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

Dear Mr. President:

I am enclosing a Nuclear Regulatory Commission legislative proposal in the form of a draft bill to amend the Atomic Energy Act of 1954. The draft bill is entitled the "Nuclear Power Plant Standardization and Licensing Act of 1987." Its goals are to promote nuclear safety by encouraging standardization of nuclear power plants and to provide an accurate, efficient, and more effective licensing process for the design, siting, construction, and operation of nuclear power plants and other nuclear facilities. A draft bill is in Enclosure 1. A section-by-section analysis is in Enclosure 2. A comparative text is in Enclosure 3.

The Commission believes that Congress should promote nuclear safety by encouraging the standardization of nuclear facilities. The Commission believes standardization facilitates high quality construction and safe operation of specific plant designs. Standardization would stimulate standardized programs of quality control and make for better, faster training of operators and workers. Experience gained at one facility would be relevant to the operating personnel, equipment, and procedures at other standardized plants. The use of standardized designs for future nuclear power plants also offers the potential to reduce construction time and costs.

The proposed legislation would also revise the NRC licensing process. The current process has not changed substantially since it was originally enacted 33 years ago in the Atomic Energy Act. That licensing process was a prudent course to follow when the nuclear power industry was in its early years. There were many first-time nuclear plant applicants, designers and constructors, and many novel design concepts. Accordingly, the process was structured to allow licensing decisions to be made while design work was still in progress

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UNITED STATES
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WASHINGTON, D. C. 20555



CHAIRMAN

March 20, 1987

The Honorable Jim Wright
Speaker of the United States
House of Representatives
Washington, D. C. 20515

Dear Mr. Speaker:

I am enclosing a Nuclear Regulatory Commission legislative proposal in the form of a draft bill to amend the Atomic Energy Act of 1954. The draft bill is entitled the "Nuclear Power Plant Standardization and Licensing Act of 1987." Its goals are to promote nuclear safety by encouraging standardization of nuclear power plants and to provide an accurate, efficient, and more effective licensing process for the design, siting, construction, and operation of nuclear power plants and other nuclear facilities. A draft bill is in Enclosure 1. A section-by-section analysis is in Enclosure 2. A comparative text is in Enclosure 3.

The Commission believes that Congress should promote nuclear safety by encouraging the standardization of nuclear facilities. The Commission believes standardization facilitates high quality construction and safe operation of specific plant designs. Standardization would stimulate standardized programs of quality control and make for better, faster training of operators and workers. Experience gained at one facility would be relevant to the operating personnel, equipment, and procedures at other standardized plants. The use of standardized designs for future nuclear power plants also offers the potential to reduce construction time and costs.

The proposed legislation would also revise the NRC licensing process. The current process has not changed substantially since it was originally enacted 33 years ago in the Atomic Energy Act. That licensing process was a prudent course to follow when the nuclear power industry was in its early years. There were many first-time nuclear plant applicants, designers and constructors, and many novel design concepts. Accordingly, the process was structured to allow licensing decisions to be made while design work was still in progress.

and to focus on case-specific reviews of individual plant-site considerations. With the maturation of the industry, it is now possible to describe and evaluate standardized plant designs on a generic basis, to essentially complete designs prior to plant construction, and to propose plant sites without plant design details.

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

The proposed legislation would amend existing section 185 of the Atomic Energy Act and add new sections 193 and 194. The most important changes to Section 185, Construction Permits and Operating Licenses, would permit the issuance of a combined construction permit and operating license (CP/OL). This would facilitate NRC review of essentially complete designs prior to construction.

Section 193, Early Site Review, and section 194, Approval of Designs, are new sections which authorize the Commission to issue a site permit or a facility design approval even though no application for a construction permit or a combined CP/OL has been filed. These sections have been proposed to facilitate early identification and resolution of site and design issues after giving an opportunity for public participation. These sections would also allow subsequent facility applications to reference a site permit or design approval and have those final determinations be made binding unless there is a substantial reason not to do so. Nothing in the legislation would require the Commission to alter its present provisions for instituting proceedings to modify, suspend or revoke a license or to take such other action as may be proper upon request filed with the Commission for such action.

The Commission submitted similar legislation to the 98th and 99th Congresses. The Commission continues to believe that nuclear standardization and licensing legislation should be enacted. The provisions of the draft bill will help promote

nuclear safety. It will also help improve the quality, effectiveness, and efficiency of the licensing process without impairing public health and safety or detracting from the public's ability to participate in that process.

Commissioner Asselstine does not support this legislative proposal. He will provide his views in a separate letter.

Sincerely,

Lando W. Zech Jr.
Lando W. Zech, Jr.

Enclosures:

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

Enclosure 1

DRAFT BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Power Plant Standardization and Licensing Act of 1987."

