of the total moneys appropriated for the operation of the departments and agencies of the Federal Government for fiscal year 1980, $220,000,000 of this total appropriated for the purchase of furniture is hereby rescinded. Excluded from this rescission are furniture items produced by Federal Prison Industries, Inc., or by sheltered workshops for the blind and other severely handicapped under the auspices of Public Law 92-28: *Provided*, That such items are fully justified by agency needs. The Director of the Office of Management and Budget is directed to allocate this rescission total among the departments and agencies of the Federal Government and report back to the House and the Senate Committees on Appropriations within 30 days following the date of the enactment of this Act as to the allocation made: *Provided further*, That no allocation shall exceed 25 percent of said amount.

93 Stat. 566.

(b) With respect to the provisions of the Treasury, Postal Service and General Government Appropriations Act, 1980, under the heading General Services Administration, Federal Buildings Fund, Limitations on Availability of Revenue, the aggregate amount made available from the revenues and collections deposited into the Federal Buildings Fund pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 4901(f)), for the purposes set forth in the provisions contained under such heading is reduced by $15,000,000, which reduction shall apply specifically to the limitation on rental of space under clause (4) of such provisions.

Unresolved and new audits.

SEC. 305. All unresolved audits currently pending within agencies and departments, for which appropriations are made under this Act, shall be resolved not later than September 30, 1981. Any new audits, involving questioned costs, arising after the enactment of this Act shall be resolved within 6 months.

Delinquent debts.

SEC. 306. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owed to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible.

Funds for consulting services and information submittal to congressional committees. 31 USC 28.

SEC. 307. (a) Effective October 1, 1981, for application in fiscal year 1982, a department, agency, or establishment, as defined by section 2, subchapter I, chapter 1, title 31, United States Code, shall submit annually to the House and Senate Appropriations Committees, as part of its budget justification, the estimated amount of funds requested for consulting services; the appropriation accounts in which these funds are located; and a brief description of the need for these services, including a list of those major programs that require consulting services.

Agency budget controls and progress, submittal to Congress.

(b) Effective October 1, 1981, for application in fiscal year 1982, the Inspector General of such department, agency, or establishment, or comparable official, or if the agency has no Inspector General or comparable official, the agency head or the agency head's designee, shall submit to the Congress along with the agency's budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements.

Approved July 8, 1980.

(94 Stat. 1344)

[PUBLIC LAW 96-367]

[H.R. 7590]

AN ACT Making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes.

Energy and Water Development Appropriation Act, 1981.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1981, for energy and water development, and for other purposes, namely:

• • • • •

TITLE IV—INDEPENDENT AGENCIES

• • • • •

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

42 USC 5801 note.

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, namely the control of atomic energy and the issuance of licenses as authorized by section 103 (42 U.S.C. 2133) so as to make the maximum contribution to the general welfare, promote world peace, increase the standard of living and strengthen free competition in private enterprise, subject at all times to the paramount objective of making the maximum contribution to the common defense and security and to the objective of protecting the health and safety of the public, including the employment of aliens; service authorized by 5 U.S.C. 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official entertainment expenses (not to exceed $3,000); reimbursement of the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft; $447,520,000, to remain available until expended: *Provided,* That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* That moneys received by the Commission for the cooperative nuclear safety research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of 31 U.S.C. 484, and shall remain available until expended.

• • • • •

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 503. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

• • • • •

Short title.

This Act may be cited as the "Energy and Water Development Appropriation Act, 1981".

Approved October 1, 1980.

Public Law 97-88
97th Congress

An Act

Making appropriations for energy and water development for the fiscal year ending September 30, 1982, and for other purposes.

Dec. 4, 1981
[H.R. 4144]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1982, for energy and water development, and for other purposes, namely:

42 USC 5801 note.

* * * * *

TITLE IV—INDEPENDENT AGENCIES

* * * * *

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, including the employment of aliens; services authorized by 5 U.S.C. 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official entertainment expenses (not to exceed $1,500); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft; $465,700,000, to remain available until expended: *Provided*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of 31 U.S.C. 484, and shall remain available until expended: *Provided further*, That transfers between accounts may be made only with the approval of the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That no part of the funds appropriated in this Act may be used to implement section 110 of Public Law 96-295: *Provided further*, That no funds appropriated to the Nuclear Regulatory Commission in this Act may be used to implement or enforce any portion of the Uranium Mill Licensing Requirements published as final rules at 45 Federal Register 65521 to 65538 on October 3, 1980, or to require any State to adopt such requirements in order for the State to continue to exercise authority under State law for uranium mill and mill tailings licensing, or to exercise any rgulatory authority for uranium mill and mill tailings licensing in any State that has acted to exercise such authority under State law: *Provided, however*, That the Commission may use such funds to continue to regulate byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, as amended, in the manner and to the extent permitted prior to October 3, 1980.

42 USC 5801 note.

94 Stat. 785.

42 USC 2014.

* * * * *

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 503. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5

U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 504. None of the funds in this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 505. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 506. None of the funds provided in this Act to any department or agency shall be obligated in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 507. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

SEC. 508. The Senate hereby expresses its intention not to appropriate funds for improvements on the portion of the Black Warrior-Tombigbee Waterway south of Demopolis, Alabama.

Short title.

This Act may be cited as the "Energy and Water Development Appropriation Act, 1982".

Approved December 4, 1981.

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*Public Law 97-377
97th Congress

Joint Resolution

Dec. 21, 1982
[H.J. Res. 631]

Making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes.

Continuing appropriations for fiscal year 1983.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1983, and for other purposes, namely:

• • • • •

TITLE V—GENERAL PROVISIONS

• • • • •

(f) Such amounts as may be necessary for continuing activities which were conducted in fiscal year 1982, for which provision was made in the Energy and Water Development Act, 1982, at the current rate of operations: *Provided,* That no funds under this heading shall be used for further study or construction or in any fashion for a federally funded waterway which extends the Tennessee Tombigbee project south from the city of Demopolis, Alabama: *Provided further,* That no appropriation, fund or authority made available by this joint resolution or any other Act may be used directly or indirectly to significantly alter, modify, dismantle, or otherwise change the normal operation and maintenance required for any civil works project under Department of Defense-Civil, Department of the Army, Corps of Engineers-Civil, Operation and Maintenance, General, and the operation and maintenance activities funded in Flood Control, Mississippi River and Tributaries: *Provided further,* That of such amount, $1,000,000 shall be available only to provide a wider navigation opening at the Franklin Ferry Bridge, Jefferson County, Alabama: *Provided further* That no appropriation or fund made available or

*Note: The printed text of Public Law 97-377 is a reprint of the hand enrollment, signed by the President on December 21, 1982.

authority granted pursuant to this paragraph shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1982 without prior approval of the Committees on Appropriations: *Provided further,* That Department of Energy, Atomic Energy Defense Activities, shall be funded at not to exceed an annual rate for new obligational authority of $5,700,000,000, of which not more than $4,372,000,000 shall be available for operating expenses and not more than $1,328,000,000 shall be available for plant and capital equipment, except that no funds shall be available for Project 82D109: *Provided further,* That no appropriation, fund or authority made available to the Department of Energy by this joint resolution or any other Act, shall be used for any action which would result in a significant reduction of the employment levels for any program or activity below the employment levels in effect on September 30, 1982:

(g) Notwithstanding section 102(c) of this joint resolution, the following amounts are porvided for fiscal year 1983: *Post,* p. 1909.

• • • • •

Sec. 159. Funds in this joint resolution may not be made available for payment to the International Atomic Energy Agency unless the Board of Governors of the International Atomic Energy Agency certifies to the United States Government that the State of Israel is allowed to participate fully as a member nation in the activities of that Agency, and the Secretary of State transmits such certification to the Speaker of the House of Representatives and the President of the United States Senate.

• • • • •

Approved December 21, 1982.

Public Law 98-50
98th Congress

An Act

Making appropriations for energy and water development for the fiscal year ending September 30, 1984, and for other purposes.

July 14, 1983
[H.R. 3132]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1984, for energy and water development, and for other purposes, namely:

Energy and Water Development Appropriation Act, 1984.

TITLE IV—INDEPENDENT AGENCIES

Nuclear Regulatory Commission

SALARIES AND EXPENSES

42 USC 5801 note.

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, including the employment of aliens; services authorized by 5 U.S.C. 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official representation expenses (not to exceed $3,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $465,800,000 to remain available until expended: *Provided,* That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* That moneys received by the Commission for the cooperative nuclear safety research program and the material access authorization program may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of 31 U.S.C. 484, and shall remain available until expended.

96 Stat. 948.
31 USC 3302

Approved July 14, 1983

Public Law 98-360
98th Congress

An Act

Making appropriations for energy and water development for the fiscal year ending September 30, 1985, and for other purposes.

July 16, 1984
[H.R. 5653]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1985, for energy and water development, and for other purposes, namely:

TITLE IV—INDEPENDENT AGENCIES

Nuclear Regulatory Commission

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, including the employment of aliens; services authorized by 5 U.S.C. 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official representation expenses (not to exceed $3,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $448,200,000, to remain available until expended: *Provided,* That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* That moneys received by the Commission for the cooperative nuclear safety research program and the material access authorization program may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended.

42 USC 5801 note.
42 USC 2011 note.

Approved July 16, 1984.

TABULATION OF NUCLEAR REGULATORY COMMISSION APPROPRIATIONS, BY FISCAL YEAR

Appropriation	Amount requested	Date of request	Amount allowed by House	Amount allowed by Senate	Amount appropriated	Difference between request and appropriation (percent)	Date enacted	Public Law
Fiscal year 1976; Regular appropriation	$219,935,000	Feb. 3, 1975	$202,500,000	$215,423,000	$215,423,000	-2.1	Dec. 26, 1975	94-180
Fiscal year 1977; Regular appropriation	249,430,000	Jan. 21, 1976	244,430,000	244,430,000	244,430,000	-2.0	July 12, 1976	94-355
Fiscal year 1978; Regular appropriation	292,250,000	Jan. 17, 1977	277,696,000	285,150,000	281,423,000	-3.7	Aug. 7, 1977	95-96
Fiscal year 1979; Regular appropriation	330,670,000	Jan. 23, 1978	321,487,000	328,287,000	322,301,000	-2.5	Oct. 18, 1978	95-482
1978; Supplemental appropriation	5,350,000	Jan. 23, 1978	3,600,000	3,000,000	3,600,000[1]	-32.7	Sept. 8, 1978	95-355
Fiscal year 1979; Regular appropriation	330,670,000	Jan. 23, 1978	321,487,000	328,287,000	322,301,000	-2.5	Oct. 18, 1978	95-482
Fiscal year 1980; Regular appropriation	373,000,000	Jan. 22, 1979	358,340,000	363,340,000	363,340,000	-2.7	Sept. 25, 2979	96-69
1980; Supplemental appropriation	49,200,000	Dec. 10, 1979	31,950,000	31,950,000	31,950,000[2]	-35.1	July 8, 1980	96-304
Fiscal year 1981; Regular appropriation	468,490,000	Jan. 28, 1980	437,220,000	452,520,000	447,520,000	-4.5	Oct. 1, 1980	96-367
Fiscal year 1982; Regular appropriation	500,700,000[3]	Jan. 19, 1981	477,534,000	465,700,000	465,700,000		Dec. 4, 1981	97-88
Fiscal year 1983; Regular appropriation	479,500,000	Feb. 8, 1982	462,504,000	462,504,000	462,504,000		Dec. 21, 1982	97-377
Fiscal year 1984; Regular appropriation	466,800,000	Jan. 31, 1983	465,800,000	466,800,000	465,800,000		July 14,1983	98-50
Fiscal year 1985; Regular Appropriations			468,200,000	438,200,000	448,200,000		July 16, 1984	98-360

[1]Excludes $5,000,000 pay raise supplemental.
[2]Excludes $4,810,000 pay raise supplemental.
[3]Revised Sept. 30, 1981 to $455,600,000.

APPENDIX 10

AEC Appropriations

Appropriations for the Atomic Energy Program (Fiscal Years 1947-75)

No references to atomic energy will be found in any appropriation bills prior to the passage on July 16, 1946, of the Military Appropriation Act for fiscal year 1947. For security reasons, funds for the atomic bomb project were concealed in appropriations for other purposes.

Appropriated funds disbursed for the atomic energy project before the Atomic Energy Commission began operation under the provisions of the Atomic Energy Act of 1946 are shown in the following tabulation which appeared in the Eleventh Semiannual Report of the Atomic Energy Commission to the Congress of the United States, January 30, 1952. The figures given include not only funds disbursed directly by the Manhattan Engineer District but also relatively small amounts that may have been disbursed by other units in the War Department or by other agencies by fund transfers by the War Department.

Appropriated funds disbursed, net of reimbursements:		
National Defense Research Council		[1]$468,000
Office of Scientific Research and Development		[1]14,624,810
War Department (Manhattan Engineer District):[2]		
Fiscal year 1943	$77,098,355	
Fiscal year 1944	730,321,470	
Fiscal year 1945	858,571,646	
Fiscal year 1946	366,355,447	
Fiscal year 1947 (part)	186,337,067	
		2,218,683,985

[1] Based on published reports.
[2] The Manhattan Engineer District was established on Aug. 13, 1942.

The funds disbursed by the National Defense Research Council and the Office of Scientific Research and Development came principally from direct appropriations to those agencies and from allocations from the President's emergency funds, part of which were authorized for "objects of a confidential nature."

Disbursements by the War Department were made principally from War Department—Military establishment appropriations under the following headings:

"Expediting production of equipment and supplies for national defense, 1940-46"

"Engineer service, Army, 1942-46"

"Atomic service, War Department, 1947-48"

The appropriations cited in the table below authorized funds for a variety of purposes other than the atomic bomb program. No attempt has been made to separate the portions of the funds which were intended exclusively for the purposes of the atomic bomb program.

APPROPRIATIONS UNDER THE TITLE "EXPEDITING PRODUCTION OF EQUIPMENT AND SUPPLIES FOR NATIONAL DEFENSE, 1940-46," IN WAR DEPARTMENT APPROPRIATIONS

Appropriation	Date approved	Citation	Other references
1941:			
First Supplemental National Defense Appropriation Act, 1941 (title II, Military Appropriation Act, 1941).	June 26, 1940	54 Stat. 602, 603	
Second Supplemental National Defense Appropriation Act, 1941 (title III, Military Appropriation Act, 1941).	Sept. 9, 1940	54 Stat. 874	See also Digest of Appropriations for the Support of the Government of the United States, Treasury Dept. Document No. 3108, pp. 671-672.
Third Supplemental National Defense Appropriation Act, 1941 (title IV, Military Appropriation Act, 1941).	Oct. 8, 1940	54 Stat. 970	

APPROPRIATIONS UNDER THE TITLE "EXPEDITING PRODUCTION OF EQUIPMENT AND SUPPLIES FOR NATIONAL DEFENSE, 1940-46," IN WAR DEPARTMENT APPROPRIATIONS —Continued

Appropriation	Date approved	Citation	Other references
1942:			
Military Appropriation Act, 1942	June 30, 1941	55 Stat. 366	See also Digest of Appropriations for the Support of the Government of the United States, Treasury Dept. Document No. 3115, pp. 589, 590.
Fifth Supplemental National Defense Appropriation Act, 1941 (title VI, Military Appropriation Act, 1941).	Apr. 5, 1941	55 Stat. 124	
1943:			
Third Supplemental National Defense Appropriation Act, 1942 (title III, Military Appropriation Act, 1942).	Dec. 17, 1941	55 Stat. 810	
Fourth Supplemental National Defense Appropriation Act, 1942 (title IV, Military Appropriation Act, 1942).	Jan. 30, 1942	56 Stat. 38	
Fifth Supplemental National Defense Appropriation Act, 1942 (title V, Military Appropriation Act, 1942).	Mar. 5, 1942	56 Stat. 128	See also Digest of Appropriations for the Support of the Government of the United States, Treasury Dept. Document No. 3120, p. 706.
1944:			
Military Appropriation Act, 1944	July 1, 1943	57 Stat. 347	See also Digest of Appropriations for the Support of the Government of the United States, Treasury Dept. Document No. 3126, p. 536.
1945:			
Military Appropriation Act, 1945	June 28, 1944	58 Stat. 573	See also Digest of Appropriations for the Support of the Government of the United States, Treasury Dept. Document No. 3131, p. 642.
1946:			
Military Appropriation Act, 1946	July 3, 1945	59 Stat. 384	See also Digest of Appropriations for the Support of the Government of the United States, Treasury Department Document No. 3138, p. 655.
1947:			
First Supplemental Surplus Appropriation Rescission Act, 1946.	Feb. 18, 1946	60 Stat. 13	See also Digest of Appropriations for the Support of the Government of the United States, Treasury Department Document No. 3144, pp. 925-926.

APPROPRIATIONS UNDER THE TITLE "ENGINEER SERVICE, ARMY, 1942-46," AND GENERAL PROVISIONS OF WAR DEPARTMENT APPROPRIATIONS—MILITARY ESTABLISHMENT

Appropriation	Date approved	Citation	Other references
1943:			
Sixth Supplemental National Defense Appropriation Act, 1942 (title VI, Military Appropriation Act, 1942) (Engineer service, Army).	Apr. 28, 1942	56 Stat. 228	See also Digest of Appropriations for the Support of the Government of the United States, Treasury Department Document No. 3120, pp. 736, 737.
Military Appropriation Act, 1943 (including "General provisions," secs. 18 and 19 of this act, 56 Stat. 630-633).	July 2, 1942	56 Stat. 611-	See also Digest of Appropriations for the Support of the Government of the United States, Treasury Department Document No. 3120, pp. 703, 761.
1944:			
Military Appropriation Act, 1944 (including "General provisions," sec. 19 of this act, 57 Stat. 366-370).	July 1, 1943	57 Stat. 347-370.	See also Digest of Appropriations for the Support of the Government of the United States, Treasury Department Document No. 3126, pp. 534, 573.
Military Appropriation Act, 1944 (Engineer service, Army).	..... do	57 Stat. 358, 359.	See also Digest of Appropriations for the Support of the Government of the United States, Treasury Department Document No. 3126, pp. 560-561.

APPROPRIATIONS UNDER THE TITLE "ENGINEER SERVICE, ARMY, 1942-46," AND GENERAL PROVISIONS OF WAR DEPARTMENT APPROPRIATIONS—MILITARY ESTABLISHMENT —Continued

Appropriation	Date approved	Citation	Other references
1945—Continued			
Military Appropriation Act (Engineer service, Army).	..... do	58 Stat. 584-586.	See also Digest of Appropriations for the Support of the Government of the United States, Treasury Department Document No. 3131, pp. 665-666.
1946:			
Military Appropriation Act, 1946 (including "General provisions," sec. 18 of this act, 59 Stat. 403-407).	July 3, 1945	59 Stat. 384-407.	See also Digest of Appropriations for the Support of the Government of the United States, Treasury Department Document No. 3138, pp. 653, 695.
Military Appropriation Act, 1946 (Engineer service, Army).	..... do	59 Stat. 395, 396.	See also Digest of Appropriations for the Support of the Government of the United States, Treasury Department Document No. 3138, pp. 683-684.

APPROPRIATIONS UNDER THE TITLE "ATOMIC SERVICE, WAR DEPARTMENT, 1947 AND 1948," OF WAR DEPARTMENT APPROPRIATIONS—MILITARY ESTABLISHMENT

Appropriation	Date approved	Citation	Other references
1947:			
Military Appropriation Act, 1947	July 16, 1946	60 Stat. 560	See also Digest of Appropriations for the Support of the Government of the United States, Treasury Department, Document No. 3144, p. 971.
First Supplemental Appropriation Act, 1947.	Aug. 8, 1946	60 Stat. 916	See also Digest of Appropriations for the Support of the Government of the United States, Treasury Department Document No. 3144, p. 972.

TABULATION OF ATOMIC ENERGY COMMISSION APPROPRIATIONS, BY FISCAL YEARS, 1947-75

[Figures in parentheses indicate amounts for contract authority. Figures in brackets show breakdown of a particular appropriation. Amounts in brackets and parentheses are not included in final totals for amount requested and amount appropriated]

Appropriation	Amount requested	Date of request	Amount allowed by House	Amount allowed by Senate	Amount appropriated	Difference between request and appropriation (percent)	Date enacted	Public Law No.[1]
Fiscal year 1947	[2] $608,468,565				[2] $608,468,565	0		663 (79) 20 (80)
Fiscal year 1948:								
Independent Offices Appropriation Act, 1948:								
Cash	250,000,000	Jan. 3, 1947	$175,000,000	$175,000,000	175,000,000	-15	July 30, 1947	
Contract authority	(250,000,000)	do	(250,000,000)	(250,000,000)	(250,000,000)		do	269 (80)
First Deficiency Appropriation Act, 1948:								
Contract authority	[3] (200,000,000)	Jan. 22, 1948	(150,000,000)	(150,000,000)	(150,000,000)	[4] -25	May 10, 1948	519 (80)
Fiscal year 1949:								
The Supplemental Independent Office Appropriations Act, 1949:								
Cash	[5] 625,000,000	Jan. 6, 1948	501,850,000	521,850,000	511,850,000		June 30, 1948	
(Cash to liquidate included in appropriation)	[325,000,000]				[250,000,000]	[6] -11	do	862 (80)
Contract authority	(400,000,000)	do	(400,000,000)	(400,000,000)				
2d Deficiency Appropriation Act, 1949: Cash to liquidate	110,000,000	Mar. 2, 1949	110,000,000	110,000,000	110,000,000	0	June 23, 1949	119 (81)
Fiscal year 1950:								
Independent Offices Appropriation Act, 1950:								
Cash	740,000,000	Jan. 3, 1949	702,930,769	702,930,769	702,930,769		Aug. 24, 1949	266 (81)
(Cash to liquidate included in appropriation)	[375,000,000]				(375,000,000)	-7		
Contract authority	(427,000,000)	do	(387,189,628)	(387,189,628)	[387,189,628]		do	422 (81)
Urgent Deficiency Appropriation Act, 1950:								
Contract authority	(87,650,000)	Jan. 25, 1950	(78,885,000)	(78,885,000)	(78,885,000)	-10	Mar. 27, 1950	468 (81)
Fiscal year 1951:								
General Appropriation Act, 1951:								
Cash	[7] 726,160,000	Jan. 3, 1950	647,820,000	647,820,000	647,820,000		Sept. 6, 1950	
(Cash to liquidate included in appropriation)	[460,000,000]				[414,000,000]	[8] -10		
Contract authority	(333,500,000)	do	(300,150,000)	(300,150,000)	(300,150,000)		do	759 (81)
Supplemental Appropriation Act, 1951: Cash	260,000,000	July 7, 1950	260,000,000	260,000,000	260,000,000	0	Sept. 27, 1950	843 (81)
2d Supplemental Appropriation Act, 1951: Cash	1,050,000,000	Dec. 1, 1950	840,000,000	1,080,000,000	1,065,000,000	+1	Jan. 6, 1951	911 (81)
4th Supplemental Appropriation Act, 1951: Cash	[9] 51,300,000	Mar. 31, 1951	46,800,000	[10] 59,323,000	59,323,000	+15	May 31, 1951	43 (82)
Fiscal year 1952:								
Independent Offices Appropriation Act, 1952:								
Cash	1,210,000,000	Jan. 15, 1951	1,139,932,750	1,168,932,750	139,932,750		Aug. 31[2], 195.	
(Cash to liquidate included in appropriation)	[340,000,000]				[340,000,000]			
Supplemental appropriation: Cash	273,000,000	July 31, 1951	260,000,000	271,928,655	265,965,000	-3	Nov. 1, 1951	253 (82)
2d Supplemental Appropriation Act, 1952: Cash	484,240,000	Sept. 15, 1951	200,000,000	200,000,000	200,000,000	-59	do	254 (82)

TABULATION OF ATOMIC ENERGY COMMISSION APPROPRIATIONS, BY FISCAL YEARS, 1947-75—Continued

[Figures in parentheses indicate amounts for contract authority. Figures in brackets show breakdown of a particular appropriation. Amounts in brackets and parentheses are not included in final totals for amount requested and amount appropriated]

Appropriation	Amount requested	Date of request	Amount allowed by House	Amount allowed by Senate	Amount appropriated	Difference between request and appropriation (percent)	Date enacted	Public Law No.[1]
Fiscal year 1953:								
Regular appropriation	1,312,000,000	Jan. 21, 1952	1,137,727,500	+1,137,727,500	1,137,727,500	-13		
Operating expenses			[708,986,500]	[708,986,500]	[708,986,500]		July 5, 1952	455 (82)
Plant and equipment			[371,741,000]	[371,741,000]	[371,741,000]		do	
Liquidation of contract authority	[57,000,000]		[57,000,000]	[57,000,000]	[57,000,000]		do	
Supplemental Appropriation Act, 1953	3,191,000,000	May 28, 1952	1,485,000,000	3,659,988,000	2,986,894,000	-6	July 15, 1952	
Operating expenses	[172,400,000]		[35,000,000]	[141,188,000]	[88,094,000]			
				[1,450,000,000]				547 (82)
Plant and equipment	[3,018,600,000]		[1,450,000,000]	[2,068,800,000]	[2,898,800,000]			
Fiscal year 1954:								
Regular appropriation	[10] 1,592,789,000	Jan. 9, 1953	1,057,781,000	1,057,781,000	1,057,781,000	-34	July 27, 1953	149 (83)
Operating expenses	[1,156,418,000]		[891,781,000]	[891,781,000]	[891,781,000]			
Plant and equipment	[437,371,000]	[166,000,000]	[166,000,000]					
Fiscal year 1955:								
Regular appropriation	[11] 1,365,900,000	Jan. 21, 1954	1,189,960,700	1,232,780,300	1,209,844,700	-11	June 24, 1954	428 (83)
Operating expenses	[1,236,500,000]		[1,093,462,300]	[1,102,780,300]	[1,098,962,300]			
Plant and equipment	[129,400,000]		[96,498,400]	[130,000,000]	[110,882,400]			
Fiscal year 1956:								
Regular appropriation	[12] 1,415,600,000		784,477,000	848,700,000	834,227,000	-41		
Operating expenses	[1,120,900,000]	Jan. 17, 1955	[618,000,000]	[575,000,000]	[575,000,000]		July 15, 1955	163 (84)
Plant and equipment	[294,700,000]	June 29, 1955	[166,477,000]	[273,700,000]	[259,227,000]		Aug. 4, 1955	219 (84)
Fiscal year 1957:								
Regular appropriations	[13] 1,816,200,000		1,938,700,000	1,898,700,000	1,898,700,000	+4		
Operating expenses	[1,672,000,000]	Jan. 16, 1956	[1,780,400,000]	[1,780,400,000]	[1,740,400,000]		July 31, 1956	855 (84)
Plant acquisition and construction	[144,200,000]	May 4, 1956	[158,300,000]	[158,300,000]	[158,300,000]		do	855 (84)
Fiscal year 1958:								
Regular appropriation	[14] 2,491,625,000		2,299,718,500	2,323,632,500	2,323,632,500	-7		
Operating expenses	[2,377,000,000]	Jan. 16, 1957	[2,196,556,000]	[2,215,470,000]	[2,215,470,000]		Aug. 28, 1957	175 (85)
Plant acquisition and construction	[114,625,000]	Aug. 21, 1957	[103,162,500]	[108,162,500]	[108,162,500]		do	175 (85)
Fiscal year 1959:								
Regular appropriation	[15] 2,492,000,000		2,605,401,000	2,668,769,000	2,647,335,000	+6		
Operating expenses	[2,288,000,000]	Jan. 13, 1958	[2,375,972,000]	[2,418,840,000]	[2,397,406,000]		Aug. 27, 1958	766 (85)
Plant acquisition and construction	[204,000,000]	May 28, 1958	[229,429,000]	[249,929,000]	[249,929,000]		do	766 (85)
Fiscal year 1960:								
Regular appropriation	[16] 2,604,000,000		2,629,114,000	2,680,414,000	2,651,614,000	+2		
Operating expenses	[2,502,000,000]	Jan. 19, 1959	[2,374,114,000]	[2,410,414,000]	[2,389,114,000]		Aug. 18, 1959	164 (86)
Plant acquisition and construction	[102,000,000]	do	[255,000,000]	[270,000,000]	[262,500,000]		do	164 (86)
Fiscal year 1961:								
Regular appropriation	[17] 2,642,800,000		2,65[illegible],960,000	2,675,960,000	2,663,960,000	+1		
Operating expenses	[2,427,300,000]	Jan. 18, 1960	[2,[illegible]0,560,000]	[2,452,960,000]	[2,451,210,000]		Sept. [illegible] 1960	700 (86)
Plant acquisition and construction	[215,500,000]	do	[208,500,000]	[223,000,000]	[212,750,000]		do	700 (86)
Fiscal year 1962:								
Regular appropriation	[18] 2,598,050,000		2,352,601,000	2,558,961,000	2,547,361,000	-2		
Operating expenses	[2,423,100,000]	Jan. 16, 1961	[2,352,601,000]	[2,353,011,000]	[2,352,001,000]		Sept. 30, 1961	330 (87)
Plant acquisition and construction	[174,950,000]	do	[0]	[205,960,000]	[195,360,000]		do	330 (87)

Fiscal year 1963:								
Regular appropriation	[19] 2,986,833,000		3,122,819,000	3,153,286,000	3,134,969,000	+5		
Operating expenses	[2,700,788,000]	Jan. 18, 1962	[2,860,974,000]	[2,885,391,000]	[2,872,224,000]		Oct. 24, 1962	880 (87)
Plant acquisition and construction	[286,045,000]	do	[261,845,000]	[267,895,000]	[262,745,000]		do	880 (87)
Fiscal year 1964:								
Regular appropriation	[20] 2,893,000,000		2,688,169,000	2,788,219,000	2,742,669,000	-5		
Operating expenses	[2,472,800,000]	Jan. 17, 1963	[2,308,169,000]	[2,369,524,000]	[2,342,669,000]		Dec. 31, 1963	257 (88)
Plant and capital equipment	[420,200,000]	do	[380,000,000]	[418,695,000]	[400,000,000]		do	257 (88)
Fiscal year 1965:								
Regular appropriation	$2,693,000,000		$2,624,073,000	$2,631,008,000	$2,624,573,000	-3		
Operating expenses	[2,323,000,000]	Jan. 21, 1964	[2,261,073,000]	[2,268,008,000]	[2,261,573,000]		Aug. 30, 1964	551 (88)
Plant and capital equipment	[370,000,000]	do	[363,000,000]	[363,000,000]	[363,000,000]		do	511 (88)
Fiscal year 1966:								
Regular appropriation	2,481,000,000		2,354,995,000	2,377,045,000	2,365,895,000	-5.0		
Operating expenses	[2,231,000,000]	Jan. 25, 1965	[2,117,000,000]	[2,132,800,000]	[2,121,900,000]		Oct. 28, 1965	299 (89)
Plant and capital equipment	[250,000,000]	do	[237,995,000]	[244,245,000]	[243,995,000]		do	299 (89)
Fiscal year 1967:								
Regular appropriation	2,263,200,000		2,199,030,000	2,199,030,000	2,199,030,000	3.0		
Operating expenses	[1,985,000,000]	Jan. 24, 1966	[1,923,000,000]	[1,923,000,000]	[1,923,000,000]		Oct. 15, 1966	689 (89)
Plant and capital equipment	[278,200,000]	do	[276,030,000]	[276,030,000]	[276,030,000]			689 (89)
Fiscal year 1968:								
Regular appropriation	[21] 2,493,000,000		2,492,733,000	2,512,035,000	2,509,133,000	+.6		147 (90)
Operating expenses	[2,144,800,000]	Jan. 24, 1967	[2,125,000,000]	[2,142,402,000]	[2,140,000,000]		Nov. 20, 1967	147 (90)
Plant and capital equipment	[348,200,000]	do	[367,733,000]	[369,633,000]	[369,133,000]		do	147 (90)
Fiscal year 1969:								
Regular appropriation	2,754,600,000		2,536,600,000	2,601,800,000	2,570,874,000	-6.7		
Operating expenses	[2,225,600,000]	Jan. 29, 1968	[2,080,000,000]	[2,132,300,000]	[2,109,300,000]		Aug. 12, 1968	479 (90)
Plant and capital equipment	[529,000,000]	do	[456,600,000]	[469,574,000]	[461,574,000]		do	479 (90)
Supplemental Appropriation Act, 1969, Plant and capital equipment	45,000,000	May 23, 1969	45,000,000	45,000,000	45,000,000		July 22, 1969	47 (91)
Fiscal year 1970:								
Regular appropriation	[22] 2,359,585,000		2,227,769,000	2,217,794,000	2,217,769,000	-6.0		
Operating expenses	[1,963,800,000]	Apr. 15, 1969	[1,884,269,000]	[1,840,269,000]	[1,862,269,000]		Dec. 11, 1969	144 (91)
Plant and capital equipment	[395,785,000]	do	[343,500,000]	[377,525,000]	[355,500,000]		do	144 (91)
2d Supplemental Appropriation Act, 1970	6,368,000	Mar. 12, 1970	5,000,000	5,000,000	5,000,000	-21.5	July 6, 1970	305 (91)
Fiscal year 1971:								
Regular appropriation	2,363,000,000		2,325,600,000	2,271,270,000	2,282,760,000	-3.4		
Operating expenses	[2,010,900,000]	Feb. 2, 1970	[1,965,500,000]	[1,919,070,000]	[1,929,160,000]		Oct. 7, 1970	439 (91)
Plant and capital equipment	[352,100,000]	do	[3,600,100,000]	[352,200,000]	[353,600,000]		do	439 (91)
Supplemental appropriation, 1971	25,500,000	Sept. 14, 1970	2,550,000	25,500,000	25,000,000		Jan. 8, 1971	655 (91)
Fiscal year 1972:								
Regular appropriation	[23] 2,338,202,000		2,270,000,000	2,308,720,000	2,294,380,000	-2.0		
Operating expenses	[1,966,751,000]	June 30, 1971	[1,926,000,000]	[1,963,720,000]	[1,950,130,000]		Oct. 5, 1971	134 (92)
Plant and capital equipment	[371,451,000]	June 1, 1971	[344,000,000]	[345,000,000]	[344,250,000]		do	134 (92)
Fiscal year 1973:								
Regular appropriation	[24] 2,657,092,000		2,615,860,000	2,650,745,000	2,633,410,000	-1.0		
Operating expenses	[2,126,182,000]	Mar. 27, 1972	[129,000,000]	[2,150,635,000]	[2,138,800,000]		Aug. 25, 1972	405 (92)
Plant and capital equipment	[530,910,000]	do	[2,486,860,000]	[500,110,000]	[494,610,000]		do	405 (92)
Fiscal year 1974:								
Regular appropriation	2,429,375,000		2,302,388,000	2,348,338,000	2,336,538,000	-3.8		
Operating expenses	[1,754,750,000]	Jan. 29, 1973	[1,681,263,000]	[1,722,563,000]	[1,714,263,000]		Aug. 16, 1973	97 (93)
Plant and capital equipment	[674,625,000]	do	[621,125,000]	[625,775,000]	[622,275,000]		do	97 (93)
Supplemental appropriation	40,700,000		35,500,000	46,500,000	41,300,000	+1.5	Jan. 3, 1974	245 (93)

See footnotes at end of table.

Fiscal year 1974:—Continued								
Operating expenses	[10,700,000]	Oct. 23, 1973	[5,500,000]	[16,500,000]	[11,300,000]	.....	.....	.....
Plant and capital equipment	[30,000,000]	..... do	[30,000,000]	[30,000,000]	[30,000,000]	.....	.....	.....
2d supplemental appropriation	11,644,000	Feb. 4, 1974	11,400,000	11,200,000	11,200,000	-3.8	June 8, 1974	305 (93)
Fiscal year 1975:								
Regular appropriation	3,246,848,000	.....	3,254,175,000	3,238,325,000	3,229,325,000	-.5	.....	.....
Energy research and development:								
Operating expenses	[1,009,890,000]	Feb. 4, 1974	[1,043,790,000]	[1,032,690,000]	[1,032,690,000]	.....	June 30, 1974	322 (93)
Plant and capital equipment	[432,570,000]	..... do	[463,970,000]	[433,970,000]	[453,970,000]	.....	..... do	322 (93)
Public Works:								
Operating expenses	[1,461,633,000]	..... do	[1,428,760,000]	[1,433,960,000]	[1,411,960,000]	.....	Aug. 28, 1974	393 (93)
Plant and capital equipment	[342,755,000]	..... do	[317,655,000]	[337,705,000]	[330,705,000]	.....	..... do	393 (93)
Supplemental appropriation	73,000,000	.....	0	[78,000,000]	34,650,000	-52.5	.....	554 (93)
Operating expenses	[54,700,000]	.....	0	[59,700,000]	[25,500,000]	.....	Dec. 27, 1974	554 (93)
Plant and capital equipment	[18,300,000]	.....	0	[18,300,000]	[9,150,000]	.....	..... do	554 (93)
Total	64,071,019,565	.....	.....	.....	61,009,341,784	-4.8	.....	.....

[1] Numbers in parentheses indicate the Congress during which law was enacted.
[2] This represents the net amount of funds transferred from the War Department.
[3] Revised to $150,000,000 at AEC request by H. Doc. 542, dated Feb. 19, 1948.
[4] Reduced to $550,000,000 at AEC request by H. Doc. 597, dated Apr. 7, 1948.
[5] Reduced to $709,800,000 at AEC request by H. Doc. 457, dated Jan. 27, 1950.
[6] Increased by S. 37.
[7] The report of the House Committee on Appropriations (H. Rept. No. 1110, Oct. 8, 1951) on the 2d supplemental appropriation bill, 1952 (H.R.) states: "In view of the assurance of AEC officials that funds already provided will meet all requirements until early next spring the committee has effected a reduction of $284,200,000 in the supplemental request of $484,200,000 leaving a total of $200,000,000, which will be entirely sufficient to meet any emergency needs for additional funds which may arise prior to the time Congress has had a further opportunity to review the program and the efficiency with which construction work is proceeding." The request was for additional funds for the Savannah River Operations Office.
[8] Cash, including $1,355,398,000 cash to liquidate.
[9] Contract authority.
[10] Reduced to $1,096,000 in revised request on May 18, 1953 (operating expenses $930,000,000; plant and equipment, $166,000,000).
[11] Reduced to $1,342,000,000 in revised request (H. Doc. 348) on Mar. 4, 1954 (operating expenses, $1,105,650,000; plant and equipment, $236,350,000).
[12] Reduced to $1,339,700,000 in revised request on Mar. 31, 1955 (operating expenses, $1,045,000,000; plant and equipment, $294,700,000).
[13] Increased to $1,898,700,000 in revised request (H. Doc. 415) on May 29, 1956 (operating expenses, $1,740,400,000; plant acquisition and construction, $158,300,000).
[14] Reduced to $2,485,625,000 at AEC request during hearings before the House Committee on Appropriations (operating expenses, $2,371,000,000; plant acquisition and construction, $114,625,000).
[15] Increased to $2,647,000,000 in revised request (H. Doc. 388 dated May 28, 1958, and S. Doc. 113 dated Aug. 1, 1958). Operating expenses increased to $2,443,000,000.
[16] Increased to $2,687,300 in revised request (H. Doc. 179, June 18, 1959). Operating expenses reduced to $2,417,300,000 and plant acquisition and construction increased to $270,000,000.
[17] Increased to $2,675,300,000 in revised request (H. Doc. 387, May 16, 1960). Operating expenses increased to $2,459,800,000.
[18] Increased to $2,628,150,000 in revised request (H. Doc. 125, May 28, 1961). Operating expenses decreased to $2,359,400,000 and plant acquisition and construction increased to $268,750,000.
[19] Increased to $3,220,933,000 in revised requests (H. Doc. 409, May 21, 1962, and H. Doc. 467, July 9, 1962). Operating expenses increased to $2,888,588,000 and plant acquisition and construction increased to $332,345,000.
[20] Decreased to $2,849,645,000 in revised requests (H. Doc. 105, Apr. 22, 1962, H. Doc. 166, Oct. 15, 1963). Operating expenses decreased to $2,423,500,000 and plant and capital equipment increased to $426,145,000.
[21] Increased to $2,646,100,000 in revised requests (H. Doc. 62, Feb. 28, 1967, H. Doc. 80, Mar. 9, 1967, H. Doc. 111, Apr. 24, 1967). Operating expenses increased to $2,169,900,000 and plant and capital equipment increased to $476,200,000.
[22] Final request of new administration. Original budget submission on Jan. 15, 1969, requested $2,438,135,000 of which $2,037,500,000 was for operating expenses and $400,635,000 was fo. plant and capital equipment.
[23] Final amended request. Original budget submission on Jan. 29, 1971, requested $2,250,931,000. Amendments were submitted on Apr. 19, May 27, and June 30. (See H. Docs. 92-93, 92-116, and 92, 138).
[24] Appropriation for operating expenses increased $2,844,000 (to $1,952,974,000) and plant and capital equipment decreased $2,844,000 (to $341,406,000) under Public Law 92-306, Second Supplemental Appropriations Act, 1972, dated May 27, 1972, to provide funds for pay raise. (Actual transfer was $2,800,000.)
[25] Final amended request. Original budget submissions on Jan. 24, 1972, requested $2,563,140,000. Amendments were submitted on Mar. 20 and 26. (See H. Docs. 92-267 and 92-269.)
[26] None of the $73,000,000 was recommended for appropriation by the House since required authorizing legislation had not been enacted into law.

APPENDIX II

NUCLEAR NON-PROLIFERATION ACT OF 1978

[PUBLIC LAW 95-242]

[H.R. 8638]

[92 STAT. 120]

AN ACT

To provide for more efficient and effective control over the proliferation of nuclear explosive capability.

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 Non-Proliferation Act of 1978". Nuclear Non-Proliferation Act of 1978. 22 USC 3201 note.

STATEMENT OF POLICY

SEC. 2. The Congress fines and declares that the proliferation of nuclear explosive devices or of the direct capability to manufacture or otherwise acquire such devices poses a grave threat to the security interests of the United States and to continue international progress toward world peace and development. Recent events emphasize the urgency of this threat and the imperative need to increase the effectiveness of international safeguards and controls on peaceful nuclear activities to prevent proliferation. Accordingly, it is the policy of the United States to— 22 U.S.C. 3201.

(a) actively pursue through international initiatives mechanisms for fuel supply assurances and the establishment of more effective international controls over the transfer and use of nuclear materials and equipment and nuclear technology for peaceful purposes in order to prevent proliferation, including the establishment of common international sanctions;

(b) take such actions as are required to confirm the reliability of the United States in meeting its commitments to supply nuclear reactors and fuel to nations which adhere to effective non-prliferation policies by establishing procedures to facilitate the timely processing of requests for subsequent arrangements and export licenses;

(c) strongly encourage nations which have not ratified the Treaty on the Non-Proliferation of Nuclear Weapons to do so at the earliest possible data; and

(d) cooperate with foreign nations in identifying and adapting suitable technologies for energy production and, in particular, to identify alternative options to nuclear power in aiding such nations to meet their energy needs, consistent with the economic and material resources of those nations and environmental protection.

STATEMENT OF PURPOSE

SEC. 3. It is the purpose of this Act to promote the policies set forth above by— 22 U.S.C. 3202.

(a) establishing a more effective framework for international cooperation to meet the energy needs of all nations and to ensure that the worldwide development of peaceful nuclear activities and the export by any nation of nuclear materials and equipment

and nuclear technology intended for use in peaceful nuclear activities do not contribute to proliferation;

(b) authorizing the United States to take such actions as are required to ensure that it will act reliably in meeting its commitment to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies;

(c) providing incentives to the other natyons of the w‡rld to join in such international cooperative efforts and to ratify the Treaty; and

(d) ensuring effective controls by the United States over its exports of nuclear materials and equipment and of nuclear technology.

DEFINITION

SEC. 4. (a) As used in this Act, the term—

22 U.S.C. 3203.

(1) "Commission" means the Nuclear Regulatory Commission;

(2) "Director" means the Director of the Arms Control and Disarmament Agency;

(3) "IAEA" means International Atomic Energy Agency;

(4) "nuclear materials and equipment" means source material, special nuclear material, production facilities, utilization facilities, and components, items or substances determined to have significance for nuclear explosive purposes pursuant to subsection 109 b. of the 1954 Act;

Post, p. 141.

(5) "physical security measures" means measures to reasonably ensure that source or special nuclear material will only be used for authorized purposes and to prevent theft and sabotage;

(6) "sensitive nuclear technology" means any information (including information incorporated in a production or utilization facility or important component part thereof) which is not available to the public and which is important to the design, construction, fabrication, operation or maintenance of a uranium enrichment of nuclear fuel reprocessing facility or a facility for the production of heavy water, but shall not include Restricted Data controlled pursuant to chapter 12 of the 1954 Act;

42 U.S.C. 2011 note.

(7) "1954" Act" means the Atomic Energy Act of 1954, as amended; and

(8) "the Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons.

(b) All other terms used in this Act not defined in this section shall have the meanings ascribed to them by the 1954 Act, the Energy Reorganization Act of 1974, and the Treaty.

42 U.S.C. 5801 note.

TITLE I—UNITED STATES INITIATIVES TO PROVIDE ADEQUATE NUCLEAR FUEL SUPPLY

POLICY

SEC. 101. The United States, as a matter of national policy, shall take such actions and institute such measures as may be necessary and feasible to assure other nations and groups of nations that may seek to utilize the benefits of atomic energy for peaceful purposes that it will provide a reliable supply of nuclear fuel to those nations and groups of nations which adhere to policies designed to prevent proliferation. Such nuclear fuel shall be provided under agreements entered into pursuant to section 161 of the 1954 Act or as otherwise authorized by law. The United States shall ensure that it will have available the capacity on a long-term basis to enter into new fuel supply commitments consistent with its nonproliferation policies and domestic energy needs. The Commission shall, on a timely basis, authorize the export of nuclear materials and equipment when all the applicable statutory requirements are met.

22 U.S.C. 3221.

42 U.S.C. 2201.

URANIUM ENRICHMENT CAPACITY

SEC. 102. The Secretary of Energy is directed to initiate construction planning and design, construction, and operation activities for expansion of uranium enrichment capacity, as elsewhere provided by law. Further the Secretary as well as the Nuclear Regulatory Commission, the Secretary of State, and the Director of the Arms Control and

22 U.S.C. 3222.

Disarmament Agency are directed to establish and implement procedures which will ensure to the maximum extent feasible, consistent with this Act, orderly processing of subsequent arrangements and export licenses with minimum time delay.

REPORT

SEC. 103. The President shall promptly undertake a study to determine the need for additional United States enrichment capacity to meet domestic and foreign needs and to promote United States nonproliferation objectives abroad. The President shall report to the Congress on the results of this study within twelve months after the date of enactment of this Act.

Study.
22 U.S.C. 3222 note.

Report to Congress.

INTERNATIONAL UNDERTAKING

SEC. 104. (a) Consistent with section 105 of this Act, the President shall institute prompt discussions with other nations and groups of nations, including both supplier and recipient nations, to develop international approaches for meeting future worldwide nuclear fuel needs. In particular, the President is authorized and urged to seek to negotiate as soon as practicable with nations possessing nuclear fuel production facilities or material, and such other nations and groups of nations, such as the IAEA, as may be deemed appropriate, with a view toward the timely establishment of binding international undertakings providing for—

Discussions and negotiations.
22 U.S.C. 3223.

(1) the establishment of an international nuclear fuel authority (INFA) with responsibility for providing agreed fuel services and allocating agreed upon quantities of fuel resources to ensure fuel supply on reasonable terms in accordance with agreements between INFA and supplier and recipient nations;

(2) a set of conditions consistent with subsection (d) under which international fuel assurances under INFA auspices will be provided to recipient nations, including conditions which will ensure that the transferred materials will not be used for nuclear explosive devices;

(3) devising, consistent with the policy goals set forth in section 403 of this Act, feasible and environmentally sound approaches for the siting, development, and management under effective international auspices and inspection of facilities for the provision of nuclear fuel services, including the storage of special nuclear material;

(4) the establishment of repositories for the storage of spent nuclear reactor fuel under effective international auspices and inspection;

(5) the establishment of arrangements under which nations placing spent fuel in such repositories would receive appropriate compensation for the energy content of such spent fuel if recovery of such energy content is deemed necessary or desirable; and

(6) sanctions for violations of the provisions of or for abrogation of such binding international undertakings.

(b) The President shall submit to Congress not later than six months after the date of enactment of this Act proposals for initial fuel assurances, including creation of an interim stockpile of uranium enriched to less than 20 percent in the uranium isotope 235 (low-enriched uranium) to be available for transfer pursuant to a sales arrangement to nations which adhere to strict policies designed to prevent proliferation when and if necessary to ensure continuity of nuclear fuel supply to such nations. Such submission shall include proposals for the transfer of low-enriched uranium up to an amount sufficient to produce 100,000 NWe years of power from light water nuclear reactors, and shall also include proposals for seeking contributions from other supplier nations to such an interim stockpile pending the establishment of INFA.

Proposals, submitted to Congress.

(c) The President shall, in the report required by section 103, also address the desirability of and options for foreign participation, including investment, in new United States uranium enrichment facilities. This report shall also address the arrangements that would be required to implement such participation and the commitments that would be required as a condition of such participation. This report shall be accompanied by any proposed legislation to implement these arrangements.

Proposed legislation.

(d) The fuel assurances contemplated by this section shall be for the benefit of nations that adhere to policies designed to prevent proliferation. In negotiating the binding international undertakings called for in this section, the President shall, in particular, seek to ensure that the benefits of such undertakings are available to non-nuclear-weapon states only if such states accept IAEA safeguards on all their peaceful nuclear activities, do not manufacture or otherwise acquire any nuclear explosive device; do not establish any new enrichment or reprocessing facilities under their de facto or de jure control, and place any such existing facilities under effective international auspices and inspection.

(e) The report required by section 601 shall include information on the progress made in any negotiations pursuant to this section.

(f)(1) The President may not enter into any binding international undertaking negotiated pursuant to subsection (a) which is not a treaty until such time as such proposed undertaking has been submitted to the Congress and has been approved by concurrent resolution.

(2) The proposals prepared pursuant to subsection (b) shall be submitted to the Congress as part of an annual authorization Act for the Department of Energy.

REEVALUATION OF NUCLEAR FUEL CYCLE

22 U.S.C. 3224.

SEC. 105. The President shall take immediate initiatives to invite all nuclear supplier and recipient nations to reevaluate all aspects of the nuclear fuel cycle, with emphasis on alternatives to an economy based on the separation of pure plutonium or the presence of high enriched uranium, methods to deal with spent fuel storage, and methods to improve the safeguards for existing nuclear technology. The President shall, in the first report required by section 601, detail the progress of such international reevaluation.

TITLE II—UNITED STATES INITIATIVES TO STRENGTHEN THE INTERNATIONAL SAFEGUARDS SYSTEM

POLICY

22 U.S.C. 3241.

SEC. 201. The United States is committed to continued strong support for the principles of the Treaty on the Non-Proliferation of Nuclear Weapons, to a strengthened and more effective International Atomic Energy Agency and to a comprehensive safeguards system administered by the Agency to deter proliferation. Accordingly, the United States shall seek to act with other nations to—

(a) continue to strengthen the safeguards program of the IAEA and, in order to implement this section, contribute funds, technical resources, and other support to assist the IAEA in effectively implementing safeguards;

(b) ensure that the IAEA has the resources to carry out the provisions of Article XII of the Statute of the IAEA;

(c) improve the IAEA safeguards system (including accountability) to ensure—

(1) the timely detection of a possible diversion of source or special nuclear materials which could be used for nuclear explosive devices;

(2) the timely dissemination of information regarding such diversion; and

(3) the timely implementation of internationally agreed procedures in the event of such diversion;

(d) ensure that the IAEA receives on a timely basis the data needed for it to administer an effective comprehensive international safeguards program and that the IAEA provides timely notice to the world community of any evidence of a violation of any safeguards agreement to which it is a party; and

(e) encourage the IAEA, to the maximum degree consistent with the Statute, to provide nations which supply nuclear materials and equipment with the data needed to assure such nations of adherence to bilateral commitments applicable to such supply.

TRAINING PROGRAM

22 U.S.C. 3242

SEC. 202 The Department of Energy, in consultation with the Commission, shall establish and operate a safeguards and physical

security training program to be made available to persons from nations and groups of nations which have developed or acquired, or may be expected to develop or acquire, nuclear materials and equipment for use for peaceful purposes. Any such program shall include training in the most advanced safeguards and physical security techniques and technology, consistent with the national security interests of the United States.

NEGOTIATIONS

SEC. 203. The United States shall seek to negotiate with other nations and groups of nations to— 22 U.S.C. 3243

(1) adopt general principles and procedures, including common international sanctions, to be followed in the event that a nation violates any material obligation with respect to the peaceful use of nuclear materials and equipment or nuclear technology, or in the event that any nation violates the principles of the Treaty, including the detonation by a non-nuclear-weapon state of a nuclear explosive device; and

(2) establish international procedures to be followed in the event of diversion, theft, or sabotage of nuclear materials or sabotage of nuclear facilities, and for recovering nuclear mateerials that have been lost or stolen, or obtained or used by a nation or by any person or group in contravention of the principles of the Treaty.

TITLE III—EXPORT ORGANIZATION AND CRITERIA

GOVERNMENT-TO-GOVERNMENT TRANSFERS

SEC. 301. (a) Section 54 of the 1954 Act is amended by adding a new subsection d. thereof as follows: *Post*, p. 131. 42 U.S.C. 2074.

"d. The authority to distribute special nuclear material under this section other than under an export license granted by the Nuclear Regulatory Commission shall extend only to the following small quantities of special nuclear material (in no event more than five hundred grams per year of the uranium isotope 233, the uranium isotope 235, or plutonium contained in special nuclear material to any recipient):

"(1) which are contained in laboratory samples, medical devices, or monitoring or other instruments; or

"(2) the distribution of which is needed to deal with an emergency situation in which time is of the essence."

(b) Section 64 of the 1954 Act is amended by inserting the following immediately after the second sentence thereof: "The authority to distribute source material under this section other than under an export license granted by the Nuclear Regulatory Commission shall in no case extend to quantities of source material in excess of three metric tons per year per recipient.". 42 U.S.C. 2094.

(c) Chapter 10 of the 1954 Act is amended by adding a new section 111 as follows:

SEC. 111. a. The Nuclear Regulatory Commission is authorized to license the distribution of special nuclear material, source material, and byproduct material by the Department of Energy pursuant to section 54, 64, and 82 of this Act, respectively, in accordance with the same procedures established by law for the export licensing of such material by any person: *Provided*, That nothing in this section shall require the licensing of the distribution of byproduct material by the Department of Energy under section 82 of this Act. 42 U.S.C. 2141. *Supra*. 42 U.S.C. 2112.

"b. The Department of Energy shall not distribute any special nuclear material or source material under section 54 or 64 of this Act other than under an export license issued by the Nuclear Regulatory Commission until (1) the Department has obtained the concurrence of the Department of State and has consulted with the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, and the Department of Defense under mutually agreed procedures which shall be established within not more than ninety days after the date of enactment of this provision and (2) the Department finds based on a reasonable judgment of the assurances provided and the information available to the United States Government, that the criteria in section 127 of this Act or their equivalent and any applicable criteria in *Post*, p. 136.

Post, p. 137.

subsection 128 are met, and that the proposed distribution would not be inimical to the common defense and security.".

Special nuclear material, production. Technology transfers. 42 U.S.C. 2077. *Post*, p. 142.

SEC. 302. Subsection 57 b. of the 1954 Act is amended to read as follows:

"b. It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) as specifically authorized under an agreement for cooperation made pursuant to section 123, including a specific authorization in a subsequent arrangement under section 131 of this Act, or (2) upon authorization by the Secretary of Energy after a determination that such activity will not be inimical to the interest of the United States: *Provided*, That any such determination by the Secretary of Energy shall be made only with the concurrence of the Department of State and after consultation with the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, the Department of Commerce, and the Department of Defense. The Secretary of Energy shall, within ninety days after the enactment of the Nuclear Non-Proliferation Act of 1978, establish orderly and expeditious procedures, including provision for necessary administrative actions and inter-agency memoranda of understanding, which are mutually agreeable to the Secretaries of State, Defense, and Commerce, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission for the consideration of requests for authorization under this subsection. Such procedures shall include, at a minimum, explicit direction on the handling of such requests, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an interagency coordinating authority to monitor the processing of such requests, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of interagency administrative coordinators to review the status of all pending requests, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial requests should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurances or evidentiary showing, for the decision required under this subsection. The processing of any request proposed and filed as of the date of enactment of the Nuclear Non-Proliferation Act of 1978 shall not be delayed pending the development and establishment of procedures to implement the requirements of this subsection. Any trade secrets or proprietary information submitted by any person seeking an authorization under this subsection shall be afforded the maximum degree of protection allowable by law: *Provided further*, That the export of component parts as defined in subsection 11 v. (2) or 11 cc. (2) shall be governed by sections 109 and 126 of this Act: *Provided further*, That notwithstanding subsection 402(d) of the Department of Energy Organization Act (Public Law 95-91), the Secretary of Energy and not the Federal Energy Regulatory Commission, shall have sole jurisdiction within the Department of Energy over any matter arising from any function of the Secretary of Energy in this section, section 54 d., section 64, or section 111 b.".

Authorization requests, procedures.

Standards and criteria.

Trade secrets, protection

42 U.S.C. 2014. *Post*, pp. 131, 141.

42 U.S.C. 7172.

Ante, p. 125. 42 U.S.C. 2074, 2094.

SUBSEQUENT ARRANGEMENTS

SEC. 303. (a) Chapter 11 of the 1954 Act, as amended by sections 304, 305, 306, 307, and 308, is further amended by adding at the end thereof the following:

"SEC. 131. SUBSEQUENT ARRANGEMENTS.-

42 U.S.C. 2160. Consultation.

"a. (1) Prior to entering into any proposed subsequent arrangement under an agreement for cooperation (other than an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of this Act), the Secretary of Energy shall obtain the concurrence of the Secretary of State and shall consult with the Director, the Commission, and the Secretary of Defense: *Provided*, That the Secretary of State shall have the leading role in any negotiations of a policy nature pertaining to any proposed subsequent arrangement regarding

42 U.S.C. 2121, 2164.

arrangements for the storage or disposition of irradiated fuel elements or approvals for the transfer, for which prior approval is required under an agreement for cooperation, by a recipient of source or special nuclear material, production or utilization facilities, or nuclear technology. Notice of any proposed subsequent arrangement shall be published in the Federal Register, together with the written determination of the Secretary of Energy that such arrangement will not be inimical to the common defense and security, and such proposed subsequent arrangement shall not take effect before fifteen days after publication. Whenever the Director declares that he intends to prepare a Nuclear Proliferation Assessment Statement pursuant to paragraph (2) of this subsection, notice of the proposed subsequent arrangement which is the subject of the Director's declaration shall not be published until after the receipt by the Secretary of Energy of such Statement or the expiration of the time authorized by subsection c. for the preparation of such Statement, whichever occurs first.

Notice, publication in the Federal Register.

"(2) If in the Director's view a proposed subsequent arrangement might significantly contribute to proliferation, he may prepare an unclassified Nuclear Proliferation Assessment Statement with regard to such proposed subsequent arrangement regarding the adequacy of the safeguards and other control mechanisms and the application of the peaceful use assurances of the relevant agreement to ensure that assistance to be furnished pursuant to the subsequent arrangement will not be used to further any military or nuclear explosive purpose. For the purposes of this section, the term 'subsequent arrangements' means arrangements entered into by any agency or department of the United States Government with respect to cooperation with any nation or group of nations (but not purely private or domestic arrangements) involving—

Nuclear Proliferation Assessment Statement.

"Subsequent arrangements."

"(A) contracts for the furnishing of nuclear materials and equipment;

Contracts.

(B) approvals for the transfer, for which prior approval is required under an agreement for cooperation, by a recipient of any source or special nuclear material, production or utilization facility, or nuclear technology;

"(C) authorization for the distribution of nuclear materials and equipment pursuant to this Act which is not subject to the procedures set forth in section 111 b., section 126, or section 109 b.;

Ante, p. 125. *Post*, pp. 131, 141.

"(D) arrangements for physical security;

"(E) arrangements for the storage or disposition of irradiated fuel elements;

"(F) arrangements for the application of safeguards with respect to nuclear materials and equipment; or

"(G) any other arrangement which the President finds to be important from the standpoint of preventing proliferation.

"(3) The United States will give timely consideration to all requests for prior approval, when required by this Act, for the reprocessing of material proposed to be exported, previously exported and subject to the applicable agreement for cooperation, or special nuclear material produced through the use of such material or a production or utilization facility transferred pursuant to such agreement for cooperation, or to the altering of irradiated fuel elements containing such material, and additionally, to the maximum extent feasible, will attempt to expedite such consideration when the terms and conditions for such actions are set forth in such agreement for cooperation or in some other international agreement executed by the United States and subject to congressional review procedures comparable to those set forth in section 123 of this Act.

"(4) All other statutory requirements under other sections of this Act for the approval or conduct of any arrangement subject to this subsection shall continue to apply and any other such requirements for prior approval or conditions for entering such arrangements shall also be satisfied before the arrangement takes effect pursuant to subsection a. (1).

Post, p. 142.

"b. With regard to any special nuclear material exported by the United States or produced through the use of any nuclear materials and equipment or sensitive nuclear technology exported by the United States—

"(1) the Secretary of Energy may not enter into any subsequent arrangement for the retransfer of any such material to a

Report to congressional committees.

third country for reprocessing, for the reprocessing of any such material, or for the subsequent retransfer of any plutonium in quantities greater than 500 grams resulting from the reprocessing of any such material, until he has provided the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate with a report containing his reasons for entering into such arrangement and a period of 15 days of continuous session (as defined in subsection 130 g. of this Act) has elapsed: *Provided, however,* That if in the view of the President an emergency exists due to unforeseen circumstances requiring immediate entry into a subsequent arrangement, such period shall consist of fifteen calendar days;

Post, p. 139.

"(2) the Secretary of Energy may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power reactor fuel assemblies or been the subject of a subsequent arrangement therefor prior to the date of enactment of the Nuclear Non-Proliferation Act of 1978 or for subsequent retransfer to a non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing, unless in his judgment, and that of the Secretary of State, such reprocessing or retransfer will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested. Among all the factors in making this judgment, foremost consideration will be given to whether or not the reprocessing or retransfer will take place under conditions that will ensure timely warning to the United States of any diversion well in advance of the time at which the non-nuclear-weapon state could transform the diverted material into a nuclear explosive device; and

"(3) the Secretary of Energy shall attempt to ensure, in entering into any subsequent arrangement for the reprocessing of any such material in any facility that has processed power reactor fuel assemblies or been the subject of a subsequent arrangement therefor prior to the date of enactment of the Nuclear Non-Proliferation Act of 1978, or for the subsequent retransfer to any non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing, that such reprocessing or retransfer shall take place under conditions comparable to those which in his view, and that of the Secretary of State, satisfy the standards set forth in paragraph (2).

Nuclear materials, reprocessing or transfer procedures.

"c. The Secretary of Energy shall, within ninety days after the enactment of this section, establish orderly and expeditious procedures, including provision for necessary administrative actions and inter-agency memoranda of understanding, which are mutually agreeable to the Secretaries of State, Defense, and Commerce, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission for the consideration of requests for subsequent arrangements under this section. Such procedures shall include, at a minimum, explicit direction on the handling of such requests, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an inter-agency coordinating authority to monitor the processing of such requests, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher coordinators to review the status of all pending requests, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial requests should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly as necessary standards and criteria, including the nature of any required assurance or evidentiary showings, for the decisions required under this section. Further, such procedures shall specify that if he intends to prepare a Nuclear Proliferation Assessment Statement, the Director shall so declare in his response to the Department of Energy. If the Director declares that he intends to prepare such a Statement, he shall do so within sixty days of his receipt of a copy of the proposed subsequent arrangement (during which time the Secretary of Energy may not enter into the subsequent arrangement), unless pursuant to the Director's request, the President waives the sixty-day requirement and notifies the Committee on International Relations of the House of

Controversial requests, identification.

Standards and criteria.

Nuclear Proliferation Assessment Statement.

Presidential waiver. Notice to congressional committees.

Representatives and the Committee on Foreign Relations of the Senate of such waiver and the justification therefor. The processing of any subsequent arrangement proposed and filed as of the date of enactment of this section shall not be delayed pending the development and establishment of procedures to implement the requirements of this section.

"d. Nothing in this section is intended to prohibit, permanently or unconditionally, the reprocessing of spent fuel owned by a foreign nation which fuel has been supplied by the United States, to preclude the United States from full participation in the International Nuclear Fuel Cycle Evaluation provided for in section 105 of the Nuclear Non-Proliferation Act of 1978; to in any way limit the presentation or consideration in that evaluation of any nuclear fuel cycle by the United States or any other participation; nor to prejudice open and objective consideration of the results of the evaluation.

"e. Notwithstanding subsection 402(d) of the Department of Energy Organization Act (Public Law 95-91), the Secretary of Energy, and not the Federal Energy Regulatory Commission, shall have sole jurisdiction within the Department of Energy over any matter arising from any function of the Secretary of Energy in this section. 42 U.S.C. 7172.

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

"(A)(i) Such commitment of the United States has been submitted to the Congress for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) and has been referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such commitment shall not become effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the commitment, any such commitment to be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions; or (ii) if the President has submitted a detailed generic plan for such disposition or storage in the United States to the Congress for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act), which plan has been referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate and has not been disapproved during such sixty-day period by the adoption of a concurrent resolution stating in substance that Congress does not favor the plan; and the commitment is subject to the terms of an effective plan. Any such plan shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions; *Post*, p. 139.

"(B) The Secretary of Energy has complied with subsection a.; and

"(C) The Secretary of Energy has complied, or in the arrangement will comply with all other statutory requirements of this Act, under sections 54 and 55 and any other applicable sections, and any other requirements of law. *Ante*, p. 125. *Post*, p. 131.

"(2) Subsection (1) shall apply to the storage or other disposition in the United States of limited quantities of foreign spent nuclear fuel if the President determines that (A) a commitment under section 54 or 55 of this Act of the United States for storage or other disposition of such limited quantities in the United States is required by an emergency situation, (B) it is in the national interest to take such immediate action, and (C) he notifies the Committees on International Relations and Science and Technology of the House of Representatives and the Committees on Foreign Relations and Energy and Natural Resources of the Senate of the determination and action, with a detailed explanation and justification thereof, as soon as possible. Notice to congressional committees.

"(3) Any plan submitted by the President under subsection f. (1) shall include a detailed discussion, with detailed information, and any supporting documentation thereof, relating to policy objectives, technical description, geographic information, cost data and justifications, Plan, contents.

legal and regulatory considerations, environmental impact information and any related international agreements, arrangements or understandings.

"Foreign spent nuclear fuel."

"(4) For the purposes of this subsection, the term 'foreign spent nuclear fuel' shall include any nuclear fuel irradiated in any nuclear power reactor located outside of the United States and operated by any foreign legal entity, government or nongovernment, regardless of the legal ownership or other control of the fuel or the reactor and regardless of the origin or licensing of the fuel or reactor, but not including fuel irradiated in a research reactor.".

(b)(1) Section 54 of the 1954 Act is amended by adding new subsection e. as follows,

Ante, p. 125.

"e. The authority in this section to commit United States funds for any activities pursuant to any subsequent arrangement under section 131 a. (2)(E) shall be subject to the requirements of section 131.".

Ante, p. 127. 42 U.S.C. 2075.

(2) Section 55 of the 1954 Act is amended by adding a proviso at the end of the section as follows, "*Providing*, That the authority in this section to commit United States funds for any activities pursuant to any subsequent arrangement under section 131 a. (2)(E) shall be subject to the requirements of section 131.".

EXPORT LICENSING PROCEDURES

SEC. 304. (a) Chapter 11 of the 1954 Act is amended by adding a new section 126 as follows:

"SEC. 126. EXPORT LICENSING PROCEDURES.—

42 U.S.C. 2155. Exemption.

"a. No license may be issued by the Nuclear Regulatory Commission (the 'Commission') for the export of any production or utilization facility, or any source material or special nuclear material, including distributions of any material by the Department of Energy under section 54, 64, or 82, for which a license is required or requested, and no exemption from any requirement for such an export license may be granted by the Commission, as the case may be, until—

Ante, p. 125. Supra. 42 U.S.C. 2112. Executive branch judgement, notice to Commission.

"(1) the Commission has been notified by the Secretary of State that it is the judgment of the executive branch that the proposed export or exemption will not be inimical to the common defense and security, or that any export in the category to which the proposed export belongs would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes. The Secretary of State shall, within ninety days after the enactment of this section, establish orderly and expeditious procedures, including provision for necessary administrative actions and inter-agency memoranda of understanding, which are mutually agreeable to the Secretaries of Energy, Defense, and Commerce, the Director of the Arms Control and Disarmament Agency, and the executive branch judgment on export applications under this section. Such procedures shall include, at a minimum, explicit direction on the handling of such applications, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an inter-agency coordinating authority to monitor the processing of such applications, predetermined procedures for the expeditious handling of intra-agency and interagency disagreements and appeals to higher authorities, frequent meetings of inter-agency administrative coordinators to review the status of all pending applications, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial applications should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurances or evidentiary showing, for the decisions required under this section. The processing of any export application proposed and filed as of the date of enactment of this section shall not be delayed pending the development and establishment of procedures to implement the requirements of this section. The executive branch judgment shall be completed in not more than sixty days from receipt of the application or

Procedures.

Contents.

Standards and criteria.

request unless the Secretary of State in his discretion specifically authorizes additional time for consideration of the application or request because it is in the national interest to allow such additional time. The Secretary shall notify the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives of any such authorization. In submitting any such judgment, the Secretary of State shall specifically address the extent to which the export criteria then in effect are met and the extent to which the cooperating party has adhered to the provisions of the applicable agreement for cooperation. In the event he considers it warranted, the Secretary may also address the following additional factors, among others:

"(A) whether issuing the license or granting the exemption will materially advance the non-proliferation policy of the United States by encouraging the recipient nation to adhere to the Treaty, or to participate in the undertakings contemplated by section 403 or 404(a) of the Nuclear Non-Proliferation Act of 1978;

"(B) whether failure to issue the license or grant the exemption would otherwise be seriously prejudicial to the non-proliferation objectives of the United States; and

"(C) whether the recipient nation or group of nations has agreed that conditions substantially identical to the export criteria set forth in section 127 of this Act will be applied by another nuclear supplier nation or group of nations to the proposed United States export, and whether in the Secretary's judgment those conditions will be implemented in a manner acceptable to the United States.

Post, p. 136.

Data and recommendations.

The Secretary of State shall provide appropriate data and recommendations, subject to requests for additional data and recommendations, as required by the Commission or the Secretary of Energy, as the case may be; and

"(2) the Commission finds, based on a reasonable judgment of the assurances provided and other information available to the Federal Government, including the Commission, that the criteria in section 127 of this Act or their equivalent, and any other applicable statutory requirements, are met: *Provided*, That continued cooperation under an agreement for cooperation as authorized in accordance with section 124 of this Act shall not be prevented by failure to meet the provisions of paragraph (4) or (5) of section 127 for a period of thirty days after enactment of this section, and for a period of twenty-three months thereafter if the Secretary of State notifies the Commission that the nation or group of nations bound by the relevant agreement has agreed to negotiations as called for in section 404(a) of the Nuclear Non-Proliferation Act of 1978; however, nothing in this subsection shall be deemed to relinquish any rights which the United States may have under agreements for cooperation in force on the date of enactment of this section: *Provided further*, That, if, upon the expiration of such twenty-four month period, the President determines that failure to continue cooperation with any group of nations which has been exempted pursuant to the above proviso from the provisions of paragraph (4) or (5) of section 127 of this Act, but which has not yet agreed to comply with those provisions would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, he may, after notifying the Congress of his determination, extend by Executive order the duration of the above proviso for a period of twelve months, and may further extend the duration of such proviso by one year increments annually thereafter if he again makes such determination and so notifies the Congress. In the event that the Committee on International Relations of the House of Representatives or the Committee on Foreign Relations of the Senate reports a joint resolution to take any action with respect to any such extension, such joint resolution will be considered in the House or Senate, as the case may be, under procedures identical to those provided for the consideration of resolutions pursuant to section 130 of this Act: *And additionally provided*, That the Commission is authorized to (A) make a single finding under this subsection for more

42 U.S.C. 2154.

Extension, notice to Congress

Post, p. 139.

Findings.

than a single application or request, where the applications or requests involve exports to the same country, in the same general time frame, of similar significance for nuclear explosive purposes and under reasonably similar circumstances and (B) make a finding under this subsection that there is no material changed circumstance associated with a new application or request from those existing at the time of the last application or request for an export to the same country, where the prior application or request was approved by the Commission using all applicable procedures of this section, and such finding of no material changed circumstance shall be deemed to satisfy the requirement of this paragraph for findings of the Commission. The decision not to make any such finding in lieu of the findings which would otherwise be required to be made under this paragraph shall not be subject to judicial review: *And provided further*, That nothing contained in this section is intended to require the Commission independently to conduct or prohibit the Commission from independently conducting country or site specific visitations in the Commission's consideration of the application of IAEA safeguards.

Judicial review, exception.

"b. (1) Timely consideration shall be given by the Commission to requests for export licenses and exemptions and such requests shall be granted upon a determination that all applicable statutory requirements have been met.

Presidential review.

"(2) If, after receiving the executive branch judgment that the issuance of a proposed export license will not be inimical to the common defense and security, the Commission does not issue the proposed license on a timely basis because it is unable to make the statutory determinations required under this Act, the Commission shall publicly issue its decision to that effect, and shall submit the license application to the President. The Commission's decision shall include an explanation of the basis for the decision and any dissenting or separate views. If, after receiving the proposed license application and reviewing the Commission's decision, the President determines that withholding the proposed export would be seriously prejudicial to the achievement of United States non-proliferation objectives, or would otherwise jeopardize the common defense and security, the proposed export may be authorized by Executive order: *Provided*, That prior to any such export, the President shall submit the Executive order, together with his explanation of why, in light of the Commission's decision, the export should nonetheless be made, to the Congress for a period of sixty days of continuous session (as defined in subsection 130 g.) and shall be referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such proposed export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the proposed export. Any such Executive order shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions: *And provided further*, That the procedures established pursuant to subsection (b) of section 304 of the Nuclear Non-Proliferation Act of 1978 shall provide that the Commission shall immediately initiate review of any application for a license under this section and to the maximum extent feasible shall expeditiously process the application concurrently with the executive branch review, while awaiting the final executive branch judgment. In initiating its review, the Commission may identify a set of concerns and requests for information associated with the projected issuance of such license and shall transmit such concerns and requests to the executive branch which shall address such concerns and requests in its written communications with the Commission. Such procedures shall also provide that if the Commission has not completed action on the application within sixty days after the receipt of an executive branch judgment that the proposed export or exemption is not inimical to the common defense and security or that any export in the category to which the proposed export belongs would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes, the Commission shall inform the applicant in writing of the reason for delay and provide follow-up reports as appropriate. If the Commission has not completed action by the end of an additional sixty days (a total of one hundred and twenty days from receipt of the executive

Report to Congress and congressional committees.

Post, p. 139.

Review.

Concerns and requests, transmittal to executive branch.

branch judgment), the President may authorize the proposed export by Executiv order, upon a finding that further delay would be excessive and upon making the findings required for such Presidential authorizations under this subsection, and subject to the Congressional review procedures set forth herein. However, if the Commission has commenced procedures for public participation regarding the proposed export under regulations promulgated pursuant to subsection (b) of section 304 of the Nuclear Non-Proliferation Act of 1978, or—within sixty days after receipt of the executive branch judgment on the proposed export—the Commission has identified and transmitted to the executive branch a set of additional concerns or requests for information, the President may not authorize the proposed export until sixty day after public proceedings are completed or sixty days after a full executive branch response to the Commission's additional concerns or requests has been made consistent with subsection a. (1) of this section: *Provided further*, That nothing in this section shall affect the right of the Commission to obtain data and recommendations from the Secretary of State at any time as provided in subsection a. (1) of this section.

Referral to congressional committees.

"c. In the event that the House of Representatives or the Senate passes a joint resolution which would adopt one or more additional export criteria, or would modify any existing export criteria under this Act, any such joint resolution shall be referred in the other House to the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, as the case may be, and shall be considered by the other House under applicable procedures provided for the consideration of resolutions pursuant to section 130 of this Act.".

Post, p. 139.

Regulations. 42 U.S.C. 2155a

(b) Within one hundred and twenty days of the date of enactment of this Act, the Commission shall, after consultations with the Secretary of State, promulgate regulations establishing procedures (1) for the granting, suspending, revoking, or amending of any nuclear export license or exemption pursuant to its statutory authority; (2) for public participation in nuclear export licensing proceedings when the Commission finds that such participation will be in the public interest and will assist the Commission in making the statutory determinations required by the 1954 Act, including such public hearings and access to information as the Commission deems appropriate: *Provided*, That judicial review as to any such finding shall be limited to the determination of whether such finding was arbitrary and capricious; (3) for a public written Commission opinion accompanied by the dissenting or separate views of any Commissioner, in those proceedings where one or more Commissioners have dissenting or separate views on the issuance of an export license; and (4) for public notice of Commission proceedings and decisions, and for recording of minutes and votes of the Commission: *Provided further*, That until the regulations required by this subsection have been promulgated, the Commission shall implement the provisions of this Act under temporary procedures established by the Commission.

Hearings. 42 U.S.C. 2155a

(c) The procedures to be established pursuant to subsection (b) shall constitute the exclusive basis for hearings in nuclear export licensing proceedings before the Commission and, notwithstanding section 189 a. of the 1954 Act, shall not require the Commission to grant any person an on-the-record hearing in such a proceeding.

42 USC 2239.

Regulations. 42 U.S.C. 2156a

(d) Within sixty days of the date of enactment of this Act, the Commission shall, in consultation with the Secretary of State, the Secretary of Energy, the Secretary of Defense, and the Director, promulgate (and may from time to time amend) regulations establishing the levels of physical security which in its judgment are no less strict than those established by any international guidelines to which the United States subscribes and which in its judgment will provide adequate protection for facilities and material referred to in paragraph (3) of section 127 of the 1954 Act taking into consideration variations in risks to security as appropriate.

Post, p. 136.

CRITERIA GOVERNING UNITED STATES NUCLEAR EXPORTS

SEC. 305. Chapter 11 of the 1954 Act, as amended by section 304, is further amended by adding at the end thereof the following:

42 U.S.C. 2156.

"SEC. 127. CRITERIA GOVERNING UNITED STATES NUCLEAR EXPORTS.—

"The United States adopts the following criteria which, in addition to other requirements of law, will govern exports for peaceful nuclear

uses from the United States of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology:

"(1) IAEA safeguards as required by Article III(2) of the Treaty will be applied with respect to any such material or facilities proposed to be exported, to any such material or facilities previously exported and subject to the applicable agreement for cooperation, and to any special nuclear material used in or produced through the use thereof.

"(2) No such material, facilities, or sensitive nuclear technology proposed to be exported or previously exported and subject to the applicable agreement for cooperation, and no special nuclear material producer through the use of such materials, facilities, or sensitive nuclear technology, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

"(3) Adequate physical security measures will be maintained with respect to such mateial or facilities proposed to be exported and to any special nuclear material used in or produced through the use thereof. Following the effective date of any regulations promulgated by the Commission pursuant to section 304(d) of the Nuclear Non-Proliferation Act of 1978, physical security measures shall be deemed adequate if such measures provide a level of protection equivalent to that required by the applicable regulations.

"(4) No such materials, facilities, or sensitive nuclear technology proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other nation or group of nations unless the prior approval of the United States is obtained for such retransfer. In addition to other requirements of law, the United States may approve such retransfer only if the nation or group of nations designated to receive such retransfer agrees that it shall be subject to the conditions required by this section.

"(5) No such material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor shall be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration.

"(6) No such sensitive nuclear technology shall be exported unless the foregoing conditions shall be applied to any nuclear material or equipment which is produced or constructed under the jurisdiction of the recipient nation or group of nations by or through the use of any such exported sensitive nuclear technology.".

ADDITIONAL EXPORT CRITERION AND PROCEDURES

SEC. 306. Chapter 11 of the 1954 Act, as amended by sections 304 and 305, is further amended by adding at the end thereof the following:

42 U.S.C. 2157.

"SEC. 128. ADDITIONAL EXPORT CRITERION AND PROCEDURES.—

"a. (1) As a condition of continued United States export of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology to non-nuclear-weapon states, no such export shall be made unless IAEA safeguards are maintained with respect to all peaceful nuclear activities in, under the jurisdiction of, or carried out under the control of such state at the time of the export.

"(2) The President shall seek to achieve adherence to the foregoing criterion by recipient non-nuclear-weapon states.

Export applications, criterion enforcement.

"b. The criterion set forth in subsection a. shall be applied as an export criterion with respect to any application for the export of materials, facilities, or technology specified in subsection a. which is filed after eighteen months from the date of enactment of this section, or for any such application under which the first export would occur at least twenty-four months after the date of enactment of this section, except as provided in the following paragraphs:

"(1) If the Commission or the Department of Energy, as the case may be, is notified that the President has determined that

failure to approve an export to which this subsection applies because such criterion has not yet been met would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, the license or authorization may be issued subject to other applicable requirements of law: *Provided,* That no such export of any production or utilization facility or of any source or special nuclear material (intended for use as fuel in any production or utilization facility) which has been licensed or authorized pursuant to this subsection shall be made to any non-nuclear-weapon state which has failed to meet such criterion until the first such license or authorization with respect to such state is submitted to the Congress (together with a detailed assessment of the reasons underlying the President's determination, the judgment of the executive branch required under section 126 of this Act, and any Commission opinion and views) for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) and referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, but such export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that the Congress does not favor the proposed export. Any such license or authorization shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.

Report to congressional committees.

Ante, p. 131.

Post, p. 139.

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

Congressional disapproval, resolution.

"(3) If the Congress does not adopt a resolution of disapproval with respect to a license or authorization submitted pursuant to paragraph (1), the criterion set forth in subsection a. shall not be applied as an export criterion with respect to exports of materials, facilities and technology specified in subsection a. to that state: *Provided,* That the first license or authorization with respect to that state which is issued pursuant to this paragraph after twelve months from the elapse of the sixty-day period specified in paragraph (1), and the first such license or authorization which is issued after each twelve-month period thereafter, shall be submitted to the Congress for review pursuant to the procedures specified in paragraph (1): *Provided further,* That if the Congress adopts a resolution of disapproval during any review period provided for by this paragraph, the provisions of paragraph (2) shall apply with respect to further exports to such state.

Export authorizations, congressional review.

CONDUCT RESULTING IN TERMINATION OF NUCLEAR EXPORTS

SEC. 307. Chapter 11 of the 1954 Act, as amended by sections 304, 305, and 306, is further amended by adding at the end thereof:

Export terminations, criterion.
42 U.S.C. 2158.

"SEC 129. CONDUCT RESULTING IN TERMINATION OF NUCLEAR EXPORTS.—"No nuclear materials and equipment or sensitive nuclear technology shall be exported to—

"(1) any non-nuclear-weapon state that is found by the President to have, at any time after the effective date of this section,

"(A) detonated a nuclear explosive device; or

"(B) terminated or abrogated IAEA safeguards; or

"(C) materially violated an IAEA safeguards agreement; or

"(D) engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the President's judgment, represent sufficient progress toward terminating such activities; or

"(2) any nation or group of nations that is found by the President to have, at any time after the effective date of this section,

"(A) materially violated an agreement for cooperation with the United States, or, with respect to material or

equipment not supplied under an agreement for cooperation, materially violated the terms under which such material or equipment was supplied or the terms of any commitments obtained with respect thereto pursuant to section 402(a) of the Nuclear Non-Proliferation Act of 1978; or

"(B) assisted, encouraged, or induced any non-nuclear-weapon state to engage in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the President's judgment, represent sufficient progress toward terminating such assistance, encouragement, or inducement; or

"(C) entered into an agreement after the date of enactment of this section for the transfer of reprocessing equipment, materials, or technology to the sovereign control of a non-nuclear-weapon state except in connection with an international fuel cycle evaluation in which the United States is a participant or pursuant to a subsequent international agreement or understanding to which the United States subscribes;

unless the President determines that cessation of such exports would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security: *Provided*, That prior to the effective date of any such determination, the President's determination, together with a report containing the reasons for his determination, shall be submitted to the Congress and referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act), but any such determination shall not become effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the determination. Any such determination shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.".

Report to Congress.

Infra.

CONGRESSIONAL REVIEW PROCEDURES

SEC. 308. Chapter 11 of the 1954 Act, as amended by sections 304, 305, 306, and 307, is further amended by adding at the end thereof the following:

42 U.S.C. 2159. Congressional committee reports.

"SEC. 130. CONGRESSIONAL REVIEW PROCEDURES.—

"a. Not later than forty-five days of continuous session of Congress after the date of transmittal to the Congress of any submission of the President required by subsection 123 d., 126 a. (2), 126 b. (2), 128 b., 129, 131 a. (3), or 131 f. (1)(A) of this Act, the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, shall each submit a report to its respective House on its views and recommendations respecting such Presidential submission together with a resolution, as defined in subsection f., stating in substance that the Congress approves or disapproves such submission, as the case may be: *Provided*, That if any such committee has not reported such a resolution at the end of such forty-five day period, such committee shall be deemed to be discharged from further consideration of such submission and if, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of this Act, the other relevant committee of that House has reported such a resolution, such committee shall be deemed discharged from further consideration of that resolution. If no such resolution has been reported at the end of such period, the first resolution, as defined in subsection f., which is introduced within five days thereafter within such House shall be placed on the appropriate calendar of such House.

Post, p. 142. *Ante*, pp. 131, 137, 138, 127.

42 U.S.C. 2121, 2164.

"b. When the relevant committee or committees have reported such a resolution (or have been discharged from further consideration of such a resolution pursuant to subsection a.) or when a resolution has been introduced and placed on the appropriate calendar pursuant to subsection a., as the case may be it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the

consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

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

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

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

"Resolution."

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

Continuous sessions of Congress, computation.

"g. For the purposes of this section—

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

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

"h. This section is enacted by Congress—

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

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

COMPONENT AND OTHER PARTS OF FACILITIES

42 U.S.C. 2139

SEC. 309. (a) Section 109 of the 1954 Act is amended to read as follows:

"SEC. 109. COMPONENT AND OTHER PARTS OF FACILITIES.—

Domestic activities licenses, issuance authorization. 42 U.S.C. 2139.

"a. With respect to those utilization and production facilities which are so determined by the Commission pursuant to subsection 11 v. (2) or 11 cc. (2) the Commission may issue general licenses for domestic activities required to be licensed under section 101, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk to the common defense and security.

Export licenses.

"b. After consulting with the Secretaries of State, Energy, and

Commerce and the Director, the Commission is authorized and directed to determine which component parts as defined in subsection 11 v. (2) or 11 cc. (2) and which other items or substances are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes. Except as provided in section 126 b. (2), no such component, substance, or item which is so determined by the Commission shall be exported unless the Commission issues a general or specific license for its export after finding, based issues a general or specific license on a reasonable judgment of the assurances provided and other information available to the Federal Government, including the Commission, that the following criteria or their equivalent are met: (1) IAEA safeguards as required by Article III (2) of the Treaty will be applied with respect to such component, substance, or item; (2) no such component, substance, or item will be used for any nuclear explosive device or for research on or development of any nuclear explosive device; and (3) no such component, substance, or item will be retransferred to the jurisdiction of any other nation or group of nations unless the prior consent of the United States is obtained for such retransfer; and after determining in writing that the issuance of each such general or specific license or category of licenses will not be inimical to the common defense and security: *Provided*, That a specific license shall not be required for an export pursuant to this section if the component, item or substance is covered by a facility license issued pursuant to section 126 of this Act.

Ante, p. 131.

"c. The Commission shall not issue an export license under the authority of subsection b. if it is advised by the executive branch, in accordance with the procedures established under subsection 126 a., that the export would be inimical to the common defense and security of the United States."

Regulations.
42 U.S.C. 2139a

(b) The Commission, not later than one hundred and twenty days after the date of the enactment of this Act, shall publish regulations to implement the provisions of subsections b. and c. of section 109 of the 1954 Act. Among other things, these regulations shall provide for the prior consultation by the Commission with the Department of State, the Department of Energy, the Department of Defense, the Department of Commerce, and the Arms Control and Disarmament Agency.

Supra.

Export control procedures, Presidential publications.
42 U.S.C. 2139a

(c) The President, within not more than one hundred and twenty days after the date of enactment of this Act, shall publish procedures regarding the control by the Department of Commerce over all export items, other than those licensed by the Commission, which could be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes. Among other things, these procedures shall provide for prior consultations, as required, by the Department of Commerce with the Department of State, the Arms Control and Disarmament Agency, the Commission, the Department of Energy, and the Department of Defense.

Savings provisions.
42 U.S.C. 2139 note.
Ante, p. 141.

(d) The amendments to section 109 of the 1954 Act made by this section shall not affect the approval of exports contracted for prior to November 1, 1977, which are made within one year of the date of enactment of such amendments.

TITLE IV—NEGOTIATION OF FURTHER EXPORT CONTROLS

COOPERATION WITH OTHER NATIONS

42 U.S.C. 2153.

SEC. 401. Section 123 of the 1954 Act is amended to read as follows:

"SEC. 123. COOPERATION WITH OTHER NATIONS.—

42 U.S.C. 2073, 2074, 2077, 2094, 2112, 2121, 2133, 2134, 2164.

No cooperation with any nation, group of nations or regional defense organizations pursuant to section 53, 54 a., 57, 64, 82, 91, 103, 104, or 144 shall be undertaken until—

Cooperative agreements, submittal to President. Contents.

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

"(1) a guaranty by the cooperating party that safeguards as set forth in the agreement for cooperation will be maintained with respect to all nuclear materials and equipment transferred pursuant thereto, and with respect to all special

nuclear material used in or produced through the use of such nuclear materials and equipment, so long as the material or equipment remains under the jurisdiction or control of the cooperating party, irrespective of the duration of other provisions in the agreement or whether the agreement is terminated or suspended for any reason;

"(2) in the case of non-nuclear-weapon states, a requirement, as a condition of continued United States nuclear supply under the agreement for cooperation, that IAEA safeguards be maintained with respect to all nuclear materials in all peaceful nuclear activities within the territory of such state, under its jurisdiction, or carried out under its control anywhere;

"(3) except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., a guaranty by the cooperating party that no nuclear materials and equipment or sensitive nuclear technology to be transferred pursuant to such agreement, and no special nuclear material produced through the use of any nuclear materials and equipment or sensitive nuclear technology transferred pursuant to such agreement, will be used for any nuclear explosive device, or for research on or development of any nuclear explosive device, or for any other military purpose;

"(4) except in the case of those agreements for cooperation arranged pursuant to subsection 91 c. and agreements for cooperation with nuclear-weapon states, a stipulation that the United States shall have the right to require the return of any nuclear materials and equipment transferred pursuant there to and any special nuclear material produced through the use thereof if the cooperating party detonates a nuclear explosive device or terminates or abrogates an agreement providing for IAEA safeguards;

"(5) a guaranty by the cooperating party that any material or any Restricted Data transferred pursuant to the agreement for cooperation and, except in the case of agreements arranged pursuant to subsection 91c., 144 b., or 144 c., any production or utilization facility transferred pursuant to the agreement for cooperation or any special nuclear material produced through the use of any such facility or through the use of any material transferred pursuant to the agreement, will not be transferred to unauthorized persons or beyond the jurisdiction or control of the cooperating party without the consent of the United States; 42 U.S.C. 2121, 2164.

"(6) a guaranty by the cooperating party that adequate physical security will be maintained with respect to any nuclear material transferred pursuant to such agreement and with respect to any special nuclear material used in or produced through the use of any material, production facility, or utilization facility transferred pursuant to such agreement;

"(7) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guaranty by the cooperating party that no material transferred pursuant to the agreement for cooperation and no material used in or produced through the use of any material, production facility, or utilization facility transferred pursuant to the agreement for cooperation will be reprocessed, enriched or (in the case of plutonium, uranium 233, or uranium enriched to greater than twenty percent in the isotope 235, or other nuclear materials which have been irradiated) otherwise altered in form or content without the prior approval of the United States;

"(8) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guaranty by the cooperating party that no plutonium, no uranium 233, and no uranium enriched to greater than twenty percent in the isotope 235, transferred pursuant to the agreement for cooperation, or recovered from any source or special nuclear material so transferred or from any source or special nuclear material used in any production facility or utilization facility transferred pursuant to the

agreement for cooperation, will be stored in any facility that has not been approved in advance by the United States; and

"(9) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guaranty by the cooperating party that any special nuclear material, production facility, or utilization facility produced or constructed under the jurisdiction of the cooperating party by or through the use of any sensitive nuclear technology transferred pursuant to such agreement for cooperation will be subject to all the requirements specified in this subsection.

Agreement requirements, Presidential exemptions.

The President may exempt a proposed agreement for cooperation (except an agreement arranged pursuant to subsection 91 c., 144 b., or 144 c.) from any of the requirements of the foregoing sentence if he determines that inclusion of any such requirement would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security. Except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., any proposed agreement for cooperation shall be negotiated by the Secretary of State, with the technical assistance and concurrence of the Secretary of Energy and in consultation with the Director of the Arms Control and Disarmament Agency ("the Director"); and after consultation with the Commission shall be submitted to the President jointly by the Secretary of State and the Secretary of Energy accompanied by the views and recommendations of the Secretary of State, the Secretary of Energy, the Nuclear Regulatory Commission, and the Director, who shall also provide to the President an unclassified Nuclear Proliferation Assessment Statement regarding the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the agreement for cooperation to ensure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose. In the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., any proposed agreement for cooperation shall be submitted to the President by the Secretary of Energy or, in the case of those agreements for cooperation arranged pursuant to subsection 91 c. or 144 b. which are to be implemented by the Department of Defense, by the Secretary of Defense;

Proposed cooperation agreements, submittal to President. Nuclear Proliferation Assessment Statement, submitted to President. 42 U.S.C. 2121, 2164.

"b. the President has approved and authorized the execution of the proposed agreement for cooperation and has made a determination in writing that the performance of the proposed agreement will promote, and will not constitute an unreasonable risk to, the common defense and security;

Submittal to congressional committees.