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FINDINGS AND PURPOSES

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

- (1) interstate commerce is substantially affected by the siting, construction, and operation of nuclear power plants;
- (2) opportunity for public participation in siting and licensing of nuclear power plants should be assured;
- (3) the licensing and construction of nuclear power plants would be facilitated and the public health and safety enhanced by the use of preapproved nuclear power plant designs, particularly standardized designs;
- (4) there is a need to encourage the development and use of standardized nuclear power plant designs because such designs can benefit public health and safety by concentrating the resources of designers, engineers, and vendors on particular approaches, by stimulating standardized programs of construction practice and quality assurance, by improving the training of personnel and by fostering more effective maintenance and improved operations, and because the use of such designs can permit a more effective and efficient licensing and inspection process;

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

(6) the licensing process would be facilitated if licensing decisions are made at the earliest feasible phase of the process and, if an opportunity for hearing has been provided, licensing issues are not subject to further adjudication in the absence of an evidentiary showing called for by this Act and the regulations of the Commission;

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

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

(9) consistent with the Commission's paramount responsibility to protect the public health and safety, and recognizing that elimination of all risk is an unattainable goal for any energy source, it is appropriate and in the public interest for the Commission to consider the economic consequences of its regulatory practices including, but not limited to, the cost of safety requirements.

(b) The purposes of this Act are--

(1) to facilitate the use of preapproved sites and designs for nuclear power plants and to facilitate the development and use of standardization designs;

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

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

TITLE I--SITING AND LICENSING

Construction Permit and Operating Licenses Sec. 101. Section 185 of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

SEC. 185. CONSTRUCTION PERMITS AND OPERATING LICENSES.--

a. All applicants for licenses to construct or modify production or utilization facilities shall be initially granted a construction permit after the Commission has provided an opportunity for public hearing pursuant to section 189 of this Act and if the application is otherwise acceptable to the Commission. Upon the completion of the construction or modification of the facility, upon the filing of any additional information needed to bring the original application up to date, after providing an opportunity for public hearing pursuant to section 189 of this Act, and upon finding that the facility authorized has been constructed and will operate in conformity with the application as

amended and in conformity with the provisions of this Act and of the regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of an operating license would not be in accordance with the provisions of this Act, the Commission shall thereupon issue an operating license for the applicant. For all other purposes of this Act, a construction permit is a "license."

b. Notwithstanding any other provision of this section, the Commission shall issue to the applicant a combined construction permit and operating license for a thermal neutron power generation facility after providing an opportunity for public hearing pursuant to section 189 of this Act, if the application contains sufficient information to support the issuance of a combined construction permit and an operating license in accordance with the regulations of the Commission and the Commission determines that there is a reasonable assurance that the facility will be constructed and will operate in conformity with the application, the provisions of this Act, and the rules and regulations of the Commission. The Commission shall identify within such combined construction permit and operating license the inspections, tests, and analyses which shall be performed by the licensee and the acceptance criteria therefor which will provide reasonable assurance that the plant has been constructed and will operate in accordance with the license. After issuance of a combined construction permit and operating license for a thermal neutron power generation facility, the Commission shall assure through inspections, tests and analyses that construction is

completed in conformity with the combined construction permit and operating license, consistent with the regulations of the Commission.

Prior to the commencement of operation of any facility licensed under this subsection, the Commission shall publish in the Federal Register a notice of the intended operation of such facility, and shall provide a thirty-day period during which any person may file a written objection to the commencement of operation on the basis that the facility authorized has not been constructed or will not operate in conformity with the license. Such objection shall set forth in reasonable detail the facts and arguments upon which the objection is based, and may be accompanied by a request for a hearing.

If a hearing is requested, the Commission shall determine whether good cause exists therefor and, if so, the issues to be heard and whether the hearing must precede commencement of operation of the facility in order to provide reasonable assurance of the protection of the public health and safety and common defense and security. The Commission may designate an issue for a hearing only if the issue consists of a substantial dispute of fact, necessary for the Commission's decision, that cannot be resolved with sufficient accuracy except at a hearing and:

(i) the issue was not and could not have been raised and resolved in any proceeding for the issuance, modification or amendment of a license, permit, or approval for that facility, its site, or design; or

(ii) a showing has been made that (a) there has been nonconformance with the license; (b) such nonconformance has not been corrected; and

(c) such nonconformance could materially and adversely affect the safe operation of the facility.

Following completion of any hearing held, the Commission shall decide whether the license to construct and operate should be modified. Prior to the commencement of operation, the Commission shall determine, based upon the requisite program of inspections, tests, and analyses, whether construction has been completed in conformance with the combined construction permit and operating license, and consistent with the regulations of the Commission.

c. The Commission shall not modify any final determination on an issue that has been considered and decided in any proceeding for the issuance of a combined construction permit and operating license, site permit, or design approval conducted pursuant to the Nuclear Power Plant Standardization and Licensing Act of 1987 unless it determines, based on significant new information, that a modification is required to protect the public health and safety or the common defense and security or to comply with the Commission's regulations.

EARLY SITE REVIEW

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

Sec. 193. Early Site Review.--

a. The Commission is authorized to issue a site permit for approval of a site or sites for one or more production or utilization facilities

for a period of ten years upon the application of any person or entity notwithstanding the fact that no application for a construction permit or a combined construction permit and operating license for such facility or facilities has been filed. The Commission may issue a site permit with respect to limited aspects of the suitability of the site for its intended purpose, under relevant regulations of the Commission.

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

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

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

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

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

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

permit has been granted under this section, the Commission shall not modify any final determination on an issue that has been considered and decided in the site permit proceeding unless it determines, based on significant new information, that a modification is required to protect the public health and safety or the common defense and security or to comply with the Commission's regulations.

APPROVAL OF DESIGNS

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

Sec. 194. Approval of Designs.--

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

b. Notwithstanding section 161 w. of this Act or the Independent Offices Appropriation Act of 1952, no application filing or issuance fees shall be required for an application for a design approval, an amendment, or a renewal of an approval of a facility design under this section. The

Commission is authorized to allocate the costs that would otherwise have been defrayed by fees required of applicants under this section among applicants for permits or licenses which propose to use the approved standardized plant design in a manner that will assure full cost recovery by the Commission. If no application for construction of a facility is filed within the initial ten-year approval period, any outstanding fee shall become immediately due and payable by the applicant for the design approval.

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

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

(2) No less than twelve or more than thirty-six months prior to the expiration of the ten year period, the holder of the approval may apply for a renewal of the approval. The Commission shall renew the approval for an additional period of time of not less than five nor more than ten years from the date of renewal unless it finds that the design will not

comply with this Act or the Commission's regulations. If no application for construction of a facility is filed within the renewal period, any outstanding fee for the renewal or issuance shall become due and payable by the applicant for the design approval.

e. Following the issuance of a design approval under this section, and in any subsequent Commission proceeding involving a facility design for which a design approval has been granted under this section, the Commission shall not modify any final determination of an issue that has been considered and decided in the design approval proceeding unless it determines, based on significant new information, that a modification is required to protect the public health and safety or the common defense and security or to comply with the Commission's regulations.

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

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

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

(g) Any application for a construction permit, an operating license or a combined construction permit and operating license or any amendment to such licenses referencing a design approval issued under this section may include a request for a variance from one or more elements of the design approval. Such requests shall be granted if the Commission determines that the variance will comply with this Act and the Commission's regulations. Any variance issued under this section shall be limited to the permit or license for which such variance has been requested.

TITLE II--MISCELLANEOUS PROVISIONS

Definitions

Sec. 201. Section 11 of the Atomic Energy Act of 1954, as amended, is amended by adding new subsection dd. as follows:

dd. "Thermal neutron power generation facility" means a utilization facility which is designed to produce electrical energy and in which core

power is designed to be produced predominantly by thermal neutron fission.

Section For the purposes of this Act the term "standardized design" means which the Commission determines is sufficiently detailed and complete for licensing of a commercial production or utilization facility or approval of a major portion of such a facility when referenced in an application for a construction permit and operating license or a design approval and which is usable for a multiple number of units and/or at a multiple number of sites without reopening or repeating the review.

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

b. After the regulations referred to in subsection a. of this section become effective, no license, permit or approval granted under this Act for a thermal neutron power generation facility shall be modified except pursuant to such regulations.

TITLE III--CONFORMING AMENDMENTS

Antitrust Provisions

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

General Provisions

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

License Applications

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

b. The Advisory Committee on Reactor Safeguards shall review each application under section 103 or section 104 b. for a construction permit and/or an operating license for a facility; any application under section 104 c. for a construction permit and/or operating license for a testing facility; any application under section 104 a. or c. specifically referred to it by the Commission; any application for a site permit under section 193; any proposed approval for a facility design under section 194; any proposed authorization to commence operation under section 185 b.; and any application for an amendment to a construction permit or to an operating license under section 103 or 104 a., b., or c. or an amendment or renewal of a site permit under section 193 or an

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

Revocation

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

Table of Contents

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

Sec. 193. Early Site Review. Sec. 194. Approval of Designs.

TITLE IV--EFFECTIVE DATE

Sec. 191. All sections of this Act shall take effect as of the date of enactment, and shall apply to all proceedings pending as of the date of enactment or commenced on or after the date of enactment, in accordance with the terms of this Act.

Enclosure 2

SECTION-BY-SECTION ANALYSIS

Section 2. Findings and Purposes

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

Section 101. Construction Permits and Operating Licenses

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

Subsection a. of section 185 as it would be amended authorizes the Commission to grant a construction permit for a production or utilization facility and, upon the completion of construction to grant an operating license. This subsection restates existing authority with one exception. This legislation would delete the requirement for specification of the earliest and latest completion dates for construction permits. The existing provision has produced unnecessary paperwork and expenditure of resources without assuring that construction is diligently pursued. Moreover, the provision in current section 185 for earliest and latest completion dates made sense when it was included in the Act in 1954 because the Federal Government would be owning

the fuel and would need to allocate special nuclear material between the civilian nuclear power and defense programs. It was important to AEC to predict completion dates (and hence operation commencement dates) with accuracy so that civilian requirements for special nuclear material could be predicted accurately and planned for properly. The Federal Government no longer allocates fuel and has a much lesser need to predict completion dates accurately. Thus, the provision is no longer needed to serve the purpose for which it was adopted.