"c. the proposed agreement for cooperation (if not an agreement subject to subsection d.), together with the approval and determination of the President, has been submitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of thirty days of continuous session (as defined in subsection 130 g.): *Provided, however,* That these committees, after having received such agreement for cooperation, may by resolution in writing waive the conditions of all or any portion of such thirty-day period; and

Ante, p. 139.

"d. the proposed agreement for cooperation (if arranged pursuant to subsection 91 c., 144 b., or 144 c., or if entailing implementation of section 53, 54 a., 103, or 104 in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith) has been submitted to the Congress, together with the approval and determination of the President, for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) of Representatives and the Committee on Foreign Relations of the Senate, and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, but such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that the Congress does not

42 U.S.C. 2073, 2074, 2133, 2073, 2074, 2133, 2134.

favor the proposed agreement for cooperation: *Provided*, That the sixty-day period shall not begin until a Nuclear Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency, when required by subsection 123 a., has been submitted to the Congress. Any such proposed agreement for cooperation shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.

Ante, p. 142.

Ante, p. 139.

"Following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c.) to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, the Nuclear Regulatory Commission, the Department of State, the Department of Energy, the Arms Control and Disarmament Agency, and the Department of Defense shall, upon the request of either of those committees, promptly furnish to those committees their views as to whether the safeguards and other controls contained therein provide an adequate framework to ensure that any exports as contemplated by such agreement will not be inimical to or consitute an unreasonable risk to the common defense and security.

Agency views to congressional committees. 42 U.S.C. 2121, 2164.

"If, after the date of enactment of the Nuclear Non-Proliferation Act of 1978, the Congress fails to disapprove a proposed agreement for cooperation which exempts the recipient nation from the requirement set forth in subsection 123 a. (2), such failure to act shall constitute a failure to adopt a resolution of disapproval pursuant to subsection 128 b. (3) for purposes of the Commission's consideration of applications and requests under section 126 a. (2) and there shall be no congressional review pursuant to section 128 of any subsequent license or authorization with respect to that state until the first such license or authorization which is issued after twelve months from the elapse of the sixty-day period in which the agreement for cooperation in question is reviewed by the Congress."

Ante, p. 137.

Ante, p. 131.

ADDITIONAL REQUIREMENTS

SEC. 402. (a) Except as specifically provided in any agreement for cooperation, no source or special nuclear material hereafter exported from the United States may be enriched after export without the prior approval of the United States for such enrichment: *Provided*, That the procedures governing such approvals shall be identical to those set forth for the approval of proposed subsequent arrangements under section 131 of the 1954 Act, and any commitments from the recipient which the Secretary of Energy and the Secretary of State deem necessary to ensure that such approval will be obtained prior to such enrichment shall be obtained prior to the submission of the executive branch judgment regarding the export in question and shall be set forth in such submission: *And provided further*, That no source or special nuclear material shall be exported for the purpose of enrichment or reactor fueling to any nation or group of nations which has, after the date of enactment of this Act, entered into a new or amended agreement for cooperation with the United States, except pursuant to such agreement.

Nuclear material enrichment, approval. 42 U.S.C. 2153a

Ante, p. 127.

(b) In addition to other requirements of law, no major critical component of any uranium enrichment, nuclear fuel reprocessing, or heavy water production facility shall be exported under any agreement for cooperation (except an agreement for cooperation pursuant to subsection 91 c., 144 b., or 144 c. of the 1954 Act) unless such agreement for cooperation specifically designates such components as items to be exported pursuant to the agreement for cooperation. For purposes of this subsection, the term "major critical component" means any component part or group of component parts which the President determines to be essential to the operation of a complete uranium enrichment, nuclear fuel reprocessing, or heavy water production facility.

Enrichment facility components, export prohibition. 42 U.S.C. 2121, 2164.

"Major critical component."

PEACEFUL NUCLEAR ACTIVITIES

SEC. 403. The President shall take immediate and vigorous steps to seek agreement from all nations and groups of nations to commit themselves to adhere to the following export policies with respect to their peaceful nuclear activities and their participation in international nuclear trade:

Export policies. 42 U.S.C. 2153b

(a) No nuclear materials and equipment and no sensitive nuclear technology within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere will be transferred to the jurisdiction of any other nation or group of nations unless the nation or group of nations receiving such transfer commits itself to strict undertakings including, but not limited to, provisions sufficient to ensure that—

(1) no nuclear materials and equipment and no nuclear technology in, under the jurisdiction of, or under the control of any non-nuclear-weapon state, shall be used for nuclear explosive devices for any purpose or for research on or development of nuclear explosive devices for any purpose, except as permitted by Article V, the Treaty;

(2) IAEA safeguards will be applied to all peaceful nuclear activities in, under the jurisdiction of, or under the control of any non-nuclear-weapon state;

(3) adequate physical security measures will be established and maintained by any nation or group of nations on all of its nuclear activities;

(4) no nuclear materials and equipment and no nuclear technology intended for peaceful purposes in, under the jurisdiction of, or under the control of any nation or group of nations shall be transferred to the jurisdiction of any other nation or group of nations which does not agree to stringent undertakings meeting the objectives of this section; and

(5) no nation or group of nations will assist, encourage, or induce any non-nuclear-weapon state to manufacture or otherwise acquire any nuclear explosive device.

Enriched nuclear material and sources, prohibition. Proposed international agreements. 42 U.S.C. 2014.

(b)(1) No source or special nuclear material within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere will be enriched (as described in paragraph aa. (2) of section 11 of the 1954 Act) or reprocessed, no irradiated fuel elements containing such material which are to be removed from a reactor will be altered in form or content, and no fabrication or stockpiling involving plutonium, uranium 233, or uranium enriched to greater than 20 percent in the isotope 235 shall be performed except in a facility under effective international auspices and inspection, and any such irradiated fuel elements shall be transferred to such a facility as soon as practicable after removal from a reactor consistent with safety requirements. Such facilities shall be limited in number to the greatest extent feasible and shall be carefully sited and managed so as to minimize the proliferation and environmental risks associated with such facilities. In addition, there shall be conditions to limit the access of non-nuclear-weapon states other than the host country to sensitive nuclear technology associated with such facilities.

Enriched nuclear material, short-term storage. International inspection.

(2) Any facilities within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere for the necessary short-term storage of fuel elements containing plutonium, uranium 233, or uranium enriched to greater than 20 percent in the isotope 235 prior to placement in a reactor or of irradiated fuel elements prior to transfer as required in subparagraph (1) shall be placed under effective international auspices and inspection.

(c) Adequate physical security measures will be established and maintained with respect to all nuclear activities within the territory of each nation and group of nations, under its jurisdiction, or under its control anywhere, and with respect to any international shipment of significant quantities of source or special nuclear material or irradiated source or special nuclear material, which shall also be conducted under international safeguards.

(d) Nothing in this section shall be interpreted to require international control or supervision of any United States military activities.

RENEGOTIATION OF AGREEMENTS FOR COOPERATION

42 U.S.C. 2153c

SEC. 404. (a) The President shall initiate a program immediately to renegotiate agreements for cooperation in effect on the date of

enactment of this Act, or otherwise to obtain the agreement of parties to such agreements for cooperation to the undertakings that would be required for new agreements under the 1954 Act. To the extent that an agreement for cooperation in effect on the date of enactment of this Act with a cooperating party contains provisions equivalent to any or all of the criteria set forth in section 127 of the 1954 Act with respect to materials and equipment transferred pursuant thereto or with respect to any special nuclear material used in or produced through the use of any such material or equipment, any renegotiated agreement with that cooperating party shall continue to contain an equivalent provision with respect to such transferred materials and equipment and such special nuclear material. To the extent that an agreement for cooperation in effect on the date of enactment of this Act with a cooperating party does not contain provisions with respect to any nuclear materials and equipment which have previously been transferred under an agreement for cooperation with the United States and which are under the jurisdiction or control of the cooperating party and with respect to any special nuclear material which is used in or produced through the use thereof and which is under the jurisdiction or control of the cooperating party, which are equivalent to any or all of those required for new and amended agreements for cooperation under section 123 a. of the 1954 Act, the President shall vigorously seek to obtain the application of such provisions with respect to such nuclear materials and equipment and such special nuclear material. Nothing in this Act or in the 1954 Act shall be deemed to relinquish any rights which the United States may have under any agreement for cooperation in force on the date of enactment of this Act.

Ante, p. 136.

Ante, p. 142.

Export agreement conditions and policy goals, Presidential review.

(b) The President shall annually review each of requirements (1) through (9) set forth for inclusion in agreements for cooperation under section 123 a. of the 1954 Act and the export policy goals set forth in section 401 to determine whether it is in the interest of United States non-proliferation objectives for any such requirements or export policies which are not already being applied as export criteria to be enacted as additional export criteria.

Ante, p. 142.

Presidential export criteria proposals, submittal to Congress.

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

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

Ante, p. 139.

AUTHORITY TO CONTINUE AGREEMENTS

Savings provision.
42 U.S.C. 2153d

SEC. 405. (a) The amendments to section 123 of the 1954 Act made by this Act shall not affect the authority to continue cooperation pursuant to agreements for cooperation entered into prior to the date of enactment of this Act.

(b) Nothing in this Act shall affect the authority to include dispute settlement provisions, including arbitration, in any agreement made pursuant to an Agreement for Cooperation.

REVIEW

42 U.S.C. 2160a

SEC. 406. No court or regulatory body shall have any jurisdiction under any law to compel the performance of or to review the adequacy of the performance of any Nuclear Proliferation Assessment Statement called for in this Act or in the 1954 Act.

PROTECTION OF THE ENVIRONMENT

42 U.S.C. 2153e

SEC. 407. The President shall endeavor to provide in any agreement entered into pursuant to section 123 of the 1954 Act for cooperation

between the parties in protecting the international environment from radioactive, chemical or thermal contamination arising from peaceful nuclear activities.

TITLE V—UNITED STATES ASSISTANCE TO DEVELOPING COUNTRIES

POLICY; REPORT

Nuclear and non-nuclear energy, resource development. 22 U.S.C. 3261.

SEC. 501. The United States shall endeavor to cooperate with other nations, international institutions, and private organizations in establishing programs to assist in the development of non-nuclear energy resources, to cooperate with both developing and industrialized nations in protecting the international environment from contamination arising from both nuclear and non-nuclear energy activities, and shall seek to cooperate with and aid developing countries in meeting their energy needs through the development of such resources and the application of non-nuclear technologies consistent with the economic factors, the material resources of those countries, and environmental protection. The United States shall additionally seek to encourage other industrialized nations and groups of nations to make commitments for similar cooperation and aid to developing countries. The President shall report annually to Congress on the level of other nations' and groups of nations' commitments under such program and the relation of any such commitments to United States efforts under this title. In cooperating with and providing such assistance to developing countries, the United States shall give priority to parties to the Treaty.

PROGRAMS

Developing countries, energy development programs.

SEC. 502. (a) The United States shall initiate a program, consistent with the aims of section 501, to cooperate with developing countries for the purpose of—

(1) meeting the energy needs required for the development of such countries;

(2) reducing the dependence of such countries on petroleum fuels, with emphasis given to utilizing solar and other renewable energy resources; and

(3) expanding the energy alternatives available to such countries.

Assessment and cooperative projects.

(b) Such program shall include cooperation in evaluating the energy alternatives of developing countries, facilitating international trade in energy commodities, developing energy resources, and applying suitable energy technologies. The program shall include both general and country-specific energy assessments and cooperative projects in resource exploration and production, training, research and development.

Experts, exchange.

(c) As an integral part of such program, the Department of Energy, under the general policy guidance of the Department of State and in cooperation with the Agency for International Development and other Federal agencies as appropriate, shall initiate, as soon as practicable, a program for the exchange of United States scientists, technicians, and energy experts with those of developing countries to implement the purposes of this section.

Appropriation authorization.

(d) For the purposes of carrying out this section, there is authorized to be appropriated such sums as are contained in annual authorization Acts for the Department of Energy, including such sums which have been authorized for such purposes under previous legislation.

(e) Under the direction of the President, the Secretary of State shall ensure the coordination of the activities authorized by this title with other related activities of the United States conducted abroad, including the programs authorized by sections 103(c), 106(a)(2), and 119 of the Foreign Assistance Act of 1961.

22 U.S.C. 2151a 2151d, 2151q.

REPORT

Presidential report to Congress. 22 U.S.C. 3262 note.

SEC. 503. Not later than twelve months after the date of enactment of this Act, the President shall report to the Congress on the feasibility of expanding the cooperative activities established pursuant to section 502(c) into an international cooperative effort to include a scientific

peace corps designed to encourage large numbers of technically trained volunteers to live and work in developing countries for varying periods of time for the purpose of engaging in projects to aid in meeting the energy needs of such countries through the search for and utilization of indigenous energy resources and the application of suitable technology, including the widespread utilization of renewable and unconventional energy technologies. Such report shall also include a discussion of other mechanisms to conduct a coordinated international effort to develop, demonstrate, and encourage the utilization of such technologies in developing countries.

TITLE VI—EXECUTIVE REPORTING

REPORTS OF THE PRESIDENT

Governmental nuclear non-proliferation activities. 22 U.S.C. 3281.

SEC. 601. (a) The President shall review all activities of Government departments and agencies relating to preventing proliferation and shall make a report to Congress in January of 1979 and annually in January of each year thereafter on the Government's efforts to prevent proliferation. This report shall include but not be limited to—

(1) a description of the progress made toward—

(A) negotiating the initiatives contemplated in sections 104 and 105 of this Act;

(B) negotiating the international arrangements or other mutual undertakings contemplated in section 403 of this Act;

(C) encouraging non-nuclear-weapons states that are not party to the Treaty to adhere to the Treaty or, pending such adherence, to enter into comparable agreements with respect to safeguards and to foreswear the development of any nuclear explosive devices, and discouraging nuclear exports to non-nuclear-weapon states which have not taken such steps;

(D) strengthening the safeguards of the IAEA as contemplated in section 201 of this Act; and

(E) renegotiating agreements for cooperation as contemplated in section 404(a) of this Act;

(2) an assessment of the impact of the progress described in paragraph (1) on the non-proliferation policy of the United States; an explanation of the precise reasons why progress has not been made on any particular point and recommendations with respect to appropriate measures to encourage progress; and a statement of what legislative modifications, if any, are necessary in his judgment to achieve the non-proliferation policy of the United States;

(3) a determination as to which non-nuclear-weapon states with which the United States has an agreement for cooperation in effect or under negotiation, if any, have—

(A) detonated a nuclear device; or

(B) refused to accept the safeguards of the IAEA on all of their peaceful nuclear activities; or

(C) refused to give specific assurances that they will not manufacture or otherwise acquire any nuclear explosive device; or

(D) engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices;

(4) an assessment of whether any of the policies set forth in this Act have, on balance, been counterproductive from the standpoint of preventing proliferation; and

(5) a description of the progress made toward establishing procedures to facilitate the timely processing of requests for subsequent arrangements and export licenses in order to enhance the reliability of the United States in meeting its commitments to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies.

Current civil agreements, analysis.

(b) In the first report required by this section, the President shall analyze each civil agreement for cooperation negotiated pursuant to section 123 of the 1954 Act, and shall discuss the scope and adequacy of the requirements and obligations relating to safeguards and other controls therein.

ADDITIONAL REPORTS

Reports to Congress. Governmental nuclear non-proliferation activities. 22 U.S.C. 3282.

SEC. 602. (a) The annual reports to the Congress by the Commission and the Department of Energy which are otherwise required by law shall also include views and recommendations regarding the policies and actions of the United States to prevent proliferation which are the statutory responsibility of those agencies. The Department's report shall include a detailed analysis of the proliferation implications of advanced enrichment and reprocessing techniques, advanced reactors, and alternative nuclear fuel cycles. This part of the report shall include a comprehensive version which includes any relevant classified information and a summary unclassified version.

(b) The reporting requirements of this title are in addition to and not in lieu of any other reporting requirements under applicable law.

(c) The Department of State, the Arms Control and Disarmament Agency, the Department of Commerce, the Department of Energy, and the Commission shall keep the Committees on Foreign Relations and Governmental Affairs of the Senate and the Committee on International Relations of the House of Representatives fully and currently informed with respect to their activities to carry out the purposes and policies of this Act and to otherwise prevent proliferation, and with respect to the current activities of foreign nations which are of significance from the proliferation standpoint.

(d) Any classified portions of the reports required by this Act shall be submitted to the Senate Foreign Relations Committee and the House International Relations Committee.

Report to Congress. Nuclear non-proliferation policies, study.

(e) Three years after enactment of this Act, the Comptroller General shall complete a study and report to the Congress on the implementation and impact of this Act on the nuclear non-proliferation policies, purposes, and objectives of this Act. The Secretaries of State, Energy, Defense, and Commerce and the Commission and the Director shall cooperate with the Comptroller General in the conduct of the study. The report shall contain such recommendations as the Comptroller General deems necessary to support the nuclear non-proliferation policies, purposes, and objectives of this Act.

SAVINGS CLAUSE

42 U.S.C. 215X.

SEC. 603. (a) All orders, determinations, rules, regulations, permits, contracts, agreements, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are the subject of this Act, by (i) any agency or officer, or part thereof, in exercising the functions which are affected by this Act, or (ii) any court of competent jurisdiction, and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed as the case may be, by the parties thereto or by any court of competent jurisdiction.

42 U.S.C. 215X.

(b) Nothing in this Act shall affect the procedures or requirements applicable to agreements for cooperation entered into pursuant to sections 91 c., 144 b., or 144 c. of the 1954 Act or arrangements pursuant thereto as it was in effect immediately prior to the date of enactment of this Act.

42 U.S.C. 2121, 2164.

Effective date. 22 U.S.C. 3201 note.

(c) Except where otherwise provided, the provisions of this Act shall take effect immediately upon enactment regardless of any requirement for the promulgation of regulations to implement such provisions.

Approved March 10, 1978.

Legislative History: See appendix 3.

PUBLIC LAW 96-280 [S.J.Res. 89]; June 18, 1980

NUCLEAR NON-PROLIFERATION ACT OF 1978—AGREEMENTS FOR COOPERATION

Joint Resolution permitting the supply of additional low enriched uranium fuel under international agreements for cooperation in the civil uses of nuclear energy, and for other purposes.

Whereas the Nuclear Non-Proliferation Act of 1978 urges the United States to provide a reliable supply of nuclear fuel to those nations which adhere to policies designed to prevent the proliferation of nuclear weapons; and 22 U.S.C. 3201 note.

Whereas the United States, in order to achieve the goals of that Act should be able to continue to supply low-enriched uranium fuel to nations that have entered into good faith neogiations as called for in section 404(a) of the Act; and 42 U.S.C. 2153c.

Whereas pending such negotiations, limitations now contained in certain agreements for cooperation on the amount of low-enriched uranium which may be supplied thereunder are insufficient to permit adequate assurance of supplies: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled.

Low-enriched uranium fuel. U.S. exports. 42 U.S.C. 2153c note.

SECTION 1. Limits contained in agreements for cooperation on the amount of low-enriched uranium which may be transferred by or exported from the United States pursuant thereto shall not be construed to preclude transfer or export of amounts of low-enriched uranium in excess of such limits to nations where are parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

42 U.S.C. 2153c note. 42 U.S.C. 2011 note. 22 U.S.C. 3201 note. "Low-enriched uranium."

SEC. 2. (a) The terms used in this joint resolution shall have the meanings ascribed to them by the Atomic Energy Act of 1954 and by the Nuclear Non-Proliferation Act of 1978.

(b) The term "low-enriched uranium" means uranium enriched to less than 20 per centum in the isotope 235.

Approved June 18, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-919 accompanying H.J. Res. 324 (Comm. on Foreign Affairs).
SENATE REPORT No. 96-657 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 28, considered and passed Senate.
May 5, considered and passed House, amended, in lieu of H.J. Res. 324.
June 6, Senate concurred in House amendments.

APPENDIX 12

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976

(90 Stat. 729)

[PUBLIC LAW 94-329]

[H.R. 13680]

[JUNE 30, 1976]

AN ACT

To amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, 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 "International Security Assistance and Arms Export Control Act of 1976". International Security Assistance and Arms Export Control Act of 1976.

* * * * *

TITLE III—GENERAL LIMITATIONS 22 U.S.C. 2304 note.

* * * * *

NUCLEAR ENRICHMENT AND REPROCESSING TRANSFERS: NUCLEAR DETONATIONS

"SEC. 669. NUCLEAR ENRICHMENT TRANSFERS.[1]—(a) Except as provided in subsection (b), no funds authorized to be appropriated by this Act or the Arms Export Control Act may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II)[2] providing military assistance or grant military education and training, providing assistance under chapter 6 of part II;[3] or extending military credits or making guarantees, to any country which, on or after the date of enactment of the International Security Assistance Act of 1977, delivers nuclear enrichment equipment, materials, or technology to any other country, or receives such equipment, materials, or technology from any other country, unless before such delivery— 22 U.S.C. 2429. Assistance, agreements and safeguards. 22 U.S.C. 2751 note.

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[1] PUBLIC LAW 95-92 (91 Stat. 620) (1977) sec. 12, struck out old sec. 669 and inserted new sec. 669. Before amendment, old sec. 669 read as follows:

SEC. 669. NUCLEAR TRANSFERS.—(a) Except as provided in subsection (b), no funds authorized to be appropriated by this Act or the Arms Export Control Act may be used for the purpose of—

(1) providing economic assistance;

(2) providing military or security supporting assistance or military education and training; or

(3) extending military credits or making guarantees; to any country which—

(A) delivers nuclear reprocessing or enrichment equipment, materials, or technology to any other country; or

(B) receives such equipment, materials or technology from any other country;

unless before such delivery—

"(i) the supplying country and receiving country have reached agreement to place all such equipment, materials, and technology, upon delivery, under multilateral auspices and management when available; and

(Continued)

"(1) the supplying country and receiving country have reached agreement to place all such equipment, materials, or technology, upon delivery, under multilateral auspices and management when available; and

"(2) the recipient country has entered into an agreement with the International Atomic Energy Agency to place all such equipment, materials, technology, and all nuclear fuel and facilities in such country under the safeguards system of such Agency.

Presidential certification, transmittal to Speaker of the House and congressional committee.

"(b)(1) Notwithstanding subsection (a) of this section, the President may furnish assistance which would otherwise be prohibited under such subsection if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that—

"(A) the termination of such assistance would have a serious adverse effect on vital United States interests; and

"(B) he has received reliable assurances that the country in question will not acquire or develop nuclear weapons or assist other nations in doing so.

Such certification shall set forth the reasons supporting such determination in each particular case.

Joint resolution. (continued)

"(2) Any joint resolution which would terminate or restrict assistance described in subsection (a) with respect to a country to which the prohibition in such subsection applies shall, if introduced within thirty days after the transmittal of a certification under paragraph (1) of this subsection with respect to such country, be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

22 U.S.C. 2429a.

"SEC. 670. NUCLEAR REPROCESSING TRANSFERS AND NUCLEAR DETONATIONS.—(a) Except as provided in subsection (b), no funds authorized to be appropriated by this Act or the Arms Export Control Act may be used for the purpose of providing economic assistance, (including assistance under chapter 4 of part II)[2] providing military or security supporting assistance or grant military education and training, providing assistance under chapter 6 of part II,[3] or extending military credits or making guarantees, to any country which on or after the date of enactment of the International Security Assistance Act of 1977—

"(1) delivers nuclear reprocessing equpment, materials, or technology to any other country or receives such equipment, materials, or technology from any other country (except for the transfer of reprocessing technology associated with the investigation, under international evaluation programs in which the United States participates, or technologies which are alternatives to pure plutonium reprocessing); or

"(2) is not a nuclear-weapon state as defined in article IX (3) of the Treaty on the Non-Proliferation of Nuclear Weapons and which detonates a nuclear explosive device.

(Continued)

"(ii) the recipient country has entered into an agreement with the International Atomic Energy Agency to place all such equipment, materials, technology, and all nuclear fuel and facilities in such country under the safeguards system of such Agency.

(b)(1) Notwithstanding the provisions of subsection (a) of this section, the President may, by Executive order effective not less than 30 days following its date of promulgation, furnish assistance which would otherwise be prohibited under paragraph (1), (2), or (3) of such subsection if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that—

(A) the termination of such assistance would have a serious adverse effect on vital United States interests; and

(B) he has received reliable assurances that the country in question will not acquire or develop nuclear weapons or assist other nations in doing so.

Such certification shall set forth the reasons supporting such determination in each particular case.

(2)(A) The Congress may by joint resolution terminate or restrict assistance described in paragraphs (1) through (3) of subsection (a) with respect to a country to which the prohibition in such subsection applies or take any other action with respect to such assistance for such country as it deems appropriate.

(B) Any such joint resolution with respect to a country shall, if introduced within 30 days after the transmittal of a certification under paragraph (1) with respect to such country, be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976."

[2]PUBLIC LAW 95-384 (92 Stat. 734) (1978) sec. 534(a)(4), added the words "(including assistance under chapter 4 of part II)" and striking "or security supporting".

[3]PUBLIC LAW 95-384 (92 Stat. 737) (1978) sec. 554(3), added the words "providing assistance under chapter 6 of part II".

"(b)(1) Notwithstanding subsection (a) of this section, the President may furnish assistance which would otherwise be prohibited under such subsection if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

Presidential certification, submittal to Speaker of the House and congressional committee.

"(2) Any joint resolution which would terminate or restrict assistance described in subsection (a) with respect to a country to which the prohibition in such subsection applies shall, if introduced within thirty days after the transmittal of a certification under paragraph (1) of this subsection with respect to such country, be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.[4]

Joint resolution.

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TITLE V—MISCELLANEOUS AUTHORIZATIONS

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AUTHORIZATION FOR INTERNATIONAL ATOMIC ENERGY AGENCY

SEC. 505. Section 302 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

22 U.S.C. 2222.

"(i) In addition to amounts otherwise available under this section, there are authorized to be appropriated for fiscal year 1976 $1,000,000 and for fiscal year 1977 $2,000,000 to be available only for the International Atomic Energy Agency to be used for the purpose of strengthening safeguards and inspections relating to nuclear fissile facilities and materials. Amounts appropriated under this subsection are authorized to remain available until expended.".

* * * * *

[4]PUBLIC LAW 95-92 (91 Stat. 620) (1977) sec. 12, added new sec. 670.

APPENDIX 13

PUBLIC LAW 96-533 [H.R. 6942]; December 16, 1980

INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1980

An Act to authorize appropriations for the fiscal year 1981 for international security and development assistance, the Peace Corps, and refugee assistance, and for other purposes.

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

International Security and Development Cooperation Act of 1980.
22 U.S.C. 2151 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "International Security and Development Cooperation Act of 1980".

TITLE I—MILITARY AND RELATED ASSISTANCE AND SALES PROGRAMS

* * * * *

EXPORTATION OF URANIUM DEPLETED IN THE ISOTOPE 235

22 U.S.C. 2778a.

SEC. 110. Upon a finding that an export of uranium depleted in the isotope 235 is incorporated in defense articles or commodities solely to take advantage of high density or pyrophoric characteristics unrelated to its radioactivity, such exports shall be exempt from the provisions of the Atomic Energy Act of 1954 and of the Nuclear Non-Proliferation Act of 1978 when such exports are subject to the controls established under the Arms Export Control Act or the Export Administration Act of 1979.

42 U.S.C. 2011 note.
22 U.S.C. 3201 note.
22 U.S.C. 2751 note.

Approved December 16, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-884, pt. 1 (Comm. on Foreign Affairs), No. 96-884, pt. 2, (Permanent Select Comm. on Intelligence), and No. 96-1471 (Comm. of Conference).
SENATE REPORT No. 96-732 accompanying S. 2714 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 22, 28, 20, June 5, considered and passed House.
June 17, considered and passed Senate, amended, in lieu of S. 2714.
Dec. 2, House agreed to conference report.
Dec. 3, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 51:
Dec. 16, Presidential statement.

INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1981

Public Law 97-113
97th Congress

An Act

Dec. 29, 1981
[S. 1196]

To authorize appropriations for the fiscal years 1982 and 1983 for international security and development assistance and for the Peace Corps, to establish the Peace Corps as an autonomous agency, and for other purposes.

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

SHORT TITLE

International Security and Development Cooperation Act of 1981.
22 USC 2151 note.

SECTION 1. This Act may be cited as the "International Security and Development Cooperation Act of 1981".

* * *

TITLE VII—MISCELLANEOUS PROVISIONS

REPORT ON NUCLEAR ACTIVITIES

Report to Congress.
22 USC 2429a-1.

SEC. 735. Beginning with the fiscal year 1983 and for each fiscal year thereafter, the President shall prepare and transmit to the Congress, as part of the presentation materials for foreign assistance programs proposed for that fiscal year, a classified report describing the nuclear programs and related activities of any country for which a waiver of section 669 or 670 of the Foreign Assistant Act of 1961 is in effect, including an assessment of—

22 USC 2429, 2429a.

(1) the extent and effectiveness of International Atomic Energy Agency safeguards at that country's nuclear facilities; and

(2) the capability, actions, and intentions of the government of that country with respect to the manufacture or acquisition of a nuclear explosive device.

* * *

PROHIBITIONS RELATING TO NUCLEAR TRANSFERS AND NUCLEAR DETONATIONS

22 USC 2429a note.

SEC. 737. (a) The Congress finds that any transfer of a nuclear explosive device to a non-nuclear-weapon state or, in the case of a non-nuclear-weapon state, any receipt or detonation of a nuclear explosive device would cause grave damage to bilateral relations between the United States and that country.

22 USC 2429.

(b) Section 669(b)(2) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(2)(A) A certification under paragraph (1) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if, within thirty calendar days after receiving this certification, the Congress adopts a concurrent resolution stating in substance that the Congress disapproves the furnishing of assistance pursuant to the certification, then upon the adoption of that resolution the certification shall cease to be effective and all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.

"(B) Any concurrent resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

90 Stat. 765.

"(C) For the purpose of expediting the consideration and adoption of concurrent resolutions under this paragraph, a motion to proceed to the consideration of any such resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

22 USC 2429a.

(c) Section 670 of such Act is amended to read as follows:

"SEC 670. NUCLEAR REPROCESSING TRANSFERS, TRANSFERS OF NUCLEAR EXPLOSIVE DEVICES, AND NUCLEAR DETONATIONS.—(a)(1) Except as provided in paragraph (2) of this subsection, no funds authorized to be appropriated by this Act or the Arms Export Control Act may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II), providing military assistance or grant military education and training, providing assistance under chapter 6 of part II, or extending military credits or making guarantees, to any country which on or after the date of enactment of the International Security Assistance Act of 1977 delivers nuclear reprocessing equipment, materials, or technology to any other country or receives such equipment, materials, or technology from any other country (except for the transfer of reprocessing technology associated with the investigation, under international evaluation programs in which the United States participates, of technologies which are alternatives to pure plutonium reprocessing).

22 USC 2751 note.
22 USC 2346.
22 USC 2348.
22 USC 2151 note.
22 USC 2151 note.

"(2) Notwithstanding paragraph (1) of this subsection, the President may furnish assistance which would otherwise be prohibited under that paragraph if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

Transmittal of certification to Congress.

"(3)(A) A certification under paragraph (2) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if, within 30 calendar days after receiving this certification, the Congress adopts a concurrent resolution stating in substance that the Congress disapproves the furnishing of assistance pursuant to the certification, then upon the adoption of that resolution the certification shall cease to be effective and all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.

Congressional disapproval.

"(B) Any concurrent resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

90 Stat. 765.

"(C) For the purpose of expediting the consideration and adoption of concurrent resolutions under this paragraph, a motion to proceed to the consideration of any such resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(b)(1) Except as provided in paragraphs (2) and (3) of this subsection, no funds authorized to be appropriated by this Act or the Arms Export Control Act may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II), providing military assistance or grant military education and training, providing assistance under chapter 6 of part II, or extending military credits or making guarantees, to any country which on or after the date of enactment of the International Security Assistance Act of 1977—

22 USC 2751 note.
22 USC 2346.
22 USC 2458.

"(A) transfers a nuclear explosive device to a non-nuclear-weapon state, or

22 USC 2151 note.

"(B) is a non-nuclear-weapon state and either—

"(i) receives a nuclear explosive device, or

"(ii) detonates a nuclear explosive device.

"(2)(A) Notwithstanding paragraph (1) of this subsection, the President may, for a period of not more than 30 days of continuous session, furnish assistance which would otherwise be prohibited under paragraph (1) of this subsection if, before furnishing such assistance, the President transmits to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a certification that he has determined that an immediate termination of assistance to that country would be detrimental to the national security of the United States. Not more than one such certification may be transmitted for a country with respect to the same detonation, transfer, or receipt of a nuclear explosive device.

Transmittal of certification to Congress.

"(B) If the President transmits a certification to the Congress under subparagraph (A), a joint resolution which would permit the President to exercise the waiver authority of paragraph (3) of this subsection

shall, if introduced in either House within thirty days of continuous session after the Congress receives this certification, be considered in the Senate and House of Representatives in accordance with subparagraphs (C) and (D) of this paragraph.

"(C) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(D) For the purpose of expediting the consideration and adoption of joint resolutions under this paragraph, a motion to proceed to the consideration of such a joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"Joint resolution."

"(E) For purposes of this paragraph, the term 'joint resolution' means a joint resolution the matter after the resolving clause of which is as follows: 'That the Congress having received on a certification by the President under section 670(b)(2) of the Foreign Assistance Act of 1961 with respect to , the Congress hereby authorizes the President to exercise the waiver authority contained in section 670(b)(3) of that Act.', with the date of receipt of the certification inserted in the first blank and the name of the country inserted in the second blank.

22 USC 2429a.

Transmittal of certification to Congress.

"(3) Notwithstanding paragraph (1) of this subsection, if the Congress enacts a joint resolution under paragraph (2) of this subsection, the President may furnish assistance which would otherwise be prohibited under paragraph (1) if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

"(4) For purposes of this subsection, continuity of session is broken only by an adjournment of Congress sine die and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

"Non-nuclear weapon State."

"(5) As used in this subsection, the term 'non-nuclear-weapon state' means any country which is not a nuclear-weapon state, as defined in article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons.".

21 UST 483.

Approved December 29, 1981.

LEGISLATIVE HISTORY—S. 1196 (H.R. 3136)(H.R. 3566):

HOUSE REPORTS: No. 97-58 accompanying H.R. 3566 and No. 97-195 accompanying H.R. 3136 (both from Comm. on Foreign Affairs), and No. 97-413 (Comm. of Conference).

SENATE REPORT No. 97-83 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 127 (1981):

Sept. 23, 24, 30, Oct. 20, 21, 22, considered and passed Senate.

Dec. 9, H.R. 3566 considered and passed House; proceedings vacated and S. 1196, amended, passed in lieu.

Dec. 15, Senate agreed to conference report.

Dec. 16, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 17, No. 53 (1981): Dec. 29, Presidential statement.

APPENDIX 14

NONPROLIFERATION TREATY

TREATY ON THE NONPROLIFERATION OF NUCLEAR WEAPONS

The States concluding this Treaty, hereinafter referred to as the "Parties to the Treaty",

Considering the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples,

Believing that the proliferation of nuclear weapons would seriously enhance the danger of nuclear war,

In conformity with resolutions of the United Nations General Assembly calling for the conclusion of an agreement on the prevention of wider dissemination of nuclear weapons,

Undertaking to cooperate in facilitating the application of International Atomic Energy Agency safeguards on peaceful nuclear activities,

Expressing their support for research, development and other efforts to further the application, within the framework of the International Atomic Energy Agency safeguards system, of the principle of safeguarding effectively the flow of source and special fissionable materials by use of instruments and other techniques at certain strategic points,

Affirming the principle that the benefits of peaceful applications of nuclear technology, including any technological by-products which may be derived by nuclear-weapon States from the development of nuclear explosive devices, should be available for peaceful purposes to all Parties to the Treaty, whether nuclear-weapon or non-nuclear-weapon States,

Convinced that, in furtherance of this principle, all Parties to the Treaty are entitled to participate in the fullest possible exchange of scientific information for, and to contribute alone or in cooperation with other States, to the further development of the applications of atomic energy for peaceful purposes,

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures in the direction of nuclear disarmament,

Urging the coopertion of all States in the attainment of this objective,

Recalling the determination expressed by the Parties to the 1963 Treaty banning nuclear weapon tests in the atmosphere in outer space and under water in its Preamble to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end,

Desiring to further the easing of international tension and the strengthening of trust between States in order to facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery pursuant to a treaty on general and complete disarmament under strict and effective international control.

Recalling that, in accordance with the Charter of the United Nations, States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations, and that the establishment and maintenance of international peace and security are to be promoted with the least diversion for armaments of the world's human and economic resources,

Have agreed as follows:

ARTICLE I

Each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise

acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices.

ARTICLE II

Each non-nuclear-weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.

ARTICLE III

1. Each non-nuclear-weapon State Party to the Treaty undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system, for the exclusive purpose of verification of the fulfillment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. Procedures for the safeguards required by this article shall be followed with respect to source or special fissionable material whether it is being produced, processed or used in any principal nuclear facility or is outside any such facility. The safeguards required by this article shall be applied on all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere.

2. Each State Party to the Treaty undertakes not to provide: (a) source or special fissionable material, or (b) equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any non-nuclear-weapon State for peaceful purposes, unless the source or special fissionable material shall be subject to the safeguards required by this article.

3. The safeguards required by this article shall be implemented in a manner designed to comply with article IV of this Treaty, and to avoid hampering the economic or technological development of the Parties or international cooperation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes in accordance with the provisions of this article and the principle of safeguarding set forth in the Preamble of the Treaty.

4. Non-nuclear-weapon States Party to the Treaty shall conclude agreements with the International Atomic Energy Agency to meet the requirements of this article either individually or together with other States in accordance with the Statute of International Atomic Energy Agency. Negotiation of such agreements shall commence within 180 days from the original entry into force of this Treaty. For States depositing their instruments of ratification or accession after the 180-day period, negotiation of such agreements shall commence not later than the date of such deposit. Such agreements shall enter into force not later than eighteen months after the date of initiation of negotiations.

ARTICLE IV

1. Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with articles I and II of this Treaty.

2. All the Parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so shall also cooperate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States Party to the Treaty, with due consideration for the needs of the developing areas of the world.

ARTICLE V

Each Party to the Treaty undertakes to take appropriate measures to ensure that, in accordance with this Treaty, under appropriate international observation and through appropriate international procedures, potential benefits from any peaceful applications of nuclear explosions will be made available to non-nuclear-weapon States Party to the Treaty on a non-discriminatory basis and that the charge to such Parties for the explosive devices used will be as low as possible and exclude any charge for research and

development. Non-nuclear-weapon States Party to the Treaty shall be able to obtain such benefits, pursuant to a special international agreement or agreements, through an appropriate international body with adequate representation of non-nuclear-weapon States. Negotiations on this subject shall commence as soon as possible after the Treaty enters into force. Non-nuclear-weapon States Party to the Treaty so desiring may also obtain such benefits pursuant to bilateral agreements.

ARTICLE VI

Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

ARTICLE VII

Nothing in this Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories.

ARTICLE VIII

1. Any Party to the Treaty may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to the Treaty. Thereupon, if requested to do so by one-third or more of the Parties to the Treaty, the Depositary Governments shall convene a conference, to which they shall invite all the Parties to the Treaty, to consider such an amendment.

2. Any amendment to this Treaty must be approved by a majority of the votes of all the Parties to the Treaty, including the votes of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. The amendment shall enter into force for each Party that deposits its instrument of ratification of the amendment upon the deposit of such instruments of ratification by a majority of all the Parties, including the instruments of ratification of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. Thereafter, it shall enter into force for any other Party upon the deposit of its instrument of ratification of the amendment.

3. Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held in Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are being realized. At intervals of five years thereafter, a majority of the Parties to the Treaty may obtain, by submitting a proposal to this effect to the Depositary Governments, the convening of further conferences with the same objective of reviewing the operation of the Treaty.

ARTICLE IX

1. This Treaty shall be open to all States for signature. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after its ratification by the States, the Governments of which are designated Depositaries of the Treaty, and forty other States signatory to this Treaty and the deposit of their instruments of ratification. For the purposes of this Treaty, a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to January 1, 1967.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession, the date of the entry into force of this Treaty, and the date of receipt of any requests for convening a conference or other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to article 102 of the Charter of the United Nations.

ARTICLE X

1. Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United National Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

2. Twenty-five years after the entry into force of the Treaty, a conference shall be convened to decide whether the Treaty shall continue in force indefinitely, or shall be extended for an additional fixed period or periods. This decision shall be taken by a majority of the Parties to the Treaty.

ARTICLE XI

This Treaty, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed this Treaty.

DONE in triplicate, at the cities of Washington, London and Moscow, this first day of July one thousand nine hundred sixty-eight.

LEGISLATIVE HISTORY

Message from the President transmitting treaty to the Senate, July 9, 1968 (Document Executive H, 90th Cong., second sess.).
Referred to the Senate Committee on Foreign Relations, July 9, 1968.
Hearings (public) held before Senate Committee on Foreign Relations jointly with Senate members of Joint Committee on Atomic Energy, July 10-12 and 17, 1968; published under the title "Nonproliferation Treaty."
Reported by Senate Committee on Foreign Relations, September 26, 1968 (Ex. Rept. No. 9, 90th Cong., second sess.).
Further hearings (public) held before Senate Committee on Foreign Relations, February 18 and 20, 1969; published under the title "Nonproliferation Treaty, Part 2."
Advice and consent to ratification given by Senate: March 13, 1969.
Treaty ratified by President: March 5, 1970.
Treaty proclaimed by President; March 5, 1970. 21 U.S.T. 483, TIAS 6839.

NON-PROLIFERATION TREATY

Country	Date of Signature	Date of Deposit of Ratification	Date of Deposit of Accession (A) or Successions (S)
Afghanistan	7/1/68	2/4/70[1]	
Antigua and Barbuda			6/17/85 (S)
Australia	2/27/70	1/23/73	
Austria	7/1/68	6/27/69	
Bahamas, The			8/11/76 (S)
Bangladesh			8/31/79 (A)
Barbados	7/1/68	2/21/80	
Belgium	8/20/68	5/2/75	
Belize			8/9/85 (S)
Benin	7/1/68	10/31/72	
Bhutan			5/23/85 (A)
Bolivia	7/1/68	5/26/70	
Botswana	7/1/68	4/28/69	
Brunei			3/26/85 (A)
Bulgaria	7/1/68	9/5/69	
Burkina Faso	11/25/68	3/3/70	
Burundi			3/19/71 (A)
Cameroon	7/17/68	1/8/69	
Canada	7/23/68	1/8/69	
Cape Verde			10/24/79 (A)
Central African Republic			10/25/70 (A)
Chad	7/1/68	3/10/71	
Colombia	7/1/68		
Congo			10/23/78 (A)
Costa Rica	7/1/68	3/3/70	
Cyprus	7/1/68	2/10/70	
Czechoslovakia	7/1/68	7/22/69	

NON-PROLIFERATION TREATY – Continued

Country	Date of Signature	Date of Deposit of Ratification	Date of Deposit of Accession (A) or Successions (S)
Denmark	7/1/68	1/3/69	
Dominica			8/10/84 (S)
Dominican Republic	7/1/68	7/24/71	
Ecuador	7/9/68	3/7/69	
Egypt	7/1/68	2/26/81[1]	
El Salvador	7/1/68	7/11/72	
Equatorial Guinea			11/1/84 (A)
Ethiopia	9/5/68	2/5/70	
Fiji			7/14/72 (S)
Finland	7/1/68	2/5/69	
Gabon			2/19/74 (A)
Gambia, The	9/4/68	5/12/75	
German Democratic Republic	7/1/68	10/31/69	
Germany, Federal Republic of	11/28/69	5/2/75[1 2]	
Ghana	7/1/68	5/4/70	
Greece	7/1/68	3/11/70	
Grenada			9/2/75 (S)
Guatemala	7/26/68	9/22/70	
Guinea			4/29/85 (A)
Guinea-Bissau			8/20/76 (A)
Haiti	7/1/68	6/2/70	
Holy See			2/25/71 (A)[1]
Honduras	7/1/68	5/16/73	
Hungary	7/1/68	5/27/69	
Iceland	7/1/68	7/18/69	
Indonesia	3/2/70	7/12/79[1]	
Iran	7/1/68	2/2/70	
Iraq	7/1/68	10/29/69	
Ireland	7/1/68	7/1/68	
Italy	1/28/69	5/2/75[1]	
Ivory Coast	7/1/68	3/6/73	
Jamaica	4/14/69	3/5/70	
Japan	2/3/70	6/8/76[1]	
Jordan	7/10/68	2/11/70	
Kampuchea			6/2/72 (A)
Kenya	7/1/68	6/11/70	
Kiribati			4/18/85 (S)
Korea, Democratic People's Republic of			12/12/85 (A)
Korea, Republic of	7/1/68	4/23/75	
Kuwait	8/15/68		
Laos	7/1/68	2/20/70	
Lebanon	7/1/68	7/15/70	
Lesotho	7/9/68	5/20/70	
Liberia	7/1/68	3/5/70	
Libya	7/18/68	5/26/75	
Liechtenstein			4/20/78 (A)[1]
Luxembourg	8/14/68	5/2/75	
Madagascar	8/22/68	10/8/70	
Malaysia	7/1/68	3/5/70	
Maldives	9/11/68	4/7/70	
Mali	7/14/69	2/10/70	
Malta	4/17/69	2/6/70	
Mauritius	7/1/68	4/8/69	
Mexico	7/26/68	1/21/69[1]	
Mongolia	7/1/68	5/14/69	
Morocco	7/1/68	11/27/70	
Nauru			6/7/82 (A)
Nepal	7/1/68	1/5/70	
Netherlands	8/20/68	5/2/75[3]	
New Zealand	7/1/68	9/10/69	
Nicaragua	7/1/68	3/6/73	
Nigeria	7/1/68	9/27/68	
Norway	7/1/68	2/5/69	
Panama	7/1/68	1/13/77	
Papua New Guinea			1/13/82 (A)
Paraguay	7/1/68	2/4/70	
Peru	7/1/68	3/3/70	
Philippines	7/1/68	10/5/72	
Poland	7/1/68	6/12/69	
Portugal			12/15/77 (A)
Romania	7/1/68	2/4/70	
Rwanda			5/20/75 (A)

NON-PROLIFERATION TREATY – Continued

Country	Date of Signature	Date of Deposit of Ratification	Date of Deposit of Accession (A) or Successions (S)
San Marino	7/1/68	08/10/70	
Sao Tome and Principe			7/20/83 (A)
St. Lucia			12/28/79 (S)
St. Christopher and Nevis			11/2/83[4]
St. Vincent and the Grenedines			11/6/84 (S)
Senegal	7/1/68	12/17/70	
Seychelles			4/8/85 (A)
Sierra Leone			2/26/75 (A)
Singapore	2/5/70	3/10/76	
Solomon Islands			6/17/81 (S)
Somalia	7/1/68	3/5/70	
Sri Lanka	7/1/68	3/5/79	
Sudan	12/24/68	10/31/73	
Suriname			6/30/76 (S)
Swaziland	6/24/69	12/11/69	
Sweden	8/19/68	1/9/70	
Switzerland	11/27/69	3/9/77[1]	
Syrian Arab Republic	7/1/68	9/24/69[1]	
Thailand			12/2/72 (A)
Togo	7/1/68	2/26/70	
Tonga			7/7/71 (S)
Trinidad and Tobago	8/20/68		
Tunisia	7/1/68	2/26/70	
Turkey	1/28/69	4/17/80[1]	
Tuvalu			1/19/79 (S)
Uganda			10/20/82 (A)
Union of Soviet Socialist Republics	7/1/68	3/5/70	
United Kingdom	7/1/68	11/27/68[5]	
United States	7/1/68	3/5/70	
Uruguay	7/1/68	8/31/70	
Venezuela	7/1/68	9/25/75	
Vietnam, Socialist Republic of			6/14/82 (A)
Western Samoa			3/17/75 (A)
Yemen Arab Republic (Sana)	9/23/68		
Yemen, People's Democratic Republic of (Aden)	11/14/68	6/1/79	
Yugoslavia	7/10/68	3/4/70[1]	
Zaire	7/22/68	8/4/70	
Taiwan[6]	7/1/68	1/27/70[6]	

Dates given are the earliest dates on which a country signed the Treaty or deposited its instrument of ratification or accession – whether in Washington, London, or Moscow. In the case of a country that was a dependent territory which became a party through succession, the date given is the date on which the country gave notice that it would continue to be bound by the terms of the Treaty.

[1] With Statement.
[2] Applicable to Berlin (West).
[3] Extended to Netherlands Antilles.
[4] Date of general declaration to the Secretary General of the UN concerning continuing treaty obligations applicable prior to independence. The United States considers each of these countries bound by the obligations in the treaty in accordance with its general declaration, but not a party pending deposit of an instrument of succession or accession.
[5] Extended to Anguilla and territories under the territorial sovereignty of the United Kingdom.
[6] On January 27, 1970, an instrument of ratification was deposited in the name of the Republic of China. Effective January 1, 1979, the United States recognized the People's Republic of China as the sole legal government of China. The authorities on Taiwan state that they will continue to abide by the provisions of the Treaty and the United States regards them as bound by its obligations.

January 1986
Office of the Legal Adviser
Department of State

APPENDIX 15

ADDITIONAL PROTOCOL II TO THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA

Signed by the United States at Mexico April 1, 1968
Underlying Treaty signed by others at Mexico February 14, 1967
U.S. ratification with understandings and declarations deposited May 12, 1971
Entered into force for the United States May 12, 1971[1]

BY THE PRESDIENT OF THE UNITED STATES OF AMERICA

A. PROCLAMATION

CONSIDERING THAT:

Additional Protocol II to the Treaty for the Prohibition of Nuclear Weapons in Latin America, done at the City of Mexico on February 14, 1967, was signed on behalf of the United States of America on April 1, 1968, the text of which Protocol is word for word as follows:

ADDITIONAL PROTOCOL II

The undersigned Plenipotentiaries, furnished with full powers by their respective Governments,

Convinced that the Treaty for the Prohibition of Nuclear Weapons in Latin America, negotiated and signed in accordance with the recommendations of the General Assembly of the United Nations in Resolution 1911 (XVIII) of 27 November 1963, represents an important step towards ensuring the non-proliferation of nuclear weapons.

Aware that the non-proliferation of nuclear weapons is not an end in itself but, rather, a means of achieving general and complete disarmament at a later stage, and

Desiring to contribute, so far as lies in their power, towards ending the armaments race, especially in the field of nuclear weapons, and towards promoting and strengthening a world at peace, based on mutual respect and sovereign equality of States.

Have agreed as follows:

Article 1. The statute of denuclearization of Latin America in respect of warlike purposes, as defined, delineated and set forth in the Treaty for the Prohibition of Nuclear Weapons in Latin American of which this instrument is an annex, shall be fully respected by the Parties to this Protocol in all its express aims and provisions.

Article 2. The Governments represented by the undersigned Plenipotentiaries undertake, therefore, not to contribute in any way to the performance of acts involving a violation of the obligations of article 1 of the Treaty in the territories to which the Treaty applies in accordance with article 4 thereof.

Article 3. The Governments represented by the undersigned Plenipotentiaries also undertake not to use or threaten to use nuclear weapons against the Contracting Parties of the Treaty for the Prohibition of Nuclear Weapons in Latin America.

Article 4. The duration of this Protocol shall be the same as that of the Treaty for the Prohibition of Nuclear Weapons in Latin American of which this protocol is an annex, and the definitions of territory and nuclear weapons set forth in articles 3 and 5 of the Treaty shall be applicable to this Protocol, as well as the provisions regarding ratification, reservations, denunciation, authentic texts and registration contained in articles 26, 27, 30 and 31 of the Treaty.

Article 5. The Protocol shall enter into force, for the States which have ratified it, on the date of the deposit of their respective instruments of ratification.

IN WITNESS WHEREOF the undersigned, Plenipotentiaries, having deposited their full powers, found in good and due form, sign this Additional Protocol on behalf of their respective Governments.

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[1]The United Kingdom, France, and the People's Republic of China are also parties to Protocol II.

The Senate of the United States of America by its resolution of April 19, 1971, two-thirds of the Senators present concurring, gave its advice and consent to the ratification of Additional Protocol II, with the following understandings and declarations:

I

That the United States Government understands the reference in Article 3 of the treaty to "its own legislation" to relate only to such legislation as is compatible with the rules of international law and as involves an exercise of sovereignty consistent with those rules, and accordingly that ratification of Additional Protocol II by the United States Government could not be regarded as implying recognition, for the purposes of this treaty and its protocols or for any other purpose, of any legislation which did not, in the view of the United States, comply with the relevant rules of international law.

That the United States Government takes note of the Preparatory Commission's interpretation of the treaty, as set forth in the Final Act, that, governed by the principles and rules of international law, each of the Contracting Parties retains exclusive power and legal competence, unaffected by the terms of the treaty, to grant or deny non-Contracting Parties transit and transport privileges.

That as regards the undertaking in Article 3 of Protocol II not to use or threaten to use nuclear weapons against the Contracting parties, the United States Government would have to consider that an armed attack by a Contracting Party, in which it was assisted by a nuclear-weapon state, would be incompatible with the Contracting Party's corresponding obligations under Article I of the Treaty.

II

That the United States Government considers that the technology of making nuclear explosive devices for peaceful purposes is indistinguishable from the technology of making nuclear weapons, and that nuclear weapons and nuclear explosive devices for peaceful purposes are both capable of releasing nuclear energy in an uncontrolled manner and have the common group of characteristics of large amounts of energy generated instantaneously from a compact source. Therefore, the United States Government understands the definition contained in Article 5 of the treaty as necessarily encompassing all nuclear explosive devices. It is also understood that Articles 1 and 5 restrict accordingly the activities of the Contracting Parties under paragraph 1 of Article 18.

That the United States Government understands that paragraph 4 of Article 18 of the treaty permits, and that United States adherence to Protocol II will not prevent, collaboration by the United States with Contracting Parties for the purpose of carrying out explosions of nuclear devices for peaceful purposes in a manner consistent with a policy of not contributing to the proliferation of nuclear weapons capabilities. In this connection, the United States Government notes Article V of the Treaty on the Non-Proliferation of Nuclear Weapons, under which it joined in an undertaking to take appropriate measures to ensure that potential benefits of peaceful applications of nuclear explosions would be made available to non-nuclear-weapon states party to that treaty, and reaffirms its willingness to extend such undertaking, on the same basis, to states precluded by the present treaty from manufacturing or acquiring any nuclear explosive device.

III

That the United States Government also declares that, although not required by Protocol II, it will act with respect to such territories of Protocol I adherents as are within the geographical area defined in paragraph 2 of Article 4 of the treaty in the same manner as Protocol II requires it to act with respect to the territories of Contracting Parties.

The President ratified Additional Protocol II on May 8, 1971, with the above-recited understandings and declarations, in pursuance of the advice and consent of the Senate.

It is provided in Article 5 of Additional Protocol II that the Protocol shall enter into force, for the States which have ratified it, on the date of the deposit of their respective instruments of ratification.

The instrument of ratification of the United Kingdom of Great Britain and Northern Ireland was deposited on December 11, 1969 with understandings and a declaration, and the instrument of ratification of the United States of America was deposited on May 12, 1971 with the above-recited understandings and declarations.

In accordance with Article 5 of Additional Protocol II, the Protocol entered into force for the United States of America on May 12, 1971, subject to the above recited understandings and declarations.

NOW, THEREFORE, I, Richard Nixon, President of the United States of America, proclaim and make public Additional Protocol II to the Treaty for the Prohibition of Nuclear Weapons in Latin America to the end that it shall be observed and fulfilled with good faith, subject to the above-recited understandings and declarations, on and after

May 12, 1971 by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdictions thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this eleventh day of June in the year of our Lord one thousand nine hundred seventy-one and of the Independence of the United States of America the one-hundred ninety-fifth.

(SEAL)

TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA

Preamble

In the name of their peoples and faithfully interpreting their desires and aspirations, the Governments of the States which sign the Treaty for the Prohibition of Nuclear Weapons in Latin America,

Desiring to contribute, so far as lies in their power, towards ending the armaments race, especially in the field of nuclear weapons, and towards strengthening a world at peace, based on the sovereign equality of States, mutual respect and good neighbourliness,

Recalling that the United Nations General Assembly, in its Resolution 808 (IX), adopted unanimously as one of the three points of a coordinated programme of disarmament "the total prohibition of the use and manufacture of nuclear weapons and weapons of mass destruction of every type",

Recalling that militarily denuclearized zones are not an end in themselves but rather a means of achieving general and complete disarmament at a later stage,

Recalling United Nations General Assembly Resolution 1911 (XVIII), which established that the measures that should be agreed upon for the denuclearization of Latin America should be taken "in the light of the principles of the Charter of the United Nations and of regional agreements",

Recalling United Nations General Assembly Resolution 2028 (XX), which established the principle of an acceptable balance of mutual responsibilities and duties for the nuclear non-nuclear powers, and

Recalling that the Charter of the Organization of American States proclaims that it is an essential purpose of the Organization to strengthen the peace and security of the hemisphere,

Convinced:

That the incalculable destructive power of nuclear weapons has made it imperative that the legal prohibition of war should be strictly observed in practice if the survival of civilization and of mankind itself is to be assured,

That nuclear weapons, whose terrible effects are suffered, indiscriminately and inexorably, by military forces and civilian population alike, constitute, through the persistence of the radioactivity they release, and attack on the integrity of the human species and ultimately may even render the whole earth uninhabitable.

That general and complete disarmament under effective international control is a vital matter which all the peoples of the world equally demand,

That the proliferation of nuclear weapons, which seems inevitable unless States, in the exercise of their sovereign rights, impose restrictions on themselves in order to prevent it, would make an agreement on disarmament enormously difficult and would increase the danger of the outbreak of a nuclear conflagration,

That the establishment of militarily denuclearized zones is closely linked with the maintenance of peace and security in the respective regions,

That the military denuclearization of vast geographical zones, adopted by the sovereign decision of the States comprised therein, will exercise a beneficial influence on other regions where similar conditions exist,

That the privileged situation of the signatory States, whose territories are wholly free from nuclear weapons, imposes upon them the inescapable duty of preserving that situation both in their own interests and for the good of mankind,

That the existence of nuclear weapons in any country of Latin America would make it a target for possible nuclear attacks and would inevitably set off, throughout the region, a ruinous race in nuclear weapons which would involve the unjustifiable diversion, for warlike purposes, of the limited resources required for economic and social development,

That the foregoing reasons, together with the traditional peace-loving outlook of Latin America, give rise to an inescapable necessity that nuclear energy should be used in that region exclusively for peaceful purposes, and that the Latin American countries should use their right to the greatest and most equitable access to this new source of energy in order to expedite the economic and social development of their peoples.

Convinced finally:

That the military denuclearization of Latin America—being understood to mean the undertaking entered into internationally in this Treaty to keep their territories forever free from nuclear weapons—will constitute a measure which will spare their peoples from the squandering of their limited resources on nuclear armaments and will protect

them against possible nuclear attacks on their territories, and will also constitute a significant contribution towards preventing the proliferation of nuclear weapons and a powerful factor for general and complete disarmaments, and

That Latin America, faithful to its tradition of universality, must not only endeavor to banish from its homelands the scourge of a nuclear war, but must also strive to promote the well-being and advancement of its peoples, at the same time co-operating in the fulfilment of the ideals of mankind, that is to say, in the consolidation of a permanent peace based on equal rights, economic fairness and social justice for all, in accordance with the principles and purposes set forth in the Charter of the United Nations and in the Charter of the Organization of American States,

Have agreed as follows:

Obligations

ARTICLE 1

1. The Contracting Parties hereby undertake to use exclusively for peaceful purposes the nuclear material and facilities which are under this jurisdiction, and to prohibit and prevent in their respective territories:

(a) The testing, use, manufacture, production or acquisition by any means whatsoever of any nuclear weapons, by the Parties themselves, directly or indirectly, on behalf of anyone else or in any other way, and

(b) The receipt, storage, installation, deployment and any form of possession of any nuclear weaspons, directly or indirectly, by the Parties themselves, by anyone on their behalf or in any other way.

2. The Contracting Parties also undertake to refrain from engaging in, encouraging or authorizing, directly or indirectly, or in any way participating in the testing, use, manufacture, production, possession or control of any nuclear weapon.

Definition of the Contracting Parties

ARTICLE 2

For the purposes of this Treaty, the Contracting Parties are those for whom the Treaty is in force.

Definition of territory

ARTICLE 3

For the purposes of this Treaty, the term "territory" shall include the territorial sea, air space and any other space over which the State exercises sovereignty in accordance with its own legislation.

Zone of application

1. The zone of application of this Treaty is the whole of the territories for which the Treaty is in force.

2. Upon fulfillment of the requirements of article 28, paragraph 1, the zone of application of this Treaty shall also be that whch is situated in the western hemisphere within the following limits (except the continental part of the territory of the United States of America and its territorial waters): starting at a point located at 35° north latitude, 75° west longitude; from this point directly southward to a point at 30° north latitude, 75° west longitude; from there, directly eastward to a point at 30° north latitude, 50° west longitude; from there, along a loxodromic litude; from there, along a loxodromic line to a point at 35° north latitude, 150° west longitude; from there, directly eastward to a point at 35° north latitude, 75° west longitude.

Definition of nuclear weapons

ARTICLE 5

For the purposes of this Treaty, a nuclear weapon is any device which is capable of releasing nuclear energy in an uncontrolled manner and which has a group of characteristics that are appropriate for use for warlike purposes. An instrument that may be used for the transport or propulsion of the device is not included in this definition if it is separable from the device and not an indivisible part thereof.

Meeting of signatories

ARTICLE 6

At the request of any of the signatory States or if the Agency established by article 7 should so decide, a meeting of all the signatories may be convoked to consider in common questions which may affect the very essence of this instrument, including possible amendments to it. In either case, the meeting will be convoked by the General Secretary.

Organization

ARTICLE 7

1. In order to ensure compliance with the obligations of this Treaty, the Contracting Parties hereby establish an international organization to be known as the "Agency for the Prohibition of Nuclear Weapons in Latin America" hereinafter referred to as "the Agency". Only the Contracting Parties shall be affected by its decisions.

2. The Agency shall be responsible for the holding of periodic or extraordinary consultations among Member States on matters relating to the purposes, measures and procedures set forth in this Treaty and to the supervision of compliance with the obligations arising therefrom.

3. The Contracting Parties agree to extend to the Agency full and prompt cooperation in accordance with the provisions of this Treaty, of any agreements they may conclude with the Agency and of any agreements the Agency may conclude with any other international organization or body.

4. The headquarters of the Agency shall be in Mexico City.

Organs

ARTICLE 8

1. There are hereby established as principal organs of the Agency a General Conference, a Council and a Secretariat.

2. Such subsidiary organs as are considered necessary by the General Conference may be established within the purview of this Treaty.

The General Conference

ARTICLE 9

1. The General Conference, the supreme organ of the Agency, shall be composed of all the Contracting Parties; it shall hold regular sessions every two years and may also hold special sessions whenever this Treaty so provides or, in the opinion of the Council, the circumstances so require.

2. The General Conference:

(a) May consider and decide on any matters or questions covered by this Treaty, within the limits thereof, including those referring to powers and functions of any organ provided for in this Treaty.

(b) Shall establish procedures for the control system to ensure observance of this Treaty in accordance with its provisions.

(c) Shall elect the Members of the Council and the General Secretary.

(d) May remove the General Secretary from office if the proper functioning of the Agency so requires.

(e) Shall receive and consider the biennial and special reports submitted by the Council and the General Secretary.

(f) Shall initiate and consider studies designed to facilitate the optimum fulfillment of the aims of this Treaty, without prejudice to the power of the General Secretary independently to carry out similar studies for submission to and consideration by the Conference.

(g) Shall be the organ competent to authorize the conclusion of agreements with Governments and other international organizations and bodies.

3. The General Conference shall adopt the Agency's budget and fix the scale of financial contributions to be paid by Member States, taking into account the systems and criteria used for the same purpose by the United Nations.

4. The General Conference shall elect its officers for each session and may establish such subsidiary organs as it deems necessary for the performance of its functions.

5. Each Member of the Agency shall have one vote. The decisions of the General Conference shall be taken by a two-thirds majority of the Members present and voting in the case of matters relating to the control system and measures referred to in article 20, the admission of new Members, the election or removal of the General Secretary, adoption of the budget and matters related thereto. Decisions on other matters, as well as procedural questions and also determination of which questions must be decided by a two-thirds majority, shall be taken by a simple majority of the Members present and voting.

6. The General Conference shall adopt its own rules of procedure.

The Council

ARTICLE 10

1. The Council shall be composed of five Members of the Agency elected by the General Conference from among the Contracting Parties, due account being taken of equitable geographic distribution.

2. The Members of the Council shall be elected for a term of four years. However, in the first election three will be elected for two years. Outgoing Members may not be

re-elected for the following period unless the limited number of States for which the Treaty is in force so requires.

3. Each Member of the Council shall have one representative.

4. The Council shall be so organized as to be able to function continuously.

5. In addition to the functions conferred upon it by this Treaty and to those which may be assigned to it by the General Conference, the Council shall, through the General Secretary, ensure the proper operation of the control system in accordance with the provisions of this Treaty and with the decisions adopted by the General Conference.

6. The Council shall submit an annual report on its work to the General Conference as well as such special reports as it deems necessary or which the General Conference requests of it.

7. The Council shall elect its officers for each session.

8. The decisions of the Council shall be taken by a simple majority of its Members present and voting.

9. The Council shall adopt its own rules of procedure.

The Secretariat

ARTICLE 11

1. The Secretariat shall consist of a General Secretary, who shall be the chief administrative officer of the Agency, and of such staff as the Agency may require. The term of office of the General Secretary shall be four years and he may be re-elected for a single additional term. The General Secretary may not be a national of the country in which the Agency has its headquarters. In case the office of General Secretary becomes vacant, a new election shall be held to fill the office for the remainder of the term.

2. The staff of the Secretariat shall be appointed by the General Secretary, in accordance with rules laid down by the General Conference.

3. In addition to the functions conferred upon him by this Treaty and to those which may be assigned to him by the General Conference—the General Secretary shall ensure, as provided by article 10, paragraph 5, the proper operation of the control system established by this Treaty, in accordance with the provisions of the Treaty and the decisions taken by the General Conference.

4. The General Secretary shall act in that capacity in all meetings of the General Conference and of the Council and shall make an annual report to both bodies on the work of the Agency and any special reports requested by the General Conference or the Council or which the General Secretary may deem desirable.

5. The General Secretary shall establish the procedures for distributing to all Contracting Parties information received by the Agency from governmental sources and such information from non-governmental sources as may be of interest to the Agency.

6. In the performance of their duties the General Secretary and the staff shall not seek or receive instructions from any Government or from any other authority external to the Agency and shall refrain from any action which might reflect on their position as international officials responsible only to the Agency; subject to their responsibility to the Agency, they shall not disclose any industrial secrets or other confidential information coming to their knowledge by reason of their official duties in the Agency.

7. Each of the Contracting Parties undertakes to respect the exclusively international character of the responsibilities of the General Secretary and the staff and not to seek to influence them in the discharge of their responsibilities.

Control system

ARTICLE 12

1. For the purpose of verifying compliance with the obligations entered into by the Contracting Parties in accordance with article 1, a control system shall be established which shall be put into effect in accordance with the provisions of articles 13-18 of this Treaty.

2. The control system shall be used in particular for the purpose of verifying:

(a) That devices, services and facilities intended for peaceful uses of nuclear energy are not used in the testing or manufacture of nuclear weapons.

(b) That none of the activities prohibited in article 1 of this Treaty are carried out in the territory of the Contracting Parties with nuclear materials or weapons introduced from abroad, and

(c) That explosions for peaceful purposes are compatible with article 18 of this Treaty.

IAEA safeguards

ARTICLE 13

Each Contracting Party shall negotiate multilateral or bilateral agreements with the International Atomic Energy Agency for the application of its safeguards to its nuclear activities. Each Contracting Party shall initiate negotiations within a period of 180 days after the date of the deposit of its instrument of ratification of this Treaty. These

agreements shall enter into force, for each Party, not later than eighteen months after the date of the initiation of such negotiations except in case of unforeseen circumstances or force majeure.

Reports of the Parties

ARTICLE 14

1. The Contracting Parties shall submit to the Agency and to the International Atomic Energy Agency, for their information, semi-annual reports stating that no activity prohibited under this Treaty has occurred in their respective territories.

2. The Contracting Parties shall simultaneously transmit to the Agency a copy of any report they may submit to the International Atomic Energy Agency which relates to matters that are the subject of this Treaty and to the application of safeguards.

3. The Contracting Parties shall also transmit to the Organization of American States, for its information, any reports that may be of interest to it, in accordance with the obligations established by the Inter-American System.

Special reports requested by the General Secretary

ARTICLE 15

1. With the authorization of the Council, the General Secretary may request any of the Contracting Parties to provide the Agency with complementary or supplementary information regarding any event or circumstance connected with compliance with this Treaty, explaining his reasons. The Contracting Parties undertake to co-operate promptly and fully with the General Secretary.

2. The General Secretary shall inform the Council and the Contracting Parties forthwith of such requests and of the respective replies.

Special inspections

ARTICLE 16

1. The International Atomic Energy Agency and the Council established by this Treaty have the power of carrying out special inspections in the following cases:

(a) In the case of the International Atomic Energy Agency, in accordance with the agreements referred to in article 13 of this Treaty;

(b) In the case of the Council:

(i) When so requested, the reasons for the request being stated, by any Party which suspects that some activity prohibited by this Treaty has been carried out or is about to be carried out, either in the territory of any other Party or in any other place on such latter Party's behalf, the Council shall immediately arrange for such an inspection in accordance with article 10, paragraph 5.

(ii) When requested by any Party which has been suspected of or charged with having violated this Treaty, the Council shall immediately arrange for the special inspection requested in accordance with article 10, paragraph 5.

The above requests will be made to the Council through the General Secretary.

2. The costs and expenses of any special inspection carried out under paragraph 1, sub-paragraph (b), sections (i) and (ii) of this article shall be borne by the requesting Party or Parties, except where the Council concludes on the basis of the report on the special inspection that, in view of the circumstances existing in the case, such costs and expenses should be borne by the Agency.

3. The General Conference shall formulate the procedures for the organization and execution of the special inspections carried out in accordance with paragraph 1, sub-paragraph (b), sections (i) and (ii) of this article.

4. The Contracting Parties undertake to grant the inspectors carrying out such special inspections full and free access to all places and all information which may be necessary for the performance of their duties and which are directly and intimately connected with the suspicion of violation of this Treaty. If so requested by the authorities of the Contracting Party in whose territory the inspection is carried out, the inspectors designated by the General Conference shall be accompanied by representatives of said authorities, provided that this does not in any way delay or hinder the work of the inspectors.

5. The Council shall immediately transmit to all the Parties, through the General Secretary, a copy of any report resulting from special inspections.

6. Similarly, the Council shall send through the General Secretary to the Secretary-General of the United Nations, for transmission to the United Nations Secretary Council and General Assembly, and to the Council of the Organization of American States, for its information, a copy of any report resulting from any special inspection carried out in accordance with paragraph 1, sub-paragraph (b), sections (i) and (ii) of this article.

7. The Council may decide, or any Contracting Party may request, the convening of a special session of the General Conference for the purpose of considering the reports resulting from any special inspection. In such a case, the General Secretary shall take immediate steps to convene the special session requested.

8. The General Conference, convened in special session under this article, may make recommendations to the Contracting Parties, and submit reports to the Secretary-General of the United Nations to be transmitted to the United Nations Security Council and the General Assembly.

Use of nuclear energy for peaceful purposes

ARTICLE 17

Nothing in the provisions of this Treaty shall prejudice the rights of the Contracting Parties, in conformity with this Treaty, to use nuclear energy for peaceful purposes, in particular for their economic development and social progress.

Explosions for peaceful purposes

ARTICLE 18

1. Contracting Parties may carry out explosions of nuclear devices for peaceful purposes—including explosions which involve devices similar to those used in nuclear weapons—or collaborate with third parties for the same purpose, provided that they do so in accordance with the provisions of this article and the other articles of the Treaty, particularly articles 1 and 5.

2. Contracting Parties intending to carry out, or to cooperate in carrying out, such an explosion shall notify the Agency and the International Atomic Energy Agency, as far in advance as the circumstances require, of the date of the explosion and shall at the same time provide the following information:

(a) The nature of the nuclear device and the source from which it was obtained.

(b) The place and purpose of the planned explosion,

(c) The procedures which will be followed in order to comply with paragraph 3 of this article,

(d) The expected force of the device, and

(e) The fullest possible information on any possible radioactive fall-out that may result from the explosion or explosions, and measures which will be taken to avoid danger to the population, flora, fauna and territories of any other Party or Parties.

3. The General Secretary and the technical personnel designated by the Council and the International Atomic Energy Agency may observe all the preparations, including the explosion of the device, and shall have unrestricted access to any area in the vicinity of the site of the explosion in order to ascertain whether the device and the procedures followed during the explosion are in conformity with the information supplied under paragraph 2 of this article and the other provisions of this Treaty.

4. The Contracting Parties may accept the collaboration of third parties for the purpose set forth in paragraph 1 of the present article, in accordance with paragraphs 2 and 3 thereof.

Relations with other international organizations

ARTICLE 19

1. The Agency may conclude such agreements with the International Atomic Energy Agency as are authorized by the General Conference and as it considers likely to facilitate the efficient operation of the control system established by this Treaty.

2. The Agency may also enter into relations with any international organization or body, especially any which may be established in the future to supervise disarmament or measures for the control of armaments in any part of the world.

3. The Contracting Parties may, if they see fit, request the advice of the Inter-American Nuclear Energy Commission on all technical matters connected with the application of this Treaty with which the Commission is competent to deal under its Statute.

Measures in the event of violation of the Treaty

ARTICLE 20

1. The General Conference shall take note of all cases in which, in its opinion, any Contracting Party is not complying fully with its obligations under this Treaty and shall draw the matter to the attention of the Party concerned, making such recommendations as it deems appropriate.

2. If, in its opinion, such non-compliance constitutes a violation of this Treaty which might endanger peace and security, the General Conference shall report thereon simultaneously to the United Nations Security Council and the General Assembly through the Secretary-General of the United Nations and to the Council of the Organization of American States. The General Conference shall likewise report to the International Atomic Energy Agency for such purposes as are relevant in accordance with its Statute.

United Nations and Organization of American States

ARTICLE 21

None of the provisions of this Treaty shall be construed as impairing the rights and obligations of the Parties under the Charter of the United Nations or, in the case of States Members of the Organization of American States, under existing regional treaties.

Privileges and immunities

ARTICLE 22

1. The Agency shall enjoy in the territory of each of the Contracting Parties such legal capacity and such privileges and immunities as may be necessary for the exercise of its functions and the fulfillment of its purposes.

2. Representatives of the Contracting Parties accredited to the Agency and officials of the Agency shall similarly enjoy such privileges and immunities as are necessary for the performance of their functions.

3. The Agency may conclude agreements with the Contracting Parties with a view to determining the details of the application of paragraphs 1 and 2 of this article.

Notification of other agreements

ARTICLE 23

Once this Treaty has entered into force, the Secretariat shall be notified immediately of any international agreement concluded by any of the Contracting Parties on matters with which this Treaty is concerned; the Secretariat shall register it and notify the other Contracting Parties.

Settlement of disputes

ARTICLE 24

Unless the Parties concerned agree on another mode of peaceful settlement, any question or dispute concerning the interpretation or application of this Treaty which is not settled shall be referred to the International Court of Justice with the prior consent of the Parties to the controversy.

Signature

ARTICLE 25

1. This Treaty shall be open indefinitely for signature by:

(a) All the Latin American Republics, and

(b) All other sovereign States situated in their entirety south of latitude 35° north in the western hemisphere; and, except as provided in paragraph 2 of this article, all such States which become sovereign, when they have admitted by the General Conference.

2. The General Conference shall not take any decision regarding the admission of a political entity part or all of whose territory is the subject, prior to the date when this Treaty is opened for signature, of a dispute or claim between an extracontinental country and one or more Latin American States, so long as the dispute has not been settled by peaceful means.

Ratification and deposit

ARTICLE 26

1. This Treaty shall be subject to ratification by signatory States in accordance with their respective constitutional procedures.

2. This Treaty and the instruments of ratification shall be deposited with the Government of the Mexican United States, which is hereby designated the Depositary Government.

3. The Depositary Government shall send certified copies of this Treaty to the Governments of signatory States and shall notify them of the deposit of each instrument of ratification.

Reservations

ARTICLE 27

This Treaty shall not be subject to reservations.

Entry into force

ARTICLE 28

1. Subject to the provisions of paragraph 2 of this article, this Treaty shall enter into force among the States that have ratified it as soon as the following requirements have been met:

(a) Deposit of the instruments of ratification of this Treaty with the Depositary Government by the Governments of the States mentioned in article 25 which are in existence on the date when this Treaty is opened for signature and which are not affected by the provisions of article 25, paragraph 2;

(b) Signature and ratification of Additional Protocol I annexed to this Treaty by all extra-continental or continental States having *de jure or de facto* international responsibility for territories situated in the zone of application of the Treaty;

(c) Signature and ratification of the Additional Protocol II annexed to this Treaty by all powers possessing nuclear weapons;

(d) Conclusion of bilateral or multilateral agreements on the agreements on the application of the Safeguards System of the International Atomic Energy Agency in accordance with article 13 of this Treaty.

2. All signatory States shall have the imprescriptible right to waive, wholly or in part, the requirements laid down in the preceding paragraph. They may do so by means of a declaration which shall be annexed to their respective instrument of ratification and which may be formulated at the time of deposit of the instrument or subsequently. For those States which exercise this right, this Treaty shall enter into force upon deposit of the declaration, or as soon as those requirements have been met which have not been expressly waived.

3. As soon as this Treaty has entered into force in accordance with the provisions of paragraph 2 for eleven States, the Depositary Government shall convene a preliminary meeting of those States in order that the Agency may be set up and commence its work.

4. After the entry into force of this Treaty for all the countries of the zone, the rise of a new power possessing nuclear weapons shall have the effect of suspending the execution of this Treaty for those countries which have ratified it without waiving requirements of paragraph 1, sub-paragraph (c) of this article, and which request such suspension; the Treaty shall remain suspended until the new power, on its own initiative or upon request by the General Conference, ratifies the annexed Additional Protocol II.

Amendments

ARTICLE 29

1. Any Contracting Party may propose amendments to this Treaty and shall submit its proposals to the Council through the General Secretary, who shall transmit them to all the other Contracting Parties and, in addition, to all other signatories in accordance with article 6. The Council, through the General Secretary, shall immediately following the meeting of signatories convene a special session of the General Conference to examine the proposals made, for the adoption of which a two-thirds majority of the Contracting Parties present and voting shall be required.

2. Amendments adopted shall enter into force as soon as the requirements set forth in article 28 of this Treaty have been complied with.

Duration and denunciation

ARTICLE 30

1. This Treaty shall be of a permanent nature and shall remain in force indefinitely, but any Party may denounce it by notifying the General Secretary of the Agency if, in the opinion of the denouncing State, there have arisen or may arise circumstances connected with the content of this Treaty or of the annexed Additional Protocols I and II which affect its supreme interests or the peace and security of one or more Contracting Parties.

2. The denunciation shall take effect three months after the delivery to the General Secretary of the Agency of the notification by the Government of the signatory State concerned. The General Secretary shall immediately communicate such notification to the other Contracting Parties and to the Secretary-General of the United Nations for the information of the United Nations Security Council and the General Assembly. He shall also communicate it to the Secretary-General of the Organization of American States.

Authentic texts and registration

ARTICLE 31

This Treaty, of which the Spanish, Chinese, English, French, Portuguese and Russian texts are equally authentic, shall be registered by the Depositary Government in accordance with article 102 of the United Nations Charter. The Depositary Government shall notify the Secretary-General of the United Nations of the signatures, ratifications and amendments relating to this Treaty and shall communicate them to the Secretary-General of the Organization of American States for its information.

TRANSITIONAL ARTICLE

Denunciation of the declaration referred to in article 28, paragraph 2, shall be subject to the same procedures as the denunciation of this Treaty, except that it will take effect on the date of delivery of the respective notification.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having deposited their full powers, found in good and due form, sign this Treaty on behalf of their respective Governments.

DONE at Mexico, Distrito Federal, on the Fourteenth day of February, one thousand nine hundred and sixty-seven.

ADDITIONAL PROTOCOL I[2]

The undersigned Plenipotentiaries, furnished with full powers by their respective Governments,

Convinced that the Treaty for the Prohibition of Nuclear Weapons in Latin America, negotiated and signed in accordance with the recommendations of the General Assembly of the United Nations in Resolution 1911 (XVIII) of 27 November 1963, represents an important step towards ensuring the non-proliferation of nuclear weapons,

Aware that the non-proliferation of nuclear weapons is not an end in itself but, rather, a means of achieving general and complete disarmament at a later stage, and

Desiring to contribute, so far as lies in their power, towards ending the armaments race, especially in the field of nuclear weapons, and towards strengthening a world at peace, based on mutual respect and sovereign equality of States,

Have agreed as follows:

Article 1. To undertake to apply the statute of denuclearization in respect of warlike purposes as defined in articles 2, 3, 5 and 13 of the Treaty for the Prohibition of Nuclear Weapons in Latin America in territories for which, *de jure* or *de facto*, they are internationally responsible and which lie within the limits of the geographical zone established in that treaty.

Article 2. The duration of this Protocol shall be the same as that of the Treaty for the Prohibition of Nuclear Weapons in Latin America of which this Protocol is an annex, and the provisions regarding ratification and denunciation contained in the Treaty shall be applicable to it.

Article 3. This Protocol shall enter into force, for the States which have ratified it, on the date of the deposit of their respective instruments of ratification.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having deposited their full powers, found in good and due form, sign this Protocol on behalf of their respective Governments.

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[2] The United Kingdom and the Netherlands are parties to this Protocol. The United States has signed.

TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA

Country	Date of Signature	Date of Deposit of Ratification
Antigua and Barbuda	10/11/83	10/11/83
Argentina	9/27/67	
Bahamas, The	7/16/76 [1]	
Barbados	10/18/68	4/25/69
Bolivia	2/14/67	2/18/69
Brazil	5/9/67	1/29/68 [2]
Chile	2/14/67	10/9/74 [2]
Colombia	2/14/67	8/4/72
Costa Rica	2/14/67	8/25/69
Dominican Republic	7/29/67	6/14/68
Equador	2/14/67	2/11/69
El Salvador	2/14/67	4/22/68
Grenada	4/29/75	6/20/75
Guatemala	2/14/67	2/6/70
Haiti	2/14/67	5/23/69
Honduras	2/14/67	9/23/68
Jamaica	10/26/67	6/26/69
Mexico	2/14/67	9/20/67
Nicaragua	2/15/67	10/24/68
Panama	2/14/67	6/11/71
Paraguay	4/26/67	3/19/69
Peru	2/14/67	3/4/69
Suriname	2/13/76	6/10/77
Trinidad and Tobago	6/27/67	12/3/70 [3]
Uruguay	2/14/67	8/20/68
Venezuela	2/14/67	3/23/70

[1] This is date of notification of succession. The declaration of waiver was deposited 4/26/77, which is date of entry into force for The Bahamas.
[2] Not in force. No declaration of waiver under Art. 28, para. 2.
[3] The declaration of waiver was deposited 6/27/75, which is date of entry into force for Trinidad and Tobago.

ADDITIONAL PROTOCOL I TO THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA

Country	Date of Signature	Date of Deposit of Ratification
France	3/2/79	
Netherlands	4/1/68	7/26/71
United Kingdom	12/20/67	12/11/69
United States	5/26/77	11/23/81

ADDITIONAL PROTOCOL II TO THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA

Country	Date of Signature	Date of Deposit of Ratification
China	8/21/73	6/12/74
France	7/18/73	3/22/74
USSR	5/18/78	1/8/79
United Kingdom	12/20/67	12/11/69
United States	4/1/68	5/12/71

January 1986
Office of the Legal Adviser
Department of State

APPENDIX 16

INTERNATIONAL ATOMIC ENERGY AGENCY PARTICIPATION ACT OF 1957 AND THE STATUTE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY

[PUBLIC LAW85-177] [H.R. 8992]

[71 STAT. 5899]

AN ACT

To provide for the appointment of representatives of the United States of the organs of the International Atomic Energy Agency, and to make other provisions with respect to the participation of the United States in that Agency, 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 "International Atomic Energy Agency Participation Act of 1957".

SEC. 2. (a) The President, by and with the advice and consent of the Senate, shall appoint a representative and a deputy representative of the United States to the International Atomic Energy Agency (hereinafter referred to as the "Agency"), who shall hold office at the pleasure of the President. Such representative and deputy representative shall represent the United States on the Board of Governors of the Agency, may represent the United States at the General Conference, and may serve ex officio as United States representative on any organ of that Agency, and shall perform such other functions in connection with the participation of the United States in the Agency as the President may from time to time direct.

(b) The President, by and with the advice and consent of the Senate, may appoint or designate from time to time to attend a specified session or specified sessions of the General Conference of the Agency a representative of the United States and such number of alternates as he may determine consistent with the rules of procedure of the General Conference.

(c) The President may also appoint or designate from time to time such other persons as he may deem necessary to represent the United States in the organs of the Agency. The President may designate any officer of the United States Government, whose appointment is subject to confirmation by the Senate, to act, without additional compensation, for temporary periods as the representative of the United States on the Board of Governors or to the General Conference of the Agency in the absence or disability of the representative and deputy representative appointed under section 2(a) or in lieu of such representatives in connection with a specified subject matter.

(d) All persons appointed or designated in pursuance of authority contained in this section shall receive compensation at rates determined by the President upon the basis of duties to be performed but not in excess of rates authorized by sections 411 and 412 of the Foreign Service Act of 1946, as amended (22 U.S.C. 866, 867), for Chiefs of Mission and Foreign Service officers occupying positions of equivalent importance, except that no Member of the Senate or House of Representatives or officer of the United States who is designated under subsection (b) or subsection (c) of this section as a delegate or representative of the United States or as an alternate to attend any specified session or specified sessions of the General Conference shall be entitled to receive such compensation. Any person who receives compensation pursuant to the provisions of this subsection may be

granted allowances and benefits not to exceed those received by Chiefs of Mission and Foreign Service officers occupying positions of equivalent importance.

SEC. 3. The participation of the United States in the International Atomic Energy Agency shall be consistent with and in furtherance of the purposes of the Agency set forth in its Statute and the policy concerning the development, use, and control of atomic energy set forth in the Atomic Energy Act of 1954, as amended. [The President shall, from time to time as occasion may require, but not less than once each year, make reports to the Congress on the activities of the International Atomic Energy Agency and on the participation of the United States therein.][1] In addition to any other requirements of law the Department of State and the Atomic Energy Commission shall keep the Joint Committee on Atomic Energy, the House Committee on Foreign Affairs, and the Senate Committee on Foreign Relations, as appropriate, currently informed with respect to the activities of the Agency and the participation of the United States therein.

SEC. 4. The representatives provided for in section 2 hereof, when representing the United States in the organs of the Agency, shall, at all times, act in accordance with the instructions of the President, and such representatives shall, in accordance with such instructions, cast any and all votes under the Statute of the International Atomic Energy Agency.

TIAS 3873.

SEC. 5. There is hereby authorized to be appropriated annually to the Department of State, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the payment by the United States of its share of the expenses of the International Atomic Energy Agency as apportioned by the Agency in accordance with paragraph (D) of article XIV of the Statute of the Agency, and for all necessary salaries and expenses of the representatives provided for in section 2 hereof and of their appropriate staffs, including personal services without regard to the civil service laws and the Classification Act of 1949, as amended; travel expenses without regard to the Standardized Government Travel Regulations, as amended, the Travel Expense Act of 1949, as amended, and section 10 of the Act of March 3, 1933, as amended; salaries as authorized by the Foreign Service Act of 1946, as amended, or as authorized by the Atomic Energy Act of 1954, as amended, and expenses and allowances of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended; services as authorized by section 15 of the Act of August 2, 1946 (5 U.S.C. 55a);[2] translating and other services, by contract; hire of passenger motor vehicles and other local transportation; printing and binding without regard to section 11 of the Act of March 1, 1919 (44 U.S.C. 111); official functions and courtesies; such sums as may be necessary to defray the expenses of United States participation in the Preparatory Commission for the Agency, established pursuant to annex I of the Statute of the Agency; and such other expenses as may be authorized by the Secretary of State.

5 U.S.C. 5101.
5 U.S.C. 5701.
5 U.S.C. 5731
22 U.S.C. 801 note.

5 U.S.C. 8301.
5 U.S.C. 8701.

SEC. 6. (a) Notwithstanding any other provision of law, Executive order or regulation, a Federal employee who, with the approval of the Federal agency or the head of the department by which he is employed, leaves his position to enter the employ of the Agency shall not be considered for the purposes of the Civil Service Retirement Act, as amended, and the Federal Employees' Group Life Insurance Act of 1954, as amended, as separated from his Federal position during such employment with the Agency but not to extend beyond the first three consecutive years of his entering the employ of the Agency: *Provided*, (1) That he shall pay to the Civil Service Commission within ninety days from the date he is separated without prejudice from the Agency all necessary deductions and agency contributions for coverage under the Civil Service Retirement Act for the period of his employment by the Agency, and (2) That all deductions and agency contributions necessary for continued coverage under the Federal Employees' Group Life Insurance Act of 1954, as amended, shall be made during the term of his employment with the International

[1] Public Law 89-348 (79 Stat. 1310), sec. 1(20), amended Public Law 85-177 by repealing the requirement of a report to the Congress by the President not less than once each year on the activities of the International Atomic Energy Agency and on the participation of the United States therein.

[2] Public Law 89-554 (80 Stat. 416) codified sec. 15 of the Act of August 2, 1946, as 5 U.S.C. 3109.

Atomic Energy Agency. If such employee, within three years from the date of his employment with the Agency, and within ninety days from the date he is separated without prejudice from the Agency, applies to be restored to his Federal position, he shall within thirty days of such application be restored to such position or to a position of like seniority, status and pay.[3]

(b) Notwithstanding any other provision of law, Executive order or regulation, any Presidential appointee or elected officer who leaves his position to enter, or who within ninety days after the termination of his position enters, the employ of the Agency, shall be entitled to the coverage and benefits of the Civil Service Retirement Act, as amended, and the Federal Employees' Group Life Insurance Act of 1954, as amended, but not beyond the earlier of either the termination of his employment with the Agency or the expiration of three years from the date he entered employment with the Agency: *Provided*, (1) That he shall pay to the Civil Service Commission within ninety days from the date he is separated without prejudice from the Agency all necessary deductions and agency contributions for coverage under the Civil Service Retirement Act for the period of his employment by the Agency and (2) That all deductions and agency contributions necessary for continued coverage under the Federal Employees' Group Life Insurance Act of 1954, as amended, shall be made during the term of his employment with the Agency.

(c) The President is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section and to protect the retirement, insurance and such other civil service rights and privileges as the President may find appropriate.

SEC. 7. Section 54 of the Atomic Energy Act of 1954, as amended, is amended by adding the following new sentences: "Unless hereafter otherwise authorized by law the Commission shall be compensated for special nuclear material so distributed at not less than the Commission's published charges applicable to the domestic distribution of such material, except that the Commission to assist and encourage research on peaceful uses or for medical therapy may so distribute without charge during any calendar year only a quantity of such material which at the time of transfer does not exceed in value $10,000 in the case of one nation or $50,000 in the case of any group of nations. The Commission may distribute to the International Atomic Energy Agency, or to any group of nations, only such amounts of special nuclear materials and for such periods of time as are authorized by Congress: *Provided, however,* That, notwithstanding this provision, the Commission is hereby authorized subject to the provisions of section 123, to distribute to the Agency five thousand kilograms of contained uranium 235, together with the amounts of special nuclear material which will match in amount the sum of all quantities of special nuclear materials made available by all other members of the Agency to July 1, 1960."

SEC. 8. In the event of an amendment to the Statute of the Agency being adopted in accordance with article XVIII-C of the Statute to which the Senate by formal vote shall refuse its advice and consent, upon notification by the Senate to the President of such refusal to advise and consent, all further authority under sections 2, 3, 4, and 5 of this Act, as amended, shall terminate: *Provided, however,* That the Secretary of State, under such regulations as the President shall promulgate, shall have the necessary authority to complete the prompt and orderly settlement of obligations and commitments to the Agency already incurred and pay salaries, allowances, travel expenses, and other expenses required for a prompt and orderly termination of United States participation in the Agency: *And provided further,* That the representative and the deputy representative of the United States to the Agency, and such other officers or employees representing the United States in the Agency, under such regulations as the President shall promulgate, shall retain their authority under this Act for such time as may be necessary to complete the settlement of matters arising out of the United States participation in the Agency.

Approved August 28, 1957.

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[3]Sec. 7 of Public Law 85-795 (72 Stat. 959), approved Aug. 28, 1958, repealed sec. 6(a), "except that it shall be considered to remain in effect with respect to any employee subject thereto who is serving as an employee of the International Atomic Energy Agency on the date of enactment of this Act and who does not make the election referred to in section 6 and for the purposes of any rights and benefits vested thereunder prior to such date."

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H.R. 8992 introduced by Mr. Price, of Illinois; referred to Joint Committee on Atomic Energy, 13220.
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STATUTE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY

ARTICLE I. ESTABLISHMENT OF THE AGENCY

The Parties hereto establish an International Atomic Energy Agency (hereinafter referred to as "the Agency") upon the terms and conditions hereinafter set forth.

ARTICLE II. OBJECTIVES

The Agency shall seek to accelerate and enlarge the contribution of atomic energy to peace, health, and prosperity throughout the world. It shall ensure, so far as it is able, that assistance provided by it or at its request or under its supervision or control is not used in such a way as to further any military purpose.