Although the requirement for the specification of the earliest and latest construction completion dates is deleted, the Commission will still issue a construction permit or a combined construction permit/operating license for a fixed period not to exceed forty years pursuant to sections 103(2) and 183 of this Act. The legislation would also provide specifically for an opportunity for a public hearing.

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

Subsection b. of section 185 as it would be amended permits issuance of what would be called a combined construction permit and operating license (CP/OL) for a thermal neutron power generation facility. This definition would include all currently licensed U.S. commercial nuclear power reactors (including all currently licensed U.S. gas-cooled reactors), but exclude facilities such as breeder reactors and fuel reprocessing plants. A combined CP/OL

could be issued for thermal neutron power generation facilities only if the Commission determines that there is reasonable assurance that the facility will be constructed and will operate in conformity with the application, the provisions of the Atomic Energy Act, and the rules and regulations of the Commission. Pursuant to subsection b., the combined construction permit and operating license would identify and incorporate by reference the inspections, tests and analyses that would be required to be performed and the acceptance criteria therefor.

Under the current two-step licensing process, the inspections, tests and analyses which need to be performed to assure the adequacy of construction with respect to NRC regulatory requirements are not fully or finally defined until the operating license review is complete. Thus, the Commission and the license applicant are unable to identify and reach agreement at an early stage with respect to the detailed implementation of NRC requirements and the public's participation in this process is delayed until the plant is nearly complete. Under the current regime, therefore, extensive additional tests and analyses are sometimes required late in the construction process. This may lead to plant modifications which could have been avoided by identifying the inspections, tests, analyses, and acceptance criteria at the time the plant was licensed for construction.

Before nuclear power reached its current level of development, it was appropriate to establish general criteria at the construction permit stage and review the adequacy of the design at the operating license stage. Thus, it was appropriate to delay identification of inspections, tests and analyses to be performed by the licensee and acceptance criteria therefor, against which

design and construction adequacy were to be measured, until near the time when the design was essentially complete. With the current level of development it is possible to establish the design in sufficient detail before construction commences, and hence to identify the inspections, tests and analyses which need to be performed in order for the Commission to make the required findings of reasonable assurance of the public health and safety with respect to plant operation.

Specification of the required inspections, tests and analyses to be performed by the licensee in the combined construction permit and operating license, i.e., before facility construction commences, would establish a clearly defined set of requirements governing the licensee and the Commission in discharging their complementary responsibilities as respects facility construction and operation. The Commission will be in a better position to assure that the plant has in fact been constructed and can be expected to operate in accordance with the license authorization. At the same time, license specifications of those requirements would enhance regulatory certainty for the facility licensee by prescribing what will be expected of the licensee in the construction and early operational phases of the plant and the bases for determining the adequacy of the licensee's performance. Importantly, this will also facilitate and make more effective public participation by providing information, prior to authorization of facility construction, of how the applicant's compliance with specified construction and operation requirements will be demonstrated following license issuance.

Moreover, specification of inspections, tests, analyses and acceptance criteria to be performed by the licensee as an integral part of the combined

construction permit and operating license cannot be accomplished without appropriate completeness of the applicant's facility design. The level of design detail needed to establish such specification would define the essentially complete design which the Commission anticipates will be required for the combined construction permit application. The elements specified would necessarily address all important safety features of a plant, and the Commission would determine the level of detail necessary in the inspections, tests and analyses, and the acceptance criteria therefor. Thus, in order to qualify for license issuance, the applicant would be obliged to describe those features of the proposed facility with a matching completeness.

In summary, inclusion in the license of prescribed inspections, tests, analyses and acceptance criteria to be performed by the licensee should enhance the quality of construction of nuclear power plants, add stability to the construction process, and facilitate public participation in the resolution of safety issues prior to commencement of facility construction.

After issuance of the CP/OL and prior to commencement of operation (fuel loading), the Commission must assure that the facility has been constructed and will operate in conformity with the CP/OL, and the requirements of the Commission implementing this Act. An opportunity for a second public hearing would be provided prior to commencement of operation of the facility if good cause exists therefor. The Commission would determine the issues to be heard and timing for such hearing--whether the hearing must precede commencement of operation of the facility in order to provide reasonable assurance of the protection of the public health and safety and common defense and security or whether the hearing could be deferred until after facility operation

commences. Under the proposed statutory provision, good cause for hearing is defined to exist only where an issue consists of a substantial dispute of fact necessary for the Commission's decision that cannot be resolved with sufficient accuracy except at a hearing and either (1) the issue was not and could not have been raised and resolved in any proceeding for the issuance, modification or amendment of a license, permit or approval of that facility, its site or design; or (2) a showing has been made that (a) there has been nonconformance with the license; (b) such nonconformance has not been corrected; and (c) such nonconformance could materially and adversely affect the safe operation of the facility. The Commission under this provision could find good cause for a hearing but determine that the hearing need not precede commencement of operation of the facility where, for example, the resolution of the issue to be heard could only affect safe operation of the facility after the facility already has been in operation for some period of time. Another example would be the situation where the Commission determines that interim measures will allow the facility to operate with reasonable assurance of the protection of the public health and safety during the period necessary for resolution of the dispute of fact in the hearing process.