ARTICLE III. FUNCTIONS

A. The Agency is authorized:

1. To encourage and assist research on, and development and practical application of, atomic energy for peaceful uses throughout the world; and, if requested to do so, to act as an intermediary for the purposes of securing the performance of services or the supplying of materials, equipment, or facilities by one member of the Agency for another; and to perform any operation or service useful in research on, or development or practical application of, atomic energy for peaceful purposes;

2. To make provision, in accordance with this Statute, for materials, services, equipment, and facilities to meet the needs of research on, and development and practical application of, atomic energy for peaceful purposes, including the production of electric power, with due consideration for the needs of the underdeveloped areas of the world;

3. To foster the exchange of scientific and technical information on peaceful use of atomic energy;

4. To encourage the exchange and training of scientists and experts in the field of peaceful uses of atomic energy;

5. To establish and administer safeguards designed to ensure that special fissionable and other materials, services, equipment, facilities, and information made available by the Agency or at its request or under its supervision or control are not used in such a way as to further any military purposes; and to apply safeguards, at the request of the parties, to any bilateral or multilateral arrangement, or, at the request of a State, to any of that State's activities in the field of atomic energy;

6. To establish or adopt, in consultation and, where appropriate, in collaboration with the competent organs of the United Nations and with the specialized agencies concerned, standards of safety for protection of health and minimization of danger to life and property (including such standards for labour conditions), and to provide for the application of these standards to its own operations as well as to the operations making use of materials, services, equipment, facilities, and information made available by the Agency or at its request or under its control or

supervision; and to provide for the application of these standards, at the request of the parties, to operations under any bilateral or multilateral arrangement, or, at the request of a State, to any of that State's activities in the field of atomic energy;

7. To acquire or establish any facilities, plant and equipment useful in carrying out its authorized functions, whenever the facilities, plant, and equipment otherwise available to it in the area concerned are inadequate or available only on terms it deems unsatisfactory.

B. In carrying out its functions, the Agency shall:

1. Conduct its activities in accordance with the purposes and principles of the United Nations to promote peace and international cooperation, and in conformity with policies of the United Nations furthering the establishment of safeguarded worldwide disarmament and in conformity with any international agreements entered into pursuant to such policies;

2. Establish control over the use of special fissionable materials received by the Agency, in order to ensure that these materials are used only for peaceful purposes;

3. Allocate its resources in such a manner as to secure efficient utilization and the greatest possible general benefit in all areas of the world, bearing in mind the special needs of the underdeveloped areas of the world;

4. Submit reports on its activities annually to the General Assembly of the United Nations and, when appropriate, to the Security Council: if in connection with the activities of the Agency there should arise questions that are within the competence of the Security Council, the Agency shall notify the Security Council, as the organ bearing the main responsibility for the maintenance of international peace and security, and may also take the measures open to it under this Statute, including those provided in paragraph C of article XII;

5. Submit reports to the Economic and Social Council and other organs of the United Nations on matters within the competence of these organs.

C. In carrying out its functions, the Agency shall not make assistance to members subject to any political, economic, military, or other conditions incompatible with the provisions of this Statute.

D. Subject to the provisions of this Statute and to the terms of agreement concluded between a State or a group of States and the Agency which shall be in accordance with the provisions of the Statute, the activities of the Agency shall be carried out with due observance of the sovereign rights of States.

ARTICLE IV. MEMBERSHIP

A. The initial members of the Agency shall be those States Members of the United Nations or of any of the specialized agencies which shall have signed this Statute within ninety days after it is opened for signature and shall have deposited an instrument or ratification.

B. Other members of the Agency shall be those States, whether or not Members of the United Nations or of any of the specialized agencies, which deposit an instrument of acceptance of this Statute after their membership has been approved by the General Conference upon the recommendation of the Board of Governors. In recommending and approving a State for membership, the Board of Governors and the General Conference shall determine that the State is able and willing to carry out the obligations of membership in the Agency, giving due consideration to its ability and willingness to act in accordance with the purposes and principles of the Charter of the United Nations.

C. The Agency is based on the principle of the sovereign equality of all its members, and all members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with this Statute.

ARTICLE V. GENERAL CONFERENCE

A. A General Conference consisting of representatives of all members shall meet in regular annual session and in such special sessions as shall be convened by the District General at the request of the Board of Governors or of a majority of members. The sessions shall take place at the headquarteres of the Agency unless otherwise determined by the General Conference.

B. At such sessions, each member shall be represented by one delegate who may be accompanied by alternates and by advisers. The cost of attendance of any delegation shall be borne by the member concerned.

C. The General Conference shall elect a President and such other officers as may be required at the beginning of each session. They shall hold office for the duration of the session. The General Conference, subject to the provisions of this Statute, shall adopt its own rules of procedure. Each member shall have one vote. Decisions pursuant to paragraph H of article XIV, paragraph C of article XVIII, and paragraph B of article XIX shall be made by a two-thirds majority of the members present and voting. Decisions on other questions, including the determination of additional questions or categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting. A majority of members shall constitute a quorum.

D. The General Conference may discuss any questions or any matters within the scope of this Statute or relating to the powers and functions of any organs provided for in this Statute, and may make recommendations to the membership of the Agency or to the Board of Governors or to both on any such questions or matters.

E. The General Conference shall:

1. Elect members of the Board of Governors in accordance with article VI;
2. Approve States for membership in accordance with article IV;
3. Suspend a member from the privileges and rights of membership in accordance with article XIX;
4. Consider the annual report of the Board;
5. In accordance with article XIV, approve the budget of the Agency recommended by the Board or return it with recommendations as to its entirety or parts to the Board, for resubmission to the General Conference;
6. Approve reports to be submitted to the United Nations as required by the relationship agreement between the Agency and the United Nations, except report referred to in paragraph C of article XII, or return them to the Board with its recommendations;
7. Approve any agreement or agreements between the Agency and the United Nations and other organizations as provided in article XVI or return such agreements with its recommendations to the Board, for resubmission to the General Conference;
8. Approve rules and limitations regarding the exercise of borrowing powers by the Board, in accordance with paragraph G of article XIV; approve rules regarding the acceptance of voluntary contributions to the Agency; and approve, in accordance with paragraph F of article XIV, the manner in which the general fund referred to in that paragraph may be used;
9. Approve amendments to this Statute in accordance with paragraph C of article XVIII;
10. Approve the appointment of the Director General in accordance with paragraph A of article VII.

F. The General Conference shall have the authority:

1. To take decisions on any matter specifically referred to the General Conference for this purpose by the Board;
2. To propose matters for consideration by the Board and request from the Board reports on any matter relating to the functions of the Agency.

ARTICLE VI. BOARD OF GOVERNORS

A. The Board of Governors shall be composed as follows:

1. The outgoing Board of Governors (or in the case of the first Board, the Preparatory Commission referred to in Annex I) shall designate for membership on the Board the five members most advanced in the technology of atomic energy including the production of source materials and the member most advanced in the technology of atomic energy including the production of source materials in each of the following areas not represented by the aforesaid five:
   (1) North America
   (2) Latin America
   (3) Western Europe
   (4) Eastern Europe
   (5) Africa and the Middle East
   (6) South Asia
   (7) South East Asia and the Pacific
   (8) Far East
2. The outgoing Board of Governors (or in the case of the first Board, the Preparatory Commission referred to in Annex I) shall designate for membership on the Board two members from among the following other producers of source materials: Belgium, Czechoslovakia, Poland, and Portugal; and shall also designate for membership on the Board one other member as a supplier of technical assistance. No member in this category in any one year will be eligible for redesignation in the same category for the following year.
3. The General Conference shall elect ten members to membership on the Board of Governors, with due regard to equitable representation on the Board as a whole of the members in the areas listed in subparagraph A-1 of this article, so that the Board shall at all times include in this category a representative of each of those areas except North America. Except for the five members chosen for a term of one year in accordance with paragraph D of this article, no member in this category in any one term of office will be eligible for reelection in this same category for the following term of office.

B. The designations provided for in subparagraphs A-1 and A-2 of this article shall take place not less than sixty days before each regular annual session of the General Conference. The elections provided for in subparagraph A-3 of this article shall take place at regular annual sessions of the General Conference.

C. Members represented on the Board of Governors in accordance with subparagraph A-1 and A-2 of this article shall hold office from the end of the next regular annual session of the General Conference after their designation until the end of the following regular annual session of the General Conference.

D. Members represented on the Board of Governors in accordance with subparagraph A-3 of this article shall hold office from the end of the regular annual session of the General Conference at which they are elected until the end of the second regular annual session of the General Conference thereafter. In the election of these members for the first Board, however, five shall be chosen for a term of one year.

E. Each member of the Board of Governors shall have one vote. Decisions on the amount of the Agency's budget shall be made by a two-thirds majority of those present and voting, as provided in paragraph H of article XIV. Decisions on other questions, including the determination of additional questions or categories of questions to be decided by a two-thirds majority, shall be made by a majority of those present and voting. Two-thirds of all members of the Board shall constitute a quorum.

F. The Board of Governors shall have authority to carry out the functions of the Agency in accordance with this Statute, subject to its responsibilities to the General Conference as provided in this Statute.

G. The Board of Governors shall meet at such times as it may determine. The meetings shall take place at the headquarters of the Agency unless otherwise determined by the Board.

H. The Board of Governors shall elect a Chairman and other officers from among its members and, subject to the provisions of this Statute, shall adopt its own rules of procedure.

I. The Board of Governors may establish such committees as it deems advisable. The Board may appoint persons to represent it in its relations with other organizations.

J. The Board of Governors shall prepare an annual report to the General Conference concerning the affairs of the Agency and any projects approved by the Agency. The Board shall also prepare for submission to the General Conference such reports as the Agency is or may be required to make to the United Nations or to any other organization the work of which is related to that of the Agency. These reports, along with the annual reports, shall be submitted to members of the Agency at least one month before the regular annual session of the General Conference.

ARTICLE VII. STAFF

A. The staff of the Agency shall be headed by a Director General. The Director General shall be appointed by the Board of Governors with the approval of the General Conference for a term of four years. He shall be the chief administrative officer of the Agency.

B. The Director General shall be responsible for the appointment, organization, and functioning of the staff and shall be under the authority of and subject to the control of the Board of Governors. He shall perform his duties in accordance with regulations adopted by the Board.

C. The staff shall include such qualified scientific and technical and other personnel as may be required to fulfill the objectives and functions of the Agency. The Agency shall be guided by the principle that its permanent staff shall be kept to a minimum.

D. The paramount consideration in the recruitment and employment of the staff and in the determination of the conditions of service shall be to secure employees of the highest standards of efficiency, technical competence, and integrity. Subject to this consideration, due regard shall be paid to the contributions of members of the Agency and to the importance of recruiting the staff on as wide a geographical basis as possible.

E. The terms and conditions on which the staff shall be appointed, remunerated, and dismissed shall be in accordance with regulations made by the Board of Governors, subject to the provisions of this Statute and to general rules approved by the General Conference on the recommendation of the Board.

F. In the performance of their duties, the Director General and the staff shall not seek or receive instructions from any source external to the Agency. They shall refrain from any action which might reflect on their position as officials of the Agency; subject to their responsibilities to the Agency, they shall not disclose any industrial secret or other confidential information coming to their knowledge by reason of their official duties for the Agency. Each member undertakes to respect the international character of the responsibilities of the Director General and the staff and shall not seek to influence them in the discharge of their duties.

G. In this article the term "staff" includes guards.

ARTICLE VIII. EXCHANGE OF INFORMATION

A. Each member should make available such information as would, in the judgment of the member, be helpful to the Agency.

B. Each member shall make available to the Agency all scientific information developed as a result of assistance extended by the Agency pursuant to article XI.

C. The Agency shall assemble and make available in an accessible form the information made available to it under paragraphs A and B of this article. It shall take positive steps to encourage the exchange among its members of information relating to the nature and peaceful uses of atomic energy and shall serve as an intermediary among its members for this purpose.

ARTICLE IX. SUPPLYING OF MATERIALS

A. Members may make available to the Agency such quantities of special fissionable materials, as they deem advisable and on such terms as shall be agreed with the Agency. The materials made available to the Agency may, at the discretion of the member making them available, be stored either by the member concerned or, with the agreement of the Agency, in the Agency's depots.

B. Members may also make available to the Agency source materials as defined in article XX and other materials. The Board of Governors shall determine the quantities of such materials which the Agency will accept under agreements provided for in article XIII.

C. Each member shall notify the Agency of the quantities, form, and composition of special fissionable materials, source materials, and other materials which that member is prepared, in conformity with its laws, to make available immediately or during a period specified by the Board of Governors.

D. On request of the Agency a member shall, from the materials which it has made available, without delay deliver to another member or group of members such quantities of such materials as the Agency may specify, and shall without delay deliver to the Agency itself such quantities of such materials as are really necessary for operations and scientific research in the facilities of the Agency.

E. The quantities, form and composition of materials made available by any member may be changed at any time by the member with the approval of the Board of Governors.

F. An initial notification in accordance with paragraph C of this article shall be made within three months of the entry into force of this Statute with respect to the member concerned. In the absence of a contrary decision of the Board of Governors, the materials initially made available shall be for the period of the calendar year succeeding the year when this Statute takes effect with respect to the member concerned. Subsequent notifications shall likewise, in the absence of a contrary action by the Board, relate to the period of the calendar year following the notification and shall be made no later than the first day of November of each year.

G. The Agency shall specify the place and method of delivery and, where appropriate, the form and composition, of materials which it has requested a member to deliver from the amounts which that member has notified the Agency it is prepared to make available. The Agency shall also verify the quantities of materials delivered and shall report those quantities periodically to the members.

The Agency shall be responsible for storing and protecting materials in its posession. The Agency shall ensure that these materials shall be safeguarded against (1) hazards of the weather, (2) unauthorized removal or diversion, (3) damage or destruction, including sabotage, and (4) forcible seizure. In storing special fissionable materials in its possession, the Agency shall ensure the geographical distribution of these materials in any one country or region of the world.

I. The Agency shall as soon as practicable establish or acquire such of the following as may be necessary:

1. Plant, equipment, and facilities for the receipt, storage, and issue of materials;
2. Physical safeguards;
3. Adequate health and safety measures;
4. Control laboratories for the analysis and verification of materials received;
5. Housing and administrative facilities for any staff required for the foregoing.

J. The materials made available pursuant to this article shall be used as determined by the Board of Governors in accordance with the provisions of this Statute. No member shall have the right to require that the materials it makes available to the Agency be kept separately by the Agency or to designate the specific project in which they must be used.

ARTICLE X. SERVICES, EQUIPMENT, AND FACILITIES

Members may make available to the Agency services, equipment, and facilities which may be of assistance in fulfilling the Agency's objectives and functions.

ARTICLE XI. AGENCY PROJECTS

A. Any member or group of members of the Agency desiring to set up any project for research on, or development or practical application of atomic energy for peaceful purposes may request the assistance of the Agency in securing special fissionable and other materials, services, equipment, and facilities necessary for this purpose. Any such

request shall be accompanied by an explanation of the purpose and extent of the project and shall be considered by the Board of Governors.

B. Upon request, the Agency may also assist any member or group of members to make arrangements to secure necessary financing from outside sources to carry out such projects. In extending this assistance, the Agency will not be required to provide any guarantees or to assume any financial responsibility for the project.

C. The Agency may arrange for the supplying of any materials, services, equipment, and facilities necessary for the project by one or more members or may itself undertake to provide any or all of these directly, taking into consideration the wishes of the member or members making the request.

D. For the purpose of considering the request, the Agency may send into the territory of the member or group of members making the request a person or persons qualified to examine the project. For this purpose the Agency may, with the approval of the member or group of members making the request, use members of its own staff or employ suitably qualified nationals of any member.

E. Before approving a project under this article, the Board of Governors shall give due consideration to:

1. The usefulness of the project, including its scientific and technical feasibility;
2. The adequacy of plans, funds, and technical personnel to assure the effective execution of the project;
3. The adequacy of proposed health and safety standards for handling and storing materials and for operating facilities;
4. The inability of the member or group of members making the request to secure the necessary finances, materials, facilities, equipment, and services;
5. The equitable distribution of materials and other resources available to the Agency;
6. The special needs of the underdeveloped areas of the world; and
7. Such other matters as may be relevant.

F. Upon approving a project, the Agency shall enter into an agreement with the member or group of members submitting the project, which agreement shall:

1. Provide for allocation to the project of any required special fissionable or other materials;
2. Provide for transfer of special fissionable materials from their then place of custody, whether the materials be in the custody of the Agency or of the member making them available for use in Agency projects, to the member or group of members submitting the project, under conditions which ensure the safety of any shipment required and meet applicable health and safety standards;
3. Set forth the terms and conditions, including charges, on which any materials, services, equipment, and facilities are to be provided by the Agency itself, and, if any such materials, services, equipment, and facilities are to be provided by a member, the terms and conditions as arranged for by the member or group of members submitting the project and the supplying member;
4. Include undertakings by the member or group of members submitting the project: (*a*) that the assistance provided shall not be used in such a way as to further any military purpose; and (*b*) that the project shall be subject to the safeguards provided for in article XII, the relevant safeguards being specified in the agreement;
5. Make appropriate provisions regarding the rights and interests of the Agency and the member or members concerned in any inventions or discoveries, or any patents therein, arising from the project;
6. Make appropriate provision regarding settlement of disputes;
7. Include such other provisions as may be appropriate.

G. The provisions of this article shall also apply where appropriate to a request for materials, services, facilities, or equipment in connection with an existing project.

ARTICLE XII. AGENCY SAFEGUARDS

A. With respect to any Agency project, or other arrangement where the Agency is requested by the parties concerned to apply safeguards, the Agency shall have the following rights and responsibilities to the extent relevant to the project or arrangement:

1. To examine the design of specialized equipment and facilities, including nuclear reactors, and to approve it only from the viewpoint of assuring that it will not further any military purpose, that it complies with applicable health and safety standards, and that it will permit effective application of the safeguards provided for in this article;
2. To require the observance of any health and safety measures prescribed by the Agency;
3. To require the maintenance and production of operating records to assist in ensuring accountability for source and special fissionable materials used or produced in the project or arrangement;
4. To call for and receive progress reports;
5. To approve the means to be used for the chemical processing of irradiated materials solely to ensure that this chemical processing will not lend itself to

diversion of materials for military purposes and will comply with applicable health and safety standards; to require that special fissionable materials recovered or produced as a by-product be used for peaceful purposes under, continuing Agency safeguards for research or in reactors, existing or under construction, specified by the member or members concerned; and to require deposit with the Agency of any excess of any special fissionable materials recovered or produced as a by-product over what is needed for the above-stated uses in order to prevent stockpiling of these materials, provided that thereafter at the request of the member or members concerned special fissionable materials so deposited with the Agency shall be returned promptly to the member or members concerned for use under the same provisions as stated above;

6. To send into the territory of the recipient State or States inspectors, designated by the Agency after consultation wih the State or States concerned, who shall have access at all times to all places and data and to any person who by reason of his occupation deals with materials, equipment, or facilities which are required by this Statute to be safeguarded, as necessary to account for source and special fissionable materials supplied and fissionable products and to determine whether there is compliance with the undertaking against use in furtherance of any military purpose referred to in subparagraph F-4 of article XI, with the health and safety measures referred to in subparagraph A-2 of this article, and with any other conditions prescribed in the agreement between the Agency and the State or States concerned. Inspectors designated by the Agency shall be accompanied by representatives of the authorities of the State concerned, if that State so requests, provided that the inspectors shall not thereby be delayed or otherwise impeded in the exercise of their functions;

7. In the event of noncompliance and failure by the recipient State or States to take requested corrective steps within a reasonable time, to suspend or terminate assistance and withdraw any materials and equipment made available by the Agency or a member in furtherance of the project.

B. The Agency shall, as necessary, establish a staff of inspectors. The staff of inspectors shall have the responsibility of examining all operations conducted by the Agency itself to determine whether the Agency is complying with the health and safety measures prescribed by it for application to projects subject to its approval, supervision or control, and whether the Agency is taking adequate measures to prevent the source and special fissionable materials in its custody or used or produced in its own operations from being used in furtherance of any military purpose. The Agency shall take remedial action forthwith to correct any noncompliance or failure to take adequate measures.

C. The staff of inspectors shall also have the responsibility of obtaining and verifying the accounting referred to in subparagraph A-6 of this article and of determining whether there is compliance with the undertaking referred to in subparagraph A-2 of this article, and with all other conditions of the project prescribed in the agreement between the Agency and the State or States concerned. The inspectors shall report any noncompliance to the Director General who shall thereupon transmit the report to the Board of Governors. The Board shall call upon the recipient State or States to remedy forthwith any noncompliance which it finds to have occurred. The Board shall report the noncompliance to all members and to the Security Council and General Assembly of the United Nations. In the event of failure of the recipient State or States to take fully corrective action within a reasonable time, the Board may take one or both of the following measures: direct curtailment or suspension of assistance being provided by the Agency or by a member, and call for the return of materials and equipment made available to the recipient members or group of members. The Agency may also, in accordance with article XIX, suspend any noncomplying member from the exercise of the privileges and rights of membership.

ARTICLE XIII. REIMBURSEMENT OF MEMBERS

Unless otherwise agreed upon between the Board of Governors and the members furnishing to the Agency materials, services, equipment, or facilities, the Board shall enter into an agreement with such member providing for reimbursement for the items furnished.

ARTICLE XIV. FINANCE

A. The Board of Governors shall submit to the General Conference the annual budget estimates for the expenses of the Agency. To facilitate the work of the Board in this regard, the Director General shall initially prepare the budget estimates. If the General Conference does not approve the estimates, it shall return them together with its recommendations to the Board. The Board shall then submit further estimates to the General Conference for its approval.

B. Expenditures of the Agency shall be classified under the following categories:

1. Administrative expenses: these shall include:

(*a*) Costs of the staff of the Agency other than the staff employed in connection with materials, services, equipment, and facilities referred to in

subparagraph B-2 below; costs of meetings; and expenditures required for the preparation of Agency projects and for the distribution of information;

(*b*) Costs of implementing the safeguards referred to in article XII in relation to Agency projects or, under subparagraph A-5 of article III, in relation to any bilateral or multilateral arrangement, together with the costs of handling and storage of special fissionable material by the Agency other than the storage and handling charges referred to in paragraph E below;

2. Expenses, other than those included in subparagraph 1 of this paragraph in connection with any materials, facilities, plant, and equipment acquired or established by the Agency in carrying out its authorized functions, and the costs of materials, services, equipment, and facilities provided by it under agreements with one or more members.

C. In fixing the expenditures under subparagraph B-1 (*b*) above, the Board of Governors shall deduct such amounts as are recoverable under agreements regarding the application of safeguards between the Agency and parties to bilateral or multilateral arrangements.

D. The Board of Governors shall apportion the expenses referred to in subparagraph B-1 above, among members in accordance with a scale to be fixed by the General Conference. In fixing the scale the General Confernce shall be guided by the principles adopted by the United Nations in assessing contributions of Member States to the regular budget of the United Nations.

E. The Board of Governors shall establish periodically a scale of charges, including reasonable uniform storage and handling charges, for materials, services, equipment, and facilities furnished to members by the Agency. The scale shall be designed to produce revenues for the Agency adequate to meet the expenses and costs referred to in subparagraph B-2 above, less any voluntary contributions which the Board of Governors may, in accordance with paragraph F, apply for this purpose. The proceeds of such charges shall be placed in a separate fund which shall be used to pay members for any materials, services, equipment, or facilities furnished by them and to meet other expenses referred to in subparagraph B-2 above, which may be incurred by the Agency itself.

F. Any excess of revenues referred to in paragraph E over the expenses and costs there referred to, and any voluntary contributions to the Agency, shall be placed in a general fund which may be used as the Board of Governors, with the approval of the General Conference, may determine.

G. Subject to rules and limitations approved by the General Conference, the Board of Governors shall have the authority to exercise borrowing powers on behalf of the Agency without, however, imposing on members of the Agency any liability in respect of loans entered into pursuant to this authority, and to accept voluntary contributions made to the Agency.

H. Decisions of the General Conference on financial questions and of the Board of Governors on the amount of the Agency's budget shall require a two-thirds majority of those present and voting.

ARTICLE XV. PRIVILEGES AND IMMUNITIES

A. The Agency shall enjoy in the territory of each member such legal capacity and such privileges and immunities as are necessary for the exercise of its functions.

B. Delegates of members together with their alternates and advisers, Governors appointed to the Board together with their alternates and advisers, and the Director General and the staff of the Agency, shall enjoy such privileges and immunities as are necessary in the independent exercise of their functions in connection with the Agency.

C. The legal capacity, privileges, and immunities referred to in this article shall be defined in a separate agreement or agreements between the Agency, represented for this purpose by the Director General acting under instructions of the Board of Governors, and the members.

ARTICLE XVI. RELATIONSHIP WITH OTHER ORGANIZATIONS

A. The Board of Governors, with the approval of the General Conference, is authorized to enter into an agreement or agreements establishing an appropriate relationship between the Agency and the United Nations and any other organizations the work of which is related to that of the Agency.

B. The agreement or agreements establishing the relationship of the Agency and the United Nations shall provide for:

1. Submission by the Agency of reports as provided for in subparagraphs B-4 and B-5 of article III;

2. Consideration by the Agency of resolutions relating to it adopted by the General Assembly or any of the Councils of the United Nations and the submission of reports, when requested, to the appropriate organ of the United Nations on the action taken by the Agency or by its members in accordance with this Statute as a result of such consideration.

ARTICLE XVII. SETTLEMENT OF DISPUTES

A. Any question or dispute concerning the interpretation or application of this Statute which is not settled by negotiation shall be referred to the International Court of Justice in conformity with the Statute of the Court unless the parties concerned agree on another mode of settlement.

B. The General Conference and the Board of Governors are separately empowered, subject to authorization from the General Assembly of the United Nations, to request the International Court of Justice to give an advisory opinion on any legal question arising within the scope of the Agency's activities.

ARTICLE XVIII. AMENDMENTS AND WITHDRAWALS

A. Amendments to this Statute may be proposed by any member. Certified copies of the text of any amendment proposed shall be prepared by the Director General and communicated by him to all members at least ninety days in advance of its consideration by the General Conference.

B. At the fifth annual session of the General Conference following the coming into force of this Statute, the question of a general review of the provisions of this Statute shall be placed on the agenda of that session. On approval by a majority of the members present and voting, the review will take place at the following General Conference. Thereafter, proposals on the question of a general review of this Statute may be submitted for decision by the General Conference under the same procedure.

C. Amendments shall come into force for all members when:

(i) Approved by the General Conference by a two-thirds majority of those present and voting after consideration of observations submitted by the Board of Governors on each proposed amendment, and

(ii) Accepted by two-thirds of all the members in accordance with their respective constitutional processes. Acceptance by a member shall be effected by the deposit of an instrument of acceptance with the depositary Government referred to in paragraph C of article XXI.

D. At any time after five years from the date when this Statute shall take effect in accordance with paragraph E of article XXI or whenever a member is unwilling to accept an amendment to this Statute, it may withdraw from the Agency by notice in writing to that effect given to the depositary Government referred to in paragraph C of article XXI, which shall promptly inform the Board of Governors and all members.

E. Withdrawal by a member from the Agency shall not affect its contractual obligations entered into pursuant to article XI or its budgetary obligations for the year in which it withdraws.

ARTICLE XIX. SUSPENSION OF PRIVILEGES

A. A member of the Agency which is in arrears in the payment of its financial contributions to the Agency shall have no vote in the Agency if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two years. The General Conference may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.

B. A member which has persistently violated the provisions of this Statute or of any agreement entered into by it pursuant to this Statute may be suspended from the exercise of the privileges and rights of membership by the General Conference acting by a two-thirds majority of the members present and voting upon recommendation by the Board of Governors.

ARTICLE XX. DEFINITIONS

As used in this Statute:

1. The term "special fissionable material" means plutonium-239; uranium-233; uranium enriched in the isotopes 235 or 233; any material containing one or more of the foregoing; and such other fissionable material as the Board of Governors shall from time to time determine; but the term "special fissionable material" does not include source material.

2. The term "uranium enriched in the isotopes 235 or 233" means uranium containing the isotopes 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature.

3. The term "source material" means uranium containing the mixture of isotopes occurring in nature; uranium depleted in the isotope 235; thorium; any of the foregoing in the form of metal, alloy, chemical compound, or concentrate; any other material containing one or more of the foregoing in such concentration as the Board of Governors shall from time to time determine; and such other material as the Board of Governors shall from time to time determine.

ARTICLE XXI. SIGNATURE, ACCEPTANCE, AND ENTRY INTO FORCE

A. This Statute shall be open for signature on 26 October 1956 by all States Members of the United Nations or of any of the specialized agencies and shall remain open for signature by those States for a period of ninety days.

STATUTE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY

Formulated at the Conference on the Statute of the International Atomic Energy Agency at United Nations Headquarters and open for signature from October 26, 1956 to January 24, 1967; entered into force initially on July 29, 1957
Amendments to the Statute entered into force for all Members of the Agency on January 31, 1963, and June 1, 1973

State	Date of deposit of instrument of ratification	Date of deposit of instrument of acceptance	Date of entry into force
Afghanistan	May 31, 1957		July 29, 1957[1]
Albania	Aug. 23, 1957		Aug. 23, 1957
Algeria		Dec. 24, 1963	Dec. 24, 1963
Argentina	Oct. 3, 1957[1]		Oct. 3, 1957
Australia	July 29, 1957		July 29, 1957
Austria	May 10, 1957		July 29, 1957
Bangladesh		Sept. 27, 1972	Sept. 27, 1972
Belgium	Apr. 29, 1958		Apr. 29, 1958
Bolivia	Mar. 15, 1963		Mar. 15, 1963
Brazil	July 29, 1957		July 29, 1957
Bulgaria	Aug. 17, 1957		Aug. 17, 1957
Burma	Oct. 18, 1957		Oct. 18, 1957
Byelorussian Soviet Socialist Rep.	Apr. 8, 1957		July 29, 1957
Cameroon		July 13, 1964	July 13, 1964
Canada	July 29, 1957		July 29, 1957
Chile	Sept. 19, 1960		Sept. 19, 1960
China[2]		Jan. 1, 1984	Jan. 1, 1984
Colombia	Sept. 30, 1960		Sept. 30, 1960
Costa Rica	Mar. 25, 1965		Mar. 25, 1965
Cuba	Oct. 1, 1957		Oct. 1, 1957
Cyprus		June 7, 1965	June 7, 1965
Czechoslovakia	957		July 29, 1957
Denmark	957		July 29, 1957
Dominican Rep.	957		July 29, 1957
Ecuador	8		Mar. 3, 1958
Egypt	Sept. 57		Sept. 4, 1957
El Salvador	Nov. 957		Nov. 22, 1957
Ethiopia	Sept. , 1957		Sept. 30, 1957
Finland		Jan. 7, 1958	Jan. 7, 1958
France	July 29, 1957		July 29, 1957[8]
Gabon		Jan. 21, 1964	Jan. 21, 1964
German Dem. Rep.		Sept. 18, 1973	Sept. 18, 1973
Germany, Fed. Rep. of[3]	Oct. 1, 1957		Oct. 1, 1957
Ghana		Sept. 28, 1960	Sept. 28, 1960
Greece	Sept. 30, 1957		Sept. 30, 1957
Guatemala	Mar. 29, 1957		July 29, 1958
Haiti	Oct. 7, 1957		Oct. 7, 1957
Holy See	Aug. 20, 1957		Aug. 20, 1957
Honduras[4] (withdrew from Agency June 19, 1957)	July 9, 1957		July 29, 1957
Hungary	Aug. 8, 1957		Aug. 8, 1957
Iceland	Aug. 6, 1957		Aug. 6, 1957
India	July 16, 1957		July 29, 1957
Indonesia	Aug. 7, 1957		Aug. 7, 1957
Iran	Sept. 16, 1958		Sept. 16, 1958
Iraq	Mar. 4, 1959		Mar. 4, 1959
Ireland		Jan. 6, 1970	Jan. 6, 1970
Israel	July 12, 1957		July 29, 1957
Italy	Sept. 30, 1957		Sept. 30, 1957
Ivory Coast		Nov. 19, 1963	Nov. 19, 1963
Jamaica		Dec. 29, 1965	Dec. 19, 1965
Japan	July 16, 1957		July 29, 1957
Jordan		Apr. 18, 1966	Apr. 18, 1966
Kenya		July 12, 1965	July 12, 1965
Khmer Rep.	Feb. 6, 1958		Feb. 6, 1958
Korea, Rep. of	Aug. 8, 1957		Aug. 8, 1957
Korea, Dem. People's Rep.		Sept. 18, 1974	Sept. 18, 1974
Kuwait		Dec. 1, 1964	Dec. 1, 1964
Laos	–	–	–
Lebanon	June 29, 1961		June 29, 1961
Liberia	Oct. 5, 1962		Oct. 5, 1962
Libya	Sept. 9, 1963		Sept. 9, 1963
Liechtenstein		Dec. 13, 1968	Dec. 13, 1968
Luxembourg	Jan. 29, 1958		Jan. 29, 1958
Malagasy Rep.		Mar. 22, 1965	Mar. 22, 1965
Malaysia		Jan. 15, 1969	Jan. 15, 1969
Mali		Aug. 10, 1961	Aug. 10, 1961

STATUTE OF THE IAEA—Continued

State	Date of deposit of instrument of ratification	Date of deposit of instrument of acceptance	Date of entry into force
Mauritius		Dec. 31, 1974	Dec. 31, 1974
Mexico	Apr. 7, 1958		Apr. 7, 1958
Monaco	Sept. 19, 1957		Sept. 19, 1957
Mongolia		Sept. 20, 1973	Sept. 20, 1973
Morocco	Sept. 17, 1957		Sept. 17, 1957
Namibia		Feb. 17, 1983	Feb. 17, 1983
Netherlands	July 30, 1957		July 30, 1957
New Zealand	Sept. 13, 1957		Sept. 13, 1957
Nicaragua[5]		Mar. 25, 1977	Mar. 25, 1977
Niger		Mar. 27, 1969	Mar. 27, 1969
Nigeria		Mar. 25, 1964	Mar. 25, 1964
Norway	June 10, 1957		July 29, 1957
Pakistan	May 2, 1957		July 29, 1957
Panama	Mar. 2, 1966		Mar. 2, 1966
Paraguay	Sept. 30, 1957		Sept. 30, 1957
Peru	Sept. 30, 1957		Sept. 30, 1957
Philippines	Sept. 2, 1958		Sept. 2, 1958
Poland	July 31, 1957		July 31, 1957
Portugal	July 12, 1957		July 29, 1957
Qatar		Feb. 27, 1976	Feb. 27, 1976
Romania	Apr. 12, 1957		July 29, 1957
Saudi Arabia		Dec. 13, 1962	Dec. 13, 1962
Senegal		Nov. 1, 1960	Nov. 1, 1960
Sierra Leone		June 4, 1967	June 4, 1967
Singapore		Jan. 5, 1967	Jan. 5, 1967
South Africa	June 6, 1957		July 29, 1957
Spain	Aug. 26, 1957		Aug. 26, 1957
Sri Lanka	Aug. 22, 1957		Aug. 22, 1957
Sudan	July 17, 1958		July 17, 1958
Sweden	June 19, 1957		July 29, 1957
Switzerland	Apr. 5, 1957[6]		July 29, 1957
Syrian Arab Rep.	June 6, 1963		June 6, 1963
Tanzania		Jan. 6, 1976	Jan. 6, 1976
Thailand	Oct. 15, 1957		Oct. 15, 1957
Tunisia	Oct. 14, 1957		Oct. 14, 1957
Turkey	July 19, 1957		July 29, 1957
Uganda		Aug. 30, 1967	Aug. 30, 1967
Ukrainian Soviet Socialist Reps.	July 31, 1957		July 31, 1957
Union of Soviet Socialist Reps.	Apr. 8, 1957		July 29, 1957
United Arab Emirates		Jan. 15, 1976	Jan. 15, 1976
United Kingdom of Great Britain and Northern Ireland	July 29, 1957		July 29, 1957
United States of America	July 29, 1957[7]		July 29, 1957
Uruguay	Jan. 22, 1963		Jan. 22, 1963
Venezuela[8]	Aug. 19, 1957		Aug. 19, 1957
Viet-Nam[9]	Sept. 24, 1957		Sept. 24, 1957
Yugoslavia	Sept. 17, 1957		Sept. 17, 1957
Zaire		Oct. 10, 1961	Oct. 10, 1961
Zambia		Jan. 8, 1969	Jan. 8, 1969

B. The signatory States shall become parties to this Statute by deposit of an instrument of ratification.

C. Instruments of ratification by signatory States and instruments of acceptance by States whose membership has been approved under paragraph B of article IV of this Statute shall be deposited with the Government of the United States of America, hereby designated as depositary Government.

D. Ratification or acceptance of this Statute shall be effected by States in accordance with their respective constitutional processes.

E. This Statute, apart from the Annex, shall come into force when eighteen States have deposited instruments of ratification in accordance with paragraph B of this article, provided that such eighteen States shall include at least three of the following States: Canada, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America. Instruments of ratification and instruments of acceptance deposited thereafter shall take effect on the date of their receipt.

F. The depositary Government shall promptly inform all States signatory to this Statute of the date of each deposit of ratification and the date of entry into force of the Statute. The depositary Government shall promptly inform all signatories and members of the dates on which States subsequently become parties thereto.

G. The Annex to this Statute shall come into force on the first day this Statute is open for signature.

ARTICLE XXII. REGISTRATION WITH THE UNITED NATIONS

A. This Statute shall be registered by the depositary Government pursuant to Article 102 of the Charter of the United Nations.

B. Agreements between the Agency and any member or members, agreements between the Agency and any other organization or organizations, and agreements between members subject to approval of the Agency, shall be registered with the Agency. Such agreements shall be registered by the Agency with the United Nations if registration is required under Article 102 of the Charter of the United Nations.

ARTICLE XXIII. AUTHENTIC TEXTS AND CERTIFIED COPIES

This Statute, done in the Chinese, English, French, Russian and Spanish languages, each being equally authentic, shall be deposited in the archives of the depositary Government. Duly certified copies of this Statute shall be transmitted by the depositary Government to the Governments of the other signatory States and to the Governments of States admitted to membership under paragraph B of Article IV.

In witness whereof the undersigned, duly authorized, have signed this Statute.

Done at the Headquarters of the United Nations, this twenty-sixth day of October, one thousand nine hundred and fifty-six.

ANNEX I. PREPARATORY COMMISSION

A. A Preparatory Commission shall come into existence on the first day this Statute is open for signature. It shall be composed of one representative each of Australia, Belgium, Brazil, Canada, Czechoslovakia, France, India, Portugal, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, and United States of America, and one representative each of six other States to be chosen by the International Conference on the Statute of the International Atomic Energy Agency. The Preparatory Commission shall remain in existence until this Statute comes into force and thereafter until the General Conference has convened and a Board of Governors has been selected in accordance with Article VI.

B. The expenses of the Preparatory Commission may be met by a loan provided by the United Nations and for this purpose the Preparatory Commission shall make the necessary arrangements with the appropriate authorities of the United Nations, including arrangements for repayment of the loan by the Agency. Should these funds be insufficient, the Preparatory Commission may accept advances from Governments. Such advances may be set off against the contributions of the Governments concerned to the Agency.

C. Preparatory Commission shall—

1. Elect its own officers, adopt its own rules of procedure, meet as often as necessary, determine its own place of meeting and establish such committees as it deems necessary;

2. Appoint an executive secretary and staff as shall be necessary, who shall exercise such powers and perform such duties as the Commission may determine;

3. Make arrangements for the first session of the General Conference, including the preparation of a provisional agenda and draft rules of procedure, such session to be held as soon as possible after the entry into force of this Statute;

4. Make designations for membership on the first Board of Governors in accordance with subparagraphs A-1 and A-2 and paragraph B of article VI;

5. Make studies, reports, and recommendations for the first session of the General Conference and for the first meeting of the Board of Governors on subjects of

concern to the Agency requiring immediate attention, including (*a*) the financing of the Agency; (*b*) the programmes and budget for the first year of the Agency; (*c*) technical problems relevant to advance planning of Agency operations; (*d*) the establishment of a permanent Agency staff; and (*e*) the location of the permanent headquarters of the Agency;

6. Make recommendations for the first meeting of the Board of Governors concerning the provisions of a headquarters agreement defining the status of the Agency and the rights and obligations which will exist in the relationship between the Agency and the host Government;

7. (*a*) Enter into negotiations with the United Nations with a view to the preparation of a draft agreement in accordance with article XVI of this Statute, such draft agreement to be submitted to the first session of the General Conference and to the first meeting of the Board of Governors; and (*b*) make recommendations to the first session of the General Conference and to the first meeting of the Board of Governors concerning the relationship of the Agency to other international organizations as contemplated in article XVI of this Statute.

SUMMARY OF THE STATUTE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY

ARTICLES I AND II

The statute upon its entry into force will establish the International Atomic Enegy Agency, the basic objective of which is to seek to accelerate and enlarge the contribution of atomic energy to peace, health, and prosperity throughout the world without at the same time furthering any military purpose.

ARTICLE III

The functions of the Agency set forth in article III of the statute are (*a*) to encourage and assist research on, and development and practical application of, atomic energy for peaceful purposes throughout the world; (*b*) to make provision for materials, services, equipment, and facilities needed to carry out the foregoing purpose; (*c*) to foster the exchange of scientific and technical information on, and the exchange and training of scientists and experts in, the peaceful uses of atomic energy; (*d*) to establish and administer safeguards to ensure that fissionable or other materials, services, equipment, facilities, and information with which the Agency deals are not used to further any military purpose; (*e*) to participate in the establishment, adoption, and application of standards of safety for the protection of health and the minimization of danger to life and property from activities in the field of atomic energy; and (*f*) to acquire or establish any facilities, plant, and equipment useful in carrying out its authorized functions.

In carrying out its functions, the Agency is required by the statute (*a*) to conduct its activities in accordance with the purposes and principles of the United Nations and, in particular in conformity with United Nations policies furthering the establishment of a safeguarded worldwide disarmament; (*b*) to control the use of such fissionable materials as are received by the Agency so as to ensure that they are used only for peaceful purposes; (*c*) to allocate its resources so as to secure efficient utilization and wide distribution of their benefits throughout the world, bearing in mind the special needs of the underdeveloped areas; (*d*) to submit annual reports on its activities to the General Assembly of the United Nations; (*e*) when appropriate, to submit reports and information to the Security Council, Economic and Social Council, and other organs of the United Nations; (*f*) to refuse to give assistance to member countries under political economic, military, or other conditions that are inconsistent with the statute; and (*g*) subject to the terms of any agreements that may be made between a state or group of states and the Agency, to give due observance to the sovereign rights of states.

ARTICLE IV

Initial members of the Agency are to be states members of the United Nations or of any of the specialized agencies which signed the statute within 90 days after it was opened for signature and which deposit instruments of ratification. The following 30 states signed the statute during the period it was open for signature: (From Oct. 26, 1956 for a period of 90 days).

Afghanistan
Albania
Argentina
Australia
Austria
Belgium
Bolivia
Brazil
Bulgaria
Burma
Byelorussian Soviet Socialist Republic
Cambodia
Canada
Ceylon
Chile
China
Colombia
Costa Rica
Cuba

[*Status of* IAEA Statute]

[1]The Argentina instrument of ratification contains the following reservation. "Con respecto al articulo XVII, el Gobierno argentino se reserva el derecho de no someter al procedimiento indicado en este articulo cualquier controversia concerniente a la soberania de sus territorios".

[2]On September 10, 1957, the Republic of China deposited an instrument of ratification. It ceased to participate in the Agency in December 1971, following the resolution of December 9, 1971, by the Board of Governors of the International Atomic Energy Agency.

[3]Applicable to Berlin (West), by virtue of a note dated June 10, 1958 to the Secretary of State in which the Ambassador of the Federal Republic of Germany declared in behalf of his Government that "the Statute of the International Atomic Energy Agency also applies to Berlin (West)."

According to a note dated August 11, 1958 from the Embassy of the Union of Soviet Socialist Republics to the Department of State, the statement by the Federal Republic of Germany "cannot be accepted" by the Union of Soviet Socialist Republics. [translation]

According to a note dated November 25, 1958 from the Embassy of the Polish People's Republic to the Department of State, "the Polish authorities cannot acknowledge" the aforementioned declaration by the Federal Republic of Germany.

According to a note dated January 6, 1959 from the Legation of the Hungarian People's Republic to the Department of State, the Government of the Hungarian People's Republic "is not in a position to take notice" of the aforesaid statement by the Federal Republic of Germany.

A note dated January 21, 1959 in the name of the Ministry of Foreign Affairs of the Ukrainian Soviet Socialist Republic informed the Department of State that the aforesaid statement by the Federal Republic of Germany "cannot be taken into consideration". [translation]

A note dated January 27, 1959 in the name of the Ministry of Foreign Affairs of the Byelorussian Soviet Socialist Republic informed the Department of State that the "Byelorussian SSR cannot take into consideration the communication of the Federal Republic of Germany". [translation]

According to a note dated April 16, 1969 from the Legation of the Rumanian People's Republic to the Department of State, "the Government of the Rumanian People's Republic can not take into consideration the Statement made by the Federal Republic of Germany in this respect."

The Ministry of Foreign Affairs of the People's Republic of Albania, stated in a note dated July 21, 1959 that "it considers the said Declaration of the representative of the Federal Republic of Germany as unacceptable". [translation]

According to a note dated August 14, 1959 from the Ambassador of the Czechoslovak Republic to the Acting Secretary of State, the "Czechoslvak Republic . . . cannot agree" with the aforesaid statement by the Federal Republic of Germany.

The Ministry of Foreign Affairs of the Germany Democratic Republic informed the Department of State by a note dated December 17, 1973 that "the German Democratic Republic states in accordance with the Quadripartite Agreement of 3 September 1971 that Berlin (West) is no consistuent part of the Federal Republic of Germany and may not be governed by it."

[4]Honduras withdrew form membership in the International Atomic Energy Agency on June 19, 1967.

[5]Nicaragua deposited instrument of ratification on September 17, 1957 and withdrew from membership in the International Atomic Energy Agency on December 14, 1970.

[6]The Swiss instrument of ratification contains the following reservation: "A l'occasion du dépôt de son instrument de ratification concernant le statut de l'agence internationale de l'énergie atomique, la Suisse fait la réserve de portée générale que sa colloboration à l'agence internationale de l'énergie atomique, notamment en ce qui concerne les relations de cette organisation avec l'Organisation des Nations Unies, ne peut dépasser le cadre que lui assigne sa position d'Etat perpétuellement neutre. C'est dans le sens de cette réserve générale qu'elle formule une réserve particulière tant à l'égard du texte de l'article III, lettre b, chiffre 4, du statut qu'à l'égard de toute clause analogue qui pourrait remplacer ou compléter ces dispositions dans ce statut ou dans un autre arrangement."

[7]The United States instrument of ratification quotes the statement of interpretation and understanding, subject to which the Senate of the United States of America, on June 18, 1957, gave its advice and consent to ratification of the Statute, namely, that: "(1) any amendment to the Statute shall be submitted to the Senate for its advice and consent, as in the case of the Statute itself, and (2) the United States will not remain a member of the Agency in the event of an amendment to the Statute being adopted to which the Senate by a formal vote shall refuse its advice and consent."

[8]The Venezuelan signatures to the Statute were accompanied by the following statement: "Ad referendum y bajo las condiciones expuestas en la comunicación dirigida el dia 25 de los corrientes al Presidente de la Conferencia."

The communication referred to in the above statement contains the following declaration: "La Delegacion de Venezuela firma *ad referendum* el presente Estatuto en la inteligencia de que: 1) En cuanto al articulo XVII* del mismo, la firma o ratificacion del presente Instrumento por parte de Venezuela no implica por esta aceptación de la jurisdicción de la Corte Internacional de Justicia sin su consentimiento expreso en cada caso. 2) Que ninguna modificacion del presente Instrumento, a que se refiere el párrafo C del articulo XVIII*, podrá ser considerada en vigor por Venezuela, sin el previo cumplimiento de sus disposiciones Constitucionales acerca de ratificación y depósito de tratados publicos."

The above declaration was not contained in the Venezuelan instrument of ratification deposited on August 19, 1957.

[9]By a note dated December 6, 1978, the Assistant Director General for External Relations of the International Atomic Energy Agency informed the United States Permanent Representative to the International Atomic Energy Agency in Vienna that the Government of the Socialist Republic of Viet Nam informed the Agency by note of June 10, 1978, of its decision to participate in the activities of the Agency and assume its obligations and rights as a Member State.

Department of State
Washington, 2 JAN 1985

APPENDIX 17

EURATOM COOPERATION ACT OF 1958 AND CONCURRENT RESOLUTION

[PUBLIC LAW 85-846] [S. 4273]

AN ACT

To provide for cooperation with the European Atomic Energy Community

EURATOM Cooperation Act of 1958.

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 "EURATOM Cooperation Act of 1958".

SEC. 2. As used in this Act—

(a) "The Community" means the European Atomic Energy Community (EURATOM).

Definitions.

(b) The "Commission" means the Atomic Energy Commission, as established by the Atomic Energy Act of 1954, as amended.

(c) "Joint program" means the cooperative program established by the Community and the United States and carried out in accordance with the provisions of an agreement for cooperation entered into pursuant to the provisions of section 123 of the Atomic Energy Act of 1954, as amended, to bring into operation in the territory of the members of the Community powerplants using nuclear reactors of types selected by the Commission and the Community, having as a goal a total installed capacity of approximately one million kilowatts of electricity by December 31, 1963, except that two reactors may be selected to be in operation by December 31, 1965.

(d) All other terms used in this Act shall have the same meaning as terms described in section 11 of the Atomic Energy Act of 1954, as amended.

Search and development program.

SEC. 3. There is hereby authorized to be appropriated to the Commission, in accordance with the provisions of section 261 (a)(2) of the Atomic Energy Act of 1954, as amended,[1] the sum of $3,000,000[2] as an initial authorization for fiscal year 1959 for use in a cooperative program of research and development in connection with the types of reactors selected by the Commission and the Community under the joint program. The Commission may enter into contracts for such periods as it deems necessary, but in no event to exceed five years, for the purpose of conducting the research and development program authorized by this section: *Provided*, That the Community authorizes an equivalent amount for use in the cooperative program of research and development.

Guarantee contracts.

SEC. 4. The Commission is authorized, within limits of amounts which may hereafter be authorized to be appropriated in accordance with the provisions of section 261(a)(2)[3] of the Atomic Energy Act of 1954, as amended to make guarantee contracts which shall in the aggregate not exceed a total contingent liability of $90,000,000 designed to assure that the charges to an operator of a reactor constructed under the joint program for fabricating, processing, and transporting fuel will be no greater than would result under the fuel fabricating and fuel life guarantees which the Commission shall establish for such reactor. Within the limits of such amounts, the

[1] Public Law 88-72 (77 Stat. 84) (1963), sec. 107, amended section 261a. See footnotes to that section, *supra*.

[2] Public Law 86-50 (sec. 109), Public Law 87-701 (sec. 109), Public Law 88-72 (sec. 103), Public Law 88-332 (sec. 101(a)), and Public Law 89-32 (sec. 101), authorized appropriation of an additional $7,000,000, $5,000,000, $7,500,000, $3,000,000, and $3,000,000, respectively.

[3] See footnote 1, *supra*.

31 U.S.C. 665
41 U.S.C. 252(c).
(See 41 U.S.C. 260(b).

Commission is authorized to make contracts under this section, without regard to the provisions of sections 3679 and 3709 of the Revised Statutes, as amended, for such periods of time as it determines to be necessary: *Provided, however,* That no such contracts may extend for a period longer than that necessary to cover fuel loaded into a reactor constructed under the joint program during the first ten years of the reactor operation or prior to December 31, 1973 (or December 31, 1975, for not more than two reactors selected under section 2(c)), whichever is earlier. In establishing criteria for the selection of projects and in entering into such guarantee contracts, the Commission shall be guided by, but not limited to, the following principles:

(a) The Commission shall encourage a strong and competitive atomic equipment manufacturing industry in the United States designed to provide diversified sources of supply for reactor parts and reactor fuel elements under the joint program;

(b) The guarantee shall be consistent with the provisions of this Act and of Attachment A to the Memorandum of Understanding between the Government of the United States and the Community, signed in Brussels on May 29, 1958, and in Washington, District of Columbia, on June 12, 1958, and transmitted to Congress on June 23, 1958;

(c) The Commission shall establish and publish criteria for computing the maximum fuel element charge and minimum fuel element life to be guaranteed by the manufacturer as a basis for inviting and evaluating proposals.[4]

(d) The guarantee by the manufacturer shall be as favorable as any other guarantee offered by the manufacturer for any comparable fuel element within a reasonable time period; and

(e) the Commission shall obtain a royalty-free, nonexclusive, irrevocable license for governmental purposes to any patents on inventions or discoveries made or conceived by the manufacturer in the course of development or fabrication of fuel elements during the period covered by the Commission's guarantee.

Uranium and plutonium.

SEC. 5. Pursuant to the provisions of section 54 of the Atomic Energy Act of 1954, as amended, there is hereby authorized for sale or lease to the Community—

an amount of contained uranium 235 which does not exceed that necessary to support the fuel cycle of power reactors located within the Community having a total installed capacity of thirty-five thousand megawatts of electric energy, together with twenty-five thousand kilograms of contained uranium 235 for other purposes;[5]

one thousand five hundred kilograms of plutonium; and

thirty kilograms of uranium 233;

in accordance with the provisions of an agreement or agreements for cooperation between the Government of the United States and the Community entered into pursuant to the provisions of section 123 of the Atomic Energy Act of 1954, as amended: *Provided,* That the Government of the United States obtains the equivalent of a first lien on any such material sold to the Community for which payment is not made in full at the time of transfer. The Commission may enter into contracts to provide, after December 31, 1968, for the producing or enriching of all, or part of, the abovementioned contained uranium 235 pursuant to the provisions of subsection 161 v. (B) of said Act, as amended, in lieu of sale or lease thereof.[6]

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[4] Public Law 87-206 (75 Stat. 475) (1961), amended section 4(c). Prior to amendment, it read: "The Commission shall establish and publish minimum levels of fuel element cost and life to be guaranteed by the manufacturer as a basis for inviting and evaluating proposals."

[5] Public Law 93-88 (87 Stat. 296)(1973), changed this subparagraph. Previously, it read "two hundred fifteen thousand kilograms of contained uranium 235." See appendix 3 *infra* for legislative history of Public Law 93-88.

[6] Public Law 90-190 (81 Stat. 575 (1967), sec. 13, amended sec. 5 by substituting a complete new section. For legislative history of Public Law 90-190, see appendix 3, *infra*. Before amendment, sec. 5 read as follows:

"SEC. 5. Pursuant to the provisions of section 54 of the Atomic Energy Act of 1954, as amended, there is hereby authorized for sale or lease to the Community:

Seventy thousand kilograms of contained uranium 235

Five hundred kilograms of plutonium

Thirty kilograms of uranium 233

in accordance with the provisions of an agreement or agreements for cooperation between the Government of the United States and the Community entered into pursuant to the provisions of section 123 of the Atomic Energy Act of 1954, as amended: *Provided,* That the Government of the United States obtains the equivalent of a first lien on any such material sold to the Community for which payment is not made in full at the time of transfer."

SEC. 5. Had earlier been amended by Public Law 88-394 (78 Stat. 376), sec. 5, and by Public Law 87-206 (75 Stat. 475), sec. 19. For legislative history of Public Law 88-394 and Public Law 87-206, see appendix 3, *infra*.

Acquisition of nuclear materials.

SEC. 6. (a) The Atomic Energy Commission is authorized to purchase or otherwise acquire from the Community special nuclear material or any interest therein from reactors constructed under the joint program in accordance with the terms of an agreement for cooperation entered into pursuant to the provisions of section 123 of the Atomic Energy Act of 1954, as amended: *Provided*, That neither plutonium nor uranium 233 nor any interest therein shall be acquired under this section in excess of the total quantities authorized by law. The Commission is hereby authorized to acquire from the Community pursuant to this section up to four thousand one hundred kilograms of plutonium for use only for peaceful purposes.

(b) Any contract made under the provisions of this section to acquire plutonium or any interest therein may be at such prices and for such period of time as the Commission may deem necessary: *Provided*, That with respect to plutonium produced in any reactor constructed under the joint program, no such contract shall be for a period greater than ten years of operation of such reactors or December 31, 1973 (or December 31, 1975, for not more than two reactors selected under section 2 (c)), whichever is earlier: *And provided further*, That no such contract shall provide for compensation or the payment of a purchase price in excess of the Commission's established price in effect at the time of delivery to the Commission for such material as fuel in a nuclear reactor.

(c) Any contract made under the provisions of this section to acquire uranium enriched in the isotope uranium 235 may be at such price and for such period of time as the Commission may deem necessary: *Provided*, That no such contract shall be for a period of time extending beyond the terminal date of the agreement for cooperation with the Community or provide for the acquisition of uranium enriched in the isotope U-o235 in excess of the quantities of such material that have been distributed to the Community by the Commission less the quantity consumed in the nuclear reactors involved in the joint program: *And provided further*, That no such contract shall provide for compensation or the payment of a purchase price in excess of the Atomic Energy Commission's established charges for such material in effect at the time delivery is made to the Commission.

(d) any contract made under this section for the purchase of special nuclear material or any interest therein may be made without regard to the provisions of section 3679 of the Revised Statutes, as amended. 31 U.S.C. 665.

(e) Any contract made under this section may be made without regard to section 3709 of the Revised Statutes, as amended, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. 41 U.S.C. 252(c). (See 41 U.S.C. 260(b).)

Nonliability of U.S.

SEC. 7. The Government of the United States of America shall not be liable for any damages or third party liability arising out of or resulting from the joint program: *Provided, however*, That nothing in this section shall deprive any person of any rights under section 170 of the Atomic Energy Act of 1954, as amended. *And provided further*, That nothing in this section shall apply to arrangements made by the Commission under a research and development program authorized in section 3.[1] The Government of the United States shall take such steps as may be necessary, including appropriate disclaimer or indemnity arrangements, in order to carry out the provisions of this section.

Approved August 28 1958.

INDEX TO LEGISLATIVE HISTORY OF PUBLIC LAW 85-846

(Page references are to the Congressional Record, 85th Cong., 2d sess.)

S. 4047 introduced by Senator Anderson (by request). June 24, 1958. Referred to the Joint Committee on Atomic Energy, 12061.

S. 4273 introduced by Senator Anderson as a "clean bill." August 12, 1958. Referred to the Joint Committee on Atomic Energy, 167964.

Reported with amendments (S. Rept. 2370). August 14, 1958, 17490. Debated, 18093.

Amended and passed Senate. August 18 1958, 18100.

Passed House. August 20, 1958, 18787.

Approved as Public Law 85-846. August 28, 1958, 19586.

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[1] Proviso added by Public Law 87-206 (75 Stat. 475) (1961).

COMPANION BILL—H.R. 13749

H.R. 13120 introduced by Mr. Durham (by request). June 25, 1958. Referred to the Joint Committee on Atomic Energy, 12264.
H.R. 13749 introduced by Mr. Durham as a "clean bill." August 12, 1958. Referred to the Joint Committee on Atomic Energy, 17203.
Reported with amendments (H. Rept. 2647). August 15, 1958, 17931.
Indefinitely postponed (S. 4273 passed in lieu), 18787.

[S. CON. RES. 116]

[85TH CONGRESS, 2D SESSION]

[AUGUST 23, 1958]

CONCURRENT RESOLUTION

Whereas the United States of America has instituted a program of international cooperation to make available to cooperating nations the benefits of peaceful applications of atomic energy; and

Whereas the United States of America and the European Atomic Energy Community (EURATOM) have entered into an agreement providing for cooperation in programs designed to advance the peaceful application of atomic energy: Therefore be it

Resolved by the Senate (the House of Representatives concurring), That pursuant to the provisions of section 11(1) and 124 of the Atomic Energy Act of 1954, as amended, the agreement between the Government of the United States of America and the European Atomic Energy Community (EURATOM), signed at Brussels on May 29, 1958, and at Washington on June 19, 1958, concerning cooperation between the parties in programs for the advancement of the peaceful application of atomic energy, be and hereby is approved. This resolution does not constitute approval or disapproval of the memorandum of understanding, or any other agreements which have not been formally approved or authorized by the Congress.

INDEX TO LEGISLATIVE HISTORY OF S. CON. RES. 116

(Page references are to the Congressional Record, 85th Cong., 2d sess.)

S. Con. Res. 116 introduced by Senator Anderson. August 12, 1958. Referred to the Joint Committee on Atomic Energy, 16964.
Reported (S. Rept. 232). August 14, 1958, 17490.
Passed over, 18082.
Passed Senate, August 18, 1958, 18098.
Passed House, August 20, 1958, 18786.

COMPANION BILL—H.R. CON. RES. 376

H. Con. Res. 376 introduced by Mr. Durham, August 12, 1958. Referred to the Joint Committee on Atomic Energy, 17203.
Reported (H. Rept. 2648). August 15, 1958, 17931.
Laid on table (S. Con. Res. 116 passed in lieu). August 20, 1958, 18786.

[PUBLIC LAW 93-88 [S. 1993]]

[93D CONGRESS, 1ST SESSION]

[AUGUST 14, 1973]

AN ACT

87 Stat. 296.
EURATOM Cooperation Act of 1958, Amendment.
81 Stat. 578.
42 U.S.C. 2294.

To amend the EURATOM Cooperation Act of 1958, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the EURATOM Cooperation Act of 1958, as amended, is amended by deleting the words "two hundred fifteen thousand kilograms of contained uranium 235" and substituting thereof the words "an amount of contained uranium 235 which does not exceed that necessary to support the fuel cycle of power reactors located within the Community

having a total installed capacity of thirty-five thousand megawatts of electric energy, together with twenty-five thousand kilograms of contained uranium 235 for other purposes".

Approved August 14, 1973.

INDEX TO LEGISLATIVE HISTORY OF PUBLIC LAW 93-88 (S. 1993)

(Page references are to daily editions of the Congressional Record, 93d Cong., 1st Sess.)

S. 1993 introduced by Vice Chairman Pastore (by request) June 13, 1973. S11006.
Hearing: Subcommittee on Agreements for Cooperation, June 22, 1973.
Senate Report filed (S. Rept. No. 93-341), July 24, 1973. S14441.
S. 1993 considered and passed in the Senate, without amendment, July 26, 1973, S14743.
S. 1993 considered and passed in the House, without amendment, July 30, 1973, H6850-52.
Examined and signed by the Speaker of the House, august 1, 1973. H7205.
Examined and signed by the President Pro Tempore, August 3, 1973. S15568.
Presented to the President, August 3, 1973. S15568.
S. 1993 approved by the President on August 14, 1973, as Public Law 93-88. D977 (Sept. 5, 1973, *Record*).

COMPANION BILL—H.R. 8867

H.R. 8867 introduced by Chairman Melvin Price of Illinois (by request), June 20, 1973, H5064.
Hearings: As listed above.
House Report filed (H. Rept. No. 93-385), July 19, 1973. H6418.
Identical bill, S.1993 passed in lieu thereof as indicated above.

UNITED STATES LIST OF AGREEMENTS FOR PEACEFUL NUCLEAR COOPERATION

Agreement	Date Signed	Effective Date	Termination Date	Citation
Argentina	June 25, 1969	July 25, 1969	July 24, 1999	TIAS No. 6721, 20 UST 2587
Australia	July 5, 1979	January 16, 1981	January 15, 2011	TIAS No. 9893, – UST –
Austria	July 11, 1969	January 24, 1970	–	TIAS No. 6815, 21 UST 10
–amendment	June 14, 1974	October 8, 1974	January 23, 2014	TIAS No. 7912, 25 UST 2337
Bangladesh	September 17, 1981	June 24, 1982	June 23, 1992	TIAS No. 10339, – UST –
Brazil	July 17, 1972	September 20, 1972	September 19, 2002	TIAS No. 7439, 23 UST 2477
Canada	June 15, 1955	July 21, 1955	–	TIAS No. 3304, 6 UST 2595
–amendment	June 26, 1956	March 4, 1957	–	TIAS No. 3771, 8 UST 275
–amendment	June 11, 1960	July 14, 1960	–	TIAS No. 4518, 11 UST 1780
–amendment	May 25, 1962	July 12, 1962	–	TIAS No. 5102, 13 UST 1400
–amendment	April 23, 1980	July 9, 1980	January 1, 2000	TIAS No. 9759, 32 UST 1079
China	July 23, 1985	December 30, 1985	December 29, 2015	TIAS No. –, – UST – [1]
Colombia	January 8, 1981	September 7, 1983	September 6, 2013	TIAS No. 10722, – UST –
Egypt	June 29, 1981	December 29, 1981	December 28, 2021	TIAS No. 10208, – UST –
European Atomic Energy Community (EURATOM) [2]	May 29 & June 18, 1958	August 27, 1958	–	TIAS No. 4091, 9 UST 1116
–Additional Agreement [3]	June 11, 1960	July 25, 1960	–	TIAS No. 4650, 11 UST 2589
–amendment	May 21 & 22, 1962	July 9, 1962	–	TIAS No. 5104, 13 UST 1439
–amendment	August 22 & 27, 1963	October 15, 1963	December 31, 1995	TIAS No. 5444, 14 UST 1459
–amendment	September 20, 1972	February 28, 1973	–	TIAS No. 7566, 24 UST 472
Finland [4]	April 8, 1970	July 7, 1970	July 6, 2000	TIAS No. 6896, 21 UST 1368
India	August 8, 1963	October 25, 1963	October 24, 1993	TIAS No. 5446, 14 UST 1484
–waiver of certain obligations	November 30, 1982	November 30, 1982	–	TIAS No. 10614, – UST –
Indonesia	June 30, 1980	December 30, 1981	December 29, 1991	TIAS No. 10219, – UST –
International Atomic Energy Agency (IAEA) [5]	May 11, 1959	August 7, 1959	–	TIAS No. 4291, 10 UST 1424
–amendment	February 12, 1974	May 31, 1974	August 6, 2014	TIAS No. 7852, 25 UST 1199
–amendment	January 14, 1980	May 6, 1980	–	TIAS No. 9752, 32 UST 1143
Japan	February 26, 1968	July 10, 1968	–	TIAS No. 6517, 19 UST 5214
–amendment	February 24, 1972	April 26, 1972	–	TIAS No. 7306, 23 UST 275
–amendment	March 28, 1973	December 21, 1973	July 9, 2003	TIAS No. 7758, 24 UST 2323
Korea	November 24, 1972	March 19, 1973	–	TIAS No. 7583, 24 UST 775
–amendment	May 15, 1974	June 26, 1974	March 18, 2014	TIAS No. 7842, 25 UST 1102
Morocco	May 30, 1980	May 16, 1981	May 15, 2001	TIAS No. 10018, – UST –
Norway	January 12, 1984	July 2, 1984	July 1, 2014	TIAS No. –, – UST – [6]
Peru	June 26, 1980	April 15, 1982	April 14, 2002	TIAS No. 10300, – UST –
Philippines	June 13, 1968	July 19, 1968	July 18, 1998	TIAS No. 6522, 19 UST 5389
Portugal	May 16, 1974	June 26, 1974	June 25, 2014	TIAS No. 7844, 25 UST 1125

Agreement	Date Signed	Effective Date	Termination Date	Citation
South Africa	July 8, 1957	August 22, 1957	–	TIAS No. 3885, 8 UST 1367
–amendment	June 12, 1962	August 23, 1962	–	TIAS No. 5129, 13 UST 1812
–amendment	July 17, 1967	August 17, 1967	–	TIAS No. 6312, 18 UST 1671
–amendment	May 22, 1974	June 28, 1974	August 21, 2007	TIAS No. 7845, 25 UST 1158
Spain	March 20, 1974	June 28, 1974	June 27, 2014	TIAS No. 7841, 25 UST 1063
Sweden	December 19, 1983	April 11, 1984	April 10, 2014	TIAS No. –, – UST – [7]
Switzerland	December 30, 1965	August 8, 1966	August 7, 1996	TIAS No. 6059, 17 UST 1004
–amendment	November 2, 1973	January 29, 1974	–	TIAS No. 7773, 25 UST 19
Taiwan [8]	April 4, 1972	June 22, 1972	–	TIAS No. 7364, 23 UST 945
–amendment	March 15, 1974	June 14, 1974	June 21, 2014	TIAS No. 7834, 25 UST 913
Thailand	May 14, 1974	June 27, 1974	June 26, 2014	TIAS No. 7850, 25 UST 1181

[1] Text of agreement available in House Document 99-86, 99th Cong., 1st Sess. (July 24, 1985).
[2] The members of EURATOM are Belgium, Denmark, Federal Republic of Germany, France, Greece, Italy, Ireland, Luxembourg, Netherlands, Portugal, Spain and United Kingdom.
[3] This agreement incorporates by reference certain provision of the expired "Joint Program" Agreement, signed November 8, 1958, TIAS No. 4173, 10 UST 75, amended TIAS NO. 5103, 13 UST 1403. By exchange of notes of December 16 and 17, 1985, TIAS No. –, – UST –, the United States and EURATOM agreed for administrative convenience that material, equipment or devices that had been subject to the Joint Program Agreement would be held subject to the Additional Agreement.
[4] A new agreement with Finland was signed on May 2, 1985. The text of this agreement is available in House Document 99-71, 99th Cong., 1st Sess. (May 21, 1985).
[5] A separate table lists U.S' supply agreements concluded pursuant to the U.S.–IAEA cooperation agreement.
[6] Text of agreement available in House Document 98-164, 98th Cong., 2d Sess. (January 26, 1984).
[7] Text of agreement available in House Document 98-163, 98th Cong., 2d Sess. (January 26, 1984).
[8] On January 1, 1979, the United States recognized the Government of the People's Republic of China as the sole legal Governmen' of China. Within this context, the people of the United States maintain cultural, commerical, and other unofficial relations with the people on Taiwan. The United States acknowledges the Chinese position that there is but one China and Taiwan is a part of China. The United States does not recognize the "Republic of China" as a state or government. Pursuant to Section 6 of the Taiwan Relations Act, P.L. 96-8, 93 Stat. 14, and Executive Order 12143, 44 F.R. 37191, agreements concluded with the Taiwan authorities prior to January 1, 1979, are administered on a nongovernmental basis by the American Institute in Taiwan, a non-profit District of Columbia corporation, and constitute neither recognition of the Taiwan authorities nor the continuation of any official relationship with Taiwan.

January 1986
Office of the Legal Adviser
Department of State

IAEA SUPPLY AGREEMENTS

Agreements between the International Atomic Energy Agency, the United States, and other countries for Supply of Nuclear Material or Equipment pursuant to the Agreement for Peaceful Nuclear Cooperation between the United States and the IAEA.

Agreement	Date Signed	Effective Date	IAEA Information Circular Number	U.S. Citation
Argentina	December 2, 1964	December 2, 1964	62	–
Argentina	December 13, 1964	December 30, 1965	62/Add. 1	–
Argentina–Peru	May 9, 1978	May 9, 1978	266	TIAS No. 9263, 30 UST 1539
Brazil	January 12, 1971	January 12, 1971	147, Part II	–
Canada–Jamaica	January 25, 1984	January 25, 1984	315	TIAS No. – , – UST –
Chile	December 19, 1969	December 19, 1969	137	–
Chile	December 31, 1974	December 31, 1974	137/Add. 1	–
Finland	December 30, 1960	December 30, 1960	24	–
Finland	July 8, 1966	July 8, 1966	24/Add. 2	–
Finland	November 5, 1967	November 5, 1967	24/Add. 3	–
Finland	–	November 27, 1969	24/Add. 4	–
Greece	March 1, 1972	March 1, 1972	163	–
Greece	March 1, 1974	March 1, 1974	163/Add. 1	–
Greece	December 15, 1977	December 15, 1977	163/Add. 2, Part II	–
India	December 9, 1966	December 9, 1966	94, Part II	–
India	July 2, 1970	July 2, 1970	94/Add. 1, Part I	–
India	November 16, 1970	November 16, 1970	94/Add. 1, Part II	–
India	July 1, 1971	July 1, 1971	94/Add. 2, Part I	–
India	August 20, 1971	August 20, 1971	94/Add. 2, Part II	–
India	October 1, 1971	October 1, 1971	94/Add. 2, Part III	–
Indonesia	December 19, 1969	December 19, 1969	136	–
Indonesia	April 7, 1975	April 7, 1975	135/Add. 1, Mod. 1	–
Indonesia	September 14, 1972	September 14, 1972	136/Add. 1	–
Indonesia	December 7, 1979	December 7, 1979	136/Add. 2	TIAS No. 9705, 32 UST 361
Iran	June 7, 1967	June 7, 1967	97	–
Iraq	December 28, 1972	December 28, 1972	195, Part II	–
Malaysia	September 22, 1980	September 22, 1980	287	TIAS No. 9863, – UST –
Malaysia	June 12 and July 22, 1981	July 22, 1981	287/Mod. 1	TIAS No. 10202, – UST –
Mexico	December 18, 1963	December 18, 1963	52	TIAS No., 9906, – UST –
Mexico	June 20, 1966	June 20, 1966	82	–
Mexico	August 23, 1967	August 23, 1967	102	–
Mexico	October 4, 1972	October 4, 1972	52/Add. 1	TIAS No. 9906, – UST –
Mexico	December 12, 1972	December 12, 1972	194, Part II	–
Mexico	February 12, 1974	February 12, 1974	203	TIAS No. 10705, – UST –
Mexico	June 14, 1974	June 14, 1974	203/Add. 1	TIAS No. 10705, – UST –
Morocco	December 2, 1983	December 2, 1983	313	TIAS No. – , – UST –

A.18.3

IAEA SUPPLY AGREEMENTS—Continued

Agreement	Date Signed	Effective Date	IAEA Information Circular Number	U.S. Citation
Norway	April 10, 1961	June 15, 1961	29	–
Norway	September 3, 1962	September 3, 1962	29/Add. 1	–
Norway	April 8, 1964	April 8, 1964	29/Add. 2, Part I & II	–
Norway	April 10, 1967	April 10, 1967	29/Add. 3	–
Pakistan	March 5, 1962	March 5, 1962	34	–
Pakistan	October 19, 1967	October 19, 1967	34/Add. 1	–
Pakistan	June 17, 1968	June 17, 1968	116	–
Pakistan	September 30, 1969	September 30, 1969	34/Add. 2	–
Pakistan	June 16, 1971	June 16, 1971	34/Add. 3	–
Pakistan	June 22, 1971	June 22, 1971	116/Add. 1	–
Pakistan	November 16, 1971	November 16, 1971	150/Add. 1	–
Philippines	September 28, 1966	September 28, 1966	88	–
Philippines	August 23, 1968	August 23, 1968	88/Add. 1	–
Romania	August 1, 1966	August 1, 1966	95, Part II	–
Romania	March 30, 1973	March 30, 1973	206	–
Romania	September 26, 1973	September 26, 1973	95/Add. 2	–
Romania	July 24, 1975	July 24, 1975	206/Mod. 1	–
Spain	June 23, 1967	June 23, 1967	99	–
Turkey	February 8, 1966	February 8, 1966	83, Part I	–
Turkey	May 17, 1974	May 17, 1974	212	–
Uruguay	September 24, 1965	September 24, 1965	67	–
Venezuela	November 7, 1975	November 7, 1975	238	–
Yugoslavia	October 4, 1961	October 4, 1961	32	–
Yugoslavia	September 28, 1965	September 28, 1965	32/Add. 1	–
Yugoslavia	February 20, 1968	February 20, 1968	32/Add. 2	–
Yugoslavia	December 30, 1970	December 30, 1970	32/Add. 3	–
Yugoslavia	December 29, 1972	December 29, 1972	32/Add. 3/Mod. 1	–
Yugoslavia	June 14, 1974	June 14, 1974	213	TIAS No. 9728, – UST –
Yugoslavia	October 31, 1974	October 31, 1974	32/Add. 3/Mod. 1	–
Yugoslavia	January 16, 1980	July 14, 1980	32/Add. 4	TIAS No. 9767, 32 UST 1228
Yugoslavia	December 14, 15 and 20, 1982	December 20, 1982	32/Add. 4/Mod. 1	TIAS No. 10621, – UST –
Yugoslavia	February 23, 1983	February 23, 1983	32/Add. 5	TIAS No. 10664, – UST –
Zaire	June 27, 1962	June 27, 1962	37, Part II	–
Zaire	February 14, 1968	February 14, 1968	37/Add. 2	–
Zaire	December 9, 1970	December 9, 1970	37/Add. 3	–
Zaire	April 15, 1971	April 15, 1971	37/Add. 4	–

A.18.4

January 1986
Office of the Legal Adviser
Department of State

AGREEMENTS FOR COOPERATION IN THE USE OF ATOMIC ENERGY

TRILATERALS BETWEEN THE UNITED STATES, THE INTERNATIONAL ATOMIC ENERGY AGENCY, AND OTHER COUNTRIES FOR THE APPLICATION OF SAFEGUARDS BY THE INTERNATIONAL ATOMIC ENERGY AGENCY TO EQUIPMENT, DEVICES, AND MATERIALS SUPPLIED UNDER THE BILATERAL AGREEMENTS FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY

Country	Effective date	TIAS No.
Argentina	July 25, 1969	6722
Australia	[1] Sept. 26, 1966	6117
Austria	[2] Jan. 24, 1970	6816
Brazil	Oct. 31, 1968	6583
Amended	July 27, 1972	7440
China, Republic of	Dec. 6, 1971	7228
Colombia	Dec. 9, 1970	7010
Extended	Mar. 28, 1977	8556
India	Jan. 27, 1971	7049
Indonesia	Dec. 6, 1967	6391
Iran	[3] Aug. 20, 1969	6741
Israel	Apr. 4, 1975	8051
Extended	Apr. 7, 1977	8554
Japan	July 10, 1968	6520
Korea	Jan. 5, 1968	6435
Amended	Nov. 30, 1972	7584
Philippines	[4] July 19, 1968	6524
Portugal	[5] July 19, 1969	6718
South Africa	July 26, 1967	6306
Amended	June 20, 1974	7848
Spain	Dec. 9, 1966	6182
Amended	June 28, 1974	7856
Sweden	[6] Mar. 1, 1972	7295
Switzerland	[7] Feb. 28, 1972	7294
Turkey	June 5, 1969	6692
Venezuela	Mar. 27, 1968	6433

[1] Suspended by agreement signed July 10, 1974.
[2] Suspended by agreement signed Sept. 21, 1971.
[3] Suspended by agreement signed June 19, 1973.
[4] Suspended by agreement signed Feb. 21, 1973.
[5] Suspended by agreement signed Sept. 23, 1980.
[6] Suspended by agreement signed Apr. 14, 1975.

TRILATERALS BETWEEN THE UNITED STATES, THE INTERNATIONAL ATOMIC ENERGY AGENCY AND OTHER COUNTRIES FOR THE SUSPENSION OF THE APPLICATION OF SAFEGUARDS PURSUANT TO THE NONPROLIFERATION TREATY OF JULY 1, 1968. (TIAS 6839)

Country	Effective date	TIAS No.
Australia	July 10, 1974	7865
Austria	July 23, 1972	7409
Denmark	Mar. 1, 1972	7289
Greece	do	7290
Iran	May 15, 1974	7829
Norway	Sept. 25, 1973	7721
Philippines	Oct. 16, 1974	7957
Sweden	May 6, 1975	8046
Switzerland	Sept. 23, 1980	9900
Thailand	June 27, 1974	7849
Vietnam	Jan. 9, 1974	7780

APPENDIX 19

S. RES. 179 RELATING TO NONPROLIFERATION OF NUCLEAR WEAPONS

[89th CONGRESS, 2D SESSION]

[MAY 17, 1966]

Whereas the spread of nuclear weapons constitutes a grave threat to the security and peace of all nations; and

Whereas the knowledge and ability to design and manufacture nuclear weapons is becoming more universally known; and

Whereas the danger of nuclear war becomes greater as additional nations achieve independent nuclear capability; and

Whereas it is the policy of the United States, as stated by President Johnson, "to seek agreements that will limit the perilous spread of nuclear weapons, and make it possible for all countries to refrain without fear from entering the nuclear arms race": Therefore be it

Resolved, That the Senate commends the President's serious and urgent efforts to negotiate international agreements limiting the spread of nuclear weapons and supports the principle of additional efforts by the President which are appropriate and necessary in the interest of peace for the solution of nuclear proliferous problems.

INDEX TO LEGISLATIVE HISTORY OF S. RES. 179

(Page references are to daily editions of Congressional Record, 89th Cong., 2d Sess.)

S. Res. 179 introduced by Senator Pastore and others January 18, 1966, 439.
Referred to the Joint Committee on Atomic Energy, and ordered further that when reported the resolution be referred to the Committee on Foreign Relations, 439.
Hearings: Held before the Joint Committee on Atomic Energy on Feb. 23, and March 1 and 7, 1966; published under the title "Nonproliferation of Nuclear Weapons."
Reported (S. Rept. No. 1141), April 28, 1966, 8866.
Referred to the Committee on Foreign Relations, 8866.
Reported (S. Rept. No. 1155), May 11, 1966.
Passed Senate, May 17, 1966, 10281-10297.

APPENDIX 20

EXECUTIVE ORDERS AND PRESIDENTIAL STATEMENTS CONCERNING INTERNATIONAL ATOMIC ENERGY COOPERATION

EXECUTIVE ORDER 10841

PROVIDING FOR THE CARRYING OUT OF CERTAIN PROVISIONS OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED, RELATING TO INTERNATIONAL COOPERATION

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*), hereinafter referred to as the Act, and section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. Whenever the President, pursuant to section 123 of the Act, has approved and authorized the execution of a proposed agreement providing for cooperation pursuant to section 91c, 144a, 144b, or 144c of the Act (42 U.S.C. 2121(c), 2164(a), 2164(b), 2164(c)), such approval and authorization by the President shall constitute his authorization to coperate to the extent provided for in the agreement and in the manner provided for in section 91c, 144a, 144b, or 144c, as pertinent. In respect of sections 91c, 144b, and 144c, authorizations by the President to cooperate shall be subject to the requirements of section 123d of the Act and shall also be subject to appropriate determinations made pursuant to section 2 of this order.

SEC. 2. (a) The Secretary of Defense and the Atomic Energy Commission are hereby designated and empowered to exercise jointly, after consultation with executive agencies as may be appropriate, the following-described authority without the approval, ratification, or other action of the President:

(1) The authority vested in the President by section 91c of the Act to determine that the proposed cooperation and each proposed transfer arrangement referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security.

(2) The authority vested in the President by section 144b of the Act to determine that the proposed cooperation and the proposed communication of Restricted Data referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security.

(3) The authority vested in the President by section 144c of the Act to determine that the proposed cooperation and the communication of the proposed Restricted Data referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security.

(b) Whenever the Secretary of Defense and the Atomic Energy Commission are unable to agree upon a joint determination under the provisions of subsection (a) of this section, the recommendations of each of them, together with the recommendations of other agencies concerned, shall be referred to the President, and the determination shall be made by the President.

SEC. 3. This order shall not be construed as delegating the function vested in the President by section 91c of the Act of approving programs proposed under that section.

SEC. 4. (a) The functions of negotiating and entering into international agreements under the Act shall be performed by or under the authority of the Secretary of State.

(b) International cooperation under the Act shall be subject to the responsibilities of the Secretary of State with respect to the foreign policy of the United States pertinent thereto.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE
September 30, 1959.

EXECUTIVE ORDER 10956

AMENDMENT OF EXECUTIVE ORDER NO. 10841, RELATING TO INTERNATIONAL COOPERATION UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*), and section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

Executive Order No. 10841 of September 30, 1959, entitled "Providing for the Carrying Out of Certain Provisions of the Atomic Energy Act of 1954, as Amended, Relating to International Cooperation," is hereby amended by changing the period at the end of paragraph 92) of section 2(a) thereof to a colon and adding to such paragraph the following: "*Provided*, that each determination made under this paragraph shall be referred to the President and, unless disapproved by him, shall become effective fifteen days after such referral or at such later time as may be specified in the determination."

JOHN F. KENNEDY.

THE WHITE HOUSE,
August 10, 1961.

STATEMENT ON NUCLEAR POLICY

GERALD R. FORD, *October 28, 1976*

We have known since the age of nuclear energy began more than 30 years ago that this source of energy had the potential for tremendous benefits for mankind and the potential for unparalled destruction.

On the one hand, there is no doubt that nuclear energy represents one of the best hopes for satisfying the rising world demand for energy with minimum environmental impact and with the potential for reducing dependence on uncertain and diminishing world supplies of oil.

On the other hand, nuclear fuel, as it produces power also produces plutonium, which can be chemically separated from the spent fuel. The plutonium can be recycled and used to generate additional nuclear power, thereby partially offsetting the need for additional energy resources. Unfortunately—and this is the root of the problem—the same plutonium produced in nuclear powerplants can, when chemically separated, also be used to make nuclear explosives.

The world community cannot afford to let potential nuclear weapons material or the technology to produce it proliferate uncontrolled over the globe. The world community must ensure that production and utilization of such material by any nation is carried out under the most stringent security conditions and arrangements.

Developing the enormous benefits of nuclear energy while simultaneously developing the means to prevent proliferation is one if the major challenges facing all nations of the world today.

The standards we apply in judging most domestic and international activities are not sufficiently rigorous to deal with this extraordinarily complex problem. Our answers cannot be partially successful. They will either work, in which case we shall stop proliferation, or they will fail and nuclear proliferation will accelerate as nations initially having no intention of acquiring nuclear weapons conclude that they are forced to do so by the actions of others. Should this happen, we would face a world in which the security of all is critically imperiled. Maintaining international stability in such an environment would be incalculably difficult and dangerous. In times of regional or global crisis, risks of nuclear devastation would be immeasurably increased—if not through direct attack, then through a process of ever-expanding escalation. The problem can be handled as long as we understand it clearly and act wisely in concert with other nations. But we are faced with a threat of tragedy if we fail to comprehend it or to take effective measures.

Thus the seriousness and complexity of the problem place a special burden on those who propose ways to control proliferation. They must avoid the temptation for rhetorical gestures, empty threats, or righteous posturing. They must offer policies and programs which deal with the world as it is, not as we might wish it to be. The goal is to prevent proliferation, not simply to deplore it.

The first task in dealing with the problem of proliferation is to understand the world nuclear situation.

More than 30 nations have or plan to build nuclear powerplants to reap the benefits of nuclear energy. The 1973 energy crisis dramatically demonstrated to all nations not only the dangers of excessive reliance on oil imports but also the reality that the world's supply of fossil fuels is running out. As a result, nuclear energy is now properly seen by many nations as an indispensable way to satisfy rising energy demand without prematurely depleting finite fossil fuel resources. We must understand the motives which are leading these nations, developed and developing, to place even greater emphasis than we do on nuclear power development. For unless we comprehend their real needs, we

cannot expect to find ways of working with them to ensure satisfaction of both our and their legitimate concerns. Moreover, several nations besides the United States have the technology needed to produce both the benefits and the destructive potential of nuclear energy. Nations with such capabilities are able to export their technology and facilities.

Thus, no single nation, not even the United States, can realistically hope—by itself—to control effectively the spread of reprocessing technology and the resulting availability of plutonium.

The United States once was the dominant world supplier of nuclear material equipment and technology. While we remain a leader in this field, other suppliers have come to share the international market—with the U.S. now supplying less than half of nuclear reactor exports. In short, for nearly a decade the U.S. has not had a monopoly on nuclear technology. Although our role is large, we are not able to control worldwide nuclear development.

For these reasons, action to control proliferation must be an international cooperative effort involving many nations, including both nuclear suppliers and customers. Common standards must be developed and accepted by all parties. If this is not done, unrestrained trade in sensitive nuclear technology and materials will develop—with no one in a position to stop it.

We in the United States must recognize that interests in nuclear energy vary widely among nations. We must recognize that some nations look to nuclear energy because they have no acceptable energy alternative. We must be sure that our efforts to control proliferation are not viewed by such nations as an act to prevent them from enjoying the benefits of nuclear energy. We must be sure that all nations recognize that the U.S. believes that nonproliferation objectives must take precedence over economic and energy benefits if a choice must be made.

PREVIOUS ACTION

During the past 30 years, the U.S. has been the unquestioned leader in worldwide efforts to assure that the benefits of nuclear energy are made available widely while its destructive uses are prevented. I have given special attention to these objectives during the past 2 years, and we have made important new progress, particularly in efforts to control the proliferation of nuclear weapons capability among the nations of the world.

In 1974, soon after I assumed office, I became concerned that some nuclear supplier countries, in order to achieve competitive advantage, were prepared to offer nuclear exports under conditions less rigorous than we believe prudent. In the fall of that year, at the United Nations General Assembly, the United States proposed that nonproliferation measures be strengthened materially. I also expressed my concern directly to my counterparts in key supplier and recipient nations. I directed the Secretary of State to emphasize multilateral action to limit this dangerous form of competition.

At U.S. initiative, the first meeting of major nuclear suppliers was convened in London in April 1975. A series of meetings and intensive bilateral consultations followed. As a result of these meetings, we have significantly raised international standards through progressive new guidelines to govern nuclear exports. These involve both improved safeguards and controls to prevent diversion of nuclear materials and to guard against the misuse of nuclear technology and physical protection against theft and sabotage. The United States has adopted these guidelines as policy for nuclear exports.

In addition, we have acted to deal with the special dangers associated with plutonium.

—We have prohibited export of reprocessing and other nuclear technologies that could contribute to proliferation.

—We have firmly opposed reprocessing in Korea and Taiwan. We welcome the decisions of those nations to forego such activities. We will continue to discourage national reprocessing in other locations of particular concern.

—We negotiated agreements for cooperation with Egypt and Israel which contain the strictest reprocessing provisions and other nuclear controls ever included in the 20-year history of our nuclear cooperation program.

—In addition, the United States recently completed negotiations to place its civil nuclear facilities under the safeguards of the International Atomic Energy Agency—and the IAEA has approved a proposed agreement for this purpose.

NEW INITIATIVES

Last summer, I directed that a thorough review be undertaken of all our nuclear policies and options to determine what further steps were needed. I have considered carefully the results of that review, held discussions with congressional leaders, and benefited from consultations with leaders of other nations. I have decided that new steps are needed, building upon the progress of the past 2 years. Today, I am announcing a number of actions and proposals aimed at:

—strengthening the commitment of the nations of the world to the goal of nonproliferation and building an effective system of international controls to prevent proliferation;

—changing and strengthening U.S. domestic nuclear policies and programs to support our nonproliferation goals; and

—establishing, by these actions, a sound foundation for the continued and increased use of nuclear energy in the U.S. and in the world in a safe and economic manner.

The task we face calls for an international cooperative venture of unprecedented dimensions. The U.S. is prepared to work with all other nations.

PRINCIPAL POLICY DECISIONS

I have concluded that the reprocessing and recycling of plutonium should not proceed unless there is sound reason to conclude that the world community can effectively overcome the associated risks of proliferation. I believe that avoidance of proliferation must take precedence over economic interests. I have also concluded that the United States and other nations can and should increase their use of nuclear power for peaceful purposes even if reprocessing and recycling of plutonium are found to be unacceptable.

Vigorous action is required domestically and internationally to make these judgments effective.

—I have decided that the United States should greatly accelerate its diplomatic initiatives in conjunction with nuclear supplier and consumer nations to control the spread of plutonium and technologies for separating plutonium.

Effective nonproliferation measures will require the participation and support of nuclear suppliers and consumers. There must be coordination in restraints so that an effective nonproliferation system is achieved, and there must be cooperation in assuring reliable fuel supplies so that peaceful energy needs are met.

—I have decided that the United States should no longer regard reprocessing of used nuclear fuel to produce plutonium as a necessary and inevitable step in the nuclear fuel cycle, and that we should pursue reprocessing and recycling in the future only if they are found to be consistent with our international objectives.

We must ensure that our domestic policies and programs are compatible with our international position on reprocessing and that we work closely with other nations in evaluating nuclear fuel reprocessing.

—The steps I am announcing today will assure that the necessity increase in our use of nuclear energy will be carried on with safety and without aggravating the danger of proliferation.

Even with strong efforts to conserve, we will have increasing demands for energy for a growing American economy. To satisfy these needs, we must rely on increased use of both nuclear energy and coal until more acceptable alternatives are developed. We will continue pushing ahead with work on all promising alternatives such as solar energy but now we must count on the technology that works. We cannot expect a major contribution to our energy supply from alternative technologies until late in this century.

To implement my overall policy decisions, I have decided on a number of policies that are necessary and appropriate to meet our nonproliferation and energy objectives.

—First, our domestic policies must be changed to conform to my decision on deferral of the commercialization of chemical reprocessing of nuclear fuel which results in the separation of plutonium.

—Second, I call upon all nations to join us in exercising maximum restraint in the transfer of reprocessing and enrichment technology and facilities by avoiding such sensitive exports or commitments for a period of at least 3 years.

—Third, new cooperative steps are needed to help assure that all nations have an adequate and reliable supply of energy for their needs. I believe, most importantly, that nuclear supplier nations have a special obligation to assure that customer nations have an adequate supply of fuel for their nuclear powerplants, if those customer nations forego the acquisition of reprocessing and uranium enrichment capabilities and accept effective proliferation controls.

—Fourth, the U.S. must maintain its role as a major and reliable world supplier of nuclear reactors and fuel for peaceful purposes. Our strong position as a supplier has provided the principal basis for our influence and leadership in worldwide nonproliferation efforts. A strong position will be equally important in the future. While reaffirming this Nation's intent to be a reliable supplier, the U.S. seeks no competitive advantage by virtue of the worldwide system of effective nonproliferation controls that I am calling for today.

—Fifth, new efforts must be made to urge all nations to join in a full-scale international cooperative effort—which I shall outline in detail—to develop a system of effective controls to prevent proliferation.

—Sixth, the U.S. must take new steps with respect to its own exports to control proliferation, while seeking to improve multilateral guidelines.

—Seventh, the U.S. must undertake a program to evaluate reprocessing in support of the international policies I have adopted.

—Finally, I have concluded that new steps are needed to assure that we have in place when needed, both in the U.S. and around the world, the facilities for the long-term storage or disposal of nuclear wastes.

ACTIONS TO IMPLEMENT OUR NUCLEAR POLICIES

In order to implement the nuclear policies that I have outlined, major efforts will be required within the United States and by the many nations around the world with an interest in nuclear energy. To move forward with these efforts, I am today taking a number of actions and making a number of proposals to other nations.

I. *Change in U.S. Policy on Nuclear Fuel Reprocessing*

With respect to nuclear fuel reprocessing, I am directing agencies of the executive branch to implement my decision to delay commercialization of reprocessing activities in the United States until uncertainties are resolved. Specifically, I am:

—Directing the Administrator of the Energy Research and Development Administration (ERDA) to:

- change ERDA policies and programs which heretofore have been based on the assumption that reprocessing would proceed;
- encourage prompt action to expand spent fuel storage facilities, thus assuring utilities that they need not be concerned about shutdown of nuclear reactors because of delays; and
- identify the research and development efforts needed to investigate the feasibility of recovering the energy value from used nuclear fuel without separating plutonium.

II. *Restraint in the Transfer of Sensitive Nuclear Technology and Facilities*

Despite the gains in controlling proliferation that have been made, the dangers posed by reprocessing and the prospect of uncontrolled availability of plutonium require further, decisive international action. Effective control of the parallel risk of spreading uranium enrichment technology is also necessary. To meet these dangers:

—I call upon all nations to join with us in exercising maximum restraint in the transfer of reprocessing and enrichment technology and facilities by avoiding such sensitive exports or commitments for a period of at least 3 years.

This will allow suppliers and consumers to work together to establish reliable means for meeting nuclear needs with minimum risk, as we assess carefully the wisdom of plutonium use. As we proceed in these efforts, we must not be influenced by pressures to approve the export of these sensitive facilities.

III. *Assuring an Adequate Energy Supply for Customer Nations*

—I urge nuclear suppliers to provide nuclear consumers with fuel services, instead of sensitive technology or facilities.

Nations accepting effective nonproliferation restraints have a right to expect reliable and economic supply of nuclear reactors and associated, nonsensitive fuel. All such nations would share in the benefits of an assured supply of nuclear fuel, even though the number and location of sensitive facilities to generate this fuel is limited to meet nonproliferation goals. The availability of fuel-cycle services in several different nations can provide ample assurance to consumers of a continuing and stable source of supply.

It is also desirable to continue studying the idea of a few suitably-sited multinational fuel-cycle centers to serve regional needs, when effectively safeguarded and economically warranted. Through these and related means, we can minimize incentives for the spread of dangerous fuel-cycle capabilities.

The United States stands ready to take action, in cooperation with other concerned nations, to assure reliable supplies of nuclear fuel at equitable prices to any country accepting responsible restraints on its nuclear power program with regard to reprocessing, plutonium disposition, and enrichment technology.

—I am directing the Secretary of State to initiate consultations to explore with other national arrangements for coordinating fuel services and for developing other means of ensuring that suppliers will be able to offer, and consumers will be able to receive, an uninterrupted and economical supply of low-enriched uranium fuel and fuel services.

These discussions will address ways to ensure against economic disadvantage to cooperating nations and to remove any sources of competition which could undermine our common nonproliferation efforts.

To contribute to this initiative, the United States will offer binding letters of intent for the supply of nuclear fuel to current and prospective customers willing to accept such responsible restraints.

—In addition, I am directing the Secretary of State to enter into negotiations or arrangements for mutual agreement on disposition of spent fuel with consumer nations that adopt responsible restraints.

Where appropriate, the United States will provide consumer nations with either fresh, low-enriched uranium fuel or make other equitable arrangements in return for mutual agreement on the disposition of spent fuel where such disposition demonstrably fosters our common and cooperative nonproliferation objectives. The United States seeks no commercial advantage in pursuing options for fuel disposition and assured fuel supplies.

Finally, the United States will continue to expand cooperative efforts with other countries in developing their indigenous nonnuclear energy resources.

The United States has proposed and continues to advocate the establishment of an International Energy Institute, specifically designed to help developing countries match the most economic and readily available sources of energy to their power needs. Through this Institute and other appropriate means, we will offer technological assistance in the development of indigenous energy resources.

IV. *Strengthening the U.S. Role as a Reliable Supplier*

If the United States is to continue its leadership role in worldwide nonproliferation efforts, it must be a reliable supplier of nuclear reactors and fuel for peaceful purposes. There are two principal actions we can take to contribute to this objective:

—I will submit to the new Congress proposed legislation that will permit the expansion of capacity in the United States to produce enriched uranium, including the authority needed for expansion of the Government-owned plant at Portsmouth, Ohio. I will also work with Congress to establish a framework for a private, competitive industry to finance, build, own, and operate enrichment plants.

U.S. capacity has been fully committed since mid-1974 with the result that no new orders could be signed. The Congress did not act on my full proposal and provided only limited and temporary authority for proceeding with the Portsmouth plant. We must have additional authority to proceed with the expansion of capacity without further delay.

—I will work closely with the Congress to ensure that legislation for improving our export controls results in a system that provides maximum assurance that the United States will be a reliable supplier to other nations for the full period of agreements.

One of the principal concerns with export legislation proposed in the last Congress was the fear that foreign customers could be subjected to arbitrary new controls imposed well after a long-term agreement and specific contracts for nuclear powerplants and fuel had been signed. In the case of nuclear plants and fuel, reliable long-term agreements are essential, and we must adopt export controls that provide reliability while meeting nonproliferation objectives.

V. *International Controls Against Proliferation*

To reinforce the foregoing policies, we must develop means to establish international restraints over the accumulation of plutonium itself, whether in separated form or in unprocessed spent fuel. The accumulation of plutonium under national control, especially in a separated form, is a primary proliferation risk.

—I am directing the Secretary of State to pursue vigorously discussions aimed at the establishment of a new international regime to provide for storage of civil plutonium and spent reactor fuel.

The United States made this proposal to the International Atomic Energy Agency and other interested nations last spring.

Creation of such a regime will greatly strengthen world confidence that the growing accumulation of excess plutonium and spent fuel can be stored safely, pending reentry into the nuclear fuel cycle or other safe disposition. I urge the IAEA, which is empowered to establish plutonium depositories, to give prompt implementation to this concept.

Once a broadly representative IAEA storage regime is in operation, we are prepared to place our own excess civil plutonium and spent fuel under its control. Moreover, we are prepared to consider providing a site for international storage under IAEA auspices.

The inspection system of the IAEA remains a key element in our entire nonproliferation strategy. The world community must make sure that the Agency has the technical and human resources needed to keep pace with its expanding responsibilities. At my direction, we have recently committed substantial additional resources to help upgrade the IAEA's technical safeguards capabilities, and I believe we must strengthen further the safeguard functions of the IAEA.

—I am directing the Secretary of State and Administrator of ERDA to undertake a major international effort to ensure that adequate resources for this purpose are made available, and that we mobilize our best scientific talent to support that Agency. Our principal national laboratories with expertise in this area have been directed to provide assistance, on a continuing basis, to the IAEA Secretariat.

The terrible increase in violence and terrorism throughout the world has sharpened our awareness of the need to assure rigorous protection for sensitive nuclear materials and equipment. Fortunately, the need to cope with this problem is now broadly recognized. Many nations have responded to the initiatives which I have taken in this area by materially strengthening their physical security and by cooperating in the development of international guidelines by the IAEA. As a result of consultations among the major suppliers, provision for adequate physical security is becoming a normal condition of supply.

We have an effective physical security system in the United States. But steps are needed to upgrade physical security systems and to assure timely international collaboration in the recovery of lost or stolen materials.

—I have directed the Secretary of State to address vigorously the problem of physical security at both bilateral and multilateral levels, including exploration of a possible international convention.

The United States is committed to the development of the system of international controls that I have here outlined. Even when complete, however, no system of controls is likely to be effective if a potential violator judges that his acquisition of a nuclear explosive will be received with indifference by the international community.

Any material violation of a nuclear safeguards agreement—especially the diversion of nuclear material for use in making explosives—must be universally judged to be an extremely serious affront to the world community, calling for the immediate imposition of drastic sanctions.

—I serve notice today that the United States will, at a minimum, respond to violation by any nation of any safeguards agreement to which we are party with an immediate cutoff of our supply of nuclear fuel and cooperation to that nation.

We would consider further steps, not necessarily confined to the area of nuclear cooperation, against the violator nation. Nor will our actions be limited to violations of agreements in which we are directly involved. In the event of material violation of any safeguards agreement, particularly agreements with the IAEA, we will initiate immediate consultations with all interested nations to determine appropriate action.

Universal recognition of the total unacceptablity of the abrogation or violation of any nonproliferation agreements is one of the most important steps which can be taken to prevent further proliferation. We invite all concerned governments to affirm publicly that they will regard nuclear wrongdoing as an intolerable violation of acceptable norms of international behavior, which would set in motion strong and immediate countermeasures.

VI. *U.S. Nuclear Export Policies*

During the past 2 years, the United States has strengthened its own national nuclear export policies. Our interests, however, are not limited to controls alone. The United States has a special responsibility to share the benefits of peaceful nuclear energy with other countries. We have sought to serve other nations as a reliable supplier of nuclear fuel and equipment. Given the choice between economic benefits and progress toward our nonproliferation goals, we have given, and will continue to give priority to nonproliferation. But there should be no incompatibility between nonproliferation and assisting other nations in enjoying the benefits of peaceful nuclear power if all supplier countries pursue common nuclear export policies. There is need, however, for even more rigorous controls than those now commonly employed, and for policies that favor nations accepting responsible nonproliferation limitations.

—I have decided that we will henceforth apply new criteria in judging whether to enter into new or expanded nuclear cooperation:

- Adherence to the nonproliferation treaty will be a strong positive factor favoring cooperation with a nonnuclear weapon state.
- Nonnuclear weapons states that have not yet adhered to the nonproliferation treaty will receive positive recognition if they are prepared to submit to full fuel cycle safeguards, pending adherence.
- We will favor recipient nations that are prepared to forego, or postpone for a substantial period, the establishment of national reprocessing or enrichment activities or, in certain cases, prepared to shape and schedule their reprocessing and enriching facilities to foster nonproliferation needs.
- Positive recognition will also be given to nations prepared to participate in an international storage regime, under which spent fuel and any separated plutonium would be placed pending use.

Exceptional cases may occur in which nonproliferation will be served best by cooperating with nations not yet meeting these tests. However, I pledge that the Congress will not be asked to approve any new or amended agreement not meeting these new criteria unless I personally determine that the agreement is fully supportive of our nonproliferation goals. In case of such a determination, my reasons will be fully presented to the Congress.

—With respect to countries that are current recipients of U.S. nuclear supply, I am directing the Secretary of State to enter into negotiations with the objective of conforming these agreements to established international guidelines, and to seek through diplomatic initiatives and fuel supply incentives to obtan their acceptance of our new criteria.

We must recognize the need for effective multilateral approaches to nonproliferation and prevent nuclear export controls from becoming an element of commercial competition.

—I am directing the Secretary of State to intensify discussions with other nuclear suppliers aimed at expanding common guidelines for peaceful cooperative agreements so that they conform with these criteria.

In this regard, the United States would discuss ways of developing incentives that can lead to acceptance of these criteria, such as assuring reliable fuel supplies for nations accepting new restraints.

The reliability of American assurances to other nations is an asset that few, if any, nations of the world can match. It must not be eroded. Indeed, nothing could more prejudice our efforts to strengthen our existing nonproliferation understandings than arbitrary suspension or unwarranted delays in meeting supply commitments to countries which are dealing with us in good faith regarding effective safeguards and restraints.

Despite my personal efforts, the 94th Congress adjourned without passing nuclear export legislation which would have strengthened our effectiveness in dealing with other nations on nuclear matters.

—In the absence of such legislation, I am directing the Secretary of State to work closely with the Nuclear Regulatory Commission to ensure proper emphasis on nonproliferation concerns in the nuclear export licensing process.

I will continue to work to develop bipartisan support in Congress for improvements in our nuclear export laws.

VII. *Reprocessing Evaluation Program*

The world community requires an aggressive program to build the international controls and cooperative regimes I have just outlined. I am prepared to mount such a program in the United States.

—I am directing the Administrator of ERDA to:

• Begin immediately to define a reprocessing and recycle evaluation program consistent with meeting our international objectives outlined earlier in this statement. This program should complement the Nuclear Regulatory Commission's (NRC) ongoing considerations of safety safeguards and environmental requirements for reprocessing and recycling activities, particularly its Generic Environmental Statement on Mixed Oxide Fuels.

• Investigate the feasibility of recovering the energy value from used nuclear fuel without separating our plutonium.

—I am directing the Secretary of State to invite other nations to participate in designing and carrying out ERDA's reprocessing and recycle evaluation program, consistent with our international energy cooperation and nonproliferation objectives. I will direct that activities carried out in the U.S. in connection with this program be subjected to full IAEA safeguards and inspections.

VIII. *Nuclear Waste Management*

The area of our domestic nuclear program dealing with long-term management of nuclear wastes from our commercial nuclear powerplants has not in the past received sufficient attention. In my 1977 Budget, I proposed a fourfold increase in funding for this program, which involves the activities of several Federal agencies. We recently completed a review to determine what additional actions are needed to assure availability in the mid-1980's of a federally-owned and managed repository for long-term nuclear wastes, well before significant quantities of wastes begin to accumulate.

I have been assured that the technology for long-term management or disposal of nuclear wastes is available but demonstrations are needed.

—I have directed the Administrator of ERDA to take the necessary action to speed up this program so as to demonstrate all components of waste management technology by 1978 and to demonstrate a complete repository for such wastes by 1985.

—I have further directed that the first demonstration depository for high-level wastes which will be owned by the Government be submitted for licensing by the independent NRC to assure its safety and acceptability to the public.

In view of the decisions announced today, I have also directed the Administrator of ERDA to assure that the waste repository will be able to handle spent fuel elements as well as the separated and solidified waste that would result if we proceed with nuclear fuel reprocessing.

The United States continues to provide world leadership in nuclear waste management. I am inviting other nations to participate in and learn from our programs.

—I am directing the Secretary of State to discuss with other nations and the IAEA the possibility of establishing centrally located, multinationally controlled nuclear waste repositories so that the number of sites that are needed can be limited.

INCREASED USE OF NUCLEAR ENERGY IN THE UNITED STATES

Even with strong conservation efforts, energy demands in the United States will continue to increase in response to the needs of a growing economy. The only alternative over the next 15 to 20 years to increased use of both nuclear energy and coal is greater reliance on imported oil which will jeopardize our Nation's strength and welfare.

We now have in the United States 62 licensed nuclear plants, providing about 9 percent of our electrical energy. By 1985, we will have from 145 to 160 plants, supplying 20 percent or more of the Nation's electricity.

In many cases, electricity from nuclear plants is markedly cheaper than that produced from either oil or coal-fired plants. Nuclear energy is environmentally preferable in a number of respects to other principal ways of generating electricity.

Commercial nuclear power has an excellent safety record, with nearly 200 plant-years of experience (compiled over 18 chronological years) without a single death from a nuclear accident. I have acted to assure that this record is maintained in the years ahead. For example, I have increased funds for the independent Nuclear Regulatory Commission and for the Energy Research and Development Administration for reactor safety research and development.

The decisions and actions I am announcing today will help overcome the uncertainties that have served to delay the expanded use of nuclear energy in the United States. While the decision to delay reprocessing is significant, it will not prevent us from increasing our use of nuclear energy. We are on the right course with our nuclear power program in America. The changes I am announcing today will ensure that we continue.

My decisions today do not affect the U.S. program of research and development on the breeder reactor. That program assumes that no decision on the commercial operations of breeder reactors, which require plutonium fuel, will be made before 1986.

CONCLUSION

I do not underestimate the challenge represented in the creation of a worldwide program that will permit capturing the benefits of nuclear energy while maintaining needed protection against nuclear proliferation. The challenge is one that can be managed only partially and temporarily by technical measures.

It can be managed fully if the task is faced realistically by nations prepared to forego perceived short-term advantages in favor of fundamental long-term gains. We call upon all nations to recognize that their individual and collective interests are best served by internationally assured and safeguarded nuclear fuel supply, services, and storage. We ask them to turn aside from pursuing nuclear capabilities which are of doubtful economic value and have ominous implications for nuclear proliferation and instability in the world.

The growing international consensus against the proliferation of nuclear weapons is a source of encouragement. But it is certainly not a basis for complacency.

Success in meeting the challenge now before us depends on an extraordinary coordination of the policies of all nations toward the common good. The United States is prepared to lead, but we cannot succeed alone. If nations can work together constructively and cooperatively to manage our common nuclear problems, we will enhance our collective security. And we will be better able to concentrate our energies and our resources on the great tasks of construction rather than consume them in increasingly dangerous rivalry.

EXECUTIVE ORDER 12058

FUNCTIONS RELATING TO NUCLEAR NON-PROLIFERATION

By virtue of the authority vested in me by the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242, 92 Stat. 120, 22 U.S.C. 3201) and the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. *Department of Energy.* The following functions vested in the President by the Nuclear Non-Proliferation Act of 1978 (92 Stat. 120, 22 U.S.C. 3201), hereinafter referred to as the Act, and by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*), hereinafter referred to as the 1954 Act, are delegated or assigned to the Secretary of Energy:

(a) That function vested by Section 402(b) of the Act (92 Stat. 145, 42 U.S.C. 2153a).

(b) Those functions vested by Sections 131a(2)(G), 131b(1), and 131f(2) of the 1954 Act (92 Stat. 127, 42 U.S.C. 2160).

(c) That function vested by Section 131f(1)(A)(ii) of the 1954 Act to the extent it relates to the preparation of a detailed generic plan.

SEC. 2. *Department of State.* The Secretary of State shall be responsible for performing the following functions vested in the President:

(a) Those functions vested by Sections 104(a), 104(d), 105, 403, 404, 407, and 501 of the Act (92 Stat. 122, 123, 146, 147, 148, and 22 U.S.C. 3223(a), 3223(d), 3224, and 42 U.S.C. 2153b, 2153c, 2153e, and 22 U.S.C. 3261).

(b) That function vested by Section 128a(2) of the 1954 Act (92 Stat. 137, 42 U.S.C. 2157(a)(2)).

(c) That function vested by Section 601 of the Act to the extent it relates to the preparation of an annual report.

(d) The preparation of timely information and recommendations related to the President's functions vested by Sections 126, 128b, and 129 of the 1954 Act (92 Stat. 131, 137, and 138, 42 U.S.C. 2155, 2157, and 2158).

(e) That function vested by Section 131c of the 1954 Act (92 Stat. 129, 42 U.S.C. 2160(c)); except that, the Secretary shall not waive the 60-day requirement for the preparation of a Nuclear Non-Proliferation Assessment Statement for more than 60 days without the approval of the President.

SEC. 3. *Department of Commerce.* The Secretary of Commerce shall be responsible for performing the function vested in the President by Section 309(c) of the Act (92 Stat. 141, 42 U.S.C. 2139a).

SEC. 4. *Coordination.* In performing the functions assigned to them by this Order, the Secretary of Energy and the Secretary of State shall consult and coordinate their actions with each other and with the heads of other concerned agencies.

SEC. 5. *General Provisions.* (a) Executive Order No. 11902 of February 2, 1976, entitled "Procedures for an Export Licensing Policy as to Nuclear Materials and Equipment," is revoked.

(b) The performance of functions under either the Act or the 1954 Act shall not be delayed pending the development of procedures, even though as many as 120 days are allowed for establishing them. Except where it would be inconsistent to do so, such functions shall be carried out in accordance with procedures similar to those in effect immediately prior to the effective date of the Act.

JIMMY CARTER

THE WHITE HOUSE, *May 11, 1978.*

NUCLEAR NONPROLIFERATION POLICY

STATEMENT BY THE PRESIDENT JULY 16, 1981 ADMINISTRATION OF RONALD REAGAN

Our Nation faces major challenges in international affairs. One of the most critical is the need to prevent the spread of nuclear explosives to additional countries. Further proliferation would pose a severe threat to international peace, regional and global stability, and the security interests of the United Nation has been committed on a bipartisan basis to preventing the spread of nuclear explosives from the birth of the atomic age over 35 years ago. This commitment is shared by the vast majority of other countries. The urgency of this task has been highlighted by the ominous events in the Middle East.

The problem of reducing the risks of nuclear proliferation has many aspects, and we need an integrated approach to deal with it effectively. In the final analysis, the success of our efforts depends on our ability to improve regional and global stability and reduce those motivations that can drive countries toward nuclear explosives. This calls for a strong and dependable United States, vibrant alliances and improved relations with others, and a dedication to those tasks that are vital for a stable world order.

I am announcing today a policy framework that reinforces the longstanding objectives of our Nation in nonproliferation and includes a number of basic guidelines.

The United States will:

- seek to prevent the spread of nuclear explosives to additional countries as a fundamental national security and foreign policy objective;
- strive to reduce the motivation for acquiring nuclear explosives by working to improve regional and global stability and to promote understanding of the legitimate security concerns of other states;
- continue to support adherence to the Treaty on the Non-Proliferation of Nuclear Weapons and to the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) by countries that have not accepted those treaties;
- view a material violation of these treaties or an international safeguards agreement as having profound consequences for international order and United States bilateral relations, and also view any nuclear explosion by a non-nuclear-weapon state with grave concern;
- strongly support and continue to work with other nations to strengthen the International Atomic Energy Agency to provide for an improved international safeguards regime;
- seek to work more effectively with other countires to forge agreement on measures for combating the risks of proliferation;
- continue to inhibit the transfer of sensitive nuclear material, equipment and technology, particularly where the danger of proliferation demands, and to seek agreement on requiring IAEA safeguards on all nuclear activities in a non-nuclear-weapon state as a condition for any significant new nuclear supply commitment.

I am also announcing that I will promptly seek the Senate's advice and consent to ratification of Protocol I of the Treaty of Tlatelolco.

The United States will cooperate with other nations in the peaceful uses of nuclear energy, including civil nuclear programs to meet their energy security needs, under a regime of adequate safeguards and controls. Many friends and allies of the United States have a strong interest in nuclear power and have, during recent years, lost confidence in the ability of our Nation to recognize their needs.

We must re-establish this Nation as a predictable and reliable partner for peaceful nuclear cooperation under adequate safeguards. This is essential to our nonproliferation goals. If we are not such a partner, other countries will tend to go their own ways, and our influence will diminish. This would reduce our effectiveness in gaining the support we need to deal with proliferation problems.

To attain this objective, I am:

- instructing the executive branch agencies to undertake immediate efforts to ensure expeditious action on export requests and approval requests under agreements for peaceful nuclear cooperation where the necessary statutory requirements are met;
- requesting that the Nuclear Regulatory Commission act expeditiously on these matters.

The administration will also not inhibit or set back civil reprocessing and breeder reactor development abroad in nations with advanced nuclear power programs where it does not constitute a proliferation risk.

The United States will support IAEA programs and other international cooperative efforts in the areas of nuclear safety and environmentally sound nuclear waste management.

To carry out these policies, I am instructing the Secretary of State, working with the other responsible agencies, to give priority attention to efforts to reduce proliferation risks, to enhance the international nonproliferation regime and, consistent with United States security interests, to re-establish a leadership role for the United States in international nuclear affairs.

NUCLEAR COOPERATION WITH EURATOM

LETTER TO THE SPEAKER OF THE HOUSE AND THE PRESIDENT OF THE SENATE
MARCH 7, 1983

Dear Mr. Speaker: (Dear Mr. President:)

The United States has been engaged in nuclear cooperation with the European Community for many years. This cooperation was initiated under agreements concluded over two decades ago between the United States and the European Atomic Energy Community (EURATOM) which extend until December 31, 1995. Since the inception of this cooperation, the Community has adhered to all its obligations under those agreements.

The Nuclear Non-Proliferation Act of 1978 amended the Atomic Energy Act to establish new nuclear export criteria, including a requirement that the United States have a right to consent to the reprocessing of fuel exported from the United States. Our present agreements for cooperation with EURATOM do not contain such a right. To avoid disrupting cooperation with EURATOM, a proviso was included in the law to enable continued cooperation until March 10, 1980, and provide for negotiations concerning our cooperation agreements.

The law also provides that nuclear cooperation with EURATOM can be extended on an annual basis after March 10, 1980, upon determination by the President that failure to cooperate would seriously prejudice the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security and after notification to the Congress. President Carter made such a determination three years ago and signed Executive Order 12193, permitting continued nuclear cooperation with EURATOM until March 10, 1981. I made such determinations in 1981 and 1982 and signed Executive Orders 12295 and 12351, permitting continued nuclear cooperation through March 10, 1983.

The United States has engaged in four rounds of talks with EURATOM regarding the renegotiation of the US-EURATOM agreements for cooperation. These were conducted in November 1978, September 1979, April 1980 and January 1982. We also consulted with EURATOM on a number of issues related to these agreements last summer. We expect to continue the talks in 1983.

I believe that it is essential that cooperation between the United States and the Community continue and likewise that we work closely with our Allies to counter the threat of nuclear explosives proliferation. A disruption of nuclear cooperation would also cause serious problems in our overall relationships. Accordingly, I have determined that failure to continue peaceful nuclear cooperation with EURATOM would be seriously prejudcial to the achievement of the United States non-proliferation objectives and would jeopardize the common defense and security of the United States. I intend to sign an Executive Order to extend the waiver of the application of the relevant export criterion of the Nuclear Non-Proliferation Act for an additional twelve months from March 10, 1983.

Sincerely,

RONALD REAGAN

Note: This is the text of identical letters addressed to Thomas P. O'Neill, Jr., Speaker of the House of Representatives, and George Bush, President of the Senate.

EXECUTIVE ORDER 12409. MARCH 7, 1983

NUCLEAR COOPERATION WITH EURATOM

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 126a(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2155(a)(2)), and having determined that, upon the expiration of the period specified in the first proviso to Section 126a(2) of such Act and extended by Executive Orders No. 12193, 12295, and 12351, failure to continue peaceful nuclear cooperation with the European Atomic Energy Community would be seriously prejudicial to the achievement of the United States non-proliferation objectives and would otherwise jeopardize the common defense and security of the United States, and having notified the Congress of this determination, I hereby extend the duration of that period to March 10, 1984.

RONALD REAGAN.

APPENDIX 21

SENATE RESOLUTION 221 (94th Cong., 1st Sess.)

RESOLUTION

Urging the President of the United States to take the leadership in seeking international cooperation in strengthening safeguards of nuclear materials.

Whereas the Senate of the United States ratified the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in recognition of the devastation associated with a nuclear war and of the need to make every effort to avert the danger of such a war;

Whereas the parties to the treaty expressed a common belief that the proliferation of nuclear weapons would seriously increase the danger of nuclear war;

Whereas the United States and other parties to the treaty pledged to accept specified safeguards regarding the transfer to nonnuclear-weapon states of special nuclear materials and facilities for the processing, use, or production of such materials;

Whereas recent events, including the explosion of nuclear devices, the development of uranium enrichment facilities, and the proposed transfer of nuclear enrichment and reprocessing facilities to nonnuclear-weapon states, emphasize the imperative need to increase the scope, comprehensiveness, and effectiveness of international safeguards on peaceful nuclear activities so that there will be no further proliferation of nuclear weapons capability;

Whereas the Senate of the United States is particularly concerned about the consequences of transactions without effective safeguards that could lead to the production of plutonium and other special nuclear materials by nonnuclear-weapon states throughout the world; and

Whereas the Senate is particularly concerned about the proliferation threat posed by the possibility of the development in the near future of a large number of independent national enrichment and reprocessing facilities and therefore believes that the United States should take the lead in securing agreement for the development of regional multinational, rather than national, centers to undertake enrichment and reprocessing activities in order to minimize the spread of technology which could be used to develop nuclear explosives: Now, therefore, be it

Resolved, That the President seek the immediate international consideration of strengthening the effectiveness of the International Atomic Energy Agency's safeguards on peaceful nuclear activities and seek intensified cooperation with other nuclear suppliers to insure that the most stringent safeguard conditions are applied to the transfer of nuclear equipment and technology to prevent the proliferation of nuclear explosive capability; be it further

Resolved, That the Senate of the United States strongly requests and urges the President to seek through the highest level of consultation in the United Nations and with the other leaders of the world community an intensive cooperative international effort to strengthen and improve both the scope, comprehensiveness, and effectiveness of the international safeguards on peaceful nuclear activities so that there will be a substantial and immediate reduction in the risk of diversion or theft of plutonium and other special nuclear materials to military or other uses that would jeopardize world peace and security; be it further

Resolved, That the President seek, through consultation with suppliers of nuclear equipment and technology, their restraint in the transfer of nuclear technology and their cooperation in assuring that such equipment and technology only is transferred to other nations under the most rigorous, prudent, and safeguarded conditions designed to assure that the technology itself is not employed for the production of nuclear explosives; and be it further

Resolved, That the Secretary of the Senate is directed to transmit copies of this resolution to the President of the United States and to the Secretary of State.

INDEX TO LEGISLATIVE HISTORY OF S. RES. 221

(Page references are to the daily editions of the Congressional Record, 94th Cong., 1st Sess.)

S. Res. 221 introduced by Mr. Pastore (for himself, Mr. Mondale, Mr. Inouye, Mr. Montoya, and Mr. Symington) on July 26, 1975, and referred to the Senate Committee on Foreign Relations, S13859-61.
Reported (S. Rept. No. 94-525) December 10, 1975, S21583.
Considered and agreed to by the Senate on December 12, 1975, S21961.

APPENDIX 22

Public Law 97-351
97th Congress

An Act

To amend title 18 of the United States Code to implement the Convention on the Physical Protection of Nuclear Material, and for other purposes.

Oct. 18, 1982
[H.R. 5228]

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

Convention on the Physical Protection of Nuclear Material Implementation Act of 1982.
18 USC 831 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Convention on the Physical Protection of Nuclear Material Implementation Act of 1982".

IMPLEMENTATION OF CONVENTION AND PROHIBITION OF RELATED OFFENSES

SEC. 2. (a) Chapter 39 of title 18 of the United States Code is amended by inserting after the table of sections at the beginning of such chapter the following new section:

§831. Prohibited transactions involving nuclear materials

18 USC 831.

"(a) Whoever, if one of the circumstances described in subsection (c) of this section occurs—

"(1) without lawful authority, intentionally receives, possesses, uses, transfers, alters, disposes of, or disperses any nuclear material and—

"(A) thereby knowingly causes the death of or serious bodily injury to any person or substantial damage to property; or

"(B) knows that circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property;

"(2) with intent to deprive another of nuclear material, knowingly—

"(A) takes and carries away nuclear material of another without authority;

"(B) makes an unauthorized use, disposition, or transfer, of nuclear material belonging to another; or

"(C) uses fraud and thereby obtains nuclear material belonging to another;

"(3) knowingly—

"(A) uses force; or

"(B) threatens or places another in fear that any person other than the actor will imminently be subject to bodily injury;

and thereby takes nuclear material belonging to another from the person or presence of any other;

"(4) intentionally intimidates any person and thereby obtains nuclear material belonging to another;

"(5) with intent to compel any person, international organization, or governmental entity to do or refrain from doing any act, knowingly threatens to engage in conduct described in paragraph (2)(A) or (3) of this subsection;

96 STAT. 1664

"(6) knowingly threatens to use nuclear material to cause death or serious bodily injury to any person or substantial damage to property under circumstances in which the threat may reasonably be understood as an expression of serious purposes;

"(7) attempts to commit an offense under paragraph (1), (2), (3), or (4) of this subsection; or

"(8) is a party to a conspiracy of two or more persons to commit an offense under paragraph (1), (2), (3), or (4) of this subsection, if any of the parties intentionally engages in any conduct in furtherance of such offense;

shall be punished as provided in subsection (b) of this section.

"(b) The punishment for an offense under—

"(1) paragraphs (1) through (7) of subsection (a) of this section is—

"(A) a fine of not more than $250,000; and

"(B) imprisonment—

"(i) for any term of years or for life (I) if, while commiting the offense, the offender knowingly causes the death of any person; or (II) if, while committing an offense under paragraph (1) or (3) of subsection (a) of this section, the offender, under circumstances manifesting extreme indifference to the life of an individual, knowingly engages in any conduct and thereby recklessly causes the death of or serious bodily injury to any person; and

"(ii) for not more than 20 years in any other case; and

"(2) paragraph (8) of subsection (a) of this section is—

"(A) a fine of not more than $250,000; and

"(B) imprisonment—

"(i) for not more than 20 years if the offense which is the object of the conspiracy is punishable under paragraph (1)(B)(i); and

"(ii) for not more than 10 years in any other case.

"(c) The circumstances referred to in subsection (a) of this section are that—

"(1) the offense is committed in the United States or the special maritime and territorial jurisdiction of the United States, or the special aircraft jurisdiction of the United States (as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301);

"(2) the defendant is a national of the United States, as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101);

"(3) at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and after the conduct required for the offense occurs the defendant is found in the United States, even if the conduct required for the offense occurs outside the United States; or

"(4) the conduct required for the offense occurs with respect to the carriage of a consignment of nuclear material for peaceful purposes by any means of transportation intended to go beyond the territory of the state where the shipment originates beginning

96 STAT. 1665

with the departure from a facility of the shipper in that state and ending with the arrival at a facility of the receiver within the state of ultimate destination and either of such states is the United States.

10 U.S.C. 371 *et seq.*

"(d) The Attorney General may request assistance from the Secretary of Defense under chapter 18 of title 10 in the enforcement of this section and the Secretary of Defense may provide such assistance in accordance with chapter 18 of title 10, except that the Secretary of Defense may provide such assistance through any Department of Defense personnel.

18 U.S.C. 1385.

"(e)(1) The Attorney General may also request assistance from the Secretary of Defense under this subsection in the enforcement of this section. Notwithstanding section 1385 of this title, the Secretary of Defense may, in accordance with other applicable law, provide such assistance to the Attorney General if—

"(A) an emergency situation exists (as jointly determined by the Attorney General and the Secretary of Defense in their discretion); and

"(B) the provision of such assistance will not adversely

affect the military preparedness of the United States (as determined by the Secretary of Defense in such Secretary's discretion).

"(3) As used in this subsection, the term 'emergency situation' means a circumstance— "Emergency situation."

"(A) that poses a serious threat to the interests of the United States; and

"(B) in which—

"(i) enforcement of the law would be seriously impaired if the assistance were not provided; and

"(ii) civilian law enforcement personnel are not capable of enforcing the law.

"(4) Assistance under this section may include—

"(A) use of personnel of the Department of Defense to arrest persons and conduct searches and seizures with respect to violations of this section; and

"(B) such other activity as is incidental to the enforcement of this section, or to the protection of persons or property from conduct that violates this section.

"(5) The Secretary of Defense may require reimbursement as a condition of assistance under this section.

"(6) The Attorney General may delegate the Attorney General's function under this subsection only to a Deputy, Associate, or Assistant Attorney General.

"(f) As used in this section— Definitions.

"(1) the term 'nuclear material' means material containing any—

"(A) plutonium with an isotopic concentration not in excess of 80 percent plutonium 238;

"(B) uranium not in the form of ore or ore residue that contains the mixture of isotopes as occurring in nature;

"(C) uranium that contains the isotope 233 or 235 or both in such amount that the abundance ratio of the sum of those isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature; or

"(D) uranium 233;

"(2) the term 'international organization' means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288) or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs; 96 STAT. 1666

"(3) the term 'serious bodily injury' means bodily injury which involves—

"(A) a substantial risk of death;

"(B) extreme physical pain;

"(C) protracted and obvious disfigurement; or

"(D) protracted loss or impairment of the function of bodily member, organ, or mental faculty; and

"(4) the term 'bodily injury' means—

"(A) a cut, abrasion, bruise, burn, or disfigurement;

"(B) physical pain;

"(C) illness;

"(D) impairment of a function of a bodily member, organ, or mental faculty; or

"(E) any other injury to the body, no matter how temporary."

(b) The table of sections for chapter 39 of title 18 of the United States Code is amended by striking out the items relating to sections 831 through 835 and inserting in lieu thereof the following:

"831. Prohibited transactions involving nuclear materials.".

AMENDMENT TO DEFINITION OF INTERNATIONAL ORGANIZATIONS USED IN DEFINING OFFENSES AGAINST INTERNATIONALLY PROTECTED PERSONS

SEC. 3. Section 1116(b)(5) of title 18 of the United States Code is amended by inserting before the period the following: "or a public organization created pursuant to treaty or other agreement under

international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs".

Approved October 18, 1982.

LEGISLATIVE HISTORY—H.R. 5228 (S. 1446):

HOUSE REPORT No. 97-624 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 128 (1982):
July 19, 20, considered and passed House.
Sept. 14, considered and passed Senate, amended.
Sept. 28, House concurred in Senate amendment No. 1; disagreed to certain amendments; concurred in others with amendments.
Oct. 1, Senate concurred in House amendments and receded from its disagreements.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 42 (1982): Oct. 19, Presidential statement.

CONVENTION ON THF PHYSICAL PROTECTION OF NUCLEAR MATERIAL

Country	Signature	Ratification
Australia	February 22, 1984	
Austria	March 3, 1980	
Belgium	June 13, 1980	
Brazil	May 15, 1981 [3]	October 17, 1985
Bulgaria	June 23, 1981 [1]	April 10, 1984 [1]
Canada	September 23, 1980	
Czechoslovakia	September 14, 1981 [1]	April 23, 1982 [1]
Denmark	June 13, 1980	
Dominican Republic	March 3, 1980	
European Atomic Energy Community	June 13, 1980 [2]	
Finland	June 25, 1981	
France	June 13, 1980 [1]	
German Democratic Republic	May 21, 1980 [1]	February 5, 1981 [1]
Germany, Federal Republic of	June 13, 1980	
Greece	March 3, 1980	
Guatemala	March 12, 1980	April 23, 1985 [1]
Haiti	April 10, 1980	
Hungary	June 17, 1980 [1]	May 4, 1984 [1]
Ireland	June 13, 1980	
Israel	June 17, 1983 [1]	
Italy	June 13, 1980 [1 2]	
Korea (Republic of)	December 29, 1981 [1]	April 7, 1982 [1]
Luxembourg	June 13, 1980	
Morocco	July 25, 1980	
Netherlands	June 13, 1980	
Niger	January 7, 1985	
Norway	January 26, 1983	August 15, 1985
Panama	March 18, 1980	
Paraguay	May 21, 1980	February 6, 1985
Philippines	May 19, 1980	September 21, 1981
Poland	August 6, 1980 [1]	October 5, 1983 [1]
Portugal	September 19, 1984	
Romania	January 15, 1981 [1 2]	
South Africa	May 18, 1981 [1]	
Sweden	July 2, 1980	August 1, 1980
Turkey	August 23, 1983 [1]	February 27, 1985
United States	March 3, 1980	December 13, 1982
USSR	May 22, 1980 [1]	May 25, 1983 [1]
United Kingdom	June 13, 1980	
Yugoslavia	July 15, 1980	

[1] With reservation(s).
[2] With declaration(s).
[3] Ad referendum National Congress.

January 1986
Office of the Legal Adviser
Department of State

APPENDIX 23

TRANSPORTATION SAFETY ACT OF 1974

(88 Stat. 2156)

[PUBLIC LAW 93-633]

[H.R. 15223]

[JANUARY 3, 1975]

AN ACT

To regulate commerce by improving the protections afforded the public against risks connected with the transportation of hazardous materials, and for other purposes. 88 STAT. 2156

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 "Transportation Safety Act of 1974". Transportation Safety Act of 1974. 49 U.S.C. 1801 note.

* * * * *

TITLE I—HAZARDOUS MATERIALS

* * * * *

SHORT TITLE

SEC. 101. This title may be cited as the "Hazardous Materials Transportation Act.". Hazardous Materials Transportation Act. 49 U.S.C. 1801 note.

DECLARATION OF POLICY

SEC. 102. It is declared to be the policy of Congress in this title to improve the regulatory and enforcement authority of the Secretary of Transportation to protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce. 49 U.S.C. 1801.

DEFINITIONS

SEC. 103. As used in this title, the term— 49 U.S.C. 1802.

(1) "commerce" means trade, traffic, commerce, or transportation, within the jurisdiction of the United States, (A) between a place in a State and any place outside of such State, or (B) which affects trade, traffic, commerce, or transportation described in clause (A);

(2) "hazardous material" means a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce;

(3) "Secretary" means the Secretary of Transportation, or his delegate;

(4) "serious harm" means death, serious illness, or severe personal injury;

(5) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam;

(6) "transports" or "transportation" means any movement of property by any mode, and any loading, unloading, or storage incidental thereto; and

(7) "United States" means all of the States.

DESIGNATION OF HAZARDOUS MATERIALS

49 U.S.C. 1803.

SEC. 104. Upon a finding by the Secretary, in his discretion, that the transportation of a particular quantity and form of material in commerce may pose an unreasonable risk to health and safety or property, he shall designate such quantity and form of material or group or class of such materials as a hazardous material. The materials so designated may include, but are not limited to, explosives, radioactive materials, etiologic agents, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, and compressed gases.

REGULATIONS GOVERNING TRANSPORTATION OF HAZARDOUS MATERIALS

49 U.S.C. 1804.

SEC. 105. (a) GENERAL.—The Secretary may issue, in accordance with the provisions of section 553 of title 5, United States Code, including an opportunity for informal oral presentation, regulations for the safe transportation in commerce of hazardous materials. Such regulations shall be applicable to any person who transports, or causes to be transported or shipped, a hazardous material, or who manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a package or container which is represented, marked, certified, or sold by such person for use in the transportation in commerce of certain hazardous materials. Such regulations may govern any safety aspect of the transportation of hazardous materials which the Secretary deems necessary or appropriate, including, but not limited to, the packing, repacking, handling, labeling, marking, placarding, and routing (other than with respect to pipelines) of hazardous materials, and the manufacture, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold by such person for use in the transportation of certain hazardous materials.

(b) COOPERATION.—In addition to other applicable requirements, the Secretary shall consult and cooperate with representatives of the Interstate Commerce Commission and shall consider any relevant suggestions made by such Commission, before issuing any regulation with respect to the routing of hazardous materials. Such Commission shall, to the extent of its lawful authority, take such action as is necessary or appropriate to implement any such regulation.

(c) REPRESENTATION.—No person shall, by marking or otherwise, represent that a container or package for the transportation of hazardous materials is safe, certified, or in compliance with the requirements of this Act, unless it meets the requirements of all applicable regulations issued under this Act.

HANDLING OF HAZARDOUS MATERIALS

49 U.S.C. 1805.

SEC. 106. (a) CRITERIA.—The Secretary is authorized to establish criteria for handling hazardous materials. Such criteria may include, but need not be limited to, a minimum number of personnel; a minimum level of training and qualification for such personnel; type and frequency of inspection; equipment to be used for detection, warning, and control of risks posed by such materials; specifications regarding the use of equipment and facilities used in the handling and transportation of such materials; and a system of monitoring safety assurance procedures for the transportation of such materials. The Secretary may revise such criteria as required.

(b) REGISTRATION.—Each person who transports or causes to be transported or shipped in commerce hazardous materials or who manufactures, fabricates, marks, maintains, reconditions, repairs, or tests packages or containers which are represented, marked, certified, or sold by such person for use in the transportation in commerce of certain hazardous materials (designated by the Secretary) may be required by the Secretary to prepare and submit to the Secretary a registration statement not more often than once every 2 years. Such a registration statement shall include, but need not be limited to, such person's name; principal place of business; the location of each activity handling such hazardous materials; a complete list of all such hazardous materials handled; and an averment that such person is in compliance with all applicable criteria established under subsection (a) of this section. The Secretary shall by regulation prescribe the form of any such statement and the information required to be included. The

Secretary shall make any registration statement filed pursuant to this subsection available for inspection by any person, without charge, except that nothing in this sentence shall be deemed to require the release of any information described by subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(c) REQUIREMENT.—No person required to file a registration statement under subsection (b) of this section may transport or cause to be transported or shipped hazardous materials, or manufacture, fabricate, mark, maintain, recondition, repair, or test packages or containers for use in the transportation of hazardous materials, unless he has on file a registration statement.[1]

EXEMPTIONS

SEC. 107. (a) GENERAL.—The Secretary, in accordance with procedures prescribed by regulation, is authorized to issue or renew, to any person subject to the requirements of this title, an exemption from the provisions of this title, and from regulations issued under section 105 of this title, if such person transports or causes to be transported or shipped hazardous materials in a manner so as to achieve a level of safety (1) which is equal to or exceeds that level of safety which would be required in the absence of such exemption, or (2) which would be consistent with the public interest and the policy of this title in the event there is no existing level of safety established. The maximum period of an exemption issued or renewed under this section shall not exceed 2 years, but any such exemption may be renewed upon application to the Secretary. Each person applying for such an exemption or renewal shall, upon application, provide a safety analysis as prescribed by the Secretary to justify the grant of such exemption. A notice of an application for issuance or renewal of such exemption shall be published in the Federal Register. The Secretary shall afford access to any such safety analysis and an opportunity for public comment on any such application, except that nothing in this sentence shall be deemed to require the release of any information described by subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

49 U.S.C. 1806.

Publication in Federal Register.

(b) VESSELS.—The Secretary shall exclude, in whole or in part, from any applicable provisions and regulations under this title, any vessel which is excepted from the application of section 201 of the Ports and Waterways Safety Act of 1972 by paragraph (2) of such section (46 U.S.C. 391a(2)), or any other vessel regulated under such Act, to the extent of such regulation.

Exclusion.

(c) FIREARMS AND AMMUNITION.—Nothing in this title, or in any regulation issued under this title, shall be construed to prohibit or regulate the transportation by any individual, for personal use, of any firearm (as defined in paragraph (4) of section 232 of title 18, United States Code) or any ammunity therefor, or to prohibit any transportation of firearms or ammunition in commerce.

(d) LIMITATION ON AUTHORITY.—Except when the Secretary determines that an emergency exists, exemptions or renewals granted pursuant to this section shall be the only means by which a person subject to the requirements of this title may be exempted from or relieved of the obligation to meet any requirements imposed under this title.

TRANSPORTATION OF RADIOACTIVE MATERIALS ON PASSENGER-CARRYING AIRCRAFT

SEC. 108. (a) GENERAL.—Within 120 days after the date of enactment of this section, the Secretary shall issue regulations, in accordance with this section and pursuant to section 105 of this title, with respect to the transportation of radioactive materials on any passenger-carrying aircraft in air commerce, as defined in section 101(4) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(4)). Such regulations shall prohibit any transportation of radioactive materials on any such aircraft unless the radioactive materials involved are intended for use in, or incident to, research, or medical diagnosis or treatment, so long as such materials as prepared for and during transportation do not pose an unreasonable hazard to health and safety. The Secretary shall further establish effective procedures for monitoring and enforcing the provisions of such regulations.

Regulations. 49 U.S.C. 1807.

[1] Public Law 94-474 (90 Stat. 2068) (1976), sec. 2, amended sec. 106(c), by striking out "extremely" each time it appears.

(b) DEFINITION.—As used in this section, "radioactive materials" means any materials or combination of materials which spontaneously emit ionizing radiation. The term does not include materials in which (1) the estimated specific activity is not greater than 0.002 microcuries per gram of material; and (2) the radiation is distributed in an essentially uniform manner.

POWERS AND DUTIES OF THE SECRETARY

49 U.S.C. 1808.

Sec. 109. (a) GENERAL.—The Secretary is authorized, to the extent necessary to carry out his responsibilities under this title, to conduct investigations, make reports, issue subpoenas, conduct hearings, require the production of relevant documents, records, and property, take depositions, and conduct, directly or indirectly, research, development, demonstration, and training activities. The Secretary is further authorized, after notice and an opportunity for a hearing, to issue orders directing compliance with this title or regulations issued under this title; the district courts of the United States shall have jurisdiction upon petition by the Attorney General, to enforce such orders by appropriate means.

Notice, hearing opportunity. Jurisdiction.

(b) RECORDS.—Each person subject to requirements under this title shall establish and maintain such records, make such reports, and provide such information as the Secretary shall by order or regulation prescribe, and shall submit such reports and shall make such records and information available as the Secretary may request.

(c) INSPECTION.—The Secretary may authorize any officer, employee, or agent to enter upon, inspect, or examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties relate to—

(1) the manufacture, fabrication, marking, maintenance, reconditioning, repair, testing, or distribution of packages or containers for use by any person in the transportation of hazardous materials in commerce; or

(2) the transportation or shipment by any person of hazardous materials in commerce.

Any such officer, employee, or agent shall, upon request, display proper credentials.

(d) FACILITIES AND DUTIES.—

(1) The Secretary shall—

(a) establish and maintain facilities and technical staff sufficient to provide, within the Federal Government, the capability of evaluating risks connected with the transportation of hazardous materials and materials alleged to be hazardous;

(b) establish and maintain a central reporting system and data center so as to be able to provide the law-enforcement and firefighting personnel of communities, and other interested persons and government officers, with technical and other information and advice for meeting emergencies connected with the transportation of hazardous materials; and

(c) conduct a continuing review of all aspects of the transportation of hazardous materials in order to determine and to be able to recommend appropriate steps to assure the safe transportation of hazardous materials.

(2) Nothing in this subsection shall be construed to limit the authority of the Secretary to enter into a contract with a private entity for use of a supplemental reporting system and data center operated and maintained by such entity.[2]

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[2] P.L. 98-559, 98 Stat. 2907, amends sec. 109, subsection (d). Prior to amendments, sec. 109(d) read as follows.

(d) FACILITIES AND DUTIES.—The Secretary shall—

(1) establish and maintain facilities and technical staff sufficient to provide, within the Federal Government, the capability of evaluating risks connected with the transportation of hazardous materials and materials alleged to be hazardous;

(2) establish and maintain a central reporting system and data enter so as to be able to provide the law-enforcement and firefighting personnel of communities, and other interested persons and government officers, with technical and other information and advice for meeting emergencies connected with the transportation of hazardous materials; and

(3) conduct a continuing review of all aspects of the transportation of hazardous materials in order to determine and to be able to recommend appropriate steps to assure the safe transportation of hazardous materials.

(c) ANNUAL REPORT.—The Secretary shall prepare and submit to the President for transmittal to the Congress on or before June 1[1] of each year a comprehensive report on the transportation of hazardous materials during the preceding calendar year. Such report shall include, but need not be limited to— Report to President, transmittal to Congress. Contents.

(1) a thorough statistical compilation of any accidents and casualties involving the transportation of hazardous materials;

(2) a list and summary of applicable Federal regulations, criteria, orders, and exemptions in effect;

(3) a summary of the basis for any exemptions granted or maintained;

(4) an evaluation of the effectiveness of enforcement activities and the degree of voluntary compliance with applicable regulations;

(5) a summary of outstanding problems confronting the administration of this title, in order of priority; and

(5) such recommendations for additional legislation as are deemed necessary or appropriate.

PENALTIES

SEC. 110. (a) CIVIL.—(1) Any person (except an employee who acts without knowledge) who is determined by the Secretary, after notice and an opportunity for a hearing, to have knowingly committed an act which is a violation of a provision of this title or of a regulation issued under this title, shall be liable to the United States for a civil penalty. Whoever knowingly commits an act which is a violation of any regulation, applicable to any person who transports or causes to be transported or shipped hazardous materials, shall be subject to a civil penalty of not more than $10,000 for each violation, and if any such violation is a continuing one, each day of violation constitutes a separate offense. Whoever knowingly commits an act which is a violation of any regulation applicable to any person who manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a package or container which is represented, marked, certified, or sold by such person for use in the transportation in commerce of hazardous materials shall be subject to a civil penalty of not more than $10,000 for each violation. The amount of any such penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require. 49 U.S.C. 1808.

(2) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(b) CRIMINAL.—A person is guilty of an offense if he willfully violates a provision of this title or a regulation issued under this title. Upon conviction, such person shall be subject, for each offense, to a fine of not more than $25,000, imprisonment for a term not to exceed 5 years, or both.

SPECIFIC RELIEF

SEC. 111. (a) GENERAL.—The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress a violation by any person of a provision of this title, or an order or regulation issued under this title. Such district courts shall have jurisdiction to determine such actions and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunction relief, interim equitable relief, and punitive damages. 49 U.S.C. 1810.

(b) IMMINENT HAZARD.—If the Secretary has reason to believe that an imminent hazard exists, he may petition an appropriate district court of the United States, or upon his request the Attorney General shall so petition, for an order suspending or restricting the transportation of the hazardous material responsible for such imminent hazard, or for such other order as is necessary to eliminate or ameliorate such imminent hazard. As used in this subsection, an "imminent hazard" exists if there is substantial likelihood that serious harm will occur prior to the completion of an administrative hearing or other formal proceeding initiated to abate the risk of such harm. "Imminent hazard."

[1] P.L. 98-559, 98 Stat. 2907, amends sec 109, subsection (e). The amendment changed the date of submittal.

RELATIONSHIP TO OTHER LAWS

49 U.S.C. 1811.

SEC. 112. (a) GENERAL.—Except as provided in subsection (b) of this section, any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement set forth in this title, or in a regulation issued under this title, is preempted.

(b) STATE LAWS.—Any requirement, of a State or political subdivision thereof, which is not consistent with any requirement set forth in this title, or in a regulation issued under this title, is not preempted if, upon the application of an appropriate State agency, the Secretary determines, in accordance with procedures to be prescribed by regulation, that such requirement (1) affords an equal or greater level of protection to the public than is afforded by the requirements of this title or of regulations issued under this title and (2) does not unreasonably burden commerce. Such requirement shall not be preempted to the extent specified in such determination by the Secretary for so long as such State or political subdivision thereof continues to administer and enforce effectively such requirement.

(c) OTHER FEDERAL LAWS.—The provisions of this title shall not apply to pipelines which are subject to regulation under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671 et seq.) or to pipeline

18 U.S.C. 831.

which are subject to regulation under Hazardous Liquid Pipeline Safety Act of 1979.*

CONFORMING AMENDMENTS

SEC. 113. (a) Section 4472 of title 52 of the Revised Statutes of the United States, as amended (46 U.S.C. 170) is amended—

(1) by inserting, in the first sentence of paragraph (14) thereof, "criminal" before the word "penalty" and "or imprisoned not more than 5 years, or both" before the phrase "for each violation"; and

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

Penalty.

"(17)(A) Any person (except an employee who acts without knowledge) who is determined by the Secretary, after notice and an opportunity for a hearing, to have knowingly committed an act which is a violation of any provision of this section, or of any regulation issued under this section, shall be liable to the United States for a civil penalty of not more than $10,000 for each day of each violation. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

"(B) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States, in the appropriate district court of the United States or, prior to referral to the Attorney General, such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts."

(b) Section 901(a)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1471(a)(1)) is amended—

(1) by inserting immediately before the period at the end of the first sentence thereof and inserting in lieu thereof: ", except that the amount of such civil penalty shall not exceed $10,000 for each such violation which relates to the transportation of hazardous materials."; and

(2) by deleting in the second sentence thereof ": *Provided*, That this" and inserting in lieu thereof the following: ". The amount of any such civil penalty which relates to the transportation of hazardous materials shall be assessed by the Secretary, or his delegate, upon written notice upon a finding of violation by the Secretary, after notice and an opportunity for a hearing. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require. This".

(c) Section 902(h) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(h)) is amended to read as follows:

"HAZARDOUS MATERIALS

"(h)(1) In carrying out his responsibilities under this Act, the Secretary of Transportation may exercise the authority vested in him by

Ante, p. 2157.

section 105 of the Hazardous Materials Transportation Act to provide by regulation for the safe transportation of hazardous materials by air.

*Public Law 96-129 (93 Stat. 1015) (1979) sec. 216(a) deleted the words "chapter 39 of title 18, United States Code" and inserted "Hazardous Liquid Pipeline Safety Act of 1979."

"(2) A person is guilty of an offense if he willfully delivers or causes to be delivered to an air carrier or to the operator of a civil aircraft for transportation in air commerce, or if he recklessly causes the transportation in air commerce of, any shipment, baggage, or other property which contains a hazardous material, in violation of any rule, regulation, or requirement with respect to the transportation of hazardous materials issued by the Secretary of Transportation under this Act. Upon conviction, such person shall be subject, for each offense, to a fine of not more than $25,000, imprisonment for a term not to exceed 5 years, or both. Penalty.

"(3) Nothing in this subsection shall be construed to prohibit or regulate the transportation by any individual, for personal use, of any firearm (as defined in paragraph (4) of section 232 of title 18, United States Code) or any ammunition therefor.".

(d) Section 6(c)(1) of the Department of Transportation Act (49 U.S.C. 1655(c)(1)) is amended by inserting in the first sentence thereof after "aviation safety" and before "as set forth in" the following: "(other than those relating to the transportation, packaging, marking, or description of hazardous materials)".

(e)(1) Section 6(f)(3)(A) of the Department of Transportation Act (49 U.S.C. 1655(f)(3)(A)) is amended by striking out the period at the end thereof and by inserting in lieu thereof "(other than subsection (e)(4)).".

(2) Section 6(f)(3)(B) of the Department of Transportation Act (49 U.S.C. 1655 (f)(3)(B)) is amended by striking out the period at the end thereof and by inserting in lieu thereof "(other than subsection (e)(4)).".

(f) Subsection (6) of section 4472 of the Revised Statutes, as amended (46 U.S.C. 170(6)), is amended—

(1) in paragraph (a) thereof, by striking out "inflammable" each place it appears and inserting in lieu thereof at each such place "flammable"; by inserting before "liquids" the following: "or combustible"; and by deleting the colon and the proviso in its entirety and by inserting in lieu thereof a period and the following two new sentences: "The provisions of this subsection shall apply to the transportation, carriage, conveyance, storage, stowing, or use on board any passenger vessel of any barrel, drum, or other package containing any flammable or combustible liquid which has a lower flash point than that which is defined as safe pursuant to regulations establishing the defining flash-point criteria for flammable and combustible liquids. Such regulations shall be prescribed and revised as necessary, by the Secretary of Transportation.".

(2) in paragraph (b) thereof, by striking out in clause (iv) thereof "inflammable liquids" and inserting in lieu thereof "flammable or combustible liquids".

(g) The Hazardous Materials Transportation Control Act of 1970 (Pub. L. 91-458, title III; 49 U.S.C. 1761-1762) is repealed. Repeal.

EFFECTIVE DATE

SEC. 114. (a) Except as provided in this section, the provisions of the title shall take effect on the date of enactment. 49 U.S.C. 1801 note.

(b)(1) Except as provided in section 108 of this title or paragraph (2) of this subsection, any order, determination, rule, regulation, permit, contract, certificate, license, or privilege issued, granted, or otherwise authorized or allowed prior to the date of enactment of this title, pursuant to any provision of law amended or repealed by this title, shall continue in effect according to its terms or until repealed, terminated, withdrawn, amended, or modified by the Secretary or a court of competent jurisdiction.

(2) The Secretary shall take all steps necessary to bring orders, determinations, rules, and regulations into conformity with the purposes and provisions of this title as soon as practicable, but in any event no permits, contracts, certificates, licenses, or privileges granted prior to the date of enactment of this title, or renewed or extended thereafter, shall be of any effect more than 2 years after the date of enactment of this title, unless there is full compliance with the purposes and provisions of this Act and regulations thereunder.

(c) Proceedings pending upon the date of enactment of this title shall not be affected by the provisions of this title and shall be

completed as if this title had not been enacted, unless the Secretary makes a determination that the public health and safety otherwise require.

AUTHORIZATION FOR APPROPRIATIONS

49 U.S.C. 1812

Sec. 115. There is authorized to be appropriated to carry out the provisions of this title not to exceed $7,500,000 for the fiscal year ending September 30, 1985, and $8,000,000 for the fiscal year ending September 30, 1986.[5]

EVALUATION OF TRAINING PROGRAMS FOR INCIDENT PREVENTION AND RESPONSE

49 USC app. 1813.

Sec. 116. (a) EVALUATION.– The Secretary and the Director of the Federal Emergency Management Agency (hereinafter in this section referred to as the 'Director'), in coordination with other Federal, State, and local agencies with responsibilities relating to transportation of hazardous materials (including but not limited to the Environmental Protection Agency, the Department of Energy, and the Nuclear Regulatory Commission), shall each evaluate—

"(1) programs conducted by Federal, State, and local agencies and private organizations which provide training to shippers, carriers, inspectors, and enforcement personnel involved in the transportation of hazardous materials with respect to compliance with and enforcement of rules, regulations, standards, and orders promulgated by the Secretary under the authority of this title;

(2) programs conducted by Federal, State, and local agencies and private organizations which provide training to agencies or organizations responsible for responding to incidents involving transportation of hazardous materials; and

(3) planning programs conducted by Federal, State, and local agencies and private organizations for responding to incidents involving transportation of hazardous materials.

Report.

(b) REPORT.– Not later than five months after the date of the enactment of this section, the Secretary and the Director shall each submit an interim report to the Congress on the results of their respective evaluations under subsection (a). Not later than 10 months after the date of the enactment of this section, the Secretary and the Director shall complete such evaluations and submit the results of such evaluations to the Congress. Such reports shall include, but not be limited to—

(1) a description of existing planning programs for responding to incidents involving transportation of hazardous materials;

(2) a description of Federal, State, and (to the extent feasible) local training programs for responding to incidents involving transportation of hazardous materials and for compliance with and enforcement of rules, regulations, standards, and orders promulgated by the Secretary under the authority of this title;

(3) the amounts of funds expended per fiscal year in fiscal years 1980, 1981, 1982, 1983, and 1984 by Federal and State agencies on training programs described in paragraph (2); and

(4) recommendations concerning methods of funding such training programs, including but not limited to methods which assure long-term funding for such programs.[6]

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[5] P.L. 98-559, 98 Stat. 2907, substituted new section 115. Prior to the amendment, sec. 115 read as follows:

Sec. 115. There are authorized to be appropriated to carry out the provisions of this title not to exceed $7,000,000 for the fiscal year ending June 30, 1976, not to exceed $1,750,000 for the transition period of July 1, 1976, through September 30, 1976, not to exceed $5,000,000 per fiscal year for the fiscal years ending September 30, 1977, and September 30, 1978, and not to exceed $5,000,000 for the fiscal year ending September 30, 1979.

[6] P.L. 98-559, 98 Stat. 2907, sec. 3 inserted new sec. 116.

APPENDIX 24

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969, AS AMENDED

[83 Stat. 852]

[PUBLIC LAW 91-190]

[S. 1075]

[JANUARY 1, 1970]

AN ACT

To establish a national policy for the environment, to provide for the establishment of a Council on Environmental Quality, and for other purposes.

83 Stat. 852.
National Environmental Policy Act of 1969.

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 "National Environmental Policy Act of 1969".

PURPOSE

SEC. 2. The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

Policies and goals.

TITLE I

DECLARATION OF NATIONAL ENVIRONMENTAL POLICY

SEC. 101. (a) The Congress, recognizing the profound impact of man's activity in the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

Administration.

SEC. 102. The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by title II of this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment; a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes;

Copies of statements, etc.; availability

82 Stat. 54.

(D) Any detailed statement required under subparagraph (C) after January 1, 1970, for any major Federal action funded under a program of grants to States shall not be deemed to be legally insufficient solely by reason of having been prepared by a State agency or official, if:

(i) the State agency or official has statewide jurisdiction and has the responsibility for such action,

(ii) the responsible Federal official furnishes guidance and participates in such preparation,

(iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and

(iv) after January 1, 1976, the responsible Federal official provides early notification to, and solicits the views of, any other State or any Federal land management entity of any alternative, thereto which may have significant impacts

upon such State or affected Federal land management entity and, if there is any disagreement on such impacts, prepares a written assessment of such impacts and views for incorporation into such detailed statement.

The procedures in this subparagraph shall not relieve the Federal official of his responsibilities for the scope, objectivity, and content of the entire statement or of any other responsibility under this Act; and further, this subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction.[1]

(E) study, develop, and describe appropriate alternatives to recommend courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(F) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(G) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(H) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(I) assist the Council on Environmental Quality established by title II of this Act.

Review.

SEC. 103. All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this Act and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this Act.

SEC. 104. Nothing in Section 102 or 103 shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

SEC. 105. The policies and goals set forth in this Act are supplementary to those set forth in existing authorization of Federal agencies.

TITLE II

COUNCIL ON ENVIRONMENTAL QUALITY

Report to Congress.

SEC. 201. The President shall transmit to the Congress annually beginning July 1, 1970, an Environmental Quality Report (hereinafter referred to as the "report") which shall set forth (1) the status and condition of the major natural manmade, or altered environmental classes of the Nation, including, but not limited to, the air, the aquatic, including marine, estuarine, and fresh water, and the terrestrial environment, including, but not limited to, the forest, dryland, wetland, range, urban, suburban, and rural environment; (2) current and foreseeable trends in the quality, management and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the Nation; (3) the adequacy of available natural resources for fulfilling human and economic requirements of the Nation in the light of expected population pressures; (4) a review of the programs and activities (including regulatory activities) of the Federal Government, the State and local governments, and nongovernmental entities or individuals, with particular reference to their effect on the environment and on the conservation, development and utilization of natural resources; and (5) a program for remedying the deficiencies of existing programs and activities, together with recommendations for legislation.

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[1] Public Law 94-83 (89 Stat. 424) (1975) amended sec. 102 (2) by redesignating subparagraphs (D), (E), (F), (G), and (H) as subparagraphs (E), (F), (G), (H), and (I), respectively; and added a new subparagraph (D).

Council on Environmental Quality.

SEC. 202. There is created in the Executive Office of the President a council on Environmental Quality (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman. Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the Federal Government in the light of the policy set forth in title I of this Act; to be conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of the Nation; and to formulate and recommend national policies to promote the improvement of the quality of the environment.

SEC. 203. (a)[2] The Council may employ such officers and employees as may be necessary to carry out its functions under this Act. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this Act, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

Voluntary and uncompensated services.

(b) Notwithstanding section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), the Council may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Council.[3]

80 Stat. 416.
Duties and functions.

SEC. 204. It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the Environmental Quality Report required by section 201;

(2) to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in title I of this Act, and to compile and submit to the President studies relating to such conditions and trends;

(3) to review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in title I of this Act for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) to develop and recommend to the President national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;

(5) to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(6) to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(7) to report at least once each year to the President on the state and condition of the environment; and

(8) to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

34 F. R. 8693.

SEC. 205. In exercising its powers, functions, and duties under this Act, the Council shall—

(1) consult with the Citizens' Advisory Committee on Environmental Quality established by Executive Order numbered 11472, dated May 29, 1969, and with such representatives of science, industry, agriculture, labor, conservation organizations, State and local governments and other groups, as it deems advisable; and

(2) utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or

[2] Public Law 94-52 (89 Stat. 258) (1975), sec. 2 added (a) immediately after "Sec. 203.
[3] Public Law 94-52 (89 Stat. 258) (1975), sec. 2 added a new subsec. (b).

conflict with similar activities authorized by law and performed by established agencies.

SEC. 206. Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for Level IV or the Executive Schedule Pay Rates (5 U.S.C. 5315). Tenure and compensation. 80 Stat. 460, 461. 81 Stat. 638.

"ACCEPTANCE OF TRAVEL REIMBURSEMENT

SEC. 207.[4] The Council may accept reimbursements from any private nonprofit organization or from any department, agency, or instrumentality of the Federal Government, any State, or local government, for the reasonable travel expenses incurred by an officer or employee of the Council in connection with his attendance at any conference, seminar, or similar meeting conducted for the benefit of the Council.[5] 42 U.S.C. 4346a.

"EXPENDITURES OR INTERNATIONAL TRAVEL

"SEC. 208. The Council may make expenditures in support of its international activities, including expenditures for: (1) international travel; (2) activities in implementation of international agreements; and (3) the support of international exchange programs in the United States and in foreign countries.".[5] 42 U.S.C. 4346b.

SEC. 209.[4] There are authorized to be appropriated to carry out the provisions of this Act not to exceed $300,000 for fiscal year 1970, $700,000 for fiscal year 1971, and $1,000,000 for each fiscal year thereafter. Appropriations.

Approved January 1, 1970.

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[4] Public Law 94-52 (89 Stat. 258) (1975), sec. 3 redesignated sec. 207 as sec. 209.
[5] Public Law 94-52 (89 Stat. 258) (1975), sec. 3 added new subsections 207 and 208.

APPENDIX 25

SELECTED SECTIONS OF THE CLEAN AIR ACT OF 1977, AS AMENDED

* * * * *

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

SEC. 112. (a) For purposes of this section—

(1) The term "hazardous air pollutant" means an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the Administrator may cause, or contribute to, an increase in mortality or in increase in serious irreversible, or incapacitating reversible, illness.

(2) The term "new source" means a stationary source the construction or modification of which is commenced after the Administrator proposed regulations under this section establishing an emission standard which will be applicable to such source.

(3) The terms "stationary source," "modification," "owner or operator" and "existing source" shall have the same meaning as such terms have under section 111(a).

(b)(1)(A) The Administrator shall, within 90 days after the date of enactment of the Clean Air Amendments of 1970, publish (and shall from time to time thereafter revise) a list which includes each hazardous air pollutant for which he intends to establish an emission standard under this section.

(B) Within 180 days after the inclusion of any air pollutant in such list, the Administrator shall publish proposed regulation establishing emission standards for such pollutant together with a notice of a public hearing within thirty days. Not later than 180 days after such publication, the Administrator shall prescribe an emission standard for such pollutant, unless he finds, on the basis of information presented at such hearings, that such pollutant clearly is not a hazardous air pollutant. The Administrator shall establish any such standard at the level which in his judgment provides an ample margin of safety to protect the public health from such hazardous air pollutant.

(C) Any emission standard established pursuant to this section shall become effective upon promulgation.

(2) The Administrator shall, from time to time, issue information on pollution control techniques for air pollutants subject to the provisions of this section.

(c)(1) After the effective date of any emission standard under this section—

(A) no person may construct any new source or modify any existing source which, in the Administrator's judgment, will emit an air pollutant to which such standard applies unless the Administrator finds that such source if properly operated will not cause emissions in violation of such standard, and

(B) no air pollutant to which such standard applies may be emitted from any stationary source in violation of such standard, except that in the case of an existing source—

(i) such standard shall not apply until 90 days after its effective date, and

(ii) the Administrator may grant a waiver permitting such source a period of up to two years after the effective date of a standard to comply with the standard, if he finds that such period is necessary for the installation of controls and that steps will be taken during the period of the waiver to assure that the health of persons will be protected from imminent endangerment.

(2) The President may exempt any stationary source from compliance with paragraph (1) for a period of not more than two years if he finds that the technology to implement such standards is not available and the operation of such source is required for reasons of national security. An exemption under this paragraph may be extended for one or more additional periods, each period not to exceed two years. The President shall make a report to Congress with respect to each exemption (or extension thereof) made under this paragraph.

(d)(1) Each State may develop and submit to the Administrator a procedure for implementing and enforcing emission standards for hazardous air pollutants for stationary sources located in such State. If the Administrator finds the State procedure located in such State. If the Administrator finds the State procedure is adequate, he shall delegate to such State any authority he has under this Act to implement and enforce such standards (except with respect to stationary sources owned or operated by the United States).

(2) Nothing in this subsection shall prohibit the Administrator from enforcing any applicable emission standard under this section.

(e)(1) For purposes of this section, if in the judgment of the Administrator, it is not feasible to prescribe or enforce an emission standard for control of a hazardous air pollutant or pollutants, he may instead promulgate a design, equipment, work practice, or operational standard, or combination thereof, which in his judgment is adequate to protect the public health from such pollutant or pollutants with an ample margin of safety. In the event the Administrator promulgates a design or equipment standard under this subsection, he shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment.

(2) For the purpose of this subsection, the phrase "not feasible to prescribe or enforce an emission standard" means any situation in which the Administrator determines that (A) a hazardous pollutant or pollutants cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any Federal, State, or local law, or (B) the application of measurement methodology to a particular class of sources is not practicable due to technological or economic limitations.

(3) If after notice and opportunity for public hearing, any person establishes to the satisfaction of the Administrator that an alternative means of emission limitation will achieve a reduction in emissions of any air pollutant at least equivalent to the reduction in emissions of such air pollutant achieved under the requirement of paragraph 91), the Administrator shall permit the use of such alternative by the source for purposes of compliance with this section with respect to such pollutant.

(4) Any standard promulgated under paragraph (1) shall be promulgated in terms of an emission standard whenever it becomes feasible to promulgate and enforce such standard in such terms.

(5) Any design, equipment, work practice, or operational standard, or any combination thereof, described in this subsection shall be treated as an emission standard for purposes of the provisions of this Act (other than the provisions of this subsection),[1]

* * * * *

RETENTION OF STATE AUTHORITY

SEC. 116. Except as otherwise provided in sections 209, 211(c)(4), and 233 (preempting certain State regulation of moving sources) nothing in this Act shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce (1) any standard or limitation respecting emissions of air pollutants or (2) any requirement respecting control or abatement of air pollution; except that if an emission standard or limitation is in effect under an applicable implementation plan or under section 111 or 112, such State or political subdivision may not adopt or enforce any emission standard or limitation which is less stringent than the standard or limitation under such plan or section.

* * * * *

[1] Public Law 95-623 (92 Stat. 3458) (1978) sec. 13(b), added subsec. 112(e)(5).

LISTING OF CERTAIN UNREGULATED POLLUTANTS

SEC. 122. (a) Not later than one year after date of enactment of this section (two years for radioactive pollutants) and after notice and opportunity for public hearing, the Administrator shall review all available relevant information and determine whether or not emissions of radioactive pollutants (including source material, special nuclear material, and byproduct material), cadmium, arsenic and polycyclic organic matter into the ambient air will cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health. If the Administrator makes an affirmative determination with respect to any such substance, he shall simultaneously with such determination include such substance in the list published under section 108(a)(1) or 112(b)(1)(A) (in the case of a substance which, in the judgment of the Administrator, causes, or contributes to air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness), or shall include each category of stationary sources emitting such substance in significant amounts in the list published under section 111(b)(1)(A), or take any combination of such actions.

(b) Nothing in subsection (a) shall be construed to affect the authority of the Administrator to revise any list referred to in subsection (a) with respect to any substance (whether or not enumerated in subsection (a)).

(c)(1) Before listing any source material, special nuclear, or byproduct material (or component or derivative thereof) as provided in subsection (a), the Administrator shall consult with the Nuclear Regulatory Commission.

(2) Not later than six months after listing any such material (or component or derivative thereof) the Administrator and the Nuclear Regulatory Commission shall enter into an interagency agreement with respect to those sources or facilities which are under the jurisdiction of the Commission. This agreement shall, to the maximum extent practicable consistent with this Act, minimize duplication of effort and conserve administrative resources in the establishment, implementation, and enforcement of emission limitations, standards of performance, and other requirements and authorities (substantive and procedural) under this Act respecting the emission of such material (or component or derivative thereof) from such sources or facilities.

(3) In case of any standard or emission limitation promulgated by the Administrator, under this Act or by any State (or the Administrator) under any applicable implementation plan under this Act, if the Nuclear Regulatory Commission determines, after notice and opportunity for public hearing that the application of such standard or limitation to a source or facility within the jurisdiction of the Commission would endanger public health or safety, such standard or limitation shall not apply to such facilities or sources unless the President determines otherwise within ninety days from the date of such finding.

(b) The Administrator of the Environmental Protection Agency shall conduct a study, in conjunction with other appropriate agencies, concerning the effect on the public health and welfare of sulfates, radioactive pollutants, cadmium, arsenic, and polycyclic organic matter which are present or may reasonably be anticipated to occur in the ambient air. Such study shall include a thorough investigation of how sulfates are formed and how to protect public health and welfare from the injurious effects, if any, of sulfates, cadmium, arsenic, and polycyclic organic matter.

* * * * *

SEC. 302. (g) The term "air pollutant" means any air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air.

APPENDIX 26

SECTION 511 OF THE FEDERAL WATER POLLUTION CONTROL ACT OF 1972

* * * * *

OTHER AFFECTED AUTHORITY

SEC. 511. (a) This Act shall not be construed as (1) limiting the authority or functions of any officer or agency of the United States under any other law or regulation not inconsistent with this Act; (2) affecting or impairing the authority of the Secretary of the Army (A) to maintain navigation or (B) under the Act of March 3, 1899 (30 Stat. 1112); except that any permit issued under section 404 of this Act shall be conclusive as to the effect on water quality of any discharge resulting from any activity subject to section 10 of the Act of March 3, 1899, or (3) affecting or impairing the provisions of any treaty of the United States. 30 Stat. 1151.

(b) Discharges of pollutants into the navigable waters subject to the Rivers and Harbors Act of 1910 (36 Stat. 593; 33 U.S.C. 421) and the Supervisory Harbors Act of 1888 (25 Stat. 209; 33 U.S.C. 441-451)) shall be regulated pursuant to this Act, and not subject to such Act of 1910 and Act of 1888 except to effect on navigation and anchorage. 33 U.S.C. 1371. 72 Stat. 970.

(c)(1) Except for the provision of Federal financial assistance for the purpose of assisting the construction of publicly owned treatment works as authorized by section 201 of this Act, and the issuance of a permit under section 402 of this Act for the discharge of any pollutant by a new source as defined in section 306 of this Act, no action of the Administrator taken pursuant to this Act shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852); and

(2) Nothing in the National Environmental Policy Act of 1969 (83 Stat. 852) shall be deemed to— 42 U.S.C. 4321 note.

(A) authorize any Federal agency authorized to license or permit the conduct of any activity which may result in the discharge of a pollutant into the navigable waters to review any effluent limitation or other requirement established pursuant to this Act or the adequacy of any certification under section 401 of this Act; or

(B) authorize any such agency to impose, as a condition precedent to the issuance of any license or permit, any effluent limitation other than any such limitation established pursuant to this Act.

(d) Notwithstanding this Act or any other provision of law, the Administrator (1) shall not require any State to consider in the development of the ranking in order of priority of needs for the construction of treatment works (as defined in title II of this Act), any water pollution control agreement which may have been entered into between the United States and any other nation, and (2) shall not consider any such agreement in the approval of any such priority ranking.[1]

[1] Public Law 93-243 (87 Stat. 1069) (1974) sec. 3, added subsec. (d).

APPENDIX 27

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972

[PUBLIC LAW 92-532] [H.R. 9272]

[OCTOBER 23, 1972]

AN ACT

To regulate the transportation for dumping, and the dumping, of material into ocean waters, 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 "Marine Protection, Research, and Sanctuaries Act of 1972".

FINDING, POLICY, AND PURPOSE

SEC. 2. (a) Unregulated dumping of material into ocean waters endangers human health, welfare, and amenities, and the marine environment, ecological systems, and economic potentialities.

(b) The Congress declares that it is the policy of the United States to regulate the dumping of all types of materials into ocean waters and to prevent or strictly limit the dumping into ocean waters of any material which would adversely affect human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.[1]

(c) It is the purpose of this Act to regulate (1) the transportation by any person of material from the United States and, in the case of United States vessels, aircraft, or agencies, the transportation of material from a location outside the United States, when in either case the transportation is for the purpose of dumping the material into ocean waters, and 92) the dumping of material transported by any person from a location outside the United States, if the dumping occurs in the territorial sea or the contiguous zone of the United States.[2]

DEFINITIONS

SEC. 3. For the purpose of this Act the term—

(a) "Administrator" means the Administrator of the Environmental Protection Agency.

(b) "Ocean waters" means those waters of the open seas lying seaward of the base line from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639).

(c) "Material" means matter of any kind or description, including, but not limited to, dredged material, solid waste, incinerator residue, garbage, sewage, sewage sludge, munitions, radiological, chemical,

[1] Public Law 93-254 (88 Stat. 50) (1974) added subsec. 2(b) by deleting the following sentence: "To this end, it is the purpose of this Act to regulate the transportation of material from the United States for dumping into ocean waters, and the dumping of material, transported from outside the United States, if the dumping occurs in ocean waters over which the United States has jurisdiction or over which it may exercise control, under accepted principles of international law, in order to protect its territory or territorial sea."

[2] Public Law 93-254 (88 Stat. 50) (1974) added subsec. 2(c).

and biological warfare agents, radioactive materials, chemicals, biological and laboratory waste, wreck or discarded equipment, rock, sand, excavation debris, and industrial, municipal, agricultural, and other waste, wreck or discarded equipment, rock, sand, excavation debris, and industrial, municipal, agricultural, and other waste; but such term does not mean sewage from vessels within the meaning of section 312 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1322). Oil within the meaning of section 311 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321), shall be included only to the extent that such oil is taken on board a vessel or aircraft for the purpose of dumping.[3]

(d) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

(e) "Person" means any private person or entity, or any officer, employee, agent, department, agency, or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.

(f) "Dumping" means a disposition of material: *Provided*, That it does not mean a disposition of any effluent from any outfall structure to the extent that such disposition is regulated under the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.S. 1251-1376),[4] under the provisions of section 13 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. 407), or under the provisions of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011, et seq.), nor does it mean a routine discharge of effluent incidental to the propulsion of, or operation of motor-driven equipment on, vessels: *Provided further*, That it does not mean the construction of any fixed structure or artificial island nor the intentional placement of any device in ocean waters or on or in the submerged land beneath such waters, for a purpose other than disposal, when such construction or such placement is otherwise regulated by Federal or State law or occurs pursuant to an authorized Federal or State program: *And provided further*, That it does not include the deposit of oyster shells, or other materials when such deposit is made for the purpose of developing, maintaining, or harvesting fisheries resources and is otherwise regulated by Federal or State law or occurs pursuant to an authorized Federal or State program.

(g) "District Court of the United States" includes the District Court of Guam, the District Court of the Virgin Islands, the District Court of Puerto Rico, the District Court of the Canal Zone, and in the case of American Samoa and the Trust Territory of the Pacific Islands, the District Court of the United States for the District of Hawaii, which court shall have jurisdiction over actions arising therein.

(h) "Secretary" means the Secretary of the Army.

(i) "Dredged material" means any material excavated or dredged from the navigable waters of the United States.

(j) "High-level radioactive waste" means the aqueous waste resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated waste from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuels, or irradiated fuel from nuclear power reactors.

(k) "Transport" or "transportation" refers to the carriage and related handling of any material by a vessel, or by any other vehicle, including aircraft.

(l) "Convention" means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter.[5]

TITLE I—OCEAN DUMPING

PROHIBITED ACTS

SEC. 101. (a) Except as may be authorized by a permit issued pursuant to section 102 or section 103 of this title, and subject to

[3] Public Law 93-254 (88 Stat. 50) (1974) amended sec. 3(c) by deleting the following words, "oil within the meaning of section 11 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1161) and does not mean sewage from vessels within the meaning of section 13 of such Act (33 U.S.C. 1163)," and substituting after the words "but such term does not mean" a new passage beginning with "sewage from vessels within the meaning of section 312 . . .".

[4] Public Law 93-254 (88 Stat. 50) (1974) amended sec. 3(f) by substituting "33 U.S.C. 1251-1376" for "33 U.S.C. 1151-1175."

[5] Public Law 93-254 (88 Stat. 50) (1974) added subsec. l.

regulations issued pursuant to section 108 of this title.

(1) no person shall transport from the United States, and

(2) in the case of a vessel or aircraft registered in the United States or flying the United States flag or in the case of a United States department, agency, or instrumentality, no person shall transport from any location any material for the purpose of dumping it into ocean waters.

(b) Except as may be authorized by a permit issued pursuant to section 102 of this title, and subject to regulations issued pursuant to section 108 of this title, no person shall dump any material transported from a location outside the United States (1) into the territorial sea of the United States, or (2) into a zone contiguous to the territorial sea of the United States, extending to a line twelve nautical miles seaward from the base line from which the breadth of the territorial sea is measured, to the extent that it may affect the territorial sea or the territory of the United States.[6]

ENVIRONMENTAL PROTECTION AGENCY PERMITS

SEC. 102. (a) Except in relation to dredged material as provided for in section 103 of this title, and in relation to radiological, chemical, and biological warfare agents and high-level radioactive waste for which no permit may be issued,[7] the Administrator may issue permits, after notice and opportunity for public hearings, for the transportation from the United States or, in the case of an agency or instrumentality of the United States, or in the case of a vessel or aircraft registered in the United States or flying the United States flag,[8] for the transportation from a location outside the United States, of material for the purpose of dumping it into ocean waters, or for the dumping of material into the waters described in section 101(b), where the Administrator determines that such dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. The Administrator shall establish and apply criteria for reviewing and evaluating such permit applications, and, in establishing or revising such criteria, shall consider, but not be limited in his consideration to, the following:

(A) The need for the proposed dumping.

(B) The effect of such dumping on human health and welfare, including economic, esthetic, and recreational values.

(C) The effect of such dumping on [illegible]ies resources, plankton, fish, shellfish, wildlife, shore lines and beaches.

(D) The effect of such dumping on marine ecosystems, particularly with respect to—

(i) the transfer, concentration, and dispersion of such material and its byproducts through biological, physical, and chemical processes,

(ii) potential changes in marine ecosystems diversity, productivity, and stability, and

(iii) species and community population dynamics.

(E) The persistence and permanence of the effects of the dumping.

(F) The effect of dumping particular volumes and concentrations of such materials.

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[6] Public Law 93-254 (88 Stat. 50) (1974) substituted complete new sec. 101. Before amendment, sec. 101 read as follows: "(a) No person shall transport from the United States any radiological, chemical, or biological warfare agent or any high-level radioactive waste, or except as may be authorized in a permit issued under this title, and subject to regulations issued under section 108 hereof by the Secretary of the Department in which the Coast Guard is operating, any other material for the purpose of dumping it into ocean waters.

"(b) No person shall dump any radiological, chemical, or biological warfare agent or any high-level radioactive waste, or, except as may be authorized in a permit issued under this title, any other material, transported from any location outside the United States, (1) into the territorial sea of the United States, or (2) into a zone contiguous to the territorial sea of the United States, extending to a line twelve nautical miles seaward from the base line from which the breadth of the territorial sea is measured, to the extent that it may affect the territorial sea or the territory of the United States.

"(c) No officer, employee, agent, department, agency, or instrumentality of the United States shall transport from any location outside the United States any radiological, chemical, or biological warfare agent or any high-level radioactive waste, or, except as may be authorized in a permit issued under this title, any other material for the purpose of dumping it into ocean waters."

[7] Public Law 93-254 (88 Stat. 50) (1974) substituted the words "for which no permit may be issued," for the words "as provided for in section 101 of this title."

[8] Public Law 93-254 (88 Stat. 50) (1974) added the words "or in the case of a vessel or aircraft registered in the United States or flying the United States flag".

(G) Appropriate locations and methods of disposal or recycling, including land-based alternatives and the probable impact of requiring use of such alternate locations or methods upon considerations affecting the public interest.

(H) The effect on alternate uses of oceans, such as scientific study, fishing, and other living resource exploitation, and nonliving resource exploitation.

(I) In designating recommended sites, the Administrator shall utilize wherever feasible locations beyond the edge of the Continental Shelf.

In establishing or revising such criteria, the Administrator shall consult with Federal, State, and local officials, and interested members of the general public, as may appear appropriate to the Administrator. With respect to such criteria as may affect the civil workers program of the Department of the Army, the Administrator shall also consult with the Secretary. In reviewing applications for permits, the Administrator shall make such provision for consultation with interested Federal and State agencies as he deems useful or necessary. No permit shall be issued for a dumping of material which will violate applicable water quality standards. To the extent that he may do so without relaxing the requirements of this title, the Administrator, in establishing or revising such criteria, shall apply the standards and criteria binding upon the United States under the Convention, including its Annexes.[9]

(b) The Administrator may establish and issue various categories of permits, including the general permits described in section 104(c).

(c) The Administrator may, considering the criteria established pursuant to subsection (a) of this section, designate recommened sites or times for dumping and, when he finds it necessary to protect critical areas, shall, after consultation with the Secretary, also designate sites or times within which certain materials may not be dumped.

(d) No permit is required under this title for the transportation for dumping or the dumping of fish wastes, except when deposited in harbors or other protected or enclosed coastal waters, or where the Administrator finds that such deposits could endanger health, the environment, or ecological systems in a specific location. Where the Administrator makes such a finding, such material may be deposited only as authorized by a permit issued by the Administrator under this section.

(e) In the case of transportation of material, by a vessel or aircraft registered in the United States or flying the United States flag, from a location in a foreign State Party to the Convention, a permit issued pursuant to the authority of that foreign State Party, in accordance with Convention requirements, and which otherwise could have been issued pursuant to subsection (a) hereof, shall be accepted, for the purposes of this title, as if it were issued by the Administrator under the authority of this section.[10]

CORPS OF ENGINEERS PERMITS

SEC. 103. (a) Subject to the provisions of subsections (b), (c), and (d) of this section, the Secretary may issue permits, after notice and opportunity for public hearings, for the transportation of dredged material for the purpose of dumping it into ocean waters, where the Secretary determines that the dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

(b) In making the determination required by subsection (a), the Secretary shall apply those critiera, established pursuant to section 102(a), relating to the effects of the dumping. Based upon an evaluation of the potential effect of a permit denial on navigation, economic and industrial development, and foreign and domestic commerce of the United States, the Secretary shall make an independent determination as to the need for the dumping. The Secretary shall also make an independent determination as to other possible methods of disposal and as to appropriate locations. He shall, to the extent feasible, utilize the recommended sites designated by the Administrator pursuant to section 102(c).

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[9] Public Law 93-254 (88 Stat. 51) (1974) amended sec. 102(a) by adding the last sentence.
[10] Public Law 93-254 (88 Stat. 51) (1974) added subsec. 102(e).

(c) Prior to issuing any permit under this section, the Secretary shall first notify the Administrator of his intention to do so. In any case in which the Administrator disagrees with the determination of the Secretary as to compliance with the criteria established pursuant to section 102(a) relating to the effects of the dumping or with the restrictions established pursuant to section 102(c) relating to critical areas, the determination of the Administrator shall prevail. Unless the Administrator grants a waiver pursuant to subsection (d), the Secretary shall not issue a permit which does not comply with such criteria and with such restrictions.

(d) If, in any case, the Secretary finds that, in the disposition of dredged material, there is no economically feasible method or site available other than a dumping site the utilization of which would result in non-compliance with the criteria established pursuant to section 102(a) relating to the effects of dumping or with the restrictions established pursuant to section 102(c) relating to critical areas, he shall so certify and request a waiver from the Administrator of the specific requirements involved. Within thirty days of the receipt of the waiver request, unless the Administrator finds that the dumping of the material will result in an unacceptably adverse impact on municipal water supplies, shell-fish beds, wildlife, fisheries (including spawning and breeding areas), or recreational areas, he shall grant the waiver.

(e) In connection with Federal projects involving dredged material, the Secretary may, in lieu of the permit procedure, issue regulations which will require the application to such projects of the same criteria, other factors to be evaluated, the same procedures, and the same requirements which apply to the issuance of permits under subsections (a), (b), (c), and (d) of this section.

PERMIT CONDITIONS

SEC. 104. (a) Permits issued under this title shall designate and include (1) the type of material authorized to be transported for dumping or to be dumped; (2) the amount of material authorized to be transported for dumping or to be dumped; (3) the location where such transport for dumping will be terminated or where such dumping will occur; (4) the length of time for which the permits are valid and their expiration date; (5) any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, after consultation with the Secretary of the Department in which the Coast Guard is operating, for the monitoring and surveillance of the transportation or dumping; and (6) such other matters as the Administrator or the Secretary, as the case may be, deems appropriate.

(b) The Administrator or the Secretary, as the case may be, may prescribe such processing fees for permits and such reporting requirements for actions taken pursuant to permits issued by him under this title as he deems appropriate.

(c) Consistent with the requirements of sections 102 and 103, but in lieu of a requirement for specific permits in such case, the Administrator or the Secretary, as the case may be, may issue general permits for the transportation for dumping, or dumping, or both, of specified materials or classes of materials for which he may issue permits, which he determines will have a minimal adverse environmental impact.

(d) Any permit issued under this title shall be reviewed periodically and, if appropriate, revised. The Administrator or the Secretary, as the case may be, may limit or deny the issuance of permits, or he may alter or revoke partially or entirely the terms of permits issued by him under this title, for the transportation for dumping, or for the dumping, or both, of specified materials or classes of materials, where he finds that such materials cannot be dumped consistently with the criteria and other factors required to be applied in evaluating the permit application. No action shall be taken under this subsection unless the affected person or permittee shall have been given notice and opportunity for a hearing on such action as proposed.

(e) The Administrator or the Secretary, as the case may be, shall require an applicant for a permit under this title to provide such information as he may consider necessary to review and evaluate such application.

(f) Information received by the Administrator or the Secretary, as the case may be, as a part of any application or in connection with any permit granted under this title shall be available to the public as a matter of public record, at every stage of the proceeding. The final

determination of the Administrator or the Secretary, as the case may be, shall be likewise available.

(g) A copy of any permit issued under this title shall be placed in a conspicuous place in the vessel which will be used for the transportation or dumping authorized by such permit, and an additional copy shall be furnished by the issuing official to the Secretary of the department in which the Coast Guard is operating, or its designee.

Permit issuance. 33 USC 1414.

"(h) Notwithstanding any provision of title I of the Marine Protection, Research, and Sanctuaries Act of 1972 to the contrary, during the two-year period beginning on the date of enactment of this subsection, no permit may be issued under such title I that authorizes the dumping of any low-level radioactive waste unless the Administrator of the Environmental Protection Agency determines—

"(1) that the proposed dumping is necessary to conduct research—

"(A) on new technology related to ocean dumping, or

"(B) to determine the degree to which the dumping of such substance will degrade the marine environment;

"(2) that the scale of the proposed dumping is limited to the smallest amount of such material and the shortest duration of time that is necessary to fulfill the purposes of the research, such that the dumping will have minimal adverse impact upon human health, welfare, and amenities, and the marine environment, ecological systems, economic potentialities, and other legitimate uses;

"(3) after consultation with the Secretary of Commerce, that the potential benefits of such research will outweigh any such adverse impact; and

"(4) that the proposed dumping will be preceded by appropriate baseline monitoring studies of the proposed dump site and its surrounding environment.

Each permit issued pursuant to this subsection shall be subject to such conditions and restrictions as the Administrator determines to be necessary to minimize possible adverse impacts of such dumping.

Radioactive Material Disposal Impact Assessment.

"(i)(1) Two years after the date of enactment of this subsection, the Administrator may not issue a permit under this title for the disposal of radioactive waste matrial until the applicant, in addition to complying with other requirements of this title, prepares, with respect to the site at which the disposal is proposed, a Radioactive Material Disposal Impact Assessment which shall include—

"(A) a listing of all radioactive materials in each container to be disposed, the number of containers to be dumped, the structural diagrams of each container, the number of curies of each material in each container, and the exposure levels in rems at the inside and outside of each container;

"(B) an analysis of the environmental impact of the proposed action, at the site at which the applicant desires to dispose of the material, upon human health and welfare and marine life;

"(C) any adverse environmental efferts at the site which cannot be avoided should the proposal be implemented;

"(D) an analysis of the resulting environmental and economic conditions if the containers fail to contain the radioactive waste material when initially deposited at the specific site;

"(E) a plan for the removal or containment of the disposed nuclear material if the container leaks or decomposes;

"(F) a determination by each affected State whether the proposed action is consistent with its approved Coastal Zone Management Program;

"(G) an analysis of the economic impact upon other users of marine resources;

"(H) alternatives to the proposed action;

Consultation and public hearing results.