Regardless of whether or when a hearing is held, the Commission would be required to determine prior to operation, based upon its review of the requisite program of inspections, tests and analyses that construction has been completed in conformance with the combined construction permit and operating license and consistent with the regulations of the Commission.

The purpose of subsection c. is to give greater certainty to the process by ensuring that the Commission not modify a final determination made in any proceeding conducted pursuant to the Nuclear Power Plant Standardization and Licensing Act of 1987 involving a particular facility, facility site, or design approval for that facility, unless there is a substantial reason to do so. Pursuant to this subsection, the Commission may not modify any final determination on an issue that has been considered and decided in a prior proceeding unless it determines, based on significant new information, that such modification is required to protect the public health and safety or the common defense and security. If a proposed modification does not meet the standard set forth above, but would nonetheless improve the overall safety of facility operation, the Commission would apply its backfit regulations, 10 CFR 50.109, to determine whether the modification is warranted.

Subsection c. would not apply to facilities licensed prior to the enactment of this legislation. Modifications to those facilities are governed by the Commission's backfit regulations, 10 CFR § 50.59.

Section 103. Early Site Approval

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

where such participation can be most effective. This provision is an integral part of the effort to promote the early, effective and efficient resolution of issues in the licensing process.

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

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

Subsection c. of section 193 authorizes the Commission to approve an application and issue a site permit with appropriate conditions if, after considering all the information in the application and providing an opportunity for a public hearing, the Commission determines that such approval will not be inimical to the common defense and security or to the health and safety of the public. An opportunity for a prior public hearing on the application will be afforded under Section 189 of the Act. It is currently envisioned that for full site permits the application would set forth an envelope of parameters such as : (1) the number, type or types and thermal power level of the facilities with respect to which the application for site approval is made; (2) the site description and location, including site boundaries and exclusion area; (3) description of nearby industrial, military, and transportation facilities, including usage and routes; (4) the proposed maximum levels of radiological and thermal effluents that each such facility will produce; (5) the type or types of cooling systems, intake and outflow, that may be employed by each facility; (6) the physical characteristics of the site, including seismic, meteorological, hydrologic, and geologic characteristics as well as population density and use characteristics of the surrounding area; and (7) such other information as the Commission may by rule or order require. By describing the site in such a way, the Commission could determine the site suitability for one or several generic designs that may be developed pursuant to section 194, the provision for standardized facility designs. However, nothing in this section would preclude the Commission from promulgating regulations which set forth standards and criteria for site approval consistent with section 161(i) of this Act and section 553 of title 5 of the United States Code.

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

Subsection d.(2) of section 193 authorizes the Commission to renew a site permit for not less than five or more than an additional ten years from the date of renewal. Renewal would be based only upon the application of a permit holder. The minimum period of five years is set to assure that the resources used to review a renewal request are directed toward meaningful results. For example, allowing repeated renewals for only six months or a year could cumulatively tax the resources of the agency and industry alike. Moreover, it is contemplated that information necessary to form a sound basis for the decision to renew for periods of five to ten years will be readily available and within the state of the art. Renewals would be based on regulations in effect at the time the renewal is requested providing a means to update the earlier approval. Subsequent renewals of the site permit will not be entertained, although the permit holder may submit a new application for the same site.

Subsection d.(2) of section 193 also sets out the criteria the Commission shall apply in deciding whether to renew a site permit. The Commission shall renew the site permit if it finds that the site will comply with this Act or NRC regulations in effect at the time of site permit renewal. Any licensing fees resulting from the granting of a renewal may be defrayed and allocated among future applicants using the renewed site permit. Defrayed renewal fees must be collected at the end of the renewal period.

Subsection e. of section 193 assures that a site approved under this section may be used for an alternative type of energy facility or any other purpose. However, the validity of the site permit for production or utilization facility siting may be affected by use of the site for a purpose not considered in its approval. The Commission intends to promulgate regulations which would require proper notice be given to the Commission regarding a nonconforming use.

Subsection f. of section 193 specifies that the Commission shall not modify any previous final determination involving a site permit unless it determines, based on significant new information, that such modification is necessary to protect the public health and safety or the common defense and security or to comply with the Commission's regulations. This provision is intended to have the same effect as the counterpart provisions in subsection 185c. and the discussion in the section-by-section analysis of that subsection is applicable here as well.

This provision would not preclude a holder of a site permit from seeking an amendment to that permit. The Commission shall approve an amendment to a

site permit issued under this section if, after providing an opportunity for hearing pursuant to section 189 of this Act, the Commission determines that the amendment will comply with this Act and the Commission's regulation. Any amendment approved would apply to any construction permit or combined CP/OL utilizing the site permit after the amendment becomes effective.

Section 104. Approval of Designs

This is a new section 194 to the Atomic Energy Act of 1954, which provides for approval of thermal neutron power generation facility designs. As with early site approvals, this section is intended to facilitate early resolution of issues with full opportunity for participation by interested persons. Although the Commission currently has procedures for approving designs, this section gives explicit statutory support to the concept and establishes requirements for Commission approval of facility designs. This section will encourage the development and use of standardized designs, will enhance safety, and will contribute to a better utilization of NRC resources.

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

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

When a pre-approved design is combined with a pre-approved site, it is contemplated that there may be a hearing with respect to the relevant construction permit or CP/OL if there are outstanding issues, i.e., issues raised by the matching of the site with the design. However, issues which were or could have been decided would not trigger new opportunities for hearing at the time the site and design are matched unless a showing is made that reconsideration of site or design issues is necessary to protect the public health and safety or common defense and security or to ensure compliance with the Commission's regulations.

Section a. of section 194 authorizes the Commission to approve facility designs or the design of any major sub-system for a period of ten years even though no application for a construction permit or combined construction permit and operating license has been filed by an applicant. This provision permits design applications and approvals to be made before initiation of construction of thermal neutron power generation facilities.

Subsection b. of section 194 provides that notwithstanding section 161w. of this Act or the Independent Offices Appropriation Act of 1952, no application filing or issuance fees shall be required for an application for approval or for an amendment or renewal of an approval of a standardized facility. The Commission is authorized to allocate the costs ordinarily defrayed by fees collected among future applicants for permits or licenses which propose to use the approved design. This provision is added as an incentive to vendors and architect-engineer firms to develop and seek approval for standardized designs. However, if fees cannot be defrayed because a design is not used during the initial ten year approval, the applicant must pay the full amount notwithstanding the granting of a renewal.

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

Subsection d.(1) of section 194 provides that a design approval can be referenced for a facility if an application has been filed within the period during which the design approval remains valid. The effect of this provision is that all matters resolved in a design approval review or a licensing action, including amendments to that approval, can be transferred without a need to re-review those matters in all applications for a construction permit, combined CP/OL, or operating license which reference that design

approval, unless a strong evidentiary showing is made pursuant to subsection e. A request for renewal would not be necessary to continue the effectiveness of the design approval in these referenced applications.

Subsection e. of section 194 authorizes the Commission to renew a design approval for not less than five or more than ten years from the date of renewal. Renewal would be based upon the application of a permit holder. The minimum period of five years is set to assure that the resources used to review renewal requests are directed toward meaningful results. For example, allowing renewals for only six months or a year could cumulatively tax the resources of the agency and industry alike. Moreover, it is contemplated that information necessary to form a sound basis for the decision to renew for periods of five to ten years will be readily available and well within the state-of-the-art. Subsection d.(2) also sets out the criteria the Commission shall apply in deciding whether to renew a design approval. Renewal shall be granted unless it can be demonstrated that the design will not comply with the Atomic Energy Act or the Commission's applicable regulations in existence at the time that renewal is requested. This provision allows for updating designs at the time a request for renewal of an approval is made. Subsequent renewals of the design approval will not be entertained, although the design approval holder may submit a new application for the same design. Any licensing fees resulting from the granting of a renewal may be defrayed and allocated among future applicants using the renewed design approval. Defrayed fees must be collected at the end of the renewal period.

Subsection e. of section 194 specifies that the Commission shall not commence a proceeding to modify a final determination made in a design approval proceeding unless it determines, based on significant new information, that such modification is required to protect the public health and safety or the common defense and security or to comply with the Commission's regulations. This subsection is intended to have the same effect as the counterpart provision in subsections 185c. and 193f. and the section-by-section analysis of these subsections is applicable here as well.

Subsection f. of section 194 sets forth the criteria by which the Commission will approve an amendment to a design approval under the Atomic Energy Act and how that amendment shall be applied to facilities which reference the design. These provisions ensure that approved amendments will apply to applications for a construction permit or a combined CP/OL referencing the design approval that are filed after the effective date of the amendment. The amendment, however, will not apply to those applications referencing the design which are filed before the effective date of the amendment unless (1) the applicant requests that the amendment be applicable, or (2) the reopening standards of subsection 194e. are satisfied.

A new subsection g. authorizes and directs the Commission to establish procedures and standards for approving variances from construction permits, operating licenses, and combined construction permits and operating licenses.