"(I) comments and results of consultation with State officials and public hearings held in the coastal States that are nearest to the affected areas;

Comprehensive monitoring plan.

"(J) a comprehensive monitoring plan to be carried out by the applicant to determine the full effect of the disposal on the marine environment, living resources, or human health, which plan shall include, but not be limited to, the monitoring of exterior container radiation samples, the taking of water and sediment samples, and fish and benthic animal samples, adjacent to the containers, and the acquisition of such other information as the Administrator may require; and

"(K) such other information which the Administrator may require in order to determine the full effects of such disposal.

"(2) The Administrator shall include, in any permit to which paragraph (1) applies, such terms and conditions as may be necessary to ensure that the monitoring plan required under paragraph (1)(J) is fully implemented, including the analysis by the Administrator of the samples required to be taken under the plan.

Assessment, copy to congressional committees.

"(3) The Administrator shall submit a copy of the assessment prepared under paragraph (1) with respect to any permit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate.

Recommendation to Congress.

"(4)(A) Upon a determination by the Administrator that a permit to which this subsection applies should be issued, the Administrator shall transmit such a recommendation to the House of Representatives and the Senate.

Ocean dumping permit, restricted issuance.

"(B) No permit may be issued by the Administrator under this Act for the disposal of radioactive materials in the ocean unless the Congress, by approval of a resolution described in paragraph (D) within 90 days of continuous session of the Congress beginning on the date after the date of receipt by the Senate and the House of Representatives of such recommendation, authorizes the Administrator to grant a permit to dispose of radioactive material under this Act.

"(C) For purposes of this subsection—

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

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 90 day calendar period.

"Resolution."

"(D) For the purposes of this subsection, the term 'resolution' means a joint resolution, the resolving clause of which is as follows: 'That the House of Representatives and the Senate approve and authorize the Administrator of the Environmental Protection Agency to grant a permit under the Marine Protection, Research, and Sanctuaries Act of 1972 to dispose of radioactive materials in the ocean as recommended by the Administrator to the Congress on _____, 19__.'; the first blank space therein to be filled with the appropriate applicant to dispose of nuclear material and the second blank therein to be filled with the date on which the Administrator submits the recommendation to the House of Representatives and the Senate."."[1]

PENALTIES

SEC. 105. (a) Any person who violates any provision of this title, or of the regulations promulgated under this title, or a permit issued under this title shall be liable to a civil penalty of not more than $50,000 for each violation to be assessed by the Administrator. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing of such violation. In determining the amount of the penalty, the gravity of the violation, prior violations, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation shall be considered by said Administrator. For good cause shown, the Administrator may remit or mitigate such penalty. Upon failure of the offending party to pay the penalty, the Administrator may request the Attorney General to commence an action in the appropriate district court of the United States for such relief as may be appropriate.

(b) In addition to any action which may be brought under subsection (a) of this section, a person who knowingly violates this title, regulations promulgated under this title, or a permit issued under this title shall be fined not more than $50,000, or imprisoned for not more than one year, or both.

(c) For the purpose of imposing civil penalties and criminal fines under this section, each day of a continuing violation shall constitute a separate offense as shall the dumping from each of several vessels, or other sources.

(d) The Attorney General or his delegate may bring actions for equitable relief to enjoin an imminent or continuing violation of this title, of regulations promulgated under this title, or of permits issued

[1] Public Law 97-424 (96 Stat. 2097) (1983) sec. 424 added new subsec. (h).

under this title, and the district courts of the United States shall have jurisdiction to grant such relief as the equities of the case may require.

(e) A vessel, except a public vessel within the meaning of section 13 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1163), used in a violation, shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof; but no vessel shall be liable unless it shall appear that one or more of the owners, or bareboat charterers, was at the time of the violation a consenting party or privy to such violation.

(f) If the provisions of any permit issued under section 102 or 103 are violated, the Administrator or the Secretary, as the case may be, may revoke the permit or may suspend the permit for a specified period of time. No permit shall be revoked or suspended unless the permittee shall have been given notice and opportunity for a hearing on such violation and proposed suspension or revocation.

(g)(1) Except as provided in paragraph (2) of this subsection any person may commence a civil suit on his own behalf to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any prohibition, limitation, criterion, or permit established or issued by or under this title. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such prohibition, limitation, criterion, or permit, as the case may be.

(2) No action may be commenced—

(A) prior to sixty days after notice of the violation has been given to the Administrator or to the Secretary, and to any alleged violator of the prohibition, limitation, criterion, or permit; or

(B) if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the prohibition, limitation, criterion, or permit; or

(C) if the Administrator has commenced action to impose a penalty pursuant to subsection (a) of this section, or if the Administrator, or the Secretary, has initiated permit revocation or suspension proceedings under subsection (f) of this section; or

(D) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or a State to redress a violation of this title.

(3)(A) Any suit under this subsection may be brought in the judicial district in which the violation occurs.

(B) In any such suit under this subsection in which the United States is not a party, the Attorney General, at the request of the Administrator or Secretary, may intervene on behalf of the United States as a matter of right.

(4) The court, in issuing any final order in any suit brought pursuant to paragraph (1) of this subsection may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(5) The injunctive relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Administrator, the Secretary, or a State agency).

Exception.

(h) No person shall be subject to a civil penalty or to a criminal fine or imprisonment for dumping materials from a vessel if such materials are dumped in an emergency to safeguard life at sea. Any such emergency dumping shall be reported to the Administrator under such conditions as he may prescribe.

RELATIONSHIP TO OTHER LAWS

SEC. 106. (a) After the effective date of this title, all licenses, permits, and authorizations other than those issued pursuant to this title shall be void and of no legal effect, to the extent that they purport to authorize any activity regulated by this title, and whether issued before or after the effective date of this title.

(b) The provisions of subsection (a) shall not apply to actions taken before the effective date of this title under the authority of the Rivers and Harbors Act of 1899 (30 Stat. 1151), as amended (33 U.S.C. 401 et. seq.).

(c) Prior to issuing any permit under this title, if it appears to the Administrator that the disposition of material, other than dredged material, may adversely affect navigation in the territorial sea of the United States, or in the approaches to any harbor of the United States, or may create an artificial island on the Outer Continental Shelf, the Administrator shall consult with the Secretary and no permit shall be issued if the Secretary determines that navigation will be unreasonably impaired.

(d) After the effective date of this title, no State shall adopt or enforce any rule or regulation relating to any activity regulated by this title. Any State may, however, propose to the Administrator criteria relating to the dumping of materials into ocean waters within its jurisdiction, or into other ocean waters to the extent that such dumping may affect waters within the jurisdiction of such State, and if the Administrator determines, after notice and opportunity for hearing, that the proposed criteria are not inconsistent with the purposes of this title, may adopt those criteria and may issue regulations to implement such criteria. Such determination shall be made by the Administrator within one hundred and twenty days of receipt of the proposed criteria. For the purposes of this subsection, the term "State" means any State, interstate or regional authority, Federal territory or Commonwealth or the District of Columbia.

(e) Nothing in this title shall be deemed to affect in any manner or to any extent any provision of the Fish and Wildlife Coordination Act as amended (16 U.S.C. 661-666c).

ENFORCEMENT

SEC. 107. (a) The Administrator or the Secretary, as the case may be, may, whenever appropriate, utilize by agreement, the personnel, services and facilities of other Federal departments, agencies, and instrumentalities, or State agencies or instrumentalities, whether on a reimbursable or a nonreimbursable basis, in carrying out his responsibilities under this title.

(b) The Administrator or the Secretary may delegate responsibility and authority for reviewing and evaluating permit applications, including the decision as to whether a permit will be issued, to an officer of his agency, or he may delegate, by agreement, such responsibility and authority to the heads of other Federal Departments or agencies, whether on a reimbursable or nonreimbursable basis.

(c) The Secretary of the department in which the Coast Guard is operating shall conduct surveillance and other appropriate enforcement activity to prevent unlawful transportation of material for dumping, or unlawful dumping. Such enforcement activity shall include, but not be limited to, enforcement of regulations issued by him pursuant to section 108, relating to safe transportation, handling, carriage, storage, and stowage. The Secretary of the Department in which the Coast Guard is operating shall supply to the Administrator and to the Attorney General, as appropriate, such information of enforcement activities and such evidentiary material assembled as they may require in carrying out their duties relative to penalty assessments, criminal prosecutions, or other actions involving litigation pursuant to the provisions of this title.

REGULATIONS

SEC. 108. In carrying out the responsibilities and authority conferred by this title, the Administrator, the Secretary, and the Secretary of the department in which the Coast Guard is operating are authorized to issue such regulations as they may deem appropriate.

INTERNATIONAL COOPERATION

SEC. 109. The Secretary of State, in consultation with the Administrator, shall seek effective international action and cooperation to insure protection of the marine environment, and may, for this purpose, formulate, present, or support specific proposals in the United Nations and other competent international organizations for the development of appropriate international rules and regulations in support of the policy of this Act.

EFFECTIVE DATE AND SAVINGS PROVISIONS

SEC. 110. (a) This title shall take effect six months after the date of the enactment of this Act.

(b) No legal action begun, or right of action accrued, prior to the effective date of this title shall be affected by any provision of this title.

SEC. 111. There are hereby authorized to be appropriated not to exceed $3,600,000 for fiscal year 1973, and not to exceed $4,500,000 for each of the fiscal years 1974 and 1975,[12] not to exceed $5,300,000 for fiscal year 1976, not to exceed $1,325,000 for the transition period (July 1 through September 30, 1976),[13] not to exceed $4,800,000 for fiscal year 1977,[14] and not to exceed $4,800,000 for fiscal year 1978,[15] for the purposes and administration of this title, and for succeeding fiscal years only such sums as the Congress may authorize by law.[16]

SEC. 112. The Administrator, the Secretary, and the Secretary of the department in which the Coast Guard is operating shall each individually[17] report annually, on or before March 1[18] of each year, with the first report to be made on or before June 30, 1973 to the Congress, on his administration of this title, including recommendations for additional legislation if deemed necessary.

TITLE II—COMPREHENSIVE RESEARCH ON OCEAN DUMPING

SEC. 201. The Secretary of Commerce, in coordination with the Secretary of the Department in which the Coast Guard is operating and with the Administrator shall, within six months of the enactment of this Act, initiate a comprehensive and continuing program of monitoring and research regarding the effects of the dumping of material into ocean waters or other coastal waters where the tides ebbs and flows or into the Great Lakes or their connecting waters and shall report from time to time, not less frequently than annually, his findings (including an evaluation of the short-term ecological effects and the social and economic factors involved) to the Congress.

SEC. 202. (a) The Secretary of Commerce, in consultation with other appropriate Federal departments, agencies, and instrumentalities shall, within six months of the enactment of this Act, initiate a comprehensive and continuing program of research with respect to the possible long-range effects of pollution, over-fishing, and man-induced changes of ocean ecosystems. These responsibilities shall include the scientific assessment of damages to the natural resources from spills or petroleum or petroleum products.[19] In carrying out such research, the Secretary of Commerce shall take into account such factors as existing and proposed international policies affecting oceanic problems, economic considerations involved in both the protection and the use of the oceans, possible alternatives to existing programs, and ways in which the health of the oceans may best be preserved for the benefit of succeeding generations of mankind.

(b) In carrying out his responsibilities under this section, the Secretary of Commerce, under the foreign policy guidance of the President and pursuant to international agreements and treaties made by the President with the advice and consent of the Senate, may act alone or in conjunction with any other nation or group of nations, and shall make known the results of his activities by such channels of communication as may appear appropriate.

(c) In March[20] of each year, the Secretary of Commerce shall report to the Congress on the results of activities undertaken by him pursuant to this section during the previous year.

(d) Each department, agency, and independent instrumentality of the Federal Government is authorized and directed to cooperate with

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[12] Public Law 93-472 (88 Stat. 1430) (1974) substituted "fiscal years 1974 and 1975," for "fiscal year 1974."

[13] Public Law 94-62 (89 Stat. 303) (1975) amended sec. 111 by deleting "and not to exceed $5,500,000 for fiscal years 1974 and 1975," and substituted in lieu thereof "not to exceed $5,500,000 for each of the fiscal years 1974 and 1975, not to exceed $5,300,000 for fiscal year 1976, and not to exceed $1,325,000 for the transition period (July 1 through September 30, 1976),"

[14] Public Law 94-326 (90 Stat. 725) (1976) added "and not to exceed $4,800,000 for fiscal year 1977,"

[15] Public Law 95-153 (91 Stat. 1255) (1977) added "and not to exceed $4,800,000 for fiscal year 1978,"

[16] Public Law 97-16 (91 Stat. 3344) (1981) inserted, "and not to exceed $4,213,000 for fiscal year 1982,"

[17] Public Law 94-326 (90 Stat. 725) (1976) substituted the words "Administrator, the Secretary and the Secretary of the department in which the Coast Guard is operating shall each individually," for the words "Administrator shall".

[18] Public Law 94-326 (90 Stat. 725) (1976) substituted "March 1" for "June 30".

[19] Public Law 96-381 (94 Stat. 1524) (1980) sec. 3, added this sentence.

[20] Public Law 94-62 (89 Stat. 303) (1975) substituted "March" for "January."

the Secretary of Commerce in carrying out the purposes of this section and, to the extent permitted by law, to furnish such information as may be requested.

(e) The Secretary of Commerce, in carrying out his responsibilities under this section, shall, to the extent feasible utilize the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities (including those of the Coast Guard for monitoring purposes), and is authorized to enter into appropriate inter-agency agreements to accomplish this action.

SEC. 203. (a) The Administrator of the Environmental Protection Agency shall—

"(1) conduct research, investigations, experiments, training, demonstrations, surveys and studies for the purposes of—

"(A) determining means of minimizing or ending, as soon as possible after the date of the enactment of this section, the dumping into ocean waters, or waters described in section 101(b), of material which may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities, and 33 USC 1411.

"(B) developing disposal methods as alternatives to the dumping described in subparagraph (A); and

"(2) encourage, cooperate with, promote the coordination of, and render financial and other assistance to appropriate public authorities, agencies, and institutions (whether Federal, State, interstate, or local) and appropriate private agencies, institutions, and individuals in the conduct of research and other activities described in paragraph (1).

"(b) Nothing in this section shall be construed to affect in any way the December 31, 1981, termination date, established in section 4 of the Act of November 4, 1977 (Public Law 95-153; 33 U.S.C. 1412a), for the ocean dumping of sewage sludge.[21]

SEC. 204. There are authorized to be appropriated for the first fiscal year after this Act is enacted and for the next two fiscal years thereafter such sums as may be necessary to carry out this title, but the sums appropriated for any such fiscal year may not exceed $6,000,000. There are authorized to be appropriated not to exceed $2,500,000 for the transition period (July 1 through September 30, 1976,[22] not to exceed $5,600,000 for fiscal year 1977,[23] not to exceed $6,500,000 for fiscal year 1978,[24] not to exceed $11,396,000 for fiscal year 1981, and not to exceed $12,000,000 for fiscal year 1982.[25]

TITLE III—MARINE SANCTUARIES

SEC. 301. Notwithstanding the provision of subsection (h) of section 3 of this Act, the term "Secretary", when used in this title, means Secretary of Commerce. "The term 'State', when used in this title, means any of the several States or any territory or possession of the United States which has a popularly elected Governor."[26]

SEC. 302. (a) The Secretary, after consultation with the Secretaries of State, Defense, the Interior, and Transportation, the Administration, and the heads of other interested Federal agencies, and with the approval of the President, may designate as marine sanctuaries those areas of the ocean waters, as far seaward as the outer edge of the Continental Shelf, as defined in the Convention of the Continental Shelf (15 U.S.T. 74; TIAS 5578), of other coastal waters where the tide ebbs and flows, or of the Great Lakes and their connecting waters, which he determines necessary for the purpose of preserving or

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[21] Public Law 96-381 (94 Stat. 1523) (1980) sec. 1 amended sec. 203. Before amendment sec. read as follows: The Secretary of Commerce shall conduct and encourage, cooperate with, and render financial and other assistance to appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals in the conduct of, and to promote the coordination of, research, investigations, experiments, training, demonstrations, surveys, and studies for the purpose of determining means of minimizing or ending all dumping of materials within five years of the effective date of this Act.

[22] Public Law 94-62 (89 Stat. 303) (1975) added a new sentence "There are authorized to be appropriated not to exceed $1,500,000 for the transition period (July 1 through September 30, 1976)."

[23] Public Law 94-326 (90 Stat. 725) (1976) amended sec. 204 by adding to the last sentence "and not to exceed $5,600,000 for fiscal year 1977."

[24] Public Law 95-153 (91 Stat. 1255) (1977) added to the last sentence "and not to exceed $6,500,000 for fiscal year 1978."

[25] Public Law 96-381 (94 Stat. 1523) (1980) sec. 2(2) added to the last sentence ", not to exceed $11,396,000 for fiscal year 1981, and not to exceed $12,000,000 for fiscal year 1982.

[26] Public Law 96-332 (94 Stat. 1057) (1980) added last sentence.

restoring such areas for their conservation, recreational, ecological, or esthetic values. The consultation shall include an opportunity to review and comment on a specific proposed designation.

(b)(1) Prior to designating a marine sanctuary which includes waters lying within the territorial limits of any State or superjacent to the subsoil and seabed within the seaward boundary of a coastal State, as that boundary is defined in section 2 of title I of the Act of May 22, 1953 (67 Stat. 29), the Secretary shall consult with, and give due consideration to the views of, responsible officials of the State involved.

Designation.

"(2) A designation under this section shall become effective unless—

"(A) the Governor of any State described in paragraph (1) certifies to the Secretary, before the end of the sixty-day period beginning on the date of the publication of the designation, that the designation or any of its terms described in subsection (f)(1), are unacceptable to his State, in which case those terms certified as unacceptable will not be effective in the waters described in paragraph (1) in such State until the Governor withdraws his certification of unacceptability; or

"(B) both Houses of Congress adopt a concurrent resolution in accordance with subsection (h) which disapproves the designation or any of its terms described in subsection (f)(1).

Designation withdrawal.

The Secretary may withdraw the designation after any such certification or resolution of disapproval. If the Secretary does not withdraw the designation, only those portions of the designation not certified as unacceptable under subparagraph (A) or not disapproved under subparagraph (B) shall take effect.[27]

(c) When a marine sanctuary is designated, pursuant to this section, which includes an area of ocean waters outside the territorial jurisdiction of the United States, the Secretary of State shall take such actions as may be appropriate to enter into negotiations with other Governments for the purpose of arriving at necessary agreements with those Governments, in order to protect such sanctuary and to promote the purposes for which it was established.

(d) The Secretary shall submit an annual report to the Congress, on or before November 1 of each year, setting forth a comprehensive review of his actions during the previous fiscal year undertaken pursuant to the authority of this section, together with appropriate recommendation for legislation considered necessary for the designation and protection of marine sanctuaries.

(e) Before a marine sanctuary is designated under this section, the Secretary shall hold public hearings in the coastal areas which would be most directly affected by such designation, for the purpose of receiving and giving proper consideration to the views of any interested party. Such hearings shall be held no earlier than thirty days after the publication of a public notice thereof.

Designation terms.

"(f)(1) The terms of the designation shall include the geographic area included within the sanctuary; the characteristics of the area that give it conservation, recreational, ecological or esthetic value; and the types of activities that will be subject to regulation by the Secretary in order to protect those characteristics. The terms of the designation may be modified only by the same procedures through which an original designation is made.

Regulations.

"(2) The Secretary, after consultation with other interested Federal and State agencies, shall issue necessary and reasonable regulations to implement the terms of the designation and control the activities described in it, except that all permits, licenses, and other authorizations issued pursuant to any other authority shall be valid unless such regulations otherwise provide.

"(3) The Secretary shall conduct such research as is necessary and reasonable to carry out the purposes of this title.

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[27] Public Law 96-332 (94 Stat. 1057) (1980) amended sec. 302b. Before amendment sec. read as follows: (b) Prior to designating a marine sanctuary which includes waters lying within the territorial limits of any State or superjacent to the subsoil and seabed within the seaward boundary of a coastal State, as that boundary is defined in section 2 of title I of the Act of May 22, 1953 (67 Stat. 29), the Secretary shall consult with, and give due consideration to the views of, responsible officials of the State involved. As to such waters, a designation under this section shall become effective sixty days after it is published, unless the Governor of any State involved shall, before the expiration of the sixty-day period, certify to the Secretary that the designation, or a specified portion thereof, is unacceptable to his State, in which case the designated sanctuary shall not include the area certified as unacceptable until such time as the Governor withdraws his certification of unacceptability.

"(4) The Secretary and the Secretary of the department in which the Coast Guard is operating shall conduct such enforcement activities as are necessary and reasonable to carry out the purposes of this title. The Secretary shall, whenever appropriate and in consultation with the Secretary of the department in which the Coast Guard is operating utilize by agreement the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities, or State agencies or instrumentalities, whether on a reimbursable or a nonreimbursable basis in carrying out his responsibilities under this title."[28] Enforcement

(g) The regulations issued pursuant to subsection (f) shall be applied in accordance with recognized principles of international law, including treaties, conventions, and other agreements to which the United States is signatory. Unless the application of the regulations is in accordance with such principles or is otherwise authorized by an agreement between the United States and the foreign State of which the affected person is a citizen or, in the case of the crew of a foreign vessel, between the United States and flag State of the vessel, no regulation applicable to ocean waters outside the territorial jurisdiction of the United States shall be applied to a person not a citizen of the United States.

"(h)(1) For purposes of subsection (b)(2)(B), the Secretary shall transmit to the Congress a designation of a marine sanctuary at the time of its publication. The concurrent resolution described in subsection (b)(2)(B) is a concurrent resolution which is adopted by both Houses of Congress before the end of the first period of sixty calendar days of continuous session of Congress after the date on which the designation is transmitted, the matter after the resolving clause of which is as follows: "That the Congress does not favor the taking of effect of the following terms of the marine sanctuary designation numbered transmitted to Congress by the Secretary of Commerce on : .', the blank space being filled with the number of the designation, the second blank space being filled with the date of the transmittal, and the third blank space being filled with the terms of the designation which are disapproved (or the phrase 'the entire designation' if the entire designation is disapproved). Transmittal to Congress.

"(2) For the purpose of paragraph (1) of this subsection—

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

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

"(3) A designation which becomes effective, or that portion of a designation which takes effect under subsection (b), shall be printed in the Federal Register.[29] Publication in Federal Register

SEC 303. (a) Any person subject to the jurisdiction of the United States who violates any regulation issued pursuant to this title shall be liable to a civil penalty of not more than $50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

(b) No penalty shall be assessed under this section until the person charged has been given notice and an opportunity to be heard. Upon failure of the offending party to pay an assessed penalty, the Attorney General, at the request of the Secretary, shall commence action in the appropriate district court of the United States to collect the penalty and to seek such other relief as may be appropriate.

(c) A vessel used in the violation of a regulation issued pursuant to this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

(d) The district courts of the United States have jurisdiction to restrain a violation of the regulations issued pursuant to this title, and to grant such other relief as may be appropriate. Actions shall be

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[28] Public Law 96-332 (94 Stat. 1057) (1980) sec. 2(2), amended subsec. (f). Before amendment sec. read as follows:

(f) After a marine sanctuary has been designated under this section, the Secretary, after consultation with other interested Federal agencies, shall issue necessary and reasonable regulations to control any activities permitted within the designated marine sanctuary, and no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purposes of this title and can be carried out within the regulations promulgated under this section.

[29] Public Law 96-332 (94 Stat. 1058) (1980) sec. 2(3), added a new subsec. (h).

brought by the Attorney General in the name of the United States, either on his own initiative or at the request of the Secretary.

SEC. 304. There are authorized to be appropriated not to exceed $10,000,000 for each of the fiscal years 1973, 1974, and 1975, not to exceed $500,000 for fiscal year 1977,[30] not to exceed $500,000 for fiscal year 1978,[31] not to exceed $2,250,000 for fiscal year 1981,[32] not to exceed $2,235,000 for fiscal year 1982, and not to exceed $2,235,000 for fiscal year 1983,[33] to carry out the provisions of this title, including the acquisition, development, and operation of marine sanctuaries designated under this title.[34] Approved December 26, 1981.

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[30] Public Law 94-326 (90 Stat. 725) (1976) sec. 4 amended sec. 304 by adding the words ", and not to exceed $500,000 for fiscal year 1977."

[31] Public Law 95-153 (91 Stat. 1255) (1977) sec. 3 amended sec. 304 by adding the words ", and not to exceed $500,000 for fiscal year 1978."

[32] Public Law 96-332 (94 Stat. 1059) (1980) sec. 3(2), added "and not to exceed $2,250,000 for fiscal year 1981."

[33] Public Law 97-109 (95 Stat. 1512) (1981) amended sec. 304. Prior to amendment this section read as follows: "There are authorized to be appropriated not to exceed $10,000,000 for each of the fiscal years 1973, 1974, and 1975, not to exceed $500,000 for fiscal year 1977, not to exceed $500,000 for fiscal year 1978, and not to exceed $2,250,000 for fiscal year 1981 to carry out the provisions of this title, including the acquisition, development, and operation of marine sanctuaries designated under this title. (Approved October 23, 1972.)

[34] Public Law 94-62 (89 Stat. 303) (1975) sec. 4 amended sec. 304. Prior to amendment this section read as follows: "There are authorized to be appropriated for the fiscal year in which this Act is enacted and for the next two fiscal years thereafter such sums as may be necessary to carry out the provisions of this title, including sms the the costs of acquisition, development, and operation of marine sanctuaries designated under this title, but the sums appropriated for any such fiscal year shall not exceed $10,000,000."

APPENDIX 28

CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTERS

Convention done at London, Mexico City, Moscow and Washington, December 29, 1972
Ratification of the United States of America deposited at Washington, London and Mexico City, April 29, 1974 and at Moscow, May 6, 1974
Entered into force, August 30, 1975

The Contracting Parties to this Convention,

Recognizing that the marine environment and the living organisms which it supports are of vital importance to humanity, and all people have an interest in assuring that it is so managed that its quality and resources are not impaired;

Recognizing that the capacity of the sea to assimilate wastes and render them harmless, and its ability to regenerate natural resources, is not unlimited;

Recognizing that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environment policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction;

Recalling Resolution 2749 (XXV) of the General Assembly of the United Nations on the principles governing the sea-bed and the ocean floor and the subsoil thereof, beyond the limits of national jurisdiction;

Noting that marine pollution originates in many sources, such as dumping and discharges through the atmosphere, rivers, estuaries, outfalls and pipelines, and that it is important that States use the best practicable means to prevent such pollution and develop products and processes which will reduce the amount of harmful wastes to be disposed of;

Being convinced that international action to control the pollution of the sea by dumping can and must be taken without delay but that this action should not preclude discussion of measures to control other sources of marine pollution as soon as possible; and

Wishing to improve protection of the marine environment by encouraging States with a common interest in particular geographical areas to enter into appropriate agreements supplementary to this Convention;

Have agreed as follows:

ARTICLE I

Contracting Parties shall individually and collectively promote the effective control of all sources of pollution of the marine environment, and pledge themselves especially to take all practicable steps to prevent the pollution of the sea by the dumping of waste and other matter that is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

ARTICLE II

Contracting Parties shall, as provided for in the following Articles, take effective measures individually, according to their scientific, technical and economic capabilities, and collectively, to prevent marine pollution caused by dumping and shall harmonize their policies in this regard.

ARTICLE III

For the purposes of this Convention:

1. (*a*) "Dumping" means:

(i) any deliberate disposal at sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;

(ii) any deliberate disposal at sea of vessels, aircraft, platforms or other man-made structures at sea.

(*b*) "Dumping" does not include:

(i) the disposal at sea of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures;

(ii) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Convention.

(*c*) The disposal of wastes or other matter directly arising from, or related to the exploration, exploitation and associated off-shore processing of sea-bed mineral resources will not be covered by the provisions of this Convention.

2. "Vessels and aircraft" means waterborne or airborne craft of any type whatsoever. This expression includes air cushioned craft and floating craft, whether self-propelled or not.

3. "Sea" means all marine waters other than the internal waters of States.

4. "Wastes or other matter" means material and substance of any kind, form of description.

5. "Special permit" means permission granted specifically on application in advance and in accordance with Annex II and Annex III.

6. "General permit" means permission granted in advance and in accordance with Annex III.

7. "The Organisation" means the Organisation designated by the Contracting Parties in accordance with Article XIV(2).

Article IV

1. In accordance with the provisions of this Convention Contracting Parties shall prohibit the dumping of any wastes or other matter in whatever form or condition except as otherwise specified below:

(*a*) the dumping of wastes or other matter listed in Annex I is prohibited;

(*b*) the dumping of wastes or other matter listed in Annex II requires a prior special permit;

(*c*) the dumping of all other wastes or matter requires a prior general permit.

2. Any permit shall be issued only after careful consideration of all the factors set forth in Annex III, including prior studies of the characteristics of the dumping site, as set forth in Sections B and C of that Annex.

3. No provision of this Convention is to be interpreted as preventing a Contracting Party from prohibiting, insofar as that Party is concerned, the dumping of wastes or other matter not mentioned in Annex I. That Party shall notify such measures to the Organisation.

Article V

1. The provisions of Article IV shall not apply when it is necessary to secure the safety of human life or of vessels aircraft, platforms or other man-made structures at sea in cases of *force majeure* caused by stress of weather, or in any case which constitutes a danger to human life or a real threat to vessels, aircraft, platforms or other man-made structures at sea, if dumping appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping will be less than would otherwise occur. Such dumping shall be so conducted as to minimise the likelihood of damage to human or marine life and shall be reported forthwith to the organisation.

2. A Contracting Party may issue a special permit as an exception to Article IV(1)(*a*), in emergencies, posing unacceptable risk relating to human health and admitting no other feasible solution. Before doing so the Party shall consult any other country or countries that are likely to be affected and the Organisation which, after consulting other Parties, and international organisations as appropriate, shall, in accordance with Article XIV promptly recommend to the Party the most appropriate procedures to adopt. The Party shall follow these recommendations to the maximum extent feasible consistent with the time within which action must be taken and with the general obligation to avoid damage to the marine environment and shall inform the Organisation of the action it takes. The Parties pledge themselves to assist one another in such situations.

3. Any Contracting Party may waive its rights under paragraph (2) at the time of, or subsequent to ratification of, or accession to this Convention.

ARTICLE VI

1. Each Contracting Party shall designate an appropriate authority or authorities to:
   (*a*) issue special permits which shall be required prior to, and for, the dumping of matter listed in Annex II and in the circumstances provided for in Article V(2);
   (*b*) issue general permits which shall be required prior to, and for, the dumping of all other matter;
   (*c*) keep records of the nature and quantities of all matter permitted to be dumped and the location, time and method of dumping;
   (*d*) monitor individually, or in collaboration with other Parties and competent international organisations, the condition of the seas for the purposes of this Convention.
2. The appropriate authority or authorities of a Contracting Party shall issue prior special or general permits in accordance with paragraph (1) in respect of matter intended for dumping:
   (*a*) loaded in its territory;
   (*b*) loaded by a vessel or aircraft registered in its territory or flying its flag, when the loading occurs in the territory of a State not party to this Convention.
3. In issuing permits under sub-paragraphs (1)(*a*) and (*b*) above, the appropriate authority or authorities shall comply with Annex III, together with such additional criteria, measures and requirements as they may consider relevant.
4. Each Contracting Party, directly or through a Secretariat established under a regional agreement, shall report to the Organisation, and where appropriate to other Parties, the information specified in sub-paragraphs (*c*) and (*d*) of paragraph (1) above, and the criteria, measures and requirements it adopts in accordance with paragraph (3) above. The procedure to be followed and the nature of such reports shall be agreed by the Parties in consultation.

ARTICLE VII

1. Each Contracting Party shall apply the measures required to implement the present Convention to all:
   (*a*) vessels and aircraft registered in its territory or flying its flag;
   (*b*) vessels and aircraft loading in its territory or territorial seas matter which is to be dumped;
   (*c*) vessels and aircraft and fixed or floating platforms under its jurisdiction believed to be engaged in dumping.
2. Each Party shall take in its territory appropriate measures to prevent and punish conduct in contravention of the provisions of this Convention.
3. The Parties agree to co-operate in the development of procedures for the effective application of this Convention particularly on the high seas, including procedures for the reporting of vessels and aircraft observed dumping is contravention of the Convention.
4. This Convention shall not apply to those vessels and aircraft entitled to sovereign immunity under international law. However each Party shall ensure by the adoption of appropriate measures that such vessels and aircraft owned or operated by it act in a manner consistent with the object and purpose of this Convention, and shall inform the Organisation accordingly.
5. Nothing in this Convention shall affect the right of each Party to adopt other measures, in accordance with the principles of international law, to prevent dumping at sea.

ARTICLE VIII

In order to further the objectives of this Convention, the Contracting Parties with common interests to protect in the marine environment in a given geographical area shall endeavor, taking into account characteristic regional features, to enter into regional agreements consistent with this Convention for the prevention of pollution, especially by dumping. The Contracting Parties to the present Convention shall endeavor to act consistently with the objectives and provisions of such regional agreements, which shall be notified to them by the Organisation. Contracting Parties shall seek to co-operate with the Parties to regional agreements in order to develop harmonized procedures to be followed by Contracting Parties to the different conventions concerned. Special attention shall be given to cooperation in the field of monitoring and scientific research.

ARTICLE IX

The Contracting Parties shall promote, through collaboration within the Organisation and other international bodies, support for those Parties which request it for:
   (*a*) the training of scientific and technical personnel;
   (*b*) the supply of necessary equipment and facilities for research and monitoring;
   (*c*) the disposal and treatment of waste and other measures to prevent or mitigate pollution caused by dumping.

preferably within the countries concerned, so furthering the aims and purposes of this Convention.

ARTICLE X

In accordance with the principles of international law regarding State responsibility for damage to the environment of other States or to any other area of the environment, caused by dumping of wastes and other matter of all kinds, the Contracting Parties undertake to develop procedures for the assessment of liability and the settlement of disputes regarding dumping.

ARTICLE XI

The Contracting Parties shall at their first consultative meeting consider procedures for the settlement of disputes concerning the interpretation and application of this Convention.

ARTICLE XII

The Contracting Parties pledge themselves to promote, within the competent specialised agencies and other international bodies, measures to protect the marine environment against pollution caused by:

(*a*) hydrocarbons, including oil, and their wastes;

(*b*) other noxious or hazardous matter transported by vessels for purposes other than dumping;

(*c*) wastes generated in the course of operation of vessels, aircraft, platforms and other man-made structures at sea;

(*d*) radio-active pollutants from all sources, including vessels;

(*e*) agents of chemical and biological warfare;

(*f*) wastes or other matter directly arising from, or related to the exploration, exploitation and associated off-shore processing of sea-bed mineral resources.

The Parties will also promote, within the appropriate international organisation, the codification of signals to be used by vessels engaged in dumping.

ARTICLE XIII

Nothing in this Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to Resolution 2750 C (XXV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction. The Contracting Parties agree to consult at a meeting to be convened by the Organisation after the Law of the Sea Conference, and in any case not later than 1976, with a view to defining the nature and extent of the right and the responsibility of a coastal State to apply the Convention in a zone adjacent to its coast.

ARTICLE XIV

1. The Government of the United Kingdom of Great Britain and Northern Ireland as depositary shall call a meeting of the Contracting Parties not later than three months after the entry into force of this Convention to decide on organisational matters.

2. The Contracting Parties shall designate a competent Organisation existing at the time of that meeting to be responsible for Secretariat duties in relation to this Convention. Any Party to this Convention not being a member of this Organisation shall make an appropriate contribution to the expenses incurred by the Organisation in performing these duties.

3. The Secretariat duties of the Organisation shall include:

(*a*) the convening of consultative meetings of the Contracting Parties not less frequently than once every two years and of special meetings of the Parties at any time on the request of two-thirds of the Parties;

(*b*) preparing and assisting, in consultation with the Contracting Parties and appropriate International Organisations, in the development and implementation of procedures referred to in sub-paragraph (4)(*e*) of this Article;

(*c*) considering enquiries by, and information from the Contracting Parties, consulting with them and with the appropriate International Organisations, and providing recommendations to the Parties on questions related to, but not specifically covered by the Convention;

(*d*) conveying to the Parties concerned all notifications received by the Organisation in accordance with Articles IV(3), V (1) and (2), VI(4), XV, XX, and XXI.

Prior to the designation of the Organisation these functions shall, as necessary, be performed by the depositary, who for this purpose shall be the Government of the United Kingdom of Great Britain and Northern Ireland.

4. Consultative or special meetings of the Contracting Parties shall keep under continuing review the implementation of this Convention and may, *inter alia*:

(*a*) review and adopt amendments to this Convention and its Annexes in accordance with Article XV;

(*b*) invite the appropriate scientific body or bodies to collaborate with and to advise the Parties or the Organisation on any scientific or technical aspect relevent to this Convention, including particularly the content of this Annexes;

(*c*) receive and consider reports made pursuant to Article VI(4);

(*d*) promote co-operation with and between regional organisations concerned with the prevention of marine pollution;

(*e*) develop or adopt, in consultation with appropriate International Organisations, procedures referred to in Article V(2), including basic criteria for determining exceptional and emergency situations, and procedures for consultative advice and the safe disposal of matter in such circumstances, including the designation of appropriate dumping areas, and recommend accordingly;

(*f*) consider any additional action that may be required.

5. The Contracting Parties at their first consultative meeting shall establish rules of procedure as necessary.

ARTICLE XV

1. (*a*) At meetings of the Contracting Parties called in accordance with Article XIV amendments to this Convention may be adopted by a two-thirds majority of those present. An amendment shall enter into force for the Parties which have accepted it on the sixtieth day after two-thirds of the Parties shall have deposited an instrument of acceptance of the amendment with the Organisation. Thereafter the amendment shall enter into force for any other Party 30 days after that Party deposits its instrument of acceptance of the amendment.

(*b*) The Organisation shall inform all Contracting Parties of any request made for a special meeting under Article XIV and of any amendments adopted at meetings of the Parties and of the date on which each such amendment enters into force for each Party.

2. Amendments to the Annexes will be based on scientific or technical considerations. Amendments to the Annexes approved by a two-thirds majority of those present at a meeting called in accordance with Article XIV shall enter into force for each Contracting Party immediately on notification of its acceptance to the Organisation and 100 days after approval by the meeting for all other Parties except for those which before the end of the 100 days make a declaration that they are not able to accept the amendment at that time. Parties should endeavour to signify their acceptance of an amendment to the Organisation as soon as possible after approval at a meeting. A Party may at any time substitute an acceptance for a previous declaration of objection and the amendment previously objected to shall thereupon enter into force for that Party.

3. An acceptance or declaration of objection under this Article shall be made by the deposit of an instrument with the Organisation. The Organisation shall notify all Contracting Parties of the receipt of such instruments.

4. Prior to the designation of the Organisation, the Secretarial functions herein attributed to it, shall be performed temporarily by the Government of the United Kingdom of Great Britain and Northern Ireland, as one of the depositaries of this Convention.

ARTICLE XVI

This Convention shall be open for signature by any State at London, Mexico City, Moscow and Washington from 29 December 1972 until 31 December 1973.

ARTICLE XVII

This Convention shall be subject to ratification. The instruments of ratification shall be deposited wth the Governments of Mexico, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

ARTICLE XVIII

After 31 December 1973, this Convention shall be open for accession by any State. The instruments of accession shall be deposited with the Governments of Mexico, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

ARTICLE XIX

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the fifteenth instrument of ratification or accession.

B. In the issue of permits for the dumping of large quantities of acids and alkalis, consideration shall be given to the possible presence in such wastes of the substances listed in paragrah A and to the following additional substances:

beryllium
chromium
nickel
vanadium

and their compounds

C. Containers, scrap metal and other bulky wastes liable to sink to the sea bottom which may present a serious obstacle to fishing or navigation.

D. Radioactive wastes or other radioactive matter not included in Annex I. In the issue of permits for the dumping of this matter, the Contracting Parties should take full account of the recommendations of the competent international body in this field, at present the International Atomic Energy Agency.

ANNEX III

Provisions to be considered in establishing criteria governing the issue of permits for the dumping of matter at sea, taking into account Article IV (2), include:

A.—Chatacteristics and composition of the matter

1. Total amount of average composition of matter dumped (*e.g.* per year).
2. Form, *e.g.* solid, sludge, liquid, or gaseous.
3. Properties: physical (*e.g.* solubility and density), chemical and biochemical (*e.g.* oxygen demand, nutrients) and biological (*e.g.* presence of viruses, bacteria, yeasts, parasites).
4. Toxicity.
5. Persistence: physical, chemical and biological.
6. Accumulation and biotransformation in biological materials or sediments.
7. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other dissolved organic and inorganic materials.
8. Probability of production of taints or other changes reducing marketability of resources (fish, shellfish, etc.).

B.—Chatacteristics of dumping site and method of deposit

1. Location (*e.g.* co-ordinates of the dumping area, depth and distance from the coast), location in relation to the other areas (*e.g.*, amenity areas, spawning, nursery and fishing areas and exploitable resources).
2. Rate of disposal per specific period (*e.g.* quantity per day, per week, per month).
3. Methods of packaging and containment, if any.
4. Initial dilution achieved by proposed method of release.
5. Dispersal characteristics (*e.g.* effects of currents, tides and wind on horizontal transport and vertical mixing).
6. Water characteristics (*e.g.* temperature, pH, salinity, stratification, oxygen indices of pollution—dissolved oxygen (DO), chemical oxygen demand (COD), biochemical oxygen demand (BOD)—nitrogen present in organic and mineral form including ammonia, suspended matter, other nutrients and productivity).
7. Bottom characteristics (*e.g.* topography, geochemical and geological characteristics and biological productivity).
8. Existence and effects of other dumpings which have been made in the dumping area (*e.g.* heavy metal background reading and organic carbon content).
9. In issuing a permit for dumping, Contracting Parties should consider whether an adequate scientific basis exists for assessing the consequences of such dumping, as outline in this Annex, taking into account seasonal variations.

C.—General considerations and conditions

1. Possible effects on amenities (*e.g.*, presence of floating or stranded material, turbidity, objectionable odour, discolouration and foaming).
2. Possible effects on marine life, fish and shellfish culture, fish stocks and fisheries, seaweed harvesting and culture.
3. Possible effects on other uses of the sea (*e.g.* impairment of water quality for industrial use, underwater corrosion of structures, interference with ship operations from floating materials, interference with fishing or navigation through deposit of waste or solid objects on the sea floor and protection of areas of special importance for scientific or conservation purposes).
4. The practical availability of alternative land-based methods of treatment, disposal or elimination, or of treatment to render the matter less harmful for dumping at sea.

4. Consultative or special meetings of the Contracting Parties shall keep under continuing review the implementation of this Convention and may, *inter alia*:

(*a*) review and adopt amendments to this Convention and its Annexes in accordance with Article XV;

(*b*) invite the appropriate scientific body or bodies to collaborate with and to advise the Parties or the Organisation on any scientific or technical aspect relevent to this Convention, including particularly the content of this Annexes;

(*c*) receive and consider reports made pursuant to Article VI(4);

(*d*) promote co-operation with and between regional organisations concerned with the prevention of marine pollution;

(*e*) develop or adopt, in consultation with appropriate International Organisations, procedures referred to in Article V(2), including basic criteria for determining exceptional and emergency situations, and procedures for consultative advice and the safe disposal of matter in such circumstances, including the designation of appropriate dumping areas, and recommend accordingly;

(*f*) consider any additional action that may be required.

5. The Contracting Parties at their first consultative meeting shall establish rules of procedure as necessary.

ARTICLE XV

1. (*a*) At meetings of the Contracting Parties called in accordance with Article XIV amendments to this Convention may be adopted by a two-thirds majority of those present. An amendment shall enter into force for the Parties which have accepted it on the sixtieth day after two-thirds of the Parties shall have deposited an instrument of acceptance of the amendment with the Organisation. Thereafter the amendment shall enter into force for any other Party 30 days after that Party deposits its instrument of acceptance of the amendment.

(*b*) The Organisation shall inform all Contracting Parties of any request made for a special meeting under Article XIV and of any amendments adopted at meetings of the Parties and of the date on which each such amendment enters into force for each Party.

2. Amendments to the Annexes will be based on scientific or technical considerations. Amendments to the Annexes approved by a two-thirds majority of those present at a meeting called in accordance with Article XIV shall enter into force for each Contracting Party immediately on notification of its acceptance to the Organisation and 100 days after approval by the meeting for all other Parties except for those which before the end of the 100 days make a declaration that they are not able to accept the amendment at that time. Parties should endeavour to signify their acceptance of an amendment to the Organisation as soon as possible after approval at a meeting. A Party may at any time substitute an acceptance for a previous declaration of objection and the amendment previously objected to shall thereupon enter into force for that Party.

3. An acceptance or declaration of objection under this Article shall be made by the deposit of an instrument with the Organisation. The Organisation shall notify all Contracting Parties of the receipt of such instruments.

4. Prior to the designation of the Organisation, the Secretarial functions herein attributed to it, shall be performed temporarily by the Government of the United Kingdom of Great Britain and Northern Ireland, as one of the depositaries of this Convention.

ARTICLE XVI

This Convention shall be open for signature by any State at London, Mexico City, Moscow and Washington from 29 December 1972 until 31 December 1973.

ARTICLE XVII

This Convention shall be subject to ratification. The instruments of ratification shall be deposited wth the Governments of Mexico, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

ARTICLE XVIII

After 31 December 1973, this Convention shall be open for accession by any State. The instruments of accession shall be deposited with the Governments of Mexico, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

ARTICLE XIX

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the fifteenth instrument of ratification or accession.

2. For each Contracting Party ratifying or acceding to the Convention after the deposit of the fifteenth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such Party of its instrument of ratification or accession.

ARTICLE XX

The depositaries shall inform Contracting Parties:

(*a*) of signatures to this Convention and of the deposit of instruments of ratification, accession or withdrawal, in accordance with Articles XVI, XVII, XVIII and XXI, and

(*b*) of the date on which this Convention will enter into force, in accordance with Article XIX.

ARTICLE XXI

Any Contracting Party may withdraw from this Convention by giving six months' notice in writing to a depositary, which shall promptly inform all Parties of such notice.

ARTICLE XXII

The original of this Convention of which the English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Governments of Mexico, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America who shall send certified copies thereof to all States.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto by their respective Governments have signed the present Convention.

DONE in quadruplicate at London, Mexico City, Moscow and Washington, this twenty-ninth day of December, 1972.

ANNEX I

1. Organohalogen compounds.
2. Mercury and mercury compounds.
3. Cadmium and cadmium compounds.
4. Persistent plastics and other persistent synthetic materials, for example, netting and ropes, which may float or may remain in suspension in the sea in such a manner as to interfere materially with fishing, navigation or other legitimate uses of the sea.
5. Crude oil, fuel oil, heavy diesel oil, and lubricating oils, hydraulic fluids, and any mixtures containing any of these, taken on board for the purpose of dumping.
6. High-level radioactive wastes or other high-level radio-active matter, defined on public health, biological or other grounds, by the competent international body in this field, at present the International Atomic Energy Agency, as unsuitable for dumping at sea.
7. Materials in whatever form (*e.g.* solids, liquids, semi-liquids, gases or in a living state) produced for biological and chemical warfare.
8. The preceding paragraphs of this Annex do not apply to substances which are rapidly rendered harmless by physical, chemical or biological processes in the sea provided they do not:
   (i) make edible marine organisms unpalatable, or
   (ii) endanger human health or that of domestic animals.

The consultative procedure provided for under Article XIV should be followed by a Party if there is doubt about the harmlessness of the substance.

9. This Annex does not apply to wastes or other materials (*e.g.* sewage sludges and dredged spoils) containing the matters referred to in paragraphs 1-5 above as trace contaminants. Such wastes shall be subject to the provisions of Annexes II and III as appropriate.

ANNEX II

The following substances and materials requiring special care are listed for the purposes of Article VI(1)(*a*).

A. Wastes containing significant amounts of the matters listed below:

arsenic
lead
copper — and their compounds
zinc
organosilicon compounds
cyanides
fluorides
pesticides and their by-products not covered in Annex I.

B. In the issue of permits for the dumping of large quantities of acids and alkalis, consideration shall be given to the possible presence in such wastes of the substances listed in paragrah A and to the following additional substances:

beryllium
chromium
nickel
vanadium

and their compounds

C. Containers, scrap metal and other bulky wastes liable to sink to the sea bottom which may present a serious obstacle to fishing or navigation.

D. Radioactive wastes or other radioactive matter not included in Annex I. In the issue of permits for the dumping of this matter, the Contracting Parties should take full account of the recommendations of the competent international body in this field, at present the International Atomic Energy Agency.

ANNEX III

Provisions to be considered in establishing criteria governing the issue of permits for the dumping of matter at sea, taking into account Article IV (2), include:

A.—Chatacteristics and composition of the matter

1. Total amount of average composition of matter dumped (*e.g.* per year).
2. Form, *e.g.* solid, sludge, liquid, or gaseous.
3. Properties: physical (*e.g.* solubility and density), chemical and biochemical (*e.g.* oxygen demand, nutrients) and biological (*e.g.* presence of viruses, bacteria, yeasts, parasites).
4. Toxicity.
5. Persistence: physical, chemical and biological.
6. Accumulation and biotransformation in biological materials or sediments.
7. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other dissolved organic and inorganic materials.
8. Probability of production of taints or other changes reducing marketability of resources (fish, shellfish, etc.).

B.—Chatacteristics of dumping site and method of deposit

1. Location (*e.g.* co-ordinates of the dumping area, depth and distance from the coast), location in relation to the other areas (*e.g.*, amenity areas, spawning, nursery and fishing areas and exploitable resources).
2. Rate of disposal per specific period (*e.g.* quantity per day, per week, per month).
3. Methods of packaging and containment, if any.
4. Initial dilution achieved by proposed method of release.
5. Dispersal characteristics (*e.g.* effects of currents, tides and wind on horizontal transport and vertical mixing).
6. Water characteristics (*e.g.* temperature, pH, salinity, stratification, oxygen indices of pollution—dissolved oxygen (DO), chemical oxygen demand (COD), biochemical oxygen demand (BOD)—nitrogen present in organic and mineral form including ammonia, suspended matter, other nutrients and productivity).
7. Bottom characteristics (*e.g.* topography, geochemical and geological characteristics and biological productivity).
8. Existence and effects of other dumpings which have been made in the dumping area (*e.g.* heavy metal background reading and organic carbon content).
9. In issuing a permit for dumping, Contracting Parties should consider whether an adequate scientific basis exists for assessing the consequences of such dumping, as outline in this Annex, taking into account seasonal variations.

C.—General considerations and conditions

1. Possible effects on amenities (*e.g.*, presence of floating or stranded material, turbidity, objectionable odour, discolouration and foaming).
2. Possible effects on marine life, fish and shellfish culture, fish stocks and fisheries, seaweed harvesting and culture.
3. Possible effects on other uses of the sea (*e.g.* impairment of water quality for industrial use, underwater corrosion of structures, interference with ship operations from floating materials, interference with fishing or navigation through deposit of waste or solid objects on the sea floor and protection of areas of special importance for scientific or conservation purposes).
4. The practical availability of alternative land-based methods of treatment, disposal or elimination, or of treatment to render the matter less harmful for dumping at sea.

TREATY ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTERS, EFFECTIVE AUGUST 30, 1975

Ratification or accession deposited by:

Afghanistan
Argentina
Australia
Brazil
Belgium
Bolivia
Byelorussian Soviet Socialist Rep.
Canada
Cape Verde
Chad
Chile
China
Columbia
Costa Rica
Cuba
Denmark[1]
Dominican Republic
Finland
France[2 3]
Gabon
German Dem. Rep.
Germany, Fed. Rep.[4]
Greece
Guatemala
Haiti
Honduras
Hungary
Iceland
Ireland
Italy
Japan
Jordan
Kenya
Khmer Republic
Kuwait
Lebanon
Lesotho
Liberia
Libya
Luxembourg
Mexico
Morocco
Nauru
Nepal
Netherlands
New Zealand[3]
Nigeria
Norway
Panama
Papua New Guinea
Philippines
Poland
Portugal
Senegal
Somalia
Spain
South Africa
Suriname
Sweden
Switzerland
Togo
Tunisia
Ukrainian Soviet Socialist Rep.
Union of Soviet Socialist Reps.
United Arab Emirates
United Kingdom[6]
United States
Uruguay
Venezuela
Yugoslavia
Zaire

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[1] Extended to Faroe Islands.
[2] With Reservation.
[3] With Statement.
[4] Applicable to Berlin (West).
[5] Not applicable to Cook Islands, Niue, and Tokelau Islands.
[6] Extended to Bailiwick of Guernsey, Belize, Bermuda, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Ducie and Oneo Islands, Falkland Islands and dependencies, Gilbert Islands, Henderson, Hong Kong, Isle of Man, Bailiwick of Jersey, Montserrat, Pitcairn, St. Helena and dependencies, Solomon Islands, Turks and Caicos Islands, Tuvalu, and United Kingdom Sovereign Base Areas of Akrotiri and Dhekelai on the Island of Cyprus.

APPENDIX 29

96th Congress, 2d Session ---------- House Document No. 96-266

RADIOACTIVE WASTE MANAGEMENT

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT ON HIS PROPOSALS FOR A COMPREHENSIVE RADIOACTIVE WASTE MANAGEMENT PROGRAM

FEBRUARY 12, 1980.—Message and accompanying papers referred to the Committees on Armed Services, Interior and Insular Affairs, Interstate and Foreign Commerce, and Science and Technology and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

59-0110 WASHINGTON: 1980

To the Congress of the United States:

Today I am establishing this Nation's first comprehensive radioactive waste management program. My paramount objective in management nuclear wastes is to protect the health and safety of all Americans, both now and in the future. I share this responsibility with elected officials at all levels of our government. Our citizens have a deep concern that the beneficial uses of nuclear technology, including the generation of electricity, not be allowed to imperil public health or safety now or in the future.

For more than 30 years, radioactive wastes have been generated by programs for national defense, by the commercial nuclear power program, and by a variety of medical, industrial and research activities. Yet past governmental efforts to manage radioactive wastes have not been technically adequate. Moreover, they have failed to involve successfully the States, local governments, and the public in policy or program decisions. My actions today lay the foundation for both a technically superior program and a full cooperative Federal-State partnership to ensure public confidence in a waste management program.

My program is consistent with the broad consensus that has evolved from the efforts of the Interagency Review Group on Radioactive Waste Management (IRG) which I established. The IRG findings and analysis were comprehensive, thorough and widely reviewed by public, industry and citizen groups, State and local governments, and members of the Congress. Evaluations of the scientific and technical analyses were obtained through a broad and rigorous peer review by the scientific community. The final recommendations benefited from and reflect this input.

My objective is to establish a comprehensive program for the management of *all* types of radioactive wastes. My policies and programs established mechanisms to ensure that elected officials and the public fully participate in waste decisions, and direct Federal departments and agencies to implement a waste management strategy which is safe, technically sound, conservative, and open to continuous public review. This approach will help ensure that we will reach our objective—the safe storage and disposal of all forms of nuclear waste.

Our primary objective is to isolate existing and future radioactive waste from military and civilian activities from the biosphere and pose no significant threat to public health and safety. The responsibility for resolving military and civilian waste management problems shall not be deferred to future generations. The technical program must meet all relevant radiological protection criteria as well as all other applicable regulatory requirements. This effort must proceed regardless of future developments within the nuclear industry—its future size, and resolution of specific fuel cycle and reactor design issue. The specific steps outlined below are each aimed at accomplishing this overall objective.

First, my Administration is committed to providing an effective role for State and local governments in the development and implementation of our nuclear waste management program. I am therefore taking the following actions:

By Executive Order, I am establishing a State Planning Council which will strengthen our intergovernmental relationships and help fulfill our joint responsibility to protect public health and safety in radioactive waste matters. I have asked Governor Riley of South Carolina to serve as Chairman of the Council. The Council will have a total of 19 members: 15 who are Governors or other elected officials, and 4 from the Executive departments and agencies. It will advise the Executive Branch and work with the Congress to address radioactive waste management issues, such as planning and siting, construction, and operation of facilities. I will submit legislation during this session to make the Council permanent.

In the past, States have not played an adequate part in the waste management planning process—for example, in the evaluation and location of potential waste disposal sites. The States need better access to information and expanded opportunity to guide waste management planning. Our relationship with the States will be based on the principle of consultation and concurrence in the siting of high level waste repositories. Under the framework of consultation and concurrence, a host State will have a continuing role in Federal decisionmaking on the siting, design and construction of a high level waste repository. State consultation and concurrence, however, will lead to an acceptable solution to our waste disposal problem only if all the States participate as partners in the program I am putting forth. The safe disposal of radioactive waste, defense and commercial, is a national, not just a Federal, responsibility.

I am directing the Secretary of energy to provide financial and technical assistance to States and other jurisdictions to facilitate the full participation of State and local government in review and licensing proceedings.

Second, for disposal of high level radioactive waste, I am adopting an interim planning strategy focused on the use of mined geologic repositories capable of accepting both waste from reprocesing and unreprocessed commercial spent fuel. An interim strategy is needed since final decisions on many steps which need to be taken should be preceded by a full environmental review under the National Environmental Policy Act. In its search for suitable sites for high level waste repositories, the Department of Energy has mounted an expanded and diversified program of geological investigations that recognizes the importance of the interaction among geologic setting, repository host rock, waste form and other engineered barriers on a site-specific basis. Immediate attention will focus on research and development, and on locating and characterizing a number of potential repository sites in a variety of different geologic environments with diverse rock types. When four to five sites have been evaluated and found potentially suitable, one or more will be selected for further development as a licensed full-scale repository.

It is important to stress the following two points: First, because the suitability of a geological disposal site can be verified only through detailed and time-consuming site specific evaluations, actual sites and their geological environments must be carefully examined. Second, the development of a repository will proceed in a careful step-by-step manner. Experience and information gained at such phase will be reviewed and evaluated to determine if there is sufficient knowledge to proceed with the next stage of development. We should be ready to select

the site for the first full-scale repository by about 1985 and have it operational by the mid-1990's. For reasons of economy, the first and subsequent repositories should accept both defense and commercial wastes.

Consistent with my decision to expand and diversify the Department of Energy's program of geologic investigation before selecting a specific site for repository development, I have decided that the Waste Isolation Pilot Plant project should be cancelled. This project is currently authorized for the unlicensed disposal of transuranic waste from our National defense program, and for research and development using high level defense waste. This project is inconsistent with my policy that all repositories for highly radioactive waste be licensed, and that they accept both defense and commercial wastes.

The site near Carlsbad, New Mexico, which was being considered for this project, will continue to be evaluated along with other sites in other parts of the country. If qualified, it will be reserved as one of several candiate sites for possible use as al icensed repository for defense and commercial high level wastes. My fiscal year 1981 budget contains funds in the commercial nuclear waste program for protection and continued investigation of the Carlsbad site. Finally, it is important that we take the time to compare the New Mexico site with other sites now under evaluation for the first waste repository.

Over the next five years, the Department of Energy will carry out an aggressive program of scientific and technical investigations to support waste solidification, packaging and repository design and construction including several experimental, retrievable emplacements in test facilities. This supporting research and development program will call upon the knowledge and experience of the Nation's very best people in science, engineering and other fields of learning and will include participation of universities, industry, and the government departments, agencies, and national laboratories.

Third, during the interim period before a disposal facility is available, waste must and will continue to be cared for safety. Management of defense waste is a Federal responsibility; the Department of Energy will ensure close and meticulous control over defense waste facilities which are vital to our national security. I am committed to maintaining safe interim storage of these wastes as long as necessary and to making adequate funding available for that purpose. We will also proceed with research and development at the various defense sites that will lead to processing, packaging, and ultimate transfer to a permanent repository of the high level and transuranic wastes from defense programs.

In contrast, storage of commercial spent fuel is primarily a responsibility of the utilities. I want to stress that interim spent fuel storage capacity is *not* an alternative to permanent disposal. However, adequate storage is necessary until repositories are available. I urge the utility industry to continue to take all actions necessary to store spent fuel in a manner that will protect the public and ensure efficient and safe operation of power reactors. However, a limited amount of government storage capacity would provide flexibility to our national waste disposal program and an alternative for those utilities which are unable to expand their storage capabilities.

I reiterate the need for early enactment of my proposed spent nuclear fuel legislation. This proposal would authorize the Department of Energy to: (1) design, acquire or construct, and operate one or more away-from-reactor storage facilities, and (2) accept for storage, until permanent disposal facilites are available, domestic spent fuel, and a limited amount of foreign spent fuel in cases when such action would

further our non-proliferation policy objectives. All costs of storage, including the cost of locating, constructing and operating permanent geologic repositories, will be recovered through fees paid by utilities and other users of the services and will ultimately be borne by those who benefit from the activities generating the wastes.

Fourth, I have directed the Department of Energy to work jointly with states, other government agencies, industry and other organizations, and the public, in developing national plans to establish regional disposal sites for commercial low level waste. We must work together to resolve the serious near-term problem of low level waste disposal. While this task is not inherently difficult from the standpoint of safety, it requires better planning and coordination. I endorse the actions being taken by the Nation's governors to tackle this problem and direct the Secretary of Energy to work with them in support of their effort.

Fifth, the Federal programs for regulating radioactive waste storage, transportation and disposal are a crucial component of our efforts to ensure the health and safety of Americans. Although the existing authorities and structures are basically sound, improvements must be made in several areas. The current authority of the Nuclear Regulatory Commission to license the disposal of high level waste and low level waste in commercial facilities should be extended to include spent fuel storage, and disposal of transuranic waste and non-defense low level waste in any new government facilities. I am directing the Environmental Protection Agency to consult with the Nuclear Regulatory Commission to resolve issues of overlapping jurisdiction and phasing of regulatory actions. They should also seek ways to speed up the promulgation of their safety regulations. I am also directing the Department of Transportation and the Environmental Protection Agency to improve both the efficiency of their regulatory activities and their relationships with other Federal agencies and state and local governments.

Sixth, it is essential that all aspects of the waste management program be conducted with the fullest possible disclosure to and participation by the public and the technical community. I am directing the departments and agencies to develop and improve mechanisms to ensure such participation and public involvement consistent with the need to protect national security information. The waste management program will be carried out in full compliance with the National Environmental Policy Act.

Seventh, because nuclear waste management is a problem shared by many other countries and decisions on waste management alternatives have nuclear proliferation implications, I will continue to encourage and support bilateral and multilateral efforts which advance both our technical capabilities and our understanding of spent fuel and waste management options, which are consistent with our non-proliferation policy.

In its role as lead agency for the management and disposal of radioactive wastes and with cooperation of the other relevant Federal agencies, the Department of Energy is preparing a detailed National Plan for Nuclear Waste Management to implement these policy guidelines and the other recommendations of the IRG. This Plan will provide a clear road map for all parties and will give the public an opportunity to review the entirety of our program. It will include specific program goals and milestones for all aspects of nuclear waste management. A draft of the comprehensive National Plan will be distributed by the Secretary of Energy later this year for public and Congressional review. The State Planning Council will be directly involved in the development of this plan.

The Nuclear Regulatory Commission now has underway an important proceeding to provide the Nation with its judgment on whether or

not it has confidence that radioactive wastes produced by nuclear power reactors can and will be disposed of safely. I urge that the Nuclear Regulatory Commission do so in a thorough and timely manner and that it provide a full opportunity for public, technical and government agency participation.

Over the past two years as I have reviewed various aspects of the radioactive waste problem, the complexities and difficulties of the issues have become evident—both from a technical and, more importantly, from an institutional and political perspective. However, based on the technical conclusions reached by the Irg, I am persuaded that the capability now exists to characterize and evaluate a number of geologic environments for use as repositories built with conventional mining technology. We have already made substantial progress and changes in our programs. With this comprehensive policy and its implementation through the fiscal year 1981 budget and other actions, we will complete the task of reorienting our efforts in the right direction. Many citizens know and all must understand that this problem will be with us for many years. We must proceed steadily and with determination to resolve the remaining technical issues while ensuring full public participation and maintaining the full cooperation of all levels of government. We will act surely and without delay, but we will not compromise our technical or scientific standards out of haste. I look forward to working with the Congress and the states to implement this policy and build public confidence in the ability of the government to do what is required in this area to protect the health and safety of our citizens.

JIMMY CARTER.

THE WHITE HOUSE, *February 12, 1980.*

NUCLEAR ENERGY POLICY

STATEMENT ANNOUNCING A SERIES OF POLICY INITIATIVES. ADMINISTRATION OF RONALD REAGAN — OCTOBER 8, 1981

A more abundant, affordable, and secure energy future for all Americans is a critical element of this administration's economic recovery program. While homeowners and business firms have shown remarkable ingenuity and resourcefulness in meeting their energy needs at lower cost through conservation, it is evident that sustained economic growth over the decades ahead will require additional energy supplies. This is particularly true of electricity, which will supply an increasing share of our energy.

If we are to meet this need for new energy supplies, we must move rapidly to eliminate unnecessary government barriers to efficient utilization of our abundant, economical resources of coal and uranium. It is equally vital that the utilities—investor-owned, public, and co-ops—be able to develop new generating capacity that will permit them to supply their customers at the lowest cost, be it coal, nuclear, hydro, or new technologies such as fuel cells.

One of the best potential sources of new electrical energy supplies in the coming decades is nuclear power. The U.S. has developed a strong technological base in the production of electricity from nuclear energy. Unfortunately, the Federal Government has created a regulatory environment that is forcing many utilities to rule out nuclear power as a source of new generating capacity, even when their consumers may face unnecessarily high electric rates as a result. Nuclear power has become entangled in a morass of regulations that do not enhance safety but that do cause extensive licensing delays and economic uncertainty. Government has also failed in meeting its responsibility to work with industry to develop an acceptable system for commercial waste disposal, which has further hampered nuclear power development.

To correct present government deficiencies and to enable nuclear power to make its essential contribution to our future energy needs, I am announcing today a series of policy initiatives:

(1) I am directing the Secretary of Energy to give immediate priority attention to recommending improvements in the nuclear regulatory and licensing process. I anticipate that the Chairman of the Nuclear Regulatory Commission will take steps to facilitate the licensing of plants under construction and those awaiting licenses. Consistent with public health and safety, we must remove unnecessary obstacles to deployment

of the current generation of nuclear power reactors. The time involved to proceed from the planning stage to an operating license for new nuclear powerplants has more than doubled since the mid-1970's and is presently some 10-14 years. This process must be streamlined, with the objective of shortening the time involved to 6-8 years, as is typical in some other countries.

(2) I am directing that government agencies proceed with the demonstration of breeder reactor technology, including completion of the Clinch River Breeder Reactor. This is essential to ensure our preparedness for longer-term nuclear power needs.

(3) I am lifting the indefinite ban which previous administrations placed on commercial reprocessing activities in the United States. In addition, we will pursue consistent, long-term policies concerning reprocessing of spent fuel from nuclear power reactors and eliminate regulatory impediments to commercial interest in this technology, while ensuring adequate safeguards.

It is important that the private sector take the lead in developing commercial reprocessing services. Thus I am also requesting the Director of the Office of Science and Technology Policy, working with the Secretary of Energy, to undertake a study of the feasibility of obtaining economical plutonium supplies for the Department of Energy by means of a competitive procurement. By encouraging private firms to supply fuel for the breeder program at a cost that does not exceed that of government-produced plutonium, we may be able to provide a stable market for private sector reprocessing and simultaneously reduce the funding needs of the U.S. breeder demonstration program.

(4) I am instructing the Secretary of Energy, working closely with industry and State governments, to proceed swifely toward deployment of means of storing and disposing of commercial, high-level radioactive waste. We must take steps now to accomplish this objective and demonstrate to the public that problems associated with management of nuclear waste can be resolved.

(5) I recognize that some of the problems besetting the nuclear option are of a deep-seated nature and may not be quickly resolved. Therefore, I am directing the Secretary of Energy and the Director of the Office of Science and Technology Policy to meet with representatives from the universities, private industry, and the utilities, and requesting them to report to me on the obstacles which stand in the way of increased use of nuclear energy and the steps needed to overcome them in order to assure the continued availability of nuclear power to meet America's future energy needs, not later than September 30, 1982.

Eliminating the regulatory problems that hve burdened nuclear power will be of little use if the utility sector cannot raise the capital necessary to fund construction of new generating facilities. We have already taken significant steps to improve the climate for capital formation with the passage of my program for economic recovery. The tax bill contains substantial incentives designed to attract new capital into industry.

Safe commercial nuclear power can help meet America's future energy needs. The policies and actions that I am announcing today will permit a revitalization of the U.S. industry's efforts to develop nuclear power. In this way, native American genius, not arbitrary Federal policy, will be free to provide for our energy future.

NUCLEAR WASTE LEGISLATION

LETTER TO THE SPEAKER OF THE HOUSE AND THE PRESIDENT OF THE SENATE
APRIL 28, 1982

Dear Mr. Speaker: (Dear Mr. President:)

The safe and efficient disposal of nuclear waste is an issue of profound concern to all Americans. I am pleased and encouraged by the reports of bipartisan Congressional activity regarding waste legislation.

I, and all my Administration, stand ready to work with you to proceed on a bipartisan and timely basis on this most important matter, so that the Federal Government can fulfill its responsibilities for safe and efficient disposal of nuclear waste.

I believe that we all agree that first and foremost in any consideration of this issue is the fundamental need to protect the health and safety of all our citizens. We must also mitigate possible harm to our environment. With these prerequisites in mind, I urge early legislative action so that we may clear the way for continued development of peaceful uses of nuclear energy.

On October 8, 1981, I announced several policy initiatives regarding nuclear energy. My Administration is currently working to implement these initiatives. Consistent with these initiaties, and in order to take advantage of the inherent efficiency in the private sector, (benefiting the electricity ratepayer in the long run), nuclear waste legislation should be adopted soon, containing the following elements:

(1) A system of user fees to fund the construction and operation of high-level nuclear waste storage and disposal facilities.

(2) An appropriate and effective method for State governments to participate in resolving site selection issues involved in the licensing and deployment of waste disposal facilities.

(3) A temporary storage facility, financed from user revenues, to relieve the near-term problem of exhaustion of spent fuel storage capacity at some operating plants. This facility should be subject to appropriate limitations on quantity of fuel and time of residence, perhap 7 years, to ensure that it cannot be a substitute for longer term and permanent facilit

(4) A federally ned and operated permanent repository for disposal of high-level radioactive waste to be available at the earliest practicable date. A federally owned and operated monitored retrievable storage (MRS) facility should be considered strongly for long-term storage in the interim period prior to operation of a permanent repository.

(5) Application to civilian-generated waste only, since military nuclear waste will be addressed separately.

To ensure efficiency and safety, nuclear waste legislation should require title transfer to the Federal Government, at a date certain, of vitrified high-level waste at the receiving facility. Alternatively, if vitrification facilities are not yet in operation, the Federal Government will take title to encapsulated spent fuel. This will fix responsibility and provide a firm basis for construction and operation of facilities for nuclear waste storage and disposal financed from user revenues.

These federal actions are consistent with our basic effort to encourage private sector reprocessing in order to provide access to significant remaining fuel value for future generations as well as significantly reduce the volume of high-level waste.

The American people desire the safe disposal of nuclear waste. The necessary technology is available and scientific and engineering expertise exists to accomplish this goal. Federal legislation is required to assure a safe, effective solution for the disposal of nuclear waste at the earliest practicable time. I urge early consideration by both Houses of Congress and prompt enactment of legislation that will allow us to move ahead and deal with this issue in a timely and responsible manner.

Sincerely,

RONALD REAGAN

Note: This is the text of identical letters addressed to Thomas P. O'Neill, Jr., Speaker of the House of Representatives, and George Bush, President of the Senate.

APPENDIX 30

WEST VALLEY DEMONSTRATION PROJECT ACT

(94 Stat. 1347)

[PUBLIC LAW 96-368]

[S. 2443]

[OCTOBER 1, 1980]

AN ACT

To authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York.

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

SECTION 1. This Act may be cited as the "West Valley Demonstration Project Act".

West Valley Demonstration Project Act. 42 USC 2021a note.

SEC. 2. (a) The Secretary shall carry out, in accordance with this Act, a high level radioactive waste management demonstration project at the Western New York Service Center in West Valley, New York, for the purpose of demonstrating solidification techniques which can be used for preparing high level radioactive waste for disposal. Under the project the Secretary shall carry out the following activities: 42 USC 2021a note.

Activities.

(1) The Secretary shall solidify, in a form suitable for transportation and disposal, the high level radioactive waste at the Center by vitrification or by such other technology which the Secretary determines to be the most effective for solidification.

(2) The Secretary shall develop containers suitable for the permanent disposal of the high level radioactive waste solidified at the Center.

(3) The Secretary shall, as soon as feasible, transport, in accordance with applicable provisions of law, the waste solidified at the Center to an appropriate Federal repository for permanent disposal.

(4) The Secretary shall, in accordance with applicable licensing requirements, dispose of low level radioactive waste and transuranic waste produced by the solidification of the high level radioactive waste under the project.

(5) The Secretary shall decontaminate and decommission—

(A) the tanks and other facilities of the Center in which the high level radioactive waste solidified under the project was stored,

(B) the facilities used in the solidification of the waste, and

(C) any material and hardware used in connection with the project, in accordance with such requirements as the Commission may prescribe.

(b) Before undertaking the project and during the fiscal year ending September 30, 1981, the Secretary shall carry out the following:

(1) The Secretary shall hold in the vicinity of the Center public hearings to inform the residents of the area in which the Center is located of the activities proposed to be undertaken under the project and to receive their comments on the project.

Hearings

(2) The Secretary shall consider the various technologies available for the solidification and handling of high level radioactive waste taking into account the unique characteristics of such waste at the Center.

(3) The Secretary shall—

(A) undertake detailed engineering and cost estimates for the project,

(B) prepare a plan for the safe removal of the high level radioactive waste at the Center for the purposes of solidification and include in the plan provisions respecting the safe breaching of the tanks in which the waste is stored, operating equipment to accomplish the removal, and sluicing techniques.

(C) conduct appropriate safety analyses of the project, and

(D) prepare required environmental impact analyses of the project.

41 USC 501 note.

(4) The Secretary shall enter into a cooperative agreement with the State in accordance with the Federal Grant and Cooperative Agreement Act of 1977 under which the State will carry out the following:

(A) The State will make available to the Secretary the facilities of the Center and the high level radioactive waste at the Center which are necessary for the completion of the project. The facilities and the waste shall be made available without the transfer of title and for such period as may be required for completion of the project.

(B) The Secretary shall provide technical assistance in securing required license amendments.

State costs, percentage.

(C) The State shall pay 10 per centum of the costs of the project, as determined by the Secretary. In determining the costs of the project, the Secretary shall consider the value of the use of the Center for the project. The State may not use Federal funds to pay its share of the cost of the project, but may use the perpetual care fund to pay such share.

Licensing amendment application.

(D) Submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration.

(c) Within one year from the date of the enactment of this Act, the Secretary shall enter into an agreement with the Commission to establish arrangements for review and consultation by the Commission with respect to the project: *Provided,* That review and consultation by the Commission pursuant to this subsection shall be conducted informally by the Commission and shall not include nor require formal procedures or actions by the Commission pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, or any other law. The agreement shall provide for the following:

42 USC 2011 note.
42 USC 5801 note.

(1) The Secretary shall submit to the Commission, for its review and comment, a plan for the solidification of the high level radioactive waste at the Center, the removal of the waste for purposes of its solidification, the preparation of the waste for disposal, and the decontamination of the facilities to be used in solidifying the waste. In preparing its comments on the plan, the Commission shall specify with precision its objections to any provision of the plan. Upon submission of a plan to the Commission, the Secretary shall publish a notice in the Federal Register of the submission of the plan and of its availability for public inspection, and, upon receipt of the comments of the Commission respecting a plan, the Secretary shall publish a notice in the Federal Register of the receipt of the comments and of the availability of the comments for public inspection. If the Secretary does not revise the plan to meet objections specified in the comments of the Commission, the Secretary shall publish in the Federal Register a detailed statement for not so revising the plan.

Publications in Federal Register.

(2) The Secretary shall consult with the Commission with respect to the form in which the high level radioactive waste at the Center shall be solidified and the containers to be used in the permanent disposal of such waste.

(3) The Secretary shall submit to the Commission safety analysis reports and such other information as the Commission may require to identify any danger to the public health and safety which may be presented by the project. Reports and other information to Commission.

(4) The Secretary shall afford the Commission access to the Center to enable the Commission to monitor the activities under the project for the purpose of assuring the public health and safety.

(d) In carrying out the project, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the Geological Survey, and the commercial operator of the Center. Consultation with EPA and others.

SEC. 3. (a) There are authorized to be appropriated to the Secretary for the project not more than $5,000,000 for the fiscal year ending September 30, 1981. Appropriation authorization. 42 USC 2021a note.

(b) The total amount obligated for the project by the Secretary shall be 90 per centum of the costs of the project.

(c) The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

SEC. 4. Not later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including agreements entered into and the costs incurred during the period reported on and the activities to be undertaken in the next fiscal year and the estimated costs thereof. Report to Speaker of the House and President pro tempore of the Senate. 42 USC 2021a note.

SEC. 5. (a) Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facility or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirement of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. This Act shall not apply or be extended to any facility or property at the Center which is not used in conducting the project. This Act may not be construed to expand or diminish the rights of the Federal Government. 42 USC 2021a note. 42 USC 2011 note. 42 USC 5801 note.

(b) This Act does not authorize the Federal Government to acquire title to any high level radioactive waste at the Center or to the Center or any portion thereof.

SEC. 6. For purposes of this Act: Definitions. 42 USC 2021a note.

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Commission" means the Nuclear Regulatory Commission.

(3) The term "State" means the State of New York.

(4) The term "high level radioactive waste" means the high level radioactive waste which was produced by the reprocessing at the Center of spent nuclear fuel. Such term includes both liquid wastes which are produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high level radioactive waste for purposes of protecting the public health and safety.

(5) The term "transuranic waste" means material contaminated with elements which have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and which are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Commission may prescribe to protect the public health and safety.

(6) The term "low level radioactive waste" means radioactive waste not classified as high level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e. (2) of the Atomic Energy Act of 1954. 42 USC 2014.

(7) The term "project" means the project prescribed by section 2(a).

(8) The term "Center" means the Western New York Service Center in West Valley, New York.

Approved October 7, 1980.

(b) Any facility established or operated exclusively for the disposal of low-level radioactive waste produced by atomic energy defense activities of the Secretary or Federal research and development activities shall not be subject to compacts established under this Act or actions taken under such compacts.

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL

State compacts regarding regional facilities
42 USC 2021d.

SEC. 4. (a)(1) It is the policy of the Federal Government that—

(A) each State is responsible for providing for the availability of capacity either within or outside the State for the disposal of low-level radioactive waste generated within its borders except for waste generated as a result of defense activities of the Secretary or Federal research and development activities; and

(B) low-level radioactive waste can be most safely and efficiently managed on a regional basis.

(2)(A) To carry out the policy set forth in paragraph (1), the States may enter into such compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

Congressional consent.

(B) A compact entered into under subparagraph (A) shall not take effect until the Congress has by law consented to the compact. Each such compact shall provide that every 5 years after the compact has taken effect the Congress may by law withdraw its consent. After January 1, 1986, any such compact may restrict the use of the regional disposal facilities under the compact to the disposal of low-level radioactive waste generated within the region.

Report to Congress and States

(b)(1) In order to assist the States in carrying out the policy set forth in subsection (a)(1), the Secretary shall prepare and submit to Congress and to each of the States within 120 days after the date of the enactment of this Act a report which:

(A) defines the disposal capacity needed for present and future low-level radioactive waste on a regional basis.

(B) defines the status of all commercial low-level radioactive waste disposal sites and includes an evaluation of the license status of each such site, the state of operation of each site, including operating history, an analysis of the adequacy of disposal technology employed at each site to contain low-level radioactive wastes for their hazardous lifetimes, and such recommendations as the Secretary considers appropriate to assure protection of the public health and safety from wastes transported to such sites;

(C) evaluates the transportation requirements on a regional basis and in comparison with performance of present transportation practices for the shipment of low-level radioactive wastes, including an inventory of types and quantities of low-level wastes, and evaluation of shipment requirements for each type of waste and an evaluation of the ability of generators, shippers, and carriers to meet such requirements; and

(D) evaluates the capability of the low-level radioactive waste disposal facilities owned and operated by the Department of Energy to provide interim storage for commercially generated low-level waste and estimates the costs associated with such interim storage.

(2) In carrying out this subsection, the Secretary shall consult with the Governors of the States, the Nuclear Regulatory Commission, the Environmental Protection Agency, the United States Geological Survey, and the Secretary of Transportation, and such other agencies and departments as he finds appropriate.

Approved December 22, 1980.

APPENDIX 31

LOW-LEVEL RADIOACTIVE WASTE POLICY ACT

(94 Stat. 3347)

[PUBLIC LAW 96-573]

[S. 2189]

[DECEMBER 22, 1980]

AN ACT

To set forth a Federal policy for the disposal of low-level radioactive wastes, and for other purposes.

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

Low-Level Radioactive Waste Policy Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "Low-Level Radioactive Waste Policy Act". 42 USC 2021b note.

DEFINITIONS

SEC. 2. As used in this Act— 42 USC 2021b.

(1) The term "disposal" means the isolation of low-level radioactive waste pursuant to requirements established by the Nuclear Regulatory Commission under applicable laws.

(2) The term "low-level radioactive waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11 e. (2) of the Atomic Energy Act of 1954.

(3) The term "State" means any State of the United States, the District of Columbia, and, subject to the provisions of Public Law 96-205, the Commonwealth of Puerto Rico, the Virgin Islands, Gaum, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(4) For purposes of this Act the term "atomic energy defense activities of the Secretary" includes those activities and facilities of the Department of Energy carrying out the function of—

(i) Naval reactors development and propulsion,

(ii) weapons activities, verification and control technology,

(iii) defense materials production,

(iv) inertial confinement fusion,

(v) defense waste management, and

(vi) defense nuclear materials security and safeguards (all as included in the Department of Energy appropriations account in any fiscal year for atomic energy defense activities).

GENERAL PROVISIONS

SEC. 3. (a) Compacts established under this Act or actions taken under such compacts shall not be applicable to the transportation, management, or disposal of low-level radioactive waste from atomic energy defense activities of the Secretary or Federal research and development activities. 42 USC 2021c.

Public Law 97-425
97th Congress

An Act

To provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes.

Jan. 7, 1983
[H.R. 3809]

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

Nuclear Waste Policy Act of 1982.
42 USC 10101 note.

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Nuclear Waste Policy Act of 1982".

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APPENDIX 32

[P.L. 97-425]

NUCLEAR WASTE POLICY ACT OF 1982

(F) defense nuclear materials security and safeguards and security investigations; and

(G) defense research and development.

(4) The term "candidate site" means an area, within a geologic and hydrologic system, that is recommended by the Secretary under section 112 for site characterization, approved by the President under section 112 for site characterization, or undergoing site characterization under section 113.

(5) The term "civilian nuclear activity" means any atomic energy activity other than an atomic energy defense activity.

(6) The term "civilian nuclear power reactor" means a civilian nuclear powerplant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

(7) The term "Commission" means the Nuclear Regulatory Commission.

(8) The term "Department" means the Department of Energy.

(9) The term "disposal" means the emplacement in a repository of high-level radioactive waste, spent nuclear fuel, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits the recovery of such waste.

(10) The terms "disposal package" and "package" mean the primary container that holds, and is in contact with, solidified high-level radioactive waste, spent nuclear fuel, or other radioactive materials, and any overpacks that are emplaced at a repository.

(11) The term "engineered barriers" means manmade components of a disposal system designed to prevent the release of radionuclides into the geologic medium involved. Such term includes the high-level radioactive waste form, high-level radioactive waste canisters, and other materials placed over and around such canisters.

(12) The term "high-level radioactive waste" means—

(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation.

(13) The term "Federal agency" means any Executive agency, as defined in section 105 of title 5, United States Code.

(14) The term "Governor" means the chief executive officer of a State.

(15) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

(16) The term "low-level radioactive waste" means radioactive material that—

(A) is not high-level radioactive waste, spent nuclear fuel, transuranic waste, or by-product material as defined in

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DEFINITIONS

42 USC 10101.

SEC. 2. For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "affected Indian tribe" means any Indian tribe—

(A) within whose reservation boundaries a monitored retrievable storage facility, test and evaluation facility, or a repository for high-level radioactive waste or spent fuel is proposed to be located;

(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of such a facility: *Provided*, That the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe;

(3) The term "atomic energy defense activity" means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

(A) naval reactors development;

(B) weapons activities including defense inertial confinement fusion;

(C) verification and control technology;

(D) defense nuclear materials production;

(E) defense nuclear waste and materials by-products management;

excavations extending from a central shaft that is used for research and development purposes, including the development of data and experience for the safe handling and disposal of solidified high-level radioactive waste, transuranic waste, or spent nuclear fuel.

(28) The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(29) The term "Waste Fund" means the Nuclear Waste Fund established in section 302(c). Post, p. 2257.

SEPARABILITY

SEC. 3. If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. 42 USC 10102.

TERRITORIES AND POSSESSIONS

SEC. 4. Nothing in this Act shall be deemed to repeal, modify, or amend the provisions of section 605 of the Act of March 12, 1980 (48 U.S.C. 1491). 42 USC 10103.

OCEAN DISPOSAL

SEC. 5. Nothing in this Act shall be deemed to affect the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.). 42 USC 10104.

LIMITATION ON SPENDING AUTHORITY

SEC. 6. The authority under this Act to incur indebtedness, or enter into contracts, obligating amounts to be expended by the Federal Government shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts. 42 USC 10105.

PROTECTION OF CLASSIFIED NATIONAL SECURITY INFORMATION

SEC. 7. Nothing in this Act shall require the release or disclosure to any person or to the Commission of any classified national security information. 42 USC 10106.

APPLICABILITY

SEC. 8. (a) ATOMIC ENERGY DEFENSE ACTIVITIES.—Subject to the provisions of subsection (c), the provisions of this Act shall not apply with respect to any atomic energy defense activity or to any facility used in connection with any such activity. 42 USC 10107.

(b) EVALUATION BY PRESIDENT.—(1) Not later than 2 years after the date of the enactment of this Act, the President shall evaluate the use of disposal capacity at one or more repositories to be developed under subtitle A of title I for the disposal of high-level radioactive waste resulting from atomic energy defense activities. Such evaluation shall take into consideration factors relating to cost Post, p. 2207.

section 11e(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and

(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

(17) The term "Office" means the Office of Civilian Radioactive Waste Management established in section 305.

Post, p. 2262.

(18) The term "repository" means any system licensed by the Commission that is intended to be used for, or may be used for, the permanent deep geologic disposal of high-level radioactive waste and spent nuclear fuel, whether or not such system is designed to permit the recovery, for a limited period during initial operation, of any materials placed in such system. Such term includes both surface and subsurface areas at which high-level radioactive waste and spent nuclear fuel handling activities are conducted.

(19) The term "reservation" means—

(A) any Indian reservation or dependent Indian community referred to in clause (a) or (b) of section 1151 of title 18, United States Code; or

(B) any land selected by an Alaska Native village or regional corporation under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(20) The term "Secretary" means the Secretary of Energy.

(21) The term "site characterization" means—

(A) siting research activities with respect to a test and evaluation facility at a candidate site; and

(B) activities, whether in the laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the suitability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

(22) The term "siting research" means activities, including borings, surface excavations, shaft excavations, subsurface lateral excavations and borings, and in situ testing, to determine the suitability of a site for a test and evaluation facility.

(23) The term "spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(24) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(25) The term "storage" means retention of high-level radioactive waste, spent nuclear fuel, or transuranic waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

(26) The term "Storage Fund" means the Interim Storage Fund established in section 137(c).

(27) The term "test and evaluation facility" means an at-depth, prototypic, underground cavity with subsurface lateral

any financial assistance authorized to be provided to such State or affected Indian tribe under section 116(c) or 118(b) shall be made from amounts appropriated to the Secretary for purposes of carrying out this section.

SUBTITLE A—REPOSITORIES FOR DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

FINDINGS AND PURPOSES

SEC. 111. (a) FINDINGS.—The Congress finds that— 42 USC 10131.

(1) radioactive waste creates potential risks and requires safe and environmentally acceptable methods of disposal;

(2) a national problem has been created by the accumulation of (A) spent nuclear fuel from nuclear reactors; and (B) radioactive waste from (i) reprocessing of spent nuclear fuel; (ii) activities related to medical research, diagnosis, and treatment; and (iii) other sources;

(3) Federal efforts during the past 30 years to devise a permanent solution to the problems of civilian radioactive waste disposal have not been adequate;

(4) while the Federal Government has the responsibility to provide for the permanent disposal of high-level radioactive waste and such spent nuclear fuel as may be disposed of in order to protect the public health and safety and the environment, the costs of such disposal should be the responsibility of the generators and owners of such waste and spent fuel;

(5) the generators and owners of high-level radioactive waste and spent nuclear fuel have the primary responsibility to provide for, and the responsibility to pay the costs of, the interim storage of such waste and spent fuel until such waste and spent fuel is accepted by the Secretary of Energy in accordance with the provisions of this Act;

(6) State and public participation in the planning and development of repositories is essential in order to promote public confidence in the safety of disposal of such waste and spent fuel; and

(7) high-level radioactive waste and spent nuclear fuel have become major subjects of public concern, and appropriate precautions must be taken to ensure that such waste and spent fuel do not adversely affect the public health and safety and the environment for this or future generations.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish a schedule for the siting, construction, and operation of repositories that will provide a reasonable assurance that the public and the environment will be adequately protected from the hazards posed by high-level radioactive waste and such spent nuclear fuel as may be disposed of in a repository;

(2) to establish the Federal responsibility, and a definite Federal policy, for the disposal of such waste and spent fuel;

(3) to define the relationship between the Federal Government and the State governments with respect to the disposal of such waste and spent fuel; and

(4) to establish a Nuclear Waste Fund, composed of payments made by the generators and owners of such waste and spent fuel, that will ensure that the costs of carrying out activities

efficiency, health and safety, regulation, transportation, public acceptability, and national security.

(2) Unless the President finds, after conducting the evaluation required in paragraph (1), that the development of a repository for the disposal of high-level radioactive waste resulting from atomic energy defense activities only is required, taking into account all of the factors described in such subsection, the Secretary shall proceed promptly with arrangement for the use of one or more of the repositories to be developed under subtitle A of title I for the disposal of such waste. Such arrangements shall include the allocation of costs of developing, constructing, and operating this repository or repositories. The costs resulting from permanent disposal of high-level radioactive waste from atomic energy defense activities shall be paid by the Federal Government, into the special account established under section 302.

Post, p. 2207.

Post, p. 2257.

(3) Any repository for the disposal of high-level radioactive waste resulting from atomic energy defense activities only shall (A) be subject to licensing under section 202 of the Energy Reorganization Act of 1973 (42 U.S.C. 5842); and (B) comply with all requirements of the Commission for the siting, development, construction, and operation of a repository.

(c) APPLICABILITY TO CERTAIN REPOSITORIES.—The provisions of this Act shall apply with respect to any repository not used exclusively for the disposal of high-level radioactive waste or spent nuclear fuel resulting from atomic energy defense activities, research and development activities of the Secretary, or both.

APPLICABILITY

42 USC 10108.

SEC. 9. TRANSPORTATION.—Nothing in this Act shall be construed to affect Federal, State, or local laws pertaining to the transportation of spent nuclear fuel or high-level radioactive waste.

TITLE I—DISPOSAL AND STORAGE OF HIGH-LEVEL RADIOACTIVE WASTE, SPENT NUCLEAR FUEL, AND LOW-LEVEL RADIOACTIVE WASTE

STATE AND AFFECTED INDIAN TRIBE PARTICIPATION IN DEVELOPMENT OF PROPOSED REPOSITORIES FOR DEFENSE WASTE

42 USC 10121.

SEC. 101. (a) NOTIFICATION TO STATES AND AFFECTED INDIAN TRIBES.—Notwithstanding the provisions of section 8, upon any decision by the Secretary or the President to develop a repository for the disposal of high-level radioactive waste or spent nuclear fuel resulting exclusively from atomic energy defense activities, research and development activities of the Secretary, or both, and before proceeding with any site-specific investigations with respect to such repository, the Secretary shall notify the Governor and legislature of the State in which such repository is proposed to be located, or the governing body of the affected Indian tribe on whose reservation such repository is proposed to be located, as the case may be, of such decision.

(b) PARTICIPATION OF STATES AND AFFECTED INDIAN TRIBES.—Following the receipt of any notification under subsection (a), the State or Indian tribe involved shall be entitled, with respect to the proposed repository involved, to rights of participation and consultation identical to those provided in sections 115 through 118, except that

ously nominated under subparagraph (A), that was not recommended as a candidate site under subparagraph (B).

(D) Such recommendations under subparagraphs (B) and (C) shall be consistent with the provisions of section 305.

(E) Each nomination of a site under this subsection shall be accompanied by an environmental assessment, which shall include a detailed statement of the basis for such recommendation and of the probable impacts of the site characterization activities planned for such site, and a discussion of alternative activities relating to site characterization that may be undertaken to avoid such impacts. Such environmental assessment shall include—

Post, p. 2262.
Environmental assessment.

(i) an evaluation by the Secretary as to whether such site is suitable for site characterization under the guidelines established under subsection (a);

(ii) an evaluation by the Secretary as to whether such site is suitable for development as a repository under each such guideline that does not require site characterization as a prerequisite for application of such guideline;

(iii) an evaluation by the Secretary of the effects of the site characterization activities at such site on the public health and safety and the environment;

(iv) a reasonable comparative evaluation by the Secretary of such site with other sites and locations that have been considered;

(v) a description of the decision process by which such site was recommended; and

(vi) an assessment of the regional and local impacts of locating the proposed repository at such site.