Title II -- Miscellaneous Provisions

The provisions contained in section 201 of the bill would add new subsection bb. and to Section 11 of the Act. Section 11bb., as amended, would define "thermal neutron generation facility" as used in sections 185 and 194 of the Act.

The provisions contained in section 203a. of the bill requires the Commission to propose regulations to implement the provisions of sections 185c., 193f. and 194e. applicable to thermal neutron power generation facilities within 180 days following the effective date of this section.

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

Title III -- Conforming Amendments

These provisions would be necessary to conform other sections of the Atomic Energy Act of 1954 with the provisions contained in this bill. Section 182b. of the Act would also be changed to provide for Advisory Committee on Reactor Safeguards review prior to commencement of operation in the case of a combined construction permit and operating license.

Title IV -- Effective Date

This provision ensures that all sections of the Atomic Energy Act, including those sections amended by this bill, shall take effect as of the date of enactment and shall apply to all pending and new proceedings. The last phrase requires each proceeding to meet the terms of the Act in order to come under this Act. For example, for an application for a design approval already under review by the Commission to be treated under section 194, such an application will have to meet the requirements of both subsections 194a. and 194c.

Enclosure 3

COMPARATIVE TEXT

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Power Plant Standardization and Licensing Act of 1985."

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TITLE IV -- EFFECTIVE DATE

Sec. 401. Effective date.

FINDINGS AND PURPOSES

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

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

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

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

(4) there is a need to encourage the development and use of standardized nuclear power plant designs because such designs can benefit public health and safety by concentrating the resources of designers, engineers, and vendors on particular approaches, by stimulating standardized programs of construction practice and quality assurance, by improving the training of personnel and by fostering more effective maintenance and improved operations, and because the use of such designs can permit a more effective and efficient licensing and inspection process;

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

(6) the licensing process would be facilitated if licensing decisions are made at the earliest feasible phase of the process and, if an opportunity for hearing has been provided, licensing issues are not subject to further adjudication in the absence of an evidentiary showing called for by this Act and the regulations of the Commission;

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

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

(9) consistent with the Commission's paramount responsibility to protect the public health and safety, and recognizing that elimination of all risk is an unattainable goal for any energy source, it is appropriate and in the public interest for the Commission to consider the economic consequences of its regulatory practices including, but not limited to, the cost of safety requirements.

(b) The purposes of this Act are--

(1) to facilitate the use of preapproved sites and designs for nuclear power plants and to facilitate the development and use of standardization designs;

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

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

TITLE I -- SITING AND LICENSING

Construction Permit and Operating Licenses Sec. 101. Section 185 of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

SEC. 185. CONSTRUCTION PERMITS AND OPERATING LICENSES.--

a. All applicants for licenses to construct or modify production or utilization facilities shall ~~[if-the-application-is-otherwise-acceptable-to-the-Commission]~~ be initially granted a construction permit after the Commission has provided an opportunity for public hearing pursuant to section 189 of this Act and if the application is otherwise acceptable to the Commission. ~~[The-construction-permit-shall-state-the-earliest-and-latest-dates-for-the-completion-of-the-construction-or-modification--Unless-the-construction-or-modification-of-the-facility-is-completed-by-the-completion-date, the construction permit shall expire, and all rights thereunder be forfeited, unless~~

~~upon good cause shown, the Commission extends the completion date.]~~

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

b. Notwithstanding any other provision of this section, the Commission shall issue to the applicant a combined construction permit and operating license for a thermal neutron power generation facility after providing an opportunity for public hearing pursuant to section 189 of this Act, if the application contains sufficient information to support the issuance of a combined construction permit and an operating license in accordance with the regulations of the Commission and the Commission determines that there is a reasonable assurance that the facility will be constructed and will operate in conformity with the application, the provisions of this Act, and the rules and regulations of the Commission. The Commission shall

identify within such combined construction permit and operating license the inspections, tests, and analyses which shall be performed by the licensee and the acceptance criteria therefor which will provide reasonable assurance that the plant has been constructed and will operate in accordance with the license. After issuance of a combined construction permit and operating license for a thermal neutron power generation facility, the Commission shall assure through inspections, tests and analyses that construction is completed in conformity with the combined construction permit and operating license, consistent with the regulations of the Commission.

Prior to the commencement of operation of any facility licensed under this subsection, the Commission shall publish in the Federal Register a notice of the intended operation of such facility, and shall provide a thirty-day period during which any person may file a written objection to the commencement of operation on the basis that the facility authorized has not been constructed or will not operate in conformity with the license. Such objection shall set forth in reasonable detail the facts and arguments upon which the objection is based, and may be accompanied by a request for a hearing.

If a hearing is requested, the Commission shall determine whether good cause exists therefor and, if so, the issues to be heard and whether the hearing must precede commencement of operation of the facility in order to provide reasonable assurance of the protection of the public health and safety and common defense and security. The Commission may

designate an issue for a hearing only if the issue consists of a substantial dispute of fact, necessary for the Commission's decision, that cannot be resolved with sufficient accuracy except at a hearing and:

(i) the issue was not and could not have been raised and resolved in any proceeding for the issuance, modification or amendment of a license, permit, or approval for that facility, its site, or design; or

(ii) a showing has been made that (a) there has been nonconformance with the license; (b) such nonconformance has not been corrected; and (c) such nonconformance could materially and adversely affect the safe operation of the facility.