(F)(i) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119. Such judicial review shall be limited to the sufficiency of such environmental assessment with respect to the items described in clauses (i) through (vi) of subparagraph (E).

Judicial review.

5 USC 701 *et seq.*

(G) Each environmental assessment prepared under this paragraph shall be made available to the public.

Public availability.

(H) Before nominating a site, the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, of such nomination and the basis for such nomination.

(2) Before nominating any site the Secretary shall hold public hearings in the vicinity of such site to inform the residents of the area in which such site is located of the proposed nomination of such site and to receive their comments. At such hearings, the Secretary shall also solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental assessment described in paragraph (1) and the site characterization plan described in section 113(b)(1).

Hearings.

(3) In evaluating the sites nominated under this section prior to any decision to recommend a site as a candidate site, the Secretary shall use available geophysical, geologic, geochemical and hydrologic, and other information and shall not conduct any preliminary borings or excavations at a site unless (i) such preliminary boring or excavation activities were in progress upon the date of enactment of this Act or (ii) the Secretary certifies that such available informa-

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relating to the disposal of such waste and spent fuel will be borne by the persons responsible for generating such waste and spent fuel.

RECOMMENDATION OF CANDIDATE SITES FOR SITE CHARACTERIZATION

42 USC 10132.

SEC. 112. (a) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, following consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and interested Governors, and the concurrence of the Commission shall issue general guidelines for the recommendation of sites for repositories. Such guidelines shall specify detailed geologic considerations that shall be primary criteria for the selection of sites in various geologic media. Such guidelines shall specify factors that qualify or disqualify any site from development as a repository, including factors pertaining to the location of valuable natural resources, hydrology, geophysics, seismic activity, and atomic energy defense activities, proximity to water supplies, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall take into consideration the proximity to sites where high-level radioactive waste and spent nuclear fuel is generated or temporarily stored and the transportation and safety factors involved in moving such waste to a repository. Such guidelines shall specify population factors that will disqualify any site from development as a repository if any surface facility of such repository would be located (1) in a highly populated area; or (2) adjacent to an area 1 mile by 1 mile having a population of not less than 1,000 individuals. Such guidelines also shall require the Secretary to consider the cost and impact of transporting to the repository site the solidified high-level radioactive waste and spent fuel to be disposed of in the repository and the advantages of regional distribution in the siting of repositories. Such guidelines shall require the Secretary to consider the various geologic media in which sites for repositories may be located and, to the extent practicable, to recommend sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering candidate sites for recommendation under subsection (b). The Secretary may revise such guidelines from time to time, consistent with the provisions of this subsection.

(b) RECOMMENDATION BY SECRETARY TO THE PRESIDENT.—(1)(A) Following the issuance of guidelines under subsection (a) and consultation with the Governors of affected States, the Secretary shall nominate at least 5 sites that he determines suitable for site characterization for selection of the first repository site.

Recommendation date.

(B) Subsequent to such nomination, the Secretary shall recommend to the President 3 of the nominated sites not later than January 1, 1985 for characterization as candidate sites.

(C) Not later than July 1, 1989, the Secretary shall nominate 5 sites, which shall include at least 3 additional sites not nominated under subparagraph (A), and recommend by such date to the President from such 5 nominated sites 3 candidate sites the Secretary determines suitable for site characterization for selection of the second repository. The Secretary may not nominate any site previ-

candidate sites recommended by the Secretary under the first sentence of subsection (b) for site characterization and approved by the President under subsection (c); and (3) the Secretary shall conduct public hearings under 113(b)(2) and comply with requirements under section 117 of this Act within one year of the date of enactment. Hearings.

SITE CHARACTERIZATION

SEC. 113. (a) IN GENERAL.—The Secretary shall carry out, in accordance with the provisions of this section, appropriate site characterization activities beginning with the candidate sites that have been approved under section 112 and are located in various geologic media. The Secretary shall consider fully the comments received under subsection (b)(2) and section 112(b)(2) and shall, to the maximum extent practicable and in consultation with the Governor of the State involved or the governing body of the affected Indian tribe involved, conduct site characterization activities in a manner that minimizes any significant adverse environmental impacts identified in such comments or in the environmental assessment submitted under subsection (b)(1). 42 USC 10133.

(b) COMMISSION AND STATES.—(1) Before proceeding to sink shafts at any candidate site, the Secretary shall submit for such candidate site to the Commission and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe on whose reservation such candidate site is located, as the case may be, for their review and comment— Plan submittal, review and comment.

(A) a general plan for site characterization activities to be conducted at such candidate site, which plan shall include—

(i) a description of such candidate site;

(ii) a description of such site characterization activities, including the following: the extent of planned excavations, plans for any onsite testing with radioactive or nonradioactive material, plans for any investigation activities that may affect the capability of such candidate site to isolate high-level radioactive waste and spent nuclear fuel, and plans to control any adverse, safety-related impacts from such site characterization activities;

(iii) plans for the decontamination and decommissioning of such candidate site, and for the mitigation of any significant adverse environmental impacts caused by site characterization activities if it is determined unsuitable for application for a construction authorization for a repository;

(iv) criteria to be used to determine the suitability of such candidate site for the location of a repository, developed pursuant to section 112(a); and

(v) any other information required by the Commission;

(B) a description of the possible form or packaging for the high-level radioactive waste and spent nuclear fuel to be emplaced in such repository, a description, to the extent practicable, of the relationship between such waste form or packaging and the geologic medium of such site, and a description of the activities being conducted by the Secretary with respect to such possible waste form or packaging or such relationship; and

(C) a conceptual repository design that takes into account likely site-specific requirements.

tion from other sources, in the absence of preliminary borings or excavations, will not be adequate to satisfy applicable requirements of this Act or any other law: *Provided*, That preliminary borings or excavations under this section shall not exceed a diameter of 6 inches.

Decision transmittal or notification.

(c) PRESIDENTIAL REVIEW OF RECOMMENDED CANDIDATE SITES.—(1) The President shall review each candidate site recommendation made by the Secretary under subsection (b). Not later than 60 days after the submission by the Secretary of a recommendation of a candidate site, the President, in his discretion, may either approve or disapprove such candidate site, and shall transmit any such decision to the Secretary and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe where such candidate site is located, as the case may be. If, during such 60-day period, the President fails to approve or disapprove such candidate site, or fails to invoke his authority under paragraph (2) to delay his decision, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the affected Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(2) The President may delay for not more than 6 months his decision under paragraph (1) to approve or disapprove a candidate site, upon determining that the information provided with the recommendation of the Secretary is insufficient to permit a decision within the 60-day period referred to in paragraph (1). The President may invoke his authority under this paragraph by submitting written notice to the Congress, within such 60-day period, of his intent to invoke such authority. If the President invokes such authority, but fails to approve or disapprove the candidate site involved by the end of such 6-month period, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the affected Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(d) CONTINUATION OF CANDIDATE SITE SCREENING.—After the required recommendation of candidate sites under subsection (b), the Secretary may continue, as he determines necessary, to identify and study other sites to determine their suitability for recommendation for site characterization, in accordance with the procedures described in this section.

(e) PRELIMINARY ACTIVITIES.—Except as otherwise provided in this section, each activity of the President or the Secretary under this section shall be considered to be a preliminary decisionmaking activity. No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(f) TIMELY SITE CHARACTERIZATION.—Nothing in this section may be construed as prohibiting the Secretary from continuing ongoing or presently planned site characterization at any site on Department of Energy land for which the location of the principal borehole has been approved by the Secretary by August 1, 1982, except that (1) the environmental assessment described in subsection (b)(1) shall be prepared and made available to the public before proceeding to sink shafts at any such site; and (2) the Secretary shall not continue site characterization at any such site unless such site is among the

SITE APPROVAL AND CONSTRUCTION AUTHORIZATION

SEC. 114. (a) HEARINGS AND PRESIDENTIAL RECOMMENDATION.—(1) The Secretary shall hold public hearings in the vicinity of each site under consideration for recommendation to the President under this paragraph as a site for the development of a repository, for the purposes of informing the residents of the area in which such site is located of such consideration and receiving their comments regarding the possible recommendation of such site. If, upon completion of such hearings and completion of site characterization activities at not less than 3 candidate sites for the first proposed repository, or from all of the characterized sites for the development of subsequent respositories, under section 113, the Secretary decides to recommend approval of such site to the President, the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, of such decision. No sooner than the expiration of the 30-day period following such notification, the Secretary shall submit to the President a recommendation that the President approve such site for the development of a repository. Any such recommendation by the Secretary shall be based on the record of information developed by the Secretary under section 113 and this section, including the information described in subparagraph (A) through subparagraph (G). In making site recommendations and approvals subsequent to the first site recommendation, the Secretary and the President, respectively, shall also consider the need for regional distribution of repositories and the need to minimize, to the extent practicable, the impacts and cost of transporting spent fuel and solidified high-level radioactive waste. Together with any recommendation of a site under this paragraph, the Secretary shall make available to the public, and submit to the President, a comprehensive statement of the basis of such recommendation, including the following:

42 USC 10134.

Notification of decision.

Public availability.

(A) a description of the proposed repository, including preliminary engineering specifications for the facility;

(B) a description of the waste form or packaging proposed for use at such repository, and an explanation of the relationship between such waste form or packaging and the geologic medium of such site;

(C) a discussion of data, obtained in site characterization activities, relating to the safety of such site;

(D) a final environmental impact statement prepared pursuant to subsection (f) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including an analysis of the consideration given by the Secretary to not less than 3 candidate sites for the first proposed respository or to all of the characterized sites for the development of subsequent repositories, with respect to which site characterization is completed under section 113, together with comments made concerning such environmental impact statement by the Secretary of the Interior, the Council on Environmental Quality, the Administrator, and the Commission, except that any such environmental impact statement concerning the first repository to be developed under this Act shall not be required to consider the need for a repository or the alternatives to geologic disposal;

(E) preliminary comments of the Commission concerning the extent to which the at-depth site characterization analysis and

Public availability; hearings.

(2) Before proceeding to sink shafts at any candidate site, the Secretary shall (A) make available to the public the site characterization plan described in paragraph (1); and (B) hold public hearings in the vicinity of such candidate site to inform the residents of the area in which such candidate site is located of such plan, and to receive their comments.

Report.

(3) During the conduct of site characterization activities at a candidate site, the Secretary shall report not less than once every 6 months to the Commission and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe where such candidate site is located, as the case may be, on the nature and extent of such activities and the information developed from such activities.

(c) RESTRICTIONS.—(1) The Secretary may conduct at any candidate site only such site characterization activities as the Secretary considers necessary to provide the data required for evaluation of the suitability of such candidate site for an application to be submitted to the Commission for a construction authorization for a repository at such candidate site, and for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) In conducting site characterization activities—

(A) the Secretary may not use any radioactive material at a candidate site unless the Commission concurs that such use is necessary to provide data for the preparation of the required environmental reports and an application for a construction authorization for a repository at such candidate site; and

(B) if any radioactive material is used at a candidate site—

(i) the Secretary shall use the minimum quantity necessary to determine the suitability of such candidate site for a repository, but in no event more than the curie equivalent of 10 metric tons of spent nuclear fuel; and

(ii) such radioactive material shall be fully retrievable.

Notification of site termination.

(3) If site characterization activities are terminated at a candidate site for any reason, the Secretary shall (A) notify the Congress, the Governors and legislatures of all States in which candidate sites are located, and the governing bodies of all affected Indian tribes where candidate sites are located, of such termination and the reasons for such termination; and (B) remove any high-level radioactive waste, spent nuclear fuel, or other radioactive materials at or in such candidate site as promptly as practicable.

(4) If a site is determined to be unsuitable for application for a construction authorization for a repository, the Secretary shall take reasonable and necessary steps to reclaim the site and to mitigate any significant adverse environmental impacts caused by site characterization activities.

(d) PRELIMINARY ACTIVITIES.—Each activity of the Secretary under this section that is in compliance with the provisions of subsection (c) shall be considered a preliminary decisionmaking activity. No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, a copy of such application.

(c) STATUS REPORT ON APPLICATION.—Not later than 1 year after the date on which an application for a construction authorization is submitted under subsection (b), and annually thereafter until the date on which such authorization is granted, the Commission shall submit a report to the Congress describing the proceedings undertaken through the date of such report with regard to such application, including a description of—

(1) any major unresolved safety issues, and the explanation of the Secretary with respect to design and operation plans for resolving such issues;

(2) any matters of contention regarding such application; and

(3) any Commission actions regarding the granting or denial of such authorization.

Construction authorization application.

(d) COMMISSION ACTION.—The Commission shall consider an application for a construction authorization for all or part of a repository in accordance with the laws applicable to such applications, except that the Commission shall issue a final decision approving or disapproving the issuance of a construction authorization not later than—

(1) January 1, 1989, for the first such application, and January 1, 1992, for the second such application; or

(2) the expiration of 3 years after the date of the submission of such application, except that the Commission may extend such deadline by not more than 12 months if, not less than 30 days before such deadline, the Commission complies with the reporting requirements established in subsection (e)(2);

whichever occurs later. The Commission decision approving the first such application shall prohibit the emplacement in the first repository of a quantity of spent fuel containing in excess of 70,000 metric tons of heavy metal or a quantity of solidified high-level radioactive waste resulting from the reprocessing of such a quantity of spent fuel until such time as a second repository is in operation. In the event that a monitored retrievable storage facility, approved pursuant to subtitle C of this Act, shall be located, or is planned to be located, within 50 miles of the first repository, then the Commission decision approving the first such application shall prohibit the emplacement of a quantity of spent fuel containing in excess of 70,000 metric tons of heavy metal or a quantity of solidified high-level radioactive waste resulting from the reprocessing of spent fuel in both the repository and monitored retrievable storage facility until such time as a second repository is in operation.

(e) PROJECT DECISION SCHEDULE.—(1) The Secretary shall prepare and update, as appropriate, in cooperation with all affected Federal agencies, a project decision schedule that portrays the optimum way to attain the operation of the repository involved, within the time periods specified in this subtitle. Such schedule shall include a description of objectives and a sequence of deadlines for all Federal agencies required to take action, including an identification of the activities in which a delay in the start, or completion, of such activities will cause a delay in beginning repository operation.

Report submittal to Secretary and Congress.

(2) Any Federal agency that determines that it cannot comply with any deadline in the project decision schedule, or fails to so comply, shall submit to the Secretary and to the Congress a written report explaining the reason for its failure or expected failure to

the waste form proposal for such site seem to be sufficient for inclusion in any application to be submitted by the Secretary for licensing of such site as a repository;

(F) the views and comments of the Governor and legislature of any State, or the governing body of any affected Indian tribe, as determined by the Secretary, together with the response of the Secretary to such views;

(G) such other information as the Secretary considers appropriate; and

(H) any impact report submitted under section 116(c)(2)(B) by the State in which such site is located, or under section 118(b)(3)(B) by the affected Indian tribe where such site is located, as the case may be.

Submittal to Congress.

(2)(A) Not later than March 31, 1987, the President shall submit to the Congress a recommendation of one site from the three sites initially characterized that the President considers qualified for application for a construction authorization for a repository. Not later than March 31, 1990, the President shall submit to the Congress a recommendation of a second site from any sites already characterized that the President considers qualified for a construction authorization for a second repository. The President shall submit with such recommendation a copy of the report for such site prepared by the Secretary under paragraph (1). After submission of the second such recommendation, the President may submit to the Congress recommendations for other sites, in accorance with the provisions of this subtitle.

Deadlines, extensions.

(B) The President may extend the deadlines described in subparagraph (A) by not more than 12 months if, before March 31, 1986, for the first site, and March 31, 1989, for the second site, (i) the President determines that such extension is necessary; and (ii) transmits to the Congress a report setting forth the reasons for such extension.

Submittal to Congress.

(3) If approval of any such site recommendation does not take effect as a result of a disapproval by the Governor or legislature of a State under section 116 or the governing body of an affected Indian tribe under section 118, the President shall submit to the Congress, not later than 1 year after the disapproval of such recommendation, a recommendation of another site for the first or subsequent repository.

(4)(A) The President may not recommend the approval of any site under this subsection unless the Secretary has recommended to the President under paragraph (1) approval of such site and has submitted to the President a report for such site as required under such paragraph.

(B) No recommendation of a site by the President under this subsection shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(b) SUBMISSION OF APPLICATION.—If the President recommends to the Congress a site for a repository under subsection (a) and the site designation is permitted to take effect under section 115, the Secretary shall submit to the Commission an application for a construction authorization for a repository at such site not later than 90 days after the date on which the recommendation of the site designation is effective under such section and shall provide to the Governor and

any such statement prepared with respect to the first repository to be constructed under this subtitle, the need for a repository or nongeologic alternatives to the site of such repository shall not be considered.

REVIEW OF REPOSITORY SITE SELECTION

SEC. 115. (a) DEFINITION.—For purposes of this section, the term "resolution of repository siting approval" means a joint resolution of the Congress, the matter after the resolving clause of which is as follows: "That there hereby is approved the site at ..... for a repository, with respect to which a notice of disapproval was submitted by ..... on .....". The first blank space in such resolution shall be filled with the name of the geographic location of the proposed site of the repository to which such resolution pertains; the second blank space in such resolution shall be filled with the designation of the State Governor and legislature or Indian tribe governing body submitting the notice of disapproval to which such resolution pertains; and the last blank space in such resolution shall be filled with the date of such submission. 42 USC 10135.

(b) STATE OR INDIAN TRIBE PETITIONS.—The designation of a site as suitable for application for a construction authorization for a repository shall be effective at the end of the 60-day period beginning on the date that the President recommends such site to the Congress under section 114, unless the Governor and legislature of the State in which such site is located, or the governing body of an Indian tribe on whose reservation such site is located, as the case may be, has submitted to the Congress a notice of disapproval under section 116 or 118. If any such notice of disapproval has been submitted, the designation of such site shall not be effective except as provided under subsection (c). Notice of disapproval, submittal to Congress.

(c) CONGRESSIONAL REVIEW OF PETITIONS.—If any notice of disapproval of a repository site designation has been submitted to the Congress under section 116 or 118 after a recommendation for approval of such site is made by the President under section 114, such site shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress after the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution of repository siting approval in accordance with this subsection approving such site, and such resolution thereafter becomes law.

(d) PROCEDURES APPLICABLE TO THE SENATE.—(1) The provisions of this subsection are enacted by the Congress—

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

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

(2)(A) Not later than the first day of session following the day on which any notice of disapproval of a repository site selection is submitted to the Congress under section 116 or 118, a resolution of Introduction of resolution.

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meet such deadline, the reason why such agency could not reach an agreement with the Secretary, the estimated time for completion of the activity or activities involved, the associated effect on its other deadlines in the project decision schedule, and any recommendations it may have or actions it intends to take regarding any improvements in its operation or organization, or changes to its statutory directives or authority, so that it will be able to mitigate the delay involved. The Secretary, within 30 days after receiving any such report, shall file with the Congress his response to such report, including the reasons why the Secretary could not amend the project decision schedule to accommodate the Federal agency involved.

Report response, filing with Congress.

(f) ENVIRONMENTAL IMPACT STATEMENT.—Any recommendation made by the Secretary under this section shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). A final environmental impact statement prepared by the Secretary under such Act shall accompany any recommendation to the President to approve a site for a repository. With respect to the requirements imposed by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), compliance with the procedures and requirements of this Act shall be deemed adequate consideration of the need for a repository, the time of the initial availability of a repository, and all alternatives to the isolation of high-level radioactive waste and spent nuclear fuel in a repository. For purposes of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 1321 et seq.) and this section, the Secretary shall consider as alternate sites for the first repository to be developed under this subtitle 3 candidate sites with respect to which (1) site characterization has been completed under section 113; and (2) the Secretary has made a preliminary determination, that such sites are suitable for development as respositories consistent with the guidelines promulgated under section 112(a). The Secretary shall consider as alternative sites for subsequent repositories at least three of the remaining sites recommended by the Secretary by January 1, 1985, and by July 1, 1989, pursuant to section 112(b) and approved by the President for site characterization pursuant to section 112(c) for which (1) site characterization has been completed under section 113; and (2) the Secretary has made a preliminary determination that such sites are suitable for development as respositories consistent with the guidelines promulgated under section 112(a). Any environmental impact statement prepared in connection with a repository proposed to be constructed by the Secretary under this subtitle shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization and license for such repository. To the extent such statement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Nothing in this Act shall be construed to amend or otherwise detract from the licensing requirements of the Nucler Regulatory Commission as established in title II of the Energy Reorganization Act of 1974 (Public Law 93-438). In

42 USC 4321 et seq.

42 USC 5841.

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

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

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

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

(e) PROCEDURES APPLICABLE TO THE HOUSE OF REPRESENTATIVES.—(1) The provisions of this section are enacted by the Congress—

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

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

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

Discharge of committee.

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

Resolution, consideration and debate.

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

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

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

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

repository siting approval shall be introduced (by request) in the Senate by the chairman of the committee to which such notice of disapproval is referred, or by a Member or Members of the Senate designated by such chairman.

Committee recommendations.

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

Discharge of committee.

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

(4)(A) When each committee to which a resolution of siting approval has been referred has reported, or has been deemed to be discharged from further consideration of, a resolution described in paragraph (3), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which such motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of such resolution is agreed to, such resolution shall remain the unfinished business of the Senate until disposed of.

Debate.

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

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

Appeals.

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

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

ment of reasons explaining why such Governor or legislature disapproved the recommended repository site involved.

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

(c) FINANCIAL ASSISTANCE.—(1)(A) The Secretary shall make grants to each State notified under subsection (a) for the purpose of participating in activities required by sections 116 and 117 or authorized by written agreement entered into pursuant to subsection 117(c). Any salary or travel expense that would ordinarily be incurred by such State, or by any political subdivision of such State, may not be considered eligible for funding under this paragraph. Grants.

(B) The Secretary shall make grants to each State in which a candidate site for a repository is approved under section 112(c). Such grants may be made to each such State only for purposes of enabling such State—

(i) to review activities taken under this subtitle with respect to such site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of such repository on the State and its residents;

(ii) to develop a request for impact assistance under paragraph (2);

(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

(iv) to provide information to its residents regarding any activities of such State, the Secretary, or the Commission with respect to such site; and

(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

(C) Any salary or travel expense that would ordinarily be incurred by such State, or by any political subdivision of such State, may not be considered eligible for funding under this paragraph.

(2)(A) The Secretary shall provide financial and technical assistance to any State requesting such assistance in which there is a site with respect to which the Commission has authorized construction of a repository. Such assistance shall be designed to mitigate the impact on such State of the development of such repository. Such assistance to such State shall commence within 6 months following the granting by the Commission of a construction authorization for such repository and following the initiation of construction activities at such site. Construction authorization.

(B) Any State desiring assistance under this paragraph shall prepare and submit to the Secretary a report on any economic, social, public health and safety, and environmental impacts that are likely as a result of the development of a repository at a site in such State. Such report shall be submitted to the Secretary following the completion of site characterization activities at such site and before the recommendation of such site to the President by the Secretary for application for a construction authorization for a repository. As soon as practicable following the granting of a construction authorization for such repository, the Secretary shall seek to enter into a binding agreement with the State involved setting forth the amount of assistance to be provided to such State under this paragraph and the procedures to be followed in providing such assistance. Report submittal.

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

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

(f) COMPUTATION OF DAYS.—For purposes of this section—

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

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period referred to in subsection (c) and the 60-day period referred to in subsections (d) and (e).

(g) INFORMATION PROVIDED TO CONGRESS.—In considering any notice of disapproval submitted to the Congress under section 116 or 118, the Congress may obtain any comments of the Commission with respect to such notice of disapproval. The provision of such comments by the Commission shall not be construed as binding the Commission with respect to any licensing or authorization action concerning the repository involved.

PARTICIPATION OF STATES

42 USC 10136.

SEC. 116. (a) NOTIFICATION OF STATES AND AFFECTED TRIBES.—The Secretary shall identify the States with one or more potentially acceptable sites for a repository within 90 days after the date of enactment of this Act. Within 90 days of such identification, the Secretary shall notify the Governor, the State legislature, and the tribal council of any affected Indian tribe in any State of the potentially acceptable sites within such State. For the purposes of this title, the term "potentially acceptable site" means any site at which, after geologic studies and field mapping but before detailed geologic data gathering, the Department undertakes preliminary drilling and geophysical testing for the definition of site location.

"Potentially acceptable site."

(b) STATE PARTICIPATION IN REPOSITORY SITING DECISIONS.—(1) Unless otherwise provided by State law, the Governor or legislature of each State shall have authority to submit a notice of disapproval to the Congress under paragraph (2). In any case in which State law provides for submission of any such notice of disapproval by any other person or entity, any reference in this subtitle to the Governor or legislature of such State shall be considered to refer instead to such other person or entity.

Notice of disapproval, submittal to Congress.

(2) Upon the submission by the President to the Congress of a recommendation of a site for a repository, the Governor or legislature of the State in which such site is located may disapprove the site designation and submit to the Congress a notice of disapproval. Such Governor or legislature may submit such a notice of disapproval to the Congress not later than the 60 days after the date that the President recommends such site to the Congress under section 114. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a state-

governing body of any affected Indian tribe, timely and complete information regarding determinations or plans made with respect to the site characterization siting, development, design, licensing, construction, operation, regulation, or decommissioning of such repository.

Information request, response.

(2) Upon written request for such information by the Governor or legislature of such State, or by the governing body of any affected Indian tribe, as the case may be, the Secretary shall provide a written response to such request within 30 days of the receipt of such request. Such response shall provide the information requested or, in the alternative, the reasons why the information cannot be so provided. If the Secretary fails to so respond within such 30 days, the Governor or legislature of such State, or the governing body of any affected Indian tribe, as the case may be, may transmit a formal written objection to such failure to respond to the President. If the President or Secretary fails to respond to such written request within 30 days of the receipt by the President of such formal written objection, the Secretary shall immediately suspend all activities in such State authorized by this subtitle, and shall not renew such activities until the Governor or legislature of such State, or the governing body of any affected Indian tribe, as the case may be, has received the written response to such written request required by this subsection.

(b) CONSULTATION AND COOPERATION.—In performing any study of an area within a State for the purpose of determining the suitability of such area for a repository pursuant to section 112(c), and in subsequently developing and loading any repository within such State, the Secretary shall consult and cooperate with the Governor and legislature of such State and the governing body of any affected Indian tribe in an effort to resolve the concerns of such State and any affected Indian tribe regarding the public health and safety, environmental, and economic impacts of any such repository. In carrying out his duties under this subtitle, the Secretary shall take such concerns into account to the maximum extent feasible and as specified in written agreements entered into under subsection (c).

(c) WRITTEN AGREEMENT.—Not later than 60 days after (1) the approval of a site for site characterization for such a repository under section 112(c), or (2) the written request of the State or Indian tribe in any affected State notified under section 116(a) to the Secretary, whichever, first occurs, the Secretary shall seek to enter into a binding written agreement, and shall begin negotiations, with such State and, where appropriate, to enter into a separate binding agreement with the governing body of any affected Indian tribe, setting forth (but not limited to) the procedures under which the requirements of subsections (a) and (b), and the provisions of such written agreement, shall be carried out. Any such written agreement shall not affect the authority of the Commission under existing law. Each such written agreement shall, to the maximum extent feasible, be completed not later than 6 months after such notification. If such written agreement is not completed within such period, the Secretary shall report to the Congress in writing within 30 days on the status of negotiations to develop such agreement and the reasons why such agreement has not been completed. Prior to submission of such report to the Congress, the Secretary shall transmit such report to the Governor of such State or the governing body of such affected Indian tribe, as the case may be, for their review and comments. Such comments shall be included in such

Report to Congress.

Report, review and comments.

(3) The Secretary shall also grant to each State and unit of general local government in which a site for a repository is approved under section 112(c) an amount each fiscal year equal to the amount such State and unit of general local government, respectively, would receive were they authorized to tax site characterization activities at such site, and the development and operation of such repository, as such State and unit of general local government tax the other real property and industrial activities occurring within such State and unit of general local government. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

Grants, limitations.

(4)(A) A State may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

(i) the date on which the Secretary notifies the Governor and legislature of the State involved of the termination of site characterization activities at the candidate site involved in such State;

(ii) the date on which the site in such State is disapproved under section 115; or

(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first, unless there is another candidate site in the State approved under section 112(c) with respect to which the actions described in clauses (i), (ii), and (iii) have not been taken.

(B) A State may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

Funding limitations.

(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository in a State, no Federal funds shall be made available to such State under paragraph (1) or (2), except for—

(i) such funds as may be necessary to support State activities related to any other repository located in, or proposed to be located in, such State, and for which a license to receive and possess has not been in effect for more than 1 year; and

(ii) such funds as may be necessary to support State activities pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such State with the Secretary during such 2-year period.

(5) Financial assistance authorized in this subsection shall be made out of amounts held in the Nuclear Waste Fund established in section 302.

Post, p. 2257.

(d) ADDITIONAL NOTIFICATION AND CONSULTATION.—Whenever the Secretary is required under any provision of this Act to notify or consult with the governing body of an affected Indian tribe where a site is located, the Secretary shall also notify or consult with, as the case may be, the Governor of the State in which such reservation is located.

CONSULTATION WITH STATES AND AFFECTED INDIAN TRIBES

42 USC 10137.

SEC. 117. (a) PROVISION OF INFORMATION.—(1) The Secretary, the Commission, and other agencies involved in the construction, operation, or regulation of any aspect of a repository in a State shall provide to the Governor and legislature of such State, and to the

PARTICIPATION OF INDIAN TRIBES

SEC. 118. (a) PARTICIPATION OF INDIAN TRIBES IN REPOSITORY SITING DECISIONS.—Upon the submission by the President to the Congress of a recommendation of a site for a repository located on the reservation of an affected Indian tribe, the governing body of such Indian tribe may disapprove the site designation and submit to the Congress a notice of disapproval. The governing body of such Indian tribe may submit such a notice of disapproval to the Congress not later than the 60 days after the date that the President recommends such site to the Congress under section 114. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the governing body of such Indian tribe disapproved the recommended repository site involved.

Notice of disapproval, submittal to Congress
42 USC 10138.

(b) FINANCIAL ASSISTANCE.—(1) The Secretary shall make grants to each affected tribe notified under section 116(a) for the purpose of participating in activities required by section 117 or authorized by written agreement entered into pursuant to section 117(c). Any salary or travel expense that would ordinarily be incurred by such tribe, may not be considered eligible for funding under this paragraph.

Grants.

(2)(A) The Secretary shall make grants to each affected Indian tribe where a candidate site for a repository is approved under section 112(c). Such grants may be made to each such Indian tribe only for purposes of enabling such Indian tribe—

(i) to review activities taken under this subtitle with respect to such site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of such repository on the reservation and its residents;

(ii) to develop a request for impact assistance under paragraph (2);

(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

(iv) to provide information to the residents of its reservation regarding any activities of such Indian tribe, the Secretary, or the Commission with respect to such site; and

(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

(B) The amount of funds provided to any affected Indian tribe under this paragraph in any fiscal year may not exceed 100 percent of the costs incurred by such Indian tribe with respect to the activities described in clauses (i) through (v) of subparagraph (A). Any salary or travel expense that would ordinarily be incurred by such Indian tribe may not be considered eligible for funding under this paragraph.

(3)(A) The Secretary shall provide financial and technical assistance to any affected Indian tribe requesting such assistance and where there is a site with respect to which the Commission has authorized construction of a repository. Such assistance shall be designed to mitigate the impact on such Indian tribe of the development of such repository. Such assistance to such Indian tribe shall commence within 6 months following the granting by the Commis-

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report prior to submission to the Congress. Such written agreement shall specify procedures—

(1) by which such State or governing body of an affected Indian tribe, as the case may be, may study, determine, comment on, and make recommendations with regard to the possible public health and safety, environmental, social, and economic impacts of any such repository;

(2) by which the Secretary shall consider and respond to comments and recommendations made by such State or governing body of an affected Indian tribe, including the period in which the Secretary shall so respond;

Review and modification.

(3) by which the Secretary and such State or governing body of an affected Indian tribe may review or modify the agreement periodically;

Report.

(4) by which such State or governing body of an affected Indian tribe is to submit an impact report and request for impact assistance under section 116(c) or section 118(b), as the case may be;

(5) by which the Secretary shall assist such State, and the units of general local government in the vicinity of the repository site, in resolving the offsite concerns of such State and units of general local government, including, but not limited to, questions of State liability arising from accidents, necessary road upgrading and access to the site, ongoing emergency preparedness and emergency response, monitoring of transportation of high-level radioactive waste and spent nuclear fuel through such State, conduct of baseline health studies of inhabitants in neighboring communities near the repository site and reasonable periodic monitoring thereafter, and monitoring of the repository site upon any decommissioning and decontamination;

(6) by which the Secretary shall consult and cooperate with such State on a regular, ongoing basis and provide for an orderly process and timely schedule for State review and evaluation, including identification in the agreement of key events, milestones, and decision points in the activities of the Secretary at the potential repository site;

Transportation of radioactive waste and spent nuclear fuel, State notification.

(7) by which the Secretary shall notify such State prior to the transportation of any high-level radioactive waste and spent nuclear fuel into such State for disposal at the repository site;

Monitoring and testing.

(8) by which such State may conduct reasonable independent monitoring and testing of activities on the repository site, except that such monitoring and testing shall not unreasonably interfere with or delay onsite activities;

(9) for sharing, in accordance with applicable law, of all technical and licensing information, the utilization of available expertise, the facilitating of permit procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws;

(10) for public notification of the procedures specified under the preceding paragraphs; and

(11) for resolving objections of a State and affected Indian tribes at any stage of the planning, siting, development, construction, operation, or closure of such a facility within such State through negotiation, arbitration, or other appropriate mechanisms.

(6) Financial assistance authorized in this subsection shall be made out of amounts held in the Nuclear Waste Fund established in section 302.

Post, p. 2257.

JUDICIAL REVIEW OF AGENCY ACTIONS

SEC. 119. (a) JURISDICTION OF UNITED STATES COURTS OF APPEALS.— 42 USC 10139.
(1) Except for review in the Supreme Court of the United States, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

(A) for review of any final decision or action of the Secretary, the President, or the Commission under this subtitle;

(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this subtitle;

(C) challenging the constitutionality of any decision made, or action taken, under any provision of this subtitle;

(D) for review of any environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this subtitle, or as required under section 135(c)(1), or alleging a failure to prepare such statement with respect to any such action;

(E) for review of any environmental assessment prepared under section 112(b)(1) or 135(c)(2); or

(F) for review of any research and development activity under title II.

Post, p. 2245.

(2) The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia.

(c) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought not later than the 180th day after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action not later than the 180th day after the date such party acquired actual or constructive knowledge of such decision, action, or failure to act.

EXPEDITED AUTHORIZATIONS

SEC. 120. (a) ISSUANCE OF AUTHORIZATIONS.—(1) To the extent that 42 USC 10140.
the taking of any action related to the site characterization of a site or the construction or initial operation of a repository under this subtitle requires a certificate, right-of-way, permit, lease, or other authorization from a Federal agency or officer, such agency or officer shall issue or grant any such authorization at the earliest practicable date, to the extent permitted by the applicable provisions of law administered by such agency or officer. All actions of a Federal agency or officer with respect to consideration of applications or requests for the issuance or grant of any such authorization shall be expedited, and any such application or request shall take precedence over any similar applications or requests not related to such repositories.

sion of a construction authorization for such repository and following the initiation of construction activities at such site.

Report submittal.

(B) Any affected Indian tribe desiring assistance under this paragraph shall prepare and submit to the Secretary a report on any economic, social, public health and safety, and environmental impacts that are likely as a result of the development of a repository at a site on the reservation of such Indian tribe. Such report shall be submitted to the Secretary following the completion of site characterization activities at such site and before the recommendation of such site to the President by the Secretary for application for a construction authorization for a repository. As soon as practicable following the granting of a construction authorization for such repository, the Secretary shall seek to enter into a binding agreement with the Indian tribe involved setting forth the amount of assistance to be provided to such Indian tribe under this paragraph and the procedures to be followed in providing such assistance.

(4) The Secretary shall grant to each affected Indian tribe where a site for a repository is approved under section 112(c) an amount each fiscal year equal to the amount such Indian tribe would receive were it authorized to tax site characterization activities at such site, and the development and operation of such repository, as such Indian tribe taxes the other commercial activities occurring on such reservation. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

Grants, limitation.

(5) An affected Indian tribe may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

(i) the date on which the Secretary notifies such Indian tribe of the termination of site characterization activities at the candidate site involved on the reservation of such Indian tribe;

(ii) the date on which such site is disapproved under section 115; or

(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first, unless there is another candidate site on the reservation of such Indian tribe that is approved under section 112(c) and with respect to which the actions described in clauses (i), (ii), and (iii) have not been taken.

(B) An affected Indian tribe may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

Funding.

(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository at a site on the reservation of an affected Indian tribe, no Federal funds shall be made available under paragraph (1) or (2) to such Indian tribe, except for—

(i) such funds as may be necessary to support activities of such Indian tribe related to any other repository where a license to receive and possess has not been in effect for more than 1 year; and

(ii) such funds as may be necessary to support activities of such Indian tribe pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such Indian tribe with the Secretary during such 2-year period.

nuclear fuel placed in such repository, during an appropriate period of operation of the facility, for any reason pertaining to the public health and safety, or the environment, or for the purpose of permitting the recovery of the economically valuable contents of such spent fuel. The Secretary shall specify the appropriate period of retrievability with respect to any repository at the time of design of such repository, and such aspect of such repository shall be subject to approval or disapproval by the Commission as part of the construction authorization process under subsections (b) through (d) of section 114.

TITLE TO MATERIAL

SEC. 123. Delivery, and acceptance by the Secretary, of any high-level radioactive waste or spent nuclear fuel for a repository constructed under this subtitle shall constitute a transfer to the Secretary of title to such waste or spent fuel. 42 USC 10143.

CONSIDERATION OF EFFECT OF ACQUISITION OF WATER RIGHTS

SEC. 124. The Secretary shall give full consideration to whether the development, construction, and operation of a repository may require any purchase or other acquisition of water rights that will have a significant adverse effect on the present or future development of the area in which such repository is located. The Secretary shall mitigate any such adverse effects to the maximum extent practicable. 42 USC 10144.

TERMINATION OF CERTAIN PROVISIONS

SEC. 125. Sections 119 and 120 shall cease to have effect at such time as a repository developed under this subtitle is licensed to receive and possess high-level radioactive waste and spent nuclear fuel. 42 USC 10145.

SUBTITLE B—INTERIM STORAGE PROGRAM

FINDINGS AND PURPOSES

SEC. 131. (a) FINDINGS.—The Congress finds that— 42 USC 10151.

(1) the persons owning and operating civilian nuclear power reactors have the primary responsibility for providing interim storage of spent nuclear fuel from such reactors, by maximizing, to the extent practical, the effective use of existing storage facilities at the site of each civilian nuclear power reactor, and by adding new onsite storage capacity in a timely manner where practical;

(2) the Federal Government has the responsibility to encourage and expedite the effective use of existing storage facilities and the addition of needed new storage capacity at the site of each civilian nuclear power reactor; and

(3) the Federal Government has the responsibility to provide, in accordance with the provisions of this subtitle, not more than 1,900 metric tons of capacity for interim storage of spent nuclear fuel for civilian nuclear power reactors that cannot reasonably provide adequate storage capacity at the sites of such

(2) The provisions of paragraph (1) shall not apply to any certificate, right-of-way, permit, lease, or other authorization issued or granted by, or requested from, the Commission.

(b) TERMS OF AUTHORIZATIONS.—Any authorization issued or granted pursuant to subsection (a) shall include such terms and conditions as may be required by law, and may include terms and conditions permitted by law.

CERTAIN STANDARDS AND CRITERIA

42 USC 10141.

SEC. 121. (a) ENVIRONMENTAL PROTECTION AGENCY STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Administrator, pursuant to authority under other provisions of law, shall, by rule, promulgate generally applicable standards for protection of the general environment from offsite releases from radioactive material in repositories.

(b) COMMISSION REQUIREMENTS AND CRITERIA.—(1)(A) Not later than January 1, 1984, the Commission, pursuant to authority under other provisions of law, shall, by rule, promulgate technical requirements and criteria that it will apply, under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) and the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.), in approving or disapproving—

(i) applications for authorization to construct repositories;

(ii) applications for licenses to receive and possess spent nuclear fuel and high-level radioactive waste in such repositories; and

(iii) applications for authorization for closure and decommissioning of such repositories.

(B) Such criteria shall provide for the use of a system of multiple barriers in the design of the repository and shall include such restrictions on the retrievability of the solidified high-level radioactive waste and spent fuel emplaced in the repository as the Commission deems appropriate.

(C) Such requirements and criteria shall not be inconsistent with any comparable standards promulgated by the Administrator under subsection (a).

(2) For purposes of this Act, nothing in this section shall be construed to prohibit the Commission from promulgating requirements and criteria under paragraph (1) before the Administrator promulgates standards under subsection (a). If the Administrator promulgates standards under subsection (a) after requirements and criteria are promulgated by the Commission under paragraph (1), such requirements and criteria shall be revised by the Commission if necessary to comply with paragraph (1)(C).

(c) ENVIRONMENTAL IMPACT STATEMENT.—The promulgation of standards or criteria in accordance with the provisions of this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

DISPOSAL OF SPENT NUCLEAR FUEL

42 USC 10142.

SEC. 122. Notwithstanding any other provision of this subtitle, any repository constructed on a site approved under this subtitle shall be designed and constructed to permit the retrieval of any spent

provide. The Commission shall require each party, including the Commission staff, to submit 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 known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

Summary submittal of facts, data and arguments.

(b) ADJUDICATORY HEARING.—(1) At the conclusion of any oral argument under subsection (a), 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 determines that—

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

(A) 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 likely to resolve the dispute; and

(B) shall not consider—

(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor for which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless (I) such issue results from any revision of siting or design criteria by the Commission following such decision; and (II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

(3) The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

(4) The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear powerplant by the Commission.

reactors when needed to assure the continued, orderly operation of such reactors.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to provide for the utilization of available spent nuclear fuel pools at the site of each civilian nuclear power reactor to the extent practical and the addition of new spent nuclear fuel storage capacity where practical at the site of such reactor; and

(2) to provide, in accordance with the provisions of this subtitle, for the establishment of a federally owned and operated system for the interim storage of spent nuclear fuel at one or more facilities owned by the Federal Government with not more than 1,900 metric tons of capacity to prevent disruptions in the orderly operation of any civilian nuclear power reactor that cannot reasonably provide adequate spent nuclear fuel storage capacity at the site of such reactor when needed.

AVAILABLE CAPACITY FOR INTERIM STORAGE OF SPENT NUCLEAR FUEL

42 USC 10152.

SEC. 132. The Secretary, the Commission, and other authorized Federal officials shall each take such actions as such official considers necessary to encourage and expedite the effective use of available storage, and necessary additional storage, at the site of each civilian nuclear power reactor consistent with—

(1) the protection of the public health and safety, and the environment;

(2) economic considerations;

(3) continued operation of such reactor;

(4) any applicable provisions of law; and

(5) the views of the population surrounding such reactor.

INTERIM AT REACTOR STORAGE

Licensing procedures.
42 USC 10153.

SEC. 133. The Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under section 219(a) for use at the site of any civilian nuclear power reactor. The establishment of such procedures shall not preclude the licensing, under any applicable procedures or rules of the Commission in effect prior to such establishment, of any technology for the storage of civilian spent nuclear fuel at the site of any civilian nuclear power reactor.

LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS

42 USC 10154.

SEC. 134. (a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after the date of the enactment of this Act, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, 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 shall be preceded by such discovery procedures as the rules of the Commission shall

(4) In providing storage capacity through any method described in paragraph (1), the Secretary shall comply with any applicable requirements for licensing or authorization of such method, except as provided in paragraph (1)(A)(i).

(5) The Secretary shall ensure that storage capacity is made available under paragraph (1) when needed, as determined on the basis of the storage needs specified in contracts entered into under section 136(a), and shall accept upon request any spent nuclear fuel as covered under such contracts.

(6) For purposes of paragraph (1)(A), the term "facility" means any building or structure. "Facility."

(b) CONTRACTS.—(1) Subject to the capacity limitation established in subsections (a) (1) and (d), the Secretary shall offer to enter into, and may enter into, contracts under section 136(a) with any person generating or owning spent nuclear fuel for purposes of providing storage capacity for such spent fuel under this section only if the Commission determines that—

(A) adequate storage capacity to ensure the continued orderly operation of the civilian nuclear power reactor at which such spent nuclear fuel is generated cannot reasonably be provided by the person owning and operating such reactor at such site, or at the site of any other civilian nuclear power reactor operated by such person, and such capacity cannot be made available in a timely manner through any method described in subparagraph (B); and

(B) such person is diligently pursuing licensed alternatives to the use of Federal storage capacity for the storage of spent nuclear fuel expected to be generated by such person in the future, including—

(i) expansion of storage facilities at the site of any civilian nuclear power reactor operated by such person;

(ii) construction of new or additional storage facilities at the site of any civilian nuclear power reactor operated by such person;

(iii) acquisition of modular or mobile spent nuclear fuel storage equipment, including spent nuclear fuel storage casks, for use at the site of any civilian nuclear power reactor operated by such person; and

(iv) transshipment to another civilian nuclear power reactor owned by such person.

(2) In making the determination described in paragraph (1)(A), the Commission shall ensure maintenance of a full core reserve storage capability at the site of the civilian nuclear power reactor involved unless the Commission determines that maintenance of such capability is not necessary for the continued orderly operation of such reactor.

(3) The Commission shall complete the determinations required in paragraph (1) with respect to any request for storage capacity not later than 6 months after receipt of such request by the Commission.

(c) ENVIRONMENTAL REVIEW.—(1) The provision of 300 or more metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) shall be considered to be a major Federal action requiring preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(2)(A) The Secretary shall prepare, and make available to the public, an environmental assessment of the probable impacts of any Public availability.

(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

STORAGE OF SPENT NUCLEAR FUEL

Ante, p. 2205.
42 USC 10155.

SEC. 135. (a) STORAGE CAPACITY.—(1) Subject to section 8, the Secretary shall provide, in accordance with paragraph (5), not more than 1,900 metric tons of capacity for the storage of spent nuclear fuel from civilian nuclear power reactors. Such storage capacity shall be provided through any one or more of the following methods, used in any combination determined by the Secretary to be appropriate:

(A) use of available capacity at one or more facilities owned by the Federal Government on the date of the enactment of this Act, including the modification and expansion of any such facilities, if the Commission determines that such use will adequately protect the public health and safety, except that such use shall not—

(i) render such facilities subject to licensing under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) or the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.); or

(ii) except as provided in subsection (c) require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), such facility is already being used, or has previously been used, for such storage or for any similar purpose.

(B) acquisition of any modular or mobile spent nuclear fuel storage equipment, including spent nuclear fuel storage casks, and provision of such equipment, to any person generating or holding title to spent nuclear fuel, at the site of any civilian nuclear power reactor operated by such person or at any site owned by the Federal Government on the date of enactment of this Act;

(C) construction of storage capacity at any site of a civilian nuclear power reactor.

(2) Storage capacity authorized by paragraph (1) shall not be provided at any Federal or non-Federal site within which there is a candidate site for a repository. The restriction in the preceding sentence shall only apply until such time as the Secretary decides that such candidate site is no longer a candidate site under consideration for development as a repository.

(3) In selecting methods of providing storage capacity under paragraph (1), the Secretary shall consider the timeliness of the availability of each such method and shall seek to minimize the transportation of spent nuclear fuel, the public health and safety impacts, and the costs of providing such storage capacity.

(e) LIMITATIONS.—Any spent nuclear fuel stored under this section shall be removed from the storage site or facility involved as soon as practicable, but in any event not later than 3 years following the date on which a repository or monitored retrievable storage facility developed under this Act is available for disposal of such spent nuclear fuel.

(f) REPORT.—The Secretary shall annually prepare and submit to the Congress a report on any plans of the Secretary for providing storage capacity under this section. Such report shall include a description of the specific manner of providing such storage selected by the Secretary, if any. The Secretary shall prepare and submit the first such report not later than 1 year after the date of the enactment of this Act.

(g) CRITERIA FOR DETERMINING ADEQUACY OF AVAILABLE STORAGE CAPACITY.—Not later than 90 days after the date of the enactment of this Act, the Commission pursuant to section 553 of the Administrative Procedures Act, shall propose, by rule, procedures and criteria for making the determination required by subsection (b) that a person owning and operating a civilian nuclear power reactor cannot reasonably provide adequate spent nuclear fuel storage capacity at the civilian nuclear power reactor site when needed to ensure the continued orderly operation of such reactor. Such criteria shall ensure the maintenance of a full core reserve storage capability at the site of such reactor unless the Commission determines that maintenance of such capability is not necessary for the continued orderly operation of such reactor. Such criteria shall identify the feasibility of reasonably providing such adequate spent nuclear fuel storage capacity, taking into account economic, technical regulatory, and public health and safety factors, through the use of high-density fuel storage racks, fuel rod compaction, transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, construction of additional spent nuclear fuel pool capacity, or such other technologies as may be approved by the Commission. 5 USC 553.

(h) APPLICATION.—Notwithstanding any other provision of law, nothing in this Act shall be construed to encourage, authorize, or require the private or Federal use, purchase, lease, or other acquisition of any storage facility located away from the site of any civilian nuclear power reactor and not owned by the Federal Government on the date of the enactment of this Act.

(i) COORDINATION WITH RESEARCH AND DEVELOPMENT PROGRAM.—To the extent available, and consistent with the provisions of this section, the Secretary shall provide spent nuclear fuel for the research and development program authorized in section 217 from spent nuclear fuel received by the Secretary for storage under this section. Such spent nuclear fuel shall not be subject to the provisions of subsection (e).

INTERIM STORAGE FUND

SEC. 136. (a) CONTRACTS.—(1) During the period following the date of the enactment of this Act, but not later than January 1, 1990, the Secretary is authorized to enter into contracts with persons who generate or own spent nuclear fuel resulting from civilian nuclear activities for the storage of such spent nuclear fuel in any storage capacity provided under this subtitle: *Provided, however,* That the Secretary shall not enter into contracts for spent nuclear fuel in 42 USC 10156.

Notice of disapproval, submittal to Congress.

Congress a notice of such disapproval. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the provision of such storage capacity at such site was disapproved by such Governor or legislature or the governing body of such Indian tribe.

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

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

(D) If any notice of disapproval is submitted to the Congress under subparagraph (A), the proposed provision of 300 or more metric tons of storage capacity at the site involved shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress following the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution approving such proposed provision of storage capacity in accordance with the procedures established in this paragraph and subsections (d) through (f) of section 115 and such resolution thereafter becomes law. For purposes of this paragraph, the term "resolution" means a joint resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That there hereby is approved the provision of 300 or more metric tons of spent nuclear fuel storage capacity at the site located at _____, with respect to which a notice of disapproval was submitted by _____ on _____". The first blank space in such resolution shall be filled with the geographic location of the site involved; the second blank space in such resolution shall be filled with the designation of the State Governor and legislature or affected Indian tribe governing body submitting the notice of disapproval involved; and the last blank space in such resolution shall be filled with the date of submission of such notice of disapproval.

Ante, p. 2217.

"Resolution."

(E) For purposes of the consideration of any resolution described in subparagraph (D), each reference in subsections (d) and (e) of section 115 to a resolution of repository siting approval shall be considered to refer to the resolution described in such subparagraph.

"Affected Tribal Council."

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

for the interim storage of spent fuel from civilian nuclear power reactors. Public participation in the negotiation of such an agreement shall be provided for and encouraged by the Secretary, the State, and the affected Tribal Council. The Secretary, in cooperation with the States and Indian tribes, shall develop and publish minimum guidelines for public participation in such negotiations, but the adequacy of such guidelines or any failure to comply with such guidelines shall not be a basis for judicial review.

Guidelines.

(3) The cooperative agreement shall include, but need not be limited to, the sharing in accordance with applicable law of all technical and licensing information, the utilization of available expertise, the facilitating of permitting procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws. The cooperative agreement also shall include a detailed plan or schedule of milestones, decision points and opportunities for State or eligible Tribal Council review and objection. Such cooperative agreement shall provide procedures for negotiating and resolving objections of the State and affected Tribal Council in any stage of planning, development, modification, expansion, operation, or closure of storage capacity at a site or facility within such State. The terms of any cooperative agreement shall not affect the authority of the Nuclear Regulatory Commission under existing law.

Cooperative agreement.

(4) For the purpose of this subsection, "process of consultation and cooperation" means a methodology by which the Secretary (A) keeps the State and eligible Tribal Council fully and currently informed about the aspects of the project related to any potential impact on the public health and safety and environment; (B) solicits, receives, and evaluates concerns and objections of such State and Council with regard to such aspects of the project on an ongoing basis; and (C) works diligently and cooperatively to resolve, through arbitration or other appropriate mechanisms, such concerns and objections. The process of consultation and cooperation shall not include the grant of a right to any State or Tribal Council to exercise an absolute veto of any aspect of the planning, development, modification, expansion, or operation of the project.

"Process of consultation and cooperation."

(5) The Secretary and the State and affected Tribal Council shall seek to conclude the agreement required by paragraph (2) as soon as practicable, but not later than 180 days following the date of notification of the selection under paragraph (2). The Secretary shall periodically report to the Congress thereafter on the status of the agreements approved under paragraph (3). Any report to the Congress or the status of negotiations of such agreement by the Secretary shall be accompanied by comments solicited by the Secretary from the State and eligible Tribal Council.

Report to Congress.

(6)(A) Upon deciding to provide an aggregate of 300 or more metric tons of storage capacity under subsection (a)(1) at any one site, the Secretary shall notify the Governor and legislature of the State where such site is located, or the governing body of the Indian tribe in whose reservation such site is located, as the case may be, of such decision. During the 60-day period following receipt of notification by the Secretary of his decision to provide an aggregate of 300 or more metric tons of storage capacity at any one site, the Governor or legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, may disapprove the provision of 300 or more metric tons of storage capacity at the site involved and submit to the

provision of less than 300 metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) that requires the modification or expansion of any facility at the site, and a discussion of alternative activities that may be undertaken to avoid such impacts. Such environmental assessment shall include—

Environmental assessment.

(i) an estimate of the amount of storage capacity to be made available at such site;

(ii) an evaluation as to whether the facilities to be used at such site are suitable for the provision of such storage capacity;

(iii) a description of activities planned by the Secretary with respect to the modification or expansion of the facilities to be used at such site;

(iv) an evaluation of the effects of the provision of such storage capacity at such site on the public health and safety, and the environment;

(v) a reasonable comparative evaluation of current information with respect to such site and facilities and other sites and facilities available for the provision of such storage capacity;

(vi) a description of any other sites and facilities that have been considered by the Secretary for the provision of such storage capacity; and

(vii) an assessment of the regional and local impacts of providing such storage capacity at such site, including the impacts on transportation.

Judicial review.

(B) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code. Such judicial review shall be limited to the sufficiency of such assessment with respect to the items described in clauses (i) through (vii) of subparagraph (A).

5 USC 701 *et seq.*

(3) Judicial review of any environmental impact statement or environmental assessment prepared pursuant to this subsection shall be conducted in accordance with the provisions of section 119.

(d) REVIEW OF SITES AND STATE PARTICIPATION.—(1) In carrying out the provisions of this subtitle with regard to any interim storage of spent fuel from civilian nuclear power reactors which the Secretary is authorized by section 135 to provide, the Secretary shall, as soon as practicable, notify, in writing, the Governor and the State legislature of any State and the Tribal Council of any affected Indian tribe in such State in which is located a potentially acceptable site or facility for such interim storage of spent fuel of his intention to investigate that site or facility.

Investigation.

(2) During the course of investigation of such site or facility, the Secretary shall keep the Governor, State legislature, and affected Tribal Council currently informed of the progress of the work, and results of the investigation. At the time of selection by the Secretary of any site or existing facility, but prior to undertaking any site-specific work or alterations, the Secretary shall promptly notify the Governor, the legislature, and any affected Tribal Council in writing of such selection, and subject to the provisions of paragraph (6) of this subsection, shall promptly enter into negotiations with such State and affected Tribal Council to establish a cooperative agreement under which such State and Council shall have the right to participate in a process of consultation and cooperation, based on public health and safety and environmental concerns, in all stages of the planning, development, modification, expansion, operation, and closure of storage capacity at a site or facility within such State

(3) any unexpended balances available on the date of the enactment of this Act for functions or activities necessary or incident to the interim storage of civilian spent nuclear fuel, which shall automatically be transferred to the Storage Fund on such date.

(d) USE OF STORAGE FUND.—The Secretary may make expenditures from the Storage Fund, subject to subsection (e), for any purpose necessary or appropriate to the conduct of the functions and activities of the Secretary, or the provision or anticipated provision of services, under this subtitle, including—

(1) the identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any interim storage facility provided under this subtitle;

(2) the administrative cost of the interim storage program;

(3) the costs associated with acquisition, design, modification, replacement, operation, and construction of facilities at an interim storage site, consistent with the restrictions in section 135;

(4) the cost of transportation of spent nuclear fuel; and

(5) impact assistance as described in subsection (e).

(e) IMPACT ASSISTANCE.—(1) Beginning the first fiscal year which commences after the date of the enactment of this Act, the Secretary shall make annual impact assistance payments to a State or appropriate unit of local government, or both, in order to mitigate social or economic impacts occasioned by the establishment and subsequent operation of any interim storage capacity within the jurisdictional boundaries of such government or governments and authorized under this subtitle: *Provided, however,* That such impact assistance payments shall not exceed (A) ten per centum of the costs incurred in paragraphs (1) and (2), or (B) $15 per kilogram of spent fuel, whichever is less; Payments.

(2) Payments made available to States and units of local government pursuant to this section shall be—

(A) allocated in a fair and equitable manner with a priority to those States or units of local government suffering the most severe impacts; and

(B) utilized by States or units of local governments only for (i) planning, (ii) construction and maintenance of public services, (iii) provision of public services related to the providing of such interim storage authorized under this title, and (iv) compensation for loss of taxable property equivalent to that if the storage had been provided under private ownership.

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

(4) Payments under this subsection shall be made available solely from the fees determined under subsection (a).

(5) The Secretary is authorized to consult with States and appropriate units of local government in advance of commencement of establishment of storage capacity authorized under this subtitle in an effort to determine the level of the payment such government would be eligible to receive pursuant to this subsection.

(6) As used in this subsection, the term "unit of local government" means a county, parish, township, municipality, and shall include a "Unit of local government."

amounts in excess of the available storage capacity specified in section 135(a). Those contracts shall provide that the Federal Government will (1) take title at the civilian nuclear power reactor site, to such amounts of spent nuclear fuel from the civilian nuclear power reactor as the Commission determines cannot be stored onsite, (2) transport the spent nuclear fuel to a federally owned and operated interim away-from-reactor storage facility, and (3) store such fuel in the facility pending further processing, storage, or disposal. Each such contract shall (A) provide for payment to the Secretary of fees determined in accordance with the provisions of this section; and (B) specify the amount of storage capacity to be provided for the person involved.

Study; report to Congress.

(2) The Secretary shall undertake a study and, not later than 180 days after the date of the enactment of this Act, submit to the Congress a report, establishing payment charges that shall be calculated on an annual basis, commencing on or before January 1, 1984.

Publication in Federal Register.

Such payment charges and the calculation thereof shall be published in the Federal Register, and shall become effective not less than 30 days after publication. Each payment charge published in the Federal Register under this paragraph shall remain effective for a period of 12 months from the effective date as the charge for the cost of the interim storage of any spent nuclear fuel. The report of the Secretary shall specify the method and manner of collection (including the rates and manner of payment) and any legislative recommendations determined by the Secretary to be appropriate.

Fees.

(3) Fees for storage under this subtitle shall be established on a nondiscriminatory basis. The fees to be paid by each person entering into a contract with the Secretary under this subsection shall be based upon an estimate of the pro rata costs of storage and related activities under this subtitle with respect to such person, including the acquisition, construction, operation, and maintenance of any facilities under this subtitle.

(4) The Secretary shall establish in writing criteria setting forth the terms and conditions under which such storage services shall be made available.

(5) Except as provided in section 137, nothing in this or any other Act requires the Secretary, in carrying out the responsibilities of this section, to obtain a license or permit to possess or own spent nuclear fuel.

(b) LIMITATION.—No spent nuclear fuel generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be stored by the Secretary in any storage capacity provided under this subtitle unless such department transfers to the Secretary, for deposit in the Interim Storage Fund, amounts equivalent to the fees that would be paid to the Secretary under the contracts referred to in this section if such spent nuclear fuel were generated by any other person.

(c) ESTABLISHMENT OF INTERIM STORAGE FUND.—There hereby is established in the Treasury of the United States a separate fund, to be known as the Interim Storage Fund. The Storage Fund shall consist of—

(1) all receipts, proceeds, and recoveries realized by the Secretary under subsections (a), (b), and (e), which shall be deposited in the Storage Fund immediately upon their realization;

(2) any appropriations made by the Congress to the Storage Fund; and

borough existing in the State of Alaska on the date of the enactment of this subsection, and any other unit of government below the State level which is a unit of general government as determined by the Secretary.

Report to Congress.

(f) ADMINISTRATION OF STORAGE FUND.—(1) The Secretary of the Treasury shall hold the Storage Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Storage Fund during the preceding fiscal year.

Budget submittal.

(2) The Secretary shall submit the budget of the Storage Fund to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget of the Storage Fund shall consist of estimates made by the Secretary of expenditures from the Storage Fund and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the Budget of the United States Government. The Secretary may make expenditures from the Storage Fund, subject to appropriations which shall remain available until expended. Appropriations shall be subject to triennial authorization.

Ante, p. 907.

(3) If the Secretary determines that the Storage Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Storage Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(4) Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Storage Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

Ante, p. 927.

(5) If at any time the moneys available in the Storage Fund are insufficient to enable the Secretary to discharge his responsibilities under this subtitle, the Secretary shall issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Secretary and the Secretary of the Treasury. The total of such obligations shall not exceed amounts provided in appropriation Acts. Redemption of such obligations shall be made by the Secretary from moneys available in the Storage Fund. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of

title 31, United States Code, and the purposes for which securities may be issued under such Act are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States. *Ante*, p. 937.

(6) Any appropriations made available to the Storage Fund for any purpose described in subsection (d) shall be repaid into the general fund of the Treasury, together with interest from the date of availability of the appropriations until the date of repayment. Such interest shall be paid on the cumulative amount of appropriations available to the Storage Fund, less the average undisbursed cash balance in the Storage Fund account during the fiscal year involved. The rate of such interest shall be determined by the Secretary of the Treasury taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. Interest payments. Deferral.

SEC. 137. (a) TRANSPORTATION.—(1) Transportation of spent nuclear fuel under section 136(a) shall be subject to licensing and regulation by the Commission and by the Secretary of Transportation as provided for transportation of commercial spent nuclear fuel under existing law. 42 USC 10157.

(2) The Secretary, in providing for the transportation of spent nuclear fuel under this Act, shall utilize by contract private industry to the fullest extent possible in each aspect of such transportation. The Secretary shall use direct Federal services for such transportation only upon a determination of the Secretary of Transportation, in consultation with the Secretary, that private industry is unable or unwilling to provide such transportation services at reasonable cost.

SUBTITLE C—MONITORED RETRIEVABLE STORAGE

MONITORED RETRIEVABLE STORAGE

SEC. 141. (a) FINDINGS.—The Congress finds that— 42 USC 10161.

(1) long-term storage of high-level radioactive waste or spent nuclear fuel in monitored retrievable storage facilities is an option for providing safe and reliable management of such waste or spent fuel;

(2) the executive branch and the Congress should proceed as expeditiously as possible to consider fully a proposal for construction of one or more monitored retrievable storage facilities to provide such long-term storage;

(3) the Federal Government has the responsibility to ensure that site-specific designs for such facilities are available as provided in this section;

(4) the generators and owners of the high-level radioactive waste and spent nuclear fuel to be stored in such facilities have the responsibility to pay the costs of the long-term storage of such waste and spent fuel; and

(5) disposal of high-level radioactive waste and spent nuclear fuel in a repository developed under this Act should proceed

regardless of any construction of a monitored retrievable storage facility pursuant to this section.

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

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

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

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

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

(2) Such proposal shall include—

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

(B) a plan for the funding of the construction and operation of such facilities, which plan shall provide that the costs of such activities shall be borne by the generators and owners of the high-level radioactive waste and spent nuclear fuel to be stored in such facilities;

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

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

Consultations.

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

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

(c) ENVIRONMENTAL IMPACT STATEMENTS.—(1) Preparation and submission to the Congress of the proposal required in this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Secretary shall prepare, in accordance with regulations issued by the Secretary implementing such Act, an environmental assessment with respect to such proposal. Such environmental assessment shall be based upon available

Environmental assessment.

information regarding alternative technologies for the storage of spent nuclear fuel and high-level radioactive waste. The Secretary shall submit such environmental assessment to the Congress at the time such proposal is submitted. Submittal to Congress.

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

(d) LICENSING.—Any facility authorized pursuant to this section shall be subject to licensing under section 202(3) of the Energy Reorganization Act of 1974 (42 U.S.C. 5842(3)). In reviewing the application filed by the Secretary for licensing of the first such facility, the Commission may not consider the need for such facility or any alternative to the design criteria for such facility set forth in subsection (b)(1).

(e) CLARIFICATION.—Nothing in this section limits the consideration of alternative facility designs consistent with the criteria of paragraph (b)(1) in any environmental impact statement, or in any licensing procedure of the Commission, with respect to any monitored, retrievable facility authorized pursuant to this section.

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

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

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

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

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

(4) Such payments shall be made available entirely from funds held in the Nuclear Waste Fund established in section 302(c) and shall be available only to the extent provided in advance in appropriation Acts.

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

(g) LIMITATION.—No monitored retrievable storage facility developed pursuant to this section may be constructed in any State in which there is located any site approved for site characterization under section 112. The restriction in the preceding sentence shall *Ante*, p. 2208.

only apply until such time as the Secretary decides that such candidate site is no longer a candidate site under consideration for development as a repository. Such restriction shall continue to apply to any site selected for construction as a repository.

(h) PARTICIPATION OF STATES AND INDIAN TRIBES.—Any facility authorized pursuant to this section shall be subject to the provisions of sections 115, 116(a), 116(b), 116(d), 117, and 118. For purposes of carrying out the provisions of this subsection, any reference in sections 115 through 118 to a repository shall be considered to refer to a monitored retrievable storage facility.

Ante, pp. 2217, 2220, 2222, 2225.

SUBTITLE D—LOW-LEVEL RADIOACTIVE WASTE

FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE

42 USC 10171.

SEC. 151. (a) FINANCIAL ARRANGEMENTS.—(1) The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on the date of the enactment of this Act, prior to termination of such licenses.

(2) If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

(b) TITLE AND CUSTODY.—(1) The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

(2) If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

TITLE II—RESEARCH, DEVELOPMENT, AND DEMONSTRATION REGARDING DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

PURPOSE

SEC. 211. It is the purpose of this title— 42 USC 10191.

(1) to provide direction to the Secretary with respect to the disposal of high-level radioactive waste and spent nuclear fuel;

(2) to authorize the Secretary, pursuant to this title—

(A) to provide for the construction, operation, and maintenance of a deep geologic test and evaluation facility; and

(B) to provide for a focused and integrated high-level radioactive waste and spent nuclear fuel research and development program, including the development of a test and evaluation facility to carry out research and provide an integrated demonstration of the technology for deep geologic disposal of high-level radioactive waste, and the development of the facilities to demonstrate dry storage of spent nuclear fuel; and

(3) to provide for an improved cooperative role between the Federal Government and States, affected Indian tribes, and units of general local government in the siting of a test and evaluation facility.

APPLICABILITY

SEC. 212. The provisions of this title are subject to section 8 and shall not apply to facilities that are used for the disposal of high-level radioactive waste, low-level radioactive waste, transuranic waste, or spent nuclear fuel resulting from atomic energy defense activities. *Ante*, p. 2205. 42 USC 10192.

IDENTIFICATION OF SITES

SEC. 213. (a) GUIDELINES.—Not later than 6 months after the date of the enactment of this Act and notwithstanding the failure of other agencies to promulgate standards pursuant to applicable law, the Secretary, in consultation with the Commission, the Director of the Geological Survey, the Administrator, the Council on Environ- 42 USC 10193.

mental Quality, and such other Federal agencies as the Secretary considers appropriate, is authorized to issue, pursuant to section 553 of title 5, United States Code, general guidelines for the selection of a site for a test and evaluation facility. Under such guidelines the Secretary shall specify factors that qualify or disqualify a site for development as a test and evaluation facility, including factors pertaining to the location of valuable natural resources, hydrogeophysics, seismic activity, and atomic energy defense activities, proximity to water supplies, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall require the Secretary to consider the various geologic media in which the site for a test and evaluation facility may be located and, to the extent practicable, to identify sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering and selecting sites under this title.

(b) SITE IDENTIFICATION BY THE SECRETARY.—(1) Not later than 1 year after the date of the enactment of this Act, and following promulgation of guidelines under subsection (a), the Secretary is authorized to identify 3 or more sites, at least 2 of which shall be in different geologic media in the continental United States, and at least 1 of which shall be in media other than salt. Subject to Commission requirements, the Secretary shall give preference to sites for the test and evaluation facility in media possessing geochemical characteristics that retard aqueous transport of radionuclides. In order to provide a greater possible protection of public health and safety as operating experience is gained at the test and evaluation facility, and with the exception of the primary areas under review by the Secretary on the date of the enactment of this Act for the location of a test and evaluation facility or repository, all sites identified under this subsection shall be more than 15 statute miles from towns having a population of greater than 1,000 persons as determined by the most recent census unless such sites contain high-level radioactive waste prior to identification under this title.

Environmental assessment.

Each identification of a site shall be supported by an environmental assessment, which shall include a detailed statement of the basis for such identification and of the probable impacts of the siting research activities planned for such site, and a discussion of alternative activities relating to siting research that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(A) an evaluation by the Secretary as to whether such site is suitable for siting research under the guidelines established under subsection (a);

(B) an evaluation by the Secretary of the effects of the siting research activities at such site on the public health and safety and the environment;

(C) a reasonable comparative evaluation by the Secretary of such site with other sites and locations that have been considered;

(D) a description of the decision process by which such site was recommended; and

(E) an assessment of the regional and local impacts of locating the proposed test and evaluation facility at such site.

(2) When the Secretary identifies a site, the Secretary shall as soon as possible notify the Governor of the State in which such site

is located, or the governing body of the affected Indian tribe where such site is located, of such identification and the basis of such identification. Additional sites for the location of the test and evaluation facility authorized in section 302(d) may be identified after such 1 year period, following the same procedure as if such sites had been identified within such period.

SITING RESEARCH AND RELATED ACTIVITIES

SEC. 214. (a) IN GENERAL.—Not later than 30 months after the date on which the Secretary completes the identification of sites under section 213, the Secretary is authorized to complete sufficient evaluation of 3 sites to select a site for expanded siting research activities and for other activities under section 218. The Secretary is authorized to conduct such preconstruction activities relative to such site selection for the test and evaluation facility as he deems appropriate. Additional sites for the location of the test and evaluation facility authorized in section 302(d) may be evaluated after such 30-month period, following the same procedures as if such sites were to be evaluated within such period. 42 USC 10194.

(b) PUBLIC MEETINGS AND ENVIRONMENTAL ASSESSMENT.—Not later than 6 months after the date on which the Secretary completes the identification of sites under section 213, and before beginning siting research activities, the Secretary shall hold at least 1 public meeting in the vicinity of each site to inform the residents of the area of the activities to be conducted at such site and to receive their views.

(c) RESTRICTIONS.—Except as provided in section 218 with respect to a test and evaluation facility, in conducting siting research activities pursuant to subsection (a)—

(1) the Secretary shall use the minimum quantity of high-level radioactive waste or other radioactive materials, if any, necessary to achieve the test or research objectives;

(2) the Secretary shall ensure that any radioactive material used or placed on a site shall be fully retrievable; and

(3) upon termination of siting research activities at a site for any reason, the Secretary shall remove any radioactive material at or in the site as promptly as practicable.

(d) TITLE TO MATERIAL.—The Secretary may take title, in the name of the Federal Government, to the high-level radioactive waste, spent nuclear fuel, or other radioactive material emplaced in a test and evaluation facility. If the Secretary takes title to any such material, the Secretary shall enter into the appropriate financial arrangements described in subsection (a) or (b) of section 302 for the disposal of such material.

TEST AND EVALUATION FACILITY SITING REVIEW AND REPORTS

SEC. 215. (a) CONSULTATION AND COOPERATION.—The Governor of a State, or the governing body of an affected Indian tribe, notified of a site identification under section 213 shall have the right to participate in a process of consultation and cooperation as soon as the site involved has been identified pursuant to such section and throughout the life of the test and evaluation facility. For purposes of this section, the term "process of consultation and cooperation" means a methodology— 42 USC 10195.

"Process of consultation and cooperation."

(1) by which the Secretary—

(A) keeps the Governor or governing body involved fully and currently informed about any potential economic or public health and safety impacts in all stages of the siting, development, construction, and operation of a test and evaluation facility;

(B) solicits, receives, and evaluates concerns and objections of such Governor or governing body with regard to such test and evaluation facility on an ongoing basis; and

(C) works diligently and cooperatively to resolve such concerns and objections; and

(2) by which the State or affected Indian tribe involved can exercise reasonable independent monitoring and testing of onsite activities related to all stages of the siting, development, construction and operation of the test and evaluation facility, except that any such monitoring and testing shall not unreasonably interfere with onsite activities.

(b) WRITTEN AGREEMENTS.—The Secretary shall enter into written agreements with the Governor of the State in which an identified site is located or with the governing body of any affected Indian tribe where an identified site is located in order to expedite the consultation and cooperation process. Any such written agreement shall specify—

(1) procedures by which such Governor or governing body may study, determine, comment on, and make recommendations with regard to the possible health, safety, and economic impacts of the test and evaluation facility;

(2) procedures by which the Secretary shall consider and respond to comments and recommendations made by such Governor or governing body, including the period in which the Secretary shall so respond;

(3) the documents the Department is to submit to such Governor or governing body, the timing for such submissions, the timing for such Governor or governing body to identify public health and safety concerns and the process to be followed to try to eliminate those concerns;

(4) procedures by which the Secretary and either such Governor or governing body may review or modify the agreement periodically; and

(5) procedures for public notification of the procedures specified under subparagraphs (A) through (D).

(c) LIMITATION.—Except as specifically provided in this section, nothing in this title is intended to grant any State or affected Indian tribe any authority with respect to the siting, development, or loading of the test and evaluation facility.

FEDERAL AGENCY ACTIONS

42 USC 10196.

SEC. 216. (a) COOPERATION AND COORDINATION.—Federal agencies shall assist the Secretary by cooperating and coordinating with the Secretary in the preparation of any necessary reports under this title and the mission plan under section 301.

(b) ENVIRONMENTAL REVIEW.—(1) No action of the Secretary or any other Federal agency required by this title or section 301 with respect to a test and evaluation facility to be taken prior to the initiation of onsite construction of a test and evaluation facility shall require the preparation of an environmental impact statement under section 102(2)(C) of the Environmental Policy Act of 1969 (42

U.S.C. 4332(2)(C)), or to require the preparation of environmental reports, except as otherwise specifically provided for in this title.

(2) The Secretary and the heads of all other Federal agencies shall, to the maximum extent possible, avoid duplication of efforts in the preparation of reports under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

RESEARCH AND DEVELOPMENT ON DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE

SEC. 217. (a) PURPOSE.—Not later than 64 months after the date of the enactment of this Act, the Secretary is authorized to, to the extent practicable, begin at a site evaluated under section 214, as part of and as an extension of siting research activities of such site under such section, the mining and construction of a test and evaluation facility. Prior to the mining and construction of such facility, the Secretary shall prepare an environmental assessment. The purpose of such facility shall be— 42 USC 10197. Environmental assessment.

(1) to supplement and focus the repository site characterization process;

(2) to provide the conditions under which known technological components can be integrated to demonstrate a functioning repository-like system;

(3) to provide a means of identifying, evaluating, and resolving potential repository licensing issues that could not be resolved during the siting research program conducted under section 212;

(4) to validate, under actual conditions, the scientific models used in the design of a repository;

(5) to refine the design and engineering of repository components and systems and to confirm the predicted behavior of such components and systems;

(6) to supplement the siting data, the generic and specific geological characteristics developed under section 214 relating to isolating disposal materials in the physical environment of a repository;

(7) to evaluate the design concepts for packaging, handling, and emplacement of high-level radioactive waste and spent nuclear fuel at the design rate; and

(8) to establish operating capability without exposing workers to excessive radiation.

(b) DESIGN.—The Secretary shall design each test and evaluation facility—

(1) to be capable of receiving not more than 100 full-sized canisters of solidified high-level radioactive waste (which canisters shall not exceed an aggregate weight of 100 metric tons), except that spent nuclear fuel may be used instead of such waste if such waste cannot be obtained under reasonable conditions;

(2) to permit full retrieval of solidified high-level radioactive waste, or other radioactive material used by the Secretary for testing, upon completion of the technology demonstration activities; and

(3) based upon the principle that the high-level radioactive waste, spent nuclear fuel, or other radioactive material involved shall be isolated from the biosphere in such a way that the

initial isolation is provided by engineered barriers functioning as a system with the geologic environment.

Testing.

(c) OPERATION.—(1) Not later than 88 months after the date of the enactment of this Act, the Secretary shall begin an in situ testing program at the test and evaluation facility in accordance with the mission plan developed under section 301, for purposes of—

(A) conducting in situ tests of bore hole sealing, geologic media fracture sealing, and room closure to establish the techniques and performance for isolation of high-level radioactive waste, spent nuclear fuel, or other radioactive materials from the biosphere;

(B) conducting in situ tests with radioactive sources and materials to evaluate and improve reliable models for radionuclide migration, absorption, and containment within the engineered barriers and geologic media involved, if the Secretary finds there is reasonable assurance that such radioactive sources and materials will not threaten the use of such site as a repository;

(C) conducting in situ tests to evaluate and improve models for ground water or brine flow through fractured geologic media;

(D) conducting in situ tests under conditions representing the real time and the accelerated time behavior of the engineered barriers within the geologic environment involved;

(E) conducting in situ tests to evaluate the effects of heat and pressure on the geologic media involved, on the hydrology of the surrounding area, and on the integrity of the disposal packages;

(F) conducting in situ tests under both normal and abnormal repository conditions to establish safe design limits for disposal packages and to determine the effects of the gross release of radionuclides into surroundings, and the effects of various credible failure modes, including—

(i) seismic events leading to the coupling of aquifers through the test and evaluation facility;

(ii) thermal pulses significantly greater than the maximum calculated; and

(iii) human intrusion creating a direct pathway to the biosphere; and

(G) conducting such other research and development activities as the Secretary considers appropriate, including such activities necessary to obtain the use of high-level radioactive waste, spent nuclear fuel, or other radioactive materials (such as any highly radioactive material from the Three Mile Island nuclear powerplant or from the West Valley Demonstration Project) for test and evaluation purposes, if such other activities are reasonably necessary to support the repository program and if there is reasonable assurance that the radioactive sources involved will not threaten the use of such site as a repository.

(2) The in situ testing authorized in this subsection shall be designed to ensure that the suitability of the site involved for licensing by the Commission as a repository will not be adversely affected.

(d) USE OF EXISTING DEPARTMENT FACILITIES.—During the conducting of siting research activities under section 214 and for such period thereafter as the Secretary considers appropriate, the Secretary shall use Department facilities owned by the Federal Government on the date of the enactment of this Act for the conducting of

generically applicable tests regarding packaging, handling, and emplacement technology for solidified high-level radioactive waste and spent nuclear fuel from civilian nuclear activities.

(e) ENGINEERED BARRIERS.—The system of engineered barriers and selected geology used in a test and evaluation facility shall have a design life at least as long as that which the Commission requires by regulations issued under this Act, or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), for repositories.

(f) ROLE OF COMMISSION.—(1)(A) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Commission shall reach a written understanding establishing the procedures for review, consultation, and coordination in the planning, construction, and operation of the test and evaluation facility under this section. Such understanding shall establish a schedule, consistent with the deadlines set forth in this subtitle, for submission by the Secretary of, and review by the Commission of and necessary action on—

(i) the mission plan prepared under section 301; and

(ii) such reports and other information as the Commission may reasonably require to evaluate any health and safety impacts of the test and evaluation facility.

(B) Such understanding shall also establish the conditions under which the Commission may have access to the test and evaluation facility for the purpose of assessing any public health and safety concerns that it may have. No shafts may be excavated for the test and evaluation until the Secretary and the Commission enter into such understanding.

(2) Subject to section 305, the test and evaluation facility, and the facilities authorized in section 217, shall be constructed and operated as research, development, and demonstration facilities, and shall not be subject to licensing under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842).

(3)(A) The Commission shall carry out a continuing analysis of the activities undertaken under this section to evaluate the adequacy of the consideration of public health and safety issues.

(B) The Commission shall report to the President, the Secretary, and the Congress as the Commission considers appropriate with respect to the conduct of activities under this section.

(g) ENVIRONMENTAL REVIEW.—The Secretary shall prepare an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) prior to conducting tests with radioactive materials at the test and evaluation facility. Such environmental impact statement shall incorporate, to the extent practicable, the environmental assessment prepared under section 217(a). Nothing in this subsection may be construed to limit siting research activities conducted under section 214. This subsection shall apply only to activities performed exclusively for a test and evaluation facility.

(h) LIMITATIONS.—(1) If the test and evaluation facility is not located at the site of a repository, the Secretary shall obtain the concurrence of the Commission with respect to the decontamination and decommissioning of such facility.

(2) If the test and evaluation facility is not located at a candidate site or repository site, the Secretary shall conduct only the portion of the in situ testing program required in subsection (c) determined by the Secretary to be useful in carrying out the purposes of this Act.

Termination.

(3) The operation of the test and evaluation facility shall terminate not later than—

(A) 5 years after the date on which the initial repository begins operation; or

(B) at such time as the Secretary determines that the continued operation of a test and evaluation facility is not necessary for research, development, and demonstration purposes;

whichever occurs sooner.

(4) Notwithstanding any other provisions of this subsection, as soon as practicable following any determination by the Secretary, with the concurrence of the Commission, that the test and evaluation facility is unsuitable for continued operation, the Secretary shall take such actions as are necessary to remove from such site any radioactive material placed on such site as a result of testing and evaluation activities conducted under this section. Such requirement may be waived if the Secretary, with the concurrence of the Commission, finds that short-term testing and evaluation activities using radioactive material will not endanger the public health and safety.

RESEARCH AND DEVELOPMENT ON SPENT NUCLEAR FUEL

42 USC 10198.

SEC. 218. (a) DEMONSTRATION AND COOPERATIVE PROGRAMS.—The Secretary shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission. Not later than 1 year after the date of the enactment of this Act, the Secretary shall select at least 1, but not more than 3, sites evaluated under section 214 at such power reactors. In selecting such site or sites, the Secretary shall give preference to civilian nuclear power reactors that will soon have a shortage of interim storage capacity for spent nuclear fuel. Subject to reaching agreement as provided in subsection (b), the Secretary shall undertake activities to assist such power reactors with demonstration projects at such sites, which may use one of the following types of alternate storage technologies: spent nuclear fuel storage casks, caissons, or silos. The Secretary shall also undertake a cooperative program with civilian nuclear power reactors to encourage the development of the technology for spent nuclear fuel rod consolidation in existing power reactor water storage basins.

(b) COOPERATIVE AGREEMENTS.—To carry out the programs described in subsection (a), the Secretary shall enter into a cooperative agreement with each utility involved that specifies, at a minimum, that—

(1) such utility shall select the alternate storage technique to be used, make the land and spent nuclear fuel available for the dry storage demonstration, submit and provide site-specific documentation for a license application to the Commission, obtain a license relating to the facility involved, construct such facility, operate such facility after licensing, pay the costs required to construct such facility, and pay all costs associated with the operation and maintenance of such facility;

(2) the Secretary shall provide, on a cost-sharing basis, consultative and technical assistance, including design support

and generic licensing documentation, to assist such utility in obtaining the construction authorization and appropriate license from the Commission; and

(3) the Secretary shall provide generic research and development of alternative spent nuclear fuel storage techniques to enhance utility-provided, at-reactor storage capabilities, if authorized in any other provision of this Act or in any other provision of law.

(c) DRY STORAGE RESEARCH AND DEVELOPMENT.—(1) The consultative and technical assistance referred to in subsection (b)(2) may include, but shall not be limited to, the establishment of a research and development program for the dry storage of not more than 300 metric tons of spent nuclear fuel at facilities owned by the Federal Government on the date of the enactment of this Act. The purpose of such program shall be to collect necessary data to assist the utilities involved in the licensing process.

(2) To the extent available, and consistent with the provisions of section 135, the Secretary shall provide spent nuclear fuel for the research and development program authorized in this subsection from spent nuclear fuel received by the Secretary for storage under section 135. Such spent nuclear fuel shall not be subject to the provisions of section 135(e).

(d) FUNDING.—The total contribution from the Secretary from Federal funds and the use of Federal facilities or services shall not exceed 25 percent of the total costs of the demonstration program authorized in subsection (a), as estimated by the Secretary. All remaining costs of such program shall be paid by the utilities involved or shall be provided by the Secretary from the Interim Storage Fund established in section 136.

(e) RELATION TO SPENT NUCLEAR FUEL STORAGE PROGRAM.—The spent nuclear fuel storage program authorized in section 135 shall not be construed to authorize the use of research development or demonstration facilities owned by the Department unless—

(1) a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) has passed after the Secretary has transmitted to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a written report containing a full and complete statement concerning (A) the facility involved; (B) any necessary modifications; (C) the cost thereof; and (D) the impact on the authorized research and development program; or

Report to congressional committees.

(2) each such committee, before the expiration of such period, has transmitted to the Secretary a written notice to the effect that such committee has no objection to the proposed use of such facility.

PAYMENTS TO STATES AND INDIAN TRIBES

SEC. 219. (a) PAYMENTS.—Subject to subsection (b), the Secretary shall make payments to each State or affected Indian tribe that has entered into an agreement pursuant to section 215. The Secretary shall pay an amount equal to 100 percent of the expenses incurred by such State or Indian tribe in engaging in any monitoring, testing, evaluation, or other consultation and cooperation activity under section 215 with respect to any site. The amount paid by the

42 USC 10199.

Secretary under this paragraph shall not exceed $3,000,000 per year from the date on which the site involved was identified to the date on which the decontamination and decommission of the facility is complete pursuant to section 217(h). Any such payment may only be made to a State in which a potential site for a test and evaluation facility has been identified under section 213, or to an affected Indian tribe where the potential site has been identified under such section.

(b) LIMITATION.—The Secretary shall make any payment to a State under subsection (a) only if such State agrees to provide, to each unit of general local government within the jurisdictional boundaries of which the potential site or effectively selected site involved is located, at least one-tenth of the payments made by the Secretary to such State under such subsection. A State or affected Indian tribe receiving any payment under subsection (a) shall otherwise have discretion to use such payment for whatever purpose it deems necessary, including the State or tribal activities pursuant to agreements entered into in accordance with section 215. Annual payments shall be prorated on a 365-day basis to the specified dates.

STUDY OF RESEARCH AND DEVELOPMENT NEEDS FOR MONITORED RETRIEVABLE STORAGE PROPOSAL

Report to Congress.
42 USC 10200.

SEC. 220. Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report describing the research and development activities the Secretary considers necessary to develop the proposal required in section 141(b) with respect to a monitored retrievable storage facility.

JUDICIAL REVIEW

42 USC 10201.

SEC. 221. Judicial review of research and development activities under this title shall be in accordance with the provisions of section 119.

Ante, p. 2227.
42 USC 10202.

SEC. 222. RESEARCH ON ALTERNATIVES FOR THE PERMANENT DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE.—The Secretary shall continue and accelerate a program of research, development, and investigation of alternative means and technologies for the permanent disposal of high-level radioactive waste from civilian nuclear activities and Federal research and development activities except that funding shall be made from amounts appropriated to the Secretary for purposes of carrying out this section. Such program shall include examination of various waste disposal options.

TECHNICAL ASSISTANCE TO NON-NUCLEAR WEAPON STATES IN THE FIELD OF SPENT FUEL STORAGE AND DISPOSAL

42 USC 10203.

SEC. 223. (a) It shall be the policy of the United States to cooperate with and provide technical assistance to non-nuclear weapon states in the field of spent fuel storage and disposal.

Joint notice, publication in Federal Register.

(b)(1) Within 90 days of enactment of this Act, the Secretary and the Commission shall publish a joint notice in the Federal Register stating that the United States is prepared to cooperate with and provide technical assistance to non-nuclear weapon states in the fields of at-reactor spent fuel storage; away-from-reactor spent fuel storage; monitored, retrievable spent fuel storage; geologic disposal of spent fuel; and the health, safety, and environmental regulation

of such activities. The notice shall summarize the resources that can be made available for international cooperation and assistance in these fields through existing programs of the Department and the Commission, including the availability of: (i) data from past or ongoing research and development projects; (ii) consultations with expert Department or Commission personnel or contractors; and (iii) liaison with private business entities and organizations working in these fields.

(2) The joint notice described in the preceding subparagraph shall be updated and reissued annually for 5 succeeding years. Joint notice, reissuance.

(c) Following publication of the annual joint notice referred to in paragraph (2), the Secretary of State shall inform the governments of non-nuclear weapon states and, as feasible, the organizations operating nuclear powerplants in such states, that the United States is prepared to cooperate with and provide technical assistance to non-nuclear weapon states in the fields of spent fuel storage and disposal, as set forth in the joint notice. The Secretary of State shall also solicit expressions of interest from non-nuclear weapon state governments and non-nuclear weapon state nuclear power reactor operators concerning their participation in expanded United States cooperation and technical assistance programs in these fields. The Secretary of State shall transmit any such expressions of interest to the Department and the Commission. Expressions of interest.

(d) With his budget presentation materials for the Department and the Commission for fiscal years 1984 through 1989, the President shall include funding requests for an expanded program of cooperation and technical assistance with non-nuclear weapon states in the fields of spent fuel storage and disposal as appropriate in light of expressions of interest in such cooperation and assistance on the part of non-nuclear weapon state governments and non-nuclear weapon state nuclear power reactor operators.

(e) For the purposes of this subsection, the term "non-nuclear weapon state" shall have the same meaning as that set forth in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons (21 U.S.C. 438). "Non-nuclear weapon state."

(f) Nothing in this subsection shall authorize the Department or the Commission to take any action not authorized under existing law.

TITLE III—OTHER PROVISIONS RELATING TO RADIOACTIVE WASTE

MISSION PLAN

SEC. 301. (a) CONTENTS OF MISSION PLAN.—The Secretary shall prepare a comprehensive report, to be known as the mission plan, which shall provide an informational basis sufficient to permit informed decisions to be made in carrying out the repository program and the research, development, and demonstration programs required under this Act. The mission plan shall include— 42 USC 10221.

(1) an identification of the primary scientific, engineering, and technical information, including any necessary demonstration of engineering or systems integration, with respect to the siting and construction of a test and evaluation facility and repositories;

(2) an identification of any information described in paragraph (1) that is not available because of any unresolved scien-

tific, engineering, or technical questions, or undemonstrated engineering or systems integration, a schedule including specific major milestones for the research, development, and technology demonstration program required under this Act and any additional activities to be undertaken to provide such information, a schedule for the activities necessary to achieve important programmatic milestones, and an estimate of the costs required to carry out such research, development, and demonstration programs;

(3) an evaluation of financial, political, legal, or institutional problems that may impede the implementation of this Act, the plans of the Secretary to resolve such problems, and recommendations for any necessary legislation to resolve such problems;

(4) any comments of the Secretary with respect to the purpose and program of the test and evaluation facility;

(5) a discussion of the significant results of research and development programs conducted and the implications for each of the different geologic media under consideration for the siting of repositories, and, on the basis of such information, a comparison of the advantages and disadvantages associated with the use of such media for repository sites;

Ante, p. 2208.

(6) the guidelines issued under section 112(a);

(7) a description of known sites at which site characterization activities should be undertaken, a description of such siting characterization activities, including the extent of planned excavations, plans for onsite testing with radioactive or nonradioactive material, plans for any investigations activities which may affect the capability of any such site to isolate high-level radioactive waste or spent nuclear fuel, plans to control any adverse, safety-related impacts from such site characterization activities, and plans for the decontamination and decommissioning of such site if it is determined unsuitable for licensing as a repository;

(8) an identification of the process for solidifying high-level radioactive waste or packaging spent nuclear fuel, including a summary and analysis of the data to support the selection of the solidification process and packaging techniques, an analysis of the requirements for the number of solidification packaging facilities needed, a description of the state of the art for the materials proposed to be used in packaging such waste or spent fuel and the availability of such materials including impacts on strategic supplies and any requirements for new or reactivated facilities to produce any such materials needed, and a description of a plan, and the schedule for implementing such plan, for an aggressive research and development program to provide when needed a high-integrity disposal package at a reasonable price;

(9) an estimate of (A) the total repository capacity required to safely accommodate the disposal of all high-level radioactive waste and spent nuclear fuel expected to be generated through December 31, 2020, in the event that no commercial reprocessing of spent nuclear fuel occurs, as well as the repository capacity that will be required if such reprocessing does occur; (B) the number and type of repositories required to be constructed to provide such disposal capacity; (C) a schedule for the construction of such repositories; and (D) an estimate of the period during which each repository listed in such schedule will

be accepting high-level radioactive waste or spent nuclear fuel for disposal;

(10) an estimate, on an annual basis, of the costs required (A) to construct and operate the repositories anticipated to be needed under paragraph (9) based on each of the assumptions referred to in such paragraph; (B) to construct and operate a test and evaluation facility, or any other facilities, other than repositories described in subparagraph (A), determined to be necessary; and (C) to carry out any other activities under this Act; and

(11) an identification of the possible adverse economic and other impacts to the State or Indian tribe involved that may arise from the development of a test and evaluation facility or repository at a site.

(b) SUBMISSION OF MISSION PLAN.—(1) Not later than 15 months after the date of the enactment of this Act, the Secretary shall submit a draft mission plan to the States, the affected Indian tribes, the Commission, and other Government agencies as the Secretary deems appropriate for their comments.

(2) In preparing any comments on the mission plan, such agencies shall specify with precision any objections that they may have. Upon submission of the mission plan to such agencies, the Secretary shall publish a notice in the Federal Register of the submission of the mission plan and of its availability for public inspection, and, upon receipt of any comments of such agencies respecting the mission plan, the Secretary shall publish a notice in the Federal Register of the receipt of comments and of the availability of the comments for public inspection. If the Secretary does not revise the mission plan to meet objections specified in such comments, the Secretary shall publish in the Federal Register a detailed statement for not so revising the mission plan.

Publication in Federal Register. Public inspection and agency comments.

(3) The Secretary, after reviewing any other comments made by such agencies and revising the mission plan to the extent that the Secretary may consider to be appropriate, shall submit the mission plan to the appropriate committees of the Congress not later than 17 months after the date of the enactment of this Act. The mission plan shall be used by the Secretary at the end of the first period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) following receipt of the mission plan by the Congress.

Plan submittal to congressional committees.

NUCLEAR WASTE FUND

SEC. 302. (a) CONTRACTS.—(1) In the performance of his functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to high-level radioactive waste, or spent nuclear fuel, of domestic origin for the acceptance of title, subsequent transportation, and disposal of such waste or spent fuel. Such contracts shall provide for payment to the Secretary of fees pursuant to paragraphs (2) and (3) sufficient to offset expenditures described in subsection (d).

42 USC 10222.

Fees.

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

Fees.

(3) For spent nuclear fuel, or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to the application of the fee under paragraph (2) to such reactor, the Secretary shall, not later than 90 days after the date of enactment of this Act, establish a 1 time fee per kilogram of heavy metal in spent nuclear fuel, or in solidified high-level radioactive waste. Such fee shall be in an amount equivalent to an average charge of 1.0 mil per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom, to be collected from any person delivering such spent nuclear fuel or high-level waste, pursuant to section 123, to the Federal Government. Such fee shall be paid to the Treasury of the United States and shall be deposited in the separate fund established by subsection (c) 126(b). In paying such a fee, the person delivering spent fuel, or solidified high-level radioactive wastes derived therefrom, to the Federal Government shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of such spent fuel, or the solidified high-level radioactive waste derived therefrom.

Ante, p. 2229.

Collection and payment procedures. Review.

(4) Not later than 180 days after the date of enactment of this Act, the Secretary shall establish procedures for the collection and payment of the fees established by paragraph (2) and paragraph (3). The Secretary shall annually review the amount of the fees established by paragraphs (2) and (3) above to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (d) herein. In the event the Secretary determines that either insufficient or excess revenues are being collected, in order to recover the costs incurred by the Federal Government that are specified in subsection (d), the Secretary shall propose an adjustment to the fee to insure full cost recovery. The Secretary shall immediately transmit this proposal for such an adjustment to Congress. The adjusted fee proposed by the Secretary shall be effective after a period of 90 days of continuous session have elapsed following the receipt of such transmittal unless during such 90-day period either House of Congress adopts a resolution disapproving the Secretary's proposed adjustment in accordance with the procedures set forth for congressional review of an energy action under section 551 of the Energy Policy and Conservation Act.

Transmittal to Congress.

42 USC 6421.

(5) Contracts entered into under this section shall provide that—

(A) following commencement of operation of a repository, the Secretary shall take title to the high-level radioactive waste or spent nuclear fuel involved as expeditiously as practicable upon the request of the generator or owner of such waste or spent fuel; and

(B) in return for the payment of fees established by this section, the Secretary, beginning not later than January 31, 1998, will dispose of the high-level radioactive waste or spent nuclear fuel involved as provided in this subtitle.

Disposal services, terms and conditions.

(6) The Secretary shall establish in writing criteria setting forth the terms and conditions under which such disposal services shall be made available.

License renewal or issuance.

(b) ADVANCE CONTRACTING REQUIREMENT.—(1)(A) The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

(i) such person has entered into a contract with the Secretary under this section; or

(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

(B) The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of high-level radioactive waste and spent nuclear fuel that may result from the use of such license.

(2) Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in any repository constructed under this Act unless the generator or owner of such spent fuel or waste has entered into a contract with the Secretary under this section by not later than—

(A) June 30, 1983; or

(B) the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste;

whichever occurs later.

(3) The rights and duties of a party to a contract entered into under this section may be assignable with transfer of title to the spent nuclear fuel or high-level radioactive waste involved.

Disposal of radioactive waste or spent nuclear fuel.

(4) No high-level radioactive waste or spent nuclear fuel generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be disposed of by the Secretary in any repository constructed under this Act unless such department transfers to the Secretary, for deposit in the Nuclear Waste Fund, amounts equivalent to the fees that would be paid to the Secretary under the contracts referred to in this section if such waste or spent fuel were generated by any other person.

(c) ESTABLISHMENT OF NUCLEAR WASTE FUND.—There hereby is established in the Treasury of the United States a separate fund, to be known as the Nuclear Waste Fund. The Waste Fund shall consist of—

(1) all receipts, proceeds, and recoveries realized by the Secretary under subsections (a), (b), and (e), which shall be deposited in the Waste Fund immediately upon their realization;

(2) any appropriations made by the Congress to the Waste Fund; and

(3) any unexpended balances available on the date of the enactment of this Act for functions or activities necessary or incident to the disposal of civilian high-level radioactive waste or civilian spent nuclear fuel, which shall automatically be transferred to the Waste Fund on such date.

(d) USE OF WASTE FUND.—The Secretary may make expenditures from the Waste Fund, subject to subsection (e), only for purposes of radioactive waste disposal activities under titles I and II, including—

Ante, pp. 2206, 2245.

(1) the identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any repository, monitored, retrievable storage facility or test and evaluation facility constructed under this Act;

(2) the conducting of nongeneric research, development, and demonstration activities under this Act;

(3) the administrative cost of the radioactive waste disposal program;

(4) any costs that may be incurred by the Secretary in connection with the transportation, treating, or packaging of spent nuclear fuel or high-level radioactive waste to be disposed of in a repository, to be stored in a monitored, retrievable storage site or to be used in a test and evaluation facility;

(5) the costs associated with acquisition, design, modification, replacement, operation, and construction of facilities at a repository site, a monitored, retrievable storage site or a test and evaluation facility site and necessary or incident to such repository, monitored, retrievable storage facility or test and evaluation facility; and

(6) the provision of assistance to States, units of general local government, and Indian tribes under sections 116, 118, and 219.

Ante, pp. 2220, 2225, 2253.

No amount may be expended by the Secretary under this subtitle for the construction or expansion of any facility unless such construction or expansion is expresely authorized by this or subsequent legislation. The Secretary hereby is authorized to construct one repository and one test and evaluation facility.

Report to Congress.

(e) ADMINISTRATION OF WASTE FUND.—(1) The Secretary of the Treasury shall hold the Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Waste Fund during the preceding fiscal year.

Budget submittal.

Ante, p. 907.

(2) The Secretary shall submit the budget of the Waste Fund to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget of the Waste Fund shall consist of the estimates made by the Secretary of expenditures from the Waste Fund and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the Budget of the United States Government. The Secretary may make expenditures from the Waste Fund, subject to appropriations which shall remain available until expended. Appropriations shall be subject to triennial authorization.

(3) If the Secretary determines that the Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Waste Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(4) Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

Ante, p. 927.

(5) If at any time the moneys available in the Waste Fund are insufficient to enable the Secretary to discharge his responsibilities under this subtitle, the Secretary shall issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Secretary and the Secretary of the Treasury. The total of such obligations shall not exceed amounts provided in appropriation Acts. Redemption of such obligations shall be made by the Secretary from moneys available in the Waste Fund. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such Act are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.

Ante, p. 937.

(6) Any appropriations made available to the Waste Fund for any purpose described in subsection (d) shall be repaid into the general fund of the Treasury, together with interest from the date of availability of the appropriations until the date of repayment. Such interest shall be paid on the cumulative amount of appropriations available to the Waste Fund, less the average undisbursed cash balance in the Waste Fund account during the fiscal year involved. The rate of such interest shall be determined by the Secretary of the Treasury taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

Interest payments.

Deferral.

ALTERNATIVE MEANS OF FINANCING

SEC. 303. The Secretary shall undertake a study with respect to alternative approaches to managing the construction and operation of all civilian radioactive waste management facilities, including the feasibility of establishing a private corporation for such purposes. In conducting such study, the Secretary shall consult with the Director of the Office of Management and Budget, the Chairman of the Commission, and such other Federal agency representatives as may be appropriate. Such study shall be completed, and a report containing the results of such study shall be submitted to the Congress, within 1 year after the date of the enactment of this Act.

Study.
42 USC 10223.

Report to Congress.

OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT

SEC. 304. (a) ESTABLISHMENT.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste

42 USC 10224.

Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

(c) ANNUAL REPORT TO CONGRESS.—The Director of the Office shall annually prepare and submit to the Congress a comprehensive report on the activities and expenditures of the Office.

(d) ANNUAL AUDIT BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.

Report to Congress

LOCATION OF TEST AND EVALUATION FACILITY

42 USC 10225.

SEC. 305. (a) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report setting forth whether the Secretary plans to locate the test and evaluation facility at the site of a repository.

(b) PROCEDURES.—(1) If the test and evaluation facility is to be located at any candidate site or repository site (A) site selection and development of such facility shall be conducted in accordance with the procedures and requirements established in title I with respect to the site selection and development of repositories; and (B) the Secretary may not commence construction of any surface facility for such test and evaluation facility prior to issuance by the Commission of a construction authorization for a repository at the site involved.

Ante, p. 2206.

(2) No test and evaluation facility may be converted into a repository unless site selection and development of such facility was conducted in accordance with the procedures and requirements established in title I with respect to the site selection and development of respositories.

(3) The Secretary may not commence construction of a test and evaluation facility at a candidate site or site recommended as the location for a repository prior to the date on which the designation of such site is effective under section 115.

Ante, p. 2217.

NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION

Regulations or guidance.
42 USC 10226.

SEC. 306. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.—The Nuclear Regulatory Commission is authorized and directed to promulgate regulations, or other appropriate Commission regulatory guidance, for the training and qualifications of civilian nuclear powerplant operators, supervisors, technicians and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear powerplant operator licenses and for operator re-

qualification programs; requirements governing NRC administration of requalification examinations; requirements for operating tests at civilian nuclear powerplant simulators, and instructional requirements for civilian nuclear powerplant licensee personnel training programs. Such regulations or other regulatory guidance shall be promulgated by the Commission within the 12-month period following enactment of this Act, and the Commission within the 12-month period following enactment of this Act shall submit a report to Congress setting forth the actions the Commission has taken with respect to fulfilling its obligations under this section.

Report to Congress.

Approved January 7, 1983.

LEGISLATIVE HISTORY—H.R. 3809:

HOUSE REPORT No. 97-491 pt.1 (Comm. on Interior and Insular Affairs) and pt. 2 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 128 (1982):
Sept. 30, Nov. 29, 30, Dec. 2, considered and passed House.
Dec. 20, considered and passed Senate, amended; House agreed to Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 19, No. 1 (1983):
Jan. 7, Presidential statement.

○

APPENDIX 33

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS IN THE UNITED STATES OF AMERICA

Whereas the United States of America (hereinafter referred to as the "United States") is a Party to the Treaty on the Non-Proliferation of Nuclear Weapons (hereinafter referred to as the "Treaty") which was opened for signature at London, Moscow and Washington on 1 July 1968 and which entered into force on 5 March 1970;

Whereas States Parties to the Treaty undertake to co-operate in facilitating the application of International Atomic Energy Agency (hereinafter referred to as the "Agency") safeguards on peaceful nuclear activities;

Whereas non-nuclear-weapon States Parties to the Treaty undertake to accept safeguards, as set forth in an agreement to be negotiated and concluded with the Agency, on all source or special fissionable material in all their peaceful nuclear activities for the exclusive purpose of verification of the fulfillment of their obligations under the Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices;

Whereas the United States, a nuclear-weapon State as defined by the Treaty, has indicated that at such time as safeguards are being generally applied in accordance with paragraph 1 of Article III of the Treaty, the United States will permit the Agency to apply its safeguards to all nuclear activities in the United States—excluding only those with direct national security significance—by concluding a safeguards agreement with the Agency for that purpose;

Whereas the United States has made this offer and has entered into this agreement for the purpose of encouraging widespread adherence to the Treaty by demonstrating to non-nuclear-weapon States that they would not be placed at a commercial disadvantage by reason of the application of safeguards pursuant to the Treaty;

Whereas the purpose of a safeguards agreement giving effect to this offer by the United States would thus differ necessarily from the purposes of safeguards agreements concluded between the Agency and non-nuclear-weapon States Party to the Treaty;

Whereas it is in the interest of Members of the Agency, that, without prejudice to the principles and integrity of the Agency's safeguards system, the expenditure of the Agency's financial and other resources for implementation of such an agreement not exceed that necessary to accomplish the purpose of the Agreement;

Whereas the Agency is authorized, pursuant to Article III of the Statute of the International Atomic Energy Agency (hereinafter referred to as the "Statute"), to conclude such a safeguards agreement;

Now, therefore, the United States and the Agency have agreed as follows:

PART I

Article 1

(*a*) The United States undertakes to permit the Agency to apply safeguards, in accordance with the terms of this Agreement, on all source or special fissionable material in all facilities within the United States, excluding only those facilities associated with activities with direct national security significance to the United States, with a view to enabling the Agency to verify that such material is not withdrawn, except as provided for in this Agreement, from activities in facilities while such material is being safeguarded under this Agreement.

(*b*) The United States shall, upon entry in force of this Agreement, provide the Agency with a list of facilities within the United States not associated with activities with direct national security significance to the United States and may, in accordance with the procedures set forth in Part II of this Agreement, add facilities to or remove facilities from that list as it deems appropriate.

(*c*) The United States may, in accordance with the procedures set forth in this Agreement, withdraw nuclear material from activities in facilities included in the list referred to in Article 1(b).

Article 2

(*a*) The Agency shall have the right to apply safeguards in accordance with the terms of this Agreement on all source or special fissionable material in all facilities within the United States, excluding only those facilities associated with activities with direct national security significance to the United States, with a view to enabling the Agency to verify that such material is not withdrawn, except as provided for in this Agreement, from activities in facilities while such material is being safeguarded under this Agreement.

(*b*) The Agency shall, from time to time, identify to the Unitd States those facilities, selected from the then current list provided by the United States in accordance with Article I(*b*) in which the Agency wishes to apply safeguards, in accordance with the terms of this Agreement.

(*c*) In identifying facilities and in applying safeguards thereafter on source or special fissionable material in such facilities, the Agency shall proceed in a manner which the Agency and the United States mutually agree takes into account the requirement on the United States to avoid discriminatory treatment as between United States commercial firms similarly situated.

Article 3

(*a*) The United States and the Agency shall co-operate to facilitate the implementation of the safeguards provided for in this Agreement.

(*b*) The source or special fissionable material subject to safeguards under this Agreement shall be that material in those facilities which shall have been identified by the Agency at any given time pursuant to Article 2(*b*).

(*c*) The safeguards to be applied by the Agency under this Agreement on source or special fissionable materials in facilities in the United States shall be implemented by the same procedures followed by the Agency in applying its safeguards on similar material in similar facilities in non-nuclear-weapon States under agreements pursuant to paragraph 1 of Article III of the Treaty.

Article 4

The safeguards provided for in this Agreement shall be implemented in a manner designed:

(*a*) To avoid hampering the economic and technological development of the United States or international co-operation in the field of peaceful nuclear activities, including international exchange of nuclear material;

(*b*) To avoid undue interference in peaceful nuclear activities of the United States and in particular in the operation of the facilities; and

(*c*) To be consistent with prudent management practices required for the economic and safe conduct of nuclear activities.

Article 5

(*a*) The Agency shall take every precaution to protect commercial and industrial secrets and other confidential information coming to its knowledge in the implementation of this Agreement.

(*b*)(i) The Agency shall not publish or communicate to any State, organization or person any information obtained by it in connection with the implementation of this Agreement, except that specific information relating to the implementation thereof may be given to the Board of Governors of the Agency (hereinafter referred to as "the Board") and to such Agency staff members as require such knowledge by reason of their official duties in connection with safeguards, but only to the extent necessary for the Agency to fulfill its responsibilities in implementing this Agreement.

(ii) Summarized information on nuclear material subject to safeguards under this Agreement may be published upon the decision of the Board if the United States agrees thereto.

Article 6

(*a*) The Agency shall, in implementing safeguards pursuant to this Agreement, take full account of technological developments in the field of safeguards, and shall make every effort to ensure optimum cost-effectiveness and the application of the principle of safeguarding effectively the flow of nuclear material subject to safeguards under this Agreement by use of instruments and other techniques at certain strategic points to the extent that present or future technology permits.

(*b*) In order to ensure optimum cost-effectiveness, use shall be made, for example, of such means as:

(i) Containment as a means of defining material balance areas for accounting purposes;

(ii) Statistical techniques and random sampling in evaluating the flow of nuclear material; and

(iii) Concentration of verification procedures on those stages in the nuclear fuel cycle involving the production, processing, use or storage of nuclear material from which nuclear weapons or other nuclear explosive devices could readily be made, and minimization of verification procedures in respect of other nuclear material, on condition that this does not hamper the Agency in applying safeguards under this Agreement.

Article 7

(*a*) The United States shall establish and maintain a system of accounting for and control of all nuclear material subject to safeguards under this Agreement.

(*b*) The Agency shall apply safeguards in accordance with Article 3(c) in such a manner as to enable the Agency to verify, in ascertaining that there has been no withdrawal of nuclear material, except as provided for in this Agreement, from activities in facilities while such material is being safeguarded under this Agreement, findings of the accounting and control system of the United States. The Agency's verification shall include, inter alia, independent measurements and observations conducted by the Agency in accordance with the procedures specified in Part II. The Agency, in its verification, shall take due account of the technical effectiveness of the system of the United States.

Article 8

(*a*) In order to ensure the effective implementation of safeguards under this Agreement, the United States shall, in accordance with the provisions set out in Part II, provide the Agency with information concerning nuclear material subject to safeguards under this Agreement and the features of facilities relevant to safeguarding such material.

(*b*)(i) The Agency shall require only the minimum amount of information and data consistent with carrying out its responsibilities under this Agreement.

(ii) Information pertaining to facilities shall be the minimum necessary for safeguarding nuclear material subject to safeguards under this Agreement.

(*c*) If the United States so requests, the Agency shall be prepared to examine on premises of the United States design information which the United States regards as being of particular sensitivity. Such information need not be physically transmitted to the Agency provided that it remains readily available for further examination by the Agency on premises of the United States.

Article 9

(*a*)(i) The Agency shall secure the consent of the United States to the designation of Agency inspectors to the United States.

(ii) If the United States, either upon proposal of a designation or at any other time after designation has been made, objects to the designation, the Agency shall propose to the United States an alternative designation or designations.

(iii) If, as a result of the repeated refusal of the United States to accept the designation of Agency inspectors, inspections to be conducted under this Agreement would be impeded, such refusal shall be considered by the Board, upon referral by the Director General of the Agency (hereinafter referred to as "the Director General") with a view to its taking appropriate action.

(*b*) The United States shall take the necessary steps to ensure that Agency inspectors can effectively discharge their functions under this Agreement.

(*c*) The visits and activities of Agency inspectors shall be so arranged as:

(i) To reduce to a minimum the possible inconvenience and disturbance to the United States and to the peaceful nuclear activities inspected; and

(ii) To ensure protection of industrial secrets or any other confidential information coming to the inspectors' knowledge.

Article 10

The provisions of the International Organizations Immunities Act of the United States of America shall apply to Agency inspectors performing functions in the United States under this Agreement and to any property of the Agency used by them.

Article 11

Safeguards shall terminate on nuclear material upon determination by the Agency that the material has been consumed, or has been diluted in such a way that it is no longer usable for any nuclear activity relevant from the point of view of safeguards, or has become practicably irrecoverable.

Article 12

(*a*) If the United States intends to exercise its right to withdraw nuclear material from activities in facilities identified by the Agency pursuant to Articles 2(b) and 39(b) (other

than those facilities removed, pursuant to Article 34(b)(i) from the list provided for by Article 1(b)) and to transfer such material to a destination in the United States other than to a facility included in the list established and maintained pursuant to Articles 1(b) and 34, the United States shall notify the Agency in advance of such withdrawal. Nuclear material in respect of which such notification has been given shall cease to be subject to safeguards under this Agreement as from the time of its withdrawal.

(*b*) Nothing in this Agreement shall effect the right of the United States to transfer material subject to safeguards under this Agreement to destinations not within or under the jurisdiction of the United States. The United States shall provide the Agency with information with respect to such transfers in accordance with Article 89. The Agency shall keep records of each such transfer and, where applicable, of the re-application of safeguards to the transferred nuclear material.

Article 13

Where nuclear material subject to safeguards under this Agreement is to be used in non-nuclear activities, such as the production of alloys or ceramics, the United States shall agree with the Agency, before the material is so used, on the circumstances under which the safeguards on such material may be terminated.

Article 14

The United States and the Agency will bear the expenses incurred by them in implementing their respective responsibilities under this Agreement. However if, the United States or persons under its jurisdiction incur extraordinary expenses as a result of a specific request by the Agency, the Agency shall reimburse such expenses provided that it has agreed in advance to do so. In any case the Agency shall bear the cost of any additional measuring or sampling which inspectors may request.

Article 15

In carrying out its functions under this Agreement within the United States, the Agency and its personnel shall be covered to the same extent as nationals of the United States by any protection against third-party liability provided under the Price-Anderson Act, including insurance or other indemnity coverage that may be required by the Price-Anderson Act with respect to nuclear incidents.

Article 16

Any claim by the United States against the Agency or by the Agency against the United States in respect of any damage resulting from the implementation of safeguards under this Agreement, other than damage arising out of a nuclear incident, shall be settled in accordance with international law.

Article 17

If the Board, upon report of the Director General, decides that an action by the United States is essential and urgent in order to ensure compliance with this Agreement, the Board may call upon the United States to take the required action without delay, irrespective of whether procedures have been invoked pursuant to Article 21 for the settlement of a dispute.

Article 18

If the Board, upon examination of relevant information reported to it by the Director General, determines there has been any non-compliance with this Agreement, the Board may call upon the United States to remedy forthwith such non-compliance. In the event there is a failure to take fully corrective action within a reasonable time, the Board may make the reports provided for in paragraph C of Article XII of the Statute and may also take, where applicable, the other measures provided for in that paragraph. In taking such action the Board shall take account of the degree of assurance provided by the safeguards measures that have been applied and shall afford the United States every reasonable opportunity to furnish the Board with any necessary reassurance.

Article 19

The United States and the Agency shall, at the request of either, consult about any question arising out of the interpretation or application of this Agreement.

Article 20

The United States shall have the right to request that any question arising out of the interpretation or application of this Agreement be considered by the Board. The Board shall invite the United States to participate in the discussion of any such question by the Board.

Article 21

Any dispute arising out of the interpretation or application of this Agreement, except a dispute with regard to a determination by the Board under Article 18 or an action taken by the Board pursuant to such a determination which is not settled by negotiation or another procedure agreed to by the United States and the Agency shall, at the request of either, be submitted to an arbitral tribunal composed as follows: The United States and the Agency shall each designate one arbitrator, and the two arbitrators so designated shall elect a third, who shall be the Chairman. If, within thirty days of the request for arbitration, either the United States or the Agency has not designated an arbitrator, either the United States or the Agency may request the President of the International Court of Justice to appoint an arbitrator. The same procedure shall apply if, within thirty days of the designation or appointment of the second arbitrator, the third arbitrator has not been elected. A majority of the members of the arbitral tribunal shall constitute a quorum, and all decisions shall require the concurrence of two arbitrators. The arbitral procedure shall be fixed by the tribunal. The decisions of the tribunal shall be binding on the United States and the Agency.

Article 22

The Parties shall institute steps to suspend the application of Agency safeguards in the United States under other safeguards agreements with the Agency while this Agreement is in force. However, the United States and the Agency shall ensure that nuclear material being safeguarded under this Agreement shall be at all times at least equivalent in amount and composition to that which would be subject to safeguards in the United States under the agreements in question. The detailed arrangements for the implementation of this provision shall be specified in the subsidiary arrangements provided for in Article 39, and shall reflect the nature of any undertaking given under such other safeguards agreements.

Article 23

(*a*) The United States and the Agency shall, at the request of either, consult each other on amendments to this Agreement.

(*b*) All amendments shall require the agreement of the United States and the Agency.

Article 24

This Agreement or any amendments thereto shall enter into force on the date on which the Agency receives from the United States written notification that statutory and constitutional requirements of the United States for entry into force have been met.

Article 25

The Director General shall promptly inform all Member States of the Agency of the entry into force of this Agreement, or of any amendments thereto.

Article 26

The Agreement shall remain in force as long as the United States is a party to the Treaty except that the Parties to this Agreement shall, upon the request of either of them, consult and, to the extent mutually agreed, modify this Agreement in order to ensure that it continues to serve the purpose for which it was originally intended. If the Parties are unable after such consultation to agree upon necessary modifications, either Party may, upon six months' notice, terminate this Agreement.

PART II

Article 27

The purpose of this part of the Agreement is to specify the procedures to be applied in the implementation of the safeguards provisions of Part I.

Article 28

The objective of the safeguards procedures set forth in this part of the Agreement is the timely detection of withdrawal, other than in accordance with the terms of this Agreement, of significant quantities of nuclear material from activities in facilities while such material is being safeguarded under this Agreement.

Article 29

For the purpose of achieving the objective set forth in Article 28, material accountancy shall be used as a safeguards measure of fundamental importance, with containment and surveillance as important complementary measures.

Article 30

The technical conclusion of the Agency's verification activities shall be a statement, in respect of each material balance area, of the amount of material unaccounted for over a specific period, and giving the limits of accuracy of the amounts stated.

Article 31

Pursuant to Article 7, the Agency, in carrying out its verification activities, shall make full use of the United States' system of accounting for and control of all nuclear material subject to safeguards under this Agreement and shall avoid unnecessary duplication of the United States' accounting and control activities.

Article 32

The United States' system of accounting for and control of all nuclear material subject to safeguards under this Agreement shall be based on a structure of material balance areas, and shall make provision, as appropriate and specified in the Subsidiary Arrangements, for the establishment of such measures as:

(*a*) A measurement system for the determination of the quantities of nuclear material received, produced, shipped, lost or otherwise removed from inventory, and the quantities on inventory;

(*b*) The evaluation of precision and accuracy of measurements and the estimation of measurement uncertainty;

(*c*) Procedures for identifying, reviewing and evaluating differences in shipper/receiver measurements;

(*d*) Procedures for taking a physical inventory;

(*e*) Procedures for the evaluation of accumulations of unmeasured inventory and unmeasured losses;

(*f*) A system of records and reports showing, for each material balance area, the inventory of nuclear material and the changes in that inventory including receipts into and transfers out of the material balance area;

(*g*) Provisions to ensure that the accounting procedures and arrangements are being operated correctly; and

(*h*) Procedures for the provision of reports to the Agency in accordance with Articles 57 through 63 and 65 through 67.

Article 33

Safeguards under this Agreement shall not apply to material in mining or ore processing activities.

Article 34

The United States may, at any time, notify the Agency of any facility or facilities to be added to or removed from the list provided for in Article 1(b):

(*a*) In case of addition to the list, the notification shall specify the facility or facilities to be added to the list and the date upon which the addition is to take effect;

(*b*) In the case of removal from the list of a facility or facilities then currently identified pursuant to Articles 2(b) or 39(b):

(i) The Agency shall be notified in advance and the notification shall specify: the facility or facilities being removed, the date of removal, and the quantity and composition of the nuclear material contained therein at the time of notification. In exceptional circumstances, the United States may remove facilities without giving advance notification;

(ii) Any facility in respect of which notification has been given in accordance with sub-paragraph (i) shall be removed from the list and nuclear material contained therein shall cease to be subject to safeguards under this Agreement in accordance with and at the time specified in the notification by the United States.

(*c*) In the case of removal from the list of a facility or facilities not then currently identified pursuant to Articles 2(b) or 39(b), the notification shall specify the facility or facilities being removed and the date of removal. Such facility or facilities shall be removed from the list at the time specified in the notification by the United States.

Article 35

(*a*) Safeguards shall terminate on nuclear material subject to safeguards under this Agreement, under the conditions set forth in Article 11. Where the conditions of that Article are not met, but the United States considers that the recovery of safeguarded nuclear material from residues is not for the time being practicable or desirable, the United States and the Agency shall consult on the appropriate safeguards measures to be applied.

(*b*) Safeguards shall terminate on nuclear material subject to safeguards under this Agreement, under the conditions set forth in Article 13, provided that the United States and the Agency agree that such nuclear material is practicably irrecoverable.

Article 36

At the request of the United States, the Agency shall exempt from safeguards nuclear material, which would otherwise be subject to safeguards under this Agreement, as follows:

(*a*) Special fissionable material, when it is used in gram quantities or less as a sensing component in instruments;

(*b*) Nuclear material, when it is used in non-nuclear activities in accordance with Article 13, if such nuclear material is recoverable; and

(*c*) Plutonium with an isotopic concentration of plutonium-238 exceeding 80%.

Article 37

At the request of the United States, the Agency shall exempt from safeguards nuclear material that would otherwise be subject to safeguards under this Agreement, provided that the total quantity of nuclear material which has been exempted in the United States in accordance with this Article may not at any time exceed:

(*a*) One kilogram in total of special fissionable material, which may consist of one or more of the following:

(i) Plutonium;

(ii) Uranium with an enrichment of 0.2 (20%) and above, taken account of by multiplying its weight by its enrichment; and

(iii) Uranium with an enrichment below 0.2 (20%) and above that of natural uranium, taken account of by multiplying its weight by five times the square of its enrichment;

(*b*) Ten metric tons in total of natural uranium and depleted uranium with an enrichment above 0.005 (0.5%);

(*c*) Twenty metric tons of depleted uranium with an enrichment of 0.005 (0.5%) or below; and

(*d*) Twenty metric tons of thorium;

or such greater amounts as may be specified by the Board for uniform application.

Article 38

If exempted nuclear material is to be processed or stored together with nuclear material subject to safeguards under this Agreement, provision shall be made for the re-application of safeguards thereto.

Article 39

(*a*) The United States and the Agency shall make Subsidiary Arrangements which shall:

(i) contain a current listing of those facilities identified by the Agency pursuant to Article 2(b) and thus containing nuclear material subject to safeguards under this Agreement; and

(ii) specify in detail, to the extent necessary to permit the Agency to fulfill its responsibilities under this Agreement in an effective and efficient manner, how the procedures laid down in this Agreement are to be applied.

(*b*)(i) After entry into force of this Agreement, the Agency shall identify to the United States, from the list provided in accordance with Article 1(b), those facilities to be included in the initial Subsidiary Arrangements listing;

(ii) The Agency may thereafter identify for inclusion in the Subsidiary Arrangements listing additional facilities from the list provided in accordance with Article 1(b) as that list may have been modified in accordance with Article 34.

(*c*) The Agency shall also designate to the United States those facilities to be removed from the Subsidiary Arrangements listing which have not otherwise been removed pursuant to notification by the United States in accordance with Article 34. Such facility or facilities shall be removed from the Subsidiary Arrangements listing upon such designation to the United States.

(*d*) The Subsidiary Arrangements may be extended or charged by agreement between the Agency and the United States without amendment of this Agreement.

Article 40

(*a*) With respect to those facilities which shall have been identified by the Agency in accordance with Article 39(b)(i), such Subisidiary Arrangements shall enter into force at the same time as, or as soon as possible after, entry into force of this Agreement. The United States and the Agency shall make every effort to achieve their entry into force within 90 days after entry into force of this Agreement; an extension of that period shall require agreement between the United States and the Agency.

(*b*) With respect to facilities which, after the entry into force of this Agreement, have been identified by the Agency in accordance with Article 39(b)(ii) for inclusion in the Subsidiary Arrangements listing, the United States and the Agency shall make every effort to achieve the entry into force of such Subsidiary Arrangements within ninety days following such identification to the United States; an extension of that period shall require agreement between the Agency and the United States.

(*c*) Upon identification of a facility by the Agency in accordance with Article 39(b), the United State shall provide the Agency promptly with the information required for completing the Subsidiary Arrangements, and the Agency shall have the right to apply the procedures set forth in this Agreement to the nuclear material listed in the inventory provided for in Article 41, even if the Subsidiary Arrangements have not yet entered into force.

Article 41

The Agency shall establish, on the basis of the initial reports referred to in Article 60(a) below, a unified inventory of all nuclear material in the United States subject to safeguards under this Agreement, irrespective of its origin, and shall maintain this inventory on the basis of subsequent reports concerning those facilities, of the initial reports referred to in Article 60(b), of subsequent reports concerning the facilities listed pursuant to Article 39(b)(ii), and of the results of its verification activities. Copies of the inventory shall be made available to the United States at intervals to be agreed.

Article 42

Pursuant to Article 8, design information in repsect of facilities identified by the Agency in accordance with Article 39(b)(i) shall be provided to the Agency during the discussion of the Subsidiary Arrangements. The time limits for the provision of design information in respect of any facility which is identified by the Agency in accordance with Article 39(b)(ii) shall be specified in the Subsidiary Arrangements and such information shall be provided as early as possible after such identification.

Article 43

The design information to be provided to the Agency shall include, in respect of each facility identified by the Agency in accordance with Article 39(b), when applicable:

(*a*) The identification of the facility, stating its general character, purpose, nominal capacity and geographic location, and the name and address to be used for routine business purposes;

(*b*) A description of the general arrangement of the facility with reference, to the extent feasible, to the form, location and flow of nuclear material and to the general layout of important items of equipment which use, produce or process nuclear material;

(*c*) A description of features of the facility relating to material accountancy, containment and surveillance; and

(*d*) A description of the existing and proposed procedures at the facility for nuclear material accountancy and control, with special reference to material balance areas established by the operator, measurements of flow and procedures for physical inventory taking.

Article 44

Other information relevant to the application of safeguards shall also be provided to the Agency in respect of each facility identified by the Agency in accordance with Article 39(b), in particular on organizational responsibility for material accountancy and control. The United States shall provide the Agency with supplementary information on the health and safety procedures which the Agency shall observe and with which the inspectors shall comply at the facility.

Article 45

The Agency shall be provided with design information in respect of a modification relevant for safeguards purposes, for examination, and shall be informed of any change in the information provided to it under Article 44, sufficiently in advance for the safeguards procedures to be adjusted when necessary.

Article 46

The design information provided to the Agency shall be used for the following purposes:

(*a*) To identify the features of facilities and nuclear material relevant to the application of safeguards to nuclear material in sufficient detail to facilitate verification;

(*b*) To determine material balance areas to be used for Agency accounting purposes and to select those strategic points which are key measurement points and which will be used to determine flow and inventory of nuclear material; in determining such material balance areas the Agency shall, inter alia, use the following criteria:

(i) The size of the material balance area shall be related to the accuracy with which the material balance can be established;

(ii) In determining the material balance area, advantage shall be taken of any opportunity to use containment and surveillance to help ensure the completeness of flow measurements and thereby to simplify the application of safeguards and to concentrate measurement efforts at key measurement points;

(iii) A number of material balance areas in use at a facility or at distinct sites may be combined in one material balance area to be used for Agency accounting purposes when the Agency determines that this is consistent with its verification requirements; and

(iv) A special material balance area may be established at the request of the United States around a process step involving commercially sensitive information;

(*c*) To establish the nominal timing and procedures for taking of physical inventory of nuclear material for Agency accounting purposes;

(*d*) To establish the records and reports requirements and records evaluation procedures;

(*e*) To establish requirements and procedures for verification of the quantity and location of nuclear material; and

(*f*) To select appropriate combinations of containment and surveillance methods and techniques at the strategic points at which they are to be applied.

The results of the examination of the design information shall be included in the Subsidiary Arrangements.

Article 47

Design information shall be re-examined in the light of changes in operating conditions, of developments in safeguards technology or of experience in the application of verification procedures, with a view to modifying the action the Agency has taken pursuant to Article 46.

Article 48

The Agency, in co-operation with the United States, may send inspectors to facilities to verify the design information provided to the Agency pursuant to Articles 42 through 45, for the purposes stated in Article 46.

Article 49

In establishing a national system of materials control as referred to in Article 7, the United States shall arrange that records are kept in respect of each material balance area determined in accordance with Article 46(b). The records to be kept shall be described in the Subsidiary Arrangements.

Article 50

The United States shall make arrangements to facilitate the examination of records referred to in Article 49 by inspectors.

Article 51

Records referred to in Article 49 shall be retained for at least five years.

Article 52

Records referred to in Article 49 shall consist, as appropriate, of:

(*a*) Accounting records of all nuclear material subject to safeguards under this Agreement; and

(*b*) Operating records for facilities containing such nuclear material.

Article 53

The system of measurements on which the records used for the preparation of reports are based shall either conform to the latest international standards or be equivalent in quality to such standards.

Article 54

The accounting records referred to in Article 52(a) shall set forth the following in respect of each material balance area determined in accordance with Article 46(b):

(*a*) All inventory changes, so as to permit a determination of the book inventory at any time;

(*b*) All measurement results that are used for determination of the physical inventory; and

(*c*) All adjustments and corrections that have been made in respect of inventory changes, book inventories and physical inventories.

Article 55

For all inventory changes and physical inventories the records referred to in Article 52(a) shall show, in respect of each batch of nuclear material: material identification, batch data and source data. The records shall account for uranium, thorium and plutonium separately in each batch of nuclear material. For each inventory change, the data of the inventory change and, when appropriate, the originating material balance area and the receiving material balance area of the recipient shall be indicated.

Article 56

The operating records referred to in Article 52(b) shall set forth, as appropriate, in respect of each material balance area determined in accordance with Article 46(b):

(*a*) Those operating data which are used to establish changes in the quantities and composition of nuclear material;

(*b*) The data obtained from the calibration of tanks and instruments and from sampling and analyses, the procedures to control the quality of measurements and the derived estimates of random and systematic error;

(*c*) A description of the sequence of the actions taken in preparing for, and in taking a physical inventory, in order to ensure that it is correct and complete; and

(*d*) A description of the actions taken in order to ascertain the cause and magnitude of any accidental or unmeasured loss that might occur.

Article 57

The United States shall provide the Agency with reports as detailed in Articles 58 through 67 in respect of nuclear material subject to safeguards under this Agreement.

Article 58

Reports shall be made in English.

Article 59

Reports shall be based on the records kept in accordance with Articles 49 through 56 and shall consist, as appropriate, of accounting reports and special reports.

Article 60

The United States shall provide the Agency with an initial report on all nuclear material contained in each facility which becomes listed in the Subsidiary Arrangements in accordance with Article 39(b):

(*a*) With respect to those facilities listed pursuant to Article 39(b)(i), such reports shall be dispatched to the Agency within thirty days of the last day of the calendar month in which this Agreement enters into force, and shall reflect the situations as of the last day of that month.

(*b*) With respect to each facility listed pursuant to Article 39(b)(ii), an initial report shall be dispatched to the Agency within thirty days of the last day of the calendar month in which the Agency identifies the facility of the United States and shall reflect the situation as of the last day of that month.

Article 61

The United States shall provide the Agency with the following accounting reports for each material balance area determined in accordance with Article 46(b):

(*a*) Inventory change reports showing all changes in the inventory of nuclear material. The reports shall be dispatched as soon as possible and in any event within thirty days after the end of the month in which the inventory changes occurred or were established; and

(*b*) Material balance reports showing the material balance based on a physical inventory of nuclear material actually present in the material balance area. The reports shall be dispatched as soon as possible and in any event within thirty days after the physical inventory has been taken.

The reports shall be based on data available as of the date of reporting and may be corrected at a later date, as required.

Article 62

Inventory change reports submitted in accordance with Article 61 (a) shall specify identification and batch data for each batch of nuclear material, the date of the inventory change, and, as appropriate, the originating material balance area and the receiving material balance area or the recipient. These reports shall be accompanied by concise notes:

(*a*) Explaining the inventory changes, on the basis of the operating data contained in the operating records provided for under Article 56(a); and

(*b*) Describing, as specified in the Subsidiary Arrangements, the anticipated operational programme, particularly the taking of a physical inventory.

Article 63

The United States shall report each inventory change, adjustment and correction, either periodically in a consolidated list or individually. Inventory changes shall be reported in terms of batches. As specified in the Subsidiary Arrangements, small changes in inventory of nuclear material, such as transfers of analytical samples, may be combined in one batch and reported as one inventory change.

Article 64

The Agency shall provide the United States with semi-annual statements of book inventory of nuclear material subject to safeguards under this Agreement, for each material balance area, as based on the inventory change reports for the period covered by each such statement.

Article 65

Material balance reports submitted in accordance with Article 61(b) shall include the following entries, unless otherwise agreed by the United States and the Agency:

(*a*) Beginning physical inventory;
(*b*) Inventory changes (first increases, then decreases);
(*c*) Ending book inventory;
(*d*) Shipper/receiver differences;
(*e*) Adjusted ending book inventory;
(*f*) Ending physical inventory; and
(*g*) Material unaccounted for.

A statement of the physical inventory, listing all batches separately and specifying material identification and batch data for each batch, shall be attached to each material balance report.

Article 66

The United States shall make special reports without delay:

(*a*) If any unusual incident or circumstances lead the United States to believe that there is or may have been loss of nuclear material subject to safeguards under this Agreement that exceeds the limits specified for this purpose in the Subsidiary Arrangements; or

(*b*) If the containment has unexpectedly changed from that specified in the Subsidiary Arrangements to the extent that unauthorized removal of nuclear material subject to safeguards under this Agreement has become possible.

Article 67

If the Agency so requests, the United States shall provide it with amplifications or clarifications of any report submitted in accordance with Articles 57 through 63, 65 and 66, in so far as relevant for the purpose of safeguards.

Article 68

The Agency shall have the right to make inspections as provided for in Articles 69 through 82.

Article 69

The Agency may make ad hoc inspections in order to:

(*a*) Verify the information contained in the initial reports submitted in accordance with Article 60;

(*b*) Identify and verify changes in the situation which have occurred since the date of the relevant initial report; and

(*c*) Identify and if possible verify the quantity and composition of the nuclear material subject to safeguards under this Agreement in respect of which the information referred to in Article 89(a) has been provided to the Agency.

Article 70

The Agency may make routine inspections in order to:

(*a*) Verify that reports submitted pursuant to Articles 57 through 63, 65 and 66 are consistent with records kept pursuant to Articles 49 through 56;

(*b*) Verify the location, identity, quantity and composition of all nuclear material subject to safeguards under this Agreement; and

(*c*) Verify information on the possible causes of material unaccounted for, shipper/receiver differences and uncertainties in the book inventory.

Article 71

Subject to the procedures laid down in Article 75, the Agency may make special inspections:

(*a*) In order to verify the information contained in special reports submitted in accordance with Article 66; or

(*b*) If the Agency considers that information made available by the United States, including explanations from the United States and information obtained from routine inspections, is not adequate for the Agency to fulfill its responsibilities under this Agreement.

An inspection shall be deemed to be special when it is either additional to the routine inspection effort provided for in Articles 76 through 80, or involves access to information or locations in addition to the access specified in Article 74 for ad hoc and routine inspections, or both.

Article 72

For the purposes specified in Articles 69 through 71, the Agency may:

(*a*) Examine the records kept pursuant to Articles 49 through 56;

(*b*) Make independent measurements of all nuclear material subject to safeguards under this Agreement;

(*c*) Verify the functioning and calibration of instruments and other measuring and control equipment;

(*d*) Apply and make use of surveillance and containment measures; and

(*e*) Use other objective methods which have been demonstrated to be technically feasible.

Article 73

Within the scope of Article 72, the Agency shall be enabled:

(*a*) To observe that samples at key measurement points for material balance accountancy are taken in accordance with procedures which produce representative samples, to observe the treatment and analysis of the samples and to obtain duplicates of such samples;

(*b*) To observe that the measurements of nuclear material at key measurement points for material balance accountancy are representative, and to observe the calibration of the instruments and equipment involved;

(*c*) To make arrangements with the United States that, if necessary:

(i) Additional measurements are made and additional samples taken for the Agency's use;

(ii) The Agency's standard analytical samples are analysed;

(iii) Appropriate absolute standards are used in calibrating instruments and other equipment; and

(iv) Other calibrations are carried out;

(*d*) To arrange to use its own equipment for independent measurement and surveillance, and if so agreed and specified in the Subsidiary Arrangements to arrange to install such equipment;

(*e*) To apply its seals and other identifying and tamper-indicating devices to containments, if so agreed and specified in the Subsidiary Arrangements; and

(*f*) To make arrangements with the United States for the shipping of samples taken for the Agency's use.

Article 74

(*a*) For the purposes specified in Article 69(a) and (b) and until such time as the strategic points have been specified in the Subsidiary Arrangements, Agency inspectors shall have access to any location where the initial report or any inspections carried out therewith indicate that nuclear material subject to safeguards under this Agreement is present.

(*b*) For the purposes specified in Article 69(c), the inspectors shall have access to any facility identified pursuant to Articles 2(b) or 39(b) in which nuclear material referred to in Article 69(c) is located.

(*c*) For the purposes specified in Article 70 the inspectors shall have access only to the strategic points specified in the Subsidiary Arrangements and to the records maintained pursuant to Articles 49 through 56; and

(*d*) In the event of the United States concluding that any unusual circumstances require extended limitations on access by the Agency, the United States and the Agency shall promptly make arrangements with a view to enabling the Agency to discharge its safeguards responsibilities in the light of these limitations. The Director General shall report each such arrangement to the Board.

Article 75

In circumstances which may lead to special inspections for the purposes specified in Article 71 the United States and the Agency shall consult forthwith. As a result of such consultations the Agency may:

(*a*) Make inspections in addition to the routine inspection effort provided for in Articles 76 through 80; and

(*b*) Obtain access, in agreement with the United States, to information or locations in addition to those specified in Article 74. Any disagreement concerning the need for additional access shall be resolved in accordance with Articles 20 and 21; in case action by the United States is essential and urgent, Article 17 shall apply.

Article 76

The Agency shall keep the number, intensity and duration of routine inspections, applying optimum timing, to the minimum consistent with the effective implementation of the safeguards procedures set forth in this Agreement, and shall make the optimum and most economical use of inspection resources available to it.

Article 77

The Agency may carry out one routine inspection per year in respect of facilities listed in the Subsidiary Arrangements pursuant to Article 39 with a content or annual throughput, whichever is greater, of nuclear material not exceeding five effective kilograms.

Article 78

The number, intensity, duration, timing and mode of routine inspections in respect of facilities listed in the Subsidiary Arrangements pursuant to Article 39 with a content or annual throughput of nuclear material exceeding five effective kilograms shall be determined on the basis that in the maximum or limiting case the inspection regime shall be no more intensive than is necessary and sufficient to maintain continuity of knowledge of the flow and inventory of nuclear material, and the maximum routine inspection effort in respect of such facilities shall be determined as follows:

(*a*) For reactors and sealed storage installations the maximum total of routine inspection per year shall be determined by allowing one sixth of a man-year of inspection for each such facility.

(*b*) For facilities, other than reactors or sealed storage installations, involving plutonium or uranium enriched to more than 5 percent, the maximum total of routine inspection per year shall be determined by allowing for each such facility 30 × $\sqrt{E}$ mandays of inspection per year, where E is the inventory or annual throughput of nuclear material, whichever is greater, expressed in effective kilograms. The maximum established for any such facility shall not, however, be less than 1.5 man-years of inspection; and

(*c*) For facilities not covered by paragraphs (a) or (b), the maximum total of routine inspection per year shall be determined by allowing for each such facility one third of a man-year of inspection plus 0.4 × E man-days of inspection per year, where E is the inventory or annual throughput of nuclear material, whichever is greater, expressed in effective kilograms.

The United States and the Agency may agree to amend the figures for the maximum inspection effort specified in this Article, upon determination by the Board that such amendment is reasonable.

Article 79

Subject to Articles 76 through 78 the criteria to be used for determining the actual number, intensity, duration, timing and mode of routine inspections in respect of any facility listed in the Subsidiary Arrangements pursuant to Article 39 shall include:

(*a*) The form of the nuclear material, in particular, whether the nuclear material is in bulk form or contained in a number of separate items; its chemical composition and, in the case of uranium, whether it is of low or high enrichment; and its accessibility;

(*b*) The effectiveness of the United States' accounting and control system, including the extent to which the operators of facilities are functionally independent of the United States' accounting and control system; the extent to which the measures specified in Article 32 have been implemented by the United States; the promptness of reports provided to the Agency; their consistency with the Agency's independent verification; and the amount and accuracy of the material unaccounted for, as verified by the Agency;

(*c*) Characteristics of that part of the United States fuel cycle in which safeguards are applied under this Agreement, in particular, the number and types of facilities containing nuclear material subject to safeguards under this Agreement, the characteristics of such facilities relevant to safeguards, notably the degree of containment; the extent to which the design of such facilities facilitates verification of the flow and inventory of nuclear material; and the extent to which information from different material balance areas can be correlated;

(*d*) International interdependence; in particular the extent to which nuclear material, safeguarded under this Agreement, is received from or sent to other States for use or processing; any verification activities by the Agency in connection therewith; and the extent to which activities in facilities in which safeguards are applied under this Agreement are interrelated with those of other States; and

(*e*) Technical developments in the field of safegurds, including the use of statistical techniques and random sampling in evaluating the flow of nuclear material.

Article 80

The United States and the Agency shall consult if the United States considers that the inspection effort is being deployed with undue concentration on particular facilities.

Article 81

The Agency shall give advance notice to the United States of the arrival of inspectors at facilities listed in the Subsidiary Arrangements pursuant to Article 39, as follows:

(*a*) For ad hoc inspections pursuant to Article 69(c), at least 24 hours; for those pursuant to Article 69 (a) and (b), as well as the activities provided for in Article 48, at least one week;

(*b*) For special inspections pursuant to Article 71, as promptly as possible after the United States and the Agency have consulted as provided for in Article 75, it being understood that notification of arrival normally will constitute part of the consultations; and

(*c*) For routine inspections pursuant to Article 70 at least twenty-four hours in respect of the facilities referred to in Article 78(b) and sealed storage installations containing plutonium or uranium enriched to more than 5 percent and one week in all other cases.

Such notice of inspections shall include the names of the inspectors and shall indicate the facilities to be visited and the periods during which they will be visited. If the inspectors are to arrive from outside the United States the Agency shall also give advance notice of the place and time of their arrival in the United States.

Article 82

Notwithstanding the provisions of Article 81, the Agency may, as a supplementary measure, carry out without advance notification a portion of the routine inspections pursuant to Article 78 in accordance with the principle of random sampling. In performing any unannounced inspections, the Agency shall fully take into account any operational programme provided by the United States pursuant to Article 62(b). Moreover, whenever practicable, and on the basis of the operational programme, it shall advise the United States periodically of its general programme of announced and unannounced inspections, specifying the general periods when inspections are foreseen. In carrying out any unannounced inspections, the Agency shall make every effort to minimize any practical difficulties for the United States and facility operators bearing in mind the relevant provisions of Articles 44 and 87. Similarly the United States shall make every effort to facilitate the task of the inspectors.

Article 83

The following procedures shall apply to the designation of inspectors:

(*a*) The Director General shall inform the United States in writing of the name, qualifications, nationality, grade and such other particulars as may be relevant, of each Agency official he proposes for designation as an inspector for the United States;

(*b*) The United States shall inform the District General within thirty days of the receipt of such a proposal whether it accepts the proposal;

(*c*) The Director General may designate each official who has been accepted by the United States as one of the inspectors for the United States, and shall inform the United States of such designations; and

(*d*) The Director General, acting in response to a request by the United States or on his own initiative, shall immediately inform the United States of the withdrawal of the designation of any official as an inspector for the United States.

However, in respect of inspectors needed for the activities provided for in Article 48 and to carry out ad hoc inspections pursuant to Article 69 (a) and (b) the designation procedures shall be completed if possible within thirty days after the entry into force of this Agreement. If such designation appears impossible within this time limit, inspectors for such purposes shall be designated on a temporary basis.

Article 84

The United States shall grant or renew as quickly as possible appropriate visas, where required, for each inspector designated for United States.

Article 85

Inspectors, in exercising their functions under Articles 48 and 69 to 73, shall carry out their activities in a manner designed to avoid hampering or delaying the construction, commissioning or operation of facilities, or affecting their safety. In particular inspectors shall not operate any facility themselves or direct the staff of a facility to carry out any operation. If inspectors consider that in pursuance of paragraphs 72 and 73, particular operations in a facility should be carried out by the operator, they shall make a request therefor.

Article 86

When inspectors require services available in the United States, including the use of equipment, in connection with the performance of inspections, the United States shall facilitate the procurement of such services and the use of such equipment by inspectors.

Article 87

The United States shall have the right to have inspectors accompanied during their inspections by its representatives, provided that inspectors shall not thereby be delayed or otherwise impeded in the exercise of their functions.

Article 88

The Agency shall inform the United States of:

(*a*) The results of inspections, at intervals to be specified in the Subsidiary Arrangements; and

(*b*) The conclusions it has drawn from its verification activities in the United States, in particular by means of statements in respect of each material balance area determined in accordance with Article 46(b) which shall be made as soon as possible after a physical inventory has been taken and verified by the Agency and a material balance has been struck.

Article 89

(*a*) Information concerning nuclear material exported from and imported into the United States shall be provided to the Agency in accordance with arrangements made with the Agency as, for example, those set forth in INFCIRC/207.

(*b*) In the case of international transfers to or from facilities identified by the Agency pursuant to Articles 2(b) and 39(b) with respect to which information has been provided to the Agency in accordance with arrangements referred to in paragraph (a), a special report, as envisaged in Article 66, shall be made if any unusual incident or circumstances lead the United States to believe that there is or may have been loss of nuclear material, including the occurrence of significant delay, during the transfer.

DEFINITIONS

Article 90

For the purposes of this Agreement:

A Adjustment means an entry into an accounting record or a report showing a shipper/receiver difference or material unaccounted for.

B Annual throughput means, for the purposes of Articles 77 and 78, the amount of nuclear material transferred annually out of a facility working at nominal capacity.

C Batch means a portion of nuclear material handled as a unit for accounting purposes at a key measurement point and for which the composition and quantity are defined by a single set of specifications or measurements. The nuclear material may be in bulk form or contained in a number of separate items.

D Batch data means the total weight of each element of nuclear material and, in the case of plutonium and uranium, the isotopic composition when appropriate. The units of account shall be as follows:

(*a*) Grams of contained plutonium;

(*b*) Grams of total uranium and grams of contained uranium-235 plus uranium-233 for uranium enriched in these isotopes; and

(*c*) Kilograms of contained thorium, natural uranium or depleted uranium. For reporting purposes the weights of individual items in the batch shall be added together before rounding to the nearest unit.

E Book inventory of a material balance area means the algebraic sum of the most recent physical inventory of that material balance area and of all inventory changes that have occurred since that physical inventory was taken.

F Correction means an entry into an accounting record or a report to rectify an identified mistake or to reflect an improved measurement of a quantity previously entered into the record or report. Each correction must identify the entry to which it pertains.

G Effective kilogram means a special unit used in safeguarding nuclear material. The quantity in effective kilograms is obtained by taking:

(*a*) For plutonium, its weight in kilograms;

(*b*) For uranium with an enrichment of 0.01 (1 percent) and above, its weight in kilograms multiplied by the square of its enrichment;

(*c*) For uranium with an enrichment below 0.01 (1 percent) and above 0.005 (0.5 percent), its weight in kilograms multiplied by 0.0001; and

(*d*) For depleted uranium with an enrichment of 0.005 (0.5 percent) or below, and for thorium, its weight in kilograms multiplied by 0.00005.

H Enrichment means the ratio of the combined weight of the isotopes uranium-233 and uranium-235 to that of the total uranium in question.

I Facility means:

(*a*) A reactor, a critical facility, a conversion plant, a fabrication plant, a reprocessing plant, an isotope separation plant or a separate storage installation; or

(*b*) Any location where nuclear material in amounts greater than one effective kilogram is customarily used.

J Inventory change means an increase or decrease, in terms of batches, of nuclear material in a material balance area; such a change shall involve one of the following:

(*a*) Increases:

(i) Import;

(ii) Domestic receipt: receipts from other material balance areas, receipts from a non-safeguarded activity or receipts at the starting point of safeguards;

(iii) Nuclear production: production of special fissionable material in a reactor; and

(iv) De-exemption: reapplication of safeguards on nuclear material previously exempted therefrom on account of its use or quantity.

(*b*) Decreases:

(i) Export;

(ii) Domestic shipment: shipments to other material balance areas or shipments for a non-safeguarded activity;

(iii) Nuclear loss: loss of nuclear material due to its transformation into other element(s) or isotope(s) as a result of nuclear reactions;

(iv) Measured discard: nuclear material which has been measured, or estimated on the basis of measurements, and disposed of in such a way that it is not suitable for further nuclear use;

(v) Retained waste: nuclear material generated from processing or from an operational accident, which is deemed to be unrecoverable for the time being but which is stored;

(vi) Exemption: exemption of nuclear material from safeguards on account of its use or quantity; and

(vii) Other loss: for example, accidental loss (that is, irretrievable and inadvertent loss of nuclear material as the result of an operational accident) or theft.

K Key measurement point means a location where nuclear material appears in such a form that it may be measured to determine material flow or inventory. Key measurement points thus include, but are not limited to, the inputs and outputs (including measured discards) and storages in material balance areas.

L Man-year of inspection means, for the purposes of Article 78, 300 man-days of inspection, a man-day being a day during which a single inspector has access to a facility at any time for a total of not more than eight hours.

M Material balance area means an area in or outside of a facility such that:

(*a*) The quantity of nuclear material in each transfer into or out of each material balance area can be determined; and

(*b*) The physical inventory of nuclear material in each material balance area can be determined when necessary in accordance with specified procedures, in order that the material balance for Agency safeguards purposes can be established.

N Material unaccounted for means the difference between book inventory and physical inventory.

O Nuclear material means any source or any special fissionable material as defined in Article XX of the Statute. The term source material shall not be interpreted as applying to ore or ore residue. Any determination by the Board under Article XX of the Statute after the entry into force of this Agreement which adds to the materials considered to be source material or special fissionable material shall have effect under this Agreement only upon acceptance by the United States.

P Physical inventory means the sum of all the measured or derived estimates of batch quantities of nuclear material on hand at a given time within a material balance area, obtained in accordance with specified procedures.

Q Shipper/receiver difference means the difference between the quantity of nuclear material in a batch as stated by the shipping material balance area and as measured at the receiving balance area.

R Source data means those data, recorded during measurement or calibration or used to derive empirical relationships, which identify nuclear material and provide batch data. Source data may include, for example, weight of compounds, conversion factors to determine weight of element, specific gravity, element concentration, isotopic ratios, relationship between volume and manometer readings and relationship between plutonium produced and power generated.

S Strategic point means a location selected during examination of design information where, under normal conditins and when combined with the information from all strategic points taken together, the information necessary and sufficient for the implementation of safeguards measures is obtained and verified; a strategic point may include any location where key measurements related to material balance accountancy are made and where containment and surveillance measures are executed.

PROTOCOL

Article 1

This Protocol specifies the procedures to be followed with respect to facilities identified by the Agency pursuant to Article 2 of this Protocol.

Article 2

(*a*) The Agency may from time to time identify to the United States those facilities included in the list, established and maintained pursuant to Articles 1(b) and 34 of the Agreement, of facilities not associated with activities having direct national security significance to the United States, other than those which are then currently identified by the Agency pursuant to Articles 2(b) and 39(b) of the Agreement, to which the provisions of this Protocol shall apply.

(*b*) The Agency may also include among the facilities identified to the United States pursuant to the foregoing paragraph, any facility which had previously been identified by the Agency pursuant to Articles 2(b) and 39(b) of the Agreement but which had subsequently been designated by the Agency pursuant to Article 39(c) of the Agreement for removal from the Subsidiary Arrangements listing.

(*c*) In identifying facilities pursuant to the foregoing paragraphs and in the preparation of Transitional Subsidiary Arrangements pursuant to Article 3 of this Protocol, the Agency shall proceed in a manner which the Agency and the United States mutually agree takes into account the requirement on the United States to avoid discriminatory treatment as between United States commercial firms similarly situated.

Article 3

The United States and the Agency shall make Transitional Subsidiary Arrangements which shall:

(*a*) contain a current listing of those facilities identified by the Agency pursuant to Article 2 of this Protocol;

(*b*) specify in detail how the procedures set forth in this Protocol are to be applied.

Article 4

(*a*) The United States and the Agency shall make every effort to complete the Transitional Subsidiary Arrangements with respect to each facility identified by the Agency pursuant to Article 2 of this Protocol within ninety days following such identification to the United States.

(*b*) With respect to any facility identified pursuant to Article 2(b) of this Protocol, the information previously submitted to the Agency in accordance with Articles 42 through 45 of the Agreement, the results of the examination of the design information and other provisions of the Subsidiary Arrangements relative to such facility, to the extent that such information, results and provisions satisfy the provisions of this Protocol relating to the submission and examination of information and the preparation of Transitional Subsidiary Arrangements, shall constitute the Transitional Subsidiary Arrangements for such facility, until and unless the United States and the Agency shall otherwise complete Transitional Subsidiary Arrangements for such facility in accordance with the provisions of this Protocol.

Article 5

In the event that a facility currently identified by the Agency pursuant to Article 2(a) of this Protocol is identified by the Agency pursuant to Articles 2(b) and 39(b) of the Agreement, the Transitional Subsidiary Arrangements relevant to such facility shall, to the extent that such Transitional Subsidiary Arrangements satisfy the provisions of the Agreement, be deemed to have been made part of the Subsidiary Arrangements to the Agreement.

Article 6

Design information in respect of each facility identified by the Agency pursuant to Article 2 of this Protocol shall be provided to the Agency during the discussion of the relevant Transitional Subsidiary Arrangements. The information shall include, when applicable:

(*a*) The identification of the facility, stating its general character, purpose, nominal capacity and geographic location, and the name and address to be used for routine business purpose;

(*b*) A description of the general arrangement of the facility with reference, to the extent feasible, to the form, location and flow of nuclear material and to the general layout of important items of equipment which use, produce or process nuclear material;

(*c*) A description of features of the facility relating to material accountancy, containment and surveillance; and

(*d*) A description of the existing and proposed procedures at the facility for nuclear material accountancy and control, with special reference to material balance areas established by the operator, measurements of flow and procedures for physical inventory taking.

Article 7

Other information relevant to the application of the provisions of this Protocol shall also be provided to the Agency in respect of each facility identified by the Agency in accordance with Article 2 of this Protocol in particular on organizational responsibility for material accountancy and control. The United States shall provide the Agency with supplementary information on the health and safety procedures which the Agency shall observe and with which inspectors shall comply when visiting the facility in accordance with Article 11 of this Protocol.

Article 8

The Agency shall be provided with design information in respect of a modification relevant to the application of the provisions of this Protocol, for examination, and shall be informed of any change in the information provided to it under Article 7 of this Protocol, sufficiently in advance for the procedures under this Protocol to be adjusted when necessary.

Article 9

The design information provided to the Agency in accordance with the provisions of this Protocol, in anticipation of the application of safeguards under the Agreement, shall be used for the following purposes:

(*a*) To identify the features of facilities and nuclear material relevant to the application of safeguards to nuclear material in sufficient detail to facilitate verification;

(*b*) To determine material balance areas to be used for Agency accounting purposes and to select those strategic points which are key measurement points and which will be used to determine flow and inventory of nuclear material; in determining such material balance areas the Agency shall, inter alia, use the following criteria:

(i) The size of the material balance area shall be related to the accuracy with which the material balance can be established;

(ii) In determining the material balance area, advantage shall be taken of any opportunity to use containment and surveillance to help ensure the completeness of flow measurements and thereby to simplify the application of safeguards and to concentrate measurement efforts at key measurement points;

(iii) A number of material balance areas in use at a facility or at distinct sites may be combined in one material balance area to be used for Agency accounting purposes when the Agency determines that this is consistent with its verification requirements; and

(iv) A special material balance area may be established at the request of the United States around a process step involving commercially sensitive information;

(*c*) To establish the nominal timing and procedures for taking of physical inventory of nuclear material for Agency accounting purposes;

(*d*) To establish the records and reports requirements and records evaluation procedures;

(*e*) To establish requirements and procedures for verification of the quantity and location of nuclear material; and

(*f*) To select appropriate combinations of containment and surveillance methods and techniques and the strategic points at which they are to be applied.

The results of the examination of the design information shall be included in the relevant Transitional Subsidiary Arrangements.

Article 10

Design information provided in accordance with the provisions of this Protocol shall be re-examined in the light of changes in operating conditions, of developments in safeguards technology or of experience in the application of verification procedures, with a view to modifying the action taken pursuant to Article 9 of this Protocol.

Article 11

(*a*) The Agency, in co-operation with the United States, may send inspectors to facilities identified by the Agency pursuant to Article 2 of this Protocol to verify the design information provided to the Agency in accordance with the provisions of this Protocol, for the purposes stated in Article 9 of this Protocol or for such other purposes as may be agreed between the United States and the Agency.

(*b*) The Agency shall give notice to the United States with respect to each such visit at least one week prior to the arrival of inspectors at the facility to be visited.

Article 12

In establishing a national system of materials control as referred to in Article 7(a) of the Agreement, the United States shall arrange that records are kept in respect of each material balance area determined in accordance with Article 9(b) of this Protocol. The records to be kept shall be described in the relevant Transitional Subsidiary Arrangements

Article 13

Records referred to in Article 12 of this Protocol shall be retained for at least five years.

Article 14

Records referred to in Article 12 of this Protocol shall consist, as appropriate, of:

(*a*) Accounting records of all nuclear material stored, processed, used or produced in each facility; and

(*b*) Operating records for activities within each facility.

Article 15

The system of measurements on which the records used for the preparation of reports are based shall either conform to the latest international standards or be equivalent in quality to such standards.

Article 16

The accounting records referred to in Article 14(a) of this Protocol shall set forth the following in respect of each material balance area determined in accordance with Article 9(b) of this Protocol:

(*a*) All inventory changes, so as to permit a determination of the book inventory at any time;

(*b*) All measurement results that are used for determination of the physical inventory; and

(*c*) All adjustments and corrections that have been made in respect of inventory changes, book inventories and physical inventories.

Article 17

For all inventory changes and physical inventories the records referred to in Article 14(a) of this Protocol shall show, in respect of each batch of nuclear material: material identification, batch data and source data. The records shall account for uranium, thorium and plutonium separately in each batch of nuclear material. For each inventory change, the date of the inventory change and, when appropriate, the originating material balance area and the receiving material balance area or the recipient, shall be indicated.

Article 18

The operating records referred to in Article 14(b) of this Protocol shall set forth, as appropriate, in respect of each material balance area determined in accordance with Article 9(b) of this Protocol:

(*a*) Those operating data which are used to establish changes in the quantities and composition of nuclear material;

(*b*) The data obtained from the calibration of tanks and instruments and from sampling and analyses, the procedures to control the quality of measurements and the derived estimates of random and systematic error;

(*c*) A description of the sequence of the actions taken in preparing for, and in taking, a physical inventory, in order to ensure that it is correct and complete; and

(*d*) A description of the actions taken in order to ascertain the cause and magnitude of any accidental or unmeasured loss that might occur.

Article 19

The United States shall provide the Agency with accounting reports as detailed in Articles 20 through 25 of this Protocol in respect of nuclear material in each facility identified by the Agency pursuant to Article 2 of this Protocol.

Article 20

The accounting reports shall be based on the records kept in accordance with Articles 12 to 18 to this Protocol. They shall be made in English.

Article 21

The United States shall provide the Agency with an initial report on all nuclear material in each facility identified by the Agency pursuant to Article 2 of this Protocol. Such report shall be dispatched to the Agency within thirty days of the last day of the calendar month in which the facility is identified by the Agency and shall reflect the situation as of the last day of that month.

Article 22

The United States shall provide the Agency with the following accounting reports for each material balance area determined in accordance with Article 9(b) of this Protocol:

(*a*) Inventory change reports showing all changes in the inventory of nuclear material. The reports shall be dispatched as soon as possible and in any event within thirty days after the end of the month in which the inventory changes occurred or were established; and

(*b*) Material balance reports showing the material balance based on a physical inventory of nuclear material actually present in the material balance area. The reports shall be dispatched as soon as possible and in any event within thirty days after the physical inventory has been taken.

The reports shall be based on data available as of the date of reporting and may be corrected at a later date, as required.

Article 23

Inventory change reports submitted in accordance with Article 22(a) of this Protocol shall specify identification and batch data for each batch of nuclear material, the date of the inventory change, and, as appropriate, the originating material balance area and the receiving material balance area or the recipient. These reports shall be accompanied by concise notes:

(*a*) Explaining the inventory changes, on the basis of the operating data contained in the operating records provided for in Article 18(a) of this Protocol; and

(*b*) Describing, as specified in the relevant Transitional Subsidiary Arrangements, the anticipated operational programme, particularly the taking of a physical inventory.

Article 24

The United States shall report each inventory change, adjustment and correction, either periodically in a consolidated list or individually. Inventory changes shall be

reported in terms of batches. As specified in the relevant Transitional Subsidiary Arrangements, small changes in inventory of nuclear material, such as transfers of analytical samples, may be combined in one batch and reported as one inventory change.

Article 25

Material balance reports submitted in accordance with Article 22(b) of this Protocol shall include the following entries, unless otherwise agreed by the United States and the Agency:

(*a*) Beginning physical inventory;
(*b*) Inventory changes (first increases, then decreases);
(*c*) Ending book inventory;
(*d*) Shipper/receiver differences;
(*e*) Adjusted ending book inventory;
(*f*) Ending physical inventory; and
(*g*) Material unaccounted for.

A statement of the physical inventory, listing all batches separately and specifying material identification and batch data for each batch, shall be attached to each material balance report.

Article 26

The Agency shall provide the United States with semi-annual statements of book inventory of nuclear material in facilities identified pursuant to Article 2 of this Protocol, for each material balance area, as based on the inventory change reports for the period covered by each such statement.

Article 27

(*a*) If the Agency so requests, the United States shall provide it with amplifications or clarifications of any report submitted in accordance with Article 19 of this Protocol, insofar as consistent with the purpose of the Protocol.

(*b*) The Agency shall inform the United States of any significant observations resulting from its examination of reports received pursuant to Article 19 of this Protocol and from visits of inspectors made pursuant to Article 11 of this Protocol.

(*c*) The United States and the Agency shall, at the request of either, consult about any question arising out of the interpretation or application of this Protocol, including corrective action which, in the opinion of the Agency, should be taken by the United States to ensure compliance with its terms, as indicated by the Agency in its observations pursuant to paragraph (b) of this Article.

Article 28

The definitions set forth in Article 90 of the Agreement shall apply, to the extent relevant, to this Protocol.

Done in Vienna on the 18th day of November, 1977, in duplicate, in the English language.

FOR THE UNITED STATES OF AMERICA: FOR THE INTERNATIONAL ATOMIC ENERGY AGENCY:

A.33.22

Senate of the United States

IN EXECUTIVE SESSION

July 2, 1980

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with attached Protocol, signed at Vienna on November 18, 1977 (Ex. B, Ninety-fifth Congress, second session, hereinafter referred to as "the Agreement"), subject to the following understandings:

1. That the President shall notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of any proposed addition to the list, to be provided to the International Atomic Energy Agency pursuant to Article 1(b) of the Agreement, of nuclear facilities within the United States eligible for International Atomic Energy Agency inspections, together with an explanation of the basis upon which the determination was made that any such facility did not have a direct national security significance, not less than 60 days prior to such proposed addition being provided to the International Atomic Energy Agency, during which period the Congress may disapprove such addition by joint resolution by reason of direct national security significance, under procedures identical to those provided for the consideration of resolutions pursuant to section 130 of the Atomic Energy Act of 1954 as amended.

2. That the President shall assure that concerned licensees within the United States are consulted in advance of, and that their views and interests are considered in, any negotiations with the International Atomic Energy Agency concerning the application to a particular facility of Subsidiary Arrangements made pursuant to Article 39 of the Agreement.

3. That the President shall establish and maintain an appropriate interagency mechanism, comprised of the relevant Executive Branch agencies, and with the participation of the Nuclear Regulatory Commission, under the chairmanship of the Department of State, for the purpose of coordinating policy, and of resolving disputes, relating to the implementation of International Atomic Energy Agency safeguards under the Agreement, and, further, that the Congress shall be kept informed of the functions and procedures of such interagency mechanism.

4. That in the event of any question of interpretation of the Agreement, the Nuclear Regulatory Commission shall seek and be bound by guidance from the President. Neither this understanding nor any other in this resolution shall in any way alter the responsibilities of the Nuclear Regulatory Commission under the Agreement or in any way limit the existing authorities and responsibilities of the Nuclear Regulatory Commission.

5. That the Agreement shall not be construed to require the communication to the International Atomic Energy Agency of "Restricted Data" controlled by the provisions of the Atomic Energy Act of 1954, as amended, including data concerning the design, manufacture, or utilization of atomic weapons.

Attest:

Secretary

APPENDIX 34

TENURE OF OFFICE OF AEC COMMISSIONERS, 1946-75

	From—	To—	Remarks
David E. Lilienthal, Chairman	Nov. 1, 1946	Feb. 15, 1950	Resigned.
Robert F. Bacher	Nov. 1, 1946	May 10, 1949	Resigned.
Sumner T. Pike	Oct. 31, 1947	Dec. 15, 1951	Resigned.
William W. Waymack	Nov. 5, 1946	Dec. 21, 1948	Resigned.
Lewis L. Strauss,	Nov. 12, 1946	Apr. 15, 1950	Resigned.
Chairman	July 2, 1953	June 30, 1958	Term expired.
Henry DeWolf Smyth	May 30, 1949	Sept. 30, 1954	Resigned.
Gordon Dean	May 24, 1949	June 30, 1953	Term expired.
Chairman	July 11, 1950	June 30, 1953	
Thomas E. Murray	May 9, 1950	June 30, 1957	Term expired.
Thomas Keith Glennan	Oct. 2, 1950	Nov. 1, 1952	Resigned.
Eugene M. Zuckert	Feb. 25, 1952	June 30, 1954	Term expired.
Joseph Campbell	July 27, 1953	Nov. 30, 1954	Resigned.
Willard F. Libby	Oct. 5, 1954	June 30, 1959	Resigned.
John Von Neumann	Mar. 15, 1955	Feb. 8, 1957	Deceased.
Harold S. Vance	Oct. 31, 1955	Aug. 31, 1959	Deceased.
John S. Graham,	Sept. 12, 1957	June 30, 1962	Resigned.
John Forrest Floberg	Oct. 1, 1957	June 23, 1960	Resigned.
John A. McCone, Chairman	July 14, 1958	Jan. 20, 1961	Resigned.
John H. Williams	Aug. 13, 1959	June 30, 1960	Resigned.
Robert E. Wilson	Mar. 22, 1960	Jan. 31, 1964	Resigned.
Loren K. Olson	June 23, 1960	June 30, 1962	Term expired.
Glenn T. Seaborg, Chairman	Mar. 1, 1961	Aug. 16, 1971	Resigned.
Leland J. Haworth	Apr. 17, 1961	June 30, 1963	Resigned.
John G. Palfrey	Aug. 31, 1962	June 30, 1966	Resigned.
James T. Ramey	Aug. 31, 1962	June 30, 1973	Term expired.
Gerald F. Tape	July 15, 1963	Apr. 30, 1969	Resigned.
Mary I. Bunting	June 29, 1964	June 30, 1965	Term expired.
Wilfrid E. Johnson	Aug. 1, 1966	June 30, 1972	Term expired.
Samuel M. Nabrit	Aug. 1, 1966	Aug. 1, 1967	Resigned.
Francesco Costagliola	Oct. 1, 1968	June 30, 1969	Term expired.
Theos J. Thompson	June 12, 1969	Nov. 25, 1970	Deceased.
Clarence E. Larson	Sept. 2, 1969	June 30, 1974	Term expired.
James R. Schlesinger, Chairman	Aug. 17, 1971	Feb. 5, 1973	Resigned.
William O. Doub	Aug. 17, 1971	Aug. 17, 1974	Resigned.
Dixy Lee Ray[1]	Aug. 8, 1972	Jan. 19, 1975	AEC abolished.
Chairman	Feb. 6, 1973	Jan. 19, 1975	
William E. Kriegsman	June 12, 1973	Dec. 31, 1974	Resigned.
William A. Anders	Aug. 6, 1973	Jan. 19, 1975	AEC abolished.

[1] Designated Chairman, Feb. 6, 1973.

TENURE OF OFFICE OF NRC COMMISSIONERS

	From—	To—	Remarks
Anders, William A., Chairman	Jan. 19, 1975	Apr. 20, 1976	Resigned.
Rowden, Marcus A., Chairman	Jan. 19, 1975	June 30, 1977	Term. expired.
Mason, Edward A.	Jan. 19, 1975	Jan. 15, 1977	Resigned.
Gilinsky, Victor[1]	Jan. 19, 1975	June 30, 1979	Term expired.
Kennedy, Richard T.	Jan. 19, 1975	June 30, 1980	Term expired.
Hendrie, Joseph M., Chairman[2]	Aug. 9, 1977	June 30, 1981	Term expired.
Bradford, Peter A.	Aug. 15, 1977	Mar. 18, 1982	Resigned.
Ahearne, John F.[3]	July 31, 1978	June 30, 1983	Term expired.
Gilinsky, Victor[1]	July 1, 1979	June 30, 1984	Term expires.
Thomas M. Roberts	Aug. 3, 1981	June 30, 1985	Term expires.
Nunzio J. Palladino, Chairman	June 24, 1981	June 30, 1986	Term expires.
James K. Asselstine[4]	May 17, 1982	June 30, 1987	Term expires.
Frederick M. Bernthal	Aug. 4, 1983	June 30, 1988	Term expires

[1] Reappointed to a 5-yr term (1st term expired June 30, 1979).
[2] Designated Acting Chairman, Mar. 3, 1981.
[3] Designated Acting Chairman, Dec. 7, 1979.
[4] Served remainder of Bradford's term, appointed to 5-yr term.

APPENDIX 35

ATOMIC WEAPONS AND SPECIAL NUCLEAR MATERIALS[1] REWARDS ACT

(69 Stat. 365)

[PUBLIC LAW 165—84TH CONGRESS]

[50 U.S.C. 47a-f]

[S. 609]

AN ACT To provide rewards for information concerning the illegal introduction into the United States, or the illegal manufacture or acquisition in the United States, of special nuclear material and atomic weapons

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 "Atomic Weapons and Special Nuclear Materials Rewards Act".

SEC. 2. Any person who furnishes original information to the United States—

(a) leading to the finding or other acquisition by the United States of special nuclear material or an atomic weapon which has been introduced into the United States or manufactured or acquired therein contrary to the laws of the United States, or

(b) with respect to the introduction or attempted introduction into the United States or the manufacture or acquisition or attempted manufacture or acquisition of, or a conspiracy to introduce into the United States or to manufacture or acquire, special nuclear material or an atomic weapon contrary to the laws of the United States, or

(c) with respect to the export or attempted export, or a conspiracy to export, special nuclear material or an atomic weapon from the United States contrary to the laws of the United States,

shall be rewarded by the payment of an amount not to exceed $500,000.

SEC. 3. The Attorney General shall determine whether a person furnishing information to the United States is entitled to a reward and the amount to be paid pursuant to section 2. Before making a reward under this section the Attorney General shall advise and consult with the Atomic Energy Commission. A reward of $50,000 or more may not be made without the approval of the President.[2]

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[1] Section 1 of Public Law 93-377 (88 Stat. 472) (1974) changed the name of this Act Prior to amendment, it was "Atomic Weapons Rewards Act of 1955".

[2] Section 1 of Public Law 93-377 (88 Stat. 472) (1974) amended sections 2 and 3. Prior to amendment, these sections read as follows:

"SEC. 2. Any person who furnished original information to the United States—

(a) leading to the finding or other acquisition by the United States any special nuclear material or atomic weapon which has been introduced into the United States or which has been manufactured or acquired therein contrary to the laws of the United States, or

(b) with respect to an attempted introduction into the United States or an attempted manufacture or acquisition therein of any special nuclear material or atomic weapon, contrary to the laws of the United States,

shall be rewarded by the payment of an amount not to exceed $500,000.

"SEC. 3. An Awards Board consisting of the Secretary of the Treasury (who shall be the Chairman), the Secretary of Defense, the Attorney General, the Director of Central Intelligence, and of one member of the Atomic Energy Commission designated by that Commission, shall determine whether any person furnishing information to the United States is entitled to any award and the amount thereof to be paid pursuant to section 2. In determining whether any person furnishing information to the United States is entitled to an award and the amount of such award, the Board shall take into consideration—

(a) whether or not the information is of the type specified in section 2, and

(b) whether the person furnishing the information was an officer or employee of the United States and, if so, whether the furnishing of such information was in the line of duty of that person.

"Any reward of $50,000 or more shall be approved by the President."*

*Reorganization Plan No. 4 of 1965 (79 Stat. 1321) had subsequently transferred the functions of the Awards Board to the Attorney General.

SEC. 4. If he information leading to an award under section 3 is furnished by an alien, the Secretary of State, the Attorney General, and the Director of Central Intelligence, acting jointly, may determine that the entry of such alien into the United States is in the public interest and, in that event, such alien and the members of his immediate family may receive immigrant visas and may be admitted to the United States for permanent residence, notwithstanding the requirements of the Immigration and Nationality Act.

SEC. 5. (a) The Attorney General is authorized to hold such hearings and make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this Act.

(b) A determination made by the Attorney General under section 3 of this Act shall be final and conclusive and no court shall have power or jurisdiction to review it.[3]

SEC. 6. Any awards granted under section 3 of this Act shall be certified by the Attorney General[4] and, together with the approval of the President in those cases where such approval is required, transmitted to the Director of Central Intelligence for payment out of funds appropriated or available for the administration of the National Security Act of 1947, as amended.

SEC. 7. As used in this Act—

(a) The term "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

(b) The term "atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(c) The term "special nuclear material" means plutonium, or uranium enriched in the isotope 233 or in the isotope 235, or any other material which is found to be special nuclear material pursuant to the provisions of the Atomic Energy Act of 1954.

(d) The term "United States," when used in a geographical sense, includes Puerto Rico, all Territories and possessions of the United States and the Canal Zone; except that in section 4, the term "United States" when so used shall have the meaning given to it in the Immigration and Nationality Act.

Approved July 15, 1955.

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For Legislative History of amendments, see history of Public Law 93-377, Appendix A, *supra*

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[3]Section 1 of Public Law 93-377 (88 Stat. 472) (1974) amended section 5. Previously, it read as follows:
"SEC. 5. The Board established under section 3 is authorized to hold such hearings and make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this Act."

[4]Section 1 of Public Law 93-377 (88 Stat. 472) (1974) substituted the words "Attorney General" for the words "Awards Board".

APPENDIX 36

Public Law 97-414
97th Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to facilitate the development of drugs for rare diseases and conditions, and for other purposes.

Jan. 4, 1983
[H.R. 5238]

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

Orphan Drug Act.

SHORT TITLE; FINDINGS

SECTION 1. (a) This act may be cited as the "Orphan Drug Act". 21 U.S.C. 301 note. 21 U.S.C. 360aa note.

(b) The Congress finds that—

(1) there are many diseases and conditions, such as Huntington's disease, myoclonus, ALS (Lou Gehrig's disease), Tourette syndrome, and muscular dystrophy which affect such small numbers of individuals residing in the United States that the diseases and conditions are considered rare in the United States;

(2) adequate drugs for many of such diseases and conditions have not been developed;

(3) drugs for these diseases and conditions are commonly referred to as "orphan drugs";

(4) because so few individuals are affected by any one rare disease or condition, a pharmaceutical company which develops an orphan drug may reasonably expect the drug to generate relatively small sales in comparison to the cost of developing the drug and consequently to incur a financial loss;

(5) there is reason to believe that some promising orphan drugs will not be developed unless changes are made in the applicable Federal laws to reduce the costs of developing such drugs and to provide financial incentives to develop such drugs; and

(6) it is in the public interest to provide such changes and incentives for the development of orphan drugs.

* * *

ANALYSIS OF THYROID CANCER; ACTIONS BY SECRETARY

SEC. 7. (a) In carrying out section 301 of the Public Health Service Act, the Secretary of Health and Human Services shall— 42 U.S.C. 241 note. 42 U.S.C. 241.

(1) conduct scientific research and prepare analyses necessary to develop valid and credible assessments of the risks of thyroid cancer that are associated with thyroid doses of Iodine 131;

(2) conduct scientific research and prepare analyses necessary to develop valid and credible methods to estimate the thyroid doses of Iodine 131 that are received by individuals from nuclear bomb fallout;

(3) conduct scientific research and prepare analyses necessary to develop valid and credible assessments of the exposure to Iodine 131 that the American people received from the Nevada atmospheric nuclear bomb tests; and

Report to Congress.

(4) prepare and transmit to the Congress within one year after the date of enactment of this Act a report with respect to the activities conducted in carrying out paragraphs (1), (2), and (3).

Radioepidemiological tables, publication.

(b)(1) Within one year after the date of enactment of this Act, the Secretary of Health and Human Services shall devise and publish radioepidemiological tables that estimate the likelihood that persons who have or have had any of the radiation related cancers and who have received specific doses prior to the onset of such disease developed cancer as a result of these doses. These tables shall show a probability of causation of developing each radiation related cancer associated with receipt of doses ranging from 1 millirad to 1,000 rads in terms of sex, age at time of exposure, time from exposure to the onset of the cancer in question, and such other categories as the Secretary, after consulting with appropriate scientific experts, determines to be relevant. Each probability of causation shall be calculated and displayed as a single percentage figure.

(2) At the time of the Secretary of Health and Human Services publishes the tables pursuant to paragraph (1), such Secretary shall also publish—

(A) for the tables of each radiation related cancer, an evaluation which will assess the credibility, validity, and degree of certainty associated with such tables; and

(B) a compilation of the formulas that yielded the probabilities of causation listed in such tables. Such formulas shall be published in such a manner and together with information necessary to determine the probablity of causation of any individual who has or has had a radiation related cancer and has received any given dose.

(3) The tables specified in paragraph (1) and the formulas specified in paragraph (2) shall be devised from the best available data that are most applicable to the United States, and shall be devised in accordance with the best available scientific procedures and expertise. The Secretary of Health and Human Services shall update these tables and formulas every four years, or whenever he deems it necessary to insure that they continue to represent the best available scientific data and expertise.

Update of tables.

APPENDIX 37

SECTIONS OF TITLE 5 UNITED STATES CODE

SUBCHAPTER II—ADMINISTRATIVE PROCEDURE SECTIONS 551-559;

CHAPTER 6—ANALYSIS OF REGULATORY FUNCTIONS—SECTIONS 601-612;

CHAPTER 7—JUDICIAL REVIEW—SECTIONS 701-706

APPENDIX I—FEDERAL ADVISORY COMMITTEE ACT

SUBCHAPTER II—ADMINISTRATIVE PROCEDURE

SEC. 551. DEFINITIONS.

For the purpose of this subchapter—

(1) "agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

(A) the Congress;

(B) the courts of the United States;

(C) the governments of the territories or possessions of the United States;

(D) the Government of the District of Columbia;

(E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;

(F) courts martial and military commissions;

(G) military authority exercised in the field in time of war or in occupied territory; or

(H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; or sections 1622, 1884, 1891-1902, and former section 1641(b)(2), of title 50, appendix;

(2) "person" includes an individual, partnership, corporation, association, or public or private organization other than an agency;

(3) "party" includes a person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in an agency proceeding, and a person or agency admitted by an agency as a party for limited purposes;

(4) "rule" means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, or practices bearing on any of the foregoing;

(5) "rule making" means agency process for formulating, amending, or repealing a rule;

(6) "order" means the whole or a part of a final disposition whether affirmative, negative, injunctive, or declaratory in form, of an agency in a matter other than rule making but including licensing;

(7) "adjudication" means agency process for the formulation of an order;

(8) "license" includes the whole or a part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission;

(9) "licensing" includes agency process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license;

(10) "sanction" includes the whole or a part of an agency—

(A) prohibition requirement, limitation, or other condition affecting the freedom of a person;

(B) withholding of relief;

(C) imposition of penalty or fine;

(D) destruction, taking, seizure, or withholding of property;

(E) Assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees;

(F) requirement, revocation, or suspension of a license; or

(G) taking other compulsory or restrictive action;

(11) "relief" includes the whole or a part of an agency—

(A) grant of money, assistance, license, authority, exemption, exception, privilege, or remedy;

(B) recognition of a claim, right, immunity, privilege, exemption, or exception; or

(C) taking of other action on the application or petition of, and beneficial to, a person;

(12) "agency proceedings" means an agency process as defined by paragraphs (5), (7), and (9) of this section;

(13) "agency action" includes the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act; and

(14) "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding covered by this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 381; amended Pub. L. 94-409, Sept. 13, 1976, 90 Stat. 1247.)

SEC. 552. PUBLIC INFORMATION; AGENCY RULES, OPINIONS, ORDERS, RECORDS, AND PROCEEDINGS.

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publications would be unnecessary and impracticable, in which case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. A final order, opinion, statement of policy interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

(i) it has been indexed and either made available published as provided by this paragraph; or

(ii) the party has actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which (A) reasonably describes such records and (B) is madein accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(4)(A) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comments, specifying a uniform schedule of fees applicable to all constituent units of such agency. Such fees shall be limited to reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such search and duplication. Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

(D) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acting arbitrarily or capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee of his representative. The administrative authority shall take the corrective action that the Special Counsel recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.

(5) Each agency having mroe than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6)(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall—

(i) determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extenion for more than ten working days. As used in this subparagraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request—

(i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(C) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(b) This section does not apply to matters that are—

(1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells.

Any reasonable segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection.

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include—

(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(2) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

(4) the results of each proceeding conducted pursuant to subsection (a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(5) a copy of every rule made by such agency regarding this section;

(6) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

(7) such other information as indicates efforts to administer fully this section.

The Attorney General shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each case, the disposition of such case, and the cost, fees, and penalties assessed under subsections (a)(4)(E), (F) and (G). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(e) For purposes of this section, the term "agency" as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 383; amended Pub. L. 90-23, § 1, June 6, 1967, 81 Stat. 54; Pub. L. 93-502, §§ 1-3, Nov. 21, 1974, 88 Stat. 1561-1564; Pub. L. 94-409, Sept. 13, 1976, 90 Stat. 1247; amended Pub. L. 95-454, Oct. 13, 1978, 92 Stat. 1225.)

SEC. 552a. RECORDS MAINTAINED ON INDIVIDUALS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "agency" means agency as defined in section 552(e) of this title;

(2) the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(3) the term "maintain" includes maintain, collect, use, or disseminate;

(4) the term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(5) the term "system of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(6) the term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 13; and

(7) the term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

(b) CONDITIONS OF DISCLOSURE.—No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be—

(1) to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

(2) required under section 552 of this title;

(3) for a routine use as defined in subsection (a)(7) of this section and described under subsection (e)(4)(D) of this section;

(4) to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13;

(5) to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(7) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(10) to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office;

(11) pursuant to the order of a court of competent jurisdiction; or

(12) to a consumer reporting agency in accordance with section 3711(f) of title 31.

(c) ACCOUNTING OF CERTAIN DISCLOSURES.—Each agency, with respect to each system of records under its control, shall—

(1) except for disclosures made under subsections (b)(1) or (b)(2) of this section, keep an accurate accounting of—

(A) the date, nature, and purpose of each disclosure of a record to any person or to another agency made under subsection (b) of this section; and

(B) the name and address of the person or agency to whom the disclosure is made;

(2) retain the accounting made under paragraph (1) of this subsection for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;

(3) except for disclosures made under subsection (b)(7) of this section, make the accounting made under paragraph (1) of this subsection available to the individual named in the record at his request; and

(4) inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of this section of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

(d) ACESS TO RECORDS.—Each agency that maintains a system of records shall—

(1) upon request by any individual to gain access to his record or to any information pertaining to him which is contained in the system, permit him and upon his request, a person of his own choosing to accompany him, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him, except that the agency may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence;

(2) permit the individual to request amendment of a record pertaining to him and—

(A) not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and

(B) promptly, either—

(i) make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(ii) inform the individual of its refusal to amend the record in accordance with his requests, the reason for the refusal, the procedures established by the agency for the individual to request a review of that refusal by the head of the agency or an officer designated by the head of the agency, and the name and business address of that official;

(3) permit the individual who disagrees with the refusal of the agency to amend his record to request a review of such refusal, and not later than 30 das (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the head of the agency extends such 30-day period; and if after his review, the reviewing official also refuses to amend the record in accordance with the request, permit the individual to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal of the agency, and notify the individual of the provisions for judicial review of the reviewing official's determination under subsection (g)(1)(A) of this section;

(4) in any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (3) of this subsection, clearly note any portion of the record which is disputed and provide copies of the statement and, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed; and

(5) nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

(e) AGENCY REQUIREMENTS.—Each agency that maintains a system of records shall—

(1) maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President;

(2) collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs;

(3) inform each individual whom it asks to supply information, on the form

which it uses to collect the information or on a separate form that can be retained by the individual—

(A) the authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(B) the principal purpose or purposes for which the information is intended to be used;

(C) the routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of this subsection; and

(D) the effects on him, if any, of not providing all or any part of the requested information;

(4) subject to the provisions of paragraph (11) of this subection, publish in the Federal Register upon establishment or revision a notice of the existence and character of the system of records, which notice shall include—

(A) the name and location of the system;

(B) the categories of individuals on whom records are maintained in the system;

(C) the categories of records maintained in the system;

(D) each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(E) the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

(F) the title and business address of the agency official who is responsible for the system of records;

(G) the agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

(H) the agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its content; and

(I) the categories of sources of records in the system;

(5) maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;

(6) prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;

(7) maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;

(8) make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record;

(9) establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of this section, including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance;

(10) establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained; and

(11) at least 30 days prior to publication of information under paragraph (4)(D) of this subsection, publish in the Federal Register notice of any new use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to the agency.