Following completion of any hearing held, the Commission shall decide whether the license to construct and operate should be modified. Prior to the commencement of operation, the Commission shall determine, based upon the requisite program of inspections, tests, and analyses, whether construction has been completed in conformance with the combined construction permit and operating license, and consistent with the regulations of the Commission.

c. The Commission shall not modify any final determination on an issue that has been considered and decided in any proceeding for the issuance of a combined construction permit and operating license, or a site permit, or design approval conducted pursuant to the Nuclear Power Plant Standardization and Licensing Act of 1987, unless it determines, based on significant new information, that a modification is required to protect the

public health and safety or the common defense or to comply with the Commission's regulations.

EARLY SITE REVIEW

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

Sec. 193. Early Site Review.--

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

b. Notwithstanding section 161 w. of this Act or the Independent Offices Appropriation Act of 1952, no application filing or issuance fees shall be required for an application for a site permit, an amendment, or a renewal of a site permit under this section. The Commission is authorized to allocate the costs that would otherwise have been defrayed by fees required of applicants under this section among applicants for permits or licenses which propose to use the approved site in a manner that will assure full cost recovery by the

Commission. If no application for construction of a production or utilization facility is filed within the initial ten-year approval period, any outstanding fee shall become immediately due and payable by the applicant for the site permit.

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

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

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

renewal application or issuance shall become due and payable by the applicant for the site permit.

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

f. Following the issuance of a site permit under this section, and any subsequent Commission proceeding involving a site for which a site permit has been granted under this section, the Commission shall not modify any final determination on an issue that has been considered and decided in the site permit proceeding unless it determines, based on significant new information, that a modification is required to protect the public health and safety or the common defense and security or to comply with the Commission's regulations.

APPROVAL OF DESIGNS

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

Sec. 194. Approval of Designs.--

a. The Commission is authorized and directed to establish procedures permitting the approval of standardized facility designs

for thermal neutron power generation facilities for a period of ten years, notwithstanding the fact that no application for a construction permit or combined construction permit and operating license for such facility has been filed. The Commission may also consider, in accordance with its regulations, requests under this section for the approval of the design for any major subsystem which represents a discrete element of a thermal neutron power generation facility.

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

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

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

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

e. Following the issuance of a design approval under this section, and in any subsequent Commission proceeding involving a facility design for which a design approval has been granted under this section, the Commission shall not modify any final determination of an issue that has been considered and decided in the design approval proceeding unless it determines, based on significant new information, that a modification is required to protect the public health and safety or the common defense and security or to comply with the Commission's regulations.

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

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

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

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

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

TITLE II -- MISCELLANEOUS PROVISIONS

Definitions

Sec. 201. Section 11 of the Atomic Energy Act of 1954, as amended, is amended by adding new subsection dd. as follows:

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

Section 202. For the purposes of this Act the term "standardized design" means a design which the Commission determines is sufficiently detailed and complete to support licensing of a commercial production or utilization facility or approval of a major portion of such a facility when referenced in an application for a construction permit and operating license or a design approval and which is usable for a multiple number of units and/or at a multiple number of sites without reopening or repeating the review.

Sec. 203.a. The Commission shall, within one hundred and eighty days following the effective date of this section, propose regulations establishing procedures and criteria for implementing the provisions of sections 185 d., 193 f., and 194 e. of this Act for the control of the

application of new requirements to any thermal neutron power generation facility licensed for construction or operation under this Act.

b. After the regulations referred to in subsection a. of this section become effective, no license, permit or approval granted under this Act for a thermal neutron power generation facility shall be modified except pursuant to such regulations.

TITLE III -- CONFORMING AMENDMENTS

Antitrust Provisions

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

General Provisions

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

License Applications

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

b. The Advisory Committee on Reactor Safeguards shall review each application under section 103 or section 104 b. for a construction permit and/or an operating license for a facility; any application

under section 104 c. for a construction permit and/or operating license for a testing facility; any application under section 104 a. or c. specifically referred to it by the Commission; any application for a site permit under section 193; any proposed approval for a facility design under section 194; any proposed authorization to commence operation under section 185 b.; and any application for an amendment to a construction permit or to an operating license under section 103 or 104 a., b., or c. or an amendment or renewal of a site permit under section 193 or an amendment or renewal of an approval for a facility design under section 194 specifically referred to it by the Commission, and shall submit a report thereon which shall be made a part of the record of the application and available to the public except to the extent that security classification prevents disclosure.

Revocation

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

Table of Contents

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

Sec. 193. Early Site Review. Sec. 194. Approval of Designs.

TITLE IV -- EFFECTIVE DATE

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