(f) AGENCY RULES.—In order to carry out the provisions of this section, each agency that maintains a system of records shall promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, which shall—

(1) establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him;

(2) define reasonable times, places, and requirements for identifying an individual who requests his record or information pertaining to him before the agency shall make the record or information available to the individual;

(3) establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records pertaining to him;

(4) establish procedures for reviewing a request from an individual concerning the amendment to any record or information pertaining to the individual, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means may be necessary for each individual to be able to exercise fully his rights under this section; and

(5) establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record.

The Office of the Federal Register shall annually compile and publish the rules promulgated under this subsection and agency notices published under subsection (e)(4) of this section in a form available to the public at low cost.

(g)(1) CIVIL REMEDIES.—Whenever any agency—

(A) makes a determination under subsection (a)(3) of this section not to amend an individual's record in accordance with his request, or fails to make such review in conformity with that subsection;

(B) refuses to comply with an individual request under subsection (d)(1) of this section;

(C) fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualification, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual; or

(D) fails to comply with any other provisions of this section, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual,

the individual may bring a civil action against the agency, and the district courts of the United States shall have jurisdiction in the matters under the provisions of this subsection.

(2)(A) In any suit brought under the provisions of subsection (g)(1)(A) of this section, the court may order the agency to amend the individual's record in accordance with his request or in such other way as the court may direct. In such a case the court shall determine the matter de novo.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(3)(A) In any suit brought under the provisions of subsection (g)(1)(B) of this section, the court may enjoin the agency from withholding the records and order the production to the complainant of any agency records improperly withheld from him. In such a case the court shall determine the matter de novo, and may examine the contents of any agency records in camera to determine whether the records or any portion thereof may be withheld under any of the exemptinos set forth in subsection (k) of this section, and the burden is on the agency to sustain its action.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(4) In any suit brought under the provisions of subsection (g)(1)(C) or (D) of this section in which the court determines that the agency acted in a manner which was intentional or willful, the United States shall be liable to the individual in an amount equal to the sum of—

(A) actual damages sustained by the individual as a result of the refusal or failure, but in no case shall a person entitled to recovery receive less than the sum of $1,000; and

(B) the costs of the action together with reasonable attorney fees as determined by the court.

(5) An action to enforce any liability created under this section may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where an agency has materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under this section, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action by reason of any injury sustained as the result of a disclosure of a record prior to September 27, 1975.

(h) RIGHTS OF LEGAL GUARDIANS.—For the purpose of this section, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

(i)(1) CRIMINAL PENALTIES.—Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that

disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(2) Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than $5,000.

(3) Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

(j) GENERAL EXEMPTIONS.—The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from any part of this section except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) if the system of records is—

(1) maintained by the Central Intelligence Agency; or

(2) maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(k) SPECIFIC EXEMPTIONS.—The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f) of this section if the system of records is—

(1) subject to the provisions of section 552(b)(1) of this title;

(2) investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: *Provided, however,* That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(3) maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18;

(4) required by statute to be maintained and used solely as statistical records;

(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(6) testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title the reasons why the system of records is to be exempted from a provision of this section.

(l)(1) ARCHIVAL RECORDS.—Each agency record which is accepted by the Administrator of General Services for storage, processing, and servicing in accordance with section 3103 of title 44 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record and shall be subject to the provisions of this section. The Administrator of General Services shall not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with the provisions of this section.

(2) Each agency record pertaining to an identifiable individual which was transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, prior to the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall not be subject to the provisions of this section, except that a statement generally describing such records (modeled after the requirements relating to records subject to subsections (e)(4)(A) through (G) of this section) shall be published in the Federal Register.

(3) Each agency record pertaining to an identifiable individual which is transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall be exempt from the requirements of this section except subsections (e)(4)(A) through (G) and (e)(9) of this section.

(m)(1) GOVERNMENT CONTRACTORS.—When an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function, the agency shall, consistent with its authority, cause the requirements of this section to be applied to such system. For purposes of subsection (i) of this section any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered to be an employee of an agency.

(2) A consumer reporting agency to which a record is disclosed under section 371(f) of title 31 shall not be considered a contractor for the purposes of this section.

(n) MAILING LISTS.—An individual's name and address may not be sold or rented by an agency unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

(o) REPORT ON NEW SYSTEMS.—Each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals or the disclosure of information relating to such individuals, and its effect on the preservation of the constitutional principles of federalism and separation of powers.

(p) ANNUAL REPORT.—The President shall annually submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report—

(1) describing the actions of the Director of the Office of Management and Budget pursuant to section 6 of the Privacy Act of 1974 during the preceding year;

(2) describing the exercise of individual rights of access and amendment under this section during such year;

(3) identifying changes in or additions to systems of records;

(4) containing such other information concerning administration of this section as may be necessary or useful to the Congress in reviewing the effectiveness of this section in carrying out the purposes of the Privacy Act of 1974.

(q) EFFECT OF OTHER LAWS.—No agency shall rely on any exemption contained in section 552 of this title to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this section. (Pub. L. 93-479, Sec. 3, Dec. 31, 1974, 88 Stat. 1897, amended Pub. L. 94-183, Sec. 2(2), Dec. 31, 1975, 89 Stat. 1057; Pub. L. 97-365, Oct. 25, 1982, 96 Stat. 1749; Pub. L. 97-452, Jan. 3, 1983, 96 Stat. 2478; Pub. L. 97-375, Dec. 21, 1982, 96 Stat. 1821.)

SEC. 552b. OPEN MEETINGS.

(a) For purposes of this section—

(1) the term "agency" means any agency, as defined in section 552(e) of this title, headed by a collegial body composed of two or more individual members, a majority of whom are appointed to such position by the President with the advice and consent of the Senate, and any subdivision thereof authorized to act on behalf of the agency;

(2) the term "meeting" means the deliberations of at least the number of individual agency members required to take action on behalf of the agency where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations required or permitted by subsection (d) or (e); and

(3) the term "members" means an individual who belongs to a collegial body heading an agency.

(b) Members shall not jointly conduct or dispose of agency business other than in accordance with this section. Except as provided in subsection (c), every portion of every meeting of an agency shall be open to public observation.

(c) Except in a case where the agency finds that the public interest requires otherwise, the second sentence of subsection (b) shall not apply to any portion of an agency meeting, and the requirements of subsections (d) and (e) shall not apply to any information pertaining to such meeting otherwise required by this section to be disclosed to the public, where the agency properly determines that such portion or portions of its meeting or the disclosure of such information is likely to—

(1) disclose matters that are (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order;

(2) relate solely to the internal personnel rules and practices of an agency;

(3) disclose matters specifically exempted from disclosure by statute (other than section 552 of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) involve accusing any person of a crime, or formally censuring any person;

(6) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(8) disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) disclose information the premature disclosure of which would—

(A) in the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (i) lead to significant financial speculation in currencies, securities, or commodities, or (ii) significantly endanger the stability of any financial institution; or

(B) in the case of any agency, be likely to significantly frustrate implementation of a proposed agency action,

except that subparagraph (B) shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency actin on such proposal; or

(10) specifically concern the agency's issuance of a subpena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in section 554 of this title or otherwise involving a determination on the record after opportunity for a hearing.

(d)(1) Action under subsection (c) shall be taken only when a majority of the entire membership of the agency (as defined in subsection (a)(1)) votes to take such action. A separate vote of the agency members shall be taken with respect to each agency meeting a portion or portions of which are proposed to be closed to the public pursuant to subsection (c), or with respect to any information which is proposed to be withheld under subsection (c). A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each agency member participating in such vote shall be recorded and no proxies shall be allowed.

(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the agency close such portion to the public for any of the reasons referred to in paragraph (5), (6), or (7) of subsection (c), the agency, upon request of any one of its members, shall vote by recorded vote whether to close such meeting.

(3) Within one day of any vote taken pursuant to paragraph (1) or (2), the agency shall make publicly available a written copy of such vote reflecting the vote of each

member on the question. If a portion of a meeting is to be closed to the public, the agency shall, within one day of the vote taken pursuant to paragraph (1) or (2) of this subsection, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

(4) Any agency, a majority of whose meetings may properly be closed to the public pursuant to paragraph (4), (8), (9)(A), or (10) of subsection (c), or any combination thereof, may provide by regulation for the closing of such meetings or portions thereof in the event that a majority of the members of the agency votes by recorded vote at the beginning of such meeting, or portion thereof, to close the exempt portion or portions of the meeting, and a copy of such vote, reflecting the vote of each member on the question, is made available to the public. The provisions of paragraphs (1), (2), and (3) of this subsection and subsection (e) shall not apply to any portion of a meeting to which such regulations apply: *Provided*, That the agency shall, except to the extent that such information is exempt from disclosure under the provisions of subsection (c), provide the public with public announcement of the time, place, and subject matter of the meeting and of each portion thereof at the earliest practicable time.

(e)(1) In the case of each meeting, the agency shall make public announcement, at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting. Such announcement shall be made unless a majority of the members of the agency determines by a recorded vote that agency business requires that such meeting be called at an earlier date, in which case the agency shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(2) The time or place of a meeting may be changed following the public announcement required by paragraph (1) only if the agency publicly announces such change at the earliest practicable time. The subject matter of a meeting, or the determination of the agency to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by this subsection only if (A) a majority of the entire membership of the agency determines by a recorded vote that agency business so requires and that no earlier announcement of the change was possible, and (B) the agency publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(3) Immediately following each public announcement required by this subsection, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting, shall also be submitted for publication in the Federal Register.

(f)(1) For every meeting closed pursuant to paragraphs (1) through (10) of subsection (c), the General Counsel or chief legal officer of the agency shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the agency. The agency shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to paragraph (8), (9)(A), or (10) of subsection (c), the agency shall maintain either such a transcript or recording, or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(2) The agency shall make promptly available to the public, in a place easily accessible to the public, the transcript, electronic recording, or minutes (as required by paragraph (1)) of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the agency determines to contain information which may be withheld under subsection (c). Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription. The agency shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any agency proceeding with respect to which the meeting or portion was held, whichever occurs later.

(g) Each agency subject to the requirements of this section shall, within 180 days after the date of enactment of this section, following consultation with the Office of the Chairman of the Administrative Conference of the United States and published notice in

the Federal Register of at least thirty days and opportunity for written comment by any person, promulgate regulations to implement the requirements of subsections (b) through (f) of this section. Any person may bring a proceeding in the United States District Court for the District of Columbia to require an agency to promulgate such regulations if such agency has not promulgated such regulations within the time period specified herein. Subject to any limitations of time provided by law, any person may bring a proceeding in the United States Court of Appeals for the District of Columbia to set aside agency regulations issued pursuant to this subsection that are not in accord with the requirements of subsections (b) through (f) of this section and to require the promulgation of regulations that are in accord with such subsections.

(h)(1) The district courts of the United States shall have jurisdiction to enforce the requirements of subsections (b) through (f) of this section by declaratory judgment, injunctive relief, or other relief as may be appropriate. Such actions may be brought by any person against an agency prior to, or within sixty days after, the meeting out of which the violation of this section arises, except that if public announcement of such meeting is not initially provided by the agency in accordance with the requirements of this section, such action may be instituted pursuant to this section at any time prior to sixty days after any public announcement of such meeting. Such actions may be brought in the district court of the United States for the district in which the agency meeting is held or in which the agency in question has its headquarters, or in the District Court for the District of Columbia. In such actions a defendant shall serve his answer within thirty days after the service of the complaint. The burden is on the defendant to sustain his action. In deciding such cases the court may examine in camera any portion of the transcript, electronic recording, or minutes of a meeting closed to the public, and may take such additional evidence as it deems necessary. The court, having due regard for orderly administration and the public interest, as well as the interests of the parties, may grant such equitable relief as it deems appropriate, including granting an injunction against future violations of this section or ordering the agency to make available to the public such portion of the transcript, recording, or minutes of a meeting as is not authorized to be withheld under subsection (c) of this section.

(2) Any Federal court otherwise authorized by law to review agency action may, at the application of any person properly participating in the proceeding pursuant to other applicable law, inquire into violations by the agency of the requirements of this section and afford such relief as it deems appropriate. Nothing in this section authorizes any Federal court having jurisdiction solely on the basis of paragraph (1) to set aside, enjoin, or invalidate any agency action (other than an action to close a meeting or to withhold information under this section) taken or discussed at any agency meeting out of which the violation of this section arose.

(i) The court may assess against any party reasonable attorney fees and other litigation costs reasonably incurred by any other party who substantially prevails in any action brought in accordance with the provisions of subsection (g) or (h) of this section, except that costs may be assessed against the plaintiff only where the court finds that the suit was initiated by the plaintiff primarily for frivolous or dilatory purposes. In the case of assessment of costs against an agency, the costs may be assessed by the court against the United States.

(j) Each agency subject to the requirements of this section shall annually report to Congress regarding its compliance with such requirements, including a tabulation of the total number of agency meetings open to the public, the total number of meetings closed to the public, the reasons for closing such meetings, and a description of any litigation brought against the agency under this section, including any costs assessed against the agency in such litigation (whether or not paid by the agency).

(k) Nothing herein expands or limits the present rights of any person under section 552 of this title, except that the exemptions set forth in subsection (c) of this section shall govern in the case of any request made pursuant to section 552 to copy or inspect the transcripts, recordings, or minutes described in subsection (f) of this section. The requirements of chapter 33 of title 44, United States Code, shall not apply to the transcripts, recordings, and minutes described in subsection (f) of this section.

(l) This section does not constitute authority to withhold any information from Congress, and does not authorize the closing of any agency meeting or portion thereof required by any other provision of law to be open.

(m) Nothing in this section authorizes any agency to withhold from any individual any record, including transcripts, recordings, or minutes required by this section, which is otherwise accessible to such individual under section 552a of this title. (Pub. L. 94-409, Sec. 3(a), Sept. 13, 1976, 90 Stat. 1241.)

SEC. 553. RULE MAKING.

(a) This section applies, according to the provisions thereof, except to the extent that there is involved—

(1) a military or foreign affairs function of the United States; or

(2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.

(b) General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—

(1) a statement of the time, place, and nature of public rule making proceedings;

(2) reference to the legal authority under which the rule is proposed; and

(3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

Except when notice or hearing is required by statute, this subsection does not apply—

(A) to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or

(B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

(c) After notice required by this section, the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose. When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

(d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—

(1) a substantive rule which grants or recognizes an exemption or relieves a restriction;

(2) interpretative rules and statements of policy; or

(3) as otherwise provided by the agency for good cause found and published with the rule.

(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 383.)

SEC. 554. ADJUDICATIONS

(a) This section applies, according to the provisions thereof, in every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing, except to the extent that there is involved—

(1) a matter subject to a subsequent trial of the law and the facts de novo in a court;

(2) the selection or tenure of an employee, except an administrative law judge appointed under section 3105 of this title;

(3) proceedings in which decisions rest solely on inspections, tests, or elections;

(4) the conduct of military or foreign affairs functions;

(5) cases in which an agency is acting as an agent for a court; or

(6) the certification of worker representatives.

(b) Persons entitled to notice of an agency hearing shall be timely informed of—

(1) the time, place, and nature of the hearing;

(2) the legal authority and jurisdiction under which the hearing is to be held; and

(3) the matters of fact and law asserted.

When private persons are the moving parties, other parties to the proceeding shall give prompt notice of issues controverted in fact or law; and in other instances agencies may by rule require responsive pleading. In fixing the time and place for hearings, due regard shall be had for the convenience and necessity of the parties or their representatives.

(c) The agency shall give all interested parties opportunity for—

(1) the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment when time, the nature of the proceeding, and the public interest permit; and

(2) to the extent that the parties are unable so to determine a controversy by consent, hearing and decision on notice and in accordance with sections 556 and 557 of this title.

(d) The employee who presides at the reception of evidence pursuant to section 556 of this title shall make the recommended decision or initial decision required by section 557 of this title, unless he becomes unable to the agency. Except to the extent required for the disposition of ex parte matters as authorized by law, such an employee may not—

(1) consult a person or party on a fact in issue, unless on notice and opportunity for all parties to participate; or

(2) be responsible to or subject to the supervision or direction of an employee or agent engaged in the performance of investigative or prosecutingfunctions for an agency.

An employee or agent engaged in the performance of investigative or prosecuting functions for an agency in a case may not, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 557 of this title, except as witness or counsel in public proceedings This subsection does not apply—

(A) in determining applications for initial licenses;

(B) to proceedings involving the validity or application of rates, facilities, or practices of public utilities or carriers; or

(C) to the agency or a member or members of the body comprising the agency.

(e) The agency, with like effect as in the case of other orders, and in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 384; amended Pub. L. 95-251, Mar. 27, 1978, 92 Stat. 183.)

SEC. 555. ANCILLARY MATTERS.

(a) This section applies, according to the provisions thereof, except as otherwise provided by this subchapter.

(b) A person compelled to appear in person before an agency or representative thereof is entitled to be accompanied, represented, and advised by counsel or, if permitted by the agency, by other qualified representative. A party is entitled to appear in person or by or with counsel or other duly qualified representative in an agency proceeding. So far as the orderly conduct of public business permits, an interested person may appear before an agency or its responsible employees for the presentation, adjustment, or determination of an issue, request, or controversy in a proceeding, whether interlocutory, summary, or otherwise, or in connection with an agency function. With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it. This subsection does not grant or deny a person who is not a lawyer the right to appear for or represent others before an agency or in an agency proceeding.

(c) Process, requirement of a report, inspection, or other investigative act or demand may not be issued, made, or enforced except as authorized by law. A person compelled to submit data or evidence is entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that in a nonpublic investigatory proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(d) Agency subpenas authorized by law shall be issued to a party on request and, when required by rules of procedure on a statement or showing of general relevance and reasonable scope of the evidence sought. On contest, the court shall sustain the subpena or similar process or demand to the extent that it is found to be in accordance with law. In a proceeding for enforcement, the court shall issue an order requiring the appearance of the witness or the production of the evidence or data within a reasonable time under penalty of punishment for contempt in case of contumacious failure to comply.

(e) Prompt notice shall be given of the denial in whole or in part of a written application, petition, or other request of an interested person made in connection with any agency proceedings. Except in affirming a prior denial or when the denial is self-explanatory, the notice shall be accompanied by a brief statement of the grounds for denial. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 385.)

SEC. 556. HEARINGS; PRESIDING EMPLOYEES; POWERS AND DUTIES; BURDEN OF PROOF; EVIDENCE; RECORD AS BASIS OF DECISION.

(a) This sections applies, according to the provisions thereof, to hearings required by section 553 or 554 of this title to be conducted in accordance with this section.

(b) There shall preside at the taking of evidence—

(1) the agency;

(2) one or more members of the body which comprises the agency; or

(3) one or more administrative law judges appointed under section 3105 of this title.

This subchapter does not supersede the conduct of specified classes of proceedings, in whole or in part, by or before boards or other employees specially provided for by or designated under statute. The functions of presiding employees and of employees participating in decisions in accordance with section 557 of this title shall be conducted in an impartial manner. A presiding or participating employee may at any time disqualify himself. On the filing in good faith of a timely and sufficient affidavit of personal bias or other disqualification of a presiding or participating employee, the agency shall determine the matter as a part of the record and decision in the case.

(c) Subject to published rules of the agency and within its powers, employees presiding at hearings may—

(1) administer oaths and affirmations;

(2) issue subpoenas authorized by law;

(3) rule on offers of proof and receive relevant evidence;

(4) take depositions or have depositions taken when the ends of justice would be served;

(5) regulate the course of the hearing;

(6) hold conferences for the settlement or simplification of the issues by consent of the parties;

(7) dispose of procedural requests or similar matters;

(8) make or recommend decisions in accordance with section 557 of this title; and

(9) take other action authorized by agency rule consistent with this subchapter.

(d) Except as otherwise provided by statute, the proponents of a rule or order has the burden of proof. Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. A sanction may not be imposed or rule or order issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence. The agency may, to the extent consistent with the interests of justice and the policy of the underlying statutes administred by the agency, consider a violation of section 557(d) of this title sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur. A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. In rule making or determining claims for money or benefits or applications for initial licenses an agency may, when a party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form.

(e) The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, constitutes the exclusive record for decision in accordance with section 557 of this title and, on payment of lawfully prescribed costs, shall be made available to the parties. When an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 386; amended Pub. L. 94-409, Sept. 13, 1976, 90 Stat. 1247; Pub. L. 95-251, Mar. 27, 1978, 92 Stat. 183.)

SEC. 557. INITIAL DECISIONS; CONCLUSIVENESS; REVIEW BY AGENCY; SUBMISSIONS BY PARTIES; CONTENTS OF DECISIONS; RECORD.

(a) This section applies, according to the provisions thereof, when a hearing is required to be conducted in accordance with section 556 of this title.

(b) When the agency did not preside at the reception of the evidence, the presiding employee or, in cases not subject to section 554(d) of this title, an employee qualified to preside at hearings pursuant to section 556 of this title, shall initially decide the case unless the agency requires, either in specific cases or by general rule, the entire record to be certified to it for decision. When the presiding employee makes an initial decision, that decision then becomes the decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the agency within time provided by rule. On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule. When the agency makes the decision without having presided at the reception of the evidence, the presiding employee or an employee qualified to preside at hearings pursuant to section 556 of this title shall first recommend a decision, except that in rule making or determining applications for initial licenses—

(1) instead thereof the agency may issue a tentative decision or one of its responsible employees may recommend a decision; or

(2) this procedure may be omitted in a case in which the agency finds on the record that due and timely execution of its functions imperatively and unavoidably so requires.

(c) Before a recommended, initial, or tentative decision, or a decision on agency review of the decision of subordinate employees, the parties are entitled to a reasonable opportunity to submit for the consideration of the employees participating in the decisions—

(1) proposed findings and conclusions; or

(2) exceptions to the decisions or recommended decisions of subordinate employees or to tentative agency decisions; and

(3) supporting reasons for the exception or proposed findings or conclusions.

The record shall show the ruling on each finding, conclusion, or exception presented. All decisions, including initial, recommended, and tentative decisions, are a part of the record and shall include a statement of—

(A) findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record; and

(B) the appropriate rule, order, sanction, relief, or denial thereof.

(d)(1) In an agency proceeding which is subject to subsection (a) of this section, except to the extent required for the disposition of ex parte matters as authorized by law—

(A) no interested person outside the agency shall make or knowingly cause to be made to any member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, an ex parte communication relevant to the merits of the proceeding;

(B) no member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, shall make or knowingly cause to be made to any interested person outside the agency an ex parte communication relevant to the merits of the proceeding;

(C) a member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of such proceeding who receives, or who makes or knowingly causes to be made, a communication prohibited by this subsection shall place on the public record of the proceeding:

(i) all such written communications;

(ii) memoranda stating the substance of all such oral communications; and

(iii) all written responses, and memoranda stating the substance of all oral responses, to the materials described in clauses (i) and (ii) of this subparagraph;

(D) upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this subsection, the agency, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation; and

(E) the prohibitions of this subsection shall apply beginning at such time as the agency may designate, but in no case shall they begin to apply later than the time at which a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply beginning at the time of his acquisition of such knowledge.

(2) This subsection does not constitute authority to withhold information from Congress. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 837; amended Pub. L. 94-409, Sept. 13, 1976, 90 Stat. 1246.)

SEC. 558. IMPOSITION OF SANCTIONS; DETERMINATION OF APPLICATIONS FOR LICENSES; SUSPENSION, REVOCATION, AND EXPIRATION OF LICENSES.

(a) This section applies, according to the provisions thereof, to the exercise of a power or authority.

(b) A sanction may not be imposed or a substantive rule or order issued except within jurisdiction delegated to the agency and as authorized by law.

(c) When application is made for a license required by law, the agency, with due regard for the rights and privileges of all the interested parties or adversely affected persons and within a reasonable time, shall set and complete proceedings required to be conducted in accordance with sections 556 and 557 of this title or other proceedings required by law and shall make its decision. Except in cases of willfulness or those in which public health, interest, or safety requires otherwise, the withdrawal, suspension, revocation, or annulment of a license is lawful only if, before the institution of agency proceedings therefor, the license has been given—

(1) notice by the agency in writing of the facts or conduct which may warrant the action; and

(2) opportunity to demonstrate or achieve compliance with all lawful requirements.

When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 388.)

SEC. 559. EFFECT ON OTHER LAWS; EFFECT OF SUBSEQUENT STATUTE.

This subchapter, chapter 7, and sections 1305, 3105, 3344, 4301(2)(E), 5372, and 7521 of this title, and the provisions of section 5335(a)(B) of this title that relate to administrative law judges, do not limit or repeal additional requirements imposed by statute or otherwise recognized by law. Except as otherwise required by law, requirements or privileges relating to evidence or procedure apply equally to agencies and persons. Each agency is granted the authority necessary to comply with the requirements of this subchapter through the issuance of rules or otherwise. Subsequent statute may not be held to supersede or modify this subchapter, chapter 7, sections 1305, 3105, 3344, 4301(2)(E), 5372, or 8521 of this title, or the provisions of section 5335(a)(B) of this title that relate to administrative law judges, except to the extent that it does so expressly. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 388; amended Pub. L. 90-623, § 1(1), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 95-251, Mar. 27, 1978, 92 Stat. 183; Pub. L. 95-454, Oct. 13, 1978, 92 Stat. 1221.)

CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

Sec. 601. Definitions.
Sec. 602. Regulatory agenda.
Sec. 603. Initial regulatory flexibility analysis.
Sec. 604. Final regulatory flexibility analysis.
Sec. 605. Avoidance of duplicative or unnecessary analyses.
Sec. 606. Effect on other law.
Sec. 607. Preparation of analyses.
Sec. 608. Procedure for waiver or delay of completion.
Sec. 609. Procedures for gathering comments.
Sec. 610. Periodic review of rules.
Sec. 611. Judicial review.
Sec. 612. Reports and intervention rights.

SEC. 601. DEFINITIONS.

For purposes of this chapter—

(1) the term "agency" means an agency as defined in section 55(1) of this title;

(2) the term "rule" means any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of this title, or any other law, including any rule of general applicability governing Federal grants to State and local governments for which the agency provides an opportunity for notice and public comment, except that the term "rule" does not include a rule of particular applicability relating to rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or to valuations, costs or accounting, or practices relating to such rates, wages, structures, prices, appliances, services, or allowances;

(3) the term "small business" has the same meaning as the term "small business concern" under section 3 of the Small Business Act, unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register;

(4) the term "small organization" means any not-for-profit enterprise which is independently owned and operated and is not dominant in its field, unless an agency establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register;

(5) the term "small governmental jurisdiction" means governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand, unless an agency establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of the agency and which are based on such factors as location in rural or sparsely populated areas or limited revenues due to the jurisdiction, and publishes definition(s) in the Federal Register;

(6) the term "small entity" shall have the same meaning as the terms "small business," "small organization" and "small governmental jurisdiction" defined in paragraphs (3), (4) and (5) of this section.

(Added Pub. L. 96-354, Sept. 19, 1980, 94 Stat. 1165.)

SEC. 602. REGULATORY AGENDA.

(a) During the months of October and April of each year, each agency shall publish in the Federal Register a regulatory flexibility agenda which shall contain—

(1) a brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) a summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing

action on any rule for which the agency has issued a general notice of proposed rulemaking, and

(3) the name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

(b) Each regulatory flexibility agenda shall be transmitted to the Chief Counsel for Advocacy of the Small Business Administration for comment, if any.

(c) Each agency shall endeavor to provide notice of each regulatory flexibility agenda to small entities or their representatives through direct notification or publication of the agenda in publications likely to be obtained by such small entities and shall invite comments upon each subject area on the agenda.

(d) Nothing in this section precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda, or requires an agency to consider or act on any matter listed in such agenda. (Added Pub. L. 96-354, Sept. 19, 1980, 94 Stat. 1166.)

SEC. 603. INITIAL REGULATORY FLEXIBILITY ANALYSIS.

(a) Whenever an agency is required by section 553 of this title, or any other law, to publish general notice of proposed rulemaking for any proposed rule, the agency shall prepare and make available for public comment an initial regulatory flexibility analysis. Such analysis shall describe the impact of the proposed rule on small entities. The initial regulatory flexibility analysis or a summary shall be published in the Federal register at the time of the publication of general notice of proposed rulemaking for the rule. The agency shall transmit a copy of the initial regulatory flexibility analysis to the Chief Counsel for Advocacy of the Small Business Administration.

(b) Each initial regulatory flexibility analysis required under this section shall contain—

(1) a description of the reasons why action by the agency is being considered;

(2) a succinct statement of the objectives, and legal basis for, the proposed rule;

(3) a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;

(4) a description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

(5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule.

(c) Each initial regulatory flexibility analysis shall also contain a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives such as—

(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

(2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;

(3) the use of performance rather than design standards; and

(4) an exemption from coverage of the rule, or any part thereof, for such small entities.

(Added Pub. L. 96-354, Sept. 19, 1980, 94 Stat. 1166.)

SEC. 604. FINAL REGULATORY FLEXIBILITY ANALYSIS.

(a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency shall prepare a final regulatory flexibility analysis. Each final regualtory flexibility analysis shall contain—

(1) a succinct statement of the need for, and the objectives of, the rule;

(2) a summary of the issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; and

(3) a description of each of the significant alternatives to the rule consistent with the stated objectives of applicable statutes and designed to minimize any significant economic impact of the rule on small entities which was considered by the agency, and a statement of the reasons why each one of such alternatives was rejected.

(b) The agency shall make copies of the final regulatory flexibility analysis available to members of the public and shall publish in the Federal Register at the time of publication of the final rule under section 553 of this title a statement describing how the public may obtain such copies. (Added Pub. L. 96-354, Sept. 19, 1980, 94 Stat. 1167.)

SEC. 605. AVOIDANCE OF DUPLICATIVE OR UNNECESSARY ANALYSES.

(a) Any Federal agency may perform the analyses required by sections 602, 603, and 604 of this title in conjunction with or as a part of any other agenda or analysis required by any other law if such other analysis satisfies the provisions of such sections.

(b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant

economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register, at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a succinct statement explaining the reasons for such certification, and provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.

(c) In order to avoid duplicative action, an agency may consider a series of closely related rules as one rule for the purposes of sections 602, 603, and 610 of this title. (Added Pub. L. 96-354, Sept. 19, 1980, 94 Stat. 1167.)

SEC. 606. EFFECT ON OTHER LAW.

The requirements of sections 603 and 604 of this title do not alter in any manner standards otherwise applicable by law to agency action. (Added Pub. L. 96-354, Sept. 19, 1980, 94 Stat. 1168.)

SEC. 607. PREPARATION OF ANALYSES.

In complying with the provisions of sections 603 and 604 of this title, an agency may provide either a quantifiable or numerical description of the effects of a proposed rule or alternatives to the proposed rule, or more general descriptive statements if quantification is not practicable or reliable. (Added Pub. L. 96-354, Sept. 19, 1980, 94 Stat. 1168.)

SEC. 608. PROCEDURE FOR WAIVER OR DELAY OF COMPLETION.

(a) An agency head may waive or delay the completion of some or all of the requirements of section 603 of this title by publishing in the Federal Register, not later than the date of publication of the final rule, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes compliance or timely compliance with the provisions of section 603 of this title impracticable.

(b) Except as provided in section 605(b), an agency head may not waive the requirements of section 604 of this title. An agency head may delay the completion of the requirements of section 604 of this title for a period of not more than one hundred and eighty days after the date of publication in the Federal Register of a final rule by publishing in the Federal Register, not later than such date of publication, a written finding, with reasons therefor, that the final rule is being promulgated to response to an emergency that makes timely compliance with the provisions of section 604 of this title impracticable. If the agency has not prepared a final regulatory analysis pursuant to section 604 of this title within one hundred and eighty days from the date of publication of the final rule, such rule shall lapse and have no effect. Such rule shall not be repromulgated until a final regulatory flexibility analysis has been completed by the agency. (Added Pub. L. 96-354, Sept. 19, 1980, 94 Stat. 1168.)

SEC. 609. PROCEDURES FOR GATHERING COMMENTS.

When any rule is promulgated which will have a significant economic impact on a substantial number of small entities, the head of the agency promulgating the rule or the official of the agency with statutory responsibility for the promulgation of the rule shall assure that small entities have been given an opportunity to participate in the rulemaking for the rule through techniques such as—

(1) the inclusion in an advanced notice of proposed rulemaking, if issued, of a statement that the proposed rule may have a significant economic effect on a substantial number of small entities;

(2) the publication of general notice of proposed rulemaking in publications likely to be obtained by small entities;

(3) the direct notification of interested small entities;

(4) the conduct of open conferences or public hearings concerning the rule for small entities; and

(5) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in the rulemaking by small entities.

(Added Pub. L. 96-354, Sept. 19, 1980, 94 Stat. 1168.)

SEC. 610. PERIODIC REVIEW OF RULES.

(a) Within one hundred and eighty days after the effective date of this chapter, each agency shall publish in the Federal Register a plan for the periodic review of the rules issued by the agency which have or will have a significant economic impact upon a substantial number of small entities. Such plan may be amended by the agency at any time by publishing the revision in the Federal Register. The purpose of the review shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities. The plan shall provide for the review of all such agency rules existing on the effective date of this chapter within ten years of that date and for the review of such rules adopted after the effective date of this chapter within ten years of the publication of such rules as the final rule. If the head of the agency determines that completion of the review of existing rules is not feasible by the established date, he shall so certify in a statement published in the Federal Register and may extend the completion date by one year at a time for a total of not more than five years.

(b) In reviewing rules to minimize any significant economic impact of the rule on a substantial number of small entities in a manner consistent with the stated objectives of

applicable statutes, the agency shall consider the following factors—

(1) the continued need for the rule;

(2) the nature of complaints or comments received concerning the rule from the public;

(3) the complexity of the rule;

(4) the extent to which the rule overlaps, duplicates or conflicts with other federal rules, and, to the extent feasible, with State and local governmental rules; and

(5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

(c) Each year, each agency shall publish in the Federal Register a list of the rules which have a significant economic impact on a substantial number of small entities, which are to be reviewed pursuant to this section during the succeeding twelve months. The list shall include a brief description of each rule and the need for and legal basis of such rule and shall invite public comment upon the rule. (Added Pub. L. 96-354, Sept. 19, 1980, 94 Stat. 1168.)

SEC. 611. JUDICIAL REVIEW.

(a) Except as otherwise provided in subsection (b), any determination by an agency concerning the applicability of any of the provisions of this chapter to any action of the agency shall not be subject to judicial review.

(b) Any regulatory flexibility analysis prepared under sections 603 and 604 of this title and the compliance or noncompliance of the agency with the provisions of this chapter shall not be subject to judicial review. When an action for judicial review of a rule is instituted, any regulatory flexibility analysis for such rule shall constitute part of the whole record of agency action in connection with the review.

(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law. (Added Pub. L. 96-354, Sept. 19, 1980, 94 Stat. 1169.)

SEC. 612. REPORTS AND INTERVENTION RIGHTS.

(a) The Chief Counsel for Advocacy of the Small Business Administration shall monitor agency compliance with this chapter and shall report at least annually thereon to the President and to the Committees on the Judiciary of the Senate and House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives.

(b) The Chief Counsel for Advocacy of the Small Business Administration is authorized to appear as amicus curiae in any action brought in a court of the United States to review a rule. In any such action, the Chief Counsel is authorized to present his views with respect to the effect of the rule on small entities.

(c) A court of the United States shall grant the application of the Chief Counsel for Advocacy of the Small Business Administration to appear in any such action for the purposes described in subsection (b). (Added Pub. L. 96-354, Sept. 19, 1980, 94 Stat. 1170.)

CHAPTER 7—JUDICIAL REVIEW

Sec. 701. Application; definitions.
Sec. 702. Right of review.
Sec. 703. Form and venue of proceeding.
Sec. 704. Actions reviewable.
Sec. 705. Relief pending review.
Sec. 706. Scope of review.

SEC. 701. APPLICATION; DEFINITIONS.

(a) This chapter applies, according to the provisions thereof, except to the extent that—

(1) statutes preclude judicial review; or

(2) agency action is committed to agency discretion by law.

(b) For the purpose of this chapter—

(1) "agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

(A) the Congress;

(B) the courts of the United States;

(C) the government of the territories or possessions of the United States;

(D) the government of the District of Columbia;

(E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;

(F) courts martial and military commissions;

(G) military authority exercised in the field in time of war or in occupied territory; or

(H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; or sections 1622, 1884, 1891-1902, and former section 1641(b)(2), of title 50, appendix; and

(2) "person", "rule", "order", "license", "sanction", "relief", and "agency action" have the meanings given them by section 551 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 392.)

SEC. 702. RIGHT OF REVIEW.

A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof. An action in a court of the United States seeking relief other than money damages and stating a claim that an agency or an officer or employee thereof acted or failed to act in an official capacity or under color of legal authority shall not be dismissed nor relief therein be denied on the ground that it is against the United States or that the United States is an indispensable party. The United States may be named as a defendant in any such action, and a judgment or decree may be entered against the United States: *Provided*, That any mandatory or injunctive decree shall specify the Federal officer or officers (by name or by title), and their successors in office, personally responsible for compliance. Nothing herein (1) affects other limitations on judicial review or the power or duty of the court to dismiss any action or deny relief on any other appropriate legal or equitable ground; or (2) confers authority to grant relief if any other statute that grants consent to suit expressly or impliedly forbids the relief which is sought. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 392; amended Pub. L. 94-574, Oct. 21, 1976, 90 Stat. 2721.)

SEC. 703. FORM AND VENUE OF PROCEEDING.

The form of proceeding for judicial review is the special statutory review proceeding relevant to the subject matter in a court specified by statute or, in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus, in a court of competent jurisdiction. If no special statutory review proceeding is applicable, the action for judicial review may be brought against the United States, the agency by its official title, or the appropriate officer. Except to the extent that prior, adequate, and exclusive opportunity for judicial review is provided by law, agency action is subject to

judicial review in civil or criminal proceedings for judicial enforcement. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 392; amended Pub. L. 94-574, Oct. 21, 1976, 90 Stat. 2721.)

SEC. 704. ACTIONS REVIEWABLE.

Agency action made reviewable by statute and final agency action for whch there is no other adequate remedy in a court are subject to judicial review. A preliminary, procedural, or intermediate agency action or ruling not directly reviewable is subject to review on the review of the final agency action. Except as otherwise expressly required by statute, agency action otherwise final is final for the purposes of this section whether or not there has been presented or determined an application for a declaratory order, for any form of reconsideration, or, unless the agency otherwise requires by rule and provides that the action meanwhile is inoperative, for an appeal to superior agency authority. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 392.)

SEC. 705. RELIEF PENDING REVIEW.

When an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review. On such conditions as may be required and to the extent necessary to prevent irreparable injury, the reviewing court including the court to which a case may be taken on appeal from or on application for certiorari or other writ to a reviewing court, may issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights pending conclusion of the review proceedings. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 393.)

SEC. 706. SCOPE OF REVIEW.

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

(1) compel agency action unlawfully withheld or unreasonably delayed; and

(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

(A) arbitrary, capricious, and abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(D) without observance of procedure required by law;

(E) unsupported by substantial evidence in a case subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 393.)

TITLE 5 USC — APPENDIX I

FEDERAL ADVISORY COMMITTEE ACT

Pub.L. 92—463, Oct. 6, 1972, 86 Stat. 770, as amended Pub.L. 94—409, §5(c), Sept. 13, 1976, 90 Stat. 1247; Pub.L. 96—523, §2, Dec. 12, 1980, 94 Stat. 3040.

Sec.
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2. Findings and purpose.
3. Definitions.
4. Applicability; restrictions.
5. Responsibilities of Congressional committees; review; guidelines.
6. Responsibilities of the President; report to Congress; annual report to Congress; exclusion.
7. Responsibilities of the Director, Office of Management and Budget; Committee Management Secretariat, establishment; review; recommendations to President and Congress, agency cooperation; performance guidelines; uniform pay guidelines; travel expenses; expense recommendations.
8. Responsibilities of agency heads; Advisory Committee Management Officer, designation.
9. Establishment and purpose of advisory committees; publication in Federal Register; charter: filing, contents, copy.
10. Advisory committee procedures; meetings; notice, publication in Federal Register; regulations; minutes; certification; annual report; Federal officer or employee, attendance.
11. Availability of transcripts; "agency proceeding".
12. Fiscal and administrative provisions; recordkeeping; audit; agency support services.
13. Responsibilities of Library of Congress; reports and background papers; depository.
14. Termination of advisory committees; renewal; continuation.
15. Effective date.

SEC. 1. SHORT TITLE.

This Act may be cited as the "Federal Advisory Committee Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) The Congress finds that there are numerous committees, boards, commissions, councils, and similar groups which have been established to advise officers and agencies in the executive branch of the Federal Government and that they are frequently a useful and beneficial means of furnishing expert advice, ideas, and diverse opinions to the Federal Government.

(b) The Congress further finds and declares that—

(1) the need for many existing advisory committees has not been adequately reviewed;

(2) new advisory committees should be established only when they are determined to be essential and their number should be kept to the minimum necessary;

(3) advisory committees should be terminated when they are no longer carrying out the purposes for which they were established;

(4) standards and uniform procedures should govern the establishment, operation, administration, and duration of advisory committees;

(5) the Congress and the public should be kept informed with respect to the number, purpose, membership, activities, and cost of advisory committees; and

(6) the function of advisory committees should be advisory only, and that all matters under their consideration should be determined, in accordance with law, by the official, agency, or officer involved.

EXECUTIVE ORDER NO. 11686

Ex.Ord.No.11686, Oct. 7, 1972, 37 F.R. 21421, set out as a note under this section, which related to committee management, was superseded by Ex. Ord. No. 11769, Feb. 21, 1974, 39 F.R. 7125, set out as a note under this section.

EXECUTIVE ORDER NO. 11769

Ex. Ord. No. 11769, Feb. 21, 1974, 39 F.R. 7125, formerly set out as a note under this section, which related to committee management, was revoked by Ex. Ord. No. 12024, Dec. 1, 1977, 42 F.R. 61445, set out as a note under this section.

EXECUTIVE ORDER NO. 12024

Dec. 1, 1977, 42 F.R. 61445

TRANSFER OF CERTAIN ADVISORY COMMITTEE FUNCTIONS

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. I) [this Appendix], Section 301 of Title 3 of the United States Code [section 301 of Title 3, The President], Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) [section 581c of Title 31, Money and Finance], and Section 7 of Reorganization Plan No. 1 of 1977 (42 FR 56101 (October 21, 1977)) [set out in Appendix II of this title], and as President of the United States of America, in accord with the transfer of advisory committee functions from the Office of Management and Budget to the General Services Administration provided by Reorganization Plan No. 1 of 1977 [set out in Appendix II of this title], it is hereby ordered as follows:

Section 1. The transfer, provided by Section 5F of Reorganization Plan No. 1 of 1977 (42 FR 56101) [set out in Appendix II of this title], of certain functions under the Federal Advisory Committee Act, as amended (5 U.S.C. App. I) [this Appendix], from the Office of Management and Budget and its Director to the Administrator of General Services is hereby effective.

Sec. 2. There is hereby delegated to the Administrator of General Services all the functions vested in the President by the Federal Advisory Committee Act, as amended, except that, the annual report to the Congress required by Section 6(c) of that Act [section 6(c) of this Appendix] shall be prepared by the Administrator for the President's consideration and transmittal to the Congress.

Sec. 3. The Director of the Office of Management and Budget shall take all actions necessary or appropriate to effectuate the transfer of functions provided in this Order, including the transfer of funds, personnel and positions, assets, liabilities, contracts, property, records, and other items related to the functions transferred.

Sec. 4. Executive Order No. 11769 of February 21, 1974 is hereby revoked.

Sec. 5. Any rules, regulations, orders, directives, circulars, or other actions taken pursuant to the functions transferred or reassigned as provided in this Order from the Office of Management and Budget to the Administrator of General Services, shall remain in effect as if issued by the Administrator until amended, modified, or revoked.

Sec. 6. This Order shall be effective November 20, 1977.

JIMMY CARTER

SEC. 3. DEFINITIONS

For the purpose of this Act—

(1) The term "Director" means the Director of the Office of Management and Budget.

(2) The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof (hereafter in this paragraph referred to as "committee"), which is—

(A) established by statute or reorganization plan, or

(B) established or utilized by the President, or

(C) established or utilized by one or more agencies, in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government, except that such term excludes (i) the Advisory Commission on Intergovernmental Relations, (ii) the Commission on Government Procurement, and (iii) any committee which is composed wholly of full-time officers or employees of the Federal Government.

(3) The term "agency" has the same meaning as in section 551 (1) of Title 5.

(4) The term "Presidential advisory committee" means an advisory committee which advises the President.

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1. PURPOSE

This Appendix was intended to apply to committees created by agencies and to those not originally created by agencies but subsequently used by them as advisory committees. Center for Auto Safety v. Tiemann, D.C.D.C. 1976, 414 F.Supp. 215. Remanded on other grounds 580 F.2d 689, 188 U.S.App.D.C. 426.

Purpose of this Appendix is to eliminate useless advisory committees, strengthen independence of remaining advisory committees, and prevent advisory groups from becoming self-serving. Consumers Union of U.S., Inc. v. Department of Health, Ed. and Welfare, D.C.D. C.1976, 409 F.Supp. 473, affirmed 551 F.2d 466, 179 U.S.App.D.C. 280.

This Appendix was not intended to apply to all amorphous, ad hoc group meetings; only groups having some sort of established structure and defined purpose constitute "advisory committees" within meaning of this Appendix. Nader v. Baroody, D.C.D.C.1975, 396 F.Supp. 1231.

In enacting this Appendix, Congress was concerned with formally organized advisory committees which President or an executive department or official directed to make recommendations on identified governmental policy for which specific advice was sought. Id.

2. ADVISORY COMMITTEE

Determination that the American Association of State Highway and Transportation Officials is an advisory committee within the meaning of Federal Advisory Committee Act, this Appendix, when it provides input to the Federal Highway Administration with respect to proposals to require that state highway construction plans provide for minimum safety standards did not impermissibly impair the organization's freedoms of speech and association under U.S.C.A.Const. Amend. 1. Center for Auto Safety v. Cox, 1978, 580 F.2d 689, 188 U.S.App.D.C. 426.

Although Nuclear Regulatory Commission's Advisory Committee on Reactor Safeguards is an "advisory committee" subject to provisions of this appendix the Commission's Atomic Safety and Licensing Board is not an "advisory committee." Hunt v. Nuclear Regulatory Commission, D.C.Okl.1979, 468 F.Supp. 817, affirmed 611 F.2d 332, certiorari denied 100 S.Ct. 1084, 445 U.S. 906, 63 L.Ed.2d 322.

Organization consisting of representatives of state highway and transportation departments and officials of United States Department of Transportation was "utilized" by Federal Highway Administration when adopting regulations relating to certification acceptance of state safety standards pursuant to the Federal Highway Act, section 101 et seq. of Title 23, so that discussions between the Federal Highway Administration and the organization were covered by this Appendix. Center for Auto Safety v. Tiemann, D.C.1976, 414 F.Supp. 215, remanded on other grounds 580 F.2d 689, 188 U.S.App.D.C. 426.

Fact that Food and Drug Administration may have lacked statutory authority to require cosmetics industry to test ingredients in products would not preclude Administration from appointing appropriate advisory committee on such subject, which committee would be subject to this Appendix. Consumers Union of U.S., Inc. v. Department of Health, Ed. and Welfare, D.C.D.C.1976, 409 F.Supp. 473, affirmed 551 F.2d 466, 179 U.S.App.D.C. 280.

Where organization representing cosmetics industry presented industry-sponsored proposal to Food and Drug Administration, seeking its advice and comments regarding voluntary cosmetics testing program, and Administration was unable either to develop or require cosmetics testing program, such presentation by organization did not give rise to "advisory" relationship within meaning of this Appendix. Id.

"Established," within provision of this section defining advisory committee as one established by statute, does not include committees which merely can be said to owe their existence to legislation. Lombardo v. Handler, D.C.D.C.1976, 397 F.Supp. 792, affirmed 546 F.2d 1043, 178 U.S.App.D.C. 277, certiorari denied 97 S.Ct. 2639, 431 U.S. 932, 531 L.Ed.2d 248.

Bi-weekly White House meetings with selected groups, including major business organizations and private sector groups do not create "advisory committees" within meaning of this Appendix, such meetings are unstructured, informal and not conducted for purpose of obtaining advice on specific subjects indicated in advance. Nader v. Baroody, D.C.D.C.1975, 396 F.Supp. 1231.

3. STANDING TO SUE

Neither private citizen nor United States Senator, either as consumers or by virtue of Senator's position as such, had standing to complain that National Petroleum Council and its subgroups were unlawfully functioning as advisory committees because they were not fairly balanced in membership and were improperly influenced by petroleum industry special interests, contrary to requirements of this appendix and Federal Energy Administration Act, section 761 et seq. of Title 15. Metcalf v. National Petroleum Council, 1977, 553 F.2d 176, 180 U.S.App.D.C. 31.

Consumer representative, who asked to attend certain bi-weekly meetings with selected groups held at White House and who was denied admission, had standing to seek declaration that such meetings created "advisory committees" within meaning of this Appendix. Nader v. Baroody, D.C.D.C.1975, 396 F.Supp. 1231.

4. AGENCY

National Academy of Sciences is not an "agency" within this appendix, requiring certain publicity of committee meetings, and its committee on motor vehicle emissions is not an "advisory committee" either as a committee established by statute or one established or utilized by the Environmental Protection Agency. Lombardo v. Handler, D.C.D.C.1975, 397 F.Supp. 792, affirmed 546 F.2d 1043, 178 U.S.App.D.C. 277, certiorari denied 97 S.Ct. 2639, 431 U.S. 932, 53 L.Ed.2d 248.

5. EXEMPTIONS

In order to be exempt from requirements of the Federal Advisory Committee Act, this Appendix, as a state or local committee, a group must show that it is a state or local committee and that it was established to advise or make recommendations to state or local agencies. Center for Auto Safety v. Cox, 1978, 580 F.2d 689, 188 U.S.App.D.C. 426.

By creating exception to the Federal Advisory Committee Act, this Appendix, for state and local committees, Congress intended to include state and local committees under this Appendix only when they function at the federal level. Id.

American Association of State Highway and Transportation Officials, an organization which is national in scope, whose purpose is to foster the development of a nationwide, integrated transportation system, whose bylaws charge its policy committee with preparing official presentation on legislative proposals, and whose representatives regularly testify before Congress, is not exempt from requirements of the Federal Advisory Committee Act, this Appendix on the theory that it is a state or local committee. Id.

Exemption from requirements of this Appendix where committee is composed wholly of full-time officers or employees of the federal government did not apply to committee of state and federal employees. Center for Auto Safety v. Tiemann, D.C.D.C.1976, 414 F.Supp. 215, remanded on other grounds 580 F.2d 689, 188 U.S.App.D.C. 426.

Exclusion from requirements of this Appendix provided for the Advisory Commission on Intergovernmental Relations was not available to shade organization consisting of representatives of state highway and transportation departments and officials of the United States Department of Transportation from requirements of this Appendix. Id.

SEC. 4. APPLICABILITY; RESTRICTIONS

(a) The provisions of this Act or of any rule, order, or regulation promulgated under this Act shall apply to each advisory committee except to the extent that any Act of Congress establishing any such advisory committee specifically provides otherwise.

(b) Nothing in this Act shall be construed to apply to any advisory committee established or utilized by—

(1) the Central Intelligence Agency; or

(2) the Federal Reserve System.

(c) Nothing in this Act shall be construed to apply to any local civic group whose primary function is that of rendering a public service with respect to a Federal program, or any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies.

SEC. 5. RESPONSIBILITIES OF CONGRESSIONAL COMMITTEES; REVIEW; GUIDELINES

(a) In the exercise of its legislative review function, each standing committee of the Senate and the House of Representatives shall make a continuing review of the activities of each advisory committee under its jurisdiction to determine whether such advisory committee should be abolished or merged with any other advisory committee, whether the responsibilities of such advisory committee should be revised, and whether such advisory committee performs a necessary function not already being performed. Each such standing committee shall take appropriate action to obtain the enactment of legislation necessary to carry out the purpose of this subsection.

(b) In considering legislation establishing, or authorizing the establishment of any advisory committee, each standing committee of the Senate and of the House of Representatives shall determine, and report such determination to the Senate or to the House of Representatives, as the case may be, whether the functions of the proposed advisory

committee are being or could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee. Any such legislation shall—

(1) contain a clearly defined purpose for the advisory committee;

(2) require the membership of the advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee;

(3) contain appropriate provisions to assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee's independent judgment;

(4) contain provisions dealing with authorization of appropriations, the date for submission of reports (if any), the duration of the advisory committee, and the publication of reports and other materials, to the extent that the standing committee determines the provisions of section 10 of this Act to be inadequate; and

(5) contain provisions which will assure that the advisory committee will have adequate staff (either supplied by an agency or employed by it), will be provided adequate quarters, and will have funds available to meet its other necessary expenses.

(c) To the extent they are applicable, the guidelines set out in subsection (b) of this section shall be followed by the President, agency heads, or other Federal officials in creating an advisory committee.

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1. STANDING TO SUE

In action for declaratory and injunctive relief alleging that National Petroleum Council and its subgroups were unlawfully functioning as advisory committees because they were not fairly balanced in membership and were improperly influenced by certain petroleum industry special interests contrary to requirements of this section and Federal Energy Administration Act provision, section 776 of Title 15, plaintiffs' allegations of injury to themselves as consumers: anticipated higher costs for petroleum products; potential environmental damage and threats to health and safety; and anticipated denial of benefits from development of alternative sources of energy, did not confer standing to sue upon plaintiffs, particularly in light of fact that there was no nexus between plaintiffs' alleged injuries and defendants' challenged action. Metcalf v. National Petroleum Council, D.C. D.C.1976, 407 F.Supp. 257, affirmed 553 F.2d 176.

In action by United States Senator alleging that National Petroleum Council and its subgroups were unlawfully functioning as advisory committees because they were not fully balanced in membership and were improperly influenced by certain petroleum industry special interests, Senator did not have standing to sue on theory that defendants' actions had affected effectiveness of his votes for this Appendix and Federal Energy Administration Act, section 761 et seq. of Title 15, and had hindered him in carrying out his legislative duties through his inability to get unbiased advice and accurate information from Department of Interior and Federal Energy Administration because of Council's input into that process, particularly in view of fact that Senator showed no nexus between his alleged injuries and defendants' challenged action. Id.

2. ORDERS

Where dispute as to whether particular organization was covered by the Federal Advisory Committee Act, this Appendix, arose out of the consultation by a federal agency with the organization over certain proposed regulations, and where there was no allegation or proof that all contacts between the agency and the organization constituted a utilization of the organization as advisory committee, order that any future meeting between the representatives of the federal government and the organization be subject to the Federal Advisory Committee Act was overbroad; the order should apply only to consultation for advice or recommendations on proposed regulations. Center for Auto Safety v. Cox, 1978, 580 F.2d 689, 188 U.S.App.D.C. 426.

3. BALANCED POINT OF VIEW

Failure of the defendant commission to appoint more than one individual in outspoken opposition to ratification of the Equal Rights Amendment (ERA) to the United States Constitution when setting up the state committee to coordinate lobbying activities for the amendment in state legislature was not such as to establish a violation of this

Appendix in that this Appendix did not, by its terms or otherwise, require balancing of points of view on the Equal Rights Amendment issue in the state coordinating committee. Hall v. Siegel, D.C.Ill.1977, 467 F.Supp. 750.

All interests need not be represented or represented equally to meet applicable balance of membership requirements, but required standard must be judged on case-by-case determination, depending on authority creating particular committee. 1981, 60 Comp.-Gen. 386.

SEC. 6. RESPONSIBILITIES OF THE PRESIDENT: REPORT TO CONGRESS. ANNUAL REPORT TO CONGRESS: EXCLUSION

(a) The President may delegate responsibility for evaluating and taking action, where appropriate, with respect to all public recommendations made to him by Presidential advisory committees.

(b) Within one year after a Presidential advisory committee has submitted a public report to the President, the President or his delegate shall make a report to the Congress stating either his proposals for action or his reasons for inaction, with respect to the recommendations contained in the public report.

(c) The President shall, not later than March 31 of each calendar year (after the year in which this Act is enacted), make an annual report to the Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceding calendar year. The report shall contain the name of every advisory committee, the date of and authority for its creation, its termination date or the date it is to make a report, its functions, a reference to the reports it has submitted, a statement of whether it is an ad hoc or continuing body, the dates of its meetings, the names and occupations of its current members, and the total estimated annual cost to the United States to fund, service, supply, and maintain such committee. Such report shall include a list of those advisory committees abolished by the President, and in the case of advisory committees established by statute, a list of those advisory committees which the President recommends be abolished together with his reasons therefor. The President shall exclude from this report any information which, in his judgment, should be withheld for reasons of national security, and he shall include in such report a statement that such information is excluded.

AMENDMENT EFFECTIVE JULY 1, 1983

Pub.L. 97-375, Title II, §201(c), Dec. 21, 1982, 96 Stat. 1822, provided that, effective July 1, 1983, subsec. (c) of this section is amended by substituting "The President shall, not later than December 31 of each year, make an annual report to the Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceding fiscal year" for "The President shall, not later than March 31 of each calendar year (after the year in which this Act is enacted), make an annual report to the Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceding calendar year".

SEC. 7. RESPONSIBILITIES OF THE DIRECTOR. OFFICE OF MANAGEMENT AND BUDGET: COMMITTEE MANAGEMENT SECRETARIAT. ESTABLISHMENT: REVIEW: RECOMMENDATIONS TO PRESIDENT AND CONGRESS. AGENCY COOPERATION: PERFORMANCE GUIDELINES. UNIFORM PAY GUIDELINES: TRAVEL EXPENSES: EXPENSE RECOMMENDATIONS

(a) The Director shall establish and maintain within the Office of Management and Budget a Committee Management Secretariat, which shall be responsible for all matters relating to advisory committees.

(b) The Director shall, immediately after October 6, 1972, institute a comprehensive review of the activities and responsibilities of each advisory committee to determine—

(1) whether such committee is carrying out its purpose;

(2) whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;

(3) whether it should be merged with other advisory committees; or

(4) whether is should be abolished.

The Director may from time to time request such information as he deems necessary to carry out his functions under this subsection. Upon the completion of the Director's review he shall make recommendations to the President and to either the agency head or the Congress with respect to action he believes should be taken. Thereafter, the Director shall carry out a similar review annually. Agency heads shall cooperate with the Director in making the reviews required by this subsection.

(c) The Director shall prescribe administrative guidelines and management controls applicable to advisory committees, and, to the maximum extent feasible, provide advice, assistance, and guidance to advisory committees to improve their performance. In carrying out his functions under this subsection, the Director shall consider the recommendations of each agency head with respect to means of improving the performance of advisory committees whose duties are related to such agency.

(d)(1) The Director, after study and consultation with the Civil Service Commission, shall establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs, and consultants of advisory committees in a manner which gives appropriate recognition to the responsibilities and qualifications required and other relevant factors. Such regulations shall provide that—

(A) no member of any advisory committee or of the staff of any advisory committee shall receive compensation at a rate in excess of the rate specified for GS-18 of the General Schedule under section 5332 of Title 5;

(B) such members, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5, for persons employed intermittently in the Government service; and

(C) such members—

(i) who are blind or deaf or who otherwise qualify as handicapped individuals (within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 794)), and

(ii) who do not otherwise qualify for assistance under section 3102 of Title 5, by reason of being an employee of an agency (within the meaning of section 3102 (a)(1) of such Title 5),

(2) Nothing in this subsection shall prevent—

(A) an individual who (without regard to his service with an advisory committee) is a full-time employee of the United States, or

(B) an individual who immediately before his service with an advisory committee was such an employee,

from receiving compensation at the rate at which he otherwise would be compensated (or was compensated) as a full-time employee of the United States.

(e) The Director shall include in budget recommendations a summary of the amounts he deems necessary for the expenses of advisory committees, including the expenses for publication of reports where appropriate.

As amended Pub.L. 96-523, §2, Dec. 12, 1980, 94 Stat. 3040.

References in Text. Section 501 of the Rehabilitation Act of 1973, referred to in subsec. (d)(1)(C)(i), is classified to section 791 of Title 29, Labor, rather than to section 794 of Title 29 as shown in text.

1980 Amendment. Subsec. (d)(1). Pub.L. 96-523 added subpar. (C).

Effective Date of 1980 Amendment. Amendment by Pub.L. 96-523 effective sixty days after Dec. 12, 1980, see section 3 of Pub.L. 96-523, set out as a note under section 3102 of this title.

Legislative History. For legislative history and purpose of Pub.L. 96-523, see 1980 U.S.Code Cong. and Adm.News, p. 6530.

SEC. 8. RESPONSIBILITIES OF AGENCY HEADS; ADVISORY COMMITTEE MANAGEMENT OFFICER; DESIGNATION

(a) Each agency head shall establish uniform administrative guidelines and management controls for advisory committees established by that agency, which shall be consistent with directives of the Director under section 7 and section 10. Each agency shall maintain systematic information on the nature, functions, and operations of each advisory committee within its jurisdiction.

(b) The head of each agency which has an advisory committee shall designate an Advisory Committee Management Officer who shall—

(1) exercise control and supervision over the establishment, procedures, and accomplishments of advisory committees established by that agency;

(2) assemble and maintain the reports, records, and other papers of any such committee during its existence; and

(3) carry out, on behalf of that agency, the provisions of section 552 of Title 5, with respect to such reports, records, and other papers.

SEC. 9. ESTBLISHMENT AND PURPOSE OF ADVISORY COMMITTEES; PUBLICATION IN FEDERAL REGISTER; CHARTER; FILING; CONTENTS; COPY

(a) No advisory committee shall be established unless such establishment is—

(1) specifically authorized by statute or by the President; or

(2) determined as a matter of formal record, by the head of the agency involved after consultation with the Director, with timely notice published in the Federal Register, to be in the public interest in connection with the performance of duties imposed on that agency by law.

(b) Unless otherwise specifically provided by statute or Presidential directive, advisory committees shall be utilized solely for advisory functions. Determinations of action to be taken and policy to be expressed with respect to matters upon which an advisory committee reports or makes recommendations shall be made solely by the President or an officer of the Federal Government.

(c) No advisory committee shall meet or take any action until an advisory committee charter has been filed with (1) the Director, in the case of Presidential advisory committees, or (2) with the head of the agency to whom any advisory committee reports and with the standing committees of the Senate and of the House of Representatives having legislative jurisdiction of such agency. Such charter shall contain the following information:

(A) the committee's official designation;

(B) the committee's objectives and the scope of its activity;

(C) the period of time necessary for the committee to carry out its purposes;

(D) the agency or official to whom the committee reports;

(E) the agency responsible for providing the necessary support for the committee;

(F) a description of the duties for which the committee is responsible, and, if such duties are not solely advisory, a specification of the authority for such functions;

(G) the estimated annual operating costs in dollars and manyears for such committee;

(H) the estimated number and frequency of committee meetings;

(I) the committee's termination date, if less than two years from the date of the committee's establishment; and

(J) the date the charter is filed.

A copy of any such charter shall also be furnished to the Library of Congress.

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Purpose 1

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1. PURPOSE

Purpose of this Appendix is to control the advisory committee process and to open to public scrutiny the manner in which government agencies obtain advice from private individuals. Food Chemical News, Inc. v. Davis, D.C.D.C.1974, 378 F.Supp. 1048.

2. COMPLIANCE, NECESSITY OF

Where a federal agency utilizes an advisory committee for the purpose of obtaining advice, the agency must charter and establish the committee in compliance with all the terms of this Appendix; and failure to comply with such requirements cannot be employed as a subterfuge for avoiding the public access requirements of this Appendix. Food Chemical News, Inc. v. Davis, D.C.D.C.1974, 378 F.Supp. 1048.

If Energy Policy Task Force's Plan drafting role gives it more than solely advisory functions, its charter should so state, citing authority given for those functions. 1981, 60 Comp.Gen. 386.

SEC. 10. ADVISORY COMMITTEE PROCEDURES; MEETINGS; NOTICE; PUBLICATION IN FEDERAL REGISTER; REGULATIONS; MINUTES; CERTIFICATION; ANNUAL REPORT; FEDERAL OFFICER OR EMPLOYEE, ATTENDANCE

(a)(1) Each advisory committee meeting shall be open to the public.

(2) Except when the President determines otherwise for reasons of national security, timely notice of each such meeting shall be published in the Federal Register, and the Director shall prescribe regulations to provide for other types of public notice to insure that all interested persons are notified of such meeting prior thereto.

(3) Interested persons shall be permitted to attend, appear before, or file statements with any advisory committee, subject to such reasonable rules or regulations as the Director may prescribe.

(b) Subject to section 552 of Title 5, the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in the offices of the advisory committee or the agency to which the advisory committee reports until the advisory committee ceases to exist.

(c) Detailed minutes of each meeting of each advisory committee shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory committee. The accuracy of all minutes shall be certified to by the chairman of the advisory committee.

(d) Subsections (a)(1) and (a)(3) of this section shall not apply to any portion of an advisory committee meeting where the President, or the head of the agency to which the advisory committee reports, determines that such portion of such meeting may be closed to the public in accordance with subsection (c) of section 552b of Title 5. Any such determination shall be in writing and shall contain the reasons for such determination. If such a

determination is made, the advisory committee shall issue a report at least annually setting forth a summary of its activities and such related matters as would be informative to the public consistent with the policy of section 552(b) of Title 5.

(e) There shall be designated an officer or employee of the Federal Government to chair or attend each meeting of each advisory committee. The officer or employee or designated is authorized, whenever he determines it to be in the public interest, to adjourn any such meeting. No advisory committee shall conduct any meeting in the absence of that officer or employee.

(f) Advisory committees shall not hold any meetings except at the call of, or with the advance approval of, a designated officer or employee of the Federal Government, and in the case of advisory committees (other than Presidential advisory committees), with an agenda approved by such officer or employee.

As amended Pub.L. 94-409, §5(c), Sept. 13, 1976, 90 Stat. 1247.

1976 Amendment. Pub.L. 94-409 added "portion of an" following "to any" and substituted provisions relating to determinations for closing to the public such portion of the meeting in accordance with section 552b(c) of Title 5, for provisions relating to determinations of matters listed in section 552(b) of Title 5.

Effective Date of 1976 Amendment. Amendment by Pub.L. 94-409 effective 180 days after Sept. 13, 1976, see section 6 of Pub.L. 94-409, set out as a note under section 552b of this title.

Legislative History. For legislative history and purpose of Pub.L. 94-409, see 1976 U.S.Code Cong. and Adm.News, p. 2183.

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1. CONSTRUCTION WITH OTHER LAWS

Freedom of Information Act provisions, section 552 of this title, dealing with intra-agency and interagency memoranda are applicable, under this section to advisory committee meetings. Aviation Consumer Action Project v. Washburn, 1976, 535 F.2d 101, 175 U.S.App.D.C. 273.

Subsection (d) of this section, providing that a meeting may be closed when it is determined by agency head that such meeting will involve matters listed in Freedom of Information Act, section 552 of this title, did not apply so as to permit exclusion of public from all meetings of advisory committee serving cost of living council. Nader v. Dunlop, D.C.D.C.1973, 370 F.Supp. 177.

2. PURPOSE

Two separate "informal" meetings with consumer and distilled spirits industry representatives relative to drafting proposed regulations relative to drafting proposed regulations of the Bureau of Alcohol, Tobacco and Firearms of the Treasury Department on ingredient labeling of distilled spirits were meetings of "advisory committees' utilized by the Bureau Director to obtain advice within the meaning of this Appendix, and said meetings were therefore open to the public. Food Chemical News, Inc. v. Davis, D.C.D.C.1974, 378 F.Supp. 1048.

Subsection (d) of this section, providing that a meeting may be closed when it is determined by agency head that such meeting will involve matters listed in section 552 of this title, was not intended to include all deliberative conversations of committee meetings. Nader v. Dunlop, D.C.D.C.1973, 370 F.Supp. 177.

3. MEETINGS WITHIN SECTION

Where meeting between Food and Drug Administration and organization representing cosmetics industry was for purpose of presenting organization's voluntary ingredient testing program, and no matters of Administration policy or regulation were at issue, parties were not bound by provisions of this Appendix, and thus neither public access to such meetings, nor chartering of such organization, would be required. Consumers Union of U.S., Inc. v. Department of Health, Ed. and Welfare, D.C.D.C.1976, 409 F.Supp. 473, affirmed 551 F.2d 466, 179 U.S.App.D.C. 280.

At a minimum a relatively detailed analysis of bases for closing various portions of

meetings of advisory committees serving cost of living council must be provided. Nader v. Dunlop, D.C.D.C.1973, 370 F.Supp. 177.

Where Defense Advisory Committee on Women in the Services was group of outsiders called on because of their expertise to offer views and comments unavailable within agency, meeting of such committee did not involve "inter-agency" nor "intra-agency" affairs and meeting was required to be open. Gates v. Schlesinger, D.C.D.C.1973, 366 F.Supp. 797.

4. PUBLIC PARTICIPATION

While plaintiffs were entitled to have meeting of Defense Advisory Committee on Women in the Services conducted so as to be open to public, there was no right of public participation in advisory committee. Gates v. Schlesinger, D.C.D.C.1973, 366 F.Supp. 797.

5. EXCHANGE OF INFORMATION

For purposes of this Appendix, exchange of information does not make advisory committee "part of" its government agency. Gates v. Schlesinger D.C.D.C.1973, 366 F.Supp. 797.

6. BURDEN OF PROOF

This section does not contain same express provision as Freedom of Information Act, section 552 of this title, which places burden of proof on agency to sustain its action, but underlying policy considerations are identical and burden of proof should be comparable. Nader v. Dunlop, D.C.D.C.1973, 370 F.Supp. 177.

7. INJUNCTION

Where pleadings were limited to actions of Travel Advisory Board in holding closed meeting and did not refer to any other advisory committees in the Department of Commerce, and where all evidence was directed towards the TAB, injunction which purported to require timely advance public notice of each meeting of the TAB or any other advisory committee in the Department was overbroad. Aviation Consumer Action Project v. Washburn, 1976, 535 F.2d 101, 175 U.S.App.D.C. 273.

Exemption relating to interagency or intra-agency memorandum or letters did not apply so as to permit meeting of Defense Advisory Committee on Women in the Services to be closed, and court would issue preliminary injunction requiring such meeting to be open to the public. Gates v. Schlesinger, D.C.D.C. 1973, 366 F.Supp. 797.

8. PUBLIC ACCESS

The press has a statutory right under this Appendix as well as a privilege under U.S.C.A.Const. Amend. 1 to report on the manner in which government affairs are conducted. Food Chemical News, Inc. v. Davis, D.C.D.C.1974, 378 F.Supp. 1048.

9. INTERAGENCY OR INTRA-AGENCY MEMORANDA

Evidence that there had been more than 20 meetings of the Travel Advisory Board and that on only three occasions had portions of the meeting been closed to the public demonstrated that the Board was not abusing exemption provided to it under subsec. (d) of this section from requirement of holding open meetings when interagency and intra-agency memoranda were being discussed. Aviation Consumer Action Project v. Washburn, 1976, 535 F.2d 101, 175 U.S.App.D.C. 273.

Provisions of this section dealing with open meetings do not apply to any advisory committee meeting which the head of an agency determines is concerned with interagency or intra-agency memoranda. Id.

Even after interagency or intra-agency memorandum has been disclosed to member of an advisory committee, the memorandum may still be considered an interagency or intra-agency memorandum so that fact that such disclosure is made to a member of an advisory committee does not preclude advisory committee from holding a closed meeting in accordance with the exemption provided for in subsec. (d) of this section and section 552 of this title. Id.

10. REGULATIONS

Where regulations which were challenged had been revised through procedure in which the revised regulations were published in draft form and public comment was invited and where the new regulations were temporary, court would not overturn original regulations despite failure of Federal Highway Administration to comply with requirements of this Appendix in adopting the initial regulations. Center for Auto Safety v. Tiemann, D.C.D.C. 1976, 414 F.Supp. 215, remanded on other grounds 580 F.2d 689, 188 U.S.App.D.C. 426.

11. STANDING TO SUE

Persons active in opposing enactment of Equal Rights Amendment to United States Constitution were without standing to bring suit against National Commission on the

Observance of International Women's Year, 1975, to enjoin it from supporting enactment of ERA, engaging in lobbying activities, and other pursuits. Mulqueeny v. National Commission on the Observance of Intern. Women's Year, 1975, C.A.Ill.1977, 549 F.2d 1115.

Nonprofit corporation whose activities centered broadly upon transportation safety issues and whose functions included monitoring activities of Federal Highway Administration to comply with rule-making provisions of sections 551 et seq. and 701 et seq. of this title when providing for alternative procedure for approving state highway safety plans and failure of the Federal Highway Administration to open meetings with a particular organization to the public pursuant to this Appendix. Center for Auto Safety v. Tiemann, D.C.D.C.1976, 414 F.Supp. 215, remanded on other grounds 580 F.2d 689, 188 U.S.App.D.C. 426.

Nonprofit corporation whose activities centered broadly upon transportation safety issues was, with respect to its challenges to failure of Federal Highway Administration to utilize proper rulemaking procedures in connection with approval of safety standards of state pursuant to Federal-Aid Highway Act, section 101 et seq. of Title 23, and within the zone of interest protected by the Administrative Procedure Act, sections 551 et seq. and 701 et seq., of this title, and this Appendix. Id.

SEC. 11. AVAILABILITY OF TRANSCRIPTS; "AGENCY PROCEEDING"

(a) Except where prohibited by contractual agreements entered into prior to the effective date of this Act, agencies and advisory committees shall make available to any person, at actual cost of duplication, copies of transcripts of agency proceedings or advisory committee meetings.

(b) As used in this section "agency proceeding" means any proceeding as defined in section 551(12) of Title 5.

References in Text. Effective date of this Act, referred to in subsec. (a), as meaning effective upon expiration of ninety days following enactment of Pub.L. 92-463 on Oct. 6, 1972, see section 15 of Pub.L. 92-463.

1. Standing to sue

Any person whose request for information under this appendix had been denied has standing to sue for the information. Center for Auto Safety v. Tiemann, D.C.D.C.1976, 414 F.Supp. 215, remanded on other grounds 580 F.2d 689, 188 U.S.App.D.C. 426.

SEC. 12. FISCAL AND ADMINISTRATIVE PROVISIONS; RECORDKEEPING, AUDIT, AGENCY SUPPORT SERVICES

(a) Each agency shall keep records as will fully disclose the disposition of any funds which may be at the disposal of its advisory committees and the nature and extent of their activities. The General Services Administration, or such other agency as the President may designate, shall maintain financial records with respect to Presidential advisory committees. The Comptroller General of the United tates, or any of his authorized representative, shall have access, for the purpose of audit and examination, to any such records.

(b) Each agency shall be responsible for providing support services for each advisory committee established by or reporting to it unless the establishing authority provides otherwise. Where any such advisory committee reports to more than one agency, only one agency shall be responsible for support services at any one time. In the case of Presidential advisory committees, such services may be provided by the General Services Administration.

SEC. 13. RESPONSIBILITIES OF LIBRARY OF CONGRESS; REPORTS AND BACKGROUND PAPERS; DEPOSITORY

Subject to section 552 of Title 5, the Director shall provide for the filing with the Library of Congress of at least eight copies of each report made by every advisory committee and, where appropriate, background papers prepared by consultants. The Librarian of Congress shall establish a depository for such reports and papers where they shall be available to public inspection and use.

SEC. 14. TERMINATION OF ADVISORY COMMITTEES; RENEWAL; CONTINUATION

(a)(1) Each advisory committee which is in existence on the effective date of this Act shall terminate not later than the expiration of the two-year period following such effective date unless—

(A) in the case of an advisory committee established by the President or an officer of the Federal Government, such advisory committee is renewed by the President or that officer by appropriate action prior to the expiration of such two-year period; or

(B) in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.

(2) Each advisory committee established after such effective date shall terminate not later than the expiration of the two-year period beginning on the date of its establishment unless—

(A) in the case of an advisory committee established by the President or an officer of the Federal Government such advisory committee is renewed by the President or such officer by appropriate action prior to the end of such period; or

(B) in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.

(b)(1) Upon the renewal of any advisory committee, such advisory committee shall file a charter in accordance with section 9(c).

(2) Any advisory committee established by an Act of Congress shall file a charter in accordance with such section upon the expiration of each successive two-year period following the date of enactment of the Act establishing such advisory committee.

(3) No advisory committee required under this subsection to file a charter shall take any action (other than preparation and filing of such charter) prior to the date on which such charter is filed.

(c) Any advisory committee which is renewed by the President or any officer of the Federal Government may be continued only for successive two-year periods by appropriate action taken by the President or such officer prior to the date on which such advisory committee would otherwise terminate.

References in Text. Effective date of this Act, referred to in subsec. (a)(1), as meaning effective upon expiration of ninety days following enactment of Pub.L. 92-463 on Oct. 6, 1972, see section 15 of Pub.L. 92-463.

EXECUTIVE ORDER NO. 11827

Ex.Ord.No.11827, Jan. 4, 1975, 40 F.R. 1217, as amended, formerly set out as a note under this section, which provided for the continuance of certain federal advisory committees, was superseded by Ex.Ord.No.11948, Dec. 20, 1976, 41 F.R. 55705, set out as a note under this section.

EXECUTIVE ORDER NO. 11948

Ex.Ord.No. 11948, Dec. 20, 1976, 41 F.R. 55705, as amended by Ex.Ord.No.12007, Aug. 22, 1977, 42 F.R. 42839; Ex.Ord.No.12029, Dec. 14, 1977, 42 F.R. 63631, formerly set out as a note under this section, which provided for the continuance of certain federal advisory committees, was superseded by Ex.Ord.No.12110, Dec. 28, 1978, 44 F.R. 1069, set out as a note under this section.

EXECUTIVE ORDER NO. 12007

August. 22, 1977, 42 F.R. 42839

TERMINATION OF CERTAIN PRESIDENTIAL ADVISORY COMMITTEES

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to terminate certain advisory committees in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), it is hereby ordered as follows:

Section 1. (a) The Citizens' Advisory Council on the Status of Women is terminated.

(b) Executive Order No. 11126 of November 1, 1963, as amended by Executive Order No. 11221 of May 6, 1965 [set out as a note under Section 2000e of Title 42, The Public Health and Welfare], is further amended as follows:

(1) Subsection (5) of Section 102 is revoked.

(2) Section 103, in order to delete a reference to the Council, is amended to read as follows:

"Annually the Committee shall transmit a report to the President concerning the status of women."

(3) Part II is revoked.

(4) The second sentence of Section 301, in order to delete references to the Council, is amended to read as follows:

"To the extent practical and to the extent permitted by law (1) all Executive agencies shall cooperate with the Committee and furnish it such information and assistance as may be necessary for the performance of its functions, and (2) the Secretary of Labor shall furnish staff, office space, office facilities and supplies, and other necessary assistance, facilities, and services for the Committee."

Sec. 2. (a) The Citizens' Advisory Committee on Environmental Quality is terminated.

(b) Part II of Executive Order No. 11472 of May 29, 1969, as amended by paragraphs (7) and (8) of section 4 of Executive Order No. 11514 of March 5, 1970 [set out as a note under section 4321 of Title 42, The Public Health and Welfare], is revoked.

Sec. 3. (a) The Advisory Council for Minority Enterprise is terminated.

(b) Section 2 of Executive Order No. 11625 of October 13, 1971 [set out as a note

under section 631 of Title 15, Commerce and Trade]; is revoked.

Sec. 4.(a) The Consumer Advisory Council is terminated.

(b) Executive Order No. 11583 of February 24, 1971 [set out as a note under section 887d of Title 20, Education], is amended as follows:

(1) The second sentence of subsection (b)(1) of section 2 is amended by deleting "(including the Consumer Advisory Council established in section 5 of this order)".

(2) Section 5 is revoked.

Sec. 5.(a) The President's Advisory Board on International Investment is terminated.

(b) Executive Order No. 11962 of January 19, 1977 [set out as a note under section 3107 of Title 22, Foreign Relations and Intercourse], is revoked.

Sec. 6. Subsections (a), (g), (i), and (j) of Section 1 of Executive Order No. 11948 of December 20, 1976 [set out as a note under this section], which extended the above advisory committees until December 31, 1978, is superseded.

JIMMY CARTER

EXECUTIVE ORDER NO. 12029

Dec. 14, 1977, 42 F.R. 63631

TERMINATION OF A PRESIDENTIAL ADVISORY COMMITTEE

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to terminate an advisory committee in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), it is hereby ordered as follows:

Section 1. (a) The Quetico-Superior Committee is terminated.

(b) Executive Order No. 11342, as amended, is revoked.

Sec. 2. Subsection (e) of Section 1 of Executive Order No. 11948 of December 20, 1976, which extended the above advisory committee until December 31, 1978, is superseded.

JIMMY CARTER

EXECUTIVE ORDER NO. 12110

Ex.Ord.No.12110, Dec. 28, 1978, 44 F.R. 1069, formerly set out as a note under this section, which provided for the continuance of certain federal advisory committees, was superseded by Ex.Ord.No.12258 Dec. 31, 1980, 46 F.R. 1251, set out as a note under this section.

EXECUTIVE ORDER NO. 12258

Ex.Ord.No.12258, Dec. 31, 1980, 46 F.R. 1251, as amended by Ex.Ord.No.12271, Jan. 15, 1981, 46 F.R. 4677; Ex.Ord.No.12299, Mar. 17, 1981, 46 F.R. 17751; Ex.Ord.No.12305, May 5, 1981, 46 F.R. 25421; Ex.Ord.No.12336, Dec. 21, 1981, 46 F.R. 62239, which provided for the continuance of certain federal advisory committees, was superseded by Ex.Ord.No.12399, Dec. 31, 1982, 48 F.R. 379, set out as a note below.

EXECUTIVE ORDER NO. 12305

May 5, 1981, 46 F.R. 25421

TERMINATION OF CERTAIN FEDERAL ADVISORY COMMITTEES

By the authority vested in me as President by the Constitution of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), the following Executive Orders, establishing advisory committees, are hereby revoked and the committees terminated:

(a) Executive Order No. 12059 of May 11, 1978, as amended, [set out as a note under section 44 of Title 28, Judiciary and Judicial Procedure], establishing the United States Circuit Judge Nominating Commission;

(b) Executive Order No. 11992 of May 24, 1977 [set out as a note preceding chapter 1 of Title 28], establishing the Committee on Selection of Federal Judicial Officers;

(c) Executive Order No. 12084 of September 27, 1978, as amended by Executive Order 12097 of November 8, 1978, [set out as a note under section 133 of Title 28], establishing the Judicial Nominating Commission for the District of Puerto Rico; and

(d) Executive Order No. 12064 of June 5, 1978, [set out as a note under section 7443 of Title 26, Internal Revenue Code], establishing the United States Tax Court Nominating Commission.

Subsections (g), (i), (j) and (k) of Section 1-101 of Executive Order No. 12258, [set out as a note under this section], extending these committees, are also revoked.

RONALD REAGAN

EXECUTIVE ORDER NO. 12379

Aug. 17, 1982, 47 F.R. 30699

TERMINATION OF BOARDS, COMMITTEES, AND COMMISSIONS

By the authority vested in me as President by the Constitution and statutes of the United States of America, and to terminate the establishing authorities for committees that are inactive or no longer necessary, it is hereby ordered as follows:

Section 1. Executive Order No. 12071, as amended [set out as a note under section 1001 of Title 29, Labor], establishing the President's Commission on Pension Policy is revoked.

Sec. 2. Executive Order No. 12042 [not classified to the code], creating a Board of Inquiry to Report on Labor Disputes Affecting the Bituminous Coal Industry in the United States, is revoked.

Sec. 3. Executive Order No. 12085 [not classified to the code], creating an Emergency Board to Investigate a Dispute Between the Norfolk and Western Railway Company and Certain of Its Employees, is revoked.

Sec. 4. Executive Order No. 12132 [not classified to the code], creating an Emergency Board to Investigate a Dispute Between the National Railway Labor Conference and Certain of Its Employees, is revoked.

Sec. 5. Executive Order No. 12095 [not classified to the code], creating an Emergency Board to Investigate a Dispute Between When Air Alaska, Inc., and Certain Individuals, is revoked.

Sec. 6. Executive Order No. 12159 [not classified to the code], creating an Emergency Board to Investigate Disputes Between the Chicago, Rock Island, Pacific Railroad and Peoria Terminal Company and Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees; and the United Transportation Union, is revoked.

Sec. 7. Executive Order No. 12182 [not classified to the code], creating an Emergency Board to Investigate a Dispute Between the Long Island Rail Road and Certain of Its Employees, is revoked.

Sec. 8. Executive Order No. 12207 [not classified to the code], creating an Emergency Board to Investigate a Dispute Between the Port Authority Trans-Hudson Corporation and Certain of Its Employees, is revoked.

Sec. 9. Executive Order No. 12262 [set out as a note under section 1001 of Title 29, Labor], establishing an Interagency Employee Benefit Council, is revoked.

Sec. 10. Executive Order No. 12275 [set out as a note under section 951 of Title 20, Education], establishing the Design Liaison Council, is revoked.

Sec. 11. Executive Order No. 11829, as amended [set out as a note under section 640d of Title 25, Indians], establishing the Hopi-Navajo Land Settlement Interagency Committee, is revoked.

Sec. 12. Executive Order No. 11022, as amended [set out as a note under section 3001 of Title 42, The Public Health and Welfare], establishing the President's Council on Aging, is revoked.

Sec. 13. Executive Order No. 12192 [set out as a note under section 2021 of Title 42], establishing the State Planing [Planning] Council on Radioactive Waste Management, is revoked.

Sec. 14. Executive Order No. 12075, as amended [set out as a note under section 1450 of Title 42], establishing the Interagency Coordinating Council, is revoked.

Sec. 15. Executive Order No. 11782 [set out as a note under section 2281 of Title 12, Banks and Banking], establishing the Federal Financing Bank Advisory Council, is revoked.

Sec. 16. Executive Order No. 12089, as amended [set out as a note under section 2401 of Title 15, Commerce and Trade], establishing the National Productivity Council, is revoked.

Sec. 17. Executive Order No. 11330, as amended [set out as a note preceding section 2711 of Title 42, The Public Health and Welfare], establishing the President's Council on Youth Opportunity, is revoked.

Sec. 18. Executive Order No. 11256 [not classified to the code], establishing the President's Committee on Food and Fiber and establishing the National Advisory Commission on Food and Fiber, is revoked.

Sec. 19. Executive Order No. 11654 [set out as a note under section 278f of Title 15, Commerce and Trade], continuing the Federal Fire Council, is revoked.

Sec. 20. Executive Order No. 12083, as amended [set out as a note under section 7101 of Title 42, The Public Health and Welfare], establishing the Energy Coordinating Committee, is revoked.

Sec. 21. Executive Order No. 12285, as amended and ratified [set out as a note under section 17801 of Title 50, War and National Defense], establishing the President's Commission on Hostage Compensation is revoked.

Sec. 22. Executive Order No. 12202, as amended [set out as a note under section 5848 of Title 42, The Public Health and Welfare], establishing the Nuclear Safety Oversight Committee, is revoked.

Sec. 23. Executive Order No. 12194 [set out as a note under section 4321 of Title 42], establishing the Radiation Policy Council, is revoked.

Sec. 24. The Veterans' Federal Coordinating Committee (Weekly Compilation of Presidential Documents, volume 14, number 41, page 1743) [not classified to the code] is terminated.

Sec. 25. The President's Council on Energy Efficiency (Weekly Compilation of Presidential Documents, volume 16, numbers 18 and 30, pages 790 and 1404) [not classified to the code] is terminated.

RONALD REAGAN

EXECUTIVE ORDER NO. 12399

December. 31, 1982, 48 F.R. 379

CONTINUANCE OF CERTAIN FEDERAL ADVISORY COMMITTEES

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), it is hereby ordered as follows:

Section 1. Each advisory committee listed below is continued until September 30, 1984.

(a) Committee for the Preservation of the White House; Executive Order No. 11145, as amended (Department of the Interior) [set out as a note under section 110 of Title 3, The President].

(b) President's Commission on White House Fellowships; Executive Order No. 11183, as amended (Office of Personnel Management).

(c) President's Committee on the National Medal of Science; Executive Order No. 11287, as amended (National Science Foundation) [set out as a note under section 1881 of Title 42, The Public Health and Welfare).

(d) President's Council on Physical Fitness and Sports; Executive Order No. 12345, as amended (Department of Health and Human Services) [set out as a note under section 300u-5 of Title 42].

(e) President's Committee on Mental Retardation; Executive Order No. 11776 (Department of Health and Human Services) [set out as a note preceding section 6000 of Title 42].

(f) President's Export Council; Executive Order No. 12131 (Department of Commerce) [set out as a note under section 2401 of Title 50, Appendix, War and National Defense].

(g) The International Private Enterprise Task Force; Executive Order No. 12395 (Agency for International Development).

(h) Advisory Committee on Small and Minority Business Ownership; Executive Order No. 12190 (Small Business Administration) [set out as a note under section 636 of Title 15, Commerce and Trade].

(i) Federal Advisory Council on Occupational Safety and Health; Executive Order No. 12196 (Department of Labor) [set out as a note under section 7902 of Title 5, Government Organization and Employees].

(j) President's Committee on the International Labor Organizations: Executive Order No. 12216 (Department of Labor) [set out as a note under section 271 of Title 22, Foreign Relations and Intercourse].

(k) President's Economic Policy Advisory Board; Executive Order No. 12296 (Office of Policy Development) [set out as a note under section 1023 of Title 15].

(l) National Productivity Advisory Committee; Executive Order No. 12332 (Department of the Treasury) [set out as a note under section 2401 of Title 15].

(m) President's Committee on the Arts and the Humanities; Executive Order No. 12367 (National Endowment for the Arts).

Sec. 2. The following advisory committee is continued until December 31, 1983: President's National Security Telecommunications Advisory Committee; Executive Order No. 12382 (December of Defense).

Sec. 3. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act [Pub.L. 92-463] which are applicable to the committees listed in Sections 1 and 2 of this Order, except that of reporting annually to the Congress, shall be performed by the head of the department or agency designated after each committee, in accordance with guidelines and procedures established by the Administrator of General Services.

Sec. 4. The following Executive Orders, that established committees which have terminated or whose work is completed, are revoked:

(a) Section 2(d) of Executive Order No. 12039 [set out as a note under section 660] of Title 42, The Public Health and Welfare], establishing the Intergovernmental Science, Engineering, and Technology Advisory Panel.

(b) Executive Order No. 12168, establishing the President's Commission for a National Agenda for the Eighties.

(c) Executive Order No. 12202 [set out as a note under section 5848 of Title 42], establishing the Nuclear Safety Oversight Committee.
(d) Executive Order No. 12229, establishing the White House Coal Advisory Council.
(e) Executive Order No. 12303 [set out as a note under section 4271 of Title 42], establishing the Presidential Advisory Committee on Federalism.
(f) Executive Order No. 12308, establishing the Presidential Task Force on the Arts and Humanities.
(g) Executive Order No. 12310, establishing the President's Commission on Housing.
(h) Executive Order No. 12323 [set out as a note under section 2871 of Title 22, Foreign Relations and Intercourse], establishing the Presidential Commission on Broadcasting to Cuba.
(i) Executive Order No. 12329 [set out as a note under section 3113 of Title 15, Commerce and Trade], establishing the President's Task Force on Private Sector Initiatives.
(j) Executive Order No. 12360, establishing the President's Task Force on Victims of Crime.
(k) Section 1-2 of Executive Order No. 12137, as amended [set out as a note under section 2501 of Title 22, Foreign Relations and Intercourse], establishing the Peace Corps Advisory Council.
Sec. 5. Executive Order No. 12258 is superseded.
Sec. 6. This Order shall be effective December 31, 1982.

RONALD REAGAN

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1. PROSPECTIVE EFFECT
Federal Advisory Committee Act was intended to have both immediate effect through this section providing for termination of advisory committees and prospective effect through sections 5, 6 and 7 providing procedures which contemplate studied decision on whether particular advisory committee is necessary. Carpenter v. Morton, D.C.Nev.1976, 424 F.Supp. 603.

2. REMEDIES AVAILABLE
Congress in enacting Federal Advisory Committee Act was concerned about proliferation of advisory committees which had outlived their usefulness; to remedy situation, Congress chose to terminate all advisory committees. Carpenter v. Morton, D.C.Nev.1976, 424 F.Supp. 603.

3. POWERS AND DUTIES
Congress contemplated that Federal Advisory Committee Act would affect existing substantive law and that if it was later decided advisory committees were necessary, Congress would enact legislation to recharter them; Secretary of Interior had no obligation or authority to recharter advisory boards of which plaintiffs were members. Carpenter v. Morton, D.C.Nev.1976, 424 F.Supp. 603.

SEC. 15. EFFECTIVE DATE
Except as provided in section 7(b), this Act shall become effective upon the expiration of ninety days following October 6, 1972.

NRC FORM 335 (2-84) NRCM 1102, 3201, 3202

U.S. NUCLEAR REGULATORY COMMISSION

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12. SUPPLEMENTARY NOTES
Publication to be updated every two years (at the end of each Congress) by inserting or deleting material.

13. ABSTRACT (200 words or less)

NUREG-0980 is a compilation of nuclear regulatory legislation and other relevant material through the 98th Congress, 2nd Session. This compilation has been prepared for use as a resource document, which the NRC intends to update at the end of every Congress.

Contents of NUREG-0980 include: The Atomic Energy Act of 1954, as amended; Energy Reorganization Act of 1974, as amended; Uranium Mill Tailings Radiation Control Act of 1978; Low-Level Radioactive Waste Policy Act; Nuclear Waste Policy Act of 1982; and NRC Authorization and Appropriations Acts. Other materials included are statutes and treaties on export licensing, nuclear non-proliferation, and environmental protection. Sections of Title 5, United States Code, on Administrative Procedure are also included.

14. DOCUMENT ANALYSIS - a. KEYWORDS/DESCRIPTORS
Nuclear Regulatory Legislation: Atomic Energy Act; Energy Reorganization Act; Nuclear Waste Policy Act; NRC Authorization and Appropriations Acts; Statutes, Treaties, Agreements on Export Licensing and Nuclear Non-Proliferation.

b. IDENTIFIERS/OPEN-ENDED TERMS
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